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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Monday, November 20, 1995*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our gracious heavenly Father and Lord of all life, we praise You for hearing and answering our prayers. Today, we are very aware of how You work through men and women to get Your work done. Without You, we cannot; without us You will not. You are the source of all that we have and are. We are thankful that there is no limit to what can be accomplished when we humbly give You the glory and no limit to the problems that can be solved when we diligently seek what is best for our Nation.

You have been at work through us to plan for the future of our Nation. We thank You for using leaders in both parties to break the deadlock and get the Government moving again. Help us to affirm the truths we have claimed together for our fiscal future and inspire us to resolve differences that remain. We press on with awe and wonder over this vivid reminder of Your direct involvement in all the details of our lives and of Your willingness to accomplish Your plan through us. In the name of our Lord. Amen.

The PRESIDING OFFICER (Mr. COVERDELL). The able majority leader is recognized. ●

SCHEDULE

Mr. DOLE. Mr. President, for the information of my colleagues, there will be a period for morning business with Senators entitled to speak up to 10 minutes each. Today, we expect to adopt an adjournment resolution in time for the Senate to adjourn for Thanksgiving. It is possible the Senate may consider any legislative or executive items that have been cleared for action, but there will be no votes today.

The House will not start voting until 5 o'clock this afternoon. Hopefully, they can have a near-unanimous vote on the resolution we passed yesterday to keep the Government going until December 15. If something should happen there, if there should be an amendment or something, we would be coming back an hour after that final disposition. I do not think that will happen, but we will have to leave that possibility open, just in the event there should be some other action on the House floor.

A BUDGET TO BE THANKFUL FOR

Mr. DOLE. Mr. President, the past few days have been historic ones in Washington, DC. As we approach Thanksgiving, I believe our children and our grandchildren will have a lot to be thankful for. They may not understand it. Maybe their parents will not understand it, maybe their grandparents will not understand it, but I do believe we have provided the leadership the American people have been waiting for, the leadership to do the most important thing we could ever do: pass a balanced budget for the first time in a generation.

While President Clinton says he opposes our budget, last night the Republican majority reached an agreement with the White House, with the President and congressional Democrats to enact legislation before the end of this year to balance the budget by the year 2002 using honest economic estimates of the Congressional Budget Office, a balanced budget in 7 years. That is what this discussion has been all about. We have never lost sight, on our side of the aisle, of our principles. We are fighting for America's future. Some may not appreciate it, some may not understand it, but that is what the battle is all about.

We would like to make budget deficits a thing of the past. And make no mistake about it, this is all about America's future, all about generations yet to come. This may be our—maybe not last, but one of our best opportunities to make fundamental change in the way we do business, the way the Government does business, so that our children will inherit something. Maybe they can inherit a dream rather than crushing debt.

I think we owe all Americans an economy with lower interest rates so more people can buy a car, farm machinery, take out a college loan, or realize a lifetime dream of maybe buying a home. Believe me, if you look at the numbers—not my numbers but numbers from experts in the field—if, in fact, we have a balanced budget over 7 years, the markets will respond, interest rates will fall. It is like a tax cut. For every American it is like a big tax cut. If you pay less interest when you buy a car, buy a home, student loan, it is just as much money in your pocket as a tax cut would be.

So, for the hard-working Americans, we owe it to them to do what we should do. We owe it to America's seniors to save Medicare from bankruptcy, just as we saved Social Security from bankruptcy in 1983 in a bipartisan way. President Reagan, a Republican, Tip O'Neill, Democratic Speaker of the House, and Howard Baker, Republican leader of the Senate, put together a commission—and I was honored to be on the commission with the likes of Claude Pepper of Florida, the champion of senior citizens, and many others—and, in a bipartisan way, we rescued Social Security from bankruptcy in 1983.

I think we owe it to American families to give them back more of their own money—their money. I have repeated this story many times. We have a $500-per-child tax credit in the Republican plan. The President has $300 under a little different conditions. I met a man in Jacksonville, FL, who told me he had 10 children—10. He said, "Ten times 500 is $5,000." And he said, "Senator, I can spend that money better for my children than you or anybody else in Washington, DC." That is what the tax credit is all about.

About 70 percent, nearly 80 percent of our total tax cuts go to families with children, or reduce the marriage penalty, or go to other areas we believe are family related. We also owe it to families who are trapped in the welfare system to create a new system based on work and hope and opportunity.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

We believe we have a good plan—I think the Senate bill which passed, as I recall 87 to 12, it would have been 88 to 12 but Senator HATFIELD was unavoidably absent that day—and we are going to change welfare as we know it. It is going to be helpful to those who must rely on welfare.

We are going to send it back to the States. I just finished talking to the Republican Governors, by satellite, in New Hampshire. They are excited about the prospect. Let them make the decisions. They are excited about welfare reform. They are excited about returning Medicaid to the States.

I think, finally, we owe it to the American people just to keep our word and keep our promise. I know there is not a lot of precedent for it. They may not be used to it. But these things were promised the American people in 1994, and they are being delivered in 1995.

We cannot do everything in 1 year. When you have had 40 years going the other direction of a bigger central government, more spending, more taxes, it may take more than one session of Congress to turn it all around. But this is the beginning. This is only the beginning, but it is a start of the process.

We have been told that we can do it in 7 years. Those are the estimates of the nonpartisan Congressional Budget Office, which, I might add, have been, I think, right 14 out of 16 times when you compare the projections of the Congressional Budget Office and the Office of Management and Budget in the White House. That would be under Presidents of both parties. That is not intended to be criticism.

So, I thank all my colleagues, and I thank Senator DASCHLE, obviously, and others on the Democratic side, for coming together on an agreement. We can all say who won or who lost, but I think the bottom line is Federal employees are back at work. They are going to be paid. They are not going to suffer any loss of pay.

If we do what we should do between now and December 15, it will not make any difference who won and who lost. I think we won. We did not blink. We have a 7-year balanced budget using CBO estimates. But that may not be important. The important thing is, if we do what we should do working together, the big winners will be the American people. The children will not understand it, and the grandchildren, but will understand it 5 or 10 or 15 years from now when they are looking for work, or want to get married, or want to buy a car, or want to go to college.

If we have turned the country in the right direction—right now I think 70 percent of the American people say we are going in the wrong direction—if we downsize the Government, and if we reconnect the values of this Government of ours with the average American out there, and if we regain our place as the leader of the international community, then I believe that we are off to a good start.

Everybody can take credit—Republicans, Democrats, the President, whoever. And it would be deserved. If we do the wrong thing, then I believe the American people will rebel. They will say, "Well, business as usual. They talk a good game but it never happens."

So I am excited today about the direction. I am excited about the agreement. I believe the House will pass the agreement we sent over last night, and I hope unanimously without much discussion. Then I would assume a week from today we will start the serious negotiations. We will be working with all of our colleagues on this side, and certainly I know Senator DASCHLE will work with his colleagues on the other side for input. We have also invited the Republican Governors to give us input which I think is very important.

So I want to thank my colleagues for their cooperation and wish them a well deserved and happy Thanksgiving.

I yield the floor.

Mr. THURMOND. Mr. President, will the able Senator yield?

Mr. DOLE. I am happy to yield.

EXPRESSION OF APPRECIATION FOR SENATOR DOLE

Mr. THURMOND. Mr. President, as the President pro tempore of the Senate and on behalf of the Senate, I want to express our appreciation to our able majority leader for the great work he has done in getting the Government back into operation and for accomplishing what we did over the weekend. Without his leadership, it could not have been done. We are very appreciative of all that he does for the Senate, and this is another incident of his outstanding leadership for this country.

Mr. DOLE. I thank my friend from South Carolina.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

COMMENDATION OF SENATORS AND STAFF

Mr. LEAHY. Mr. President, I applaud leaders on both sides of the aisle for the work that was being done around here this weekend. I saw the hard work of Senator DASCHLE, and Senator DOLE, and of everybody else.

Let me just take a moment to applaud a lot of people whose names and faces do not get on the news, the men and women who keep the Congress running—many of whom were here not knowing whether they were going to be paid or not, who work extraordinary hours well past midnight night after night, whether they are the parliamentarians, the clerks, the security guards, the Capitol Police, the young pages, the men and women who come here to learn of the Government, whether they are from Vermont or any other State. The staff of Senators, Republicans and Democrats alike—those in the Cloakroom who, when many of us were able to go home at night, had to stay there for hours and hours after that time in case votes came up and we were called; and the same in the other body.

Those who keep doors open, those who make it possible for us to fulfill our constitutional responsibility to America to have this body—this body which should be the conscience of the Nation—open to the public; those who make sure that any member of the public who came here, even though Washington was shut down, could at least come and visit the Congress, and either be enlightened or enraged by the debate, depending upon how they might feel.

GOVERNMENT EMPLOYEES

Mr. LEAHY. Mr. President, I will speak of other Government employees now. I strongly support the agreement's commitment to provide back pay for the thousands of employees and their families who were forced off the job last week through no fault of their own. It was an insult to these households held hostage through our inability to agree on a workable Government budget for all Americans. I regret that the shutdown punished hard-working families, not some faceless bureaucrats as some would have you believe.

I know an awful lot of men and women in Vermont who work very hard at keeping the Government of this great country running, from the Immigration and Naturalization Service to the Justice Department and Agriculture, food service, on and on. These are hard-working people. They are the Cal Ripkens of the Government who show up for work every single day, do their job, do it the very best they can, and suddenly are told they are not essential, we do not believe in what they have been doing, and they are sent home through no fault of their own.

They just want to work. I had so many call my home, call my office, and say: We are ready to come to work. We will volunteer. There are things that have to be done. Passports have to be issued; social welfare claims have to be heard; and so on. It is the same throughout this country.

Remember these same Government employees who died for this country in Oklahoma, these same Government employees who make the greatest democracy on Earth operate with a quarter of a billion people. They should not become pawns in a budget chess match.

THE BIPARTISAN BUDGET AGREEMENT

Mr. LEAHY. Mr. President, I applaud the bipartisan budget agreement that was reached yesterday between President Clinton and the congressional leaders in both parties because it ends the longest Government shutdown in our history, and it sets the stage for bipartisan negotiations to achieve a balanced budget by 2002, something that in the debate most people forget. The vast majority of Republicans and Democrats want that balanced budget.

So it is truly a bipartisan compromise in the best sense of both of those words. It puts away partisan politics. It uses common sense to reach shared values. It commits Congress and the President to the worthy goal of a balanced budget in 7 years while also committing us to achieve a balance with compassion—not just "hard, cold, numbers crunching," as the expression goes. We are past, I hope, the political posturing and the finger pointing.

Thanks to those Government employees who will keep the Government working during the time of the negotiations in the coming weeks as the Congress and the President build on this temporary agreement. It is not going to be easy. But we have to succeed.

I suggest three principles of common sense and reason to make these negotiations work.

First, scale back the $245 billion in tax cuts in the Republican budget plan. I learned many years ago that the best way to get out of a hole is to stop digging. Past Presidents and Congresses have spent our country into a $5 trillion debt. With this kind of huge debt we cannot afford $245 billion more in tax cuts. We ought to be spending that money to get us out of debt —not create more debt.

Second, plow back the savings from scaled-back tax cuts that will lower the reductions in Medicare and Medicaid. Keep our commitment to the current generation of Medicare recipients, and preserve the system for future generations. Also keep the Medicaid safety net in place for our most needy citizens. If we scale back those tax cuts, we can avoid unnecessary cuts in Medicare and Medicaid.

Third, invest in our future; provide adequate funding for education and nutrition programs for our children. It only makes sense that we give the next generation every chance to succeed in today's demanding economy, an economy far more demanding than when I was a child. We also have to maintain our environmental protection to preserve our natural resources for future generations.

If we use these three principles, I believe Democrats and Republicans can resolve our differences, and make our Government work to achieve a fair balanced budget.

We have to understand, Mr. President, that all of us are in this together, and that each one of us is going to have to cast votes that will be unpopular. It will be unpopular for Democrats or unpopular for Republicans. We have to take steps that may be unpopular at the moment but that are for the good of the future.

We are not going to pass a Gingrich budget. We are not going to pass a Dole budget, or a Daschle budget, or a Clinton budget, or a Leahy budget. But we can pass parts of each that will make a better budget for this country. But think of the long-term gains. Think about what we want in the future. Think of our children. My children are going to live most of their lives in the next century. That is probably true of many of them. Let us think of them and have a policy for our country.

We have been guided by policy through pollsters. Instead, let us be guided by legislation through leadership. It would be a refreshing change in this country. Just ignore the polls of the day.

It seems that we come in here and somebody sneezes or gives a speech, and there is a poll of the hour. There is a poll that says the President is ahead at this moment, the Congress is behind; 3 hours later the Congress will be ahead and the President will be behind, and we seem to try to adjust to that.

I do not think the American people are impressed by that. I think the American people would be impressed if the polls said what we are doing is what we think is best in moving forward. If we do that, we are going to have the kind of budget we want.

I was 1 of 11 who voted against Reaganomics back in the 1980's. With the deficits and the huge increase in our national debt built up during that time, we are now spending $1 billion a weekday in interest, $1 billion a weekday in interest on what we did then. I remember the polls were 10 to 1 against my vote. But I think it is like some of the votes on Vietnam at one time; a lot of people wish they could go back and do it over again.

We have to find a way. I voted for the plan of the senior Senator from North Dakota [Mr. CONRAD]. I voted for a lot of things in that plan that are going to be unpopular back in Vermont, but they bring us to a balanced budget.

Let us assume that we all want that balanced budget, and we do. But we also have to invest in our future. We also have to make sure our education opportunities are there for our children. We have to make sure we do those things that create jobs, that allow us to lower the enormous trade deficit.

The enormous trade deficit in this country is hurting us more than our deficit in our Federal budget because it is owed to people outside of this country exclusively, and the more that deficit builds up the more our jobs flee the United States and go to the Pacific basin and go to Europe and go to other parts of the world.

Let us improve our ability to compete with the rest of the world in our education, in our financing, and all these other things so that we create the jobs here and we start exporting far more and the money comes back into this country. That would not only lower our trade deficit but it would, more importantly, put hundreds of thousands, millions of Americans back to work in good, productive jobs. Bring those jobs back into the United States. Use the productivity and the genius of our Nation but make sure our investment is in keeping that genius and that productivity in education, in health and nutrition.

Mr. President, I think now is the time for us to step back, applaud the good motives of people in both parties and of the President, but let us close the door on the pollsters setting policy. Let us use our own leadership to pass legislation that is good for this country.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. If the Senator will suspend just one moment, I failed to read the previous order.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

The Chair recognizes the Senator from Mississippi.

CONDITIONAL RECESS OR ADJOURNMENT OF CONGRESS FROM NOVEMBER 20 OR 21 UNTIL NOVEMBER 27 OR 28, 1995

Mr. COCHRAN. Mr. President, at the request of the majority leader and with the understanding that it has been cleared on both sides of the aisle, I send the adjournment resolution to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 32) providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995 or Tuesday, November 21 until Tuesday November 28, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 32) was agreed to, as follows:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Monday, November 20, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until a time to be determined by the Majority Leader on Monday, November 27, 1995, or until one hour after the House has voted on H.J. Res. 122, unless the House agrees to the Senate amendment.

SEC. 2. The two houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stands adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 3. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. COCHRAN. Mr. President, the resolution provides that the Senate adjourn today until Monday, November 27 or 1 hour after the House votes, if they amend or defeat the continuing resolution that the Senate passed last night.

DEFENSE APPROPRIATIONS

Mr. COCHRAN. Mr. President, it is very reassuring to this Senator to see the Congress work out this continuing resolution as it has done over this past weekend providing for the continued funding of the departments of the Government that had not been funded through the passage of regular appropriations bills.

There has been a great deal of confusion over what the issues were and why the continuing resolution was needed. I think everyone in the Senate and certainly those who worked to put together the resolution which was adopted by the Senate fully understand it all, but the American people, who do not have access to the information that is available on a daily basis here, had to be confused by the procedures and what the issues were.

One of the issues that can also be dealt with today is whether or not the bill that has been passed by Congress to fund the Department of Defense for the next fiscal year can be signed by the President so that not only can people who work for the Department of Defense be secure in the knowledge that they are going to be paid under the terms of not only employment arrangements but contracts, independent contractors, defense contractors, and the rest, but that we will be keeping a commitment to the military so that they can make plans, they can use the funds that are coming to them under the regular fiscal year 1996 appropriations bill in a thoughtful way that does not actually end up costing money.

What worries me is that the President is sending signals that he may veto this bill because he thinks it provides too much money for defense, more than he had requested in his budget submission. I will tell you a lot of things have changed in the world since the President submitted his budget to the Congress. For example, we are seeing negotiated right now among different factions in the former Yugoslavia an arrangement which the President says may require additional United States forces, activities under our NATO alliance on the part of United States defense forces that will require more money than had been anticipated when this budget was submitted.

One of the provisions in the Defense appropriations bill which our committee approved was a contingency appropriation of $643 million which is made available to the administration, to the Commander in Chief for use by the Department of Defense for contingency operations that had not been anticipated when that budget had been submitted. If this bill is not signed, there will be prolonged negotiations among the committees of the Congress with jurisdiction over defense matters. We do not know what the next bill will provide. We do not know how much will be provided or denied for contingency operations. There is a great deal of controversy right now, and the President surely knows this, in the Congress over whether we ought to support and fund and provide the resources for a massive ground force in the former Yugoslavia as a part of any peacekeeping operation.

So I am suggesting that is an issue which can be certainly dealt with in a way that ought to be pleasing to the administration and favorable to the administration's interests, if this Defense appropriations bill is signed.

The President has stated in numerous public addresses his commitment to a strong national defense. As a matter of fact, in his second State of the Union Address on January 25, 1994, President Clinton said:

> The budget I send to Congress draws the line against further defense cuts. It protects the readiness and quality of our forces. Ultimately, the best strategy is to do just that. I hope Congress without regard to party will support that position.

I suggest that this Defense appropriations bill does support that position. There are some in Congress and in the administration who are going to argue that the President should veto the bill because it exceeds his budget request, but there are things that have come to light in terms of threats against the security of our country, particularly the proliferation of weapons of mass destruction and the capabilities that some countries have now of sending such weapons over long distances with new missile technologies that are beginning to develop around the world. These are in countries that are historically not our most serious security threats, but have become so or are capable of becoming so through these emerging technologies and the ability to acquire technologies from countries willing to sell these weapons and sell these new technologies.

So, provided in this Defense appropriations bill are some additional funds to help meet these new threats, and it seems to me that this is a matter of grave national concern. I hope that the President will sign the bill, not only because it takes the Department of Defense out from under the continuing resolution which we just adopted last night, but because it goes a long way toward meeting the challenge that the President himself laid before the Congress in his last State of the Union Address and the address in 1994.

I hope we can resolve these issues as they develop. There are other bills that are contentious as well. The Senator from Vermont mentioned a couple of them. The distinguished leader mentioned the Labor-HHS appropriations bill, which has not yet been brought to the floor of the Senate because the Democrats have been objecting and insisting on debating at length the motion to proceed to consider the bill. We hope that bill can be passed and the President will sign it as well.

Mr. President, seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I understand we are in a period of morning business with Senators permitted to speak for up to 10 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

TAX RELIEF FOR THE AMERICAN FAMILY

Mr. COVERDELL. Mr. President, I had the opportunity to listen to the remarks of the distinguished Senator from Vermont. And now that we have established this interim accord and agreement, thankfully, for the first time in decades we will have a balanced budget in the United States. Now will come the debate of the priorities within that balanced budget, and we saw a precursor in the remarks by the Senator from Vermont.

The Senator takes exception to the tax relief proposal that is in the congressional budget that we will soon give to the President. Both the House and the Senate have approved $245 billion in tax relief for American families and communities and businesses over a 7-year period.

Mr. President, just several weeks ago the President of the United States acknowledged to an audience in Houston, TX, that his 1993 tax increase, which was the largest in American history, might have been a mistake. In fact, he said it was a mistake. And it was indeed.

What is interesting is the size of that tax increase that the President has now suggested was a mistake was about $250 billion. It is interesting to note that this tax relief that we are talking about is $245 billion. One cannot miss the similarity of the two numbers. In fact, Mr. President, what you are about to have here is a Congress acknowledging that that tax increase was a mistake and is in the business of refunding it and undoing it and fixing it.

I am rather new here, Mr. President, but I am always amazed by the idea that you hear expressed here that the best way for the resources of America to be managed, in the minds of so many people in Washington, is that everybody gets a wheelbarrow out and ships everything they have earned up here so that a policy wonk can decide what the priorities are of American families and businesses and communities. I do not think our forefathers had that in mind, Mr. President.

I was just over at the first Senate Chamber a moment ago. I like to walk by there and think about Thomas Jefferson giving his inaugural address there. He did not have in mind that all the fruits of labor of American families was supposed to be shipped up to the capital and reconfigured and sent back according to the priorities of somebody here.

That is not what they had in mind. In fact, he is very quotable on this subject, almost refers to it as treasonous when the fruits of labor are taken from the person who earned it, removed from them and given to somebody else to pursue another set of priorities.

Mr. President, just 40 years ago—we do not have to go all the way back to Jefferson—just 40 years ago American families, in 1950, were sending 2 cents—2 pennies—out of every dollar they earned to Washington, to defend the Nation, to build the ports, the roads, the basic functions of the Federal Government. Today, that same family sends virtually a quarter of their labor to Washington, and then almost that again to local and State governments. But the important point I am addressing here today is that a quarter of all the earnings of an American family are removed from the family.

We hear about, and heard it all through this debate, about how we have to have program after program for the benefit of the American family. And I can tell you, Mr. President, that if you line the American families up and ask them, "Would you rather have the resources yourself to decide how to best house and educate, provide for the health of your family, or would you rather send the check in to the Federal Government and let them decide how to manage your family," the crescendo in chorus of Americans would be, "We can do it better."

The leader just referred to the gentleman that had 10 children who under this tax relief proposal would have $5,000 more to provide for those children. He is so right when he says, Mr. President, "I can do it better than you or the Federal Government."

In general, this tax relief will put $2,000 to $3,000 on the kitchen table of every average American family—$2,000 to $3,000. That is a combination of lower interest rates and an expanding economy that comes from the balanced budget and the tax credits and the tax relief.

Now, after we get through raking the Government through these families, they end up with about $25,000 to $27,000 that is left for them to run the average American family. That is disposable income, money that we have not taken away. That is not very much.

We have marginalized middle America. We have pushed them to the wall. So a proposal that gives $2,000 to $3,000 represents virtually a 10- to 15-percent pay raise and one they get to keep.

This money all becomes disposable income. That is a dramatic infusion of resources that will improve that family's ability to care for itself. In the end, Mr. President, it is the family we count on to raise America, not the Government. It is the family we count on to nurture and grow America and work and build a home and heat it and educate their children and care for the older members of the family. It is the family unit that we depend on to build America. That is where the resources need to go.

America will prosper from this because we will make those families stronger, more able to do the very jobs we want them to do for us. That is where America is built, in those average, hard-working families from my State to yours, Mr. President.

This proposal produces so much good for them. It means we will enter the new century with our families in better condition. We will relieve the burden on them. We will have an expanding economy, and the world is watching us—the world is watching us. You suggested that in your remarks—the dangers of the world. We will be most able to be the superpower we are if we are financially healthy, and these balanced budgets do just that. These balanced budgets mean America will march into the new century, not stumble into the new century.

Mr. President, this Senator, and I know many, many others, like yourself, have waited long, long years for a Congress to seize our financial affairs and do the kinds of things that will make us a strong nation, because in the end, none of us know a family or a person or a business or a community that can do the job it is supposed to do if it becomes financially decrepit, which is the path we are on. You do not know people like that, nor will you ever, and this is true of nations as well, Mr. President. A nation must first be financially healthy, and then it can carry out its duty honorably and appropriately.

Mr. President, I yield the floor, and in that no other Senator is present, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THANKS AND GOOD WISHES TO THE HONORABLE GEORGE M. WHITE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 33, a concurrent resolution to express thanks and good wishes to the Honorable George M. White on the occasion of his retirement as Architect of the Capitol, submitted earlier today by Senators MOYNIHAN, WARNER, and PELL.

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 33) expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as Architect of the Capitol.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MOYNIHAN. Mr. President, I submit a concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White, FAIA, on the occasion of his retirement as the Architect of the Capitol on November 21, 1995, after nearly a quarter-century of service to the Nation.

It is not widely known, and as is the case with active men, soon overshadowed by yet larger accomplishments, but within a few short months of his appointment as Architect of the Capitol in January 1971, George Malcolm White did something which had long eluded Nixon and was even beyond the grasp of the second Roosevelt. He reshaped the High Court. With a few strokes of the pen, he changed the shape of the Supreme Court bench from straight to slightly angled toward the ends and back at the middle. Chief Justice Warren Berger assembled the Associate Justices and explained, "When it comes to architecture, by law, the Supreme Court will obey this man." And the Court has been the better for it.

That George White should instantly command such respect as Architect came as no surprise to me; after all, I had recommended him to the office. Since Washington's time and until 1989, the Architect was simply picked by the President and presented to the Congress. No advice and consent involved. I was domestic counselor to President Nixon when on May 24, 1970, word came that the previous Architect, former Congressman and former contractor J. George Stewart, had died in office. President Nixon asked me to find him a successor. I suggested that this time we pick an architect. The result was George Malcolm White, the ninth architect of the Capitol. And 25 years later, the Capitol has never looked better.

I am aware that the Capitol as we know it is a felicitous accretion of separate elements. Some would reason from that, apparently, that each succeeding generation may add to the building at its pleasure. But the various pieces that now comprise this magnificent composition were all designed in the course of one-half century's work by a string of extraordinary minds, both Architects and Presidents. If the tone of architectural debate has been lowered since the day Jefferson and Latrobe locked horns over whether the column capitals in the House Chamber should be modeled after those in the Theater of Marcellus in Rome or the Choragic Monument to Lysicrates in Athens—Latrobe won; choragic it was—it is a failing purely on the part of the modern-day Executive. George White has upheld the tradition of the early Architects of the Capitol.

Like them, he is a polymath. He holds degrees in engineering, in business administration, and in law as well as in architecture. He is registered in and has practiced these as well. Unlike Thornton, he is not a medical doctor, but that can be excused. Beginning in 1988, I had the pleasure of chairing the Judiciary Office Building Commission, a body which was careful to stay out of George White's way as he used his master-planning skills to propose, his legal skills to enact, his business skills to finance, and his architectural and engineering skills to design and construct what is generally considered the best new Government building in a generation, the Thurgood Marshall Federal Judiciary Building at One Columbus Circle.

While the Capitol grounds and several of the buildings in the Capitol complex bear his stamp, George White has made the Capitol itself the focus of his life's work. He added balance and proportion where he found it lacking and improved what was existing when it needed his care. Who else could recognize stone shock in the west front and repair it to a state better than before the British arrived? From the foundations of the east steps of the House, to the Minton tiles on the floor, to the murals and frescoes on the walls—indeed, to the crown of the Statue of Freedom atop the dome which he climbed and made new with great panache and little regard for his own safety—nothing has escaped his hand, and all is better than he found it.

The Capitol was built as an expression of our beliefs. It was not an efflorescence of elite aestheticism; it was and remains the bone and muscle of our democracy. More than we care to realize, what we build, destroy, or preserve tells future generations the sort of people we are. Next to the social edifice of our Constitution and our Bill of Rights, the Capitol may be the most important legacy we leave behind. For nearly a quarter-century as Architect of the Capitol, George White has given his very fiber to preserving and improving that legacy, and we are thankful for it.

Mr. President, this is a resolution to recognize and commend the Architect of the Capitol, the Honorable George M. White, FAIA, for his outstanding service to the Nation, and to tender to him the thanks and good wishes of the American people on the occasion of his retirement.

Mr. WARNER. Mr. President, I am honored to join my good friend and colleague from New York, Mr. MOYNIHAN, in submitting this resolution recognizing the Honorable George M. White on the occasion of his retirement as Architect of the Capitol.

Since being appointed by President Nixon in 1971, Mr. White has served the Congress and the Nation with the utmost dedication and professionalism. During the nearly 25 years he served as Architect of the Capitol, Mr. White presided over the construction and preservation of numerous buildings on the Capitol Grounds. But most importantly, his commitment and expertise has assured that future generations will be able to visit the grounds and enjoy the rich history that is encompassed in the Capitol buildings.

Mr. President, I thank Mr. White for his distinguished service to our Nation and wish him the very best in his future endeavors.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc; that the motions to reconsider be laid upon the table, en bloc; and that any statements appear in the RECORD in the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 33) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 33

Whereas at its inception, the Capitol of the United States of America was blessed to rise under the hand of some of this Nation's greatest architects, including Dr. William Thornton, Benjamin Henry Latrobe, and Charles Bullfinch;

Whereas prior to the Honorable George Malcolm White, FAIA being appointed by President Nixon on January 27, 1971, it had been 106 years since a professional architect had been named to the post of Architect of the Capitol;

Whereas Mr. White has served the Congress through an unprecedented period of growth and modernization, using to advantage his professional accreditation in architecture, engineering, law, and business;

Whereas Mr. White has prepared the Capitol Complex for the next century by developing the "Master Plan for the Future Development of the Capitol Grounds and Related Areas";

Whereas Mr. White has added new buildings to the Capitol grounds as authorized by Congress, including the Thurgood Marshall Federal Judiciary Building, the Philip A. Hart Senate Office Building, and the Library of Congress James Madison Memorial Building, and through acquistion and renovation, the Thomas P. O'Neill and Gerald R. Ford House Office Buildings, the Webster Hall Senate Page Dormitory, and the Capitol Police Headquarters Building;

Whereas Mr. White has preserved for future generations the existing historic fabric of the Capitol Complex by faithfully restoring the Old Senate Chamber, the Old Supreme Court Chamber, National Statuary Hall, the Brumidi corridors, the Rotunda canopy and frieze, the West Central Front and Terraces of the Capitol, the House Monumental Stairs, the Library of Congress Thomas Jefferson and John Adams Buildings, and the Statue of Freedom atop the Capitol Dome;

Whereas Mr. White has greatly contributed to the preservation and enhancement of the design of the District of Columbia through his place on the District of Columbia Zoning Commission, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and other civic organizations and commissions; and

Whereas upon Mr. White's retirement on November 21, 1995, he leaves a legacy of tremendous accomplishment, having made the

Capitol his life's work and brought to this century the erudition and polymath's capacity of our first Architects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the thanks and good wishes of the American people are hereby tendered to the Honorable George M. White, FAIA, on the occasion of his retirement from the Office of the Architect of the Capitol after nearly a quarter-century of outstanding service to this nation.

Mr. COVERDELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I might inquire, what is the order of the day or hour?

The PRESIDING OFFICER. The Senate is in morning business, with Senators authorized to speak therein for up to 10 minutes each.

Mr. BURNS. Mr. President, I would like to speak in morning business, then.

The PRESIDING OFFICER. The Senator is recognized.

IMPROVING THE MANAGEMENT OF THE PUBLIC LANDS

Mr. BURNS. Mr. President, I rise today to address an issue that has been highly controversial in the State of Montana, and throughout the West, for that matter. As we speak, there has been a campaign of disinformation aimed at confusing and scaring residents of Montana into believing that we in Congress are about to sell or give away all of the public land managed by the Bureau of Land Management and sell those lands to big corporations and, of course, to the rich. Of course, nothing could be further from the truth.

I want to take this opportunity to clear the air on some misapprehensions about the issue and where we stand on it, or where I stand. First, let me say I do believe we have to make some changes in the management of public lands because of all the conflict and the controversy that surrounds them. The real issue here is letting local citizens have an effective voice in the management of those lands which have such a direct and important bearing on their lives and their livelihood.

I have cosponsored S. 1031. It was drafted by my good friend, Senator THOMAS, of Wyoming. That bill, if passed, will provide the opportunity to transfer public lands now managed by the Bureau of Land Management, a Federal agency, to those States which wish to have them. This has been proposed by State and local governments, among others, for some time.

The States believe that being closer to the land, they are more capable of managing those lands for the public than ones who were, say, from a State that has no large concentration of public lands or even us here in Washington, DC. And that is probably true. I believe it is time to take a serious look at the alternatives and to decide whether it is an option we want to use in some situations.

As I said, I think some changes should be made in this bill before final passage. But, nonetheless, I want to give the States and their citizens an opportunity to make a decision about local control themselves. Through the public hearing process and committee and floor debates and amendments, we can decide if, and how, we use this concept to better serve the public's needs.

We face many problems in the management of public land resources today and all those natural resources found on those lands. We have a host of laws which have been developed over more than a century. In many cases they conflict. They are often interpreted differently by agencies responsible for implementing them, so they have different requirements for complying with the law. The result for the average citizens trying to use these lands is conflict, confusion and, of course, frustration. Just like the Federal regulatory process in general, the public land regulations are, in a sense, a mess. Of course, we have to start this process of reforming them.

We had testimony from the head ranger of the Forest Service. He tells us, just about the time they try to make a decision with regard to natural resources found on those lands—we have a lot of laws, and when they get down to the small end of the funnel to where the decision could be made, all at once they are in conflict and therefore no decision is made. Therefore, the inefficiency of running these lands comes to the forefront.

To illustrate what I mean, I have made up these charts. The first shows the BLM permitting process. Those would be those permits required by Federal agencies under law now. The red spots represent all of those other agencies which can deny a permittee the use of BLM land.

When we talk about permittee, that is, if you want to do anything on public land, before you can do anything—and I mean that is from grazing to recreation—it has to jump through the hoops.

I just want to point out, the red dots are Federal agencies that have control over the decisions made on permitting on BLM land. Also, the yellow diamonds are places of conflict which could derail the process and deny access or deny the permittee the use of those lands. Of course, the X's mean that is where it stops; everything stops, the permit is denied.

Whatever it costs, what you want to do is get from here to here and still have money enough to do what you want to do on public lands. Sometimes that gets to be a big race. You start off when the project is proposed. It goes through documents and plan conformance. If they say no, it does not do it, so you start through the process. You amend it, there is public comment, there is a protest. If there is protest by anybody with a 32-cent stamp—a letter from anybody in the country can protest that particular permittee—then it has to go through conflict resolution, through an appeal process again, back to the district manager, and that can be appealed.

So, if the appeal is upheld, the project is not OK'd. If the project is not appealed, if everything goes right and they say no, that appeal should not be in here, then we start up here and we start through this process. And then, if they allow a resolution, then we have to go back down through here again. We have to jump on.

Remember, I would remind the Chair, remember when we were debating the health care situation of a year ago, a proposal by the administration on all the hoops you would have to jump through and all the new agencies it would create in order to take care of just health care in this country under the plan proposed by the administration? I guess they just love hoops.

Anyway, when you get over it all, walk it all the way through, when you get to here—and remember this all costs a little bit of money along the way—this is the area where you try to work out if you have jumped through all of, or some of, your conflicts. If you get all those done—if you do not get them done you can kill the project here. Here is another stop sign, another place for the project to die. If you get through this—and all this takes time and time is money—before it can be finalized, then something else enters into the project and that is other agencies.

Other agencies now come into play because you have just about done everything required by the agency that really has the responsibility of managing the land, it has pretty much said, OK, so far, so good. Now we have to go to other agencies. For water quality, you have to go through EPA. If EPA says yes, then the permit is approved. Then it goes from there, you have to have public comment on that. When the EPA says OK, still there is an area where the public has access, they can make comment. If they say no, then we are back doing another EIS or another dead end, a stop sign, and the project can die. But say they approve it and say we get along pretty good.

The EPA—and we get down here. So far so good. There is also another section, section 401. That is the Clean Water Act. The State has to sign off on it. The State of Montana does. So does the EPA. There are two different steps in there. It takes time. You have to have a bureaucrat in every one of those stages. Somebody has to push the paper. Somebody has to lick the stamp to get it to go on.

Then you get down here. The permit is approved. You have another comment area. If somebody with that 32-cent stamp is handy again, he can protest it, and it goes into conflict. So now you have to go through another process that kicks it back through the process of the EIS.

There might be some wetlands on it. If you think the Corps of Engineers only does business around the navigable rivers and around our coastlines of this country, you are wrong. The Corps of Engineers does business where you could not float a stick.

So you have to go to the Corps of Engineers. You have to file the application because you have wetlands on this. Maybe the EIS showed a wetlands. The Corps of Engineers has to check off on it. This process is a little bit longer. They approve the permit. It goes to public comment. Then it can be appealed. If the appeal is successful, that kills the project. If it does not, it still has to go to the EPA through another appeal, and finally it has to go down to the Fish and Wildlife Service.

All of these are Federal agencies. I do not know how your history has been in dealing with Federal agencies. But you can see there are a lot of things to take into consideration in this line right here when you start talking about wetlands.

Say you are successful at that. You want to count the time. In this line right here it is probably quite a lot.

The next is air quality. You have to take that into consideration. It goes to the EPA, or to the State. It can go to either one. But I would guess, if I was a guessing person—which I am—it would probably go to both. They get notice. There is a comment period. And there is also an area down here where, if there is a conflict on the air quality—if you get down here and see there is no conflict, we move on. If there is conflict, then we go back through the process again. And also here is another area, one more area where the permit could be denied.

Then you have another law called the Endangered Species Act. Some folks have said the act is really not working, and it will be, I think, amended and reauthorized this year. So then you have to take your permit and go to the U.S. Fish and Wildlife Service. They are in consultation. Here again is another area for public comment, and a place where a 32-cent stamp comes in that says you can file an appeal, and there is a conflict noted. Then you have to go through that decision process.

The only thing we are trying to do is get from here to here. But it looks like a regular steeplechase.

I am going to have this chart made up smaller and pass it out to my colleagues. I am wondering as we put laws into effect and try to develop some kind of rules and regulations for the protection of the people's property. Sometimes we actually destroy the people's property while we are doing it. Of course, this process is expensive. You hope by the time you start the process up here and by the time you get down here that you have money enough to implement the proposed action.

Mining—the editorial for mining the other day in the Washington Post said, Who is minding the mint? It takes 10 to 15 years to permit mining of a metal, or a trace metal, or whatever you want to mine on that property. Right now the property has doubtless value. Before you can give it value there has to be something to make it valuable. I am not sure the Government wants to spend money on its own land or speculate with that money to give that land value before the mine is sited—10 to 15 years. If you are thinking about running out West and starting a mine, you want to be ready because all of this is just for you. In mining it becomes a little more. There are a few more things that you have to talk about.

The difference? Here is what we are trying to do. We are trying to simplify and still gather the same information on the activities of BLM. Under the State permitting system, in the State of Montana we have a board of land managers which is made up of the Governor, the Lieutenant Governor, and it manages those school sections under the school trust. They manage for a benefactor which is the schools. That is the way we fund our schools. On every range there are a couple of sections that are set aside and managed, whether it is farmland, or woods, or timber, or whether it is mining for whatever. Any time you have to do business on State land, they do not have as many hoops to jump through. According to a white paper that was done by a woman out of the University of California at Berkeley, it showed that State lands are managed 25 percent more efficiently than Federal lands because of a benefactor, which are the schools.

Basically what we are doing is we have a request for an activity. It goes through MEPA, which is the environmental act in the State of Montana, and it also has public and Federal comment only. It goes into a field evaluation. There is a notice of competitive bidding. In other words, if something is going to happen on that land, notice is given to everybody if they want to participate. That goes out to all interested parties. There is a bid acceptance, and the lease is issued. They derive an improvement settlement. That can be appealed. Then arbitration, and maybe another appeal. It goes to the State director. Maybe there is another appeal. And then it goes to the district court. That all happens pretty fast. But, nonetheless, to get from here to here is the time saved, the expense saved, and it also provides as much opportunity for public comment as any other process and with very few conflicting laws as we can have.

I will have a chart of this also done for my colleagues so they understand what we are trying to do.

Basically, the bill that was crafted by Senator THOMAS says this. They are going to offer the BLM's to the State. If the States do not want them, then they will continue to be managed by the Bureau of Land Management. If they do, then there is a 10-year transition period.

I would say before it is over that we will not know what the final form of this bill will take because there are some people who would like something to happen, and some people would not. It is big Government. They all want to sit here in Washington, DC, and the decisions made here in Washington. I happen to think that people who live next to the land, basically those people who live in the State of Montana, can make those decisions probably better about the resources and the resource management on those lands.

So the laws and regulations of public land ownership have been developed over the years. We have areas in Montana that are checkerboard. This gives them an opportunity for land exchanges, and to block it and make it more efficient. The land management agencies complain that most of their resources are dedicated to paperwork and paperwork exercises, and they are stymied with conflicting requirements. We are trying to take some of that out of that, and also to take out some of those areas where there are conflicts caused by nuisance more than they are by substance.

There is a lot of funding and manpower in the United States. I know from just dealing with the State of Montana. When I went to the State of Montana as a young man, I think the BLM probably did not have 50 people that managed all of the BLM land in the last 30 years. They probably did not have 50 people when I first went to Montana managing around 8 million acres. I will stand corrected on that. Now there are over 300 in one sector and 500 in another all paid by the taxpayers of America of which they are getting no return for those people working out there. No return unless it is from resource management, and, of course, some of that resource management is held up because of the first chart.

So, Mr. President, that sort of clears the air. There is also another bill that would set up a commission, a commission to take a look at our laws and how they apply to our public lands, how to manage them, and also the resources found on them and to make some recommendations back to Congress. I think both of those pieces of legislation should move.

A LEGISLATIVE BLUEPRINT

Mr. BURNS. Mr. President, I thank you for allowing me to run over my time. I wish to at this time thank the leadership of Congress. I know the last 2 or 3 days have been the most grueling days in trying to iron out some sort of a blueprint on which we can get this country and this Government back in some kind of fiscal order.

The President stepped up. I congratulate him. But I think you have to look around at the faces of those who have worked all through it. Some of us kind of took some time off and did some things we wanted to do on Friday and Saturday, not being involved in leadership, but that was not something that was afforded to leadership because they had to stay and stay. When you read this commitment to a 7-year balanced budget, even when it gets down to saying, yes, we have to assure Medicare solvency, that is the reason most of us come down for it. And Medicaid, or Medigrant they are calling it now, or welfare, all of this is something we campaigned on in 1994. It is still the parameters of which we will do business.

If we did not care for these programs, we would do nothing, we would not fight to make sure that this Government stays solvent; that we can pay our bills; that we can take care of the next generation in Medicare and Medicaid and help those people who we really sincerely believe need help. It is our responsibility to help them. That was the driving force behind this whole plan on the Republican side when I campaigned last year.

Had we not cared, we would have turned our back on this and said, "Do it any way you want to, Mr. President. We will keep on doing business the way we have been doing it for 40 years," or at least the last 6 years that I have been here. We could have said no, but we did not do that. We did what was responsible. We came to the forefront to fix it, to save it, to make it stronger and make sure we assure the integrity of the programs designed to serve the people on Medicaid and Medicare, the needy and not the greedy.

I think we have done that. Now the hard work begins. We will get onto the main playing field. There will be a lot of dust and a lot of talk, but basically what you looked at yesterday is exactly what we campaigned on in 1994 and which continues to be the noble goal of this Congress.

Mr. President, I yield the floor.

LABOR, HHS APPROPRIATIONS

Mr. HARKIN. Mr. President, for several years I had the privilege of chairing the appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies. This year, the chair is Senator SPECTER from Pennsylvania. We had our bill finished in pretty good time, but now it is being held up and there have been various unanimous-consents propounded about trying to bring it up. Last week, we hotlined it on this side, and I am informed that the Republicans hotlined it on their side to bring the bill up without the legislative riders and simply pass it on voice vote. No Democrat on this side objected to that. The objection came, as I understand it, from the other side.

I thought perhaps over the weekend and in the spirit of compromise and in the spirit of moving this legislation forward I might try to propound a unanimous-consent request again.

So, Mr. President, I ask unanimous-consent that the Senate proceed immediately to the consideration of H.R. 2127, the Labor-HHS appropriations bill; that the language on page 21, lines 3 to 10, relating to striker replacement, be stricken; that all other committee amendments be agreed to en bloc; that the bill be read a third time and passed and that the motion to reconsider be laid on the table, with the above occurring without intervening action or debate.

Mr. BURNS. I object.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. There is objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I guess I probably expected that there would be objection to my unanimous-consent request.

I wish to make the case again that this bill is ready to come to the floor but for a legislative rider that is on this appropriations bill which deals with striker replacement. It has no business being on an appropriations bill. There are other legislative bills that will be before this body before we adjourn on December 15, or whenever that occurs, that would be more appropriate for that to be attached.

I would also point out that we have voted twice on this issue in the Senate and cloture could not be obtained. Again, I would just for the record repeat for the record what Senator DOLE, our majority leader, said on this bill on September 29, 1995. He said, "I agree with the Senator from Pennsylvania," meaning Senator SPECTER, "and the Senator from Iowa," meaning me, "that we ought to pass the bill on a voice vote. We cannot get cloture. There were two votes, 54 to 46, party line votes." That was on the striker replacement. "So my view is we ought to do it, pass it and find out what happens after a veto in the next round."

I might also say for the record that I checked with the Senator from Pennsylvania [Mr. SPECTER] before I propounded this unanimous-consent request, and he also concurs that this is the way we ought to do it—bring the bill up without legislative riders, pass it on a voice vote, go to conference with the House, and work on the legislation from there.

So again I wanted to point out that it is really not this side holding up the Labor, HHS bill. We are willing to get it now in 60 seconds, voice vote it through but for the legislative rider that was attached in committee, which, as I have pointed out, is a legislative rider and is not a matter of appropriations whatsoever. If that side is willing to strike that, we can bring up that bill and pass it, as I said, within 60 seconds.

As I said, I hotlined this last week and no Democrats objected to it, and unless the majority leader has changed his mind I think he agrees with that process also, as he stated on September 29.

So, Mr. President, I wanted to make that point because I feel strongly it is important we move ahead with that bill. It not only appropriates the money for the Department of Labor and for job training programs but also the Department of Health and Human Services to administer the Medicare program, for the Health Care Finance Administration, HCFA. It also appropriates money for the National Institutes of Health and for all of the programs there, for biomedical research, and also the Department of Education, some very important programs and agencies that need to be funded with the appropriations bill. And as I said, there is really no reason why we should not pass it except for the insistence by some that they have a legislative rider attached to it, which, again, I understand the process here.

A lot of times people try to attach legislative riders. Sometimes it is done without too much concern, people support it on both sides; they will support a legislative rider on an appropriations bill. But I think in a case like this, where you have a legislative rider which is so adamantly opposed by at least a majority on this side—and I think maybe even a few on the other side—this is no place for that legislative rider.

Lastly, Mr. President, let me say that I am glad that both sides over the weekend worked out an arrangement, an agreement on the continuing resolution, and also on the budget. As I have said before, the continuing resolution should not have taken that long since it is only a sense of the Senate anyway. It has no binding force and effect. But I am glad we did agree on the 7 years. I had voted for 7 years for balancing the budget. What I oppose, however, is the manner in which it was proposed that we do it.

I still object to the budget that was passed here. That is why I voted against it. And I trust the President will veto it sometime later this week, and then we will begin in earnest next week in trying to work out some compromise on the budget. That will be the important work of the Senate and of the House in the next 2 weeks or so, because that is the budget, that is the money. That is where we sign on the dotted line, so to speak, as to who is going to pay and who is going to benefit in the next 7 years when we do reach a balanced budget.

I must say that I agree with an article in the U.S. News & World Report written last week by David Gergen in which he pointed out that "the lowest 20 percent of the population [in income] would lose more income under these spending cuts than the rest of the population combined. At the other end, the highest 20 percent would gain more from the tax cuts than everyone else combined."

As Mr. Gergen pointed out, he said:

> Ronald Reagan is often invoked as the patron saint of this revolution. How soon we forget that as President, Reagan insisted that seven key programs in the safety net—Head Start, Medicare, Social Security, veterans, Supplemental Security Income, school lunches and summer jobs for youth—would not be touched; now, six of those seven are under the knife. Reagan believed, as he said in his memorable address accepting his party's nomination in 1980, that "we have to move forward, but we're not going to leave anyone behind."

This budget that this Senate passed, which I voted against, which is going to the President, moves a few people ahead. As a matter of fact, it is like Monopoly. It moves them to the Boardwalk. They did not have to pay any rent either. But for everyone else, especially for the lowest 20 percent, it is "Go to jail" and "Do not pass 'go,'" "Go directly to jail," because that is where they are going to be kept.

This budget pulls up that ladder of opportunity, that ladder of opportunity that I believe my party, the Democratic Party, has always believed in, in making sure that as you make it to the top, as others make it in this country—and there is nothing wrong with making it; there is nothing wrong with being rich and there is nothing wrong with being a success; that is the American dream—but we have always believed, and I have always believed as a Democrat, as an American, that one of the prime purposes of Government is to make sure, when you make it to the top and others make it to the top, that we leave that ladder down there for others to climb.

And I choose my words carefully. I say a "ladder." I did not say an "escalator." I did not say something that someone could get on and ride to the top. I said a ladder, or a ramp of opportunity. The ladder is the structure, but individuals have to exert their own energy to climb it. A ramp is a structure, but those with disabilities have to exert the energy to go up that ramp.

And, yet, what this budget does is it takes away the ramp and it takes away the ladder. When you cut Head Start, when you cut education as deeply as the budget does, when you cut summer youth training, job training, when you cut education support, student loans, yes, even when you cut Medicare as much as this does and push it all to the upper income, you take away that ladder of opportunity.

So, that is why I will fight as hard as I can over the next couple of weeks to make sure that as we reach a compromise—and I understand it has to be a compromise—that we—perhaps I will continue to invoke the words of Ronald Reagan that we should not leave anyone behind, and, no, those seven key programs ought to be left untouched, because those programs really do leave that ladder of opportunity down there. And that ought to be the sentiment that guides the Senate over the next couple weeks.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The majority leader.

TRIBUTE TO SENATOR NANCY LANDON KASSEBAUM

Mr. DOLE. Mr. President, during my years in the U.S. Senate, it has been my privilege to serve alongside two remarkable colleagues from Kansas.

The first was Jim Pearson, who was a Senator of great common sense and great integrity who was widely respected by Members on both sides of the aisle.

When Senator Pearson retired in 1978, Kansans replaced him with another person of common sense and integrity—Senator NANCY LANDON KASSEBAUM. Kansans reelected Senator KASSEBAUM in 1984 and 1990 by overwhelming margins.

And there is no doubt that she would have received another landslide next November.

This morning in Topeka, however, Senator KASSEBAUM announced that she would retire from the Senate at the end of next year.

Yes, this announcement was not unexpected, but still it comes as a blow to Kansans, and to all of us here in the Senate who have grown to count on Senator KASSEBAUM's leadership, wisdom, and friendship.

I will have more to say about Senator KASSEBAUM in the coming weeks and months, but I did want to take just a minute today to pay tribute to our colleague and friend.

The Senate has debated many historic and important issues in the past 17 years, and Senator KASSEBAUM has played a key role in many of them.

As a member of the Labor and Human Resources Committee—a committee she now chairs—Senator KASSEBAUM has tirelessly worked for legislation to assist America's working men and woman.

Kansans have a tradition for helping neighbors in need, and Senator KASSEBAUM continued that tradition here in the Senate, as she devoted time and energy to improving programs that help the less fortunate.

Senator KASSEBAUM also emerged over the years as a strong force in shaping America's foreign policy. One example of her leadership in the arena was her instrumental role in shaping the policy that helped move South Africa to a new era of equality.

Senator KASSEBAUM'S father, the great Alf Landon, once said, "there are some smart people in Washington. There are more of 'em in Kansas."

Senator KASSEBAUM has succeeded because she has always kept those words in mind, and she has always understood that Kansans and Americans did not need the Federal Government to run their lives and make decisions for them.

Mr. President, NANCY KASSEBAUM'S record of intelligence, integrity, and independence has ensured that she will always be remembered as one of the true giants of Kansas political history.

And I know I speak for all Members of the Senate in saying that we are very proud to call her our colleague and our friend.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 19, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 20, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution (H.J. Res. 123) making further continuing appropriations for the fiscal year 1996, and for other purposes.

Under the authority of the order of the Senate of January 4, 1995, the enrolled joint resolution was signed on November 20, 1995, during the recess of the Senate by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 529. A bill to authorize the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming (Rept. No. 104–175).

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Con. Res. 32. A concurrent resolution providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until Tuesday, November 28, 1995; considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. WARNER, and Mr. PELL):

S. Con. Res. 33. A concurrent expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol; considered and agreed to.

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. WARNER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 851

At the request of Mr. JOHNSTON, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 1316

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1360

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes.

SENATE CONCURRENT RESOLUTION 32—PROVIDING FOR A CONDITIONAL RECESS OR ADJOURNMENT

Mr. DOLE submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Monday, November 20, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until a time to be determined by the Majority Leader on Monday, November 27, 1995, or until one hour after the House has voted on H.J. Res. 122, unless the House agrees to the Senate amendment.

SEC. 2. The two houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stand adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 3. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 33—RELATIVE TO THE RETIREMENT OF THE ARCHITECT OF THE CAPITOL

Mr. MOYNIHAN (for himself, Mr. WARNER, and Mr. PELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 33

Whereas at its inception, the Capitol of the United States of America was blessed to rise under the hand of some of this Nation's greatest architects, including Dr. William Thornton, Benjamin Henry Latrobe, and Charles Bullfinch;

Whereas prior to the Honorable George Malcolm White, FAIA, being appointed by President Nixon on January 27, 1971, it had been 106 years since a professional architect had been named to the post of Architect of the Capitol;

Whereas Mr. White has served the Congress through an unprecedented period of growth and modernization, using to advantage his professional accreditation in architecture, engineering, law, and business;

Whereas Mr. White has prepared the Capitol Complex for the next century by developing the "Master Plan for the Future Development of the Capitol Grounds and Related Areas";

Whereas Mr. White has added new buildings to the Capitol grounds as authorized by Congress, including the Thurgood Marshall Federal Judiciary Building, the Philip A. Hart Senate Office Building, and the Library of Congress James Madison Memorial Building, and through acquisition and renovation, the Thomas P. O'Neill and Gerald R. Ford House Office Buildings, the Webster Hall Senate Page Dormitory, and the Capitol Police Headquarters Building;

Whereas Mr. White has preserved for future generations the existing historic fabric of the Capitol Complex by faithfully restoring the Old Senate Chamber, the Old Supreme Court Chamber, National Statuary Hall, the Brumidi corridors, the Rotunda canopy and frieze, the West Central Front and Terraces of the Capitol, the House Monumental Stairs, the Library of Congress Thomas Jefferson and John Adams Buildings, and the Statue of Freedom atop the Capitol Dome;

Whereas Mr. White has greatly contributed to the preservation and enhancement of the design of the District of Columbia through his place on the District of Columbia Zoning Commission, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and other civic organizations and commissions; and

Whereas upon Mr. White's retirement on November 21, 1995, he leaves a legacy of tremendous accomplishment, having made the Capitol his life's work and brought to this century the erudition and polymath's capacity of our first Architects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the thanks and good wishes of the American people are hereby tendered to the Honorable George M. White, FAIA, on the occasion of his retirement from the Office of the Architect of the Capitol after nearly a quarter-century of outstanding service to this nation.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, for the information of the Senate and the public, the Subcommittee on Forests and Public Land Management has scheduled an oversight hearing on the administration's implementation of section 2001 of the Funding Rescissions Act of 1995.

The hearing will be held on Wednesday, November 29, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC. The hearing will be conducted jointly with the forest salvage task group of the House Resources Committee.

The only witnesses will be the administration and the General Accounting Office. Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, contact Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1271, the Nuclear Waste Policy Act of 1995.

The hearing will be held on Thursday, December 14, 1995, it will begin at

9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

ADDITIONAL STATEMENTS

THE BALANCED BUDGET ACT OF 1995

• Mr. McCAIN. Mr. President, last week I had submitted for the RECORD a statement regarding the Balanced Budget Act of 1995 that appears to not have been printed. Therefore, Mr. President, I would ask that my statement appear in the RECORD today.

Mr. President, I want to commend the hard work of all my colleagues in producing this legislation. Although there are parts that do concern me, in general I strongly support this bill and the goal of balancing the budget in 7 years.

As one of the Senate Commerce Committee members who drafted title IV of the Senate bill and served as a conferee for this section of this legislation, I want to clarify for the record what I believe is intended by this bill regarding spectrum auctions.

Under the bill, the Federal Communications Commission [FCC] is mandated to identify and make available for public auction 100 Mhz of spectrum. I believe that auctioning this and other spectrum is the fairest, most equitable manner in which to allocate spectrum. I would hope that the Commission would understand this fact and become spectrum auction proponents. The auctioning of spectrum in an orderly manner—done so that the public interest is served both by maximizing revenue to the Treasury and ensuring that services that use the spectrum continue in a manner that benefits the public—should be a goal of all FCC proceedings regarding the spectrum.

The bill before the Senate contains several criteria that the FCC should use in selecting which blocks of spectrum to auction. I want to emphasize for the record that the inclusion of any particular criteria for the FCC to consider should not be viewed as limiting the Commission's authority to make a determination under its overall public interest standard of what existing spectrum uses may need to be continued, or from considering in making its decision the impact on any existing users of having to move to other frequencies or from requiring, as a condition of any move, that the costs of relocation be paid by new users.

Most importantly, I urge the Commission to examine all the spectrum referenced in this act and make determinations as to its allocation that are fair, equitable, and that do not unduly hurt or burden any one group or industry.

Mr. President, I hope this clarification helps guide the FCC as it moves toward auctions as mandated by this bill. I yield the floor.•

AN OUNCE OF PREVENTION AS COSTLY AS THE CURE

Mr. SIMON. Mr. President, Henry Aaron, a respected economist at the Brookings Institution, and Prof. William B. Schwartz who teaches medicine at the University of Southern California, had an op-ed piece in the Washington Post commenting about what is driving up health care costs.

It is a solid piece of information when too often we are looking for superficial answers that may temporarily help the budget situation.

I have said for many years that the Federal Government has to look to additional revenue sources if we are to provide the fundamental services that our people want and deserve.

Nothing that I have seen has changed my mind on that.

Our inattention to our revenue problems has caused an escalation of the deficit in this country; and it has caused expenditures of huge amounts of money for interest, in addition to discouraging industrial investment.

The Henry Aaron-William Schwartz article talks about realities in the medical field, realities we seem reluctant to face but I hope will.

I ask that their op-ed piece be printed in the RECORD.

The material follows:

[FROM THE WASHINGTON POST, NOV. 16, 1995]

AN OUNCE OF PREVENTION AS COSTLY AS THE CURE

(By Henry J. Aaron and William B. Schwartz)

On the op-ed page of Oct. 25, Joseph Califano and Robert Samuelson independently comment on solutions to the excessive level and growth of health care spending. Califano invokes prevention as the long-term solution. Samuelson points to managed care, although he prudently warns of possible abuse by profit-hungry managers. Both miss the simple truth—that any sustained slowdown in the growth of health care spending will require health care rationing.

Contrary to popular belief, the principal causes of rising health care spending are not waste, fraud and abuse, an aging population or increasingly unhealthful behavior. Waste, fraud and abuse can account at most for about one-tenth of the increase in spending over the past two decades. Aging has been an even smaller factor, although its importance will grow. And people have been eating more healthfully, exercising more and smoking less than in the past.

The primary force driving up health care spending is the proliferation of new health care technology. Scientific advance accounts for at least half and probably more of the 120 percent growth in real per capita health spending that has occurred since 1975. There is no indication that the pace of scientific advance is slowing or will slow. It may be accelerating. And population aging will not stop for decades.

It would be nice if investing in preventive care could significantly slow the growth of health spending. Alas, it cannot, for two related reasons. First, with few exceptions (vaccinations stand out), most preventive health measures must be applied to large populations to prevent a relatively small amount of illness.

Take screening for colon cancer, which kills about 50,000 people annually at a treatment cost of about $1 billion. Deaths from colon cancer could be cut by 20,000 annually if all people age 50 and over were tested annually for blood in their faces and all those who tested positive underwent a colonoscopy. That sounds like a strong case for preventive colonoscopies. And indeed it is—on grounds of public health. But the added cost of the preventive tests would run $4 billion to $6 billion annually, depending on how aggressively patients with benign polyps were treated subsequently. This example illustrates a more general point: Some preventive health measures are good for health, but they seldom cut costs.

The same is true of substance abuse. Califano would like to reduce it. So would most of the rest of us. But measures to reduce substance abuse are costly and have few short-run effects on behavior. They may eventually induce less abuse or better diet, but these changes do not come quickly.

Meanwhile, the second reason prevention does not save money comes into play. It may be possible, at a price, to reduce particular forms of illness. But all of us who survive life's other hazards will one day sicken and die. Smokers spared coronaries and alcoholics spared cirrhosis will eventually get sick and consume health care. The ghoulish fact is that many people who are spared cheap death from a tobacco-induced coronary will eventually succumb to costly debility from Alzheimer's.

Treatment for degenerative diseases such as Alzheimer's, arthritis and miscellaneous organ failures will eat up much of the savings achieved through preventive measures and could end up costing more than any direct savings achieved through prevention campaigns. The offset will not be exact. Some money may be saved. Stopping smoking does cut health costs, but only modestly. In other cases, some net costs may be incurred. But the idea that prevention will materially divert the health cost juggernaut is fantasy.

Samuelson is right to remark on the importance of the managed care revolution. He is properly worried about the effects of an infusion of profit-oriented managed care plans on the quality of care. But he is too credulous about the achievements of managed care in slowing the growth of health care spending.

Yes, health care spending slowed in California during the 1980s as managed care plans spread. But education spending also slowed as California fell from 22nd in the nation in 1979–80 to 33rd in 1991–92. California experienced a protracted recession during the 1980s. Recessions produce unemployment and reduce incomes. Both cause growth of spending of all kinds to slow.

Samuelson is right that some companies have stopped growth of health insurance premiums by shifting to managed care. But that slowdown could come from reductions in benefits, increased cost-sharing and cost-shifting to other payers through negotiated discounts, as well as from genuine increases in efficiency. Despite the vaunted achievements of managed care, inflation-adjusted health care spending grew 5 percent in the past year, the same as the average for the past four decades.

Maybe managed care will do better in the future than it has in the past. But if 70 percent of all those privately insured already have managed care, as Samuelson reports, one should hesitate before cracking open the champagne in celebration of victory over rising health costs.

Managed care may eventually succeed in saving money by squeezing out waste, but it will have to save enough to pay for the extra administrative costs it generates. Much waste has been squeezed out already. Hospital days have fallen by one-third since 1984. And waste can only be squeezed out once. After it is gone, the same forces that have been driving up health care costs—technology and aging—will reassert themselves.

A sustained slowdown in health care spending can be achieved in only one way: by denying some beneficial services to some people. People have been reluctant to repose such power in government bureaucrats, who have nothing personal to gain from the decisions they make. One wonders whether they will be more willing to cede such sensitive authority to well-paid managed care executives who make larger profits every time they decide some procedure is not worth what it costs them.•

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Friday, November 17, the Federal debt stood at exactly $4,989,662,795,523.25. On a per capita basis, every man, woman, and child in America owes $18,940.85 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

ADDRESSING THE CONCERNS OF ATOMIC VETERANS

Mr. WELLSTONE. Mr. President, last month, President Clinton at a White House ceremony accepted the final report of the Advisory Committee on Human Radiation Experiments. Following Energy Secretary Hazel O'Leary's announcement early in 1994 about secret human radiation experiments carried out or sponsored by the U.S. Government, President Clinton created the advisory committee to advise the Human Radiation Interagency Working Group on the ethical and scientific issues related to such experiments. The Human Radiation Interagency Working Group, is a Cabinet-level body that includes the Secretary of Veterans Affairs Jesse Brown.

I believe the advisory committee should be commended for devoting considerable attention to atomic veterans in its final report and including two recommendations concerning compensation for them. On several occasions, I strongly advocated that the advisory committee include atomic veterans in their inquiry. In February, for example, I issued a statement urging the panel to include atomic veterans in their final report and recommend specific options for the Government to provide recourse to atomic veterans seeking compensation. At that time, I stressed:

> By any standard atomic veterans are perhaps America's most neglected group of veterans, and with the work of the advisory committee we now have an excellent opportunity to finally answer some of these veterans' questions and to address some of the injustices they have suffered.

In March, I had the honor of being the only Senator to publicly testify before the advisory committee—dedicating my testimony to the Forgotten 216th. I did so not only because many of these atomic veterans are Minnesotans but also because they have done so much to educate me about the plight of atomic veterans and their brave and continuing fight for justice.

Mr. President, since January 1994, I have had numerous meetings and contacts with the men of the Forgotten 216th and their families. Since their problems typify those of other atomic veterans nationwide, permit me to tell you about veterans of the U.S. Army's 216th Chemical Service Company and about why they now term themselves the Forgotten 216th.

The Forgotten 216th participated in a series of atmospheric nuclear tests in Nevada in 1952 called Operation Tumbler Snapper. They believed their Government's assurances that it would protect them against any harm, but now are convinced they were used as guinea pigs with no concern shown for their safety. Many were sent to measure fallout at or near ground zero immediately after a nuclear bomb blast, encountering radiation so high that their geiger counters literally went off the scale while they inhaled and ingested radioactive particles. They were given little or no protection, sometimes even lacking film badges to measure their exposure to radiation and were not informed of the dangers they faced. Moreover, they were sworn to secrecy about their participation in nuclear tests, sometimes denied access to their own service health records, and provided with no followup health care or even medical monitoring. Many members of the 216th have already died, often of cancer. Is it any wonder these men now refer to themselves as the Forgotten 216th?

Given this horrendous situation, I was delighted to see that the advisory committee report included a recommendation that held out hope that the Forgotten 216th and other atomic veterans may never again be forgotten by the Government that placed them in harm's way. The report urged the Human Radiation Interagency Working Group to work in conjunction with Congress to promptly address the concerns expressed by atomic veterans. Among these concerns cited by the committee are several that I have long believed needed to be addressed, including:

The list of presumptive diseases for which atomic vets automatically receive VA compensation is incomplete and inadequate.

The standard of proof for those atomic vets without a presumptive disease cannot be met and, given the incompleteness of the exposure records retained by the Government, inappropriate.

Time and money spent on contractors and consultants in administering the program, particularly the dose reconstructions required for most atomic vets filing claims with the VA, would be better spent on directly aiding vets and their survivors.

With regard to the last two concerns, it is important to note that the advisory committee found that "the Government did not create or maintain adequate records regarding the exposure of all participants [and] the identity and test locale of all participants. * * *" This finding justifiably calls into question the ability of the Government to come up with accurate dose reconstructions on which the approval of claims for VA compensation of many atomic veterans depend.

In the aftermath of the President's acceptance of the report, Jesse Brown announced the establishment of an interagency working group consisting of representatives from the VA, HHS, and DOD in response to the advisory committee's recommendations concerning compensation for atomic veterans. The interagency working group is expected to submit its report to the Human Radiation Interagency Working Group in the spring of 1996.

Both advisory committee recommendations on atomic veterans urge the Human Radiation Interagency Working Group to work in tandem with the Congress to implement them and, therefore, I have requested that my distinguished colleague Chairman SIMPSON hold hearings soon after the interagency working group established by Secretary Brown issues its report in the spring. The purpose of the hearings would be to permit the Committee on Veterans' Affairs to determine what legislative action may need to be taken.

It is worth noting that the cover of every copy of the Atomic Veterans Newsletter, the official publication of the National Association of Atomic Veterans, contains the simple but eloquent statement: "The atomic veteran seeks no special favor * * * simply justice." Their fight for justice has been long, hard, and frustrating, but these patriotic and deserving veterans have persevered.

Mr. President, I urge my colleagues from both sides of the aisle to join me in seeking to ensure that atomic veterans finally win their struggle for justice.

ORDERS FOR MONDAY, NOVEMBER 27, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 1 p.m., on Monday, November 27, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and then there be a period for morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I also ask unanimous consent that the Senate begin consideration of the HUD-VA conference report at 3 p.m., on Monday, November 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, the Senate will begin consideration of the conference report accompanying the HUD-VA appropriations bill at 3 p.m. The Senate may also be asked to take further action with respect to the foreign operations appropriations bill. However, any votes ordered will be postponed to occur at 2:15 p.m., Tuesday, November 28, 1995.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, it is my understanding the House will not act on the adjournment resolution until about 5 o'clock. I do not know of any other Senators seeking recognition, so I now move we stand in recess subject to the call of the Chair.

The motion was agreed to; and at 12:09 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DEWINE).

AUTHORITY FOR COMMITTEES TO REPORT

Mr. GRAMS. Mr. President, I ask unanimous consent, notwithstanding the adjournment of the Senate, that on Tuesday, November 21, committees have from 10 a.m. to 3 p.m. to file any legislative or executive reported business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 1 P.M., MONDAY, NOVEMBER 27, 1995

Mr. GRAMS. Mr. President, if there be no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the provisions of Senate Concurrent Resolution 32.

There being no objection, the Senate, at 3 p.m., adjourned until Monday, November 27, 1995, at 1 p.m.

HOUSE OF REPRESENTATIVES—*Monday, November 20, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. EWING).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 20, 1995.

I hereby designate the Honorable THOMAS W. EWING to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member other than the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. FORD] for 2 minutes.

BACK ON THE JOB

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Tennessee [Mr. FORD] is recognized during morning business for 2 minutes.

Mr. FORD. Mr. Speaker, I rise to say to the Democrats and Republicans alike that we are very happy I know in this Congress that the Federal employees are now back on the job.

We would also like to point out, Mr. Chairman, that we also know a little bit about this agreement among Democrats and the Republicans, the President and the Republican leadership. When we think in terms of taxing working people in this country, it is clear now that we will have that issue on the table to say that it is wrong for the Republicans to try to tax working families in this country.

And we also would look at it even closer now with this so-called crown jewel for the rich and the wealthy of this country, is that we can say to Speaker GINGRICH is that $245 billion is just absolutely too much of a tax break for the rich and wealthy of this Nation.

I am glad to know that now that we will have the administration and Democrats and Republicans trying to come up with a plan that will in fact protect the Medicare recipients, the senior citizens of this country, children of this country, in making sure that we protect the environment.

I am just happy to know that I was a part of this side of the aisle on Saturday, when our colleagues on the other side of the aisle wanted this House to leave and come back this afternoon at 6 o'clock. I am glad that the Democrats were able to shame the Republicans to stay here over the weekend so the Federal employees could go back to work.

And I thank you very much, Republicans, for shaming you in a way, but thanking you very much for coming over with the Democrats to say let us stay in session over the weekend, that the President and the Republicans could get together. And today the Federal employees are back at work.

HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 3 minutes.

Mr. GOSS. Mr. Speaker, we all have some breathing space today, and it is welcome, and we are very happy for the successful efforts that took place over the weekend while we worked here to avoid this Government shutdown, and I am pleased that that has happened.

We all now have a chance to stand up and look around a little bit about what is happening elsewhere in the world. I think it is important that we do that, because our responsibilities do in fact have a whole range.

I expected to hear some crowing from the White House about now, about the crown jewel of their foreign policy success, which is Haiti. I have not heard much, and I have been curious about the silence.

I have not heard much in the press, either, so I just checked and I found that one of the observers who was there for the last election, for the parliamentary elections in June, was there last week and reported back to me this morning on a trip that she had there. And sorry to say that things are not going very well.

I say that for three reasons. First of all, the taxpayers of this country have got almost $3 billion invested in Haiti right now, in the Aristide government. I am sad to say that democracy is not building. It is in fact going down the drain, despite that heavy investment to try to help that nation out.

I am also sorry to say that U.S. troops are still there and subject to harm in the civil unrest that is unyielding, and we have seen unfortunately an escalation of violence. We will hope that nobody gets hurt, and particularly not our troops.

And finally, I am particularly sorry that democracy under the Aristide administration is not working, because he was truly a democratically elected President, and if the Government cannot operate that way, that means we are going to be in for a longer haul in Haiti and things are not as well as we hoped.

That, of course, affects us in Florida. We have the refugee problem, we have many Haitians in Florida, many in my district, a matter of great concern. It is also sad that a friendly neighboring nation that is so close to our shore is having such a difficult time coming to grips with the development of democracy.

We will not have a full, fair election there on December 17, if the election comes off, because the legitimate opponents who would run have been intimidated. They have been threatened with being burned to death if they even registered and showed up. Most of the opposition offices are closed. There is no campaigning going on.

Fear is throughout the countryside. This is not the ingredient of a democratic election. Businesses are closed. Business is worse. The economy was bad. The economy is even worse than bad now. People just simply do not want to open their stores. They are afraid of mob violence.

The privatization effort that the Government was supposed to introduce has not worked. In fact, not only has it not worked, the Prime Minister who was its champion has resigned in protest. A new Prime Minister has come in and is going to a different policy.

So those agreements toward privatization, getting that country back on an economic footing, are not working out either. Apparently the government of President Aristide is going the wrong way on that.

The most important point is stability. Mobs are driving people into refuges, including Americans. When it gets to that state, it is time to reexamine.

PRINCIPLES FOR BUDGET BALANCING

The SPEAKER pro tempore. Under the Speaker's announced policy of May

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 2 minutes.

Mr. PALLONE. Mr. Speaker, I must say that I am very pleased today so to see that we have worked out the continuing resolution between the President and the Republican leadership in Congress, and that Federal employees are back to work. I cannot emphasize enough how pleased the Federal employees in my district are. Some of them have been calling the district office to say that.

Even more or just as important, though, is the fact that the language of this agreement essentially says not only that will we have a balanced budget, but that the priorities which I have been talking about, which President Clinton, the Democratic leadership have been talking about, which are to preserve Medicare, to make sure that Medicaid is adequately funded, to make sure that this budget provides ample funding for education and also for the environment, that those are included in the language of the continuing resolution.

So I hope that with these principles that are so important to President Clinton, so important to Democrats and important, I believe, to the American people, that those principles will guide the negotiations over the larger budget agreement that must be reached over the next few weeks.

Let me tell you why I think that these principles are important. I have said it over and over again on the floor, but I am going to say it again today. When we talk about Medicare and Medicaid, the Republican budget essentially says that those programs are going to be cut by a significant amount of money, 270 million for Medicare, 170 million for Medicaid, in order to pay for a tax break, mostly for wealthy Americans.

What I hope is that this budget agreement will put more money back in Medicare and Medicaid, retain the entitlement status particularly for Medicaid, so that those who have low incomes and are on Medicaid now, get their health insurance through the Government, will continue to be entitled to health insurance.

What we can do is reduce those tax breaks or eliminate those tax breaks for the wealthy in order to make sure that these programs continue the way they have.

PUTTING OUR HOUSE IN ORDER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized during morning business for 3 minutes.

Mr. FUNDERBURK. Mr. Speaker, what if an unpopular President shut the Federal Government down and no body outside the Capitol beltway, except CBS, NBC, and the New York Times cared one whit? Judging by what the people of eastern North Carolina told me, that's exactly what happened last week. So let me cut through the fog that engulfed the White House and its bagmen in the media and tell you what this fight is really about.

The shut down of the Federal Government was not about petty partisan politics. This fight was and is about our children and our future. It is about two competing visions of America. The first vision is Bill Clinton's America where an army of Federal bureaucrats tells us how to raise our families, spend our money, and run our businesses. The second is our America; and America built on the promise of individual liberty and material progress.

The new majority was sent to Congress by Americans frightened of Government and exhausted by its ravenous demands. We were sent here to bring runaway Federal spending to a standstill. We hammered out a budget plan to balance the books, chop the arms off the Federal octopus, and let the people keep their money.

Bill Clinton's opposition to the Republican budget tells America three things:

Bill Clinton did not want a balanced budget.

Bill Clinton was never serious about carrying through on his campaign pledge to cut middle-class tax rates.

Bill Clinton is an old-fashioned tax-and-spend liberal who genuinely opposes any reduction in Government spending.

We have had 800,000 Federal workers on furlough. Can the liberals continue to argue that these Federal workers and the thousands of idle programs they administer are critical to the health and safety of our country? Bill Clinton's own administration determined 67 percent of the employees at the Department of Commerce, 89 percent at Education, and 99 percent at HUD are nonessential. But Bill Clinton has done everything in his power to keep us from closing these and countless other Federal departments. So much for Bill Clinton, the new Democrat.

Americans don't miss these programs on Federal holidays and they certainly don't miss them today. For all of Bill Clinton's talk about the hazards of shutting down Washington, DC, most of these programs didn't exist prior to 1965 and America prospered for 190 years without them. By a margin of 10 to 1, my constituents in the second district of North Carolina said keep the nonessential parts of Government closed down and out of our lives.

Mr. Speaker, there was much more to this debate than furloughed Federal workers. Time is running out for our children. We are about to enter a new century on a collision course with catastrophe. If you add up all of the Federal entitlements, at their current growth rates and add the inevitable increase in the national debt, what you have in 20 years is a financial disaster of unimaginable magnitude. Entitlements plus our Federal debt will consume every last penny of Federal tax revenues. As it stands now, in 20 years our children and grandchildren will have half of their paychecks taken by Uncle Sam just to pay for entitlements alone. There will be nothing left for defense, law enforcement, foreign affairs, or agriculture, absolutely nothing.

Mr. Speaker, we are about to drive America off the cliff. For the sake of future generations we must put our house in order now. It's good to get a pledge from the President to agree to a balanced budget in 7 years. But that can't and won't take place without real reform of welfare, Medicare, education, the legal system, and workplace and environmental regulation.

We've won the balanced budget debate. Now we have to win the details and make sure that the left does not continue big Government business as usual. Our children's future depends on it.

BUDGET COMPROMISE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 2 minutes.

Mr. WISE. Mr. Speaker, we are all delighted of course that the Government is back to work and in West Virginia 17,000 Federal employees are back on the job.

I also want to thank my congressional staff, over half of whom were furloughed during this period. It is not that they were nonessential. It is that they were, in the decision of the Committee on House Oversight, nonlegislative. Today the mobile office is back on the road visiting one of the many counties it visits every day. The caseworkers are working, schedulers are putting together events, constituent organizers are working. We are back in business.

Americans finally are once again getting the Government that they are paying for. That is what was lost in this whole debate. Americans were not getting the Government that they are paying taxes for.

I believe there are two reasons that we reached this situation today, this compromise. First of all, the public was telling everyone, Republicans, Democrats, the White House, it is time to get back to work. Do not hold us as hostages to this budget battle that is taking place.

The second reason is, I believe, not reported as much, is the decision on Saturday by Democrats and then joined by a lot of Republicans to say, no, we are not going to shut this House down, this House should not adjourn even for 1 day while there are Federal employees out on the street.

So let us get to the good news. The good news is that this side-bar, this preliminary fight on this boxing card, is behind us at least for 3 weeks. Now we can get down to the real issues; the real issues of what kind of budget we have in this country and what kind of priorities is Medicare and Medicaid; what kind of tax cuts are they going to be and are they going to go to the wealthiest or to the low- and middle-income; what kind of education programs are we going to have; how you are going to actually balance this budget over 7 years.

The good news is hopefully that this will not be affected by temporary events, the fact that the Speaker is dissatisfied with the seat that he gets on an airplane or somebody's attack on somebody else on the floor of the House. Now we have a fight over principles, and that is a fight that I welcome.

We are going to hear a lot about scorekeeping, whether Congressional Budget Office or Office of Management and Budget will keep the score and make the estimates on growth. The fact is, the people should be the scorekeepers, and that is what this battle is going to be about.

CALL FOR PRESIDENT'S BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Mexico [Mr. SCHIFF] is recognized during morning business for 3 minutes.

Mr. SCHIFF. Mr. Speaker, both sides did compromise to bring us to the point where we are today. The Republican leadership gave up some original provisions that were not related to the budget in the originally proposed continuing resolution.

This weekend the President agreed to a 7-year goal for reaching a balanced budget, combined with using the Congressional Budget Office economic forecasts, although with consultation with other agencies. Now we have to head to the task of passing a long term 7-year balanced budget.

Very shortly, the Republican majority in Congress will pass such a budget. Seven years, scored by the Congressional Budget Office. I do not agree with every single decision in that budget, but it is a budget that meets the requirements of the framework that has been agreed upon.

Mr. Speaker, I respectfully suggest it is now time for the President of the United States to submit a new budget to Congress, a budget that is also within the framework that we have agreed upon, a budget where the President proposes a balanced budget in 7 years, rated by the Congressional Budget Office.

I understand that the President of the United States has some very strong feelings about budget priorities. This is not only his prerogative, I think it is his responsibility in his office.

However, how do we know what his priorities are, how do we negotiate differences between the two, unless we have a budget from this administration that lays out those priorities so that we can compare the two budgets, the congressional budget and the administration's budget, on a side-by-side basis? If the President proposes, for example, that spending be raised in one category, how will we know how to pay for that increase in spending unless we can see where the President has proposed reducing spending elsewhere?

Mr. Speaker, so the American people can compare our priorities, so that the Congress can negotiate with the President to reach a 7-year balanced budget, we need the President and the administration now to send us their version of a balanced budget in 7 years.

BUDGETARY PRIORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 2 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say how very proud I was to be a Democrat this weekend, because this weekend the Democratic party and this House stood up in the grand tradition of Roosevelt and Truman for work, for work.

We insisted that this body keep working as we ran out of "no" cards, when the other side finally decided we should not adjourn, that we should stay in session until we got some kind of an agreement to get Federal workers back to work. That happened, and how proud I was of the solidarity on our side of the aisle as they chanted "work, work, work," to the other side to get all of the petty nonsense of the last week behind us.

That is now behind us. And now for the next 3 weeks this body must sit down with the American people and we must all dialog about what our priorities really are.

Today we are going to see the first priority category. We see the defense bill going to the President. And after all of this that you have heard about balanced budgets, they are going to put a defense bill on the President's budget that is $7 billion over what the Joint Chiefs of Staff asked for. That was never done, even during the cold war. So we will be spending more than the whole rest of the planet combined on defense.

If you think this year is expensive, wait until you see the rest that is coming in behind it for the next 7 years. This is just the teeny little Ritz cracker hors d'oeuvre, for the banquet that we will be ordering if we cannot override the President's veto of that bill.

These are the kind of priorities we are going to talk about as we figure out what we do in this next 7 years. These are the priorities that are taking us into the 21st century. This is going to be a historic 3-week debate. Everyone in America should roll up their shirt sleeves and join it. It is our country and it is our future.

PRESIDENTIAL PROMISES ON BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. STEARNS] is recognized during morning business for 3 minutes.

Mr. STEARNS. Mr. Speaker, I am certainly glad the President finally agreed to balance the budget in 7 years.

It really should not have been quite as difficult as it turned out to be, because really when you go back and look at what the President said in his State of the Union Address in 1993, and what he said when he ran for the Presidency in 1992, and when you put them all all together, it would not have been possible for him to continue to say he was not for a balanced budget in 7 years.

Let me quote what the President said in 1993 in the State of the Union Message.

> My budget plan will use independent Congressional Budget Office numbers. I did this so no one could say I was estimating my way out of this difficulty. I did this so that the American people will think we are shooting straight with them.

That is our President, 1993, using CBO numbers.

In 1992, the President, while on the "Larry King Show," stated emphatically that his first piece of legislation would be a balanced budget in 5 years. Then again as recently as last week, the President was saying, "CBO numbers are unacceptable to us because it commits us to accepting Republican cuts."

Well, now I am glad the President finally agreed to a 7-year balanced budget using CBO numbers. My point again, Mr. Speaker, is that the debate we had on that issue is going to be the same debate we will have on Medicare.

The American people should know that the President, while he accuses us of hurting Medicare recipients, is again not remembering what he proposed with his ill-fated Health Security Act of 1993. The numbers speak for themselves. Let's compare his plan of 1993 with our plan today.

Now, under our plan, we would allow the Medicare Program to grow at the rate of about 6½ percent after 1999. President Clinton, who claims Medicare is one of his chief concerns and does not want to see it hurt the elderly unfairly, proposed in 1993 that his program would grow at less, less than 5 percent a year. There were 130 colleagues over there that sponsored his bill back then.

Now that was reported today in the Investors Business Daily. Mr. Speaker, I would like to include this complete article as a part of this official RECORD.

[From the Investor's Business Daily, Nov. 20, 1995]

HOW RADICAL IS THE GOP BUDGET?

(By John Merline)

If you listen to the rhetoric from both political parties, it appears the GOP wants a revolution.

From the Clinton camp, words like "radical," "extremist," "terrorist," and so on pepper comments about the Republican's seven-year balanced budget plan.

"America can balance the budget without extreme cuts in Medicare, Medicaid, education or the environment—and that is what we must do," President Clinton said last week.

The GOP itself likes to characterize its budget plan as revolutionary. House Speaker Newt Gingrich, R–Ga., has called the bill an "heroic fiscal achievement."

But how radical is it?

Put in context, the seven-year plan is a relatively modest one. And, many of the specific reforms have been pitched by Clinton himself in the past.

"It is in both parties" interest to exaggerate the changes proposed," said former Congressional Budget Office head Robert Reischauer.

He did say, however, that the GOP is offering fundamental changes in federal entitlement programs.

Here are the basics:

In 2002—the year the budget is supposed to be balanced—federal spending will be $267 billion higher than in 1996. Federal spending will consume 19% of the economy in 2002, down from 22% today.

Revenues climb $449 billion between the first and last year of the seven-year plan. In 2002, taxes will eat up the same share of GDP—19%—as they do today.

Over the course of seven years, the GOP wants to cut spending a total of $952 billion, according to an analysis of the plan by the Congressional Budget Office. That's "cut" in the Washington sense, meaning a reduction in the planned spending increase.

Most of those cuts come in the last two years of the budget plan. For the first five years, the cuts add up to $432 billion. In the last two years they total $520 billion.

That's raised eyebrows among some fiscal hawks.

"The Republican budget pushes off most of the pain of cutting spending into the next century," said Stephen Moore, director of fiscal policy studies at the Washington-based Cato Institute.

Keep in mind that there will be two presidential elections before those final two years' worth of cuts kick in.

Under the GOP plan, the Federal government will spend a total $12 trillion dollars by 2002.

That's a mere 8.6% less than what would have been spent without the Republican cuts. And, if you take out interest savings, program cuts trim only 7% off total spending.

Fiscal conservatives complain that the GOP failed to eliminate enough programs. While many saw their funding levels clipped, too many objectionable programs remain on the books, they say.

The Appalachian Regional Commission, the National Endowments for the Arts and Humanities, Legal Services Corp., and the Economic Development Administration have long been on conservative hit lists. All get funded in the GOP bill.

Moore estimates that of the 300 programs slated to get the ax in the original House budget proposal, all but about 50 will live to see another day.

The tax cuts total $245 billion over the next seven years. The total amount of gross domestic product expected over those seven years is more than $60 trillion. So the tax cuts are equal to 0.4% of the total economy.

Those cuts do little to offset the two tax hikes imposed on the economy by Presidents Bush and Clinton. Clinton's $240 billion in hikes makes a misleading comparison—that figure counts only the five-year cost of the levy. That's because in previous years, budget plans were only made over five-year time horizons.

But the GOP plan is for seven years. So all their numbers are larger.

Clinton has offered a tax-cut plan in many ways similar to Republican proposals.

For example, his own 1996 budget plan has a $500 credit for each child under age 13 for taxpayers with incomes up to $60,000.

Clinton's credit is refundable, meaning that people with little or no income taxes would get a check from the government. The GOP's $500 per-child credit is not. And, Republicans propose to let families with higher incomes get the credit.

He also wants to expand individual retirement accounts, also included in the GOP plan.

LESS BOLD

Clinton has suggested that he could support a cut in the capital gains tax. His 1993 budget included a cut in gains taxes for investments in small companies held at least five years. The GOP would cut the gains tax for all investment.

The Republicans' seven-year deal is less bold than plans offered up by lawmakers and presidents in the past.

Since 1969, presidents have introduced 13 budgets that, they said at the time, would produce a budget surplus within five years.

The so-called Gramm-Rudman-Hollings Act, passed in 1985, was designed to balance the budget by 1991. The revised law moved the target back to 1993.

President Bush's first budget would have turned a $161 billion deficit in 1989 to a $33 billion surplus by 1994.

The GOP now wants to take seven years to move from a deficit of $178 billion in 1996 to a surplus of $4 billion in 2002.

To be sure, the GOP plan is different than many of its predecessors for one simple reason: there are no tax hikes.

"It is a departure from virtually all previous deficit reduction efforts, which were divided in some form between spending cuts and tax increases," said Price Waterhouse budget expert Stanley Collender.

Medicare and Medicaid cuts have proved to be a major sticking pointing point with Clinton, who says they will severely harm seniors and the poor.

But the changes proposed by Republicans are nearly identical to those offered by Clinton two years ago as part of his ill-fated Health Security Act.

Medicare: In the first five years of Clinton's Medicare plan, spending would get trimmed by $124 billion. The GOP proposes cuts of $135 billion in the first five years.

The Medicare cuts were to get even harsher in the out years under Clinton's plan. He wanted Medicare to grow at less than 5% a year after 1999. The GOP wants to leave the growth rate at about 6.5%.

Like the Republicans' plan, Clinton got most of his savings—70%—from cuts in payments to providers serving Medicare patients.

Clinton also wanted to raise premiums for Medicare's Part B program to cover 25% of the costs of that insurance plan. The GOP sets it as 31.5% of costs.

And, Clinton wanted to means-test the premiums, so high-income seniors would pick up a greater share of Part B costs. Republicans want rich seniors to pay even more.

Clinton also proposed new private-sector options similar to Republicans' "Medicare Plus" reform.

A summary of the Health Security Act released by the White House in September 1993 said its plan would offer "beneficiaries greater choice of managed-care options."

And, like the GOP bill, Clinton would let new retirees keep their old company-provided health plans.

The only difference between Clinton's and the Republican's reforms on this score is that the GOP wants to offer seniors one extra choice: the option to select a medical savings account.

A favorite among conservatives, MSAs let seniors opt for a high-deductible, catastrophic insurance policy. Premium savings are placed in a savings account, which seniors can draw on to pay up-front medical costs. Unspent funds in the account at the end of the year can be rolled over or withdrawn.

Senate Democrats tried to strip the MSA option out of Medicare reform using a parliamentary procedure.

But Democratic lawmakers have in the past supported similar "choice" reforms.

In 1980, Minority Leader Richard Gephardt, D-Mo., co-authored a bill that gave seniors "the option of remaining with the present Medicare system or of choosing to receive benefits of plans being offered by the competitive system."

Both Gephardt and Clinton say that they object to the GOP's Medicare plan because it's not part of comprehensive health care reform.

Medicaid: In his Health Security Act, Clinton wanted to strip $114 billion from Medicaid over five years. The GOP's five-year cuts total only $72 billion.

Under Clinton's health plan, Medicaid would have effectively been abolished, replaced with fixed payments to private health plans. The poor would sign up with one of these plans to get health benefits.

The GOP proposal would block grant Medicaid payments to state governments, which could then set up their own delivery systems.

The Clinton administration has also made a fuss over changes to Medicaid's long-term care program. At one point, the GOP planned to overhaul federal nursing home standards, replacing detailed standards with broad goals to be enforced at the state level.

But as governor of Arkansas, Clinton had proposed similar changes. In fact, in 1989, Clinton joined 47 other governors to urge an end to federal "micromanagement" of nursing homes.

Clinton complained that restricting eligibility for long-term care would throw 300,000 old folks onto the street. Of course, he had already tightened eligibility as part of his 1993 budget.

The goal then: "Restrict further the diverting of property to qualify for Medicaid," according to the administration's 1993 budget blueprint.

Mr. STEARNS. Mr. Speaker, what we have today is the President agreeing with us on the 7-year balanced budget, using CBO number. I think eventually when the President looks at the difference between his Medicare Program and Medicare and Medicaid and all the other programs, he really should accept the balanced budget of 1995.

STAND ON THE SIDE OF OPPORTUNITY FOR ALL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized during morning business for 2 minutes.

Ms. JACKSON-LEE. Mr. Speaker, in World War II, my grandmother sent three of her sons off to World War. My father, the youngest one, remained at home with the promise of an aspiring artist, someone who would work and support the family, and he got an opportunity to be a commercial artist for a period of time.

Then the returning soldiers came home, most of whom did not look like my father. And so he was relieved of his job on the basis of the color of his skin.

Listening to that story and watching him work all those years in jobs that did not compare to his capabilities, I promised myself that I would always stand on the side of opportunity for all men and women, no matter what their race, their religion, or their ethnic background.

So when we came upon this crisis here in this country, shutting down the Government not just hurting Federal workers but for hurting Americans, 800,000 that had faces and lives and families, I promised that I would not leave this House floor, never would I leave it because I was going to stand on the side of opportunity for Americans.

I am glad to be a freshman who came here on the basis of reform and change and not to simply talk about partisan politics and discuss who is a Republican and who is a Democrat, but simply who stands for those who need an opportunity.

I am very proud that the Democrats started out early in the week and said we need to come together, we need to understand that this battle of the budget is not something about 7 years or 10 years, it is about humanity and people. It is about understanding Medicare and Medicaid, it is about my grandmother, who died before she was able to fully accept the privileges of having worked all her life and have good health care.

So we stayed here. My freshman Democratic class argued on the House floor Friday night that we should not leave until this problem was resolved. And we did not leave here Saturday or Sunday because we knew there was an opportunity for compromise and reconciliation, not for the scorekeepers but for the American people.

And so proudly as we stayed here Saturday, when the vote showed 361 to 32 voted to stay, but because, maybe, the Speaker had to get off the back of the plane, rather than respect the will of the House and stay in session. The Republicans were instructed to leave in droves. It was the Democrats who stayed here to compromise on a document that has captured the real spirit of what Americans want.

We have got a good CR. We have got a continuing resolution, but we have got one for the people. We have got one that provides for Medicaid and education and agriculture and national defense and veterans and the environment.

We have a continuing resolution [CR] that promises a balanced budget in 7 years which I will vote for. However this CR also has the opportunity now, through the President's and Democratic negotiations of listing priorities like education, Medicare, Medicaid, the environment among others which should be protected by which the budget process is to be guided. Now we can craft a new balanced budget with the right priorities. Let us continue to provide opportunities for Americans.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Kentucky [Mr. BUNNING] is recognized during morning business for 3 minutes.

Mr. BUNNING of Kentucky. Mr. Speaker, I rise this afternoon with a very simple message for the senior citizens of America. To the senior citizens of America I say, you have not been forgotten by this Congress.

Republicans in this Congress have not forgotten the promise that we made to you to raise the unfair Social Security earnings limit imposed on those who want to remain productive after age 65.

Later today I will introduce the Senior Citizens' Right to Work Act of 1995. My bill will raise the earnings limit from the current $11,280 to $30,000 a year by the year 2002. As chairman of the Social Security Subcommittee I want hard-working seniors to know that we will keep our promise. This time, we will raise the earnings limit.

First, immediately after Thanksgiving my subcommittee will take action on this legislation. Then, the esteemed chairman of the Ways and Means Committee, Mr. ARCHER—himself a champion of legislation to raise the earnings limit for over two decades—has promised that the Ways and Means Committee will act.

Finally, the majority leader himself has promised that the House will act on this legislation just as soon as the committee has finished its work.

My bill will fully preserve the financial integrity of the Social Security trust fund. That is important to tomorrow's retirees—our children and grandchildren. We must make sure that Social Security will be there for them as well.

And, with the help of the gentleman from Illinois [Mr. HASTERT], who has worked so hard on this issue, there is no question in my mind that it will sail through the House.

And I have the word of the champion of this legislation in the other body, the Senator from Arizona, that it will enjoy the same speedy action in the Senate.

Finally, in "Putting People First," the President also pledged his support to raising the earnings limit.

To my colleagues on both sides of the aisle I say, Christmas is coming. Let us give America's seniors something they want and need.

Let us raise the unfair Social Security earnings limit and give hard-working seniors the best Christmas present of all. I urge all of my colleagues to support this bill, and if you would like to cosponsor this legislation—call my office at Social Security subcommittee.

FACES BEHIND THE NUMBERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. LEVIN] is recognized during morning business for 2 minutes.

Mr. LEVIN. Mr. Speaker, there are many key lessons of the last week. A key one is that we must have a balanced budget. Americans also care deeply about how it is done. They do want us to focus on the overall budget numbers.

They also want us to look at the faces behind those numbers, at the faces of 70 percent of Michigan seniors with annual incomes less than $15,000 who would be hurt by doubling Medicare premiums as proposed by the majority; the faces of seniors who would lose quality care and choice of provider if hospital reimbursements were so drastically reduced as originally proposed, and those with private insurance to whom these costs would be shifted; at the faces of 8 million working people whose taxes would be raised by the present proposal to cut the earned income tax credit by $32 billion, those working people who have three or more kids, those with a small amount of Social Security payments or who are childless and earn less than $9,750 a year; at the faces of 500,000 hard working families with incomes under $29,000 who have a seriously handicapped child and would see their SSI benefits reduced by 25 percent; at the faces of 119,000 students in Michigan alone who might see the cost of education go up because of cuts in student loans.

It is not just the public that is concerned about the faces behind the numbers. More and more mainstream economists share this concern, as evidenced in the New York Times of yesterday.

Since coming to Congress, I voted for every major deficit reduction package signed into law by both Republican and Democratic Presidents. It is interesting that so many of those who now say they champion a budget, a balanced budget, were champions of the policies in the 1980's that were a substantial cause of raising the national debt by four times.

It is time to finish the job of balancing the budget and rightsizing Government. We must stop mortgaging the future, but we will get to the zero in the long run if we ignore the faces behind the numbers in the short run.

BACK TO WORK ON REPUBLICAN TERMS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. WELLER] is recognized during morning business for 3 minutes.

Mr. WELLER. Mr. Speaker, today's headline in Washington Times, a major national newspaper, really says it all. It is back to work on Republican terms. Clinton accepts 7-year formula.

That says a lot, ladies and gentlemen. The President has now made a commitment to the American taxpayer to balance the budget and to balance it over 7 years, using honest economic figures and honest numbers. Now that is a big concession on the President's part, and I want to thank the President.

I also want to thank the constituents, the hundreds of constituents that have called my office over the last few days, and in fact their calls were 9 to 1 in favor of the Republican plan to balance the budget over 7 years.

I also want to thank the 48 conservative and moderate Democrats who backed the 7-year timetable that Republicans have called for. It is reasonable, and the President now concurs, 7 years, and no longer.

We Republicans have laid on the table a reasonable commonsense plan which eliminates the deficit over 7 years. Our plan eliminates the deficit over 7 years using honest numbers. We save Medicare from bankruptcy, while increasing spending on Medicare by $355 billion over this period of 7 years. That is a 50-percent increase over what we currently spend.

We reform welfare to emphasize work and family and responsibility. And yes, we provide tax relief for working families. What that means for my constituents, Illinois taxpayers, is that the President has agreed to spend $1 trillion less than he originally wanted to spend, and that means that America's children, particularly our Nation's children, will get to see a better economic future.

Now it is time to see the specifics of the President's plan. What is the President's plan to balance the budget over the next 7 years? Of course we do not want to see any smoke and mirrors. We want to use honest numbers. We want to see the details.

Two years ago, the President and the Democrats in this body, my friends over here on the left, gave us the biggest tax hike in the history of our country. What it meant to the people of the State of Illinois was a $1,100 per capita tax hike in its first year alone, $1,100 for every man, woman, and child in the first year.

The Democrats gave us higher taxes on Social Security benefits on my seniors and higher taxes on the motor fuel that my working people use to go to work. That was their proposal to eliminate the deficit.

Now we Republicans stood firm and every Republican opposed the Democrat tax hikes in 1993, and we continue to oppose Democratic tax hikes and want and insist on tax relief for working families.

Republicans have laid on the table a plan to balance the budget over the next 7 years, contains no tax increases. In fact, it provides tax relief for working families. We reform welfare and we save Medicare.

And the bottom line is by balancing the budget economists tell us that it is good for families because interest rates are coming down, lower mortgage rates, lower car loans, lower student loans. Frankly, that is what we are doing for the American people, is giving them a better future. Mr. President, it is time to show us your plan.

GOVERNMENT OPENS AGAIN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 2 minutes.

Mrs. CLAYTON. Mr. Speaker, the Government is back in business. That is good news.

It is good news for millions of veterans whose benefit checks and claims can now be processed.

It is good news for thousands of Medicare beneficiaries and thousands of head-start children who will get needed help from the Government. Child support cases can now be pushed. Good news.

It is good news for law enforcement—the FBI is now fully back at work—it is good news for housing—mortgages can be processed and homeless funds can be released—and, it is good news for business and enterprise in America—so many of which were affected by the furloughs.

The image of a shutdown Statue of Liberty—one of the greatest symbols of what this Nation stands for—was perhaps the most dramatic example of the danger of a Government closed down.

It is for that reason, Mr. Speaker, that I want to applaud the President and all in Congress, House and Senate, Democrats and Republicans, who made this moment possible.

Our leaders worked throughout the weekend, pressing forward toward agreement, making sure that we could avoid a second week of—half the Government—off the job.

It was a proud and happy moment for me—last night, as a Member of Congress—when the House followed the Senate in passing the joint resolution which ended the impasse.

We have agreed to work toward a balanced budget in 7 years. That is good news.

I voted for the Democratic version of a 7-year balanced budget plan, and I believe, working together, we can achieve that important goal.

And, most importantly—in the days and weeks ahead—we will try to forge a budget that not only balances our money, but one that balances our priorities as well. A balanced budget that considers our seniors, our children, farmers, and our environment. That is good news.

Let us decide if we need a $245 billion dollar tax cut. But, if we cut taxes, let us cut taxes fairly.

Let us make sure that any tax break we may enact, provides benefit to average Americans—those who work hard each day to make ends meet.

And, most importantly, if we develop a tax cut program, let us make sure that we do so without putting in jeopardy essential social programs.

I believe these goals are part of the agreement that was reached over the weekend. That is good news.

Mr. Speaker, with this agreement, we have time. But, we do not have much time.

As the budget of the United States has developed, we have witnessed the true genius of our system—a system of separation of powers—a system of checks and balances. Some power is given to the Congress and other powers are reserved for the President.

But, in the end, this system only works when it allows the Government and its employees to work. The Government is back in business.

The Statute of Liberty once again welcomes those "yearning to breathe free." And, the spirit of this Nation—the American people—have won a great victory. The work now begins.

I hope we will now do what is best for the people, rather than what is best for our party or our politics. That is what ended the impasse.

That is what put people back to work. That is good news.

BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized during morning business for 3 minutes.

Mr. SCARBOROUGH. Mr. Speaker, I would like to follow up on what the gentlewoman from North Carolina said.

It is a good day in America. We can work together. There are 48 Democrats who last week said that it was important that we balance the budget, and that we balance the budget using true and accurate numbers. I mean, let us face it, in Washington, DC, no one side has the high ground on smoke and mirrors.

We saw in the early 1980's that it was the Republicans and a Republican administration that played with rosy scenarios and numbers. We have seen it throughout the 1980's. We have also now seen it in the 1990's that we have a Democratic administration that is awfully nervous about using real numbers. But the fact of the matter is, we can work together.

Unfortunately, this past weekend I heard some people talking about how the Democratic Party worked hard through the weekend in the grand tradition of FDR and Truman. I will tell you what I heard was a lot of demagoging on the floor. I heard NEWT GINGRICH compared to Bull Conner in Birmingham, AL. And of course those of you who know your history and remember, Bull Conner was the police chief who sicced dogs on minorities in Birmingham to eat them alive and turned water hoses on minorities to enforce segregation. That is not helpful.

It is not helpful when extremists on the other side of the aisle refer to Republicans as Nazis for wanting to balance the budget. We have to get beyond that. We have got to get beyond the demagoguery on Medicare.

The Washington Post had several articles and editorials this past week calling the liberals' hand on what I, and I hate to say it, but just on, if not lying, on blatantly misrepresenting Republicans' plans on Medicare.

This past weekend, the Washington Post wrote, though many of President Clinton's advisors think the GOP's premium proposal on Medicare is sensible and it differs little from his own plan, the President fired sound bites from the Oval Office daily, taking the low road in ways that only Washington pundits could recast as standing tall.

As polls showed, it worked. The Washington Post on November 15 wrote that the Democrats have been prospecting harder for votes among the elderly and against the Republican proposal than they have for saving the needed money to bring the deficit down. Of course last week's Washington Post editorial wrote that the Democrats, led by the President, chose instead to project themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that is where the votes are and it is the way around the Republican proposals generally.

The President was still doing it this week. A Republican proposal to increase Medicare premiums was one of the reasons he alleged to veto and shut down the Government. Never mind that he himself and his own budget would countenance this similar increase.

We have said it before and it gets more serious now. If the Democrats play the Medicare card to win, they will have set back for years for the worst of political reasons the very cause for rational government on whose behalf they profess to be behaving.

So let us get real, let us talk reality, talk real numbers. The fact of the matter is we are protecting, preserving Medicare for future generations, and more importantly, we have done what this Government has not done in a generation. We put forward a plan to balance the budget. And I hope more Democrats come on board.

ON THE WAY TO A BALANCED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GIBBONS] is recognized during morning business for 2 minutes.

Mr. GIBBONS. Mr. Speaker, I rejoice with all Americans that Government employees are back at work today serving the American public. That is the way it should have been all along. There was no need for the crisis we just went through. Apparently one person's ill-disposition got us in that jam.

Mr. Speaker, we are on the way to a balanced budget. We have been on that way for 3 years; 3 years ago, the annual fiscal deficit stood at about $300 billion. It is now down to about $160 billion annual fiscal deficit. It is coming down.

Every economist that studies this question will tell you how quickly we reach a balanced budget depends upon the strength of the American economy: How well does American business do, how well do American workers do, and how well the Government do because they all do well? That is what is going to bring the budget into balance. There are some problems that need to be fixed. They can be fixed and they will be fixed.

I notice that some of my Republican colleagues got up here and condemned the tax increase that the President pushed through 2 years ago. Let me tell you, ladies and gentlemen, the bill that comes to the floor from the Republican Party does not repeal a single one of those taxes that they have condemned so heartily. They control this place. They could repeal those taxes if they wanted to, but they have not seen fit to do it. It is still the law of the land. So that is just crybaby time.

Now, the question before us all is not when the budget is balanced. We all want to do it as soon as possible. The question is how you do it and who is going to pay for it. Keep your eyes on that, American public. We do not want children, poor people, working poor people, sick people, or old people to have to bear the burden. Take the rich tax cut off for the very wealthy and the budget is easily balanced.

GOVERNMENT OPENS AGAIN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Mississippi [Mr. WICKER] is recognized during morning business for 5 minutes.

Mr. WICKER. Mr. Speaker, this is the Thanksgiving season, and certainly we have a lot to be thankful for today, particularly. We can be thankful that 800,000 furloughed Federal employees are returning to work. We can be thankful that there is a glimmer of bipartisanship here in this Congress. We can be thankful that today this House will vote on a bipartisan agreement, not only to end the Federal shutdown, but to balance the budget in 7 years with honest numbers. No back doors and no gimmicks.

I believe this balanced budget will be the greatest legacy of this Congress. This Congress is committed to working with the administration to do what Congresses should do every year, and that is balance the Federal budget.

Now, the next step on the road to fiscal sanity is just as important, and that is agreeing to a Balanced Budget Act of 1995. We need to balance the budget by agreeing to spend an additional $3 trillion over the next 7 years, rather than the projected $4 trillion we are on course to spend.

As my friend, the gentleman from Ohio, Chairman KASICH, has said, the debate is not about cuts. It is about whether we can forgo that fourth trillion.

I must admit, Mr. Speaker, that I am a bit confused today about the President's statement last night, as compared to the specific language of the continuing resolution which he says he will sign.

Now, the continuing resolution, which the President has said he will sign tonight, agrees to protect future generations and to protect Medicare, education, Medicaid, agriculture, national defense, and the environment. But it says specifically, and I quote, "The President and the Congress shall enact,"—shall enact—legislation in the first session of the 104th Congress to achieve a balanced budget, not later than the fiscal year 2002, as estimated by the Congressional Budget Office," a very flat commitment to balancing the budget within 7 years, according to CBO scoring.

However, in his statement last night, the President said, and I quote, "And you know I have expressed strong doubts that the budget can be balanced in 7 years, if we use the current Republican congressional budget assumptions. But I am nevertheless committed to working in the coming weeks to see if we can reach common ground on balancing the budget. The key is that nothing will be agreed to unless all elements are agreed to." Unquote.

I must confess that I am concerned about that statement. The agreement, the specific language which we will vote on today, is not an agreement simply to see if we do it.

So I call upon the President not to run from the language, from the specific language, that he has agreed to sign, even before he signs it. The majority of this House of Representatives has shown that we can balance the budget within 7 years using CBO scoring. Coalition Democrats have come forward and given their version of the balanced budget, within 7 years, using CBO scoring.

I now call on my friends from the other side of the aisle to get with the President and to make sure that he comes forward with an honest budget using CBO scoring, and to tell the American people how he proposes to balance the budget within 7 years using the honest CBO figures that he has agreed to.

The President so far has had it both ways. He has had the best of both worlds. On one hand, he has been for a balanced budget, and on the other hand, he has not wanted to make the difficult decisions to get us there.

The American people have told us that our days of having our cake and eating it too are over. I look forward to seeing where the President would reduce the growth of Government spending. Then we can reach a balanced budget in 7 years, show the American people that a promise made is a promise kept, and give our children the future they deserve.

THANKSGIVING TRUCE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DOGGETT] is recognized during morning business for 2 minutes.

Mr. DOGGETT. Mr. Speaker, surely all America can give thanks this Thanksgiving for a Thanksgiving truce in a truly senseless war. Our Republican colleagues in the Senate, as well as the President and his staff, deserve our praise for their hard work this weekend to try to reach a Federal budget eventually that will be balanced not only in terms of numbers, but in terms of the way it treats the American people with true fairness.

The only way that this agreement was implemented and 800,000 Federal workers returned to work today is because our Democratic colleagues worked together here in the House. I feel good about that.

Because of our willingness to work this weekend instead of to quit in the midst of a national crisis, we were here on the floor last night, ready to implement this agreement. Had the adjournment motion that was forced on us on Saturday been approved, we would have had another day of delay for the American people, delay that would have cost them $100 to $150 million for our Federal workers to be idle again.

For, you see, from the very beginning, those who forced this crisis intended to pay people for not working for the Federal Government. Eight hundred thousand people were paid for not doing any work during the course of this crisis. Hopefully, those in this House who were so very determined and who spoke with such strident comments to impose their will on America, that they were willing to pay these 800,000 people not to work all of last week, those folks heard the message of the American people that Americans have been saying in one poll after another about the way this whole crisis was handled.

To be honest, the cost of that message was fairly dear to the American people. I think it can be estimated at well over a half billion dollars—$100 to $150 million a day. Hopefully the message is now heard and we can refocus on budget priorities, whether we want to give a tax break to the most prosperous Americans or protect our people on Medicare and who rely on educational assistance to have a better tomorrow.

PRESERVING NATIONAL UNITY

The SPEAKER pro tempore. Under the Speaker's announced policy on May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 3 minutes.

Mr. ROTH. Mr. Speaker, if ever we needed to be reminded of the need for America to preserve our precious national unity, recent events around the world have provided us with helpful reminders.

The most obvious was the wake-up call America received earlier this month, when our great neighbor Canada narrowly avoided splitting in two over linguistic and cultural divisions. Canada may yet divorce, and a nation founded on many of the same principles America was, might actually cease to exist. Canada's continuing bushes with separation should be the red warning light that causes us to stop and think: Could our Nation fragment like Canada almost did?

The answer is a disconcerting but resounding yes. Columnist Charles Krauthammer in a recent essay notes that "Separatism is the single greatest political fact of the post-cold-war world." Today, it is increasingly difficult for diverse, multicultural nations to keep from splitting apart. And, as Krauthammer rightly remarks, the United States is not immune to the centrifugal forces of separatism.

It is a seldomly discussed fact in the debate over America's growing disunity that countries the world over are dealing with similar problems. We are all familiar with the cases that have captured the headlines—Quebec, the end of Yugoslavia, and the fragmentation of the old U.S.S.R.—but this has truly become a global concern.

I know this because I have met and discussed with a number of foreign leaders and academics on this very issue. In March of this year, I participated in an international conference on this topic at the University of Paris. There, I met with the French Minister of Culture, who had just introduced legislation to preserve French in increasingly diverse France. I also met other Western European and South American leaders who were preparing to establish national languages in their respective countries.

It surprised me that so many nations around the world were dealing with many of the same concerns I have had about the disuniting of America. I probably shouldn't have been surprised; while our Nation is the most diverse in the history of the world, it is the hallmark of the late 20th century that almost every country is being enriched and impacted by immigration. With the advent of the global economy and the global village of communication and culture, the world has begun a mass migration of peoples that has no historical precedent. In a century, most—if not all—of the world's countries will be as diverse as America, or diverse nations will no longer exist.

The reason is because most nations are not addressing the fundamental challenge of the 21st century: how to defuse the time bomb of rising nationalism and tribalism in a post-cold-war world market by mass immigration.

The countries, whose representatives I met with in Paris, have begun to attack this problem. They are on their way to establishing national languages in their countries. They would join 87 other countries around the world who have declared official languages, 63 of which have chosen English as their national language. One of those countries is India, who recognized some time ago that in a nation where 14 different languages and dialects are spoken, one common language is needed to unite their people. They chose English, because of their colonial relationship with Great Britain, but also because it is the international language of commerce, diplomacy, air traffic control, and the Internet, among others. Ironically, India has recognized the need for making English their official language before the United States has.

I hope the events around the world and the emerging global realities of the 21st century will convince us in this country that we need to act to preserve our common language. We have seen the future of America if we don't; I pray we don't have to actually live it.

Congress should start to show the common sense that legislators the world over have demonstrated in dealing with the major challenge of the 21st century and join me in declaring English our official language. I urge my colleagues to cosponsor H.R. 739, the Declaration of Official Language Act.

FRAMEWORK FOR NEGOTIATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. MILLER] is recognized during morning business for 2 minutes.

Mr. MILLER of California. Mr. Speaker, Members of the House, now that the Republican manufacture of Government shutdown is over, as America's families gather for Thanksgiving, they should thank our President of the United States for hanging tough.

Because he did, no longer under this agreement will Medicare be allowed to be used as a piggy bank to pay for the tax cuts for the wealthy. Because he did, we now have an agreement that states that this balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, none of which was accomplished under the Republican language.

It also provides that we protect future generations by adequately funding the environmental programs of this Nation. Again, it was not required under the Republican language.

Most importantly, the new language that the President's hanging tough allowed us to achieve last night was that it will now help working families as opposed to the original Republican plan of taxing working families.

We have now the framework for negotiation among the administration and the Congress, and hopefully among the American people, about the direction that this country will take, about our future, about future generations, and the kinds of decisions that we can make to ensure that we continue a progressive and civil society, or we can turn to budget cuts that are so drastic that they reach into the inside of almost every American family and pit a younger generation seeking education against an older generation that may need long-term health care and protection from rising health care costs.

The framework has now been set by the President of the United States, the negotiations begin next Monday, and I believe now we have an opportunity for truly a national conversation about the priorities of this Nation.

OUTLINE FOR BUDGET TALKS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 2 minutes.

Ms. DELAURO. Mr. Speaker, last night's agreement was a victory for the American people. The agreement gives us an outline for the budget talks, that truly reflects the values of the people of the United States.

For months and months and months, Democrats have been fighting to protect Medicare, education, and the environment from the budget ax. Yesterday, President Clinton stood firm for those principles and he stood up for our seniors, for our students, and for our environment.

The agreement also reaffirms the commitment of Congress and the President to balance the budget. The question in this battle has never been, Will we balance the budget, but how will we balance the budget? Yesterday, the President ensured that we will balance the budget in a fair manner and in a way that protects health care for our seniors, educational opportunities for our children, and that protects our environment.

A balanced budget is a goal that we all share, but there is nothing balanced about cutting Medicare for seniors, student loans for our children, and rolling back environmental protections while cutting taxes for the wealthy.

Democrats believe that it is wrong to balance that budget by cutting Medicare, education, and environmental protections, while doling out massive tax cuts to the wealthiest Americans. That is why we are so pleased that the Republicans have agreed to protect those priorities and to put the $245 billion tax cut on the bargaining table.

President Clinton has started the ball rolling on a real balanced budget, one that protects America's priorities: Protecting Medicare, education, and our environment.

BUDGET EFFECTS ON CALIFORNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 2 minutes.

Ms. PELOSI. Mr. Speaker, I, too, am very pleased that we now have a framework within which to debate the issue of the budget. Who we tax and how we spend that money is what we will be seeing debated in the next 3 weeks.

I am very proud and pleased that President Clinton held firm in saying, yes, we want a balanced budget, we want to balance it financially, but we must balance it in terms of values as well.

I oppose the Republican proposal that is on the floor now for two reasons. First, because of its priorities; and second, because of the unfairness in the tax situation in it.

This morning, however, Mr. Speaker, in this morning hour is usually the time when we try to convey some information to our colleagues, in addition to our point of view. I want to say why I find the Republican-Gingrich proposal to be so harmful to my home State of California. I point out the harm to California because that is the State I represent, but other Members must look to their own States to see the impact that this budget will have on individuals, on the State budgets, and on the economies of their own States.

I have this chart which indicates, Mr. Speaker, that in California, we will have, at a minimum, at a minimum, a $72 billion cut in funds that go to California, to individuals, and I will explain in what proportion.

By comparison, our State budget is around $55 billion a year. The cuts that this budget will give to California are more than, by almost a half again, the budget of California; over $36 billion in Medicare cuts, affecting 3.6 million beneficiaries; 16, almost $17 billion in Medicaid cuts.

In California, 26 percent of the children of California depend on Medicaid for their guaranteed health services. Two point three million of those children will be drastically affected, severely affected by this.

I just want to say, Mr. Chairman, in closing, in addition to that, 2 million people will suffer because of the $3.5 billion cut in the earned income tax credit.

I urge my colleagues, look to your own States, see the severe impact that this will have on your people, on your budget, and on your economy.

CALIFORNIA'S VETERANS WILL SUFFER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. FILNER] is recognized during morning business for 2 minutes.

Mr. FILNER. Mr. Speaker, my colleagues before me have said the issue is not the balanced budget, but who is going to pay for it.

Mr. Speaker, I am here today because it is vital to inform the country about the impact of the Gingrich budget on our Nation's veterans.

The budget bill is a three-pronged monster: Cuts to the Veterans' Administration, cuts in Medicare, and cuts in Medicaid mean our veterans will not have access to medical care when they need it most.

Let me tell you what the impact will be on California's veterans. Twenty thousand California veterans will lose eligibility for Medicaid under the current Gingrich budget. Of those veterans, 12,000 are over 65 years of age, and more than 2,500 of them are in nursing homes. How would any of us serving in Congress like to be told at age 65 or older that we no longer had health care? What are these veterans going to do?

By the year 2002, California will be the home of almost a million veterans who are 65 and older. Most of them will be eligible for Medicare, and all of them will be affected by the proposed Medicare cuts.

My colleagues on the floor say that is not a cut. I will tell you that these veterans will know that it is a cut.

Cut off from Medicare and from many hospitals that will be forced to close, veterans will have to look to the VA for health care. With the cuts proposed for that system, they will also be limited in their ability to get the care they need.

When we called upon our veterans, not one of them said, "Sorry, I cannot afford to serve." When veterans asked their country to keep the promises made to them, how can we say now, "Sorry, we cannot afford it?"

I simply fail to understand how we can repay the very people who fought for us with massive cuts to the medical care they were promised.

We must be vigilant in protecting our veterans and the benefits they were promised. As a Nation, Mr. Speaker, we have a moral obligation to keep the promises we made to our veterans.

DO NOT SACRIFICE THE PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alabama [Mr. HILLARD] is recognized during morning business for 2 minutes.

Mr. HILLARD. Mr. Speaker, I came to Washington to help the American people, and not vote for anything that would hurt them.

The Republican budget would hurt the American people. For a week, the Republicans closed down the Government, sent Federal employees home, kept people from signing up for Social Security, Medicare or veterans' benefits, because they did not want to negotiate in good faith and tell the American people that a tax cut for the wealthy is not needed to balance the budget and would hurt most Americans.

The Republicans want to balance the budget on the backs of the poor, the disabled, the elderly, and children of working mothers so that they can pay for a tax cut for the rich.

I will continue to oppose the tax cuts for the rich, and I will continue to oppose hurting the American people.

If the proposed budget does not strike the tax cut for the rich and provide fairly for the young, the elderly, the poor, and the disabled, it will be a bad budget and I cannot and will not support a bad budget.

HISTORY OF BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. MCINNIS] is recognized during morning business for 5 minutes.

Mr. MCINNIS. Mr. Speaker, this is an opportunity today to visit with all of you. Of course the last 48 hours we have had a very busy weekend. I think we have come up to a compromise, but I am a little discouraged this morning to see some of my colleagues on the floor come to you and act as if they have been strong warriors for a balanced budget over the period of time that some of them have served in this office.

Let me tell you that all of a sudden, some of my colleagues cannot rush fast enough to embrace the words "balanced budget," so that they can say to the American people, you know, I have been for a balanced budget all this time. The question is not whether or not we balance the budget, the question is how we do it. That is their little wiggle room that some of these people are using.

I think it is important that we look at the history of this country.

A lot of these people that are talking to us, a lot of our colleagues that are talking that way, have served in previous Congresses. We have not had a balanced budget come out of these Chambers in 25 years. The Federal Government has not reduced Federal spending in 40 years. Look at what this deficit is doing and the debt is doing to the American people. Where are they, Johnny-come-latelies; where have they gone? It is about time they embraced a balanced budget.

I tell you it is about time the President, who by the way said when he ran for office he would produce a balanced budget plan in 5 years, then he switched it to 10 years, then he dropped to 7 years, then he went to 8 years, then he went back to 7 years, then he was back to 10, and finally last night, finally last night, we got the President to commit to a 7-year balanced budget.

Why is that so critical for the American people? What is the deficit doing to us? Take a look at what it accrues.

It accrues at $30 million an hour. This Government spends $30 million an hour more than it brings in. The average person in America, each person in America, not the average, excuse me, each person in America owes $18,000 on the Federal debt. For a family of four, what is that, over $60,000, almost $60,000 in the debt for a family of four.

Do you know that a child born this year, a child born this year, will owe out of their lifetime earnings, if we do not do something about this deficit, if the President does not keep his word to do it in a 7-year period of time, that child will owe $180,000 of their lifetime earnings just to pay interest on the Federal debt.

Now some of the preceding speakers have stood up here and said, take a look at the vets, take a look at Medicare, take a look at welfare, take a look at every entitlement program out there. What they are trying to convince all of you is that you could reach a balanced budget without touching entitlement programs. We can. We do not have to cut entitlement programs. We do have to control their growth.

Do not let anyone stand up here in front of you and pretend that we are going to be able to balance the budget of this country without cutting growth on some of these Federal programs. You cannot cut the growth on every other program except entitlement programs, and even have a hope of ever balancing this deficit.

Do you know that if we went out to every Federal agency next year, every Federal agency out there, and we said to those agencies, look, you do not have to cut one penny out of your budget, you do not have to cut one penny out of your budget, but next year your budget can only grow at a rate of 1 percent, you can only grow at a rate of one penny on the dollar, if we could get the Federal agencies to do that, we would balance this problem, the annual deficit, in probably a 4-year period of time.

Now you are going to hear some of my colleagues say, well, where is this 7 years; where did they get 7 years? Did the Speaker just pull it out of the sky? I can remember when the Speaker explained to us why the 7 years.

You know what he said to us? I thought it made a lot of sense. He said to us, we could balance this budget this year, we could balance it in 4 years, we could balance it in 3 years. Then it would be so harsh on the American people that the hardships would overcome the benefit of the balance of the budget. Seven years is a period of time that, yes, everybody is going to have to pitch in, but it is not going to be especially painful for any particular group.

I take that back, any particular group. We are going to have some pretty basic requirements out there on some groups. For example, we have some able-bodied people in our country who draw Federal benefits because they are not working. They ought to be working. I do not have any problem with saying to those people, you know something, you can work, you are able to work, and you ought to work. I do not think it is particularly harsh on you when we do welfare reform to say, look, we are not going to let this go on forever. So I encourage all of us to work together to get this balanced budget.

RECESS

The SPEAKER pro tempore. All time has past expired.

There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 41 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1404

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CUNNINGHAM) at 2 o'clock and 4 minutes p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With every morning Sun there is the reminder of a new day and with each new day there are occasions to do the works of justice. Teach us, gracious God, to make good use of the time allotted to us so that our efforts will allow us to be the people You would have us be. Remind us specially at this Thanksgiving season of the privilege it is to be good stewards of all the riches that have come to our Nation. Above all else may we be found faithful in our commitment to the good traditions of the land so that justice will flow down as waters and righteousness like an everflowing stream. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Alabama [Mr. BROWDER] come forward and lead the House in the Pledge of Allegiance.

Mr. BROWDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 32. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until, Tuesday, November 28, 1995; and

S. Con. Res. 33. Concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on the legislative day of Saturday, November 18, 1995:

House Joint Resolution 123, making further continued appropriations for fiscal year 1996, and for other purposes.

SUPPORT THE TRAVEL AND TOURISM PARTNERSHIP ACT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, in the last few weeks, we have been trying to come up with a budget plan to ensure a successful future for America.

Every one of us in this House can debate for hours, even days, what is best for our district, our State, or for the Nation as a whole.

But what the American people really need is an opportunity to succeed. And opportunity doesn't come in the form of a Government handout, a grant, a loan, or an endowment.

Opportunity comes in the form of jobs—good-paying jobs and the chance to put hard work to the test.

This Thanksgiving season, as you travel back to your district to spend the holidays with family and friends, take a moment to think about how many people are employed because you and thousands of other Americans are traveling.

Airlines, car rental agencies, restaurants, travel agencies, hotels, and retail stores: travel and tourism is the second largest employer in America employing more than 11 million people. That's one is every nine Americans.

As someone hands you your plane ticket to head home for the holidays, think about what you can do for the working people of America.

Cosponsor H.R. 2579, the Travel and Tourism Partnership Act. This bill would create a public-private partnership between the travel and tourism industry and the Federal Government was the highest priority to emerge from the recent White House Conference on Travel and Tourism.

With their votes, 1,700 conference delegates asked Congress to give them nothing more than the opportunity to succeed. This opportunity is not a gift or a handout, but a real chance to grow their business.

H.R. 2579 will help give the travel and tourism industry the mechanism to create thousands of new jobs—jobs that provide the economic opportunity the American people need.

Jobs, in the future, will come from two major industries: travel and tourism and high technology. The Travel and Tourism Partnership Act would capitalize on this growth potential and ensure economic success for America's future.

STOP PAYCHECKS FOR PRESIDENT AND CONGRESS DURING GOVERNMENT SHUTDOWNS

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, today I am introducing legislation to prevent the President and Members of Congress from collecting paychecks during future Government shutdowns.

We could very well be right back into another budget crisis in 3 weeks when the proposed continuing resolution runs out.

I do not believe the President and Members of Congress should be exempt from the same hardships that others endure. If we are unable to pay Federal employees or pay veterans benefits or register new Social Security claimants then we should not be able to pay ourselves during a shutdown.

It is not right that Federal employees should be made to suffer this outrage alone. Maybe a pay freeze will make the President and Congress take the situation more seriously.

BINDING AGREEMENT IS VICTORY FOR ALL AMERICANS

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, last night was a great victory for the American people. For once, the Washington establishment put our children's future ahead of its own. We are firmly on a course to turn the Government away from the disgraceful spending spree it has been on for a generation.

What was so important about last night's agreement was that the President made a solid, binding commitment to use honest scoring, while we balance the budget. I will quote from the continuing resolution: "The President and the Congress shall enact legislation in the first session of the 104th

Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, * * *''

This binding agreement is not only a victory for those of us on this side of the aisle—we stuck to our priorities and we will have a balanced budget. This is also a victory for all Americans. And most important the next generation.

START NOW, IN A BIPARTISAN WAY, TO BALANCE THE BUDGET

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, last night's agreement to negotiate the terms of a balanced budget was a big victory for the President. Medicare is off the table. Now we are going to negotiate 7 years toward a balanced budget.

This agreement was a big victory for the Republicans in that we are now going to a 7-year time frame, a balanced budget. How do we get there?

It was a big victory for the American people, because Democrats and Republicans now are talking in a civil manner in the same room.

How do we get to a balanced budget from here? Mr. Speaker, I submit that here is an article that appeared in my local paper over the weekend: "Coalition Budget May Be Revived."

Mr. Speaker, let us defer tax cuts until we get a balanced budget, so we do not devastate Medicare and student loans and farm programs. Let us start the heavy lifting now to work in a bipartisan way to balance this budget.

PROMISES MADE, PROMISES KEPT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, yesterday the Oval Office went from the block in the middle of the road to the light at the end of the tunnel. Yesterday, President Clinton agreed with the Republican majority to balance the budget in 7 years using honest scoring numbers. What Republicans promised the American people last year is one step closer to becoming reality. This is truly a day to celebrate.

American families are the winners in the balanced budget debate. Families will see lower interest rates, saving them money on car loans, home mortgages, and student loans. A balanced budget will mean a stronger economy with more job opportunities. A balanced budget will give our children and grandchildren hope for the future, allowing them to live the American dream and not the American debt.

Promises made, promises kept. That's what the Republican majority is all about. I'm glad President Clinton finally came on board. Balancing the budget is the right thing to do for our children's future.

SOMETHING STINKS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, something stinks. Army medic Michael New is a twice-decorated soldier. No one ever questioned his bravery or patriotism. Nevertheless, Michael New is being court-martialed in Germany. He refused to wear the blue beret and shoulder patches of the United Nations.

Michael New said, and I quote, "I will only wear the uniform of my country." What is going on here? When Michael New took an oath, he took an oath to defend and support the Constitution of the United States, not the charter of the United Nations.

Mr. Speaker, something is wrong here when we allow a decorated soldier to face a court-martial because he will not wear a foreign uniform. Michael New should not be court-martialed. Michael New should be commended and the Congress of the United States should be looking into the prosecution of Michael New.

Beam me up, Mr. Speaker. Something stinks.

□ 1415

CONTINUING RESOLUTION

(Ms. McCARTHY asked and was given permission to address to House for 1 minute and to revise and extend her remarks.)

Ms. McCARTHY. Mr. Speaker, my constituents have been telling me that they want Congress to get on with the business of balancing the budget, make responsible spending cuts that will not harm our elderly, our children, and our environment. The continuing resolution that we agreed to last night commits us to those priorities.

This agreement would not have been reached and the Government would not have reopened today had the Democratic caucus not insisted that the House stay here and work over the weekend. If we had adjourned on Saturday, as the leadership planned, Federal workers would not now be back on the job and the stalemate would continue.

I commend every Federal worker for their public service in these difficult times. Now that the Government is up and running, Mr. Speaker, it is time for us to get down to the real issues at stake in the balanced budget debate. We must make the tough decisions to return our Government to fiscal responsibility and to balance the budget in 7 years.

Let us work together to reach the balanced budget goal in a way that helps working families and protects the most fragile part of our society. Let us return our constituents to a sense of pride in their Government.

IT IS TIME TO HOLD THE LINE

(Mr. STEARNS asked and was given permission to address to House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, to quote Alexander Hamilton: "Here, sir, the people govern; here they act by their immediate Representatives."

Mr. Speaker, 90 percent of the incoming calls to my office last week supported balancing the budget in 7 years.

As one caller put it, "President Clinton is not a monarch." We must abide by the will of Congress as Alexander Hamilton said.

Let me share a couple of other calls with you.

Gordon, who lives in Lady Lake stated: "Don't cave in on this budget thing—Republicans must stand firm or there will never be a balanced budget."

Doris and Robert of Ocala said: "We both feel so strongly about achieving a balanced budget that we would both be willing to forego our Social Security checks for up to a year if it would guarantee a balanced budget. Stick to your guns!"

Craig of Jacksonville stated that: "he is a furloughed Federal employee and he is willing to miss a pay check to support the Republican's plan."

I believe we must act on the will of the people and balance the budget as we promised. And I am glad the President now agrees.

BUDGET NEGOTIATIONS

(Mr. PALLONE asked and was given permission to address to House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I am very pleased that the Federal Government is back to work today and that there was agreement on the continuing resolution to keep the Government working. I am also happy that one of the principles that was articulated by President Clinton and included in that continuing resolution was adequate funding for the environment.

We must make sure that in these budget negotiations that take place over the next few weeks that there is adequate funding for the environment. One of the concerns I have is that late today we will be taking up an appropriations bill on the EPA which does not provide sufficient funding for the environment. The bill undermines protection of the environment, increasing associated health risks by significantly decreasing EPA funding by about 20 percent with enforcement being the hardest hit in terms of cuts, almost 25 percent.

I have always taken the position that it is great if we have all good environmental laws on the books. But if we do not have the money to enforce them, to make sure that the polluters are not out there violating the laws, then there is no point in having those laws on the books.

I hope that we defeat this bill today and that it serves as an example of why we have to provide adequate funding in the budget for the environment.

A REAL BALANCED BUDGET

(Mr. DAVIS asked and was given permission to address to House for 1 minute and to revise and extend her remarks.)

Mr. DAVIS. Mr. Speaker, I think we can all rightfully take pride in the agreement reached last night. The President has finally recognized the need for a 7-year balanced budget scored by the Congressional Budget Office but with appropriate input from all sides. There is now, I think, a mutual commitment from both sides of the aisle, from the administration and Congress, to balancing the Federal budget, that it is the right thing to do for our children's future.

I think, as Republicans here in the House, we promised the American people we would deliver a real balanced budget. We have been faithful to our word. We are and still are committed to stopping the almost endless mortgaging of America's future.

Now we will work with the Democrats and the President to fashion a plan together to accomplish this. This week America will celebrate Thanksgiving Day. For the first time in many, many years, Congress has given the American people something to be thankful for, a commitment for a balanced budget.

I look forward to working with my friends on the other side of the aisle to fashion a true balanced budget in the coming weeks.

END TAX BREAKS FOR THE WEALTHY AND CORPORATE WELFARE

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, the key issue under debate now is not whether we balance the budget in 6 years or 7 years or 8 years. They key issue is how we balance the budget, whether we balance it in a fair and just way or whether we balance it on the backs of the weakest and most vulnerable people in our society, the elderly, the children, the working people, and the poor.

In my view, instead of cutting Medicare, we should cut the $125 billion a year we give in tax breaks and subsidies to the big corporations and the wealthy, which is corporate welfare. Instead of cutting back on Medicaid and veterans' needs, we should cut back on the B-2 bombers and star wars and the other military spending that is unnecessary and not asked for by the Pentagon.

Instead of cutting back on education and student loans, we should make absolutely certain that at a time when the rich are becoming richer, we do not give 1 penny of tax breaks to the wealthy or the large corporations.

PUTTING ON THE BEST FACE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, to listen to my friends from the liberal side of the aisle, it would seem that they can find their calling after public life in plastic surgery. For once again, they are desperately trying to put the best face on things.

The fact is, after much wailing and gnashing of teeth, President Clinton has finally agreed with the new majority to balance the budget in 7 years, to use honest numbers to do so.

And speaking of honest numbers, my good friend from Vermont needs to be corrected. On student loans in the next 7 years the new majority proposes to spend an additional $12 billion; in Medicaid, an additional $38 billion; in Medicare, over the next 7 years, we will spend an additional $1.6 trillion.

Robert J. Samuelson, in yesterday's Washington Post, to paraphrase his column, said, when one side consistently distorts positions, then the purpose is to destroy, not to debate.

Mr. Speaker, I implore all the American people to get involved in an honest debate, not bent on destruction of the other side but preservation of our system.

GOOD STEWARDSHIP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the prior speaker said that those of us on this side are only trying to put a face on this. Let me say that the Chaplain called this group together this morning with a prayer about stewardship.

Let me say to the other side of the aisle, I saw no good stewardship vis-a-vis the Government last week as we saw the most expensive and costly shutdown in the history of this Nation over a trantrum. One does not have to put a face on that. That was outrageous.

But today we are back at work and we should be taking our stewardship very seriously. Of course, we should be moving toward a balanced budget. Of course, we have got to do that. But we should be good stewards of the environment. We should be good stewards of our children's education and their future in the 21st century. And we should not become totally beholden to special interests, to the great crown jewel that they keep talking about, the tax benefits for the wealthiest of the wealthy. That is what this country starts out about and that is what we should be getting to work on today.

OUR CHILDREN'S FUTURE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, Republicans in Congress promised to balance the budget and stop raiding our children's future to support today's bankrupt policies. We are now a giant step closer to making that a reality.

Last night, President Clinton committed his administration to honest numbers and an end to years of deficit spending. This commitment represents total victory for congressional Republicans because we did not barter away our two main goals: a 7-year balanced budget and CBO scoring.

Today, the American people can claim victory as well.

The victory we all celebrate today is that finally Washington rejected the status quo. We've put aside the excuses and we put our children's future ahead of Washington's future.

As we balance the budget, Congress and the President will abide by honest numbers. This is a victory for all Americans. No more excuses, we're doing the right thing for our children's future.

CROWN JEWEL IN JEOPARDY

(Ms. McKINNEY asked and was given permission to address the House for 1 minute.)

Ms. McKINNEY. Mr. Speaker, now that the Speaker's temper tantrum has ended and Federal workers are back at work, it is time that this Congress got on with passing the appropriations bills and a mainstream balanced budget.

In order for us to get to a balanced budget in 7 years, the Republican leadership is going to have to abandon its tax-cut promises to Wall Street. We cannot afford to be cutting taxes for the wealthy when we need to balance the budget and protect Medicare, education, and the environment.

Moreover, Mr. Speaker, we need to go after the $500 billion in corporate welfare in the budget, and make Germany and Japan pay for their own defense.

So to the Republican leadership I say, reduce the tax breaks to the rich and cut out the corporate welfare, and we will get to a balanced budget.

STANDING FIRM ON PRINCIPLES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, I was proud to be a Democrat. Proud as a Democratic President stood firm on the principles of our party, and stood up for our seniors, our children, and our environment.

Yesterday's agreement lays the framework for balancing the budget in a way that reflects the priorities of the American people.

Balancing the budget means balancing the books, but it also means balancing our priorities. Protecting health care for our seniors, educational opportunity for our youngsters, and our natural resources for the next generation, must be our goals. Those are the priorities of the American people. Those are the priorities of the Democrats in Congress. Yesterday, the President stood firm for those principles and stood up for our seniors, our students, and our environment.

A VICTORY FOR CHILDREN

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, today is a historic day. I hear my friends across the aisle say, we are for a balanced budget. We think it is important. They have been here 40 years. It has been a generation since they have balanced the budget.

The Republicans are pleased that the President finally agrees with the American people that balancing the budget should be a priority. Today is truly a victory for our children, $187,000 is what a child born today will be saddled with in taxes just to pay the interest on the national debt. The Republicans have a plan to balance the budget, the Balanced Budget Act of 1995.

We have heard now that the President is going to veto that plan. We challenge the President to propose his own 7-year plan. We have our plan. Mr. President, let us see your plan. Then let us sit down and negotiate the details. Mr. President, show us your plan.

AN APOLOGY

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, Friday evening the gentleman from California [Mr. CUNNINGHAM] directed an inappropriate remark at me for which he subsequently apologized. Unfortunately, I responded to that remark in an even less appropriate way by forcing Mr. CUNNINGHAM to leave the House floor with me and then instigating a physical confrontation outside the doors. I acted in a way that is unbecoming a Member of the Congress.

If this were an athletic ring, a top gun Navy fighter pilot the size of DUKE CUNNINGHAM would certainly have made for a fair fight of it. But we are supposed to be engaged in a battle of ideas, demonstrating to the American people and other countries how we settle our differences in a nonviolent way.

Mr. CUNNINGHAM deserves an apology from me. I hereby offer one.

□ 1430

FINALLY A PLAN TO BALANCE THE BUDGET IN 7 YEARS

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. Mr. Speaker, this is a truly historical day in this country, not because we have agreement on a final balanced budget plan, but because we finally have the executive branch and the legislative branch agreeing to balance the budget in 7 years.

Now we have seen a lot of flip-flops over the past year. We are going to put that behind us. We are going to do what it takes to protect and preserve Medicare and to also balance our budget for the next generation.

Of course, we have heard the Democrats attacking our plans on Medicare, saying that it was mean-spirited, but let us hear what the Washington Post had to say about the difference between the plans. They said:

> Though many of the President's advisers think the GOP's proposal is sensible and it differs little from his own plan, the President fired sound bites from the Oval Office daily taking the low road in ways that only Washington pundits could recast as standing trial.

Let us forget the demagoguery, let us admit that there is only $4 difference between our Medicare and the President's Medicare plan, and let us get on with the people's business, and stop looking at the polls, and do what is right. That is why we were elected, and that is the principle that we stand firmly on.

Balance the budget for the next generation.

THANKSGIVING INTROSPECTION

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. DOGGETT. Mr. Speaker, among those many blessings for which we can give thanks this Thanksgiving, one is our good fortune at being a part of the greatest Nation in the world.

Yes, I have listened to those who come almost daily to this House floor to whine about almost everything that has happened in this country over the last six decades, beginning with President Roosevelt signing Social Security into law, something they have never gotten over. But while we are gathered at the Thanksgiving table this Thursday, let us look at our own families and think what we want our national priorities to be.

As we look at the oldest member of our family, do we want to deny her health care security just in order to give those who have the most another tax break? As we look at the youngest, do we want to put more obstacles in the way of their educational opportunities so that they, too, can share in the great bounty of this Nation just in order to give the Pentagon $7 billion in costly weapons systems it never asked for? And are all of us going to have to buy bottled water next Thanksgiving because this Congress cannot stand up to the polluter lobby? I think not.

The American people can speak out this Thanksgiving about what they have to be thankful for and what they will be thankful for when this budget is concluded.

CONGRATULATIONS TO MY BRAVE COLLEAGUES FOR STICKING TO THEIR GUNS

(Mr. BONO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONO. Mr. Speaker, what really happened?

First of all, the Members that decided to stay on the floor over the weekend accomplished zip, and zero, and nothing. All they did was they, and do not hiss. That is kind of foolish.

Mr. Speaker, all they did was make the Capitol Police stay here on Sunday and keep their staffs here. But what did they accomplish? Nothing.

What happened? We finally made the President understand that he had to balance the budget in 7 years. No one else did. We did by sticking to our position. Eventually it dawned on the President that he had to balance the budget, and, therefore, he can no longer play any more games, and we got what we wanted.

Other than that, that was what occurred over the weekend so we had a lot of brave Members here, and I congratulate all of my colleagues for sticking to their guns, and that is all that brought this about, nothing else. Everything is rhetoric.

BALANCING THE BUDGET IN A FAIR AND EQUITABLE WAY

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I think that, as we are on the brink of having a chance to balance the budget in a fair and equitable way, I am begging that we take into consideration the crisis which exists for the veterans in this country with the current budget put forth by Republicans. The budget is setting, as it is now, a double whammy on veterans. Do my colleagues realize that Medicaid has been cut, and the Medicaid cuts alone would force as many as 172,000 veterans to lose Medicaid coverage in the year 2002.

I come before my colleagues this morning to beg that they watch what is happening to the veterans of this country because these are the people who went to wars and to foreign wars to help each of us, so it is up to us now to be sure that in addition to the harsh Medicaid cuts, look at the cuts in the VA budget that are going to severely impact veterans.

And I want to say to my Republican friends we are spending a lot of money on the military budget. Let us think of those who have already extended their lives into the military.

SEVEN YEARS MEANS SEVEN YEARS

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, Medicaid has gone up, Medicare has gone up, veterans benefits are going up. But 7 years is not going up. Seven years means seven years. The President committed to 7 years, not 8, 9, 10, 12, anything else. He committed to 7 years last night, and we are going to hold him to it. This is not a goal of a balanced budget in 7 years, it is a commitment, it is a contract, a rock solid contract.

Now, Mr. Speaker, we have to go through the implementing legislation. The President has to provide his guidelines on how he wants to reach that 7-year balanced budget. We will look at his figures. But it is going to be balanced within 7 years according to Congressional Budget Office scoring. That is a deal.

NO MORE BRINKSMANSHIP WITH FEDERAL EMPLOYEES

(Ms. NORTON asked and was given permission to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, Republicans have focused on the No. 7. Now focus on the No. 4 for Medicare, Medicaid, then education, and the environment. President Clinton has explained that the agreement means, "nothing will be agreed to unless all elements are agreed to," and he said, "I cannot sign a budget that devastates" these programs.

Another drop-dead date, December 15, looms just before Christmas. We should not even think about further brinksmanship with Federal employees.

A week of shutting down the financially devastated District has taken a new, catastrophic toll inflicted by this body. A short continuing resolution makes it impossible to calibrate payments to avoid overobligation in running a complex city.

The D.C. appropriation will probably not come to the floor this week. Yet 85 percent of that appropriation comes from D.C. taxpayers.

Free the 85 percent that is our money.

LET US BALANCE THE BUDGET FOR OUR GRANDCHILDREN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, I am here this afternoon to announce that my second grandson, John Allan Simpson, was born this morning at 8:30. Mother and son are doing fine; father not doing so well, but he will come down to earth soon, too. But it is the grandchildren that caused me to run for Congress.

Before I came here, I had a much better job, made about twice as much money and had actual vacations. But it is important for us as leaders in this country to get control of the runaway spending that we are passing the bill on to our grandchildren. John Allan Simpson, if we do not change our ways, will have a $187,000 bill for just interest on the debt over his lifetime. That is immoral. For 30 years we voted ourselves wishes and dreams and passed the bills on to our grandchildren. That is immoral.

I am proud to say that this weekend we have gotten some movement. I am pleased that the President has agreed that within the framework that we have proposed we will come to terms with not spending more than $7 trillion over the next 7 years. We will get control of the debt, balance the budget and grow out of this mess for our grandchildren.

NOW IS THE TIME FOR CONGRESS TO DO ITS WORK

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, the budget crisis having been temporarily averted, the Government back to work, credit being over claimed, everybody won; now, the hard part. Now is the time for Congress to do its work, pass the appropriations bill, send the reconciliation bill to the White House, accept the vetoes, and then let us sit down like adults and work out a bipartisan balanced budget that protects our values for Medicare, which I would argue the differences are not $4, but hundreds of billions of dollars for Medicaid, for education, and the environment.

Seventy-five Democrats and Republicans, myself included, know where to start. Let us build on that. Let us build on the coalition budget. Let us do what the people sent us here to do. Let us work out an acceptable compromise.

HOW DO WE SPEND $12 TRILLION OVER THE NEXT 7 YEARS?

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, the President agreed to 7 years, CBO numbers; Republicans have been saying 7 years, CBO numbers. We have come to an agreement, but that really is not the parameter of the agreement. The agreement is how do we spend $12 trillion, over the next 7 years? Basically it is an agreement between the majority party, House and Senate Republicans, and the President.

The Democrats come to this well the morning after the agreement and continue to talk about cuts. We are talking about how we spend 12 trillion more dollars over the next 7 years. To the degree the Democrats do not begin to be part of the solution, they are going to be even more irrelevant than they are now. To the degree they continue to talk about cuts, they are simply not going to be at the table.

We are going to work out over 7 years how to spend $12 trillion according to the Congressional Budget Office numbers. We would like to have our colleagues as part of the team. We are not cutting, we are adding. To the degree our colleagues think we are cutting, they are irrelevant.

LET US MAKE THE BIPARTISAN AGREEMENT HAPPEN

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I applaud the agreement finally reached by the President and Republican leaders to end the shutdown and put government back to work again for the American people.

The deal to balance the budget in 7 years is good. But even better is the acceptance, finally, by Republicans in the deal that balancing the budget in 7 years must protect the needs and desires of the American people.

It must protect future generations; protect Medicare; protect education; protect Medicaid; protect working families; protect agriculture; protect national defense; protect veterans; protect the environment; and protect economic growth.

We finally have a bipartisan agreement to balance the budget in a way that is fair and just to all Americans and not just the rich.

We have a bipartisan agreement that reflects the American values and priorities that the President and Democrats have been fighting so hard to preserve.

Now let us work to make it happen.

HELP STIMULATE THE ECONOMY

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, there have been several speakers who have come to the floor this morning and talked about the agreement and the entitlement programs that it will address in the next 3 weeks, but there is another very, I think, very influential and very important portion of that agreement and that is that we shall adopt tax policies to help working families and stimulate future economic growth. Tax policy to help working families. That is the $500 tax credit that not only we have proposed in legislation and passed this year, but also that the President proposed earlier this year.

Stimulate economic growth. When the minority leader appeared before the Committee on Ways and Means earlier this year, I asked him about a provision in the Tax Code that I think have cost more assembly line jobs than any provisions that have been implemented and would he support repealing it; and his answer was yes. And that is the alternative minimum tax.

The capital gains tax. What more has history proven that will help stimulate the economy than the capital gains tax? Mr. Speaker, we do not need to overlook this very important part of this agreement.

□ 1445

WHO ARE THE TRUE WINNERS IN THE GOVERNMENT SHUTDOWN?

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, who are the true winners of the Government shutdown battle? Is it (a) the Democrats, (b) the Republicans, (c), the American people, or (d) all of the above?

The correct answer is (d), all of the above. Everyone can claim victory for the compromise made by President Clinton and the Congress last night. The compromise allows Republicans and Democrats to legislate and even compromise, which is what the American people sent us here to do. However, in this time of euphoria, we must remember that we have agreed to a temporary cease-fire and not a permanent settlement. The tough sledding lies ahead. Republicans must understand that while we all want a balanced budget, it must be done while protecting Medicare, Medicaid, the environment, and education.

Mr. Speaker, let us put partisan politics aside and balance the budget. No more brinksmanship, no more gunfights at the OK Corral. Let us do it the right way, and we all can come out winners.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EWING). The Chair will entertain one more 1-minute on each side.

NO MORE PARTISAN BICKERING OVER THE BUDGET

(Mr. LONGLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONGLEY. Mr. Speaker, I want to echo the comments of my good friend, the gentleman from New Mexico [Mr. RICHARDSON]. I think he is exactly on track. The public is tired of the partisan bickering. They sent us here to do the people's business. I think we have reached a milestone in government where we are all in agreement that the time has come to balance the Federal budget in 7 years.

I understand the concerns of many who are upset with the Republican budget. Now I have to tell my friends on the other side of the aisle that the shoe is now on the other foot. If we are not spending enough money, then somebody needs to quantify not only how much more money needs to be spent, but how are we going to pay for it. We have been hearing a lot of "I am for favoring balancing the budget." Now the time has come to deliver.

THE CAPITAL GAINS TAX CUT VERSUS THE FAMILY TAX CREDIT

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, one of the previous speakers on the Republican side asked the question, I think rhetorically, at the end of his remarks, "What more could we do to stimulate the economy of our country than to give a capital gains tax break?" I think the answer to that is educate our children, invest in our children.

That is one of the complaints I have with the Gingrich Republican reconciliation bill. In it, they give a capital gains tax break to the wealthiest people in our country. But listen to this: It is retroactive until last January 1. The much-heralded $500 family tax credit? That is only effective October 1. So, effectively, the tax credit for American families, the $500 tax credit is $125 for 1995, while the capital gains reduction for the wealthiest people in our country goes back retroactively to January 1995.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think what the gentlewoman knows, it must be harder to raise a capital gain than it is a child.

PARLIAMENTARY INQUIRY

Mrs. SCHROEDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. SCHROEDER. What is the method for extending speakers when a limit comes at the beginning of the hour on 1-minutes? Does each side just make a request to extend whenever they have extra speakers show up?

The SPEAKER pro tempore. It is the Chair's power of recognition.

Mrs. SCHROEDER. Continuing parliamentary inquiry, Mr. Speaker. The Chair can decide at any time not to abide by the limit that was put on at the beginning of the hour if the Chair so desires?

The SPEAKER pro tempore. The Chair felt that it was accommodating Members on both sides to adjust that limitation at the end, as Members continued to come into the Chamber.

Mrs. SCHROEDER. Further parliamentary inquiry, Mr. Speaker. Does that mean both sides go to the Chair before the extension, then, is granted?

The SPEAKER pro tempore. The Chair would normally make that statement at the beginning, and they would then abide by that. It came later today.

PROVIDING FOR CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND ADJOURNMENT OF THE HOUSE

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 32) providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until Tuesday, November 28, 1995.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Monday, November 20, 1995, pursuant to a motion made by the Majority Leader or his designee, in accordance with this resolution, it stand recessed or adjourned until a time to be determined by the Majority Leader on Monday, November 27, 1995, or until one hour after the House has voted on H.J. Res. 122, unless the House agrees to the Senate amendment.

SEC. 2. The two Houses shall convene at 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first; and that when the House of Representatives adjourns on the legislative day of Monday, November 20, 1995, or the legislative day of Tuesday, November 21, 1995, it stand adjourned until 12:30 p.m. on Tuesday, November 28, 1995, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 3 of this resolution, whichever occurs first.

SEC. 3. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and Minority Leader of the House, shall notify the Members of the Senate and the House respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken after debate has concluded on the motion to suspend the rules, but not before 5 p.m. today.

AMENDING COMMENCEMENT DATES OF CERTAIN TEMPORARY JUDGESHIPS

Mr. MOORHEAD. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2361, to amend the commencement dates of certain temporary Federal judgeships.

The clerk read as follows:

H.R. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by striking out the last sentence and inserting in lieu thereof "The first vacancy in the office of district judge in each of the judicial districts named in this subsection, except the western district of Michigan, occurring 5 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this Act, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes, and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2361, to amend the commencement dates of certain temporary Federal judgeships.

In 1990 the Federal Judgeship Act, Public Law 101-650, part of the Judicial Improvements Act of 1990, created 13 temporary judgeships. These temporary positions are unique in that 5 years after the effective date of the act, December 1, 1990, the next vacancy occurring in each of those 13 courts will not be filled. Therefore, under the present provisions of the act any vacancy created by death, retirement, or by a judge taking senior status after December 1, 1995 will not be filled. This has the effect of allowing districts with clogged dockets to receive the benefit of an extra judge for a temporary period of 5 years.

The problem arises because the confirmation process is time-consuming and the temporary judgeship positions were not filled in some districts until 1994. For those courts a vacancy created soon after December 1, 1995, by death, retirement, or a judge taking senior status, would result in that court having had the benefit of the temporary position for a little as 14 months rather than the 5 years intended by Congress.

The proposed change would establish the confirmation date of the judge named to fill the temporary position as the starting point for the 5 years. Any vacancy occurring 5 years after that confirmation date would not be filled. This change would assure that all affected districts would receive the benefit of the temporary judgeship position for the full 5 years.

This amendment has bipartisan support and will appreciably enhance the administration of justice in those districts where the caseloads necessitated the creation of temporary judgeships. All identical bill was introduced by Chairman HATCH and passed in the Senate.

I urge a favorable vote on H.R. 2361.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I join our subcommittee chairman in supporting this bill. This is really a simple technical amendment to ensure that districts that have been authorized for temporary judgeships get the full 5 years' benefit of their temporary judge, as Congress originally intended.

The Federal Judgeship Act, passed by Congress in 1990, created 13 temporary judgeships in order to give judicial districts with serious docket backlogs an extra judge for 5 years. Unfortunately, because of the time consumed by the confirmation process, the intended 5-year benefit will be whittled away to just over 1 year in some districts unless we enact the bill before us today. This bill will ensure that the affected districts receive a full 5-year temporary judgeship.

This bill will greatly enhanced judicial administration in the affected Federal districts. I thank the subcommittee chairman for his work on this bill, and I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS], the ranking member of the full committee.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman for yielding time to me, and commend the leaders of this important subcommittee of the Committee on the Judiciary.

This is a bill that we can all support, the reason being that these temporary judgeships created by our former chairman of the full committee, the gentleman from Texas, Jack Brooks, is an excellent idea in terms of a way to deal with temporary shortages in the judicial districts across the country. I support it, and we suspect that every Member in the House does as well.

In Michigan, Mr. Speaker, we had the unique circumstance in the western district in which they have taken care of their shortage and have returned the temporary judgeship, of all things. This has never happened in the annals of American judicial history, and may not likely happen again soon, so we were delighted about that.

The law created 13 unique, temporary judgeships for a 5-year period ending in 1995. Optimists on this side assumed that the incumbent President will get the benefit of naming these extra judges, but I do not want to spoil this discussion, now that we have all arrived at great harmony on this subject.

The bill responds to the oversight in the law by specifying that the districts in question benefit from the added position for the full 5-year term, beginning on the date that they were filled, as Congress originally intended, rather than the date that the temporary judgeship law became effective. So I congratulate the chairman of the subcommittee and the ranking member, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in support of H.R. 2361, which will restore the original intent of the Judicial Improvements Act of 1990 to assure that certain jurisdictions which receive temporary judgeships under that act will indeed have the benefit of those judges for a full 5-year period.

This bill is important to the State of Hawaii which was one of the 13 court districts which received a temporary Federal judge under the 1990 act in order to assist in completing a backlog of cases. As a result of the 1990 act, Hawaii has four Federal judge positions instead of three.

The original act set the 5-year period for the temporary position to begin the date of enactment, December 1, 1990, ending on December 1, 1995. However, many of the temporary Federal judges were not confirmed in a timely manner and as the December 1, 1995, end date is near, many jurisdictions including Hawaii have not had the benefit of an additional judge for the full 5 years.

The original act stipulates that any vacancy that occurs after the five-year period—December 1, 1995—in one of the 13 districts will not be filled. Hawaii currently has a vacancy in one of its three permanent Federal judge positions due to the death of Judge Harold Fong. It is impossible at this point for a new judge to be nominated and confirmed before December 1, 1995, which means that under the original provisions of the Judicial Improvements Act of 1990, the current vacancy will not be filled, even though Hawaii has not had the benefit of an additional temporary judge for the full 5-year period.

H.R. 2361, would resolve this problem and assure that Hawaii and the 12 other court districts receive the full benefit of a temporary judge for a full 5-year period. The bill establishes the confirmation date of the judge named to fill the temporary position as the starting point for the 5 years. It stipulates that the first vacancy occurring 5 years after that confirmation date will not be filled, retaining the temporary nature of the position, but assuring that the jurisdictions have the service of the temporary judge for full 5 years.

I urge my colleagues to support this bill which will restore the original intent of the Judicial Improvements Act of 1990 and provide necessary assistance to these 13 Federal court districts.

Mr. COSTELLO. Mr. Speaker, I rise in support of H.R. 2361, the bill to change the expiration date of certain temporary judgeships established in 1990. Instead of expiring 5 years from the bill's date of enactment, the judgeships will expire 5 years from the date of confirmation.

It is of critical importance that this legislation be approved and sent to the President for his signature prior to December 1. Without a change in the law, as many as 13 districts will not be able to take advantage of the temporary judgeships because of delays in the confirmation process.

The temporary judgeships will enable the Federal courts to better handle their extensive workload. That is why I am strongly supporting this legislation which simply makes a technical change and allows the original intent of the law—5-year temporary judgeships for certain Federal district courts.

I hope my colleagues will join me in supporting this bill so we can forward it to the President for his signature before the December 1 expiration date.

Mrs. SCHROEDER. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the bill, H.R. 2361.

The question was taken; and (two-thirds of those have voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1328) to amend the commencement dates of certain temporary Federal judgeships and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. SCHROEDER. Reserving the right to object, Mr. Speaker, I do so to yield to the gentleman from California [Mr. MOORHEAD] to explain his request.

Mr. MOORHEAD. Mr. Speaker, this is a companion Senate bill. This action will enable the bill to go to the President.

Mrs. SCHROEDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by striking out the last sentence and inserting in lieu thereof "The first vacancy in the office of district judge in each of the judicial districts named in this subsection, except the western district of Michigan, occurring 5 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this Act, shall not be filled. The first vacancy in the office of district judge in the western district of Michigan, occurring after December 1, 1995, shall not be filled.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2361) was laid on the table.

□ 1500

CONCURRING IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1966

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order to take from the Speaker's table the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes, with the Senate amendment thereto, and to consider in the House a motion offered by the chairman of the Committee on Appropriations to dispose of the Senate amendment, that the Senate amendment and motion shall be considered as read, that the motion shall be debatable for 1 hour equally divided and controlled by the chairman and the ranking minority member of the Committee on Appropriations or their designees, and that the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

POSTPONING ELECTRONIC VOTE ON HOUSE JOINT RESOLUTION 122

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that if a recorded vote is ordered, or yeas and nays are ordered, or a vote is objected to under clause 4 of rule XV, on the question of adopting the motion that the House concur in the Senate amendment to House Joint Resolution 122, then the Chair may postpone further proceedings on that question until a later time or place in the legislative schedule of the current legislative day, any may resume such proceedings as though postponed pursuant to clause 5(b)(1) of rule I.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 122), making further continuing appropriations for the fiscal year 1996, and for other purposes, with a Senate amendment thereto, and I offer a motion.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

SENATE AMENDMENT:

Strike out all after the resolving clause and insert:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or *activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:*

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act;

Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: Provided, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: Provided, That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1995 or prior years, for the increase in production rates above those sustained with fiscal year 1995 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1995: Provided, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) December 15, 1995, whichever first occurs.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, whenever an Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of the Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation of complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding of States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 114. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of Section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this joint resolution. Included in the apportionment for the Federal Payment to the District of Columbia shall be an additional $16,575,016 above the amount otherwise made available by this joint resolution, for reimbursement to the United States of funds loaned for certain capital improvement projects pursuant to Public Law 81–533, as amended; Public Law 83–364, as amended; Public Law 85–451, as amended; and Public Law 86–515, as amended, including interest as required thereby.

SEC. 116. Notwithstanding any other provision of this joint resolution, except section 106, the authority and conditions for the application of appropriations for the Office of Technology Assessment as contained in the conference report on the Legislative Branch Appropriations Act, 1996, House Report 104–212, shall be followed when applying the funding made available by this joint resolution.

SEC. 117. Notwithstanding any other provision of this joint resolution, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this joint resolution as the number of days covered by this resolution bears to 366.

SEC. 118. Notwithstanding any other provision of this joint resolution, except section 106, the *authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this joint resolution, notwithstanding paragraph (3) of said subsection.*

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this joint resolution.

SEC. 120. Until enactment of legislation providing funding for the entire fiscal year ending September 30, 1996, for the Department of the Interior and Related Agencies, funds available for necessary expenses of the Bureau of Mines are for continuing limited health and safety and related research, materials partnerships, and minerals information activities; for mineral assessments in Alaska; and for terminating all other activities of the Bureau of Mines.

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 106, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 122. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organization and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, shall be the amount provided by the provisions of sections 101, 111, and 112 multiplied by the ratio of the number of days covered by this resolution to 366.

SEC. 123. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Administrative Conference of the United States;

Advisory Commission on Intergovernmental Relations (except that activities to carry out the provisions of Public Law 104–4 may Continue);

Interstate Commerce Commission;

Pennsylvania Avenue Development Corporation;

Land and Water Conservation Fund, State Assistance; and

Office of Surface Mining Reclamation and Enforcement, Rural Abandoned Mine Program.

SEC. 124. COMPENSATION AND RATIFICATION OF AUTHORITY.

(a) Any Federal employees furloughed as a result of a lapse in appropriations, if any, after midnight November 13, 1995, until, the enactment of this Act shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(b) All obligations incurred in anticipation of the appropriations made and authority granted by this Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of this Act.

TITLE II

SEC. 201. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any of the following measures of the first session of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution:

(1) A continuing resolution.

(2) A debt limit extension measure.

(3) A reconciliation bill.

(b) CERTIFICATION BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of a measure to which subsection (a) applies shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

SEC 202. DFINITIONS.

As used in this joint resolution:

(1) CONTINUING RESOLUTION.—The term "continuing resolution" means a bill or joint resolution that includes provisions making further continuing appropriations for fiscal year 1996.

(2) DEBT LIMIT EXTENSION MEASURE.—The term "debt limit extension measure" means a bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code.

(3) RECONCILIATION BILL.—The term "reconciliation bill" means a bill that is a reconciliation bill within the meaning of section 310 of the Congressional Budget Act of 1974.

SEC. 203. COMMITMENT TO A SEVEN YEAR BALANCED BUDGET.

(a) The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

(b) The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a through consultation and review with the Office of Management and Budget, and other government and private experts.

MOTION OFFERED BY MR. LIVINGSTON

The SPEAKER pro tempore. The Clerk will designate the motion. The text of the motion is as follows:

Mr. LIVINGSTON moves that the House concur in the amendment of the Senate.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will be recognized for 30 minutes.

The Chair recognize the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 122, and that I might include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Senate amendment before us now to the House Joint Resolution 122 represents the compromise agreement and, as I would call it, a contract between the Congress and the administration worked out with the joint leadership of Congress and the President and his administration to keep the Government operating through December 15.

Last night the House concurred with the Senate amendment to House Joint Resolution 123, which was a clean continuing resolution to keep the Government operating throughout this day. That action cleared that joint resolution for the President and which he signed later last night. Today we are considering the Senate amendment to House Joint Resolution 122 that would keep the Government operating through December 15.

Mr. Speaker, much has already been said about the language included in the Senate amendment on the 7-year balanced budget plan. It has been characterized with a lot of different twists, and I would just say that there is a clear 7-year balanced budget commitment in this continuing resolution. It is tough, it is real, and the House fully, or the leadership of this House fully intends to follow through with it, according, I might add, to the scoring procedure of the Congressional Budget Office.

The other changes to this continuing resolution that the Senate amendment would make are as follows:

It changes the termination date to December 15; it changes the minimum level rate to 75 percent of the fiscal year 1995 levels for those programs that are terminated in either House or Senate bills, those appropriation bills which have not already been enacted into law; it includes the compromise 7-year balanced budget language that I had mentioned earlier, binding the Congress and the President to work on a glidepath towards a balanced budget by the year 2002; it includes provisions for nonessential Government workers to be paid during the time of a shutdown, or the shutdown that just transpired; and it makes a technical correction to the District of Columbia funding rate to enable payment on guaranteed loans which will have no effect on the final District funding level.

The bottom line is very clear, Mr. Speaker. This continuing resolution sets in strong cement the agreement that was reached yesterday to put the United States on the path to a balanced budget in 7 years as scored by the Congressional Budget Office. Anything less could ultimately lead to another shutdown after the term of this continuing resolution.

Mr. Speaker, this continuing resolution will be applicable to 7 of our 13 regular bills, since 6 have already been enacted into law. The defense bill is also on the President's desk, and I certainly hope that he will sign it. In fact, I urge him to do so for any number of reasons, but most particularly he is now working on a peace agreement with the Bosnians; and, obviously, this House is already on record with respect to its wishes on that peace agreement that we not put troops on the ground. But even if he wanted to put troops on the ground, they should be paid, and he can effect that by simply signing the defense appropriations bill that is on his desk.

Mr. Speaker, we should be able to get to the foreign operations appropriations bill as well as the Interior bill and the VA-HUD bill, which we anticipate getting to him shortly. Commerce, Justice, and the District of Columbia bills are in conference and we should complete them very quickly. That leaves only the Labor-HHS bill, which, unfortunately, is still pending in the Senate, and we certainly hope they dispose of it as soon as possible.

We are getting our work done, Mr. Speaker, and we need to complete it so that this will be the last continuing resolution. There are big issues in these bills that are outstanding, but we will need to address them and to negotiate them out so that our work will be complete and so that we can continue with the implementation of the balanced budget within 7 years, as scored by the Congressional Budget Office, that we began last spring.

Mr. Speaker, this continuing resolution represents the beginning of the negotiations to get this country's finances back in order and to ensure a future for our children and our grandchildren. It gets the Government back to work while we do that. I urge all Members to vote to concur in the Senate amendment and to pass this continuing resolution once again.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am happy to be here under these conditions today because this ends a fight which, in my view, never should have taken place in the first place. At the time that this fight started Congress had passed only two of its appropriations bills, military construction and agriculture. During the time that the fight ensued, two more were passed and signed by the President, and the President indicated just this weekend he would sign two more, which the Congress has now sent down to him.

We still have a long way to go for the Congress to finish its appropriations business, but at the time this fight ensued, over 90 percent of the appropriations required for the next fiscal year had not yet been passed by the Congress. Therefore, we had to pass a continuing resolution to keep Government open while the rest of the bills completed their way through the Congress.

The Speaker, as we now all know, tried to use that need in order to require the President to walk away from deeply held principles and beliefs. First, the continuing resolution which was passed by this House required the President to accept the idea of a doubling of Medicare premiums. The President said no. Then the Speaker told the press that the continuing resolution was made more confrontational because he had wanted to receive more attention than the President's plane to the Middle East for Mr. Rabin's funeral. That Government shutdown that ensured cost the taxpayers half a billion dollars. I guess we could say that is the most expensive plane ride in Government history.

Thank God that is now all behind us and the Government is again open, and this bill will keep it open until December 15. This continuing resolution will allow the real negotiations to now begin.

Next week, Mr. Speaker, the Government will remain open while we debate the real issues. The language in the continuing resolution reads that it will ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment, and that we will adopt tax policies to help working families.

I think that makes clear that the issue has never been whether the budget would be balanced. The issue has been whether or not the budget would be balanced in a way that unites society by being fair rather than in a way that divides society by being unfair.

I think this language makes it clear that we on this side of the aisle, and the President, will insist that Medicare be strengthened, not crippled; that the safety net for children will not be shredded when they need a doctor; that education and environment will not be crippled; that taxes on working people with modest incomes will not be raised in order to provide tax cuts for the well-off and the wealthy.

This debate, Mr. Speaker, has never been about accounting. This debate has been about values. We simply do not want just a balanced budget. In addition to a balanced budget, we also want a balanced society and we want a balanced economy.

We believe, Mr. Speaker, that fairness is not an ornament. We believe it is a core value, and that is why I am delighted that the resolution before us today finally, properly, recognizes those core values. We will, as we move into negotiations on the budget bill to come, insist that those values be respected on behalf of all of the people we represent.

Mr. Speaker, I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, yield 2 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman and I want to commend him.

As the author of the balanced budget language that was first included in the debt limit bill, and then in modified form in the continuing appropriations resolution, I want to commend our congressional leadership for holding firm to the mandate that the President and Congress enact a 7-year balanced budget bill this year.

My original language in the debt limit bill, read that—

> With the enactment of this Act the President and the Congress commit to enacting legislation in calendar year 1995 to achieve a balanced budget, as scored by the nonpartisan Congressional Budget Office, not later than the fiscal year 2002.

In the continuing resolution initially passed by the House and Senate, the language was modified to read that the President and Congressional "shall enact legislation in the 104th Congress to achieve a unified balanced budget not later than the fiscal year 2002 as scored by the non-partisan Congressional Budget Office."

The language before us today, as agreed to by the President and the congressional leadership yesterday, reads: "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office * * *"

There is additional language in the latest version requiring CBO consultation with OMB and others. And there is new language providing that a balance budget must protect future generations, ensure Medicare solvency, reform welfare, provide adequate funding for specified matters, and adopt tax policies to help working families and stimulate future economic growth.

I don't know of anyone who disagrees with those additional stipulations of what a balanced budget should do and will do. The important thing, though is that we will now have signed into law a contract between the President and Congress to enact legislation this year that will give the American people a balanced budget by fiscal year 2002. What a Christmas present.

Let me tell Members this is one tremendous giant step in the right direction. I am a little concerned with what I am seeing on CNN and some of the television and radio programs this morning, as if there is some kind of wiggle room here. Let me tell my colleagues, there is no wiggle room. This is a 7-year binding Balanced Budget Act.

When I look at my good friend, the gentleman from Wisconsin [Mr. OBEY], and how he put emphasis on the agreement, let me read it to Members real fast. "The President and this Congress shall," not maybe, shall "legislate in the first session of the 104th Congress to achieve a balanced budget not later than the fiscal year 2002."

There is no wiggle room there, ladies and gentlemen. We will do it within the 7 years as estimated by the Congressional Budget Office. There is no wiggle room there. No smoke and mirrors. We will do it with realistic figures.

□ 1515

And then it goes on to say that the President and the Congress agree that the balanced budget must protect future generations and ensure Medicare solvency. That means do not let it go bankrupt, and we are not going to let it go bankrupt. Reform welfare. That does not mean wiggle room to increase welfare benefits. That means reform this system that is a total failure. Also, provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment. That means provide adequate funding for all of those things within the 7 years. No wiggle room.

Mr. Speaker, we are not going to do what we did in 1985, when we passed Gramm-Rudman with no cuts in the first years, only in the later years, and then we never got around to it.

Mr. Speaker, let me tell the President and this Congress, there is no wiggle room here. I say to the President, "Mr. President, this is a binding contract, morally. You must present to us a 7-year balanced budget, the same as we are going to you."

Mr. Speaker, let us compare apples to apples. Let the press look at it and let us stand on the merits of the two proposals. That is what this does. It is binding and meaningful, and I urge my colleagues to vote for it.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Minnesota [Mr. SABO], ranking Democrat on the Committee on the Budget.

Mr. SABO. Mr. Speaker, I rise in support of this bill.

Mr. Speaker, we end this foolishness that we have been in for the last several days, and we get the Government running again. We get the debate focused again on how we go about balancing the Federal budget.

Mr. Speaker, what kind of priorities do we deal with? How do we bring the deficit down? Let me speak to that issue briefly.

Mr. Speaker, I was one of a number of Democrats who supported an alternative budget that did balance the budget in 7 years. We balanced in 7 years, but we did it in a fashion, reforming health care, Medicaid and Medicare in a fashion that did not penalize poor elderly; that did not drive millions of people out of health care or, as an alternative, substantially increase the costs to State and local government; we reformed welfare in a way that was disciplined and tough and workable, in contrast to Republican plans that would drive literally a million or more kids into poverty.

Mr. Speaker, we did it in a fashion that enabled the Federal Government still to have the capacity to deal with education, the environment, and a variety of other programs that we fund on an annual basis.

I look now at the program that my Republican friends bring and at their priorities, and what I discover to my amazement is that while they have a program that does, I think a lot of bad things to our society, they also increase the deficit for the next 2 years.

Mr. Speaker, let me repeat that. This Republican program, which does drastic cuts to health care in this country, which would drive a million or more kids into poverty, which cripples our ability to fund education, the environment and other programs, increases the deficit for the next 2 years.

Mr. Speaker, I hope my Republican colleagues are listening. Let me give the numbers. We have had reduced deficits for the last 3 years. Under the Republican agreement, it goes up in 1996. For some reason, that seems to happen in all plans. But then, again, it goes up for the second year, 1997. In comparison to our coalition budget, the Federal deficit in 1997 would be $28 billion higher. Not lower; $28 billion higher.

Let me give my colleagues the numbers. Under the coalition budget, $160.4 billion. Under the Republican conference agreement, $189.1 billion. Why is the deficit under their plan $28 billion greater in 1997? A tax cut.

So, we not only are cutting at vital American programs to pay for the Republican tax cut, we discover we are also borrowing the money to pay for it.

So, Mr. Speaker, we look anxiously forward to the potential to do what the ranking member of our Committee on Appropriations spoke of, to deal with a balanced budget that is fair and equitable, but also doing it in a fashion that actually reduces the deficit in the immediate future.

What I would ask Members to do is vote for this bill. Let us get the Government operating again. Then let us go on to do the real tough negotiations that need to be done so we can get a humane budget that actually brings the Federal budget in balance.

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I believe this has been an unnecessary crisis that, frankly, should have been resolved with the passage of a clean continuing resolution on October 1, 6 weeks ago. But for the sake of hundreds of thousands of Federal workers, and the veterans and the seniors and the millions of citizens they serve, I am grateful this resolution will pass today.

Mr. Speaker, I commend the President and the Democratic Members of Congress, and the Republican leadership and Members in this House for developing a plan that does put people and our Government back to work today.

Mr. Speaker, I do not support everything in this new resolution, but I would like to point out, as the ranking member of the Subcommittee on Hospitals and Health Care, one important reason why this resolution is preferable to the continuing resolution we have lived under for the last 6 weeks.

Mr. Speaker, under that resolution, sponsored and pushed by the Republican leadership in this House, VA health care has been cut by $3.2 million a day each day for the last 6 weeks, compared to the President's budget request.

That is $3.2 million a day. VA health care system cuts in a system that is desperately struggling to provide adequate care for those men and women who have served our Nation in uniform.

It is my opinion that if the majority party had not been supporting huge tax breaks for those making over $200,000 a year, these veterans health care cuts would not have been necessary; $140 million over 6 weeks.

Mr. Speaker, although I believe this continuing resolution falls short in some areas, it is far better than the first continuing resolution that I believe was unfair to our Nation's veterans and to our veterans health care system. For these reasons, I support and urge the passage of this continuing resolution today.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Speaker, last week as we were leaving to head home, the freshmen in the House met with the freshmen in the Senate and passed the baton on the Balanced Budget Act with two key criteria. First, that we balance the budget in 7 years; and, second, that we use honest numbers in reaching those budget projections.

Mr. Speaker, I was delighted late last night and early this morning when I saw that Speaker GINGRICH, Leader DOLE, and the President had agreed to a continuing resolution that incorporated those very goals and committed in writing to be the watchword as we move forward in these budget negotiations.

Mr. Speaker, I would say, though, that the key here is that we all recognize 7 years is 7 years. We are putting in writing a commitment to the American people that we will balance the budget in 7 years; not 8, not 9, not 10 years, but 7 years, so that they can take it to the bank and tell their children and their children's children that we have done our job and balanced the budget.

Mr. Speaker, this is not a goal. This is not an objective. This is a solid commitment put in writing in a contract between the House, the Senate, and the President of the United States.

Mr. Speaker, as you know, we all signed the Contract With America, and as freshmen that has been our watchword to keep our word in fulfilling our promises to the American voters. This contract is exactly the same, and we will take it with exactly the same degree of seriousness. It is a sacred agreement to balance the budget in 7 years and promise to future generations that that is what we, indeed, will undertake this fall in Congress.

Mr. Speaker, let me say that if the President does not agree with that, I think, Mr. Speaker, that he should decide maybe to take back the words and not sign this bill, because we need to be honest with the American people. If he signs it, he should view it as a sacred agreement to balance the budget in 7 years.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this continuing resolution is a victory for the American people. For the first time, the Republicans have agreed with the President to protect Medicare, education, and the environment.

Additionally, while seniors and families were the winners in this agreement, Speaker GINGRICH has said that the crown jewel of the Republican contract, the $245 billion tax break for the rich, is on the table for the long-term budget negotiations.

Mr. Speaker, this bill is a winner not only because it gets the Government back to work. This agreement is a winner because it sets the right ground rules for the coming negotiations on a long-term budget. No cuts in Medicare, education, or the environment. No increase on taxes for working middle-class families to pay for tax breaks for the rich.

That is important, because the budget debate is not some heartless discussion about formulas, numbers and budget scoring. It is about the lives of the American people and protecting what is important to them. We need to balance the budget in a way that protects health care for our seniors, educational opportunity for our youngsters, and cleans up our environment.

This Thanksgiving, as American families give thanks for the blessings of this past year, let Congress work to give the American people something to be thankful for in the coming years: A balanced budget based on the values that we all share.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, I think that a very important compromise was reached and that it should be a big Christmas present for the American people. Nevertheless, I think it should be very clear what agreement was reached and where we are now as we go forward.

Mr. Speaker, immediately after the agreement, it seemed that there were very different discussions or representations to the American people about what was agreed to. In fact, that prompted a letter from the gentleman from Texas [Mr. ARMEY], the majority leader of the House of Representatives, to Mr. Leon Panetta, the chief of staff of the White House, to clarify what we are talking about.

Mr. Speaker, at the conclusion of my remarks, I will put the letter from the gentleman from Texas in the CONGRESSIONAL RECORD to clarify that the agreement which was reached was an agreement that does require us to balance the budget in 7 years. It was an agreement that does require that we all operate off the same sheet. In other words, that we all use the same numbers and the same projections as we discuss balancing the budget, that being the CBO projections.

Mr. Speaker, it has been probably been said many times, but it needs to be said again, that as recently as 1993 when the President gave his first message to Congress, he talked about how CBO is the most honest and correct scorekeeper for our budgets and that the numbers we are now using are the numbers developed by the CBO as they were subject to the management of the Democratic Party at the time the numbers were developed.

We must all talk off of the same sheet. We must all use the same numbers and we must all realize that the act that we are creating today, and the law that the President will sign, will commit this Nation to a balanced budget in 7 years.

Mr. Speaker, that is a tremendous change in the dynamic of the debate in Washington. To this point, we have been debating about whether we cut too deep into this or that program, or whether it was a cut at all. Everyone has been claiming that they wanted to do it in the context of balancing the Federal budget.

☐ 1530

Now we have parameters put to that debate. Now while Members talk about balancing the budget, they are going to have to use the right numbers.

Mr. Speaker, we can move on to discuss the proper priorities for this country and move us to the prosperity that will come from a true balanced budget.

Mr. Speaker, I include for the RECORD the letter to which I referred:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 1995.
Hon. LEON PANETTA,
Chief of Staff, The White House, Washington, DC.

DEAR LEON, I was dismayed by your comments this morning regarding the carefully crafted agreement reached between the Administration and congressional leaders. To the untrained eye, it might appear as though the Clinton Administration is already preparing to break its commitment to a seven year balanced budget.

On the Today Show this morning, you said, "If we can work out an agreement that protects those priorities, we can do it in seven years or eight years."

That is inconsistent with the language you and the President personally committed to yesterday, which reads: "The President and Congress shall enact legislation in the first session of the One Hundred and Fourth Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment. . . ."

In addition, a White House spokesman said this morning that a "seven-year timetable for the balanced budget is an important goal, it's an important objective." Remember, we flatly rejected your suggestion that we commit to a "goal" of balancing the budget in seven years in favor of an explicit commitment to a balanced budget in seven years.

Words have meaning, Leon. Seven years is seven years, not "seven years or eight years." A commitment to balance the budget in seven years is more than just a "goal" of seven years. Past congresses and presidents have embraced the "goal" of a balanced budget countless times, and all we have to show for it is nearly five trillion dollars in debt.

You also said this morning, "I don't think the American people ought to read a lot into what was agreed to last night. I think the important thing was that we put America back to work." I believe most Americans think the important thing was that their Congress and their President have made an explicit commitment to balance the budget for the first time in a generation, not that federal bureaucrats got to go back to work today.

The American people now have their hopes up for an honest balanced budget in seven years. If the President intends to break this commitment, he shouldn't make it. If the President intends to sign the bill he agreed to last night only for short-term polling gains but with no intention of abiding by it, it would be better for him to veto the bill.

Sincerely,

DICK ARMEY,
Majority Leader.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank our ranking member for yielding time to me and thank him for his leadership.

Mr. Speaker, congratulations to all of the parties to the agreement that brings us here today to vote on this continuing resolution.

I am particularly grateful to President Clinton for holding firm to his commitment to protect Medicare, the environment, and education and to scale back the tax breaks for the wealthiest people in our country. I believe that the reconciliation bill the Republicans are proposing is not balanced at all; indeed, it is imbalanced in terms of its tax unfairness in addition to the priorities which I do not agree with.

For example, in that imbalance a $16-billion tax break will be given to America's corporations while there will be a $32-billion tax increase for America's families to pay for that corporate tax break.

In terms of capital gains, our colleagues are strong supporters of the capital gains cut. The capital gains cut in this bill, in the reconciliation bill is retroactive until January 1, while the much heralded $500 family tax credit is only effective October 1, thereby making it a $125 tax credit. How could it be that the capital gains tax is more important to be retroactive than the family tax credit?

In light of these and other unfair aspects of this bill, including the fact that taxes will go up for working families making under $28,000 a year, it is easy to see why when our Republican colleagues look in the mirror and say, mirror mirror on the wall, who is the fairest of them all, the mirror cracks, because of the unfairness contained in their reconciliation bill.

The mirror and the American people know that it is not fair to raise taxes on working families in America in order to give tax breaks to the wealthiest people in our country. That is why I am so pleased the CR establishes the framework for debate. What are our priorities. It will be a statement of our values, this budget should be. How we spend our money says what is important to us. Medicare, protect the environment, invest in children and how we pay for it should not be on the backs of the working poor families in our country.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes and 30 seconds to the distinguished gentleman from Arizona [Mr. KOLBE], a member of the Committee on the Budget and the Committee on Appropriations.

Mr. KOLBE. Mr. Speaker, Mr. HOBSON's introduction mentioned that I am a member of both the Committee on the Budget and the Committee on Appropriations. That is true. I think that has given me a very interesting perspective on this whole struggle that has been going on here now for so many days and weeks.

I rise in strong support of this continuing resolution which puts Federal workers back to work and, even more importantly, commits the President and Congress to working for a balanced budget in the next 7 years. We could have had this agreement last week. In fact, what we are voting on today is not really any different than what we passed and sent to the President last week. At that time we said we would do just exactly what we are doing now, adopting an agreement for a 7-year balanced budget with no preconditions. But it was not to be for political reasons last week.

Now we are here and that is water over the dam. It is time for us to move forward. What is important about this agreement is that we have an absolute rock-solid commitment to have a balanced budget in 7 years. That is not 9 years. That is not 8 years. That is not 5 years. That is not 10 years. That is 7 years. We have an absolute agreement that that is what we are going to negotiate. And it is not just a goal.

It is not just would-it-not-be-nice. It is not a want to have. It is an absolute. It is in a contract with the American people. It is a contract between the White House and the Congress that we will negotiate to have this balanced budget in the next 7 years. And it will be certified by the organization that the President, in his State of the Union Address in 1993, said that he wanted because it was the more conservative, it was the better of the two organizations; that is, the Congressional Budget Office. So it will be certified and the numbers will be conservative.

If it's so conservative, and it turns out we can do it faster than that, great. If we can have more economic growth, great. But I think it is important for us to understand that all of this is just a preliminary. This is the first round in a 10-round championship boxing match. This is the preliminaries if you will, if we want to use a nicer way to look at it, the preliminaries of lovemaking.

We are engaged in a long marathon, a long struggle. This is only the beginning. Passing this continuing resolution does not get us to the balanced budget. This is just the beginning.

This is simply the beginning of the process that we must go with in order to achieve a balanced budget, a commitment to the American people, to our children, to the next generation. We are telling them that we will not continue borrowing from them. And we know the benefits of that, the benefits of lower interest rates, the benefits of greater economic growth. Those benefits will be with us, and with them, for decades.

Now is not the time to flinch. We must go forward. We must achieve a balanced budget and that is what the debate in the next several weeks will be all about.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, this truly is a historic day. My Republican friends have admitted that once and for all Medicare, Medicaid, education, the environment are important. They are no longer intuitive. They are no longer subsequent to a $245 billion tax cut. They have said that everything is on the table, including that $245 billion tax cut.

Now, Mr. Speaker, the hard part. The differences are deep. The differences are very, very deep. As one of my colleagues said today, we are only $4 apart on Medicare. But quite frankly, that is simply not the case. We are hundreds of billions of dollars apart on Medicare, hundreds of billions of dollars that affect seniors, doctors, hospitals, medical research, and jobs.

We are hundreds of billions of dollars apart on Medicaid, affecting children, affecting women, and, again, affecting seniors and the hospitals that treat those individuals. We are very far apart on education, and we are very far apart on taxes.

We have two alternatives. We have one that would give tax cuts primarily to those in the upper income spectrum while at the same time raising taxes on the working poor, very much the contrary of where all of us want to go on welfare reform. And others who would stand by the earned income tax credit that says if you are a family and you are trying to make it and you do not want to be on welfare, the Tax Code is going to work for you.

Mr. Speaker, we have a long way to go, but I believe the agreement made yesterday shows the American people that both sides can come together to get to the table and start the hard work that is necessary. We have 75 Members of this body, Democrats and Republicans, myself included, who are willing to work together on a budget. We can do it, Mr. Speaker, and we can do it to be fair to our seniors, to our families, to our children, and to the working people of this country.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Speaker, I rise in strong support of this continuing resolution. Frankly, as we all have to admit, this resolution is basically identical to what the House passed this past week with the votes of Republicans as well as 48 moderate and conservative Democrats who at that time were committed to balancing the budget over 7 years.

As a result of an agreement which was announced yesterday, the President has now given his word that he shares our commitment to balance the budget over 7 years. As we all know, 7 years is not 8 years; 7 years is not 9 years; 7 years is not 10 years. The agreement that we are passing today is a contract that the President has made with the Congress, with the taxpayers that cannot and will not be broken.

We have to remember that this contract is not a goal. It is a contract to produce a balanced budget to eliminate the deficit over 7 years. It is a contract for taxpayers to use honest numbers, not smoke and mirrors but honest numbers.

This last few days, this House of Representatives and the Senate have passed a specific plan to balance the budget over 7 years. This Congress has a plan and a group of moderate and conservative Democrats have a plan. The Democratic leadership does not. And the President has yet to give us his specific plan on how he would balance the budget over 7 years.

The Republican plan to balance the budget and live within our means over the next 7 years accomplishes that goal using honest numbers. So we meet criterion No. 1, which we are passing today.

We also, in our balanced budget act, increase spending for Medicare and save Medicare from bankruptcy by spending over $355 billion more than we are spending today. Considering we are only spending $180 billion this year, that is a lot of money. That is a 50-percent increase in spending on Medicare over 7 years. We are reforming welfare to emphasize work and family responsibility. And we are also giving tax relief to working families.

Congress has a plan. Where is the President's plan? I want to see the specifics of the President's plan to balance the budget over the next 7 years.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I do not have quite the smile that the gentleman from Ohio [Mr. KASICH] did, but all over America, him lifting his hands and smiling, it is a great victory for the American people.

I think it is a change. It is a revolution. It is where we are going to be heading in this country, is to start cutting spending. I was a little concerned on one of the morning programs when Mr. Panetta said we can do it in 7 or 8 years. I hope the understanding is clear that it is a 7-year contract that we are after, and that is what we hope to achieve in 7 years.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I was confused. The gentleman said cutting spending. Are we slowing the growth or cutting spending?

Mr. SMITH of Michigan. Mr. Speaker, I think we need to talk about that. I would hope some day we could have a true balanced budget and stop borrowing from the trust funds of this country. In fact, that is a real question, has the President and the Secretary of the Treasury legally gone in and borrowed $39 billion of increased spending to have that money available for an increased debt of this country. I think that is something that needs to be examined.

But let us look a minute at where we go on taxes. In 1993, spread over 7 years, we had a 1990 tax increase that was about $280 billion. The 1993 tax increase spread over 7 years was $350 billion. The question I think we need to examine very carefully is, should we give part of that tax increase of those past years back in this balanced budget effort that we are proceeding on. I think the answer is yes, if we care about the American families.

We think, we hope the President is going to keep his word on this contract, that we are going to do it, that we are going to do it in 7 years, that we are going to start cutting down the spending of this country and let more of that hard-earned money stay in the pockets of the American taxpayers.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Speaker, I rise in support of the CR today. I must make one observation though, Mr. Speaker. I would certainly hope that the President, in working very hard to reach this agreement, and a fine agreement it is, I hope that he will also understand that there is no "if then" language in it. There is no "if but" language. We are going to get to balance in 7 years, he has agreed to, that we are going to use the Congressional Budget Office numbers and the resolution says that as well. There is no "if but" language in there though. We are going to take his priorities into consideration unequivocally, absolutely. There was never a plan to do anything other than that.

But with the President's comments yesterday, I am concerned, Mr. Speaker, that the President will fall back or retrench into a position where if he does not have his way exactly, he will find a way out of this.

□ 1545

This is the business of compromise. We are trying to get to a balanced budget, not to do it exactly one way or the other, and I hope the President is willing to yield on that point. If he is not, if it is such that it has to be his way or not at all, I would hope that he would veto this CR as being very much like the one the other day.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me; and, Mr. Speaker, I rise in support of the continuing resolution, but also let me make clear to my colleagues and to those listening that we are here because, not having anything to do with the debate over a balanced or the budget reconciliation package; we are here because Congress has failed in its responsibility to pass appropriation bills for fiscal year 1996.

Having failed to pass those bills, and having passed one continuing resolution, and still failing to pass those bills, we are now back again, continuing until December 15. I support that continuation because I oppose closing down the Government. However, it would have been much better to have a clean continuing resolution; we do not have that. We have a provision in there dealing with a commitment to a 7-year balanced budget. I support the continuing resolution with this language in it because the balanced budget, which we proposed and I presented here on the floor of the House 2 weeks ago, does in fact get to balance over 7 years with using CBO scoring.

In fact, if my colleagues read the provisions of the commitment to a 7-year balanced budget, it also requires "that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment."

In fact, there is one way that we can accomplish the 7-year balanced budget and insure all of those things. It is through the coalition budget which I presented on the floor of the House 2 weeks ago. So, hopefully, we now, on a bipartisan basis, can start moving to that.

Let me just point out one additional factor of concern. It is the tax provisions in the bill. I am not opposed to tax cuts, but I believe we should not be borrowing money from our children's future to make the tax cuts. I hope we can negotiate reasonable tax policy, as this reflects, but if those, if those tax cuts, increase the deficit over the next 2 years, or in fact put us into deficit in years 8, 9, and 10, we will be in a worse position.

So, I urge us to be very careful as we move forward in those provisions.

Mr. LIVINGSTON. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I thank the chairman of the Committee on Appropriations for all the fine work he has done in trying to get our business done, and I know there is always at this time of the year people claiming we have to be here in this position because we have not got our business done.

Mr. Speaker, if the President had ever come to the table during this whole year we might be home with our families right now enjoying the holidays. The problem is that finally, finally the President has decided to sign this most historic agreement, and I am just absolutely thrilled that for the first time in recent history the President of the United States and the Congress has agreed to balance the budget and balance the budget in 7 years. This is historic, it is phenomenal, and I am just so excited about it and looking forward to the negotiations over the next few weeks.

But I want to get into the language because, make no mistake about it, unfortunately the national media has not picked up on it yet. What we have here is an agreement, not a goal, not a maybe, an agreement to balance the budget in 7 years using honest numbers, and here is the language, and it does not say we are going to achieve a goal of a balanced budget, or we are going to achieve a maybe balanced budget. The language that will be in law when the President signs it is the 104th Congress is to achieve a balanced budget not later than the fiscal year 2002 as estimated by the Congressional Budget Office. Very real. Very meaningful.

And I want to just touch on the rest of the language because the President seems to be saying he has now saved Medicare, Medicaid and all these other programs he has been fighting for so long on. Mr. Speaker, the language says that, protect future generations to ensure Medicare solvency. We have done that in the Balanced Budget Act of 1995. Reform welfare; we have done that in the Balanced Budget Act of 1995. And provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment; we have done that in the Balanced Budget Act of 1995.

So I think the President, once we pass the Balanced Budget Act of 1995 this afternoon, and we send it, the President ought to sign it. He will get both. He will get the 7-year balanced budget and all the things that are in this language. He ought to sign it, but let me warn my colleagues that, if the President does not believe in this, it will be law when he signs it, and if the President goes to the American people and says, "Oh, by the way, no, I didn't really mean 7 years, I really meant 8 years," as his Chief of Staff has already said, then the President of the United States should not sign this CR. He should not sign it because he is promising the American people a balanced budget, and he is promising—

Mr. Speaker, I just finish with this. The President, when he signs this CR, is promising the American people a balanced budget using honest numbers. There is no equivocation, that is what this CR says, and, if he does not honor that, then he will not only be misleading the American people, but he will be breaking the law.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to respond to something the gentleman just said.

First of all, let me say that yesterday at 1:30, when the President's Chief of Staff came down to meet us in the office of Senator DASHLE, I was very pessimistic that in fact an agreement would be reached. But the two compromised proposals that were developed, which the White House then took to Senator DOMENICI, wound up producing a happy result for everybody, and I think we all ought to be very grateful for that.

But in light of what the gentleman from Texas [Mr. DELAY] just said, I want to remind my colleagues that the language says that the balanced budget shall be reached by fiscal year 2002 as estimated by the Congressional Budget Office. That does not mean that the Congressional Budget Office baseline is the one that will be used. And it points out in (b) that that budget agreement shall be estimated by the Congressional Budget Office. That always occurs.

Mr. Speaker, I think the gentleman from Texas had also better remember, however, that in balancing a budget within 7 years it will be necessary, as the agreement says, to ensure that Medicare, or to ensure Medicare solvency, reform welfare, provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Now it is clear that we will not be able to do that on a 7-year timeframe and still provide the large unnecessary tax cuts which the majority party wants to give to people who are making a lot more money in this country than are the people whose taxes they want to raise in their reconciliation bill.

So I think we had better remember that this agreement is a balanced agreement which will not just balance the budget, but balance the economy in society along with it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I just have to say that whenever two parties sit down to make out an agreement it is a binding agreement, words have meaning and should be, in fact, honored; and I was disappointed that Mr. Panetta, the Chief of Staff, would say this morning the budget could be balanced in 7 or 8 years.

Now is not time to waffle. When this agreement gets sent there, we have to place meaning to those words; and doing it in 7 years, and using CBO scoring, is exactly what must be done.

I listened to some of my colleagues here on the Republican side say, "Use words such as excited, thrilled, and historic to describe this agreement."

I have to share with my colleagues that I have somewhat of an ambivalence in my feelings here today because I think the American people, as they view the work we do here, are probably saying, "So what, we balance our books at home all the time. What's the big deal that Congress is now balancing its books?"

If my colleagues stop to ponder and think about that, they are right. Why has it taken so long to do this? Many view government as how it personally affects themselves, whether they are a customer of a particular agency or a constituency of particular programs, and they view it, self-interest, in nature. But I submit, if we look at it from the greater perspective, the greatest threat to the American stability in our future as a nation is that of the national debt and our budget deficits. If we open the eyes of our mind to the greater vision, what we have to see is that we must address this, we must also address the budget deficits, and think about this.

Here is why I have the ambivalence here today. My colleagues can say, "Oh, we should be thrilled, and excited, and historic," but think about this. By 2002 the national debt will accrue from $4.8 trillion to approaching $6.8 trillion. Then it is going to take us up to year 2030 to 2035 to bring the debt into better balance.

Now in this town, talking about 2035, some would say, "STEVE, have you lost your mind," and that is part of the problem with this town, is according to the emotions of the moment, decisions only for the next election cycle; that is the profound difference that has made. So what I will share with America, why it is historic and the profoundness of it, is in fact we are talking about the long-term vision of the country, not some emotion of the moment, not some decision just for the next election.

Pass this.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I am very pleased that we were able to reach an agreement, and I am equally pleased that we are going to be able to work toward a balanced budget in 7 years. In doing so I am happy that my colleagues on the Republican side have dropped a provision in the continuing resolution that will increase Medicare premiums at four times the rate of inflation for our country's seniors.

But I also have to comment on the workings of last week. When the Republicans took control in January, they said they were going to run Congress like a business. They were going to come in here and run this place like a business. Mr. Speaker, I do not think there is a business in this country that would have done what Congress did last week. There is not a business in this country that would send its employees home and say, "We're mad. You go home, but we're still going to pay you." That, my colleagues, is insanity.

Mr. Speaker, I also have to comment on the tax cuts. We are hearing about tax cuts in the next 7 years. I would like tax cuts, everybody would like tax cuts, but each of those 7 years there is a deficit that is going to be running in this country, so for those tax cuts that benefit primarily the wealthier people in this country, that money is going to be borrowed because we are in a deficit situation. The money is going to be borrowed from my children and my grandchildren, and for them to come here and say they care about the children and grandchildren, and then turn around and borrow money from the children and grandchildren to give tax cuts to people who have done very well in this society is not what we should be doing.

Yes, what we should be doing is telling the wealthier people in this country, "Once we get the books balanced, once we have no longer a deficit, then come back. Then let's talk about a tax cut." But to tell the wealthier people in this country we are going to borrow money from our children and grandchildren, and that is exactly what they want to do in order to give a tax cut, is wrong, and we should not do it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. WOLF], a great member of the Committee on Appropriations and chairman of the Subcommittee on Transportation.

□ 1600

Mr. WOLF. Mr. Speaker, I rise in strong support of the resolution. I do want to say it was the President, though, that sent the employees home, and not the Congress. This essential and nonessential is not accurate.

Third, this is a balanced budget amendment that most Americans, almost every Member, their constituents support.

Fourth, it is 7 years. It is 7 years and no more. It is a promise made and a promise kept.

Fifth, I want to congratulate the chairman of the Committee on Appropriations, and I want to congratulate the Republican leadership for the effort. I also want to congratulate the gentleman from Ohio [JOHN KASICH], for his work in negotiating this. I was pleased that Federal employees will continue to be paid, in this case, as they have been in the past.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Speaker, I thank my colleague for yielding to me. I have a question for the chairman of the Committee on Appropriations. We see Federal employees are now going to be paid for this time period, but Federal contractors who have been out working under procurements that they earn competitively during this time period are not covered. For the work they are doing, the work products for the Federal Government, will they be paid for those efforts?

Mr LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would respond to the gentleman from Virginia [Mr. DAVIS] that all ongoing contracts, no new starts, but all ongoing contracts will be compensated for any work done during the outage last week.

Mr. DAVIS. I thank the gentleman.

Mr. WOLF. Mr. Speaker, we promised a balanced budget; promises made, promises kept.

Mr. DAVIS. Mr. Speaker, if the gentleman will continue to yield, Congress is now going to apply the laws made for the rest of the country to this Congress of the United States. That did not happen in the last Congress. Gifts from lobbyists we have taken away. We are cutting our legislative budget. I think we are moving in the right direction here. I think that ought to be noted in light of some of the comments from the other side.

Mr. WOLF. To have a balanced budget in 7 years is historic.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds, simply to respond to the last gentleman by saying we did pass such legislation in this House. Unfortunately, Mr. Speaker, it was filibustered in the other body by the now majority leader, Mr. DOLE, as the gentleman knows. I am speaking, of course, about the lobby reforms and about the legislation making us live under the same laws as everyone else. We did both of those by rule after, or we did one by rule after we were prevented from doing it by the Senate, and we passed the other through the House and it was filibustered by the Senate.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I rise in support of the continuing resolution. I wanted to come to the floor after listening to some of the debate, because the question has never been for Democrats whether or not to balance the budget; we want to do that. But a budget to be balanced must also be balanced not only in its numbers, but in its application and the way it affects working people in this country.

The fact of the matter is we have heard a lot about one side of this agreement. I, as an attorney, am looking at the language and saying, "but Congress and the President also agree that the balanced budget must," and it goes on to name several things.

One of the things it says, it must ensure Medicare solvency. You do not do that taking $270 billion out of Medicare. That has to be negotiated. You do not ensure future generations in terms of their education when you are cutting back on education. You do not ensure the environment if you gut the essential programs that give us clean drinking water.

So yes, there is an agreement to have 7-year balanced budget, but a budget to be balanced is also a question of priorities, and those priorities include the second part of that agreement that you failed to highlight.

Mr. LIVINGSTON. Mr. Speaker, I am happy to yield 1 minute to the distinguished gentleman from California [Mr. THOMAS] chairman of the subcommittee.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Let us go back to the language. Let us look at what it says. Remember, a majority of the House and a majority of the Senate has already voted a program to balance the budget in 7 years. What this document says is, "a balanced budget not later than fiscal year 2002." One of the reasons people are complaining about the current Congressional Budget Office numbers is they are too conservative. You think a whole lot more money is going to come to the table. This agreement says not later than 2002.

If a lot more money comes to the table, there are going to be a number of people who are going to say,"We are going to do it in 2001 or 2000." A majority of the House and Senate has a balanced budget already in 7 years. Do not think that you folks are going to be part of the agreement if you think what you are going to do is have your priorities overtake the majority's priorities.

This agreement is between the President and the Republicans, the majority in the House and Senate. If you want to keep talking about cuts, you are not going to be at the table. If you want to keep it at 7 years, calm your rhetoric just a little bit.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I am delighted someone in the White House has finally taken the advice of the great Senator from Vermont, George Aiken. A quarter of a century ago he said about Vietnam: "Mr. President, declare victory and come home." Mr. President, I am glad you have declared victory by accepting the Republican principles. Now, come home, sit down at the negotiations, and let us get a bipartisan agreement. The budget, and a balanced budget, is your Vietnam. Let us end that.

Mr. OBEY. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I think, in light of that previous comment, it is interesting to note that until the Democrats insisted there was no language whatsoever guaranteeing the protection of Medicaid, education, the environment, and so forth, I think those are Democratic principles. I do not know what Republican principles he was talking about, but those are Democratic principles.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, because this continuing resolution supports the principles of helping working Americans, I rise to support it. It protects Medicare, Medicaid, the environment, and education while balancing the budget.

Mr. LIVINGSTON. Mr. Speaker, I reserve the right to close.

Mr. OBEY. Mr. Speaker, I yield the remainder of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore [Mr. EWING]. The gentleman from Maryland [Mr. HOYER] is recognized for 4 minutes and 45 seconds.

Mr. HOYER. Mr. Speaker, I rise in support of this continuing resolution, which is essentially an appropriation, instead of passing all of our appropriation bills. That is why we are here. But for the inability to do that, we would not be here.

We have just seen and America has witnessed a shameful shutdown of the Federal Government. It was not only shameful because it reflected our inability, the President, Republicans, Democrats, all of us together, an inability to get our job done. Now frankly, some have talked about the CR and been angry about the fact that it was the President. In point of fact, the President refused to sign CR's which he thought undercut priorities for Americans that he thought were important: the environment, education, Medicare, the list could go on. In fact, it is included in this CR.

The fact of the matter is whatever the reasons we shut down Government, it cost us money. It could have been avoided. In point of fact, it should have been avoided. I want to rise also, as an aide, to say that I am pleased that the Wolf-Hoyer-Davis-Wynn-Morella-Moran-Gekas language indicating the Federal employees, as they have every time the Congress has failed to do its job and the President has failed to sign a CR, has shut down, that we have repaid, we have paid those folks, and that is good.

But we ought to realize, as well, that this is not a debate about commas or dots or even contracts. Yes; it is important that each of us keep our word, but it is, in the final analysis, an argument about the vision for this country and about people, and how people will be affected, how seniors will be affected on Medicare, how students will be affected, and their families, trying to get a college education to compete in world markets; a vision of how we can best defend this Nation and lend credibility to this country's role in maintaining international security.

That is why the President was so concerned about including in the language those references to Medicare and Medicaid, to education, agriculture, the national defense, veterans, and the environment; because in the final analysis, whether we call it a CR or reconciliation, words that most Americans do not understand, they do understand that when they get up in the morning, they are worried their health care and that of their families, they are worried about their childs safety as they go to school, they are worried about their 18- and 19- and 20-year-olds' ability to get a college education. These are things that mean something very real to the American public.

This CR will neither balance the budget nor ensure its balance. What it will say, however, is that we will get the Government back to work. Then we will deal with the reconciliation bill shortly. We will talk about the priorities of the Republican party and the priorities of the Democratic party.

We differ. We differ as to whether there ought to be a tax cut for some of the wealthiest, and yes, some of the not so wealthy in this country at the expense of school lunches, at the expanse of working Americans earning under $28,000 having a tax increase, in effect. That is what we are going to discuss.

The American public, I believe, thinks that is an important debate, because they know in the final analysis it is not about CR's, it is not about reconciliation, it is not about budgets per se, it is about people. It is about a vision of America. That is what the President was talking about. Very frankly, I think it is what all of us are talking about on both sides of the aisle.

It is time to get on with that debate, now that we have overcome the shameful shutdown, the expensive shutdown, the inappropriate shutdown, the unintended shutdown of the Federal Government because we were trying to force the President to retreat from his commitment and his vision. That is a vision we will now debate. I ask for support of this continuing resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I stand in support of the balanced budget provisions and the CR, and ask for a yes vote.

Mr. Speaker, the President's men have been making the circuit of the talk shows today trying to tell the American people that the words of this agreement don't mean what they say.

Mr. Speaker, the words are plain and simple. When the President signs this agreement, he is saying without reservation that he will balance the budget in 7 years—not 8, not 9, not 10—he is saying he will do it in 7 years.

Second, when he signs, the President is agreeing that it will be the independent Congressional Budget Office that determines whether or not the numbers are real.

Mr. Speaker, there are other words in this agreement. They restate our commitment to ensuring Medicare solvency, reforming welfare, providing adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. In addition there are words that restate our commitment to adopt tax policies that help working families and stimulate future economic growth.

Mr. Speaker, these words about our principles and priorities are important, and we will do our best to live up to them. But we need to be very clear that we are not agreeing to let those words be an excuse for not balancing the budget in 7 years with real honest numbers.

Mr. Speaker, nothing in this agreement allows for any excuse. We are saying, in law, that we will balance the budget in 7 years.

Mr. Speaker, when we vote for this measure, we give our word that it will happen. Likewise, by signing this agreement, the President gives his word—no excuses—no reinterpretations—no outs—just a balanced budget with honest numbers in 7 years.

Mr. Speaker, if the President doesn't understand it that way, he should not sign this bill. And if he does sign it, and I hope he will, let's not insult the American people by having any army of the President's spin doctors running all over the country in the next few days telling us it really means something else. Let's stop the political games and get the job done.

Mr. Speaker, the Republican majority has written and passed in this Congress its 7 year balanced budget. We've proved it can be done. After the President signs this agreement into law making his commitment to balancing the budget in 7 years, he should send us a detailed budget of his own so the negotiation can begin.

Mr. Speaker, the time for sound bites is over. It's time for the President to translate his principles into specific budget numbers so the negotiation can seriously begin.

The SPEAKER pro tempore. The gentleman from Louisiana, [Mr. LIVINGSTON] has 2½ minutes remaining.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the remainder of my time. Mr. Speaker, in the little time I have left, let me close this debate by thanking all of the members of both sides for what I thought was a fine debate, and I join with the preceding Speaker, the gentleman from Maryland [Mr. HOYER], by saying that I, too, am glad that we are putting the Federal workers back to work.

The fact is, though, there is a fundamental difference between the parties that brought us to where we are. I, for one, was a little concerned by the media portrayal which would say, "A pox on both your houses. It is a temper tantrum by the Congress or by the President or by one party or another. They could not get along."

The fact is that this debate that we have been having for the last several weeks is a real, a meaningful, a fundamental representation of difference between the approaches, the vision, as the gentleman said, of the two parties. For the last 40 years, the Democrats have controlled the House of Representatives, and, hence, the legislative body of Government.

In those 40 years, they have opted for higher taxes, higher regulations, greater bureaucracy, greater central control, and ultimately, less freedom for the American taxpayer and for the American citizen in general.

The Republican, as the minority party, has opted for more freedom, less taxes, less bureaucracy, less central control, but we have lost the argument until this last year.

As of this last year, we are winning the argument, and yesterday the President of the United States capitulated, yes, capitulated, when he said OK to a 7-year balanced budget, a 7-year balanced budget, scored by the Congressional Budget Office. He has in effect said, "Okay, Congress. Time out. Let us get back to work. We will do it in 7 years."

Mr. Speaker, I would say that it is critically important that we stay on the glide path to a balanced budget, that we keep this Congress working according to the intent of yesterday's agreement. The business is not done. It is not settled. It is not finished. But if we fulfill the agreement that was made yesterday, our children and our grandchildren will have a fiscally sound country. The people of the United States will have lower interest rates. We will find it easier to finance our homes, to send our children to college, to prepare for retirement. The American people will be better off with less Government, less control, less bureaucracy, less taxation, and less regulation. I urge the adoption and passage of this continuing resolution. I urge the continuation of this Congress towards a balanced budget by the year 2002.

Mr. MARTINI. Mr. Speaker, I rise today in support of the bipartisan compromise continuing resolution that will fully restore Federal Government operations and commit the President and this Congress to a balanced budget by 2002 using Congressional Budget Office [CBO] numbers.

One year ago we made a promise to our constituents that we would bring fiscal responsibility to the Federal Government.

Today, we are keeping that promise.

This agreement reflects a long awaited realization from the President that we must be serious about putting our fiscal house in order.

Now that the President and Congress appear to be on the same page I am hopeful that we can finally accomplish the task at hand.

Many will try to define the Federal Government shutdown and this compromise in terms of winners and losers. In my opinion, the only winner is the American people and our Nation's children.

With the national debt soaring towards $5 trillion, its good to see that Congress and the President are finally able to summon the political courage to make the difficult choices and balance the budget.

For too many years Congress has made broken promises and half hearted attempts to balance the Federal budget. Time after time these attempts have failed because many have lacked the moral fortitude and dedication required to make the tough decisions.

We cannot continue to mortgage our country's future anymore. I am committed to staying the course for the sake of our children and for America's future.

During the next few weeks, we will negotiate in good faith with the administration in an effort to balance the budget.

The challenge before us is monumental, but I am confident that we will overcome the obstacles and produce a responsible fiscal agreement.

For the past year, I have worked hard to restore an attitude of fiscal fitness in the Congress.

I am pleased that our resolve to have a judicious balanced budget time-line with specific CBO numbers has finally brought everyone under the same tent.

I am looking forward to the negotiations and urge my colleagues to support the resolution.

Mr. POSHARD. Mr. Speaker, I rise in opposition to the budget before us today and in strong support of the more reasonable alternative which I cosponsor along with many of my moderate Democratic colleagues.

We are at a momentous time in our Nation's history. It does appear the will exists to put this country on stable financial ground and balance our Federal budget.

There is no alternative. Our country cannot manage a debt of $5 trillion and billions of dollars in red ink in our annual budgets. Unless we act, shortly after the turn of the century our tax dollars will go entirely to entitlement programs and interest on the national debt. There will be no money for environmental protection, transportation, law enforcement, education, medical research, or any of the other functions of government upon which people rely.

But I reject the notion that there is only one way to accomplish this goal—the option before us today. There is a better way—the coalition budget which I support.

Our budget restores the fiscal integrity to the Medicare trust fund and controls spending in that program by $170 billion to help us reach a balanced budget. That is in stark contrast to the $270 billion in Medicare controls in the Republican plan. That is $100 billion more than necessary to maintain the program, $100 billion which will be used to pay for tax cuts for wealthy Americans. This will be a tremendous burden on Medicare beneficiaries and will put hospitals in my district out of business. This is the most substantial argument against the Republican plan, and I will not vote for a budget which takes so much from the Medicare Program and gives it away in tax cuts.

The changes in the earned income tax credit hits the 19th District harder than any district in the State of Illinois. The list of concerns is long. More low- and middle-income people will be paying higher taxes under this bill.

I've voted for a balanced budget amendment and now cosponsor a bill which will get us to balance in 7 years, as scored by the Congressional Budget Office. It is better for the American people in health care, education, agriculture, and the host of domestic needs which are important to our people. And it represents the broad middle ground where most Americans live their daily lives.

I will vote against this budget today because I know we can do better. I urge the President to work with us to balance the budget in 7 years. If we are to have a tax cut, I urge the Republicans to lower the income limits and let us target those breaks to the working people of this country.

We can reach an agreement that respects our obligation to care for our people and, at the same time, rid this Nation of its burdensome debt. We are not there yet. I am voting against this bill today in the hope that we will get there with a better bill.

Mr. STOKES. Mr. Speaker, I rise in recognition of the amended House Joint Resolution 122 continuing resolution which will keep the Government operating through December 15. I appreciate the efforts that have been made to develop a workable continuing resolution—one which would not only reopen the Government, but equally important, help to ensure common sense and responsible budgeting.

As one would expect, the 6-day shutdown of the Government has created a backlog of veterans and Social Security claims which now must be processed—not to mention other important services the American people were denied by the shutdown. It was most unfortunate that the American people were forced to suffer because the Republicans did not want to negotiate a quality of life budget with the Democrats and the President.

It is absolutely critical for the American people to realize that those 6 days of hardships and inconveniences cannot begin to compare with the real pain and suffering that would have resulted if the President had not forced the Republican majority to bring the budget negotiations back to the center.

Those 6 days of temporary hardships and inconveniences cannot begin to compare with the real pain and suffering that would have resulted if the American people had allowed the Republicans to blindly gut $270 billion from Medicare, $163 billion from Medicaid, $5 billion from student loans, and $6 billion from child nutrition programs including school lunches.

Those 6 days of temporary hardships and inconveniences cannot begin to compare with the real pain and suffering that would have resulted if the American people had allowed the Republicans to blindly raid pension funds, give a $245 billion tax break to the wealthy, and increase taxes on working families. The list goes on.

Mr. Speaker, passage of the workable continuing resolution, along with the President's veto of the Republican budget measure, H.R. 2491, will allow real work on the budget to get underway.

The American people have spoken they do not want an extremist agenda, or an extremist budget. I know the backs of seniors, children, and hard working families cannot withstand the harsh realities of what they would be forced to pay in long-term suffering and pain just to allow the Republicans—to give—a tax cut to the rich.

Mr. Speaker, I urge my colleagues to vote for the amended continuing resolution in order to allow the Government to resume its work, and to allow real budget negotiations to begin.

□ 1615

The SPEAKER pro tempore (Mr. EWING). All time has expired.

Pursuant to the order of the House of today, the previous question is ordered.

The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object on the ground that a quorum is not present and make a point of order a quorum is not present.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 280 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 280

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany, and the amendment reported from conference in disagreement on, the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report and the amendment reported in disagreement shall be considered as read. The previous question shall be considered as ordered on a motion that the House insist on its disagreement to the amendment of the Senate numbered 63 to its final adoption without intervening motion except debate pursuant to clause 2(b)(1) of rule XXVII.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule waives all points of order to protect the conference report which provides appropriations for the Departments of Veteran's Affairs and Housing and Urban Development and independent agencies.

I am particularly pleased to see this piece of legislation moving to completion, because this is the bill which provides funding for programs to assist the veterans of this Nation.

These are the people who put their lives at risk to defend this Nation in its time of need.

The least we can do is live up to our obligation to provide health care for injuries suffered in battle and other assistance. Our veterans should always be a top priority for this, or any other, Congress.

This rule also provides that after the disposition of the conference report, there will be 1 hour of debate on a motion that the House insist on its position on an amendment reported in disagreement. The amendment deals with funding for the AmeriCorps Program, which puts so-called volunteers on the Federal payroll. The House position was to zero out the program. The Senate position was to provide an additional $6 million to close down the program.

This rule will give the House a chance to make its position on this issue perfectly clear.

Mr. Speaker, I would also like to commend the chairman of the Appropriations Subcommittee on VA-HUD, the gentleman from California [Mr. LEWIS], and the ranking minority member, the gentleman from Ohio [Mr. STOKES], for all their hard work in putting this conference report together.

This is a fair rule, and I urge that the House support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and rise I in opposition to this rule because I cannot support this conference report. The funding levels in this bill reflect the Republican majority's plans for balancing the budget in 7 years, but, unfortunately, those plans make unwarranted cuts in programs which protect the health and welfare of the American public.

Now, Mr. Speaker, I support balancing the budget, and I will be happy to do it in 7 years, but I cannot, Mr. Speaker, support a plan to balance the budget which decimates environmental protection programs and dismantles programs which provide housing for the poor, the elderly and the disabled.

Mr. Speaker, when the Committee on Rules met to consider this rule on Saturday, the gentleman from California [Mr. LEWIS], the chairman of the HUD-Independent Agencies Subcommittee, explained that his Democratic colleagues from the House did not sign the conference report because they have not gotten over the fact that the money just is not there to support the programs they have funded in the past.

I submit, Mr. Speaker, that the real reason they did not sign this conference report is because the priorities established by the Republican majority overall will eviscerate the programs which make this country great all in the name of providing tax breaks for the wealthiest among us.

I do not think much of priorities which give money to those who need it least in trade for dirty air and polluted water.

My Republican colleagues are in the majority in this House and in the Senate, but, Mr. Speaker, I cannot believe that a majority of the American people truly support these policies. We all know how important it is to balance the Federal budget. That is not even an argument any more, but what is at issue is how we get there and who will pay the biggest price.

The Republicans say we must balance the budget to ensure the future of our grandchildren. I suspect that leaving them a world in which the air is foul and the water undrinkable is not much of a future.

Mr. Speaker, this conference report should be recommitted to conference and these skewed priorities should be realigned.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the House Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman, the chairman emeritus of the Committee on Rules, for yielding me this time, and I might point out the gentleman from Tennessee is one of the longest serving Members of this body and he has meant so much to me in the Committee on Rules in helping us to carry out our duties up there.

Mr. Speaker, I rise in support of this conference report because it is a good conference report. It is also one of the most difficult to bring to this floor by our Committee on Appropriations. My good friend, the gentleman from Texas, MARTIN FROST, that serves on the Committee on Rules with me, mentioned that the House Democrats did not sign this conference report.

I want to point out, however, that the Senate Republicans and all Senate Democrats but one signed this conference report. They did it because it is a worked-out document. It is a compromise with the best that they could come up with considering the amount of allocations that are available to them. The House Democrats, as I understand it, did not sign it because there was not enough room or not enough money for housing in this bill.

Now, what is this bill here before us now? This is the appropriations bill for the Department of Veterans Affairs, the Department of Housing and Urban Development, and, ladies and gentlemen, a whole host of agencies and bureaus and commissions like NASA, a very important one; like the Environmental Protection Agency, AmeriCorp comes under here, that is the National Service Act; the Consumer Product Safety Commission; the Federal Emergency Management Agency; National Science Foundation; the Selective Service System; and the Federal Deposit Insurance Corporation, and I could go on, and on, and on. In other words, this bill contains all of the other agencies lumped into one.

What does that mean? For example, it means the Department of Veterans Affairs has to fight for its fair share from all of these other agencies and departments. Well, Mr. Speaker, it should be pointed out that in this appropriation bill before us the only section that has an increase is the Department of

Veterans Affairs. Almost all of that increase comes in the area of the medical care delivery system. In other words, that is for the hospitals and the outpatient services for the veterans of this Nation.

Just to point out, the medical delivery care portion of this budget last year was $13.9 billion. This year we have come up with $14.4 billion. In this conference report that is a $500 million increase.

I think all of these things need to be pointed out; and that in fighting for their fair share, this is good for all of the veterans programs, and that is why I am standing up here as the former ranking member of the Committee on Veterans' Affairs for many years.

I want to just tell all the Members that, they may not agree with the funding for the other agencies, like the Environmental Protection Agency or NASA or the Department of Housing and Urban Development, but they can be sure we have done what is right by the veterans of the Nation in providing medical care for them, and that is why I strongly urge support for this rule that will bring the appropriation bill to this floor, and I thank the gentleman for yielding me the time.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY], a distinguished veteran of World War II and the ranking Democratic member on the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from Texas for yielding.

Mr. Speaker, this bill is a very dangerous collection of spending cuts.

At a time when we should be making sure that American families have roofs over their heads, and clean air to breathe, this bill absolutely decimates funding for low-income housing programs, and environmental programs.

It slashes EPA funding by 21 percent, the single largest cut to any Federal Agency or Department. And this cut will not be painless.

It will make it much harder to ensure that Americans have clean water to drink, fresh air to breathe, and safe food to eat.

It cuts funding for housing programs for the homeless by 27 percent, and it cuts funding for overall housing programs by 21 percent.

And now we can talk about the programs they eliminate.

Mr. Speaker, this bill eliminates the national service program, the community development bank initiative, and section 8 rental assistance programs, to name a few.

A lot of people in my district rely on these programs, programs that my Republican colleagues have decided to cut or eliminate entirely.

They rely on them, as do all of us, to make sure our waters are clean. They rely on them to make sure children from low-income families have somewhere to sleep at night.

They rely on them to make sure our fruit and vegetables are free of contaminants, and our air is good enough to breathe.

This bill will cripple or eliminate our ability to implement laws that were enacted over the past decade with strong bipartisan support, and I urge my colleagues to vote "no."

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS], a very valuable Member of the House Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the chairman emeritus, the distinguished gentleman from Tennessee [Mr. QUILLEN] for yielding me time and for those nice compliments.

Mr. Speaker, I rise in support of this rule and I commend my colleagues on the VA-HUD Appropriations Subcommittee—especially Chairman JERRY LEWIS—for their perseverance in bringing us this final product. I am particularly gratified that the subcommittee—especially considering these enormously tough budgetary times—has recognized the value and common sense in allocating veterans' resources where the veterans are. For years Florida has seen its veterans' population increase steadily, as veterans from up North and the Midwest recognize the splendid quality of life and healthy climate the sunshine State offers. But the shift of resources to care for those veterans—particularly the health care component of veterans' services—has not kept pace. Incredibly, over the years, the resources for veterans have repeatedly been distributed to places where the veterans aren't.

Meanwhile, in my district of southwest Florida, our more than 150,000 veterans have been grossly underserved. This bill, while demonstrating the reality of declining Federal spending overall, does, at least, make good on a commitment we have received from two successive administrations—that the tremendously overburdened outpatient clinic that serves all southwest Florida will be upgraded and expanded to meet the need that exists.

I am delighted that the saga of the unmet promises to southwest Floridians appears, finally, to be coming to a close.

On another note, I am pleased that the conferees acceded to the strong instruction of this House not to allow this important bill to be bogged down with highly controversial—and in some cases excessive—riders designed to restrict the authority of the EPA.

That debate—and the larger questions of regulation and environmental common sense—will continue, I know, another day and in another way.

Mr. Speaker, this is a fair rule—and it allows us to get this tremendously important bill to the President, so he may sign it and we will be one step closer to ending the budget impasse.

□ 1630

I urge my colleagues to support this rule and the bill, and I appreciate those involved for their efforts at getting it this far.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise in opposition to this rule which tramples on usual procedure and makes a mockery of the rights of the minority.

Mr. Speaker, this conference report was not filed until nearly midnight last Friday. The Rules Committee met less than 12 hours later on Saturday and reported out this rule. Now, we are asked to consider this complicated and controversial measure without adequate time for Members to know what is in the legislation. Among other things, the rule waives the 3-day rule. Slip copies of the conference report have only been available for a few hours.

Not only does this rule waive all points of order against the conference report, but it includes a provision requiring the House to insist on its position with regard to an amendment in disagreement, precluding any other motions from being offered.

This rule continues the highly questionable practice of including nearly all amendments inside the conference report instead of proceeding with the regular order and reporting in technical disagreement all amendments that violate House rules. This allows all manner of legislation and nongermane material to be included—and that is exactly what has happened. One amendment contains 20 pages of legislation. All material under the purview of the authorizing committee. It has no business in an appropriation bill. It is my understanding that the chairman of the authorization subcommittee in the House has serious reservations with the extent of the legislative language included in the conference agreement.

Mr. Speaker, this is a bad rule, providing a bad procedure for a flawed bill. I urge its defeat.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I rise in opposition to the rule, even though I look forward to the debate that we are going to have on this bill.

Mr. Speaker, we are having a great problem in our Nation understanding exactly where we have got to go from here. I welcome the advances that have been made to resolve the problems between the President and Republicans, but because of the vagueness in the language, and because everyone seems to believe that everyone is protected, I would just like to see how the poor and those that are homeless, those that need help, are going to be able to say that we are going to balance the budget in 7 years, which I think makes a lot of sense, that we are going to protect the people that are in the resolution, which I think makes a lot of sense, and at the same time deal with these tax cuts that the Republicans and the President of the United States are talking about.

Mr. Speaker, if what this is going to mean is that we are going to take care of those who need help the most, and then we are going to balance the budget and hopefully find that there are resources there to reduce taxes, then certainly I would really enthusiastically support this concept, but I certainly hope that what we are not talking about is locking in the concept that at a time when we are trying to balance the budget and protect people's programs that at the same time we move forward and give tax cuts to people who are not screaming for them.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, we have no further requests for time at this point.

Mr. Speaker, I include for the RECORD the following material:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bi-partisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of fhe Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 56% restrictive; 44% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, we urge a vote against this rule. It has priorities that should not stand. We oppose the rule and oppose the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, this is a good rule and it should be adopted. I support it and ask all of the Members to vote "yes" on the rule and on the conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. HOBSON. Mr. Speaker, pursuant to House Resolution 279, I call up from the Speaker's table the bill (H.R. 2491), to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with a Senate amendment thereto, and I offer a motion.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

Senate amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1995".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Agriculture and Related Provisions
Title II—Banking, Housing, and Related Provisions
Title III—Communication and Spectrum Allocation Provisions
Title IV—Education and Related Provisions
Title V—Energy and Natural Resources Provisions
Title VI—Federal Retirement and Related Provisions
Title VII—Medicaid
Title VIII—Medicare
Title IX—Transportation and Related Provisions
Title X—Veterans and Related Provisions
Title XI—Revenues
Title XII—Teaching hospitals and graduate medical education; asset sales; welfare; and other provisions

TITLE I—AGRICULTURE AND RELATED PROVISIONS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title; table of contents.
Subtitle A—Agricultural Market Transition Program
Sec. 1101. Short title.
Sec. 1102. Definitions.
Sec. 1103. Production flexibility contracts.
Sec. 1104. Nonrecourse marketing assistance loans and loan deficiency payments.
Sec. 1105. Payment limitations.
Sec. 1106. Peanut program.
Sec. 1107. Sugar program.
Sec. 1108. Administration.
Sec. 1109. Elimination of permanent price support authority.
Sec. 1110. Effect of amendments.
Subtitle B—Conservation
Sec. 1201. Conservation.
Subtitle C—Agricultural Promotion and Export Programs
Sec. 1301. Market promotion program.
Sec. 1302. Export enhancement program.
Subtitle D—Miscellaneous
Sec. 1401. Crop insurance.
Sec. 1402. Collection and use of agricultural quarantine and inspection fees.
Sec. 1403. Commodity Credit Corporation interest rate.

Subtitle A—Agricultural Market Transition Program

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Agricultural Market Transition Act".

SEC. 1102. DEFINITIONS.

In this subtitle:

(1) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) (as in effect prior to the amendment made by section 1109(b)(2)).

(2) CONTRACT.—The term "contract" means a production flexibility contract entered into under section 1103.

(3) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)). If a crop acreage base was not enrolled in an annual program for the 1995 crop in order to increase crop acreage base, the contract acreage for the 1996 crop shall reflect the increased base acreage that would have been established under title V of the Act (as so in effect).

(4) CONTRACT COMMODITY.—The term 'contract commodity' means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(5) CONTRACT PAYMENT.—The term "contract payment" means a payment made under section 1103 pursuant to a contract.

(6) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)).

(7) LOAN COMMODITY.—The term 'loan commodity' means each contract commodity, extra long staple cotton, and oilseeds.

(8) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(9) PROGRAM.—The term "program" means the agricultural market transition program established under this subtitle.

(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1103. PRODUCTION FLEXIBILITY CONTRACTS.

(a) CONTRACTS AUTHORIZED.—

(1) OFFER AND TERMS.—Beginning as soon as practicable after the date of the enactment of

this subtitle, the Secretary shall offer to enter into a contract with an eligible owner or operator described in paragraph (2) on a farm containing eligible farmland. Under the terms of a contract, the owner or operator shall agree, in exchange for annual contract payments, to comply with—

(A) the conservation plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

(B) wetland protection requirements applicable to the farm under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.); and

(C) the planting flexibility requirements of subsection (j).

(2) ELIGIBLE OWNERS AND OPERATORS DESCRIBED.—The following persons shall be considered to be an owner or operator eligible to enter into a contract:

(A) An owner of eligible farmland who assumes all of the risk of producing a crop.

(B) An owner of eligible farmland who shares in the risk of producing a crop.

(C) An operator of eligible farmland with a share-rent lease of the eligible farmland, regardless of the length of the lease, if the owner enters into the same contract.

(D) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring on or after September 30, 2002, in which case the consent of the owner is not required.

(E) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring before September 30, 2002, if the owner consents to the contract.

(F) An owner of eligible farmland who cash rents the eligible farmland and the lease term expires before September 30, 2002, but only if the actual operator of the farm declines to enter into a contract. In the case of an owner covered by this subparagraph, contract payments shall not begin under a contract until the fiscal year following the fiscal year in which the lease held by the nonparticipating operator expires.

(G) An owner or operator described in a preceding subparagraph regardless of whether the owner or operator purchased catastrophic risk protection for a fall-planted 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(3) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

(b) ELEMENTS.—

(1) TIME FOR CONTRACTING.—

(A) DEADLINE.—Except as provided in subparagraph (B), the Secretary may not enter into a contract after April 15, 1996.

(B) CONSERVATION RESERVE LANDS.—

(i) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or operator on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in subparagraph (A) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(ii) AMOUNT.—Contract payments made for contract acreage under this subparagraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop.

(2) DURATION OF CONTRACT.—

(A) BEGINNING DATE.—A contract shall begin with—

(i) the 1996 crop of a contract commodity; or

(ii) in the case of acreage that was subject to a conservation reserve contract described in paragraph (1)(B), the date the production flexibility contract was entered into or expanded to cover the acreage.

(B) ENDING DATE.—A contract shall extend through the 2002 crop.

(3) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)) or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in subsection (b)(1)(A).

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or operator, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 60 days after the date on which the owner or operator enters into a contract.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or operator for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15.

(e) AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS FOR EACH FISCAL YEAR.—

(1) IN GENERAL.—The Secretary shall expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under all contracts:

(A) For fiscal year 1996, $5,570,000,000.
(B) For fiscal year 1997, $5,385,000,000.
(C) For fiscal year 1998, $5,800,000,000.
(D) For fiscal year 1999, $5,603,000,000.
(E) For fiscal year 2000, $5,130,000,000.
(F) For fiscal year 2001, $4,130,000,000.
(G) For fiscal year 2002, $4,008,000,000.

(2) ALLOCATION.—The amount made available for a fiscal year under paragraph (1) shall be allocated as follows:

(A) For wheat, 26.26 percent.
(B) For corn, 46.22 percent.
(C) For grain sorghum, 5.11 percent.
(D) For barley, 2.16 percent.
(E) For oats, 0.15 percent.
(F) For upland cotton, 11.63 percent.
(G) For rice, 8.47 percent.

(3) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under paragraph (2) for a particular fiscal year by—

(A) subtracting an amount equal to the amount, if any, necessary to satisfy payment requirements under sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)) for the 1994 and 1995 crops of the commodity;

(B) adding an amount equal to the sum of all producer repayments of deficiency payments received under section 114(a)(2) of the Act (as so in effect) for the commodity;

(C) adding an amount equal to the sum of all contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repayments of deficiency payments otherwise required under section 114(a)(2) of the Act (as so in effect) for the commodity; and

(D) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under subsection (h) for the commodity.

(f) DETERMINATION OF CONTRACT PAYMENTS.—

(1) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(A) 85 percent of the contract acreage; and

(B) the farm program payment yield.

(2) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of the amounts calculated under paragraph (1) for each individual contract.

(3) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(A) the amount made available under subsection (e) for the contract commodity for the fiscal year; divided by

(B) the amount determined under paragraph (2) for the fiscal year.

(4) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to a contract commodity shall be equal to the product of—

(A) the payment quantity determined under paragraph (1) with respect to the contract; and

(B) the payment rate in effect under paragraph (3).

(5) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this paragraph.

(6) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and operators subject to the contract on a fair and equitable basis.

(g) PAYMENT LIMITATION.—The total amount of contract payments made to a person under a contract during any fiscal year may not exceed the payment limitations established under section 1105.

(h) EFFECT OF VIOLATION.—

(1) TERMINATION OF CONTRACT.—Except as provided in paragraph (2), if an owner or operator subject to a contract violates the conservation plan for the farm containing eligible farmland under the contract, wetland protection requirements applicable to the farm, or the planting flexibility requirements of subsection (j), the Secretary shall terminate the contract with respect to the owner or operator. On the termination, the owner or operator shall forfeit all rights to receive future contract payments and shall refund to the Secretary all contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(2) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract—

(A) to refund to the Secretary that part of the contract payments received by the owner or operator during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(B) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(3) FORECLOSURE.—An owner or operator subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

(4) REVIEW.—A determination of the Secretary under this subsection shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(i) TRANSFER OF INTEREST IN LANDS SUBJECT TO CONTRACT.—

(1) EFFECT OF TRANSFER.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a contract of the right and interest of the owner or operator in the contract acreage shall result in the termination of the contract with respect to the acreage, effective on the date of the transfer, unless the transferee of the acreage agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

(2) EXCEPTION.—If an owner or operator who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(j) PLANTING FLEXIBILITY.—

(1) PERMITTED CROPS.—Subject to paragraph (2)(A), any commodity or crop may be planted on contract acreage.

(2) LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the planting of any fruit or vegetable, and unlimited haying and grazing, shall be permitted on not more than 15 percent of the contract acreage.

(B) EXCEPTION.—Subparagraph (A) shall not apply to the planting of contract commodities, lentils, mung beans, and dry peas on contract acreage.

(3) ALFALFA.—The planting of alfalfa on contract acreage is unlimited, except that the quantity of acreage on which the contract payment of the owner or operator would otherwise be based shall be reduced for each acre planted to alfalfa in excess of the limitation in effect under paragraph (2)(A) for the contract.

(4) HAYING AND GRAZING.—Subject to paragraphs (2) and (3), haying and grazing of contract acreage shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the contract acreage.

SEC. 1104. NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF NONRECOURSE LOANS.—

(1) AVAILABILITY.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b) for the loan commodity.

(2) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under this section:

(A) In the case of a marketing assistance loan for a contract commodity, any production by a producer who has entered into a production flexibility contract.

(B) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(b) LOAN RATES.—

(1) WHEAT.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for wheat shall be—

(i) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $2.58 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(i) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for wheat under subparagraph (B) shall not be considered in determining the loan rate for wheat for subsequent years.

(2) FEED GRAINS.—

(A) LOAN RATE FOR CORN.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for corn shall be—

(i) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(ii) not more than $1.89 per bushel.

(B) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(i) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(iii) less than 12.5 percent the Secretary may not reduce the loan rate for corn for the corresponding crop.

(C) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan rate for corn under subparagraph (B) shall not be considered in determining the loan rate for corn for subsequent years.

(D) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(3) UPLAND COTTON.—

(A) LOAN RATE.—Subject to subparagraph (B), the loan rate for a marketing assistance loan for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(i) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan rate is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan rate is announced, of the 5 lowest-priced growths of the growths quoted for Middling $1\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(B) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(4) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan for extra long staple cotton shall be—

(A) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5 previous marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $0.7965 per pound.

(5) RICE.—The loan rate for a marketing assistance loan for rice shall be $6.50 per hundredweight.

(6) OILSEEDS.—

(A) SOYBEANS.—The loan rate for a marketing assistance loan for soybeans shall be $4.92 per bushel.

(B) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rates for a marketing assistance loan for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be $0.087 per pound.

(C) OTHER OILSEEDS.—The loan rates for a marketing assistance loan for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(c) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made. A marketing assistance loan for upland cotton or extra long staple cotton shall have a *term of 10 months. The Secretary may not extend the term of a marketing assistance loan for any loan commodity.*

(d) REPAYMENT.—

(1) REPAYMENT RATES GENERALLY.—The Secretary shall permit producers to repay a marketing assistance loan under subsection (a) for a loan commodity (other than extra long staple cotton) at a level that is the lesser of—

(A) the loan rate established for the commodity under subsection (b); or

(B) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(2) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under subsection (b).

(3) PREVAILING WORLD MARKET PRICE.—For purposes of paragraph (1)(B) and subsection (f), the Secretary shall prescribe by regulation—

(A) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(4) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(A) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under paragraph (3) shall be further adjusted if—

(i) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under subsection (b), as determined by the Secretary; and

(ii) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe (referred to in this subsection as the "Northern Europe price").

(B) FURTHER ADJUSTMENT.—Except as provided in subparagraph (C), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(i) The United States share of world exports.

(ii) The current level of cotton export sales and cotton export shipments.

(iii) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(C) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under subparagraph (B) may not exceed the difference between—

(i) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe; and

(ii) the Northern Europe price.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—Except as provided in paragraph (4), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under subsection (a) with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the loan payment rate determined under paragraph (3) for the loan commodity; by

(B) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this subsection.

(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

(A) the loan rate established under subsection (b) for the loan commodity; exceeds

(B) the rate at which a loan for the commodity may be repaid under subsection (d).

(4) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This subsection shall not apply with respect to extra long staple cotton.

(f) SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.—

(1) FIRST HANDLER MARKETING CERTIFICATES.—

(A) IN GENERAL.—During the period ending on July 31, 2003, if the repayment rates provided in subsection (d) for upland cotton or the availability of loan deficiency payments for upland cotton under subsection (e) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location) is below the current loan repayment rate for upland cotton, to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates or cash payments in accordance with this paragraph.

(B) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates or cash payments, to first handlers of upland cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this paragraph. The payments shall be made in such amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this paragraph.

(C) VALUE.—The value of each certificate or cash payment issued under subparagraph (B) shall be based on the difference between—

(i) the loan repayment rate for upland cotton; and

(ii) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

(D) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this paragraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this paragraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this paragraph.

(E) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(F) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

(G) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this paragraph may be transferred to other handlers and persons approved by the Secretary.

(2) COTTON USER MARKETING CERTIFICATES.—

(A) ISSUANCE.—Subject to subparagraph (D), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(i) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(ii) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under subsection (b).

(B) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(C) ADMINISTRATION.—Subparagraphs (D) through (G) of paragraph (1) shall apply to marketing certificates issued under this paragraph. Any such certificates may be transferred to other persons in accordance with regulations issued by the Secretary.

(D) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under subparagraph (A) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this paragraph, exceeds the Northern Europe price by more than 1.25 cents per pound.

(E) LIMITATION ON EXPENDITURES.—Total expenditures under this paragraph shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(3) SPECIAL IMPORT QUOTA.—

(A) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under paragraph (2), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(B) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate

of the most recent 3 months for which data are available.

(C) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under subparagraph (A) and entered into the United States not later than 180 days after the date.

(D) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by subparagraph (A), except that a special quota period may not be established under this paragraph if a quota period has been established under subsection (g).

(E) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(F) DEFINITION.—In this paragraph, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(g) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(D) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (f)(3).

SEC. 1105. PAYMENT LIMITATIONS.

(a) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

(b) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

(1) LIMITATION.—The total amount of payments specified in paragraph (2) that a person shall be entitled to receive under section 1104 for contract commodities and oilseeds during any fiscal year may not exceed $75,000.

(2) DESCRIPTION OF PAYMENTS.—The payments referred to in paragraph (1) are the following:

(A) Any gain realized by a producer from repaying a marketing assistance loan for a crop of any loan commodity at a lower level than the original loan rate established for the commodity under section 1104(b).

(B) Any loan deficiency payment received for a loan commodity under section 1104(e).

(c) APPLICABILITY OF OTHER PROVISIONS REGARDING PAYMENT LIMITATIONS.—Paragraphs (5), (6), and (7) of section 1001 and sections 1001A through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) shall apply with respect to the application of payment limitations under this section.

(d) CONFORMING AMENDMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears in paragraphs (1)(A), (1)(B), and (2)(A) and inserting "1995".

SEC. 1106. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

(1) AVAILABILITY OF LOANS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) LOAN RATE.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 411 of the Agricultural Adjustment Act of 1938.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—The Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) OTHER PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

(3) USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g)

and available for use under this subsection that the Secretary determines are not required to cover losses in area quota pools.

(4) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(5) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department of Agriculture inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department of Agriculture loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (f) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) MARKETING QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1991 through 1997 crops of**";

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years"; and

(v) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1991 through 1995 crops of**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**for 1991 through 1997 crops of peanuts**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Act (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Act (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Act is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (1), by striking "(including any applicable under marketings)" both places it appears;

(ii) in paragraph (1)(A), by striking "of undermarketings and";

(iii) in paragraph (2), by striking "(including any applicable under marketings)"; and

(iv) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Act (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is further amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool *for pricing purposes on such basis as the Secretary shall by regulation provide.*

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at not more than 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

SEC. 1107. SUGAR PROGRAM.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) TERM OF LOANS.—

(1) IN GENERAL.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of 9 months; or

(B) the end of the fiscal year.

(2) SUPPLEMENTAL LOANS.—In the case of loans made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(d) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(e) MARKETING ASSESSMENT.—

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(f) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) SUGARCANE.—The penalty for sugarcane shall be 1 cent per pound.

(3) SUGAR BEETS.—The penalty for sugar beets shall bear the same relation to the penalty for sugarcane as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits of any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(g) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(h) MARKETING ALLOTMENTS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

(i) CROPS.—This section (other than subsection (h)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

SEC. 1108. ADMINISTRATION.

(a) COMMODITY CREDIT CORPORATION.—

(1) USE OF CORPORATION.—The Secretary shall carry out this subtitle through the Commodity Credit Corporation.

(2) SALARIES AND EXPENSES.—No funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of payments or loans under this subtitle.

(b) ADMINISTRATION.—Title IV of the Agricultural Adjustment Act of 1938 (as added by section 1109) shall apply to the administration of this subtitle.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this subtitle.

SEC. 1109. ELIMINATION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The Agricultural Adjustment Act of 1938 is amended—

(1) in title III—

(A) in subtitle B—

(i) by striking parts II through V (7 U.S.C. 1326–1351); and

(ii) in part VI, by striking sections 358, 358a, and 358d (7 U.S.C. 1358, 1358a, and 1359); and

(B) by striking subtitle D (7 U.S.C. 1379a–1379j); and

(2) by striking title IV (7 U.S.C. 1401–1407).

(b) AGRICULTURAL ACT OF 1949.—

(1) TRANSFER OF CERTAIN SECTIONS.—The Agricultural Act of 1949 is amended—

(A) by transferring sections 106, 106A, and 106B (7 U.S.C. 1445, 1445–1, 1445–2) to appear after section 314A of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314–1) and redesignating the transferred sections as sections 315, 315A, and 315B, respectively;

(B) by transferring sections 111, 201(c), and 204 (7 U.S.C. 1445f, 1446(c), 1446e) to appear after section 304 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1304) and redesignating the transferred sections as sections 305, 306, and 307, respectively;

(C) by transferring sections 403, 405, 407, 412, and 422 (7 U.S.C. 1423, 1425, 1427, 1429, 1431a) to appear after section 393 (7 U.S.C. 1393) and redesignating the transferred sections as sections 411, 412, 413, 414, and 415, respectively; and

(D) by transferring section 416 (7 U.S.C. 1431) to appear after section 415 of the Agricultural Adjustment Act of 1938 (as transferred and redesignated by subparagraph (C)).

(2) REPEAL.—The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) (as amended by paragraph (1)) is repealed.

(c) CONFORMING AMENDMENTS.—The Agricultural Adjustment Act of 1938 is amended—

(1) in section 306 (as transferred and redesignated by subsection (b)(1)(B)), by striking "204" and inserting "307"; and

(2) by striking section 411 (as transferred and redesignated by subsection (b)(1)(C)) and inserting the following:

"TITLE IV—ADMINISTRATION OF LOANS

"SEC. 411. ADJUSTMENTS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.

"The Secretary may make such adjustments in the announced loan rate for a commodity as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.".

SEC. 1110. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of the enactment of this Act.

(b) LIABILITY.—A provision of this subtitle or an amendment made by this subtitle shall not affect the liability of any person under any provision of law as in effect before the date of the enactment of this Act.

Subtitle B—Conservation

SEC. 1201. CONSERVATION.

(a) FUNDING.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—For each of fiscal years 1996 through 2002, $100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the livestock environmental assistance program under chapter 4 of subtitle D.".

(b) LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.—To carry out the programs funded under the amendment made by subsection (a), subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM

"SEC. 1240. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation due to livestock production.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means an operation that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 55 mature dairy cattle;

"(ii) 10,000 beef cattle;

"(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

"(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);

"(v) 55,000 turkeys;

"(vi) 15,000 swine; or

"(vii) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, lambs, and such other animals as determined by the Secretary.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, or other structural practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation due to livestock production.

"SEC. 1240A. ESTABLISHMENT AND ADMINISTRATION OF LIVESTOCK ENVIRONMENTAL ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through a livestock environmental assistance program.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

"(3) ELIGIBLE LAND.—Assistance under this chapter may be provided with respect to land that is used for livestock production and on which a serious threat to water, soil, or related resources exists, as determined by the Secretary, by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(4) SELECTION CRITERIA.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, the Secretary shall consider—

"(A) the significance of the water, soil, and related natural resource problems; and

"(B) the maximization of environmental benefits per dollar expended.

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) DUTIES OF OPERATORS AND SECRETARY.—To receive cost sharing or incentive payments, or technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary.

"(c) STRUCTURAL PRACTICES.—

"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—

"(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

"(B) evaluation of the offer in light of the selection criteria established under subsection (a)(4) and the projected cost of the proposal, as determined by the Secretary.

"(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

"(e) COST-SHARING, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be greater than 75 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1, 2, or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(f) LIMITATION ON PAYMENTS.—

"(1) IN GENERAL.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

"(A) $10,000 for any fiscal year; or

"(B) $50,000 for any multiyear contract.

"(2) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(A) defining the term 'person' as used in paragraph (1); and

"(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection.

"(g) REGULATIONS.—Not later than 180 days after the effective date of this subsection, the Secretary shall issue regulations to implement the livestock environmental assistance program established under this chapter.".

(c) CONFORMING AMENDMENTS.—

(1) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs.".

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(i) in subsection (b)(2)—

(I) by striking "not less" and inserting "not more"; and

(II) by striking "2000" and inserting "2002"; and

(ii) in subsection (c), by striking "2000" and inserting "2002".

(B) LENGTH OF EASEMENT.—Section 1237A(e) of the Food Security Act of 1985 (16 U.S.C. 3837a(e)) is amended by striking paragraph (2) and inserting the following:

"(2) shall be for 15 years, but in no case shall be a permanent easement.".

(3) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking "total of" and all that follows through the period at the end of the subsection and inserting "total of 36,400,000 acres.".

(B) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following:

"(e) TERMINATION BY OWNER OR OPERATOR.—

"(1) NOTICE OF TERMINATION.—An owner or operator of land subject to a contract entered into under this subchapter may terminate the contract by submitting to the Secretary written notice of the intention of the owner or operator to terminate the contract.

"(2) EFFECTIVE DATE.—The contract termination shall take effect 60 days after the date on which the owner or operator submits the written notice under paragraph (1).

"(3) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(4) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(5) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except that the requirements may not be more onerous than the requirements imposed on other lands.

"(6) REPAYMENT OF COST SHARE.—A person who terminates a contract entered into under this subchapter within less than 3 years after entering into the contract shall reimburse the Secretary for any cost share assistance provided under the contract.".

(C) LIMITATION.—Notwithstanding any other provision of law, no new acres shall be enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) in calendar year 1997.

Subtitle C—Agricultural Promotion and Export Programs

SEC. 1301. MARKET PROMOTION PROGRAM.

Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $100,000,000 for each of fiscal years 1996 through 2002,".

SEC. 1302. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;
"(B) $350,000,000 for fiscal year 1997;
"(C) $500,000,000 for fiscal year 1998;
"(D) $550,000,000 for fiscal year 1999;
"(E) $579,000,000 for fiscal year 2000;
"(F) $478,000,000 for fiscal year 2001; and
"(G) $478,000,000 for fiscal year 2002.".

Subtitle D—Miscellaneous

SEC. 1401. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended—

(1) in paragraph (4), by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State as determined by the Secretary, only approved insurance providers may provide the coverage in the State.

"(iii) CURRENT POLICIES.—Subject to clause (ii), all catastrophic risk protection policies written by local offices of the Department shall be transferred (including all fees collected for the crop year in which the approved insurance provider will assume the policies) to the approved insurance provider for performance of all sales, service, and loss adjustment functions."; and

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops, to be eligible for any payment or loan under the Agricultural Market Transition Act, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

(b) COVERAGE OF SEED CROPS.—Section 519(a)(2)(B) of the Act (7 U.S.C. 1519(a)(2)(B) is amended by inserting "seed crops," after "turfgrass sod,".

SEC. 1402. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Subsection (a) of section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended to read as follows:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees are commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of the fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of the fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 1403. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Sec. 2001. Table of contents.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

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Sec. 2013. Merger of BIF and SAIF.
Sec. 2014. Creation of SAIF Special Reserve.
Sec. 2015. Refund of amounts in deposit insurance fund in excess of designated reserve amount.
Sec. 2016. Assessment rates for SAIF members may not be less than assessment rates for BIF members.
Sec. 2017. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.
Sec. 2018. Limitation on authority of Oversight Board to continue to employ more than 18 officers and employees.
Sec. 2019. Definitions.

Subtitle B—Housing

Sec. 2051. Annual adjustment factors for operating costs only; restraint on rent increases.
Sec. 2052. Foreclosure avoidance and borrower assistance.

TITLE II—BANKING, HOUSING, AND RELATED PROVISIONS

Subtitle A—Financial Institutions

SEC. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.

(a) IN GENERAL.—Except as provided in subsection (f), the Board of Directors shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution at a rate applicable to all such institutions that the Board of Directors, in its sole discretion, determines (after taking into account the adjustments described in subsections (g) through (j)) will cause the Savings Association Insurance Fund to achieve the designated reserve ratio on the first business day of January 1996.

(b) FACTORS TO BE CONSIDERED.—In carrying out subsection (a), the Board of Directors shall base its determination on—

(1) the monthly Savings Association Insurance Fund balance most recently calculated;

(2) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment of this Act by insured depository institutions; and

(3) any other factors that the Board of Directors deems appropriate.

(c) DATE OF DETERMINATION.—For purposes of subsection (a), the amount of the SAIF-assessable deposits of an insured depository institution shall be determined as of March 31, 1995.

(d) DATE PAYMENT DUE.—The special assessment imposed under this section shall be—

(1) due on the first business day of January 1996; and

(2) paid to the Corporation on the later of—

(A) the first business day of January 1996; or

(B) such other date as the Corporation shall prescribe, but not later than 60 days after the date of enactment of this Act.

(e) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this section shall be deposited in the Savings Association Insurance Fund.

(f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

(1) EXEMPTION FOR WEAK INSTITUTIONS.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak, from paying the special assessment imposed under this section if the Board of Directors determines that the exemption would reduce risk to the Savings Association Insurance Fund.

(2) GUIDELINES REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Board of Directors shall prescribe guidelines setting forth the criteria that the Board of Directors will use in exempting institutions under paragraph (1). Such guidelines shall be published in the Federal Register.

(3) EXEMPTION FOR CERTAIN NEWLY CHARTERED AND OTHER DEFINED INSTITUTIONS.—

(A) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under paragraph (1), the Board of Directors shall exempt any insured depository institution from payment of the special assessment if the institution—

(i) was in existence on October 1, 1995, and held no SAIF-assessable deposits prior to January 1, 1993;

(ii) is a Federal savings bank which—

(I) was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and

(II) received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; or

(iii) is a savings association, the deposits of which are insured by the Savings Association Insurance Fund, which—

(I) prior to January 1, 1987, was chartered as a Federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and

(II) as of the date of that transaction, had assets of less than $150,000,000.

(B) DEFINITION.—For purposes of this paragraph, an institution shall be deemed to have held SAIF-assessable deposits prior to January 1, 1993, if—

(i) it directly held SAIF-assessable insured deposits prior to that date; or

(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits prior to January 1, 1993.

(4) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—

(A) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this subsection from paying the special assessment imposed under this section shall pay semiannual assessments—

(i) during calendar years 1996 and 1997, into the Savings Association Insurance Fund, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and

(ii) during calendar years 1998 and 1999—

(I) into the Deposit Insurance Fund, based on SAIF-assessable deposits of that institution as of December 31, 1997, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; or

(II) in accordance with clause (i), if the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.

(B) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This paragraph shall not apply with respect to any insured depository institution (or successor insured depository institution) that has paid, during any calendar year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—

(i) 12.5 percent of the special assessment that the institution would have been required to pay under subsection (a), if the Board of Directors had not exempted the institution; and

(ii) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS FACING HARDSHIP AS A RESULT OF THE SPECIAL ASSESSMENT.—

(1) ELECTION AUTHORIZED.—If—

(A) an insured depository institution, or any depository institution holding company which, directly or indirectly, controls such institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and

(B) the payment of the special assessment under subsection (a) would pose a significant risk of causing such depository institution or holding company to default or violate any such term or covenant,

the depository institution may elect, with the approval of the Corporation, to pay such special assessment in accordance with paragraphs (2) and (3) in lieu of paying such assessment in the manner required under subsection (a).

(2) 1ST ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay an assessment of 50 percent of the amount of the special assessment that would otherwise apply under subsection (a), by the date on which such special assessment is otherwise due under subsection (d).

(3) 2D ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a 2d assessment, by the date established by the Board of Directors in accordance with paragraph (4), in an amount equal to the product of 51 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment and the SAIF-assessable deposits of the institution on March 31, 1996, or such other date in calendar year 1996 as the Board of Directors determines to be appropriate.

(4) DUE DATE OF 2D ASSESSMENT.—The date established by the Board of Directors for the payment of the assessment under paragraph (3) by a depository institution shall be the earliest practicable date which the Board of Directors determines to be appropriate, which is at least 15 days after the date used by the Board of Directors under paragraph (3).

(5) SUPPLEMENTAL SPECIAL ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a supplemental special assessment, at the same time the payment under paragraph (3) is made, in an amount equal to the product of—

(A) 50 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment; and

(B) 95 percent of the amount by which the SAIF-assessable deposits used by the Board of

Directors for determining the amount of the 1st assessment under paragraph (2) exceeds, if any, the SAIF-assessable deposits used by the Board for determining the amount of the 2d assessment under paragraph (3).

(h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

(1) IN GENERAL.—For purposes of computing the special assessment imposed under this section with respect to a Bank Insurance Fund member bank, the amount of any deposits of any insured depository institution which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be reduced by 20 percent—

(A) if the adjusted attributable deposit amount of the Bank Insurance Fund member bank is less than 50 percent of the total domestic deposits of that member bank as of June 30, 1995; or

(B) if, as of June 30, 1995, the Bank Insurance Fund member—

(i) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

(ii) had total assessable deposits greater than $5,000,000,000; and

(iii) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.

(2) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this subsection, the "adjusted attributable deposit amount" shall be determined in accordance with section 5(d)(3)(C) of the Federal Deposit Insurance Act.

(i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) in subparagraph (C), by striking "The adjusted attributable deposit amount" and inserting "Except as provided in subparagraph (K), the adjusted attributable deposit amount"; and

(2) by adding at the end the following new subparagraph:

"(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 2011(a) of the Balanced Budget Act of 1995), for a Bank Insurance Fund member bank that, as of June 30, 1995—

"(i) had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank; or

"(ii)(I) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

"(II) had total assessable deposits greater than $5,000,000,000; and

"(III) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.".

(j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—

(1) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this section, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association Insurance Fund as of March 31, 1995, shall be reduced by 20 percent.

(2) CONVERTED ASSOCIATION.—For purposes of this subsection, the term "converted association" means—

(A) any Federal savings association—

(i) that is a member of the Savings Association Insurance Fund and that has deposits subject to assessment by that fund which did not exceed $4,000,000,000, as of March 31, 1995; and

(ii) that had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a State savings bank, the deposits of which were insured by the Federal Deposit Insurance Corporation prior to August 9, 1989, that converted to a Federal savings association pursuant to section 5(i) of the Home Owners' Loan Act prior to January 1, 1985;

(B) a State depository institution that is a member of the Savings Association Insurance Fund that had been a State savings bank prior to October 15, 1982, and was a Federal savings association on August 9, 1989;

(C) an insured bank that—

(i) was established de novo in order to acquire the deposits of a savings association in default or in danger of default;

(ii) did not open for business before acquiring the deposits of such savings association; and

(iii) was a Savings Association Insurance Fund member as of the date of enactment of this Act; and

(D) an insured bank that—

(i) resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the Federal Deposit Insurance Act; and

(ii) had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.

SEC. 2012. FINANCING CORPORATION ASSESSMENTS SHARED PROPORTIONALLY BY ALL INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) in subsection (f)(2)—

(A) in the matter immediately preceding subparagraph (A)—

(i) by striking "Savings Association Insurance Fund member" and inserting "insured depository institution"; and

(ii) by striking "members" and inserting "institutions"; and

(B) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that—

"(A) the Financing Corporation shall have first priority to make the assessment; and

"(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph."; and

(2) in subsection (k)—

(A) by striking "section—" and inserting "section, the following definitions shall apply:";

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(D) by adding at the end the following new paragraph:

"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) CONFORMING AMENDMENT.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1996.

SEC. 2013. MERGER OF BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this section.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, if the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this section.

(2) DEFINITION.—For purposes of this subsection, the term "reserve ratio" means the ratio of the net worth of the Savings Association Insurance Fund to aggregate estimated insured deposits held in all Savings Association Insurance Fund members.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1998, if no insured depository institution is a savings association on that date.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members."; and

(C) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:

"(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—".

(2) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C), as redesignated by paragraph (1) of this subsection) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

(3) DEPOSITS INTO FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended by adding at the end the following new subparagraph:

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".

(4) SPECIAL RESERVE OF DEPOSITS.—Section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—

"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".

(5) FEDERAL HOME LOAN BANK ACT.—Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

(A) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and

(B) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".

(6) REPEALS.—

(A) SECTION 3.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended to read as follows:

"(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—The term

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the fund established under section 11(a)(4).

"(2) RESERVE RATIO.—The term 'reserve ratio' means the ratio of the net worth of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

"(3) DESIGNATED RESERVE RATIO.—The designated reserve ratio of the Deposit Insurance Fund for each year shall be—

"(A) 1.25 percent of estimated insured deposits; or

"(B) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

(B) SECTION 7.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(i) by striking subsection (l);

(ii) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively;

(iii) in subsection (b)(2), by striking subparagraphs (B) and (F), and by redesignating subparagraphs (C), (E), (G), and (H) as subparagraphs (B) through (E), respectively.

(C) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6).

(7) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(8) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(9) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(10) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(11) FURTHER AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(12) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(13) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(14) FURTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) by striking clause (iv) of paragagraph (2)(A);

(v) in paragraph (2)(C) (as redesignated by paragraph (6)(B) of this subsection)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(B) of this subsection)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(I) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(J) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(K) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(L) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(M) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(O) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(P) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(Q) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(R) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(S) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(T) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(V) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(W) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(X) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) by striking section 31 (12 U.S.C. 1831h);

(Z) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(AA) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(BB) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(CC) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(15) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(16) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(17) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

SEC. 2014. CREATION OF SAIF SPECIAL RESERVE.

Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by adding at the end the following new subparagraph:

"(L) ESTABLISHMENT OF SAIF SPECIAL RESERVE.—

"(i) ESTABLISHMENT.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, there is established a Special Reserve of the Savings Association Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) AMOUNTS IN SPECIAL RESERVE.—If, on January 1, 1998, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which the reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Savings Association Insurance Fund established by clause (i).

"(iii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other

payment from any amount in the Special Reserve of the Savings Association Insurance Fund.

"(iv) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding clause (iii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve of the Savings Association Insurance Fund to the Savings Association Insurance Fund for the purposes set forth in paragraph (4), only if—

"(I) the reserve ratio of the Savings Association Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(II) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(v) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve of the Savings Association Insurance Fund shall be excluded in calculating the reserve ratio of the Savings Association Insurance Fund.".

SEC. 2015. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS.—

"(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

"(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period, the amount of the actual reserves in—

"(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 2013 of the Balanced Budget Act of 1995); or

"(ii) the Deposit Insurance Fund (after the establishment of such fund),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to insured depository institutions by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

"(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual assessment period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.

"(C) REFUND LIMITATION FOR CERTAIN INSTITUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid for any semiannual assessment period by any insured depository institution described in clause (v) of subsection (b)(2)(A).".

SEC. 2016. ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.

Section 7(b)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section 2013(d)(6) of this Act) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Balanced Budget Act of 1995, and ending on January 1, 1998, the assessment rate for a Savings Association Insurance Fund member may not be less than the assessment rate for a Bank Insurance Fund member that poses a comparable risk to the deposit insurance fund.".

SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the matter preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

"(iii) LIMITATION ON ASSESSMENT.—Except as provided in clause (v), the Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

"(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.".

(c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the end the following new clause:

"(v) EXCEPTION TO LIMITATION ON ASSESSMENTS.—The Board of Directors may set semiannual assessments in excess of the amount permitted under clauses (i) and (iii) with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized, as that term is defined in section 38.".

SEC. 2018. LIMITATION ON AUTHORITY OF OVERSIGHT BOARD TO CONTINUE TO EMPLOY MORE THAN 18 OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by adding at the end the following new paragraph:

"(17) PHASED-DOWN OPERATION OF OVERSIGHT BOARD FOLLOWING TERMINATION OF CORPORATION.—

"(A) TERMINATION OF AUTHORITY TO EMPLOY STAFF.—Except as provided in subparagraph (B), the authority of the Thrift Depositor Protection Oversight Board under paragraph (5) to establish officer and employee positions, to compensate officers and employees of the Board, and to provide other benefits for officers and employees of the Board shall terminate as of December 31, 1995.

"(B) LIMITED AUTHORITY FOR EMPLOYING STAFF.—The Thrift Depositor Protection Oversight Board may employ not more than 18 individuals, excluding any employee of any other department or agency utilized by the Board, to carry out the functions of the Board during the period beginning on January 1, 1996 and ending on May 1, 1996, other than employees whose employment is in the process of being terminated in accordance with subparagraph (C).

"(C) TERMINATION OF EMPLOYMENT OF ADDITIONAL EMPLOYEES REQUIRED TO BE COMMENCED.—The Thrift Depositor Protection Oversight Board shall commence terminating, not later than December 31, 1995, and in accordance with title 5, United States Code, and applicable regulations of the Office of Personnel Management, the employment of any employee of the Board whose continued employment by the Board after such date is inconsistent with the requirement of subparagraph (B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) is amended in subparagraphs (B), (C), (D), and (E), by inserting "subject to paragraph (17)," after the closing parenthesis of the subparagraph designation in each such subparagraph.

SEC. 2019. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Bank Insurance Fund" means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;

(2) the terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(l) of the Federal Deposit Insurance Act;

(3) the terms "bank", "Board of Directors", "Corporation", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(4) the term "Deposit Insurance Fund" means the fund established under section 11(a)(4) of the Federal Deposit Insurance Act, as amended by section 2013(d) of this Act;

(5) the term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "designated reserve ratio" has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act;

(7) the term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and

(8) the term "SAIF-assessable deposit" means—

(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and

(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.

Subtitle B—Housing

SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON RENT INCREASES.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii) Each assistance contract under this section shall provide that—

"(I) if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area; and

"(II) if the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit

of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) RESTRAINT ON SECTION 8 RENT INCREASES.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii)(I) Subject to subclause (II), with respect to any unit assisted under this section that is occupied by the same family at the time of the most recent annual rental adjustment, if the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor, and if the rent for the unit is otherwise eligible for an adjustment based on the full amount of the annual adjustment factor, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.

"(II) With respect to any unit described in subclause (I) that is assisted under the certificate program, the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area in which the unit is located.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1995.

SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—Except as provided in subsection (e), the last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": And provided further, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: And provided further, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Except as provided in subsection (e), section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

"(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.

"(d) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before the date of the enactment of the Balanced Budget Act of 1995, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of this section in effect immediately before such date of enactment.

"(e) APPLICABILITY OF OTHER LAWS.—No provision of this Act or any other law shall be construed to require the Secretary to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under this Act, or to accept assignments of such mortgages.".

(c) APPLICABILITY OF AMENDMENTS.—Except as provided in subsection (e), the amendments made by subsections (a) and (b) shall apply only with respect to mortgages insured under the National Housing Act that are originated on or after October 1, 1995.

(d) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section.

(e) EFFECTIVENESS AND APPLICABILITY.—If this Act is enacted after the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996—

(1) subsections (a), (b), (c), and (d) of this section shall not take effect; and

(2) subsection (c) of the section relating to foreclosure avoidance and borrower assistance in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, is amended by striking "only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995" and inserting "to mortgages originated before, on, and after October 1, 1995".

TITLE III—COMMUNICATIONS AND SPECTRUM ALLOCATION PROVISIONS

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses the sole or principal purpose of which is to protect the safety of life, health, and property and which are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses, unless—

"(i) the Commission, not later than 180 days after the date of enactment of the Balanced Budget Act of 1995, after notice and public comment, submits to Congress a report on the use of the authority provided in this subsection for the assignment of initial licenses or construction permits for use of the electromagnetic spectrum allocated but not assigned as of the date of enactment of that Act for television broadcast services; and

"(ii) the Congress amends this subsection to authorize the use of the authority provided by this subsection for such licenses or permits.

Except as provided in this subparagraph, the Commission may not assign initial licenses or construction permits under this title to terrestrial commercial television broadcast licensees to replace their existing broadcast licenses before November 15, 1996."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for a terrestrial radio or television broadcast station for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act; or

(iii) been reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this section).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsections:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Balanced Budget Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

"(g) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept payment in advance or in-kind reimbursement of costs, or a combination of payment in advance and in-kind reimbursement, from any person to defray entirely the expenses of relocating the Federal entity's operations from one or more radio spectrum frequencies to another frequency or frequencies, including, without limitation, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity. Any such payment shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this paragraph shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this paragraph.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit or terminate the Federal Government station's operating license when the following requirements are met:

"(A) the person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, in-kind reimbursement of costs, or a combination thereof, all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and

"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—

"(i) consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and

"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.

In exercising its authority under subparagraph (D)(i), NTIA shall consult with the Secretary of Defense, the Secretary of State, or other appropriate officers of the Federal Government.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in any reallocation report under subsection (a) shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (g).

"(i) DEFINITION.—For purposes of this section, the term 'Federal entity' means any department, agency, or other instrumentality of the Federal Government that utilizes a Government station license obtained under section 305 of the 1934 Act (47 U.S.C. 305)."; and

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT.—";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j) of the 1934 Act (47 U.S.C. 309(j)).".

TITLE IV—EDUCATION AND RELATED PROVISIONS

SEC. 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IV—EDUCATION AND RELATED PROVISIONS

Sec. 4000. Table of contents.

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Sec. 4002. Participation of institutions and administration of loan programs.
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Sec. 4005. Amendments affecting FFELP lenders and loan holders.
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Sec. 4007. Extension of program duration.

Subtitle B—Provisions Relating to the Employee Retirement Income Security Act of 1974

Sec. 4101. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.

Subtitle A—Higher Education

SEC. 4001. SHORT TITLE; REFERENCES; AND GENERAL EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other

provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) GENERAL EFFECTIVE DATE.—Unless otherwise specified in this subtitle, the amendments made by this subtitle shall take effect on January 1, 1996.

SEC. 4002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the direct loan program under this part, subject to the following:

"(A) For academic year 1994–1995, loans made under this part shall represent not more than 5 percent of new student loan volume for such year.

"(B) For academic year 1995–1996, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 30 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.

"(C) For academic year 1996–1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 10 percent of the new student loan volume for such year, except that only the 102 eligible institutions that participated in the direct loan program under this part for academic year 1994–1995 shall be eligible to participate in such program for academic year 1996–1997 and for each succeeding academic year.";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking "on the most recent program data available" and inserting "on data from the academic year preceding the academic year for which the estimate is made".

(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) in clause (ii)—

(i) by striking "beginning"; and

(ii) by striking "clause (i); and" and inserting "subparagraph (A).";

(B) by redesignating clause (ii) (as amended by subparagraph (A)) as subparagraph (B); and

(C) by striking "(i) categorizing" and inserting "categorizing".

(c) CONTROL OF ADMINISTRATIVE EXPENSES.—Section 458 (20 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

"(a) EXPENSES.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for subsidy costs under this part for the William D. Ford Federal Direct Loan Program. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed (from such funds not otherwise appropriated) $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $85,000,000 (and such sums as may be necessary for administrative cost allowances for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

"(B) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

"(A) DIRECT ADMINISTRATIVE EXPENSES.—

"(i) IN GENERAL.—For purposes of this subsection the term 'direct administrative expenses' means the cost under the William D. Ford Federal Direct Loan Program of—

"(I) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants, under this part;

"(II) collection of delinquent loans under this part; and

"(III) write-off and closeout of loans under this part.

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN EXPENSES.—Such term does not include the costs to the Department of personnel, training, rent, printing, or other administrative costs, associated with the activities described in subclause (I), (II), or (III) of clause (i).

"(B) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the term 'indirect administrative expenses' means the cost of—

"(i) personnel engaged in developing program regulations, policy and administrative guidance;

"(ii) audits of institutions and contractors;

"(iii) program reviews; and

"(iv) other oversight of the program under this part or under part B.

"(3) SUBSIDY COST.—The term 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis."; and

(2) by striking subsection (d).

(d) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—

(1) INSTITUTIONAL ELIGIBILITY BASED ON DEFAULT RATES.—The first sentence of section 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended by inserting "or part D" after "under this part".

(2) COHORT DEFAULT RATE.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "428, 428A, or 428H" and inserting "428, 428A, 428H, or part D (other than Federal Direct PLUS Loans)"; and

(ii) by striking "428C" and inserting "428C or 455(g)";

(B) in subparagraph (B)—

(i) by striking "only"; and

(ii) by inserting "and loans made under part D determined by the Secretary to be in default," after "for insurance,"; and

(C) in subparagraph (C), by striking "428C" and inserting "428C or 455(g)".

(3) DEFAULT RATES AND INCOME CONTINGENT REPAYMENT.—Section 435(m) (20 U.S.C. 1085(m)) is amended by adding at the end the following new paragraph:

"(5) DEFAULT RATE AND INCOME CONTINGENT REPAYMENT.—The Secretary shall prescribe regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under this part, which regulations shall be comparable to regulations for the calculation of default rates for loans that are repaid pursuant to income contingent repayment under part D.".

(4) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

"(l) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

"(1) METHODOLOGY AND CRITERIA.—The Secretary shall develop—

"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and

"(C) procedures for the conduct of such termination proceedings.

"(2) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.

"(3) PROMULGATION.—The methodology, criteria, procedures and standards required by paragraphs (1) and (2) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph.".

(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title"; and

(B) in subparagraph (B), by striking "section 428(c)(10)(F)(v)" and inserting "section 428(c)(9)(F)(v)";

(2) in section 422(g)(1) (20 U.S.C. 1072(g)(1))—

(A) in the first sentence, by striking "or the program authorized by part D of this title"; and

(B) in the second sentence, by striking "or the program authorized by part D of this title";

(3) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—

(A) by striking subparagraph (B); and

(B) by striking "(A) If" and inserting "If";

(4) in section 428(c)(9)(F)(vii) (20 U.S.C. 1078(c)(9)(F)(vii))—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(6) in section 428(e)(1)(B)(ii) (20 U.S.C. 1078(e)(1)(B)(ii)), by striking "during the transition" and all that follows through "under part D of this title";

(7) in section 428(e)(3) (20 U.S.C. 1078(e)(3)), by striking "costs of transition" and inserting "indirect administrative expenses";

(8) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—

(A) in the heading for paragraph (3), by striking "DURING TRANSITION TO DIRECT LENDING"; and

(B) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title";

(9) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1087c(c)), by striking "TRANSITION" and inserting "INSTITUTIONAL";

(10) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1087c(c)), by striking "AFTER TRANSITION"; and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) in paragraph (3), by inserting "and" after the semicolon;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking "successful operation" and inserting "integrity and efficiency".

(f) Fees for Origination Services.—Section 452 (20 U.S.C. 1087b) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(g) Risk Sharing.—Section 428(n) (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) Applicability to part D loans.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(h) Technical Amendment.—Section 428(b)(1)(X) (20 U.S.C. 1078(b)(1)(X)) is amended by striking "section 428(c)(10)" and inserting "section 428(c)(9)".

SEC. 4003. LOAN TERMS AND CONDITIONS.

(a) Comparability Provisions.—

(1) In general.—Paragraph (1) of section 455(a) (20 U.S.C. 1087e(a)) is amended to read as follows:

"(1) Parallel terms, conditions, eligibility requirements, benefits and amounts.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, deferments, forbearances, eligibility requirements, and benefits, be subject to the same administrative requirements for origination, payment and processing of applications, be available in the same amounts, be subject to the same interest rates and same amount of fees, and have the same repayment plans, as the corresponding types of loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph not later than 120 days after the date of enactment of the Student Loan Reform Act of 1995.".

(2) Conforming amendments.—Section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(A) in subparagraph (D)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years"; and

(B) in subparagraph (E)(ii), by inserting "(except pursuant to a graduated, income-sensitive, or income contingent repayment schedule)" after "10 years".

(b) Ability of Part D Borrowers To Obtain Federal Stafford Consolidation Loans.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) made under part D of this title;".

(c) Ability of Part B Borrowers To Obtain Federal Direct Consolidation Loans.—Paragraph (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read as follows:

"(5) Direct consolidation loans for borrowers in specified circumstances.—

"(A) Subject to subparagraphs (B) and (C) of section 453(a)(2), the Secretary may offer a borrower a Federal Direct Consolidation loan if such borrower is otherwise eligible for a consolidation loan pursuant to this section and such borrower is—

"(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) that holds one of such borrower's loans under this part; or

"(ii) unable to obtain a consolidation loan with income contingent repayment terms from a lender with an agreement under subsection (a)(1).

"(B) The Secretary shall establish appropriate certification procedures to verify the eligibility of borrowers for consolidation loans under this paragraph.

"(C) The Secretary shall not offer consolidation loans under this paragraph if, in the Secretary's judgment, the Department does not have the necessary origination and servicing arrangements in place for such loans, or the projected volume in such loans will be destabilizing to the availability of loans otherwise available under this part.".

(d) Income Contingent Repayment in the Federal Family Education Loan Program.—

(1) Insurance program agreements.—Section 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income-sensitive repayment schedule" and inserting "repayment schedule or an income-sensitive repayment schedule, and may, at the discretion of the lender, offer the borrower the option of repaying the loan in accordance with an income contingent repayment schedule,".

(2) Repayment schedules.—The matter preceding clause (i) of section 428C(c)(2)(A) (20 U.S.C. 1078–3(c)(2)(A)) is amended—

(A) in the first sentence, by striking "or income-sensitive repayment schedules" and inserting "repayment schedules or income-sensitive repayment schedules, and may include, at the discretion of the lender, the establishment of income contingent repayment schedules"; and

(B) in the second sentence, by striking "income-sensitive" and inserting "graduated, income-sensitive, or income contingent".

(3) Comparable terms and conditions.—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:

"(3) Income contingent repayment schedules.—For the purpose of this part, income contingent repayment schedules established pursuant to subsection (b)(1)(E)(i) and section 428C(c)(2)(A) shall have terms and conditions comparable to the terms and conditions established by the Secretary pursuant to section 455(e)(4). The Secretary shall discharge or cancel the indebtedness of borrowers that repay pursuant to income contingent repayment under this part to the same extent, and under the same circumstances, as the Secretary discharges or cancels the indebtedness of borrowers that repay pursuant to income contingent repayment under part D.".

(e) PLUS Program Reductions.—Section 428B(b) (20 U.S.C. 1078–2(b)) is amended—

(1) by striking "(b) Limitation based on need.—" and inserting the following:

"(b) Annual Limits.—

"(1) Limitation based on need.—";

(2) by inserting before the last sentence thereof the following:

"(3) Limitation computed on basis of actual payments.—"; and

(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this section) the following new paragraph:

"(2) Dollar limitation.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulations of the Secretary) is $15,000.".

SEC. 4004. AMENDMENTS AFFECTING GUARANTY AGENCIES.

(a) Use of Reserve Funds To Purchase Defaulted Loans.—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(h) Use of Reserve Funds To Purchase Defaulted Loans.—

"(1) In general.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) Special rule.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds;

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

(b) Extension of Period a Guaranty Agency Must Hold a Defaulted Loan.—

(1) Exemption for extended holding period.—The last sentence of section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(2) New extended holding period program.—

(A) Amendment.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) Loans Subject to Extended Holding Period.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) Loans Excluded From Extended Holding.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) Guaranty Agency Efforts During Extended Holding Period.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status during the period prior to 225 days after the date the guaranty agency discharges its insurance obligation on such loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payments satisfactory to the guaranty agency during such period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not promulgate regulations regarding the collection activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which claims for insurance are filed by eligible lenders on or after January 1, 1996.

(c) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—

(1) in the matter preceding clause (i) of subparagraph (A), by striking "For a fiscal year prior to fiscal year 1994, the" and inserting "The"; and

(2) by amending subparagraph (B) to read as follows:

"(B)(i) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

"(ii) For the period beginning January 1, 1996 and ending September 30, 1996, and for each fiscal year thereafter, each guaranty agency shall receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

"(iii) The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(iv) Notwithstanding clauses (ii) and (iii)—

"(I) for each of the fiscal years 1996 through 1998, the Secretary shall pay an aggregate amount for such year of not more than $220,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph; and

"(II) for each of the fiscal years 1999 through 2002, the Secretary shall pay an aggregate amount for such year of not more than $180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.".

(d) SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.—Section 428(c)(6)(A) (20 U.S.C. 1078(c)(6)(A)) is amended—

(1) in the matter preceding clause (i)—

(A) by inserting "or on behalf of" after "made by"; and

(B) by inserting ", including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D," after "borrower"; and

(2) in clause (ii), by inserting after "an amount equal to" the following: "—

"(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 18.5 percent of the balance of the principal, accrued interest, and collection costs, outstanding at the time of such consolidation; or

"(II) for all other loans,".

(e) RESERVE FUND REFORMS.—

(1) STRENGTHENING AND STABILIZING GUARANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (9)(C)(ii), by striking "80 percent" and inserting "76 percent"; and

(B) in paragraph (9)(E)—

(i) in the matter preceding clause (i), by striking "The Secretary may terminate a" and inserting "After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate such";

(ii) in clause (iv), by inserting "or" after the semicolon;

(iii) by striking clause (vi); and

(iv) in clause (v), by striking "; or" and inserting a period.

(2) ADDITIONAL AMENDMENTS.—Section 422 (20 U.S.C. 1072) is further amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such" and inserting "Except as provided in subparagraph (E) or (F) of section 428(c)(9), such"; and

(B) in subsection (g), by amending paragraph (4) to read as follows:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

(1) AMENDMENT.—Section 428(l) (20 U.S.C. 1078(l)) is amended—

(A) by striking paragraph (2); and

(B) by striking "(l) PRECLAIMS" and all that follows through "Upon receipt" and inserting the following:

"(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Upon receipt".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans for which the first delinquency occurs on or after January 1, 1996.

(g) RESERVE RATIOS.—Section 428(c)(9)(A) (20 U.S.C. 1078(c)(9)(A)) is amended—

(1) in clause (i), by inserting "and" after the semicolon;

(2) in clause (ii), by striking "; and" and inserting a period; and

(3) by striking clause (iii).

(h) GUARANTY AGENCY REIMBURSEMENT.—

(1) IN GENERAL.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) in subparagraph (A), by striking "98 percent" and inserting "96 percent"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "88 percent" and inserting "86 percent"; and

(ii) in clause (ii), by striking "78 percent" and inserting "76 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

SEC. 4005. AMENDMENTS AFFECTING FFELP LENDERS AND LOAN HOLDERS.

(a) RISK SHARING BY THE LOAN HOLDERS.—

(1) AMENDMENT.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking "not less than 98 percent" and inserting "95 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(b) LENDERS-OF-LAST-RESORT.—Section 428(j)(2) (20 U.S.C. 1078(j)(2)) is amended—

(1) in subparagraph (A), by striking "60 days" and inserting "15 days"; and

(2) in subparagraph (B), by striking "two rejections from eligible lenders" and inserting "one rejection from an eligible lender".

(c) EXCEPTIONAL PERFORMANCE INSURANCE REDUCTION.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the paragraph heading, by striking "100 PERCENT"; and

(2) by striking "100 percent" and inserting "95 percent (or 100 percent in the case of a lender-of-last-resort)".

(d) LOAN FEES FROM LENDERS.—

(1) AMENDMENT.—Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amended by striking "0.50 percent" and inserting "0.80 percent".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(e) LENDER AND HOLDER REBATE.—

(1) AMENDMENT.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(g) SUBSIDY REBATE ON STAFFORD AND PLUS LOANS.—

"(1) REBATE.—Each holder of a subsidized or unsubsidized Federal Stafford Loan under this part, or a Federal PLUS loan under section 428B, shall pay to the Secretary, on June 30 and December 31 of each year, a subsidy rebate in an amount equal to 0.035 percent of the unpaid principal amount of each such loan that such holder holds during the repayment period described in section 428(b)(7), except that, notwithstanding subparagraphs (A), (B), and (C) of section 428(b)(7), such holder shall pay a subsidy rebate under this paragraph with respect to such loan during any period of authorized forbearance.

"(2) PAYMENT OF REBATE.—The subsidy rebate shall be paid, to the extent possible, by subtracting from amounts owed such holder under section 438(b) (after deducting from such amounts any amount owed by such holder under section 438(d) for the quarters ending June 30 and December 31, as appropriate) the amount of subsidy rebates owed by such holder. To the extent the amounts owed such holder under section 438(b) (after making the deduction described in the preceding sentence) are insufficient to pay in full the subsidy rebates due from such holder, such holder shall pay the insufficiency by check or wire transfer of funds, in a manner determined by the Secretary.

"(3) DEPOSIT.—The Secretary shall deposit all subsidy rebates collected under the second sentence of paragraph (2) into the insurance fund established in section 431.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(f) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year" before "for (I)";

(2) in subclause (I), by inserting "such" before "lender at least once";

(3) in subclause (II), by inserting "such" before "a lender that is audited"; and

(4) by striking "if the lender" and inserting "if such lender".

SEC. 4006. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct its affairs as a private, for-profit corporation and to carry out its purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and to any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 6 months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

SEC. 4007. EXTENSION OF PROGRAM DURATION.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking "1998" and inserting "2002";

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—

(A) by striking "1998" and inserting "2002"; and

(B) by striking "2002" and inserting "2006"; and

(3) in section 428C(e) (20 U.S.C. 1078–3(e)), by amending the first sentence to read as follows: "The authority to make loans under this section expires at the close of September 30, 2002.".

Subtitle B—Provisions Relating to the Employee Retirement Income Security Act of 1974

SEC. 4101. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE,—Subsection (a) shall apply to plan years beginning after December 31, 1995.

TITLE V—ENERGY AND NATURAL RESOURCES PROVISIONS

Subtitle A—Nuclear Regulatory Commission Annual Charges

SEC. 5001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle B—Department of Energy Assets

CHAPTER 1—UNITED STATES ENRICHMENT CORPORATION

SEC. 5201. SHORT TITLE.

This chapter may be cited as the "USEC Privatization Act".

SEC. 5202. DEFINITIONS.

For purposes of this chapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at

Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 5205.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 5204.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 5203. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 5204. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5205 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 5203(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5205. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this chapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this chapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 5206. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 5207,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 5208(a),

(4) the Corporation's right to purchase power from the Secretary under section 5208(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 5207. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993 at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 5208. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts,

agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 5209. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this chapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 5208 or any other action the Corporation is required to take under this chapter.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this chapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5210. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint-labor management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes an election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for

those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 5211. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 5212. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual maximum deliveries to end users

Year:	*(millions lbs. U_3O_8 equivalent)*
1998	*2*
1999	*4*
2000	*6*
2001	*8*
2002	*10*
2003	*12*
2004	*14*
2005	*16*
2006	*17*
2007	*18*
2008	*19*
2009 and each year thereafter	*20.*

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary to national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this chapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 5213. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than a gaseous diffusion plant. The terms and conditions for such service shall be no more favorable than those the Secretary offers any other generator of such wastes generated by uranium enrichment plants licensed by the Nuclear Regulatory Commission.

(2) The Secretary shall recover the cost of providing the service in paragraph (1), including a pro rata share of any capital costs, by charging the Corporation a fee for such service in an amount equal to the price charged uranium enrichment plants licensed by the Nuclear Regulatory Commission, but in no event shall the Secretary charge any generator more than an amount equal to that which would be charged by commercial, state, regional, or interstate compact entities for disposal of such waste.

(b) AGREEMENTS WITH OTHER PERSONS.—The Corporation or any other generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes, but shall have no authority under this or any other law to require a State or interstate compact to treat, store, or dispose of such waste in a State or interstate compact facility without the State or compact's consent.

SEC. 5214. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 5215. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 5216. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297-2297e-7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 5217. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1) is amended by inserting "or its successor" before the period.

CHAPTER 2—DEPARTMENT OF ENERGY

SEC. 5221. SALE OF DOE ASSETS

(a) ASSET MANAGEMENT AND DISPOSITION PROGRAM.—

(1) IN GENERAL.—In order to maximize the use of Department of Energy assets and to reduce overhead and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in not less than $225,000,000 in receipts and savings by October 1, 2000.

(2) ITEMS TO BE INCLUDED.—The program shall include an inventory of assets in the care of the Department and its contractors; the recovery, reuse, and stewardship of assets; and disposition of a minimum of 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals, and 91,000,000 pounds of base metals.

(b) FEDERAL PROPERTY AND ADMINSTRATIVE SERVICES ACT.—The disposition of assets under this section is not subject to section 202 or 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7,000,000 per year, the remainder of the proceeds from dispositions under this subpart shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5222. SALE OF WEEKS ISLAND OIL.

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell 32,000,000 barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility. The Secretary shall, to the greatest extent practicable, sell oil from the reserve in a manner that minimizes the impact of such sale upon supply levels and market forces.

SEC. 5223. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AMENDMENT.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) is amended by adding at the end the following:

"USE OF UNDERUTILIZED FACILITIES

"SEC. 168. (a) AUTHORITY.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum products owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

"(b) PROTECTION OF FACILITIES.—All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all costs of storage and removals of petroleum products, including the cost of replacement facilities necessitated as a result of any withdrawals.

"(c) ACCESS TO STORED OIL.—The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not affect the ability of the United States to withdraw, distribute, or sell petroleum from the Strategic Petroleum reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

"(d) AVAILABILITY OF FUNDS.—Beginning in fiscal year 2001 and in each fiscal year thereafter except for fiscal years 2003 and 2004, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following:

"Sec. 168. Use of underutilized facilities.".

Subtitle C—Natural Resources

CHAPTER 1—DEPARTMENT OF THE INTERIOR CONVEYANCES

Subchapter A—California Directed Land Sale

SEC. 5301. CONVEYANCE OF PROPERTY.

All right, title and interest of the United States in the property depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled "Location Map for Ward Valley Site", located in San Bernardino Meridian, Township 9 North, Range 19 East, and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed to the Department of Health Services of the State of California upon the tendering of $500,100 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in this section and, as part of the consideration paid for such property, such conveyance is declared to meet and fully comply with any otherwise applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Secretary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law.

Subchapter B—Helium Reserves

SEC. 5311. SHORT TITLE.

This subchapter may be cited as the "Helium Act of 1995".

SEC. 5312. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 5313. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.

"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

"(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION AND WITHDRAWAL.—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field,

and related helium transportation and withdrawal facilities.

"(b) Cessation of Production, Refining, and Marketing.—Not later than 18 months after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except activities described in subsection (a).

"(c) Disposal of Facilities.—

"(1) In general.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in section (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

"(2) Applicable law.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

"(3) Proceeds.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

"(4) Costs.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(5) Exception.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

"(d) Existing Contracts.—

"(1) In general.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

"(2) Costs.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"(a) In General.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

"(b) Treatment.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 5314. SALE OF CRUDE HELIUM.

(a) Subsection 6(a) is amended by striking "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(b) Subsection 6(b) is amended—

(1) by inserting "crude" before "helium"; and

(2) by adding the following at the end: "Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.".

(c) Subsection 6(c) is amended—

(1) by inserting "crude" after "Sales of"; and

(2) by striking "together with interest as provided in this subsection" and all that follows through the end of the subsection and inserting "all funds required to be repaid to the United States as of October 1, 1995 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—

"(1) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

"(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".

(d) Subsection 6(d) is amended to read as follows:

"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).".

(e) Subsection 6(e) is repealed.

(f) Subsection 6(f) is amended—

(1) by striking "(f)" and inserting "(e)(1)"; and

(2) by adding the following at the end:

"(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

"(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.".

SEC. 5315. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) Stockpile Sales.—

"(1) Commencement.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between such date and January 1, 2015.

"(2) Times of sale.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

"(3) Price.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

"(b) Discovery of Additional Reserves.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".

SEC. 5316. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 5317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) In General.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

(b) Land Description.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

(1) First tract.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W.D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;

Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;

Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.

(2) Second tract.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones;

Thence, North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78;

Thence, North 0 degrees 10 minutes West with the East line of the West half of Section 78;

Thence, South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

Thence, South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

Containing an area of 331 acres, more or less.

CHAPTER 2—ARCTIC COASTAL PLAIN LEASING AND REVENUE ACT

SEC. 5312. SHORT TITLE.

This chapter may be cited as the 'Arctic Coastal Plain Leasing and Revenue Act of 1995".

SEC. 5322. DEFINITIONS.

When used in this chapter the term—

(1) "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1, 549,000 acres; and

(2) "Secretary" except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 5333. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) Authorization.—The Congress hereby authorizes and directs the Secretary, acting through the Bureau of Land Management in consultation with the Fish and Wildlife Service and other appropriate Federal officers and agencies, to take such actions as are necessary *to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain and to administer the provisions of this chapter through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.*

(b) REPEAL.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(d) SOLE AUTHORITY.—This chapter shall be the sole authority for leasing on the Coastal Plain. Provided, That nothing in this chapter shall be deemed to expand or limit state and local regulatory authority.

(e) FEDERAL LAND.—The Coastal Plain shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982 .

(f) SPECIAL AREAS.—The Secretary, after consultation with the State of Alaska, City of Kaktovik, and the North Slope Borough, is authorized to designate up to a total of 45,000 acres of the Coastal Plain as Special Areas and close such areas to leasing if the Secretary determines that these Special Areas are of such unique character and interest so as to require special management and regulatory protection. The Secretary may, however, permit leasing of all or portions of any Special Areas within the Coastal Plain by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(g) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this subtitle.

(h) CONVEYANCE.—In order to maximize federal revenues by removing clouds on title of lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 5334. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this chapter, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated no later than fourteen months after the date of enactment of this chapter and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this chapter and all operations on the Coastal Plain related to the leasing, exploration, development and production of oil and gas.

(b) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 5335. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal and procedural requirements of the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of the leasing program authorized by this chapter, to conduct the first lease sale and any subsequent lease sale authorized by this chapter, and to grant rights-of-way and easements to carry out the purposes of this chapter.

SEC. 5336. LEASE SALES.

(a) LEASE SALES.—Lands may be leased pursuant to the provisions of this chapter to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale; and

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALES ON COASTAL PLAIN.—The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but no less than two hundred thousand acres and no more than three hundred thousand acres shall be offered. If the total acreage nominated is less than two hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. With respect to subsequent lease sales, the Secretary shall offer for lease no less than two hundred thousand acres of the Coastal Plain. The initial lease sale shall be held within twenty months of the date of enactment of this chapter. The second lease sale shall be held no later than twenty-four months after the initial sale, with additional sales conducted no later than twelve months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 5337. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) ANTITRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and the Attorney General shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.

(c) SUBSEQUENT TRANSFERS.—No lease issued under this chapter may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(d) IMMUNITY.—Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(e) DEFINITIONS.—As used in this section, the term—

(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and

(2) "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12) as amended.

SEC. 5338. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this chapter shall—

(1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible.

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5337 of this chapter;

(4) require that exploration activities pursuant to any lease issued or maintained under this chapter shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;

(5) require that all development and production pursuant to a lease issued or maintained pursuant to this chapter shall be conducted in accordance with development and production plans approved by the Secretary;

(6) require posting of bond as required by section 5339 of this chapter;

(7) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(8) contain such provisions relating to rental and other fees as the Secretary may prescribe at the time of offering the area for lease;

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the

terms of this chapter in the interest of conservation of the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be canceled by the Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address of record;

(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this chapter, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this chapter, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this chapter;

(12) provide that cancellation of a lease under this chapter shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site;

(13) allow the lessee, at the discretion of the Secretary, to make written relinquishment of all rights under any lease issued pursuant to this chapter. The Secretary shall accept such relinquishment by the lessee of any lease issued under this chapter where there has not been surface disturbance on the lands covered by the lease;

(14) provide that for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require that, to the greatest extent practicable, lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof, and the Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage;

(15) require that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;

(16) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;

(17) provide that the standard of reclamation for lands required to be reclaimed under this chapter be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(18) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by section 5333(a) of this chapter;

(19) provide that the holder of a lease, its agents, and contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing Section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State; and

(20) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this chapter and the regulations issued under this chapter.

SEC. 5339. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount—

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 5340. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this chapter shall provide the Secretary access to all data and information from any lease granted pursuant to this chapter (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If processed and analyzed information provided pursuant to paragraph (1) is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such processed and analyzed information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1)—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 5341. EXPEDITED JUDICIAL REVIEW.

(a) Any complaint seeking judicial review of any provision in this chapter, or any other action of the Secretary under this chapter may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint: Provided, That any complaint seeking judicial review of an action of the Secretary in promulgating any regulation under this chapter may be filed only in the United States Court of Appeals for the District of Columbia.

(b) Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 5342. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of Section 28(c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued as required by section 5334 of this chapter shall include provisions granting rights-of-way and easements across the Coastal Plain.

SEC. 5343. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this chapter.

(b) RESPONSIBILITY OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this chapter to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, subsistence resources, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this chapter

to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this chapter or conditions contained in any lease issued pursuant to this chapter to assure compliance with such environmental or safety regulations or conditions; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 5344. NEW REVENUES.

(a) DISTRIBUTION OF REVENUES.—(1) Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, fees, or interest derived from the leasing of oil and gas within the Coastal Plain shall be deposited into the Treasury of the United States, solely as provided in this subsection.

(2) Fifty percent of all revenues referred to in paragraph (1) shall be paid by the Secretary of the Treasury semiannually to the State of Alaska, on March 30 and September 30 of each year.

(3)(A) The Secretary of the Treasury is directed to monitor the revenues deposited into the Treasury from oil and gas leases issued under the authority of this chapter. Except as provided in subparagraph (B), all monies deposited into the Treasury from such oil and gas leases in excess of $2,600,000,000 shall be distributed as follows:

(i) Fifty percent shall be paid to the State of Alaska in the manner provided in this subsection; and

(ii) Fifty percent shall be deposited into a special fund established in the Treasury of the United States known as the "National Park, Refuge, and Fish and Wildlife Renewal and Protection Fund (hereinafter in this section referred to as the "renewal fund").

(B) Deposits into the renewal fund shall not exceed $250,000,000 over the life of the renewal fund. Monies in excess of such amount shall be deposited as miscellaneous receipts in the Treasury of the United States.

(C) Deposits into the renewal fund shall remain available until expended. The Secretary of the Treasury is directed to develop procedures for use of the renewal fund to ensure accountability and demonstrated results.

(b) USE OF RENEWAL FUND.—Monies from the renewal fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and shall be expended by the Secretary as follows:

(1) Twenty-five percent shall be used for infrastructure needs at units of the National Park System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and Infrastructure projects associated with park resource protection;

(2) Twenty-five percent shall be used for infrastructure needs at units of the National Wildlife Refuge System, including but not limited to, facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and infrastructure projects associated with refuge resource protection;

(3) Twenty-five percent shall be used for acquisition of important habitat lands for threatened or endangered species from owners of private property. Such lands shall be acquired solely on a willing seller basis and shall be managed by the Secretary for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534); and

(4) Twenty-five percent shall be available for wetlands projects in accordance with the applicable provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(c) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury into which shall be deposited $30,000,000 from revenues derived from the federal share of the first lease sale authorized under this chapter. The Secretary of the Treasury shall invest the funds in the Community Assistance Fund in interest bearing government securities. No more than $5,000,000 per year from the Community Assistance Fund, shall be available to the Secretary for distribution, upon application and without further appropriation, to organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are directly impacted by the exploration and production of oil and gas on the Coastal Plain authorized by this chapter to provide public and social services and facilities required in connection with such activities.

CHAPTER 3—WATER PROJECTS

Subchapter A—Irrigation Prepayment

SEC. 5351. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.

Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat.1269, 43 U.S.C. 390mm(a)) is amended:

(1) by adding at the beginning:

"Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or district holding such a contract or receiving water under such a contract with the United States may prepay the construction costs referred to in this section either through accelerated or lump sum payments. For the purposes of such prepayment only, the project to which such contract applies is declared to be complete and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of any prepayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget: Provided, That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future tax revenues if the individual or district plans to use federally tax-exempt financing for such prepayment.";

(2) by striking "lands in a district" and inserting: "lands in a district, or lands owned or leased by a person";

(3) by striking "obligation of a district" and inserting: "obligation of a district or a person";

(4) by striking "enactment of this Act." and inserting: "enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor cause the full cost pricing limitation of this Act or the ownership limitations contained in any provision of federal reclamation law to apply to the lands to which such capital costs apply.".

SEC. 5352. CONFORMING AMENDMENT.

Subsection 213 (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390 mm (c)) is repealed.

Subchapter B—Hetch Hetchy

SEC. 5353. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 242, chapter 4), is amended—

(1) by striking "$30,000" in the first sentence and inserting "$2,000,000"; and

(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

Subchapter C—Collbran Project

SEC. 5355. COLLBRAN PROJECT.

(a) SHORT TITLE.—This subchapter may be cited as the "Collbran Project Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this subchapter:

(1) DISTRICTS.—The term "Districts" means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns), which are political subdivisions of the State of Colorado.

(2) FEDERAL RECLAMATION LAWS.—The term "Federal reclamation laws" means the Act of June 17, 1902 and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted pursuant to those Acts).

(3) PROJECT.—The term "Project" means the Collbran Reclamation Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including The Vega Recreation Facilities);

(B) Leon-Park Dams and Feeder Canal;

(C) Southside Canal;

(D) East Fork Diversion Dam and Feeder Canal;

(E) Bonham-Cottonwood Pipeline;

(F) Snowcat Shed and Diesel Storage;

(G) Upper Molina Penstock and Power Plant;

(H) Lower Molina Penstock and Power Plant;

(I) the diversion structure in the tailrace of the Lower Molina Power Plant;

(J) all substations and switchyards;

(K) a non-exclusive easement for the use of existing easements or rights-of-way owned by the United States on or across nonfederal lands which are necessary for access to Project facilities;

(L) title to lands reasonably necessary for all Project facilities except for land described in subparagraph (K) or subsection (c)(1)(B) or (C);

(M) all permits and contract rights held by the Bureau of Reclamation, including, without limitation, contract or other rights relating to the operation, use, maintenance, repair, or replacement of the water storage reservoirs located on the Grand Mesa which are operated as a part of the Project;

(N) all equipment, parts inventories, and tools;

(O) all additions, replacements, betterments, and appurtenances to any of the above; and

(P) a copy of all data, plans, designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.

(4) VEGA RECREATION FACILITIES.—The term "Vega Recreation Facilities" includes, but is not limited to, buildings, campgrounds, picnic areas, parking lots, fences, boat docks and ramps, electrical lines, water and sewer systems,

trash and toilet facilities, roads and trails, and other structures and equipment used for State park purposes at and near Vega Reservoir such as recreation, maintenance and daily and overnight visitor use, and lands above the high water level of Vega Reservoir within the area previously defined by the Department of the Interior as the "Reservoir Area Boundary" which have not historically been utilized for Collbran Project water storage and delivery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface thereof, and construction, operation, maintenance and replacement of such recreation facilities below the high water line. Such facilities shall also include improvements constructed or added as a result of the agreements referred to in section (c)(6).

(c) CONVEYANCE OF THE COLLBRAN PROJECT.—

(1) IN GENERAL.—

(A) CONVEYANCE TO DISTRICTS.—The Secretary of the Interior shall convey to the Districts all right, title, and interest of the United States in and to the Project, as described in subsection (b)(3), by quitclaim deed and bill of sale, without warranties, in the last quarter of fiscal year 2000, subject only to the requirements of this section. Until such conveyance occurs, the Bureau of Reclamation shall continue to provide for the operation, maintenance, repair, and replacement of Project facilities and the storage reservoirs on the Grand Mesa to the extent such responsibilities are the responsibility of the Bureau of Reclamation and have not been delegated to the Districts prior to the date of enactment of this Act or are delegated or transferred to the Districts by agreement thereafter, so that at the time of conveyance such facilities are in the same condition as, or better condition than, the condition of the facilities on the date of enactment of this Act.

(B) EASEMENTS ON NATIONAL FOREST SYSTEM LANDS.—The Secretary of Agriculture shall grant, in the last quarter of fiscal year 2000, subject only to the requirements of this section; (i) a non-exclusive easement on and across National Forest System lands to the Districts for ingress and egress on existing access routes to each existing component of the Project and to the existing storage reservoirs on the Grand Mesa which are operated as a part of the Project; (ii) a non-exclusive easement on National Forest System lands for the operation, use, maintenance, repair, and replacement, but not enlargement, of the existing storage reservoirs on the Grand Mesa to the owners and operators of such reservoirs which are operated as a part of the Project; which easement may be exercised in the event that the existing land use authorizations for such storage reservoirs are restricted, terminated, relinquished, or abandoned, and which easement shall not be subject to conditions or requirements that interfere with or limit the use of such reservoirs for water supply or power purposes; and (iii) a non-exclusive easement to the Districts for the operation, use, maintenance, repair, and replacement, but not enlargement, of those components of Project facilities which are located on National Forest System lands, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of Agriculture for non-routine, non-emergency activities that occur on such easements.

(C) EASEMENTS TO DISTRICTS FOR SOUTHSIDE CANAL.—The Secretary of the Interior shall grant to the Districts, in the last quarter of fiscal year 2000, subject only to the requirements of this section, (i) a non-exclusive easement on and across lands administered by agencies within the Department of the Interior for ingress and egress on existing access routes to and along the Southside Canal, and (ii) a non-exclusive easement for the operation, use, maintenance, repair, and replacement of the Southside Canal, subject to the requirement that the Districts shall provide reasonable notice to and the opportunity for consultation with the designated representative of the Secretary of the Interior for non-routine, non-emergency activities that occur on such easements.

(2) RESERVATION.—The transfer of rights and interests pursuant to paragraphs (1)(A), (B), and (C) shall reserve to the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act were open to public use for fishing, boating, hunting, and other outdoor recreation purposes and other public uses such as grazing, mineral development and logging: Provided, That the United States may allow for continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.

(3) CONVEYANCE TO STATE OF COLORADO.—All right, title, and interest in the Vega Recreation Facilities shall remain in the United States until the terms of the agreements referred to in paragraph (6) have been fulfilled by the United States. At such time, all right, title, and interest in the Vega Recreation Facilities shall be conveyed by the Secretary of the Interior to the State of Colorado, Division of Parks and Outdoor Recreation.

(4) PAYMENT.—

(A) IN GENERAL.—At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations for the Project), of which—

(i) $12,300,000 shall be deposited in the general fund of the United States Treasury; and

(ii) $600,000 shall be deposited in a special account in the United States Treasury and shall be available to the United States Fish and Wildlife Service, Region 6, without further appropriation, for use in funding Colorado operations and capital expenditures associated with the Grand Valley Water Management Project for the purpose of recovering endangered fish in the Upper Colorado River Basin, as identified in the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, or such other component of the Recovery Implementation Program within Colorado that is selected with the concurrence of the Governor of the State of Colorado.

(B) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in subparagraph (A) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986.

(5) OPERATION OF PROJECT.—

(A) IN GENERAL.—The Project was authorized and constructed to place water to beneficial use for authorized purposes within the State of Colorado. The Project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this Act for the purposes for which the Project was authorized under the Act of July 3, 1952 (66 Stat. 325, chapter 565). The Districts shall attempt to the extent practicable, taking into consideration historic Project operations, to notify the State of Colorado of changes in historic Project operations which may adversely affect State park operations.

(B) REQUIREMENTS.—During the 40-year period described in subparagraph (A)—

(i) the Districts shall annually submit to the Secretary of Agriculture and the Colorado Department of Natural Resources a plan for operation of the Project, which plan shall—

(I) report on Project operations for the previous year;

(II) provide a description of the manner of Project operations anticipated for the forthcoming year, which shall be prepared after consultation with the designated representatives of the Secretary of Agriculture, the Board of County Commissioners of Mesa County, Colorado, and the Colorado Department of Natural Resources; and

(III) certify that the Districts have operated and will operate and maintain the Project facilities in accordance with sound engineering practices; and

(ii) subject to subsection (d), all electric power generated by operation of the Project shall be made available to and be marketed by the Western Area Power Administration (including its successors or assigns).

(6) AGREEMENTS.—Conveyance of the Project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties thereto according to the terms of the agreements.

(d) OPERATION OF THE POWER COMPONENT.—

(1) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the Project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(2) POWER MARKETING.—

(A) EXISTING MARKETING ARRANGEMENT.—The Post-1989 Marketing Criteria, which provide for the marketing of power generated by the power component of the Project as part of the output of the Salt Lake City Area Integrated Projects, shall no longer be binding on the Project upon conveyance of the Project under subsection (c)(1).

(B) AFTER TERMINATION OF EXISTING MARKETING ARRANGEMENT.—

(i) IN GENERAL.—After the conveyance, the Districts shall offer all power produced by the power component of the Project to the Western Area Power Administration or its successors or assigns (referred to in this section as "Western"), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established in accordance with clause (ii). If Western declines to purchase the power after consultation with its affected preference customers, such power shall then be offered at the same rates first to Western's preference customers located in the Salt Lake City Area Integrated Projects marketing area (referred to in this section as the "SLCAIP preference customers"). Thereafter, such power may be sold to any other party: Provided, however, That no such sale may occur at rates less than rates established in accordance with clause (ii) unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.

(ii) The rate for power initially offered to Western and its SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for

(I) annual debt service and/or recoupment of the cost of capital for the amount specified in subsection (c)(4)(A)(i) of this section, less the sum of $310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District), and

(II) the cost of operation, maintenance, and replacement of the power component of the Project.

Such costs and rate shall be determined in a manner consistent with the current principles *followed by the Secretary of the Interior and by Western in its annual power and repayment study.*

(e) LICENSE.—

(1) Prior to the conveyance of the Project to the Districts, the Commission shall issue to the Districts a license or licenses as appropriate under part I of the Federal Power Act, as amended, (16 U.S.C. 791 et seq.), authorizing for a term of 40 years the continued operation and maintenance of the power component of the Project.

(2) The license issued pursuant to subsection (1):

(A) shall be for the purpose of operating, using, maintaining, repairing, and replacing the power component of the Project as authorized by the Act of July 3, 1952 (66 Stat. 325, chapter 565);

(B) shall be conditioned upon the requirement that the power component of the project continue to be operated and maintained in accordance with the authorized purposes of the project;

(C) shall be subject only to the provisions of Part I of the Federal Power Act, except the word "constructed" in section 3(10); the four provisos of section 4(e); section 6 to the extent it requires the licensee's acceptance of those terms and conditions of the Act that this subsection waives; section 10(e) as concerns annual charges for the use and occupancy of federal lands and facilities; section 10(f); section 10(j); section 18; section 19; section 20; and section 22 of the Federal Power Act, 16 U.S.C. 796(10), 797(e), 799, 803(e), 803(f), 803(j), 811, 812, 813, and 815; and shall not be subject to the standard "L-Form" license conditions, published at 54 FPC 1792-1928 (1975), the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.), as amended, section 2402 of the Energy Policy Act of 1992 (16 U.S.C. 797c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), or any other Act otherwise applicable to the licensing of the project.

(3) The license issued under paragraph (1) is deemed to meet the licensing standards of the Federal Power Act, including section 10(a) and the last sentence of section 4(e), 16 U.S.C. 797(e).

(4) Any power site reservation established by the President, the Secretary of the Interior, or pursuant to section 24 of the Federal Power Act (16 U.S.C. 818) or any other law, which exists on any lands, whether federally or privately owned, that are included within the boundaries of the project shall be vacated by operation of law upon issuance of the license for the project.

(5) All requirements of Part I of the Federal Power Act and of any other Act applicable to the licensing of a hydroelectric project shall apply to the project upon expiration of the license issued under this section.

(6) For purposes of this section, "Commission" means the Federal Energy Regulatory Commission.

(7) The operation of the Project shall be subject to all applicable state and federal laws subsequent to the issuance of the license pursuant to paragraph (1).

(f) INAPPLICABILITY OF NEPA.—Neither the conveyance of the Project nor the issuance of easements pursuant to this section constitutes a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such Act.

(g) INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.—On conveyance of the Project to the Districts—

(1) the Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the Contract for use of Project facilities for Diversion of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the Project shall no longer be subject to or governed by the Federal reclamation laws.

(h) DISTRICTS' LIABILITY.—The Districts shall be liable, to the extent allowed under State law, for all acts or omissions relating to the operation and use of the Project by the Districts that occur subsequent to the conveyance under section (c), including damages to Federal lands or facilities which result from the failure of Project facilities.

(i) EFFECT ON STATE LAW.—Nothing in this section shall be construed to impair the effectiveness of any State or local law (including regulations) relating to land use.

(j) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter shall not be considered a disposal of Federal surplus property under the following provisions of law:

(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

Subchapter D—Sly Park

SEC. 5356. SLY PARK.

(a) SHORT TITLE.—This subchapter may be cited as the "Sly Park Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this subchapter:

(1) The term "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the Act entitled "An Act to authorize the American River Basin development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.

(c) SALE OF THE SLY PARK UNIT.—

(1) IN GENERAL.—The Secretary shall, on or before December 31, 1997, and upon receipt of the payment for the original construction debt described in paragraph (2), sell and convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. At the time the Sly Park Unit is conveyed, the Secretary shall also transfer and assign to the District the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474.

(2) SALE PRICE.—The sale price for the Sly Park Unit shall be $3,993,982, which is the outstanding balance for the original construction of the Sly Park Unit payable to the United States. Payment shall be deposited as miscellaneous receipts in the Treasury and credited to the Central Valley Project Restoration Fund. Payment of such price shall extinguish all payment obligations under contract numbered 14-06-200-949 between the District and the Secretary.

(d) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities, and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

(e) CERTAIN CONTRACT OBLIGATIONS NOT AFFECTED.—The sale of the Sly Park Unit under this section shall not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.

(f) TREATMENT OF SALES FOR PURPOSES OF CERTAIN LAWS.—The sales of assets under this subchapter part shall not be considered a disposal of Federal surplus property under the following provisions of law:

(1) Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(2) Section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

Subchapter E—Central Utah Project

SEC. 5357. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The prepayment may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid and may not be adjusted on the basis of the type of prepayment financing utilized by the District: Provided That the District shall complete all payments authorized pursuant to this section by the end of fiscal year 2002.".

CHAPTER 4—FEDERAL OIL AND GAS ROYALTIES

SEC. 5361. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and

any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

"(18) 'administrative proceeding' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or a delegated State other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'delegated State' means a State which, pursuant to an agreement or agreements under section 205, performs authorities, duties, responsibilities, or activities of the Secretary which may be performed by a State under the Constitution of the United States for all lands within the State, including, but not limited to—

"(A) activities under sections 111 and 115;

"(B) collection, audit, lease and post-lease management activities, and applicable enforcement activities;

"(C) inspections (including activities described in section 108;

"(D) approval of pooling, unitization, and communitization agreements; and

"(E) investigations;

"(23) 'demand' means—

"(A) an order to pay issued by the Secretary or the applicable delegated State that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

"(24) 'obligation' means—

"(A) any duty of the Secretary or, if applicable, a delegated State—

"(i) to take oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or

"(ii) to pay, refund, offset, or credit monies including but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind at or near the lease (unless the lease expressly provides for delivery at a different location); or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment, which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(25) 'order to pay' means a written order issued by the Secretary or the applicable delegated State which—

"(A) asserts a specific, definite, and quantified obligation claimed to be due, and

"(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

"(26) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(27) 'payment' means satisfaction, in whole or in part, of an obligation;

"(28) 'penalty' means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(29) 'refund' means the return of an overpayment;

"(30) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

"(31) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation; and

"(32) 'United States' means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.".

SEC. 5362. MAXIMIZING RECEIPTS THROUGH STATE EFFORTS.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:

"(a) In order to provide incentives to States to maximize the amount of oil and gas receipts collected on lease obligations within the six-year period of limitations, and consequently to maximize the Federal share of such receipts to the United States Treasury, upon written request of a State, the State, pursuant to an agreement or agreements and consistent with subsection (c), may perform all or part of the authorities, duties, responsibilities, and activities of the Secretary under this Act which may be delegated to a State under the Constitution of the United States for all Federal lands within the State. The delegated State shall assume and perform the authorities, duties, responsibilities, or activities delegated under this section. To avoid duplication of effort, any authority, duty, responsibility, or activity delegated to a State under this Act with respect to all Federal lands within the State may not be carried out by the Secretary. Under any such agreement, the Secretary shall share oil or gas royalty management information.".

(b) DETERMINATION.—Section 205(b) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(b)) is amended by striking "is authorized to" and inserting "shall".

(c) FEDERAL-STATE ROYALTY COLLECTION EFFORTS.—Subsection (c) section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking "which define" and all that follows and inserting "within 18 months after the date of enactment of section 115, under which States may perform the authorities, duties, responsibilities, and activities under this title which are subject to delegation, based on the recommendations of the States concerned following consultation with affected persons. If the Secretary decides not to follow any recommendations supported by all States concerned, the Secretary shall justify such decision within 30 days after making such decision. In carrying out this section the Secretary shall provide for reasonable flexibility to a State to perform any authority, duty, responsibility or activity delegated hereunder in a more efficient and cost-effective manner and provide the States concerned a direct role in determining such requirements, procedures and policies. To ensure efficient and timely collections of royalties pursuant to this Act, the delegated States shall provide—

"(1) for the effective and efficient performance of any authority, duty, responsibility or activity delegated under this Act;

"(2) for the consistent and uniform performance among the delegated States of any authority, duty, responsibility or activity delegated under this Act;

"(3) for valuation under the terms of the leases and applicable Federal statutes; and

"(4) for uniform reporting form and reporting requirements for all Federal lessees, unless the State and all affected parties otherwise agree.".

(d) PERFORMANCE.—Subsection (d) of section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended by striking ", pertaining" and all that follows and inserting the following: "for requirements pertaining to records and accounts to be maintained and reporting procedures to be required by delegated States under this section. The records and accounts under such reporting procedures shall be sufficient to allow the Secretary to monitor the performance of any delegated State under this section. The applicable delegated State and the Secretary shall agree to terms and conditions for inclusion into an agreement to perform all or part of the authorities, duties, responsibilities, and activities under this title consistent with subsection (c).".

(e) STATE ACTIONS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1734) is amended by adding at the end the following:

"(d) With respect to enforcement of an obligation under this Act, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.".

(f) SAVINGS PROVISION.—Nothing in the amendments made by this section shall impair any agreement, or any extension thereof, existing under section 205 as in effect on the day before the date of enactment of this Act. Following enactment of this Act, any State which is a party to an existing agreement under such section under which the State has been delegated audit or inspection responsibility, may issue orders to pay, subpoenas, or notices to perform restructured accounting and may continue to perform audits or inspections under terms and conditions consistent with the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by this chapter.

(g) RECEIPTS.—Section 205(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(f)) is amended by adding at the end the following: "Such costs shall be allocable for the purposes of section 35(b) of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (commonly known as the "Mineral Leasing Act") (30 U.S.C. 191(b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. The Secretary shall compensate any State in the next succeeding fiscal year for the aggregate amount of such costs

incurred but not compensated due to such allocation for the current fiscal year. All money received from sales, bonuses, royalties, and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.".

SEC. 5363. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

"(a) IN GENERAL.—All duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees in a timely manner.

"(b) LIMITATION PERIOD.—

"(1) A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred. The Secretary, a delegated State, or a lessee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

"(2) The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code and section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

"(c) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—

"(A) The issuance of a subpoena to a lessee in accordance with the provisions of subsection (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (i) the lessee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B)(i) A subpoena for the purposes of this section which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such subpoena, but may not delegate such authority to any other person.

"(ii) A subpoena described in clause (i) may only be issued against a lessee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(I) the lessee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(II) the lessee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(III) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's responsibilities under this Act after the Secretary's or such delegated State's written request.

"(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

"(3) MISREPRESENTATION OR CONCEALMENT.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

"(4) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—(A) The issuance of a notice under subsection (D) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending 120 days after the date on which (i) the Secretary or the applicable delegated State receives written notice the accounting or other requirement has been performed, or (ii) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee when the Secretary or such delegated State determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

"(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(II) specify the reasons and factual bases for such order; and

"(III) be specifically identified as an 'order to perform a restructured accounting'.

"(C) An order to perform a restructured accounting shall not mean or be construed to include any other communication or action by or on behalf of the Secretary or a delegated State.

"(D) If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. A lessee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest elected State official having ultimate authority over the collection of royalties from leases on Federal lands within the state, may issue such notice, which may not be delegated to any other person.

"(e) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee shall be barred under this section prior to the running of the six-year period provided in subsection (b) in the event—

"(1) the Secretary or a delegated State has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary or a delegated State and a lessee have so agreed in writing.

"(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary or the

applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. Records required for administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall not be duplicated pursuant to section 3518(c)(1)(B) of title 44, United States Code.

"(g) TIMELY COLLECTIONS.—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the six-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary shall not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

"(h) APPEALS AND FINAL AGENCY ACTION.—

"(1) 30-MONTH PERIOD.—All orders issued by the Secretary or a delegated State are subject to appeal to the Secretary. No State shall impose any conditions which would hinder a lessee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 30 months from the date such proceeding was commenced or 30 months from the date of such enactment, whichever is later. The 30-month period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 30-month period referred to in paragraph (1)—

"(A) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the six-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

"(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely issued, the obligation which is the subject of the demand may be enforced beyond the six year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

"(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 5364. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) NOTICE.—The Secretary shall promptly notify each State concerned of a request for refund.

"(3) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(4) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

"(5) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 5365. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES.

(a) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section

6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the matter following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(b) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.".

(c) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties are due and payable at the end of the month following the month in which the estimated payment is made. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(d) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (c), is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

"(e) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (d), is amended by adding at the end the following:

"(l) The Secretary or the delegated State shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary or the delegated State fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—

(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by this section, is further amended by adding at the end the following:

"SEC. 116. ASSESSMENTS.

"Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on lessees who chronically submit erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Assessments.".

(g) LIABILITY FOR ROYALTY PAYMENTS.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.".

(h) CLERICAL AMENDMENT.—The heading of section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended to read as follows:

"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES".

SEC. 5366. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 5365 of this chapter, is further amended by adding at the end the following:

"SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.—The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production, provided that if royalty payments from a lease or leases, or well or wells is not shared with any State, such determination shall be made solely by the Secretary.

"(b) PREPAYMENT OF ROYALTY.—

"(1) I GENERAL.—Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not

earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may—

"(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

"(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

"(C) require the lessee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

"(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(3) SATISFACTION OF OBLIGATION.—Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a); provided, that such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty from the lease or leases or well or wells is not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 117. Alternatives for marginal properties.".

SEC. 5367. REPEALS.

(a) FOGRMA.—As applicable to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are repealed. Such repeal shall not affect cooperative agreements involving Indian tribes or Indian lands. Section 1 of such Act (relating to the table of contents) is amended by striking out the items relating to sections 202 and 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 5368. INDIAN LANDS.

The amendments and repeals made by this chapter shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 5369. PRIVATE LANDS.

This chapter shall not apply to any privately owned minerals.

SEC. 5369A. EFFECTIVE DATE.

Except as provided by section 115(f), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this chapter), this chapter, and the amendments made by this chapter, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

CHAPTER 5—MINING

SEC. 5371. SHORT TITLE.

This chapter may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5372. DEFINITIONS.

When used in this chapter—

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this chapter, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral or mineral that would be locatable if it were subject to disposition under the general mining laws, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this chapter.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(9) "Secretary" means the Secretary of the Interior.

SEC. 5373. RENTAL PAYMENT REQUIREMENTS.

(a) RENTAL PAYMENTS.—(1) After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary prior to September 1 of each year, until a patent has been issued therefor, an annual rental payment for each unpatented mining claim or site.

(2) LOCATION PAYMENT.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a $25.00 location payment, in lieu of the annual rental payment of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.

(3) EXEMPTION AND WAIVER.—(A) The owner of any mining claim or site who demonstrates to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied during the prior assessment year by the action or inaction of any State or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual rental payment requirements of paragraph (1) for the assessment year following the filing of the certification.

(B) The rental payment provided for in subsection 5373(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than ten unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a rental payment under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(4) AMOUNT OF ANNUAL RENTAL PAYMENT.—For each assessment year the annual rental payment payable for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

Table 1

Assessment Year:	Amount of Payment Per Site or Claim:
1996–1998	$100 per year
1999 and thereafter	$200 per year

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the rental payment has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 12 months after the date of forfeiture.

(b) ANNUAL LABOR.—(1) Beginning in 1999, amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 50 percent of the annual rental payment payable under this section for the following assessment year. During the assessment year in 1999, annual labor performed in 1998 may be credited toward the annual rental payment due in 1999.

(2) In order to receive credit under this subsection for annual labor work, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.

(3) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of rental payments due on all of the contiguous claims within that group.

(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore *qualifies as annual labor or other activities as determined by the Secretary. Acceptable labor and improvements include, but are not limited to, any of the following:*

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the claim or a contiguous claim.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.

(E) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 281), as amended.

(F) Reclamation conducted pursuant to State or Federal surface management laws or regulations.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) AMENDMENTS OF PUBLIC LAW 85–876.—The Act of September 2, 1958 (Public Law 85-876; 30 U.S.C. 281), is amended as follows:

(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and" after "without being limited to" and before "geological, geochemical and geophysical surveys" and by striking "Such" at the beginning of the last sentence and inserting "Airborne".

(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "experience to conduct" and before "geological, geochemical or geophysical surveys".

(3) Section 2 is amended by adding the following new subsection at the end thereof:

"(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).".

(e) RENTAL PAYMENT STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the rental payment is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(f) ANNUAL LABOR STATEMENT.—When the value of annual labor is credited towards part or all of the rental payment, subject to the 50-percent limit set forth in subsection (b)(1), the following shall apply:

(1) The rental payment statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, and the amount of labor used as a credit toward the rental payment for the current year.

(2) The annual labor statements must include a summary of the quantity, value and location of work done. This includes a listing of the physical work done, to include drilling, trenching, sampling and underground excavation, and the location of any environmental, geologic, geochemical, and geophysical surveys. The claim holder shall maintain sufficient records which document the value of the work claimed.

(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.

(4) To the extent that labor credited against the rental payment payable under this section is determined by a final action not to qualify as labor under the general mining laws, the claimant shall pay the insufficiency by making payment to the Secretary of an amount equal to the amount of the rental payment against which the insufficient labor was credited. If such payment is made within 30 days of the claimant's receipt of a notice of a final decision making such determination, the claim concerned shall not be forfeited or null or void, and the rental payment applicable to such claim shall be deemed timely paid.

(g) CREDIT AGAINST ROYALTY.—The annual claim rental payment payable in advance of the assessment year for any unpatented mining claim or site, or the aggregate rental payments from a group of contiguous claims or sites, shall be credited against the amount of royalty obligation accruing for that year for such claims or sites under section 5375.

(h) FAILURE TO COMPLY.—The failure of the owner to pay any claim rental payment for a mining claim or site by the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: Provided, That if such rental payment is paid on or before the 30th day after such payment was due under this section, such mining claim or site shall not be forfeited or null or void.

(i) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.

(j) RELATED PERSONS.—As used in this section, the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(k) REPEAL.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) are repealed.

SEC. 5374. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this chapter shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5375.

(b) RIGHT OF RE-ENTRY.—

(1) Except as provided in subsection 5374(c), and notwithstanding any other provision of law, the United States shall retain a right of re-entry in lands patented under section 5374.

(2) Such right of re-entry of the United States shall ripen if—

(A) the land is used by the patentee, or any subsequent owners, for any purpose other than conducting mineral activities in good faith;

(B) such use is not discontinued within a time period specified by the Secretary (but not earlier than 90 days after the Secretary provides the owner of the land with written notice pursuant to paragraph (2) to discontinue such use); and

(C) the Secretary elects to assert the right of re-entry in accordance with paragraph (3).

(3) The ripened right of re-entry retained by the United States pursuant to subparagraph (2) shall vest and all right, title and interest in such patented estate shall revert to the United States only if—

(A) the Secretary files a declaration of re-entry within 6 months of the requisite occurrences under paragraph (2) with the Office of the Bureau of Land Management in the state where the land subject to such right of re-entry is situated; and

(B) the Secretary records such declaration in the office of the county recorder of the county in which the lands subject to a reversion are situated within 30 days of filing under subparagraph (A).

(4) One year after the patent holder provides written notice to the Secretary that all mineral activities are completed and applicable reclamation is completed, the right of re-entry held by the United States and created under the subsection (b) shall expire unless within such period the Secretary notifies the patent holder in writing that he is exercising the right of re-entry held by the United States. At such time, ownership of the patented lands shall automatically revert to the United States, notwithstanding subparagraphs (A), (B) and (C) of subsection (b)(2). The Secretary may decline to exercise the right of re-entry and such rights shall continue if—

(a) solid waste or hazardous substances released on or from the patented estate may pose a threat to public safety or the environment; or

(b) acceptance of title would expose the United States to liability for past mineral activities on the patented estate.

(c) PROTECTION OF VALID EXISTING RIGHTS.—Notwithstanding any other provision of law, the requirements of this chapter (except with respect to rental payments in accordance with section 5373)—

(1) shall not apply to the mining claims and sites contained within those mineral patent applications pending at the Department as of September 30, 1995, which shall be processed under the general mining laws in effect immediately prior to the date of enactment of this chapter; and

(2) likewise shall not apply to the mining claims or sites for which there is on the date of enactment of this chapter a vested possessory property right against the Government under the general mining laws in effect immediately prior to the date of enactment of this chapter.

SEC. 5375. ROYALTY.

(a) IN GENERAL.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5374(c) applies) or any mining claim patented under subsection 5374(a) shall be subject to a royalty of 5.0 percent on the net proceeds from such production mined and sold from such claim.

(b) ROYALTY EXCLUSION.—

(1) The royalty payable under this section shall be waived for any person with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.

(2) The obligation to pay royalties hereunder shall accrue upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) Where mining operations subject to this section are conducted in two or more places by the same person, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.

(4) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development

action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(c) DEFINITIONS.—For the purposes of this chapter:

(1) The term "net proceeds" shall mean gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:

(A) The actual cost of extracting the locatable mineral.

(B) The actual cost of transporting the locatable mineral from the claim to the place or places of reduction, beneficiation, refining, and sale.

(C) The actual cost of reduction, beneficiation, refining, and sale of the locatable mineral.

(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.

(E) The actual cost of maintenance and repairs of—

(i) all machinery, equipment, apparatus, and facilities used in the mine;

(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and

(iii) all facilities and equipment for transportation.

(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.

(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.

(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.

(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).

(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.

(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.

(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

(2) The term "gross yield" shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term "gross yield" means the actual proceeds of sale of such ore, concentrates or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals), the term "gross yield" means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term "gross yield" means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Any proceeds of sale.

(iii) Value received in exchange for any thing or service.

(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.

Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(d) LIMITATIONS AND ALLOCATIONS OF NET PROCEEDS, GROSS YIELD, AND ALLOWABLE DEDUCTIONS.—

(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operating of the facilities or equipment for transportation; or

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(e) LIABILITY FOR ROYALTY PAYMENTS.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms "owner" and "co-owner" mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.

(f) TIME AND MANNER OF PAYMENT.—

(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.

(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:

(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.

(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period.

(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.

(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).

(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(g) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.

(h) INTEREST ASSESSMENTS.—

(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(i) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—

(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) TRANSITIONAL RULES.—Any mining claim for which a patent is issued pursuant to section 5374(c) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 5374(c) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 5374(c), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate" on production after such date of enactment and before the date of such determination.

(k) PENALTIES.—Any person who withholds payment or royalties under this section after a final, nonappealable determination of liability may be liable for civil penalties of up to $ 5,000 per day that payment is withheld after becoming due.

(l) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Fifty percent of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) Forty percent of such receipts shall be paid into a State Fund or Federal Fund in accordance with section 5376; until termination as provided in section 5379.

(3) Ten percent of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.

SEC. 5376. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.

(a) STATE FUND.—Any State within which royalties are collected pursuant to section 5375 from a mining claim and which wishes to become eligible to receive such proceeds allocated by paragraph 5375(l)(2) shall establish and maintain an interest-bearing abandoned locatable mineral mine reclamation fund (hereinafter referred to in this chapter as "State Fund") to accomplish the purposes of this chapter. States with existing abandoned locatable mineral reclamation programs shall qualify to receive proceeds allocated by section 5375(l)(2).

(b) FEDERAL FUND.—There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter referred to in this chapter as "Federal Fund") which shall consist of royalty proceeds allocated by paragraph 5375(l)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5377. ALLOCATION AND PAYMENTS.

(a) STATE FUND.—Royalties collected pursuant to section 5375 and allocated by section 5375(l)(2) shall be paid by the Secretary of the Treasury to the State Fund established pursuant to subsection 5376(a) for the State where the mining claim from which the production occurred is located. Payments to States under this subsection with respect to any royalties received by the United States, shall be made not later than the last business day of the month in which such royalties are warranted by the United States Treasury to the Secretary of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be placed in a suspense account pending resolution of such challenge. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such royalties by the Treasury. Royalties placed in a suspense account which are determined to be due the United States shall be payable to a State Fund not later than fifteen days after such challenge is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the challenge is resolved. In determining the amount of payments to State Funds under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(b) FEDERAL FUND.—Royalties collected pursuant to section 5375, and allocated by paragraph 5375(l)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary's authority has expired under subsection 5379(a), shall be credited to the Federal Fund and distributed in accordance with subsection (c).

(c) TRANSITION.—Prior to the time a State establishes a State Fund pursuant to subsection 5376(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund under subsection 5376(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State Fund in accordance with subsection (a). Commencing three years after the date of enactment of this chapter, the Secretary of the Treasury shall distribute royalty proceeds then accrued or which are thereafter credited to the Federal Fund equally among all States which maintain a State Fund established under subsection 5376(a), and for which the Secretary of the Treasury's authority has not expired under subsection 5379(a).

SEC. 5378. ELIGIBLE AREA.

(a) IN GENERAL.—Subject to subsection (b), lands and water eligible for reclamation under this chapter shall be Federal lands that —

(1) have been adversely affected by past mineral activities on lands abandoned and left inadequately reclaimed prior to the date of enactment of this chapter; and

(2) for which the State determines there is no identifiable party with a continuing reclamation responsibility under State or Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The following areas shall not be eligible for expenditures from a State Fund:

(1) any area subject to a plan of operations submitted or approved prior to, on or after the date of enactment of this chapter which includes remining or reclamation of the area adversely affected by past locatable mineral activities;

(2) any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1234);

(3) any area designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912); and

(4) any area that was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9605) prior to the date of enactment of this chapter, or where the Environmental Protection Agency has initiated or caused to be initiated a response action pursuant to that Act.

SEC. 5379. SUNSET PROVISIONS.

(a) TERMINATION OF AUTHORITY.—The Secretary of the Treasury's authority to allocate funds to a State Fund under section 5377 shall expire on the date that the State submits a report to the Congress which states that there are no areas in the State eligible under subsection 5378(a) which remain to be reclaimed.

(b) TERMINATION OF FUND.—Upon the termination of authority as provided in subsection (a) with respect to all State Funds, the Federal Fund shall also be terminated, and all royalty proceeds thereafter remaining in the Federal Fund shall be distributed to the States as provided for in Section 5375(l)(3).

SEC. 5380. EFFECT ON THE GENERAL MINING LAWS.

The provisions of this chapter shall supersede the general mining laws only to the extent such laws conflict with the requirements of this chapter. Where no such conflict exists, the general mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.

SEC. 5381. SEVERABILITY.

If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 5382. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Add the following new subsection at the end thereof:

(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term

relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.".

(b) IDENTIFIED DEPOSITS.—The Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602), is amended by adding at the end the following:

"(b) IDENTIFIED DEPOSITS.—

"(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease, for uncommon varieties of mineral materials under this section or by a valid mining claim for an uncommon variety of a mineral material under the general mining laws shall be subject to disposition by lease under this Act by the Secretary through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

"(2) All leases will be conditioned upon—

"(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

"(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

"(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary unless otherwise provided by law at the expiration of such periods.

"(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(C) The Secretary may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

"(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

"(c) OTHER LANDS.—

"(1) The Secretary is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

"(2) The Secretary shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

"(3)(A) Upon showing to the satisfaction of the Secretary that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary.".

"(B) "Persons holding valid mining claims for uncommon varieties of mineral materials shall be entitled to receive a lease under this subsection."

(D) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(e) AUTHORIZATION FOR DISPOSAL OF MINERAL MATERIALS BY CONTRACT.—Section 2(a) of the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602(a)), is amended—

(1) by striking the period at the end of paragraph (3) and inserting "or, if"; and

(2) by adding after paragraph (3) the following:

"(4) the material is a mineral material.".

CHAPTER 6—DEPARTMENT OF THE INTERIOR

SEC. 5391. AIRCRAFT SERVICES.

(a) USE OF PRIVATE CONTRACTORS.—By not later than October 1, 1996, the Secretary of the Interior shall contract with private entities for the provision of all aircraft services required by the Department of the Interior, other than those available from existing DOI aircraft whose primary purpose is fire suppression.

(b) SALE OF FEDERAL AIRCRAFT.—By September 30, 1998, the Secretary of the Interior is authorized and directed to sell all aircraft owned by the Department of the Interior and all associated equipment and facilities, other than those whose primary purpose is fire suppression.

(c) EXEMPTIONS.—The disposition of assets under this section is not subject to section 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(d) DISPOSITION OF PROCEEDS.—The proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts and all savings from reduced overhead and other costs related to the management of the assets sold shall be returned to the Treasury.

CHAPTER 7—POWER MARKETING ADMINISTRATIONS

Subchapter A—Bonneville Power Administration Refinancing

SEC. 5401. DEFINITIONS.

For the purposes of this subchapter—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;

(4) "old capital investment" means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 5402. NEW PRINCIPAL AMOUNTS.

(a) PRINCIPAL AMOUNT.—Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction the numerator of which is the principal amount of the old payment amounts for the old capital investment and the denominator of which is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) DETERMINATION.—With the approval of the Secretary of the Treasury, based solely on consistency with this subchapter, the Administrator shall determine the new principal amounts under this section and the assignment of interest rates to the new principal amounts under section 5403.

(c) OLD PAYMENT AMOUNT.—For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this subchapter had not been enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 5403. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5402 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5404. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5402 is no earlier than the repayment date for the old capital investment assumed in section 5402(c)(1).

SEC. 5405. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5402, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5408. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4577) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

"So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.".

SEC. 5409. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 5402;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 5403;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 5402 and to pay the interest on the principal amount under section 5403, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this subchapter; and

(4) the contract provisions specified in this subchapter do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 5410. SAVINGS PROVISIONS.

(a) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13(b) of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in section 5405, this subchapter does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

Subchapter B—Alaska Power Marketing Administration Sale

SEC. 5411. SHORT TITLE.

This subchapter may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

SEC. 5412. DEFINITIONS.

For Purposes of this subchapter:

(1) The term "Eklutna" means Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto adopted before the date of enactment of this Act.

(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term "Snettisham" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(5) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto adopted before the date of enactment of this Act.

(6) The term "Snettisham Purchaser" means the Alaska Industrial Development and Export Authority or a successor State agency or authority.

SEC. 5413. SALE OF EKLUTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.

(a) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Purchasers in accordance with the terms of this subchapter and the Eklutna Purchase Agreement.

(b) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this subchapter and the Snettisham Purchase Agreement.

(c) COOPERATION OF OTHER AGENCIES.—The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this subchapter.

(d) PROCEEDS.—Proceeds from the sales required by this subchapter shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) PREPARATION OF EKLUTNA AND SNETTISHAM FOR SALE.—The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the Alaska Power Administration as may be necessary to prepare, survey, and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

(f) CONTRIBUTED FUNDS.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 5414(f), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

SEC. 5414. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT.—

(1) After the sales authorized by this subchapter occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).

(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this subchapter or the Federal Power Act (16 U.S.C. 791 et seq.) preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) SUBSEQUENT TRANSFERS.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph (1) of subsection (a) of this section shall cease to apply to such portion.

(c) REVIEW.—

(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.

(d) EKLUTNA LANDS.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(3) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(e) SNETTISHAM LANDS.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly known as the Alaska Statehood Act, Public Law 85–508; 72 Stat. 339).

(f) TERMINATION OF ALASKA POWER ADMINISTRATION.—Not later than one year after both of the sales authorized in section 5413 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(g) REPEALS.—

(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.

(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.

(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(h) DOE ORGANIZATION ACT.—As of the later of the two dates determined in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) DISPOSAL.—The sales of Eklutna and Snettisham under this subchapter are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly known as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

SEC. 5415. OTHER FEDERAL HYDROELECTRIC PROJECTS.

The provisions of this subchapter regarding the sale of the Alaska Power Administration's hydroelectric projects under section 5413 and the exemption of these projects from part I of the Federal Power Act under section 5414 do not apply to other Federal hydroelectric projects.

CHAPTER 8—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

SEC. 5421. SHORT TITLE.

This chapter may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

SEC. 5422. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended—

(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and

(2) by inserting after subparagraph (A), as so designated, the following:

"(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as

defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400 to 800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or re-determination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or re-determination and the reasons for and assumptions used for such determination. Any determination or re-determination under this clause shall be a final agency action. The Secretary's determination or re-determination shall be judicially reviewable under section 10(a) of the Administrative Procedure Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or re-determination.

"(iii) In the event that the Secretary fails to make the determination or re-determination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv) (I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv) (II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".

SEC. 5423. NEW LEASES.

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337 (a)(1)), is amended—

(1) by redesignating subparagraph (H) as subparagraph (I);

(2) by striking "or" at the end of subparagraph (G); and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or".

SEC. 5424. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this chapter, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this chapter, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 5425. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this chapter within 180 days after the enactment of this Act.

SEC. 5426. SAVINGS CLAUSE.

Nothing in this chapter shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

CHAPTER 9—EXPORTS OF ALASKA NORTH SLOPE OIL

SEC. 5431. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL

"(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

"(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

"(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

"(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories. If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

"(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76) to prohibit exports.

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

"(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".

CHAPTER 10—SKI AREA PERMIT RENTAL CHARGES ON NATIONAL FOREST SYSTEM LANDS

SEC. 5441. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary of Agriculture and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the date of enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, shall be either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, the rental charge paid shall be either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs on ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined to be appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue (as determined under subsection (b)(1)), the new rental charge shall be phased in over a 5-year period in a manner providing for increases of approximately equal increments.

CHAPTER 11—PARK ENTRANCE FEES

SEC. 5451. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended—

(1) in the first sentence of the subsection by striking "no more than 21";

(2) in the first sentence of paragraph (1)(A)(i) by striking "$25" and inserting "$50";

(3) in the second sentence of paragraph (1)(B) by striking "$15" and inserting "$25";

(4) in paragraph (2) by striking the fourth, fifth, and sixth sentences and inserting "The fee for a single-visit permit at any designated area shall be collected on a per person basis, not to exceed $6 per person, including for persons entering by private, noncommercial vehicle.";

(5) in paragraph (3)—

(A) in the third sentence by inserting "Great" before "Smoky"; and

(B) by striking the last sentence;

(6) in paragraph (4)—

(A) by striking the second sentence and inserting "Such permit shall be nontransferable, shall be issued for a one-time charge, which shall be set at the same rate as the fee for a Golden Eagle Passport, and shall entitle the permittee to free admission into any area designated pursuant to this subsection."; and

(B) by striking the third sentence and inserting "No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.";

(7) by striking paragraph (5) and inserting the following:

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to persons who have been medically determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.";

(8) by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9)";

(9) by striking all but the last sentence of paragraph (11) and redesignating paragraph (11) as paragraph (10); and

(10) by redesignating paragraph (12) as paragraph (11).

(b) RECREATION FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended by striking subsection (b) and inserting the following:

"(b) RECREATION USE FEES.—Each agency developing, administering, providing, or furnishing at Federal expense services for such activities as camping, including, but not limited to, back country camping under permit, guarded swimming sites, boat launch facilities, managed parking lots, motorized recreation use and other recreation uses, is authorized, in accordance with this section to provide for the collection of recreation use fees at the place of use or any reasonably convenient location. The administering Secretary may establish both daily and annual recreation use fees.".

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended in the first sentence by striking "recreation fees charged by non-Federal public agencies," and inserting "fees charged by other public and private entities,".

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is amended by striking "of not more than $100." and inserting "as provided by law.".

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)) is amended—

(1) by striking "Bureau of Outdoor Recreation" and inserting "National Park Service";

(2) by striking "Natural Resources" and inserting "Resources"; and

(3) by striking "Bureau" and inserting "National Park Service".

(f) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended—

(1) in the first sentence of paragraph (1)(B) by striking "fee collection costs for that fiscal year" and inserting "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting "section in such immediately preceding fiscal year";

(2) in the second sentence of subparagraph (B) by striking "in that fiscal year"; and

(3) by striking paragraph (4) and inserting the following:

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for park operations.".

(g) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(k)) is amended by striking the last sentence.

(h) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(n)) is amended—

(1) by striking the first sentence of paragraph (1) and inserting "In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1996, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit."; and

(2) by striking the period at the end of paragraph (3) and inserting ", with written notification of such adjustments provided to commercial tour operators 12 months in advance of implementation.".

(i) CONFORMING AMENDMENTS.—

(1) Title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, is amended by striking the second proviso under the heading "ADMINISTRATIVE PROVISIONS" under the heading "NATIONAL PARK SERVICE" (related to recovery of costs associated with special use permits).

(2) Section 3 of the Act entitled "An Act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers", approved February 25, 1929 (45 Stat. 1300, chapter 315), is amended by striking the last sentence.

(3) Section 5 of Public Law 87–657 (16 U.S.C. 459c–5), is amended by striking subsection (e).

(4) Section 3 of Public Law 87–750 (16 U.S.C. 398e) is amended by striking subsection (b).

(5) Section 4(e) of Public Law 92–589 (16 U.S.C. 460bb–3) is amended by striking the first sentence.

(6) Section 6 of Public Law 95–348 (16 U.S.C. 410dd) is amended by striking subsection (j).

(7) Section 207 of Public Law 96–199 (16 U.S.C. 410ff–6) is repealed.

(8) Section 106 of Public Law 96–287 (16 U.S.C. 410gg–5) is amended by striking the last sentence.

(9) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence.

(10) Section 5 of Public Law 96–428 (94 Stat. 1842; 16 U.S.C. 461 note) is repealed.

(11) Public Law 100–55 (101 Stat. 371; U.S.C. 460l–6a note) is repealed.

SEC. 5452. COVERING OF INCREASED FEE REVENUES INTO SPECIAL ACCOUNTS.

Of the funds deposited in special accounts in the Treasury for the National Park Service, Bureau of Land Management, and Forest Service as set forth in section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)), beginning in fiscal year 1997, 80 percent of all receipts earned in the previous year in excess of the following amounts for each covered agency shall be made available to that agency without further appropriation:

(1) National Park System:
(A) $82,000,000 for fiscal year 1997.
(B) $85,000,000 for fiscal year 1998.
(C) $88,000,000 for fiscal year 1999.
(D) $91,000,000 for fiscal year 2000.
(E) $94,000,000 for fiscal year 2001.
(F) $97,000,000 for fiscal year 2002.
(G) $100,000,000 for fiscal year 2003.
(H) $112,000,000 for fiscal year 2004.
(I) $106,000,000 for fiscal year 2005.
(2) Bureau of Land Management:
(A) $4,500,000 for fiscal year 1997.
(B) $5,000,000 for fiscal year 1998.
(C) $5,000,000 for fiscal year 1999.
(D) $5,000,000 for fiscal year 2000.
(E) $5,000,000 for fiscal year 2001.
(F) $5,000,000 for fiscal year 2002.
(G) $5,000,000 λfor fiscal year 2003.
(H) $5,000,000 λfor fiscal year 2004.
(I) $5,000,000 λfor fiscal year 2005.
(3) Forest Service:
(A) $20,000,000 for fiscal year 1997.
(B) $20,600,000 for fiscal year 1998.
(C) $21,200,000 for fiscal year 1999.
(D) $21,900,000 for fiscal year 2000.
(E) $22,500,000 for fiscal year 2001.
(F) $23,600,000 for fiscal year 2002.
(G) $24,300,000 for fiscal year 2003.
(H) $25,000,000 for fiscal year 2004.
(I) $25,800,000 for fiscal year 2005.

Beginning in fiscal year 2006, and in each fiscal year thereafter, the amounts set forth in this section for each covered agency in fiscal year 2005 shall be increased by 4 percent per year, and 80 percent of all receipts earned in excess of such amounts for each covered agency shall be made available to that agency without further appropriation.

SEC. 5453. ALLOCATION AND USE OF FEES.

(a) ALLOCATION.—Beginning in fiscal year 1997, receipts above the amounts stated in section 5452 in each covered agency's special account from the previous fiscal year shall be allocated as follows:

(1) Seventy-five percent shall be allocated among the units or areas of each affected agency in the same proportion as fees collected pursuant to section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) from a specific unit or area bear to the total amount of such fees collected from all units or areas of the same covered agency for each fiscal year.

(2) Twenty-five percent shall be allocated among each covered agency's units or areas on the basis of need, as determined by the Secretary.

(b) USE.—Expenditures from the special accounts shall be used solely for infrastructure related to visitor use and annual operating expenses related to visitor services at units or areas of the covered agencies.

CHAPTER 12—CONCESSION REFORM

SEC. 5461. SHORT TITLE.

This chapter may be cited as the "Visitor Facilities and Services Enhancement Act of 1995".

SEC. 5462. DEFINITIONS.

In this chapter:

(1) "adjusted gross receipts" means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.

(2) "agency head" means the head of an agency or his or her designated representative.

(3) "bidder" means a person who has submitted, or may submit, a proposal respecting the facilities or services, whether or not such bidder is the current concessioner.

(4) "concessioner" means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands pursuant to a concession service agreement or concession license.

(5) "concession authorization" means a concession service agreement or concession license as applicable.

(6) "concession license" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation services or activities on a limited basis as well as the rights and obligations of the Federal Government.

(7) "concession service agreement" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.

(8) "Consumer Price Index" means the Consumer Price Index-All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and from and after such time as such index is no longer published, the Consumer Price Index or other regularly-published cost-of-living index chosen by the Secretary concerned which reasonably approximates the Consumer Price Index specified above.

(9) "gross receipts" means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.

(10) "performance incentive" means a credit based on past performance toward the score awarded by the Secretary concerned to an incumbent concessioner's proposal submitted in response to a solicitation for the reissuance of such incumbent concessioner's contract.

(11) "proposal" means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.

(12) "prospectus" means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.

(13) "Secretary concerned" means —

(A) the Secretary of the Interior with respect to all concession authorizations issued by the National Park Service, and all concession authorizations for river runner, outfitter, or guide concessions issued by the United States Fish and Wildlife Service and the Bureau of Land Management; and

(B) the Secretary of Agriculture with respect to all river runner, outfitter, or guide concessions issued by the Forest Service.

(14) "selected bidder" means the bidder selected by the Secretary concerned for the award of a concession service agreement until such bidder becomes the concessioner.

(15) "solicitation" means a request by the Secretary concerned for proposals in response to a prospectus.

SEC. 5463. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations as follows:

(1) CONCESSION SERVICE AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned determines that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding

that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis.

(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a determination that public enjoyment of Federal lands would be enhanced through the provision of concession services for one-time, intermittent, or infrequently scheduled activities and that there exists no need to limit the number of concessionaires providing such services, the Secretary shall enter into a concession license with a qualified concessioner. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area.

(3) LANDS UNDER MULTIPLE JURISDICTIONS.—In order to reduce administrative costs the Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single concession authorization and collect a single fee under paragraphs (1) and (2) for such operation.

SEC. 5464. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.

(a) AWARD TO BEST PROPOSAL.—The Secretary concerned shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.

(b) SOLICITATION AND PROSPECTUS.—Prior to making a solicitation for a concession service agreement, the Secretary concerned shall prepare a prospectus for such solicitation, shall publish notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties. The prospectus shall specify the minimum requirements for such concession service agreement, including but not limited to:

(1) a description of the services and facilities to be provided by the concessioner.

(2) the level of capital investment required by the concessioner (if any).

(3) terms and conditions of the concession service agreement.

(4) minimum facilities and services to be provided by the Secretary concerned to the concessioner, if any, including but not limited to public access, utilities, buildings, and minimum public services.

(5) such other information related to the concession operation available to the Secretary concerned as is not privileged or otherwise exempt from disclosure under Federal law, as the Secretary determines is necessary to allow for the submission of competitive proposals; and

(6) Local hiring preferences provisions, if applicable, and notwithstanding any other provision of law, to increase revenue to the United States by avoiding additional transportation and related costs associated with non-resident labor, each contract awarded by the Department of the Interior for concessioner or commercial use contractor-provided visitor services performed in whole or in part of a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment, as determined by the Secretary of Labor shall include a provision requiring the concessioner or commercial use contractor to employ individuals who are residents of such State, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills for the purpose of performing that portion of the contract in such State.

(7) Minimum fees to the United States.

(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor identified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In selecting the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:

(1) Responsiveness to the prospectus.

(2) Quality of visitor services to be provided taking into account the nature of equipment and facilities to be provided.

(3) Experience and performance in providing the same or similar accommodations, facilities, or services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length of such qualifying experience shall be the basis for awarding points for this factor.

(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).

(5) Financial capability.

(6) Fees to the United States.

(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:

(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).

(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under subsection (e) and renewal penalties incurred under subsection (f).

(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2). Prior to any such offer, the Secretary shall certify that such applicant has adequate funds to purchase any investment interest.

(e) PERFORMANCE INCENTIVES.—

(1) In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, such concessioner is entitled to a performance incentive of—

(A) one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is rated as exceeding the requirements outlined in the prospectus or "good", and

(B) a one-time 3-year merit term extension upon a finding that a concessioner has been rated as "good" in each annual performance evaluation through the term of the concession service agreement.

(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such prospectus.

(3) The performance incentive specified under paragraph (1)(A) may only be awarded to a concessioner which meets the monetary definition of a small business under section 3 of the Small Business Act (15 U.S.C. 632). The Board of Contract Appeals within each Department shall adjudicate disputes between the Federal Government and concessionaires regarding performance evaluations.

(f) RENEWAL PENALTY.—In evaluating the proposal of an incumbent concessioner when the Secretary concerned issues a prospectus for the renewal of the concession service agreement, the incumbent concessioner shall be penalized one percent of the maximum points available under such prospectus for each year in which the concessioner's annual performance is found to be unsatisfactory.

(g) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined not to be a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et. seq.).

(h) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessionaires to provide services closely related to such agreement only if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

SEC. 5465. CAPITAL IMPROVEMENTS.

(a) IN GENERAL.—Concessionaires may construct or finance construction under terms of section 5470 only such public facilities on Federal lands as are to be used by the concessioner under the terms of its concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.

(b) INVESTMENT INTEREST.—

(1) IN GENERAL.—A concessioner that is required or authorized under a concession service agreement pursuant to this subchapter to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, as defined in this subchapter. Any such investment interest shall consist of all incidents of ownership, except legal title which shall be vested in the Federal Government. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.

(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment interest shall be wholly subject to the applicable provisions of the concession service agreement and of laws and regulations relating to the area.

(3) FEDERAL PROPERTY.—Notwithstanding paragraph (1), a concession service agreement may specify that certain new structures, improvements, or fixtures required to be constructed under terms of the concession service agreement shall be property of the Federal Government subject only to the right of the concessioner to use such improvements during the term of such agreement and that the concessioner shall not be accorded an investment interest therein. Concession service agreements shall

not, to the extent practicable, provide for a concessioner to obtain an investment interest in any building or facilities wholly owned by the Federal Government.

(c) SALE OF ASSETS.—If the existing concessioner is not the selected bidder at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concession. In the event that the successor concessioner is unable to fully pay such investment interest, any deficiency shall be paid by the Federal Government.

(d) CLOSURE OF CONCESSIONER FACILITIES.—If the Secretary concerned determines that the public interest, by reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Federal Government shall compensate the concessioner in the amount equal to the value of the investment interest.

(e) DETERMINATION OF VALUE OF INVESTMENT INTEREST.—For purposes of this subchapter, the investment interest of any capital improvement at the end of the concession service agreement period shall be an amount equal to the actual cost of construction or purchase of such investment interest or such capital improvement adjusted from the time of completion of such construction by changes in the Consumer Price Index less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind. The Secretary concerned shall include the value to be paid by the selected bidder for any existing investment interest in the prospectus for the related concession service agreement.

SEC. 5466. DURATION OF CONCESSION AUTHORIZATION.

(a) CONCESSION SERVICE AGREEMENT.—The standard term of a concession service agreement shall be 10 years. The Secretary concerned may issue a concession service agreement for less than 10 years if the Secretary determines that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than 5 years. The Secretary concerned shall issue a concession service agreement for longer than 10 years if the Secretary determines that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.

(b) CONCESSION LICENSE.—The term for a concession license may not exceed 2 years.

(c) TEMPORARY EXTENSION.—The Secretary concerned may agree to temporary extensions of concession service agreements for up to 2 years on a noncompetitive basis to avoid interruption of services to the public.

SEC. 5467. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.

SEC. 5468. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) CONCESSION SERVICE AGREEMENTS.—

(1) APPROVAL REQUIRED.—A concession service agreement is transferable or assignable only with the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, term, and conditions of the agreement or that the terms of the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.

(2) CONSIDERATION PERIOD.—If the Secretary concerned fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed to have been approved.

(3) NO MODIFICATION OF TERMS AND CONDITIONS.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.

(b) CONCESSION LICENSE.—A concession license may not be transferred.

SEC. 5469. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this subchapter. The fee for any concession service agreement may include any of the following:

(1) An annual cash payment for the privilege of providing concession services.

(2) The amount required for capital improvements required pursuant to section 5465 (a).

(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.

(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.

(b) ESTABLISHMENT OF AMOUNT.—

(1) MINIMUM ACCEPTABLE FEE.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 5464. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.

(2) FINAL FEE.—Except as provided in paragraph (3), the final fee shall be the amount bid by the selected applicant under section 5464.

(3) SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.—When the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide substantially similar services in a defined geographic area, the concession fee for all such concessionaires shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.

(c) ADJUSTMENT OF FEES.—The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified if stated in the contract on the basis of inflation, when the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforseen disaster.

(d) CONCESSION LICENSE FEE.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.

SEC. 5470. DISPOSITION OF FEES.

(a) CONCESSION IMPROVEMENT ACCOUNT.—

(1) IN GENERAL.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to perform maintenance or make improvements to Government-owned facilities occupied by the concessioner, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner;

(2) TERMS AND CONDITIONS.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the money in the account with any other money.

(3) DISBURSEMENTS.—The concessioner shall make disbursements from the account for improvements and other activities, only for capital improvements or maintenance of improvements to Government-owned facilities occupied by the concessioner as specified in the concession service agreement.

(4) TRANSFER OF REMAINING BALANCE.—On the termination of a concession authorization, or on the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance shall be deposited in the Treasury as miscellaneous receipts.

(b) When the concessioner is required to make capital improvements to other than Government-owned facilities occupied by the concessioner in accordance with a concession service agreement, the concessioner shall have the option to control and expend such funds directly.

(c) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—

(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit in the Treasury of the United States as miscellaneous receipts all funds not deposited in concession improvement accounts or funds for capital improvements specified in (b) above, including specifically amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities, except that of the amount of fees paid by vessel operators for the privilege of entering into Glacier Bay, Alaska, 50 percent of such fees for the 5-year period beginning on the first full fiscal year following the date of enactment of this subchapter shall be deposited into a special account and that such funds shall be available without further appropriation and may only be used to conduct research to quantify any effect of such vessel activity on wildlife and other natural resource values of Glacier Bay National Park. For the National Park Service such deposits into the

Treasury shall total not less than the amounts specified in the table in paragraph (2). For the other agencies covered under this subchapter, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees not later than 18 months after the date of enactment of this Act. Nothing in this chapter shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (1), expressed by fiscal year, is as follows:

National Park Service

"*Fiscal year:*	*Amount:*
1997	*$15,800,000*
1998	*$21,100,000*
1999	*$26,700,000*
2000	*$32,300,000*
2001	*$38,200,000*
2002	*$44,400,000.*

(d) Beginning in fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this chapter. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this chapter and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 5471. REGULATIONS.

The Secretary concerned shall promulgate regulations to implement this chapter no later than 2 years after the date of enactment of this Act. Subsequent to the date of enactment of this chapter, no new concession authorization may be issued, nor may any existing concession authorization be amended or extended, unless such authorization, amendment, or extension is fully consistent with sections 5465, 5469(c), and 5470.

SEC. 5472. RELATIONSHIP TO OTHER LAWS.

(a) REPEALS.—

(1) The Act entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes" (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.

(b) SAVINGS.—

(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsection (a) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this chapter shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.

(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this chapter.

(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this chapter shall be construed to change the value as of the date of enactment of this chapter for existing capital improvements or possessory interest as identified in concession contracts entered into before the date of enactment of this Act. Subsequent to enactment of this chapter, the increase in value for any possessory interest established under any concession contract in effect on the date of enactment of this chapter shall be as provided for in this chapter unless otherwise specifically provided in the contract.

(4) ANILCA.—Nothing in this chapter shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONAIRES IN REISSUANCE OF CONTRACTS.—In the case of a concession contract which has expired prior to the date of the enactment of this Act, or within 5 years after the date of the enactment of this Act, an incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate 5 years or later after the date of enactment of this Act, any concessioner shall be entitled to a performance incentive in accordance with this chapter. The concessioner shall be entitled to an evaluation of "good" for each year in which the Secretary concerned does not complete an evaluation as provided for in this chapter.

TITLE VI—FEDERAL RETIREMENT AND RELATED PROVISIONS

Subtitle A—Civil Service and Postal Service Provisions

SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996 through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service or the Washington Metropolitan Airport Authority) shall be 8.51 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9.01 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 8.51 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service and the Washington Metropolitan Airport Authority shall be 7 percent of the basic pay of an employee and 7.5 percent of the basic pay of a law enforcement officer or firefighter.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	*After December 31, 1969."*

and inserting in lieu thereof the following:

"7	*January 1, 1970, to December 31, 1995.*
7.25	*January 1, 1996, to December 31, 1996.*
7.4	*January 1, 1997, to December 31, 1997.*
7.5	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	*After December 31, 1969."*

and inserting in lieu thereof the following:

"7.5	*January 1, 1970, to December 31, 1995.*
7.25	*January 1, 1996, to December 31, 1996.*
7.4	*January 1, 1997, to December 31, 1997.*
7.5	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(C) in the matter relating to a Member for Member service by striking out

"8	*After December 31, 1969."*

and inserting in lieu thereof the following:

"8	*January 1, 1970, to December 31, 1995.*
7.25	*January 1, 1996, to December 31, 1996.*
7.4	*January 1, 1997, to December 31, 1997.*
7.5	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½ ..	*After December 31, 1974."*

and inserting in lieu thereof the following:

"7.5 ...	*January 1, 1975, to December 31, 1995.*
7.75 ..	*January 1, 1996, to December 31, 1996.*
7.9 ...	*January 1, 1997, to December 31, 1997.*
8	*January 1, 1998, to December 31, 2002.*
7.5 ...	*After December 31, 2002.";*

(E) in the matter relating to a bankruptcy judge by striking out

"8	*After December 31, 1983."*

and inserting in lieu thereof the following:

"8	*January 1, 1984, to December 31, 1995.*
7.25 ..	*January 1, 1996, to December 31, 1996.*
7.4 ...	*January 1, 1997, to December 31, 1997.*
7.5 ...	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

"8	*On and after the date of the enactment of the Department of Defense Authorization Act, 1984."*

and inserting in lieu thereof the following:

"8	*The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.*
7.25 ..	*January 1, 1996, to December 31, 1996.*
7.4 ...	*January 1, 1997, to December 31, 1997.*
7.5 ...	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(G) in the matter relating to a United States magistrate by striking out

"8	*After September 30, 1987."*

and inserting in lieu thereof the following:

"8	*October 1, 1987, to December 31, 1995.*
7.25 ..	*January 1, 1996, to December 31, 1996.*
7.4 ...	*January 1, 1997, to December 31, 1997.*
7.5 ...	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

(H) in the matter relating to a Claims Court judge by striking out

"8	*After September 30, 1988."*

and inserting in lieu thereof the following:

"8	*October 1, 1988, to December 31, 1995.*
7.25 ..	*January 1, 1996, to December 31, 1996.*
7.4 ...	*January 1, 1997, to December 31, 1997.*
7.5 ...	*January 1, 1998, to December 31, 2002.*
7	*After December 31, 2002.";*

and

(I) by inserting after the matter relating to a Claims Court judge the following:

"Member of the Capitol Police.	*2.5 .....*	*August 1, 1920, to June 30, 1926.*
	3.5	*July 1, 1926, to June 30, 1942.*
	5	*July 1, 1942, to June 30, 1948.*
	6	*July 1, 1948, to October 31, 1956.*
	6.5	*November 1, 1956, to December 31, 1969.*
	7.5	*January 1, 1970, to December 31, 1995.*
	7.75 ...	*January 1, 1996, to December 31, 1996.*
	7.9	*January 1, 1997, to December 31, 1997.*
	8	*January 1, 1998, to December 31, 2002.*
	7.5	*After December 31, 2002.".*

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

Employee	*7 ....*	*Before January 1, 1996.*
	7.25 ...	*January 1, 1996, to December 31, 1996.*
	7.4	*January 1, 1997, to December 31, 1997.*
	7.5	*January 1, 1998, to December 31, 2002.*
	7	*After December 31, 2002.*
Congressional employee.	*7.5 .....*	*Before January 1, 1996.*
	7.25 ...	*January 1, 1996, to December 31, 1996.*
	7.4	*January 1, 1997, to December 31, 1997.*
	7.5	*January 1, 1998, to December 31, 2002.*
	7	*After December 31, 2002.*
Member	*7.5 .....*	*Before January 1, 1996.*
	7.25 ...	*January 1, 1996, to December 31, 1996.*
	7.4	*January 1, 1997, to December 31, 1997.*
	7.5	*January 1, 1998, to December 31, 2002.*
	7	*After December 31, 2002.*
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller.	*7.5 .....*	*Before January 1, 1996.*
	7.75 ...	*January 1, 1996, to December 31, 1996.*

7.9	*January 1, 1997, to December 31, 1997.*
8	*January 1, 1998, to December 31, 2002.*
7.5	*After December 31, 2002.*

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code , shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(b) ACCRUAL RATE FOR MEMBER AND CONGRESSIONAL EMPLOYEE SERVICE PERFORMED BUT NOT VESTED BEFORE EFFECTIVE DATE.—

(1) APPLICATION.—This subsection shall apply to an individual who—

(A) is a Member of Congress or Congressional employee on December 31, 1995;

(B) has performed less than 5 years of service as a Member of Congress or Congressional employee on December 31, 1995; and

(C) after December 31, 1995, completes 5 years of service as a Member of Congress or Congressional employee, that includes a period of service performed as a Member of Congress or Congressional employee before January 1, 1996.

(2) COMPUTATION OF ANNUITY.— In computing the annuity of an individual described under paragraph (1)—

(A) any period of service as a Member of Congress or Congressional employee performed before January 1, 1996, shall be computed under section 8339 or 8415 of title 5, United States Code (as though the amendments under subsection (a) of this section were not enacted); and

(B) the 5 year service requirement under subsections (b) and (c) of section 8339 or 8415 of such title (as in effect before the date of enactment of this Act) shall be deemed fulfilled.

(c) CAPITOL POLICE.—Section 8339(q) of title 5, United States Code, is amended by striking out "with subsection (b), except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2)," and inserting in lieu thereof "with subsection (a), except that in the case of a member who retires under section 8335(d) or 8336(m), and who has deductions withheld from his pay or has made deposit covering his last 5 years of civilian service,".

(d) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(e) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—

(A) SERVICE AFTER EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1996, and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) SERVICE BEFORE EFFECTIVE DATE.—An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(C) ALTERNATIVE EFFECTIVE DATE RELATING TO MEMBERS OF CONGRESS.—If a court of competent jurisdiction makes a final determination that a provision of this paragraph violates the 27th amendment of the United States Constitution, the effective date and application dates relating to Members of Congress shall be January 1, 1997.

(2) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (b), (c), and (d) shall take effect on the date of the enactment of this Act.

SEC. 6004. ACCRUAL RATES RELATING TO CERTAIN JUDGES WITH SIMILAR TREATMENT AS CONGRESSIONAL SERVICE.

(a) JUDGE OF THE UNITED STATES COURT OF MILITARY APPEALS.—Section 8339(d)(7) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996.".

(b) CLAIMS COURT JUDGE, BANKRUPTCY JUDGE, UNITED STATES MAGISTRATE.—Section 8339(n) of title 5, United States Code, is amended by striking out "service." and inserting in lieu thereof "service performed before January 1, 1996. The annuity of any such employee is, with respect to any service referred to in the preceding sentence that is performed on or after January 1, 1996, computed under subsection (a).".

SEC. 6005. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1996 authorized by such section 2004, then an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

Subtitle B—Patent and Trademark Fees

SEC. 6011. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

Subtitle C—GSA Property Sales

SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 6022. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

SEC. 6023. AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE.

(a) REPEAL.—(1) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) is repealed.

(2) The table of contents in section 101(b) of that Act is amended by striking the items relating to title V.

(3) This subsection shall be effective October 1, 1995.

(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:

"(r) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(s)(1) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any non-profit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(2) In making transfers under this subsection, the Administrator shall take such actions, which may include grant agreements with an organization receiving a grant, as may be necessary to ensure that—

"(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

"(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.".

TITLE VII—TRANSFORMATION OF THE MEDICAID PROGRAM

SEC. 7000. SHORT TITLE OF TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the "Medicaid Transformation Act of 1995".

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 7000. Short title of title; table of contents of title.
Sec. 7001. Transformation of medicaid program.
Sec. 7002. Termination of current program and transition.
Sec. 7003. Medicare/MediGrant integration demonstration project.

SEC. 7001. TRANSFORMATION OF MEDICAID PROGRAM.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—MEDIGRANT PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State MediGrant plans.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for MediGrant plan development.
"Sec. 2105. Consultation in MediGrant plan development.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"Sec. 2111. Eligibility and benefits.
"Sec. 2112. Set-asides of funds.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Preventing spousal impoverishment.
"Sec. 2116. State flexibility.

"PART C—PAYMENTS TO STATES

"Sec. 2121. Allotment of funds among States.
"Sec. 2122. Payments to States.
"Sec. 2123. Limitation on use of funds; disallowance.

"PART D—PROGRAM INTEGRITY AND QUALITY

"Sec. 2131. Use of audits to achieve fiscal integrity.
"Sec. 2132. Fraud prevention program.
"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 2134. State MediGrant fraud control units.
"Sec. 2135. Recoveries from third parties and others.
"Sec. 2136. Assignment of rights of payment.
"Sec. 2137. Quality assurance requirements for nursing facilities.
"Sec. 2138. Other provisions promoting program integrity.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

"Sec. 2151. Submittal and approval of MediGrant plans.
"Sec. 2152. Submittal and approval of plan amendments.
"Sec. 2153. Process for State withdrawal from program.
"Sec. 2154. Sanctions for noncompliance.
"Sec. 2155. Secretarial authority.

"PART F—GENERAL PROVISIONS

"Sec. 2171. Definitions.
"Sec. 2172. Treatment of territories.
"Sec. 2173. Description of treatment of Indian Health Service facilities.
"Sec. 2174. Application of certain general provisions.
"Sec. 2175. MediGrant master drug rebate agreements.

"SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.

"(a) PURPOSE.—The purpose of this title is to provide block grants to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'MediGrant plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title, and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved MediGrant plan shall continue in effect unless and until—

"(1) the State amends the plan under section 2152,

"(2) the State terminates participation under this title under section 2153, or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2154.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality and morbidity.

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and

"(2) the MediGrant plan shall describe, how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 *years and shall be updated and revised at least every 3 years.*

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a MediGrant plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the MediGrant plan during the fiscal year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (d) of section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals (specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2)) which are covered under the MediGrant plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the MediGrant plan, and

"(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the MediGrant plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan.

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(c) DESCRIPTION OF CATEGORIES.—In this section:

"(1) GENERAL CATEGORIES OF ELIGIBLE INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults who are not elderly individuals.

"(D) Elderly individuals.

"(E) Other adults.

"(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each paragraph of section 2171(a) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its MediGrant plan under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is neither responsible under State law for the submission of the State MediGrant plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.

"Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.

"(a) PUBLIC NOTICE PROCESS.—Before submitting a MediGrant plan or a plan amendment described in subsection (c) to the Secretary under part E, a State shall provide—

"(1) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment,

"(2) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment,

"(3) an opportunity for submittal and consideration of public comments on the proposed plan or amendment, and

"(4) for consultation with one or more advisory committees established and maintained by the State.

The previous sentence shall not apply to a revision of a MediGrant plan (or revision of an amendment to a plan) made by a State under section 2154(c)(1) or to a plan amendment withdrawal described in section 2154(c)(4).

"(b) CONTENTS OF NOTICE.—A notice under subsection (a)(1) for a proposed plan or amendment shall include a description of—

"(1) the general purpose of the proposed plan or amendment (including applicable effective dates),

"(2) where the public may inspect the proposed plan or amendment,

"(3) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and

"(4) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(c) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this subsection is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.

"(d) PUBLICATION.—Notices under this section may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(e) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this section for a State if notice of the MediGrant plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this section.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. ELIGIBILITY AND BENEFITS.

"(a) DESCRIPTION OF GENERAL ELIGIBILITY AND BENEFITS.—Each MediGrant plan shall include a description (consistent with this title) of the following:

"(1) GENERAL ELIGIBILITY STANDARDS.—The general eligibility standards of the plan for eligible low-income individuals (including individuals described in subsection (b)), including—

"(A) any limitations as to the duration of eligibility,

"(B) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status, immigration status, or employment status of individuals,

"(C) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income,

"(D) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse, and

"(E) any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination); and

"(B) utilization control systems.

"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(A) how the State determines the qualifications of health care providers eligible to provide such assistance; and

"(B) how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients who are children and the spouses of recipients.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) SUPPORT FOR CERTAIN HOSPITALS.—

"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, a description of the extent to which provisions are made for expenditures for items and services furnished by such hospitals and covered under the MediGrant plan.

"(B) HOSPITALS DESCRIBED.—A hospital described in this subparagraph is a short-term acute care general hospital or a children's hospital, the low-income utilization rate of which exceeds the lesser of—

"(i) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a MediGrant plan in the State in which such hospital is located, or

"(ii) 1¼ standard deviations above the mean low-income utilization rate for hospitals receiving such payments in the 50 States and the District of Columbia.

"(C) LOW-INCOME UTILIZATION RATE.—For purposes of subparagraph (B), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a MediGrant plan or were uninsured in a period, and the denominator of which is the total number of the hospital's patient days in that period.

"(D) PATIENT DAYS.—For purposes of subparagraph (C), the term 'patient day' includes each day in which—

"(i) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(ii) an individual makes one or more outpatient visits to the hospital.

"(b) MANDATORY COVERAGE.—Each MediGrant plan shall provide for making medical assistance available (subject to the eligibility standards described under the plan pursuant to subsection (a)(1) and State flexibility of benefits under section 2116) to—

"(1) any pregnant woman or child under the age of 13 whose family income does not exceed the poverty line applicable to a family of the size involved, and

"(2) any individual who is disabled, as defined by the State.

"(c) IMMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(d) FAMILY PLANNING SERVICES.—The MediGrant plan shall provide prepregnancy planning services and supplies as specified by the State.

"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(f) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child with a family income below the State median income (as determined by the State) applicable to a family of the size involved to contribute to the cost of covered nursing facility services and other long-term care services for the child's parent under the plan.

"(g) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

"(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 2114(c)(1), for the provision of medical assistance under a MediGrant plan under which the organization is—

"(A) at full financial risk, as defined by the State, unless the organization meets solvency standards established by the State for private health maintenance organizations, or

"(B) is not at such risk, unless the organization meets solvency standards that are established under the MediGrant plan.

"(2) TREATMENT OF PUBLIC ENTITIES.—Paragraph (1) shall not apply to an organization that is a public entity or if the solvency of such organization is guaranteed by the State.

"(3) TRANSITION.—In the case of a capitated health care organization that as of the date of the enactment of this title has entered into a contract with a State for the provision of medical assistance under title XIX under which the organization assumes full financial risk and is receiving capitation payments, paragraph (1) shall not apply to such organization until 3 years after the date of the enactment of this title.

"SEC. 2112. SET-ASIDES OF FUNDS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family percentage specified in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age;

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—In this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman; and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) SET-ASIDES.—Subject to subsection (f)—

"(A) GENERAL SET-ASIDE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income elderly individuals for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The MediGrant plan shall provide priority for such making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—In this subsection, the term 'targeted low-income elderly individual' means an elderly individual whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (f), a MediGrant plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are not elderly individuals and who are eligible for such assistance on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind.

"(d) FOR SERVICES PROVIDED AT FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—Subject to subsection (f), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for services provided at rural health clinics (as defined in section 1861(aa)(2)) and Federally-qualified health centers (as defined in section 1861(aa)(4)), for eligible low-income individuals for a fiscal year is not less than 85 percent of the average annual expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for rural health clinic services and Federally-qualified health center services (as defined in section 1905(l)).

"(e) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may be expended under the MediGrant plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the MediGrant plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a) (relating to the definition of medical assistance).

"(f) EXCEPTIONS TO MINIMUM SET-ASIDES.—

"(1) ALTERNATIVE MINIMUM SET-ASIDES.—

"(A) IN GENERAL.—A State may provide in its MediGrant plan (through an amendment to the plan) for a lower percentage of expenditures than the minimum percentages specified in any (or all) of paragraphs (2) of subsections (a), (b), (c), and (d) if the State determines (and certifies to the Secretary) that—

"(i) the health care needs of the low-income populations described in paragraph (1) of the subsections (a), (b), (c), or (d) who are eligible for medical assistance under the plan during the previous fiscal year (or medicare premium assistance needs described in subsection (b)(1)(B)) can be reasonably met without the expenditure of the percentages otherwise required to be expended,

"(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with the expenditure of such lower percentage of funds, and

"(iii) in the case of subsection (d) with respect to rural health clinic services and Federally-qualified health center services, the health care needs of eligible low-income individuals residing in medically underserved rural areas can reasonably be met without the level of expenditure for such services otherwise required and the performance goals established under section 2101 relating to such individuals can reasonably be met with such lower level of expenditures.

"(B) PERIOD OF APPLICATION.—The determination and certification under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower percentage is sought). A new determination and certification must be made under such clause for any subsequent period.

"(C) NO EXCEPTION PERMITTED BEFORE FISCAL YEAR 1998.—This paragraph may not apply with respect to the percentages described in paragraphs (2) of subsections (a), (b), and (c) for a fiscal year before fiscal year 1998.

"(2) INDEPENDENT CERTIFICATION OF COMPLIANCE WITH GOALS.—

"(A) IN GENERAL.—For purposes of section 2151(c), a MediGrant plan shall not be considered to be in substantial violation of the requirements of this section if the amount of actual State expenditures specified in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) is lower than the minimum percentages specified in any (or all) of paragraphs (2) of such subsections if an independent actuary determines and certifies to the State that the MediGrant plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.

"(B) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a MediGrant plan for which the actual State expenditures described in any (or all) of paragraphs (1) of subsections (a), (b), (c), and (d) are less than 95 percent of the expenditures which would be made if the amount of State expenditures specified in any (or all) of such paragraphs was equal to the applicable minimum percentage specified in any (or all) of paragraphs (2) of such subsections.

"(g) COMPUTATIONS.—States shall calculate the minimum percentages under paragraphs (2) of subsections (a), (b), (c), and (d) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved and medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(h) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET-ASIDES.—In this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX,

"(2) includes medical assistance for medicare cost-sharing only to the extent such assistance was required to be provided under section 1902(a)(10)(E), and

"(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a pregnant woman or a child who is a member of a family described in paragraph (2)—

"(A) the plan shall not impose any premium, and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the MediGrant plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman,

"(B) is made eligible for medical assistance under the MediGrant plan, and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a MediGrant plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise,

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care,

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size,

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage, or

"(5) from scaling cost-sharing based on participation in employment training programs, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the MediGrant plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:

"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the MediGrant plan, and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the MediGrant plan.

"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

"(b) PUBLIC NOTICE AND COMMENT.—Under the MediGrant plan the State shall provide a

process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved, or (ii) amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law, and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—In this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse,

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment, or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or re-determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(C).

"(B) A community spouse monthly income allowance (as defined in paragraph (3)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—The MediGrant plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution,

there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).

"(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term 'institutionalized individual or couple' means an individual or married couple—

"(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

"(ii) who is or are determined to be eligible for medical assistance under the State MediGrant plan.

"(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—

"(A) IN GENERAL.—In this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—

"(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse, exceeds

"(ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

"(i) 150 percent of 1/12 of the poverty line applicable to a family unit of 2 members, plus

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(5) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses, exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State MediGrant plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a hearing under the MediGrant plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) RESULTS OF HEARING.—

"(A) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(B) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes in such a hearing that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the MediGrant plan to the contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State MediGrant plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)), or

"(iii) the amount established under subsection (e)(2);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) INSTITUTIONALIZED SPOUSE.—The term 'institutionalized spouse' means an individual—

"(A)(i) who is in a medical institution or nursing facility, or

"(ii) at the option of the State (I) who would be eligible under the MediGrant plan under this title if such individual was in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services such individual would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant the plan; and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.

"SEC. 2116. STATE FLEXIBILITY.

"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—

"(1) to provide medical assistance for any particular items or services,

"(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services,

"(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State, so long as medical assistance is made available in all such areas or subdivisions,

"(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual, or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance,

''(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance, or

''(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

''PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

''(a) ALLOTMENTS.—

''(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

''(2) LIMITATION ON OBLIGATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

''(B) ADJUSTMENTS.—

''(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year. This clause shall be applied separately with respect to the portion of the obligation allotment that is attributable to the supplemental outlay allotment under subsection (f).

''(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.

''(C) NO EFFECT ON PRIOR YEAR OBLIGATIONS.—Subparagraph (A) shall not apply to or affect obligations for a fiscal year prior to fiscal year 1996.

''(D) OBLIGATION.—For purposes of this section, the Secretary's establishment of an estimate under section 2123(b) of the amount a State is entitled to receive for a quarter (taking into account any adjustments described in such subsection) shall be treated as the obligation of such amount for the State as of the first day of the quarter.

''(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new obligation authority', for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

''(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—

''(i) for fiscal year 1996 is 0.950,

''(ii) for fiscal year 1997 is 0.986, and

''(iii) for a subsequent fiscal year is 0.998.

''(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

''(i) the pool amount for such year, reduced by

''(ii) $24,624,000,000.

''(4) OBLIGATION ALLOTMENTS.—

''(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

''(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to

''(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

''(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

''(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

''(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State (including the District of Columbia, a Commonwealth, or territory) is determined according to the formula: A=(B-C)/D, where—

''(I) 'A' is the obligation amount for such State,

''(II) 'B' is the outlay allotment of such State for fiscal year 1996, as determined under subsection (c),

''(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)), and

''(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

''(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State (including the District of Columbia, Commonwealths, and territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

''(iii) AGREEMENT.—The submission of a MediGrant plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of such obligation allotment.

''(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

''(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

''(E) TRANSITIONAL CORRECTION FOR FISCAL YEAR 1997.—

''(i) IN GENERAL.—The obligation amount for fiscal year 1997 for any State described in clause (ii) shall be increased by 90 percent of the amount by which 90 percent of the amount described in clause (ii)(I) exceeds the amount described in clause (ii)(II), divided by the payout adjustment factor specified in paragraph (3)(B) for fiscal year 1996. The increase under this clause shall be paid to a State in the first quarter of fiscal year 1997.

''(ii) STATES DESCRIBED.—A State described in this clause is a State for which—

''(I) the amount of the pre-enactment-obligation outlays (as established for such State under subparagraph (C)(ii)), exceeded

''(II) the outlays of the Federal Government during fiscal year 1996 that are attributable to obligations that were incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States had not been made as of such date of enactment,

by at least 10 percent of the amount described in subclause (I).

''(b) POOL OF AVAILABLE FUNDS.—

''(1) IN GENERAL.—For purposes of this section, the 'pool amount' under this subsection for—

''(A) fiscal year 1996 is $96,386,037,894,

''(B) fiscal year 1997 is $103,233,603,164,

''(C) fiscal year 1998 is $107,907,625,827,

''(D) fiscal year 1999 is $112,644,040,408,

''(E) fiscal year 2000 is $117,359,685,046,

''(F) fiscal year 2001 is $122,284,072,525,

''(G) fiscal year 2002 is $127,418,239,580, and

''(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.2 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

''(2) NATIONAL MEDIGRANT GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national MediGrant growth percentage' is the percentage by which—

''(A) the pool amount under paragraph (1) for the fiscal year, exceeds

''(B) such pool amount for the previous fiscal year.

''(c) STATE OUTLAY ALLOTMENTS.—

''(1) FISCAL YEAR 1996.—

''(A) IN GENERAL.—For each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), determined in accordance with the following table:

''State or District:	Outlay allotment (in dollars):
Alabama	1,517,652,207
Alaska	204,933,213
Arizona	1,370,781,297
Arkansas	1,011,457,933
California	8,946,838,461
Colorado	757,492,679
Connecticut	1,463,011,635
Delaware	212,327,763
District of Columbia	501,412,091
Florida	3,715,624,180
Georgia	2,426,320,602
Hawaii	323,124,375
Idaho	278,329,686
Illinois	3,467,274,342
Indiana	1,952,467,267
Iowa	835,235,895
Kansas	713,700,869
Kentucky	1,577,828,832
Louisiana	2,622,000,000
Maine	694,220,790
Maryland	1,369,699,847
Massachusetts	2,870,346,862
Michigan	3,465,182,886
Minnesota	1,793,776,356
Mississippi	1,261,781,330
Missouri	1,849,248,945

''State or District:	*Outlay allotment (in dollars):*
Montana	*312,212,472*
Nebraska	*463,900,417*
Nevada	*257,896,453*
New Hampshire	*360,000,000*
New Jersey	*2,854,621,241*
New Mexico	*634,756,945*
New York	*12,901,793,038*
North Carolina	*2,587,883,809*
North Dakota	*241,168,563*
Ohio	*4,034,049,690*
Oklahoma	*911,198,775*
Oregon	*1,088,670,440*
Pennsylvania	*4,454,423,400*
Rhode Island	*545,686,262*
South Carolina	*1,621,021,815*
South Dakota	*262,804,959*
Tennessee	*2,519,934,251*
Texas	*6,351,909,343*
Utah	*484,274,254*
Vermont	*248,158,729*
Virginia	*1,144,962,509*
Washington	*1,763,460,996*
West Virginia	*1,156,813,157*
Wisconsin	*1,709,500,642*
Wyoming	*132,925,390.*

''(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for one of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

''(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year, and

''(ii) the scalar factor described in subparagraph (C) for the fiscal year.

''(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

''(i) the State's or District's aggregate expenditure need for the fiscal year (as determined under subsection (d)), and

''(ii) the State's or District's old Federal medical assistance percentage (as defined in section 2122(d)) for the fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

''(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

''(3) FLOORS AND CEILINGS.—

''(A) FLOORS.—Subject to the ceiling established under subparagraph (B), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of the following:

''(i) IN GENERAL.—Beginning with fiscal year 1998, 0.24 percent of the pool amount for the fiscal year.

''(ii) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (iii)—

''(I) FISCAL YEAR 1997.—For fiscal year 1997, 103.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1996.

''(II) FISCAL YEAR 1998.—For fiscal year 1998, 103 percent of the amount of the State outlay allotment under this subsection for fiscal year 1997.

''(III) SUBSEQUENT FISCAL YEARS.—For a fiscal year after 1998, 102 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

''(iii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by more than the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year (or, if less, beginning with fiscal year 2003, 95 percent of the national MediGrant growth percentage for the year).

''(B) CEILINGS.—

''(i) IN GENERAL.—Subject to clause (ii), in no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

''(I) the State outlay allotment under this subsection for the State for the preceding fiscal year, and

''(II) the applicable percent (specified in clause (ii) or (iii)) for the fiscal year involved.

''(ii) GENERAL RULE FOR APPLICABLE PERCENT.—For purposes of clause (i), subject to clause (iii), the 'applicable percent'—

''(I) for fiscal year 1997 is 109 percent, and

''(II) for a subsequent fiscal year is 105.33 percent.

''(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the 'applicable percent' is 107 percent.

''(iv) DETERMINATION OF FEDERAL MEDIGRANT SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal MediGrant spending per resident-in-poverty rate' for a State for a fiscal year is equal to—

''(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

''(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding the preceding subparagraphs of this paragraph, the State outlay allotment for—

''(I) New Hampshire for each of the fiscal years 1997 through 2000, is $360,000,000,

''(II) Louisiana, subject to subclause (III), for each of the fiscal years 1997 through 2000, is $2,622,000,000, and

''(III) Louisiana and Nebraska for fiscal year 1997, as otherwise determined, shall be increased by $37,048,207 and $106,132,408, respectively.

''(IV) Nevada for each of fiscal years 1996, 1997, and 1998, as otherwise determined, shall be increased by $90,000,000.

''(ii) EXCEPTION.—A State described in subclause (I) or (II) of clause (i) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

''(iii) TREATMENT OF INCREASE AS SUPPLEMENTAL ALLOTMENT.—Any increase in an outlay allotment under clause (i)(III) or (i)(IV) shall not be taken into account for purposes of determining the scalar factor under paragraph (2) for fiscal year 1997, any State outlay allotment for a fiscal year after fiscal year 1997, the pool amount for a fiscal year after fiscal year 1997, or determination of the national MediGrant growth percentage for any fiscal year.

''(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

''(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment in fiscal year 1996 and for the increase in the amount of such allotment in subsequent fiscal years.

''(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996.

''(5) COMMONWEALTHS AND TERRITORIES.—

''(A) IN GENERAL.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) (as in effect on the day before the date of the enactment of this title) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national MediGrant growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B) (as so in effect).

''(B) DISREGARD OF ROUNDING REQUIREMENTS.—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.

''(C) LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.—Notwithstanding the provisions of subparagraph (A), the total amount of the outlay allotments for the Commonwealths and territories for fiscal year 1996 may not exceed $139,950,000.

''(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—

''(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

''(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).

''(B) CASE MIX INDEX.—The case mix index for such State or District (as determined under paragraph (3)) for the most recent fiscal year for which data are available, but in no case less than 0.9 or greater than 1.15.

''(C) INPUT COST INDEX.—The input cost index for the State (as determined under paragraph (4)) for the most recent fiscal year for which data are available.

''(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

''(2) RESIDENTS IN POVERTY.—In this section—

''(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—In this subsection, the 'case mix index' for a State or the District of Columbia for a fiscal year is equal to—

"(i) the sum of—

"(I) the projected per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),

"(II) the projected per recipient expenditures with respect to the blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and

"(III) the projected per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PROJECTED PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(i)(I), the 'projected per recipient expenditures with respect to elderly individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for elderly individuals, and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(C) PROJECTED PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the 'projected per recipient expenditures with respect to blind and disabled individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because such individuals are blind or disabled and are not elderly individuals, and

"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(D) PROJECTED PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the 'projected per recipient expenditures with respect to other individuals' in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i), and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the 'national average expenditures per recipient' for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph,

"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph, and

"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'elderly individuals' is deemed a reference to 'individuals whose eligibility for medical assistance is based on being 65 years of age or older',

"(II) the reference in subparagraph (C)(i) to 'and are not elderly individuals' shall be considered to be deleted, and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means medical vendor payments by basis of eligibility as reported by HCFA Form 2082.

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—In this section, the 'input cost index' for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under section 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for discharges occurring during the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage by which (I) the pool amount for fiscal year 1997, exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures for such States and District for fiscal year 1994); divided by

"(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for fiscal year 1994; and

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national MediGrant growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

"(f) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

"(1) IN GENERAL.—Notwithstanding the previous provisions of this section, the amount of the State outlay allotment for each of fiscal years 1996 through 2000 for each supplemental allotment eligible State shall be increased by the amount of the supplemental outlay allotment provided under paragraph (2) for the State for that year. The amount of such increased allotment may only be used for the purpose of providing medical assistance for care and services for aliens described in paragraph (1) of section 2123(e) and for which the exception described in paragraph (2) of such section applies. Section 2122(f)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

"(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool

amount (specified in subparagraph (D)) for the fiscal year.

"(B) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 15 States with the highest number of undocumented alien residents of all the States.

"(C) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'supplemental allotment ratio' for a State is the ratio of—

"(i) the number of undocumented aliens residing in the State, to

"(ii) the sum of such numbers for all supplemental allotment eligible States.

"(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—

"(i) for fiscal year 1996 is $627,325,551,

"(ii) for fiscal year 1997 is $673,388,855,

"(iii) for fiscal year 1998 is $702,313,450,

"(iv) for fiscal year 1999 is $733,140,258, and

"(v) for fiscal year 2000 is $763,831,886.

"(E) DETERMINATION OF NUMBER.—

"(i) IN GENERAL.—The number of undocumented aliens residing in a State under this paragraph—

"(I) for fiscal year 1996 shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992, and

"(II) for a subsequent fiscal year shall be determined based on the most recent updated estimate made under clause (ii).

"(ii) UPDATING ESTIMATE.—For each fiscal year beginning with fiscal year 1997, the Secretary, in consultation with the Commission of the Immigration and Naturalization Service, States, and outside experts, shall estimate the number of undocumented aliens residing in each of the 50 States and the District of Columbia.

"(3) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a)—

"(A) the amount of the supplemental pool amount for a fiscal year shall be added to the pool amount under subsection (b) for that fiscal year, and

"(B) the amount of the supplemental allotment to a State provided under paragraph (1) shall be added to the outlay allotment of the State for that fiscal year.

"(4) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2122 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a MediGrant plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(e)(2)); plus

"(3) subject to section 2123(c)—

"(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State MediGrant plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State MediGrant plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) APPLICABLE FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—

"(1) the old Federal medical assistance percentage (as determined in subsection (d));

"(2) the lesser of—

"(A) new Federal medical assistance percentage (as determined under subsection (e)) or

"(B) the old Federal medical assistance percentage plus 10 percentage points; or

"(3) 60 percent.

"(d) OLD FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(2) LIMITATION ON RANGE.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

"(3) PROMULGATION.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(e) NEW FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—

"(A) TERM DEFINED.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—

"(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or

"(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C), to—

"(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).

"(B) TOTAL TAXABLE RESOURCES (TTR) RATIO.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—

"(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by

"(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.

"(C) PER CAPITA INCOME RATIO.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—

"(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by

"(ii) an amount equal to the total personal income of the continental United States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).

"(D) AGGREGATE EXPENDITURE NEED RATIO.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—

"(i) the State aggregate expenditure need (as defined in section 2121(d)) for the State for the fiscal year, divided by

"(ii) the such of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.

"(2) LIMITATION ON RANGE.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 40 percent or greater than 83 percent.

"(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

"(f) SPECIAL RULES.—For purposes of this title—

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

"(2) ALASKA.—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the input cost index for such State (as determined under section 2121(d)(4)).

"(3) INDIAN HEALTH SERVICE FACILITIES.—

"(A) IN GENERAL.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

"(B) FACILITY DESCRIBED.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—

"(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to a Statewide waiver approved under section 1115,

"(ii) the facility is not an Indian Health Service facility,

"(iii) the tribe owns at least 2 such facilities, and

"(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).

"(4) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(5) SPECIAL TRANSITIONAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsections (a) and (f), in order to receive the full State outlay allotment described in section 2121(c)(3)(C)(i), a State described in subparagraph (C) shall expend State funds in a fiscal year (before fiscal year 2000) under a MediGrant plan under this title in an amount not less than the adjusted base year State expenditures, plus the applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE NOT MET.—In the event a State described in subparagraph (C) fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(3)(C)(i) for such year for such State shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—

"(i) for New Hampshire, $203,000,000, and

"(ii) for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for a fiscal year is specified in the following table:

"Fiscal year:	*Applicable Percentage:*
1996	*20*
1997	*40*
1998	*60*
1999	*80.*

"(g) STATE FINANCIAL PARTICIPATION.—Each MediGrant plan shall provide for financial participation by the State equal to not less than 40 percent of the non-Federal share of the expenditures under the plan with respect to which payments may be made under this section.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—Payment shall not be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—No Federal financial assistance is available for expenditures under the MediGrant plan for—

"(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter, or

"(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.

"(2) ADMINISTRATIVE EXPENSES NOT SUBJECT TO LIMITATION.—The administrative expenses referred to in this paragraph are expenditures under the MediGrant plan for the following activities:

"(A) Quality assurance.

"(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2137.

"(C) Utilization review activities, including medical activities and activities of peer review organizations.

"(D) Inspection and oversight of providers and capitated health care organizations.

"(E) Anti-fraud activities.

"(F) Independent evaluations.

"(G) Activities required to meet reporting requirements under this title.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(e) MEDIGRANT AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.

"(f) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the MediGrant plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and

"(C) such care and services are not related to an organ transplant procedure.

"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the

term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(g) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(i)(2)) of a manufacturer provided under the MediGrant plan unless the manufacturer (as defined in section 2175(i)(4)) of the drug—

"(A) has entered into a MediGrant master rebate agreement with the Secretary under section 2175,

"(B) is otherwise complying with the provisions of such section,

"(C) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section, and

"(D) subject to paragraph (4), is complying with the provisions of section 340B of the Public Health Service Act, including the requirement of entering into an agreement with the Secretary under such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the MediGrant master rebate agreement under section 2175.

"(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of subparagraphs (C) and (D), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38, United States Code, or section 340B of the Public Health Service Act—

"(A) the Secretary shall not take into account any amendments to such sections that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992, and

"(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of such sections (as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.

"(4) EFFECT OF ESTABLISHMENT OF ALTERNATIVE MECHANISM UNDER PUBLIC HEALTH SERVICE ACT.—If the Secretary does not establish a mechanism to ensure against duplicate discounts or rebates under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(A) Each covered entity under such section shall inform the State when it is seeking reimbursement from the MediGrant plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(B) Each such State shall provide a means by which such an entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment with respect to such a drug.

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each MediGrant plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter, or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and

"(B) make the audit report available for public inspection in the same manner as proposed MediGrant plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each MediGrant plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each MediGrant plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the MediGrant plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The MediGrant plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

"(5) to State MediGrant fraud control units (as defined in section 2134),

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General, in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.

"(a) IN GENERAL.—Each MediGrant plan shall provide for a State MediGrant fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.

"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) OVERPAYMENTS.—

"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.

"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received prior written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each MediGrant plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties, and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established where the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a MediGrant plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a MediGrant plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.—Each State with a MediGrant plan shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock,

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll (or eliminate coverage of) any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage,

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent, and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(ii) has received payment from a third party for the costs of such services to such child, but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the MediGrant plan, including through the imposition of liens against the property or estate of the individual.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the MediGrant plan, each MediGrant plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"SEC. 2137. QUALITY ASSURANCE REQUIREMENTS FOR NURSING FACILITIES.

"(a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care,

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

"(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—

"(A) IN GENERAL.—A nursing facility must care for its residents in such a manner and in such an environment as will reasonably promote maintenance or enhancement of the quality of life of each resident.

"(B) QUALITY ASSESSMENT AND ASSURANCE.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies. A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A nursing facility must provide services and activities in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) uses an instrument which is specified by the State under subsection (e)(5); and

"(iii) includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a *civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).*

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 14 days after the date of) admission for each individual admitted;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort. In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—

"(i) nursing and related services and specialized rehabilitative services;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of residents;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of residents;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of residents;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of residents; and

"(vi) routine dental services (to the extent covered under the State MediGrant plan) and emergency dental services to meet the needs of residents.

The services provided or arranged by the facility must meet professional standards of quality.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE; FACILITY WAIVERS.—

"(i) GENERAL REQUIREMENTS.—A nursing facility—

"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

"(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

"(ii) WAIVER BY STATE.—To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if—

"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility,

"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered professional nurse or a physician is obligated to respond immediately to telephone calls from the facility,

"(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

"(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to use other qualified, licensed personnel.

"(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—

"(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(II) is competent to provide nursing or nursing-related services.

"(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.

"(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered dietician,

"(ii) who volunteers to provide such services without monetary compensation, or

"(iii) who is trained, whether compensated or not, to perform a task-specific function which assists residents in their daily activities.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A nursing facility must—

"(A) require that the health care of every resident be provided under the supervision of a physician (or, at the option of a State, under the supervision of a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician);

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)).

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be

used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed unless a delay in changing the room or roommate while notice is given would endanger the resident or others.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

"(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

"(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

"(x) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 2115(c)(1)(B);

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights) including the notice (if any) of the State developed under subsection (e)(6);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services that are included in nursing facility services under the State MediGrant plan and for which the resident may not be charged, and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) for a stay at the facility; or

"(vi) the facility ceases to operate.

In each of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs;

"(IV) in a case where a resident has not resided in the facility for 30 days; or

"(V) in a case where the provision of a 30-day notice would be impossible or impracticable.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965);

"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

"(iv) EXCEPTION.—This subparagraph shall not apply to a voluntary transfer or discharge or a transfer or discharge necessitated by a medical emergency.

"(C) ORIENTATION.—A nursing facility must provide reasonable preparation and orientation to residents to promote safe and orderly transfer or discharge from the facility.

"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—

"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning—

"(I) the provisions of the State MediGrant plan under this title regarding the period (if any) during which the resident will be permitted under the State MediGrant plan to return and resume residence in the facility, and

"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).

"(ii) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

"(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish and follow a written policy under which a resident—

"(I) who is eligible for medical assistance for nursing facility services under a State MediGrant plan,

"(II) who is transferred from the facility for hospitalization or therapeutic leave, and

"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State MediGrant plan for the holding of a bed in the facility for the resident,

will be permitted to be readmitted to the facility immediately upon the first availability of a bed *in a room (not including a private room) in the facility if, at the time of readmission, the resident requires the services provided by the facility.*

"(3) ACCESS AND VISITATION RIGHTS.—A nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident, unless such access would endanger the health or safety of the resident or others in the facility;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—

"(A) IN GENERAL.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State MediGrant plan for all individuals regardless of source of payment.

"(B) CONSTRUCTION.—

"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDIGRANT PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.

"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State MediGrant plan.

"(5) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) upon the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $250 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. All other personal property, including medical records, shall be considered part of the resident's estate and shall only be released to the administrator of the estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the State, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.

"(6) LIMITATION ON CHARGES IN CASE OF MEDIGRANT-ELIGIBLE INDIVIDUALS.—A nursing facility may not impose charges, for certain MediGrant-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility, whether freestanding or hospital-based, must meet such standards as are established by the Secretary.

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility, whether freestanding or hospital-based, must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.

"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—A State with a MediGrant plan shall provide for the following:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under subsection (f)(2), and

"(B) provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—The State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State, or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. The State shall make available to the public information in the registry. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).

"(3) STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—The State must provide for a

fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers and discharges of residents of such facilities.

"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—The State must implement and enforce the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii).

"(6) NOTICE OF MEDIGRANT RIGHTS.—Each State shall develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) PREADMISSION SCREENING.—

"(i) IN GENERAL.—The State must have in effect a preadmission screening program, for identifying mentally ill and mentally retarded individuals (as defined in subparagraph (B)) who are admitted to nursing facilities.

"(ii) STATE REQUIREMENT FOR RESIDENT REVIEW.—The State shall notify the State mental health authority or the State mental retardation or developmental disability authority, as appropriate, of the individuals so identified.

"(B) DEFINITIONS.—In this paragraph:

"(i) An individual is considered to be 'mentally ill' if the individual has a serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder) or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness.

"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition.

"(f) RESPONSIBILITIES RELATING TO NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of a State with a MediGrant plan under this title to assure that requirements which govern the provision of care in nursing facilities under the plan, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—For purposes of subsections (b)(5) and (e)(1)(A), the State shall establish—

"(A) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (i) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights) and content of the curriculum, (ii) minimum hours of initial and ongoing training and retraining, (iii) qualifications of instructors, and (iv) procedures for determination of competency;

"(B) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

"(C) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs; and

"(D) requirements, under both such programs, that—

"(i) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed, and

"(ii) prohibit the imposition on a nurse aide who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins either such program of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.

"(3) QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the State shall develop standards to be applied in assuring the qualifications of administrators of nursing facilities. Any such standards must apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Under each State MediGrant plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State nursing facilities with the requirements of such subsections.

"(B) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility or by another individual used by the facility in providing services to such a resident. The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority. A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

"(2) SURVEYS.—

"(A) ANNUAL STANDARD SURVEY.—

"(i) IN GENERAL.—Each nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The State shall take all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 24 months after the date of the previous standard survey conducted under this subparagraph, except that in the case of a facility which has been subjected to an extended survey under subparagraph (B), a standard survey shall be conducted not later than 12 months after the date of the preceding extended survey.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 4 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practicable, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon the protocol which the Secretary has developed, tested, and validated, as of the date of the enactment of this title, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the State establishes.

"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 4 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) at least every third year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has found substantial evidence of a pattern of noncompliance by a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on the basis of that survey, make determinations concerning the extent to which the nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting nursing facilities, including statements of deficiencies, within a reasonable time after such information is made available to those facilities, and approved plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect to a nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State MediGrant fraud and abuse control unit (established under section 2134) with access to all information of the State agency responsible for surveys and certifications under this subsection.

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d)—

"(A) the State shall require the facility to correct the deficiency involved;

"(B) if the State finds that the facility's deficiencies immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); and

"(C) if the State finds that the facility's deficiencies do not immediately jeopardize the health or safety of its residents, the State may—

"(i) terminate the facility's participation under the State MediGrant plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State MediGrant plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d).

"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

"(B) ALTERNATIVE REMEDIES.—A State may establish alternative remedies to the remedies described in subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in such subparagraph.

"(C) ASSURING PROMPT COMPLIANCE.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State may impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (A)(i), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection. Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies.

"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), the Secretary shall notify the State of such deficiency. If, after a reasonable period of time after such notification is given, the Secretary finds that the State has failed to carry out the requirements of paragraph (1)(A) or paragraph (1)(B) (if appropriate) with respect to the deficiency involved, or that the deficiency remains uncorrected—

"(i) the Secretary shall require the facility to correct the deficiency involved;

"(ii) if the Secretary finds that the deficiency involved immediately jeopardizes the health or safety of its residents, the Secretary shall, in consultation with the State, take action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State MediGrant plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); and

"(iii) in the case of a deficiency that remains uncorrected, if the Secretary finds that the deficiency involved does not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).

"(C) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are as follows:

"(i) DENIAL OF PAYMENT.—Denial of any further payments to the State in accordance with section 2154(f) for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—Imposition of a civil money

penalty against the facility in an amount not to exceed $5,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—Appointment of temporary management (in consultation with the State) to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies.

"(4) SPECIAL RULES REGARDING PAYMENTS TO FACILITIES.—

"(A) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The State or the Secretary, as appropriate, may continue payments, over a period of not longer than 6 months after the effective date of the findings, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d).

"(B) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(5) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under Federal or State law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII or is accredited by an entity pursuant to subsection (i)(2).

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available by such facilities to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State MediGrant fraud control units.

"(i) CONSTRUCTION.—

"(1) MEDICARE REQUIREMENTS.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.

"(2) EFFECT OF ACCREDITATION.—

"(A) IN GENERAL.—At the option of a State, or the Secretary, as appropriate, if a nursing facility in the State is accredited by a national accrediting entity meeting such standards as the State or the Secretary may impose, such facility shall be deemed to have met the requirements of this section and the State shall be deemed to have met the survey and certification requirements under subsection (g).

"(B) REQUIREMENT FOR ACCREDITING ENTITY.—A State or the Secretary, as appropriate, may not find that an accrediting entity meets standards under subparagraph (A) unless such entity applies standards for accreditation for facilities that meet or exceed the requirements of this section.

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each MediGrant plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan, and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"(c) QUALITY ASSURANCE.—Each MediGrant plan shall provide a program to assure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDIGRANT PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to a MediGrant plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60 day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.

"(a) IN GENERAL.—A State may rescind its MediGrant plan and discontinue participation in the program under this title at any time after providing—

"(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and

"(2) the Secretary with 90 days prior written notice.

"(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part C for expenditures made for items and services furnished under the MediGrant plan before the effective date of the discontinuation.

"(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 2121 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 2121 as is appropriate.

"SEC. 2154. SANCTIONS FOR NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review MediGrant plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a MediGrant plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title, and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the MediGrant plan) specified in the order beginning on the date of the notice of the determination.

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a MediGrant plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written

notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the MediGrant plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved,

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a MediGrant plan (or amendment to such a plan) or the administration of the MediGrant plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect, and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the MediGrant plan or plan amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the MediGrant plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1), or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the MediGrant plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the MediGrant plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the MediGrant plan shall be treated as though the amendment had not been made.

"(d) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code. Only the Secretary, in accordance with this title, may compel a State under Federal law to comply with the provisions of this title or a MediGrant plan, or otherwise enforce a provision of this title against a State, and no action may be filed under Federal law against a State in relation to the State's compliance, or failure to comply, with the provisions of this title or of a MediGrant plan except by the Secretary as provided under this subsection.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

''(g) INDIVIDUAL COMPLAINT PROCESS.—The Secretary shall provide for a process under which an individual may notify the Secretary concerning a State's failure to provide medical assistance as required under the State MediGrant plan or otherwise comply with the requirements of this title or such plan. If the Secretary finds that there is a pattern of complaints with respect to a State or that a particular failure or finding of noncompliance is egregious, the Secretary shall notify the chief executive officer of the State of such finding and shall notify the Congress if the State fails to respond to such notification within a reasonable period of time.

"SEC. 2155. SECRETARIAL AUTHORITY.

''(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

''(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a MediGrant plan (or amendments to a MediGrant plan) or the compliance of a MediGrant plan (including its administration) with requirements of this title.

''(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2154.

''(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of MediGrant plans (or amendments to such plans) or the compliance of a MediGrant plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

''(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rulemaking, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

''PART F—GENERAL PROVISIONS

"SEC. 2171. DEFINITIONS.

''(a) MEDICAL ASSISTANCE.—For purposes of this title, the term 'medical assistance' means payment of part or all of the cost of any of the following, or assistance in the purchase, in whole or in part, of health benefit coverage that includes any of the following, for eligible low-income individuals (as defined in subsection (b)) as specified under the MediGrant plan:

''(1) Inpatient hospital services.

''(2) Outpatient hospital services.

''(3) Physician services.

''(4) Surgical services.

''(5) Clinic services and other ambulatory health care services.

''(6) Nursing facility services.

''(7) Intermediate care facility services for the mentally retarded.

''(8) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

''(9) Over-the-counter medications.

''(10) Laboratory and radiological services.

''(11) Family planning services and supplies.

''(12) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

''(13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.

''(14) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

''(15) Disposable medical supplies.

''(16) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

''(17) Community supported living arrangements.

''(18) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

''(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

''(20) Dental services.

''(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.

''(22) Outpatient substance abuse treatment services.

''(23) Case management services.

''(24) Care coordination services.

''(25) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

''(26) Hospice care.

''(27) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

''(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

''(B) performed under the general supervision or at the direction of a physician, or

''(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

''(28) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

''(29) Medical transportation.

''(30) Medicare cost-sharing (as defined in subsection (c)).

''(31) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

''(32) Any other health care services or items specified by the Secretary and not excluded under this section.

''(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—

''(1) IN GENERAL.—The term 'eligible low-income individual' means an individual—

''(A) who has been determined eligible by the State for medical assistance under the MediGrant plan and is not an inmate of a public institution (except as a patient in a State psychiatric hospital), and

''(B) whose family income (as determined under the plan) does not exceed a percentage (specified in the MediGrant plan and not to exceed 275 percent) of the poverty line for a family of the size involved.

''(2) AMOUNT OF INCOME.—In determining the amount of income under paragraph (1)(B), a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.

''(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

''(1)(A) Premiums under section 1839.

''(B) Premiums under section 1818 or 1818A.

''(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

''(3) Deductibles established under title XVIII (including those described in sections 1813 and 1833(b)).

''(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

''(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a MedicarePlus organization under part C of title XVIII.

''(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

''(1) CHILD.—The term 'child' means an individual under 19 years of age.

''(2) ELDERLY INDIVIDUAL.—The term 'elderly individual' means an individual who has attained retirement age, as defined under section 216(l)(1).

''(3) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).

''(4) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"SEC. 2172. TREATMENT OF TERRITORIES.

''Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

''(1) the applicable Federal medical assistance percentage,

''(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c), or

''(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in section 2171(a) and medically-related services (as defined in section 2112(e)(2)).

"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.

''In the case of a State in which one or more facilities of the Indian Health Service are located, the MediGrant plan shall include a description of—

''(1) what provision (if any) has been made for payment for items and services furnished by such facilities, and

''(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

''The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

''(1) Section 1101(a)(1) (relating to definition of State).

''(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

''(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter into and have in effect a MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.

"(2) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.

"(3) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—

"(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement, and

"(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.

"(4) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act provided that—

"(i) an entity is licensed by the State to purchase and take possession of covered outpatient drugs and furnishes the drugs to patients at a cost no greater than acquisition plus such dispensing fee as may be allowable under a State pharmaceutical assistance program, and

"(ii) such entity is certified pursuant to section 340B(a)(7) of such Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—The MediGrant master rebate agreement under this section shall require the manufacturer to provide, to the MediGrant plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer which is subject to the MediGrant master rebate agreement under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement, on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and

"(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the MediGrant master rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer which is subject to the MediGrant master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123(f) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—The MediGrant master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section and section 1927.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's MediGrant plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the MediGrant plan under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period (as defined in subsection (i)(7)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State MediGrant plan in the rebate period (as reported by the State); and

"(ii) the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price,

for the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act,

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration,

"(III) any prices used under a State pharmaceutical assistance program, and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section),

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,

"(III) shall not take into account prices that are merely nominal in amount, and

"(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the MediGrant master rebate agreement.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the Consumer Price Index for All Urban Consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the MediGrant plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—

"(1) PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement under this section may—

"(A) subject to prior authorization under its MediGrant plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and

"(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) the drug is subject to such restrictions pursuant to the MediGrant master rebate agreement or any agreement described in subsection (a)(4); or

"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted by a State participating in the MediGrant master rebate agreement:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of

sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The State MediGrant plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The MediGrant plan of a State participating in the MediGrant master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization, and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, and the Committee on Commerce of the House of Representatives, a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs,

"(B) the total value of rebates received and number of manufacturers providing such rebates,

"(C) the effect of inflation on the value of rebates required under this section,

"(D) trends in prices paid under this title for covered outpatient drugs, and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the MediGrant master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 2114(c)(1)), or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's or facility's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(i) DEFINITIONS.—In the section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 2171(a)(8), a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)), and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under a MediGrant plan as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the MediGrant plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

"(A) American Hospital Formulary Service Drug Information.

"(B) United States Pharmacopeia-Drug Information.

"(C) American Medical Association Drug Evaluations.

"(D) The DRUGDEX Information System.

"(E) The peer-reviewed medical literature.

"(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity,

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence, and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(7) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

SEC. 7002. TERMINATION OF CURRENT PROGRAM AND TRANSITION.

(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

(1) REPEAL OF TITLE.—Title XIX of the Social Security Act is repealed effective October 1, 1996, except that the repeal of section 1928 of such Act is effective on the date of the enactment of this Act and the succeeding two sections of such title shall be effective during fiscal year 1996 in the same manner and to the same extent as such sections were effective during fiscal year 1995.

(2) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of such title—

(A) POST-ENACTMENT, PRE-MEDIGRANT.—Subject to subparagraph (B), the Secretary of Health and Human Services (in this section referred to as the "Secretary") may enter into obligations under such title with any State (as defined for purposes of such title) for expenses incurred after the date of the enactment of this Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(a)(4) of the Social Security Act (as added by section 7001).

(B) NONE AFTER MEDIGRANT.—The Secretary is not authorized to enter into any obligation with any State under title XIX of such Act for expenses incurred on or after the earlier of—

(i) October 1, 1996, or

(ii) the first day of the first quarter on which the State MediGrant plan under title XXI of such Act (as added by section 7001) is first effective.

(C) AGREEMENT.—A State's submission of claims for payment under section 1903 of such Act after the date of the enactment of this Act with respect to which the limitation described in subparagraph (A) applies is deemed to constitute the State's acceptance of the obligation limitation under such subparagraph (including the formula for computing the amount of such obligation limitation).

(D) EFFECT ON MEDICAL ASSISTANCE.—Effective on the date of the enactment of this section—

(i) except as provided in this paragraph, the Federal Government has no obligation to provide payment with respect to items and services provided under title XIX of the Social Security Act, and

(ii) such title and title XXI of such Act shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

(3) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under title XIX of such Act with respect to an obligation incurred before the date of the enactment of this Act, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in paragraph (2) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.

(b) MEDICAID-TO-MEDIGRANT TRANSITION PROVISIONS.—

(1) Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed, including judicial review, by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(2) The repeal under subsection (a)(1) of section 1928 of the Social Security Act shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act. No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.

(3) No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the MediGrant plan of the State title under XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(4) No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with such title and which has not become final as of such date shall be brought or continued.

(5) Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989 (as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993) and section 2 of Public Law 102–276 (as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993) are each amended by striking "December 31, 1995" and inserting "October 1, 1996".

(c) ANTI-FRAUD PROVISIONS.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a–7(h)(1)) is amended by inserting "or a MediGrant plan under title XXI" after "title XIX".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with heads of other Federal agencies and the States (as defined in section 1101(a)(8) of the Social Security Act for purposes of title XIX of such Act), shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, this title.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

SEC. 7003. MEDICARE/MEDIGRANT INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the MediGrant program under title XXI of such Act (in this section referred to as the "medicare and MediGrant programs") for the purpose of providing a more

cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and MediGrant programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State may not require an individual eligible to receive items and services under the medicare and MediGrant programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a). Not more than 10 demonstration projects shall be conducted under this section.

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each calendar quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and MediGrant programs and who have elected to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and MediGrant programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) an amount equal to the product of (A) 100 percent minus the applicable Federal medical assistance percentage (as defined in section 2122(e) of the Social Security Act) for the State, and (B) the expenditures under the project attributable to the MediGrant program for items and services provided to chronically-ill elderly and disabled beneficiaries who have elected to participate in the demonstration.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and MediGrant programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section. Such quality standards shall include reporting requirements which contain the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the MediGrant and medicare programs as a result of the demonstration project.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE OF TITLE; AMENDMENTS AND REFERENCES TO OBRA; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(d) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

Sec. 8000. Short title of title; amendments and references to OBRA; table of contents of title.

Subtitle A—MedicarePlus Program

"PART C—MEDICAREPLUS PROGRAM

CHAPTER 1—MEDICAREPLUS PROGRAM

Sec. 8001. Establishment of MedicarePlus program.

"PART C—MEDICAREPLUS PROGRAM

"Sec. 1851. Eligibility, election, and enrollment.

"Sec. 1852. Benefits and beneficiary protections.

"Sec. 1853. Organizational and financial requirements for MedicarePlus organizations; provider-sponsored organizations.

"Sec. 1854. Payments to MedicarePlus organizations.

"Sec. 1855. Premiums and rebates.

"Sec. 1856. Establishment of standards; certification of organizations and plans.

"Sec. 1857. Contracts with MedicarePlus organizations.

"Sec. 1858. Standards for MedicarePlus and medicare information transactions and data elements.

"Sec. 1859. Definitions; miscellaneous provisions.

Sec. 8002. Duplication and coordination of medicare-related plans.

Sec. 8003. Transitional rules for current medicare HMO program.

CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

Sec. 8011. MedicarePlus MSA.

Sec. 8012. Certain rebates excluded from gross income.

CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION

Sec. 8021. Medicare Payment Review Commission.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

Sec. 8031. Treatment of hospitals which participate in provider-sponsored organizations.

Subtitle B—Health Care Fraud and Abuse Prevention

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 8101. Fraud and abuse control program.

Sec. 8102. Medicare integrity program.

Sec. 8103. Beneficiary incentive programs.

Sec. 8104. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 8105. Guidance regarding application of health care fraud and abuse sanctions.

CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 8111. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 8112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 8113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 8114. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 8115. Intermediate sanctions for medicare health maintenance organizations.

Sec. 8116. Additional exception to anti-kickback penalties for discounting and managed care arrangements.

Sec. 8117. Penalties for the fraudulent conversion of assets in order to obtain State health care program benefits.

Sec. 8118. Effective date.

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 8121. Establishment of the health care fraud and abuse data collection program.

CHAPTER 4—CIVIL MONETARY PENALTIES

Sec. 8131. Social Security Act civil monetary penalties.

Sec. 8132. Clarification of level of intent required for imposition of sanctions.

Sec. 8133. Penalty for false certification for home health services.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

Sec. 8141. Health care fraud.

Sec. 8142. Forfeitures for Federal health care offenses.

Sec. 8143. Injunctive relief relating to Federal health care offenses.

Sec. 8144. False Statements.

Sec. 8145. Obstruction of criminal investigations of Federal health care offenses.

Sec. 8146. Theft or embezzlement.

Sec. 8147. Laundering of monetary instruments.
Sec. 8148. Authorized investigative demand procedures.

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 8151. State health care fraud control units.

Subtitle C—Regulatory Relief

Sec. 8201. Repeal of physician ownership referral prohibitions based on compensation arrangements.
Sec. 8202. Revision of designated health services subject to ownership referral prohibition.
Sec. 8203. Delay in implementation of 1993 ownership referral changes until promulgation of regulations.
Sec. 8204. Exceptions to ownership referral prohibitions.
Sec. 8205. Effective date.

Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education

Sec. 8301. Indirect medical education payments.
Sec. 8302. Direct graduate medical education.

Subtitle E—Provisions Relating to Part A

CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

Sec. 8401. PPS hospital payment update.
Sec. 8402. PPS-exempt hospital payments.
Sec. 8403. Reductions in disproportionate share payment adjustments.
Sec. 8404. Capital payments for PPS hospitals.
Sec. 8405. Reduction in payments to hospitals for enrollees' bad debts.
Sec. 8406. Increase in update for certain hospitals with a high proportion of medicare patients.

CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES

SUBCHAPTER A—PROSPECTIVE PAYMENT SYSTEM

Sec. 8410. Prospective payment system for skilled nursing facilities.

SUBCHAPTER B—INTERIM PAYMENT SYSTEM

Sec. 8411. Payments for routine service costs.
Sec. 8412. Cost-effective management of covered non-routine services.
Sec. 8413. Payments for routine service costs.
Sec. 8414. Reductions in payment for capital-related costs.
Sec. 8415. Treatment of items and services paid for under part B.
Sec. 8416. Medical review process.
Sec. 8417. Report by medicare payment review commission.
Sec. 8418. Effective date.

CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

Sec. 8421. Payments for hospice services.
Sec. 8422. Permanent extension of hemophilia pass-through.

Subtitle F—Provisions Relating to Part B

CHAPTER 1—PAYMENT REFORMS

Sec. 8501. Payments for physicians' services.
Sec. 8502. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8503. Extension of reductions in payments for costs of hospital outpatient services.
Sec. 8504. Reduction in updates to payment amounts for clinical diagnostic laboratory tests.
Sec. 8505. Payments for durable medical equipment.
Sec. 8506. Updates for ambulatory surgical services.
Sec. 8507. Payments for ambulance services.
Sec. 8508. Ensuring payment for physician and nurse for jointly furnished anesthesia services.

CHAPTER 2—PART B PREMIUM

Sec. 8511. Promoting solvency of part a trust fund through part b premium.
Sec. 8512. Income-related reduction in medicare subsidy.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 8601. Payment for home health services.
Sec. 8602. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 8603. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.
Sec. 8604. Extension of period of home health agency certification.

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

Sec. 8611. Extension and expansion of existing requirements.
Sec. 8612. Improvements in recovery of payments.

CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B

Sec. 8621. Medicare coverage of certain anticancer drug treatments.
Sec. 8622. Administrative provisions.

CHAPTER 4—FAILSAFE

Sec. 8631. Failsafe budget mechanism.

Subtitle H—Rural Areas

Sec. 8701. Medicare-dependent, small, rural hospital payment extension.
Sec. 8702. Medicare rural hospital flexibility program.
Sec. 8703. Establishment of rural emergency access care hospitals.
Sec. 8704. Classification of rural referral centers.
Sec. 8705. Floor on area wage index.
Sec. 8706. Additional payments for physicians' services furnished in shortage areas.
Sec. 8707. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 8708. Expanding access to nurse aide training in underserved areas.

Subtitle A—MedicarePlus Program

CHAPTER 1—MEDICAREPLUS PROGRAM

SEC. 8001. ESTABLISHMENT OF MEDICAREPLUS PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—MEDICAREPLUS PROGRAM

"ELIGIBILITY, ELECTION, AND ENROLLMENT

"SEC. 1851. (a) CHOICE OF MEDICARE BENEFITS THROUGH MEDICAREPLUS PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this section, every MedicarePlus eligible individual (as defined in paragraph (3)) is entitled to elect to receive benefits under this title—

"(A) through the Medicare fee-for-service program under parts A and B, or

"(B) through enrollment in a MedicarePlus plan under this part.

"(2) TYPES OF MEDICAREPLUS PLANS THAT MAY BE AVAILABLE.—A MedicarePlus plan may be any of the following types of plans of health insurance:

"(A) COORDINATED CARE PLANS.—Private coordinated care plans which provide health care services, including health maintenance organization plans and preferred provider organization plans.

"(B) COMBINATION OF HIGH DEDUCTIBLE PLAN AND CONTRIBUTIONS TO HIGH DEDUCTIBLE MEDICARE MSA.—A high deductible plan, as defined in section 1859(b)(2), and a contribution into a High Deductible MedicarePlus medical savings account (MSA).

"(C) PLANS OFFERED BY PROVIDER-SPONSORED ORGANIZATION.—A MedicarePlus plan offered by a provider-sponsored organization, as defined in section 1853(i).

"(D) UNION, TAFT-HARTLEY, AND ASSOCIATION PLANS.—A MedicarePlus organization plan offered by a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or qualified association sponsor, as defined in section 1859(a).

"(E) FEE-FOR-SERVICE PLANS.—Plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule or other basis.

"(F) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in a previous subparagraph.

"(3) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—In this title, subject to subparagraph (B), the term 'MedicarePlus eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a MedicarePlus plan may continue to be enrolled in that plan.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—Except as the Secretary may otherwise provide, an individual is eligible to elect a MedicarePlus plan offered by a MedicarePlus organization only if the organization serves the geographic area in which the individual resides under the plan.

"(B) CONTINUATION OF ENROLLMENT PERMITTED.—Pursuant to rules specified by the Secretary, the Secretary shall provide that an individual may continue enrollment in a plan, notwithstanding that the individual no longer resides in the service area of the plan, so long as the plan provides benefits for providers located in the area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PLANS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a MedicarePlus plan offered by—

"(i) a union sponsor only if (I) the individual is a member of the sponsor and affiliated with the sponsor through an employment relationship with any employer or is the spouse of such a member, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor;

"(ii) a Taft-Hartley sponsor only if (I) the individual is entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement, and (II) the individual elected under this section a MedicarePlus plan offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor; and

"(iii) a qualified association sponsor only if the individual is a member of the association (or is a spouse of such a member).

"(B) LIMITATION ON ENROLLMENT.—Subject to subparagraph (C)—

"(i) a union sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(i)(I),

"(ii) a Taft-Hartley sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(ii)(I), and

"(iii) a qualified association sponsor may not enroll an individual under this part unless the individual is described in subparagraph (A)(iii).

"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(3) SPECIAL RULES FOR UNION, TAFT-HARTLEY, AND QUALIFIED ASSOCIATION SPONSORS.—

"(A) UNIONS.—Subject to subparagraph (D), a union sponsor (as defined in section 1859(a)(5)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(B) TAFT-HARTLEY SPONSORS.—Subject to subparagraph (D), a MedicarePlus organization that is a Taft-Hartley sponsor (as defined in section 1859(a)(4)) shall limit eligibility of enrollees under this part for MedicarePlus plans it offers to individuals who are entitled to obtain benefits through such plans under the terms of an applicable collective bargaining agreement.

"(C) QUALIFIED ASSOCIATION SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a MedicarePlus organization that is a qualified association sponsor (as defined in section 1859(a)(3)) shall limit eligibility of individuals under this part for plans it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of aenying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PLANS.—An individual is not eligible to elect a MedicarePlus plan offered by a MedicarePlus organization that is a union sponsor or a Taft-Hartley sponsor if the individual previously had elected a MedicarePlus plan offered by the organization and had subsequently discontinued election of such a plan offered by the organization.

"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS COVERED UNDER FEHBP.—An individual who is enrolled in a health benefit plan under chapter 89 of title 5, United States Code, is not eligible to enroll in a high deductible plan until such time as the Director of the Office of Management and Budget certifies to the Secretary that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for MedicarePlus plans in an area as soon as such plans become available in that area.

"(3) COORDINATION THROUGH MEDICAREPLUS ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a MedicarePlus plan offered by a MedicarePlus organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a MedicarePlus plan offered by a MedicarePlus organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Medicare fee-for-service program option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a MedicarePlus organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected the MedicarePlus plan offered by the organization (or, if the organization offers more than one such plan, the MedicarePlus plan offered by the organization with the lowest net monthly premium).

"(B) CONTINUING PERIODS.—An individual who has made (or is deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a MedicarePlus plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(d) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to broadly disseminate information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options.

"(2) PROVISION OF NOTICE.—

"(A) OPEN SEASON NOTIFICATION.—At least 15 days before the beginning of each annual, coordinated election period, the Secretary shall mail to each MedicarePlus eligible individual residing in an area the following:

"(i) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—The general information regarding election, benefits coverage, and procedures described in paragraph (3).

"(ii) LIST OF PLANS AND COMPARISON OF PLAN OPTIONS.—A list identifying the MedicarePlus plans that are (or will be) available to residents of the area (and their service areas) and information, described in paragraph (4) and in comparative form, concerning such plans.

"(iii) MEDICAREPLUS MONTHLY CAPITATION RATE.—The amount of the monthly MedicarePlus capitation rate for the area.

"(iv) ADDITIONAL INFORMATION.—Any other information that the Secretary determines will assist the individual in making the election under this section.

The mailing of such information shall be coordinated with the mailing of any annual notice under section 1804.

"(B) NOTIFICATION TO NEWLY MEDICAREPLUS ELIGIBLE INDIVIDUALS.—To the extent practicable, the Secretary shall, not later than 2 months before the beginning of the initial MedicarePlus enrollment period for an individual described in subsection (e)(1)(A), mail to the individual the information described in subparagraph (A).

"(C) FORM.—The information disseminated under this paragraph shall be written and formatted in the most easily understandable manner possible.

"(D) PERIODIC UPDATING.—The information described in subparagraph (A) shall be updated on at least an annual basis to reflect changes in the availability of MedicarePlus plans and the benefits and monthly premiums (and net monthly premiums) for such plans.

"(3) GENERAL ELECTION INFORMATION AND INFORMATION ABOUT MEDICARE FEE-FOR-SERVICE PROGRAM.—General information under this paragraph, with respect to coverage under this part during a year, shall include the following:

"(A) BENEFITS.—A general description of the benefits covered (and not covered) under the medicare fee-for-service program under parts A and B, including—

"(i) covered items and services, and

"(ii) beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts, and the beneficiary liability for balance billing.

"(B) PART B PREMIUM.—The part B premium rates that will be charged for part B coverage.

"(C) ELECTION PROCEDURES.—Information and instructions on how to exercise election options under this section.

"(D) PROCEDURAL RIGHTS.—The general description of procedural rights (including grievance procedures) of beneficiaries under the medicare fee-for-service program and the MedicarePlus program.

"(E) RIGHT OF ORGANIZATION TO TERMINATE CONTRACT.—The right of each MedicarePlus organization by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the MedicarePlus plan under this part.

"(F) USE OF 911 EMERGENCY NUMBER.—A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(4) INFORMATION COMPARING PLAN OPTIONS.—Information under this paragraph, with respect to a MedicarePlus plan for a year, shall include the following:

"(A) BENEFITS.—The benefits covered under the plan, including covered items and services beyond those provided under the medicare fee-for-service program, any reductions in beneficiary cost sharing, and any maximum limitations on out-of-pocket losses.

"(B) PREMIUMS.—The monthly premium (and net monthly premium, including any rebate) for the plan.

"(C) QUALITY.—(i) To the extent available, quality indicators for the benefits under the plan (in comparison with quality indicators under the Medicare fee-for-service program under parts A and B in the area involved), including—

"(I) disenrollment rates for medicare enrollees electing to receive benefits through the plan for the previous 2 years (excluding disenrollment due to death or moving outside the plan's service area),

"(II) information on medicare enrollee satisfaction and health outcomes, and

"(III) whether the plan is out of compliance with any requirements of this part (as determined by the Secretary).

"(D) SUPPLEMENTAL COVERAGE OPTIONS.—Whether the organization offering the plan offers optional supplemental coverage.

"(5) MAINTAINING A TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding MedicarePlus options and the operation of part C in all areas in which MedicarePlus plans are offered.

"(6) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(7) PROVISION OF INFORMATION.—A MedicarePlus organization shall provide the Secretary with such information on the organization and each MedicarePlus plan it offers as may be required for the preparation of the information referred to in paragraph (2)(A).

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a MedicarePlus plan during the period, coverage under the plan becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a MedicarePlus plan is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICAREPLUS OPTION.—During the transition period, a MedicarePlus eligible individual who has elected the Medicare fee-for-service program option described in subsection (a)(1)(A) may change such election to a MedicarePlus option described in subsection (a)(1)(B) at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—

"(i) IN GENERAL.—During the transition period, an individual who has elected a MedicarePlus option described in subsection (a)(1)(B) for a MedicarePlus plan may change such election to another MedicarePlus plan or to the Medicare fee-for-service program option described in subsection (a)(1)(A).

"(ii) SPECIAL RULE.—During the transition period, an individual who has elected a high deductible plan may not change such election to a MedicarePlus plan that is not a high deductible plan unless the individual has had such election in effect for 12 consecutive months.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during an annual, coordinated election period.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICAREPLUS HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform MedicarePlus eligible individuals about such plans and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects any MedicarePlus plan (other than a high deductible plan) offered by a particular MedicarePlus organization under this section, the individual may change such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the MedicarePlus plan under such option becomes effective.

"(B) LIMITATION.—Subparagraph (A)—

"(i) shall only apply once for an individual with respect to any particular organization, and

"(ii) may not apply more than twice for any individual in a calendar year.

"(C) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under subparagraph (A) may, during the period specified by the Secretary, make a new election under this subsection (a) (or, in the absence of such an election, is deemed at the time of such discontinuation to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A)).

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a MedicarePlus plan offered by a MedicarePlus organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or plan's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the plan;

"(B) the individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a plan offered by a qualified association sponsor or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1851(g)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the plan substantially violated a material provision of the organization's contract under part C in relation to the individual and the plan; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the plan's provisions in marketing the plan to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(6) SPECIAL RULE FOR HIGH DEDUCTIBLE PLANS.—Notwithstanding the previous provisions of this subsection, an individual may elect a high deductible plan only during an annual, coordinated election period described in paragraph (3)(B) or during the month of October, 1996.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a MedicarePlus option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND HIGH DEDUCTIBLE PLAN ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year or for a high deductible plan shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a MedicarePlus organization shall provide that at any time during which elections are accepted under this section with respect to a MedicarePlus plan offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a MedicarePlus organization, in relation to a MedicarePlus plan it offers, has a capacity limit and the number of MedicarePlus eligible individuals who elect the plan under this section exceeds the capacity limit, the organization may limit the election of individuals of the plan under this section but only if priority in election is provided—

"(A) first to such individuals as have elected the plan at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the plan) on a basis described in section 1852(b).

The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the service area of the plan.

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a MedicarePlus organization may not for any reason terminate the election of any individual under this section for a MedicarePlus plan it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A MedicarePlus organization may terminate an individual's election under this section with respect to a MedicarePlus plan it offers if—

"(i) any net monthly premiums required with respect to such plan are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of net monthly premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the plan is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Medicare fee-for-service program option described in subsection (a)(1)(A).

"(C) LIMITATION ON TERMINATION OF COVERAGE.—A qualified association sponsor offering a MedicarePlus plan to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(D) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1857, each MedicarePlus organization receiving an election form under subsection (c)(3) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—No marketing materials may be distributed by a MedicarePlus organization to (or for the use of) MedicarePlus eligible individuals unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a MedicarePlus plan in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the plan and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each MedicarePlus organization shall conform to fair marketing standards in relation to MedicarePlus plans offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form used to carry out elections under this section on behalf of any individual.

"(i) EFFECT OF ELECTION OF MEDICAREPLUS PLAN OPTION.—Subject to section 1852(a)(5)—

"(1) payments under a contract with a MedicarePlus organization under section 1854(a) with respect to an individual electing a MedicarePlus plan offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual, and

"(2) subject to subsections (e) and (f) of section 1854, only the MedicarePlus organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(j) ADMINISTRATION.—

"(1) IN GENERAL.—This part and section 1876 shall be administered through an operating division (A) that is established or identified by the Secretary and is in the Department of Health and Human Services, (B) that is separate from the Health Care Financing Administration, and (C) the primary function of which is the administration of this part and such section. The director of such division shall be of equal pay and rank to that of the individual responsible for overall administration of parts A and B.

"(2) TRANSFER AUTHORITY.—The Secretary shall transfer such personnel, administrative support systems, assets, records, funds, and other resources in the Health Care Financing Administration to the operating division referred to in paragraph (1) as are used in the administration of section 1876 and as may be required to implement the provisions of this part promptly and efficiently.

"BENEFITS AND BENEFICIARY PROTECTIONS

"SEC. 1852. (a) BASIC BENEFITS.—

"(1) IN GENERAL.—Except as provided in section 1859(b)(2) for high deductible plans, each MedicarePlus plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) those items and services for which benefits are available under parts A and B to individuals residing in the area served by the plan, and

"(B) additional health services as the Secretary may approve.

The Secretary shall approve any such additional health care services which the plan proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by MedicarePlus eligible individuals with the plan.

"(2) SATISFACTION OF REQUIREMENT.—A MedicarePlus plan (other than a high deductible plan) offered by a MedicarePlus organization satisfies paragraph (1)(A) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the plan provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) INDIVIDUAL'S LIABILITY UNDER MEDICARE FEE-FOR-SERVICE PROGRAM.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had not elected coverage under a MedicarePlus plan.

"(ii) MEDICARE COINSURANCE APPLIED TO PLAN PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the Medicare fee-for-service program option described in section 1851(a)(1)(A)) of the payment rate provided under the contract.

"(3) SUPPLEMENTAL OPTIONAL BENEFITS.—Each MedicarePlus organization may offer under a MedicarePlus plan optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the MedicarePlus payment area. Such benefits may be marketed and sold by the MedicarePlus organization outside of the enrollment process described in section 1851(c).

"(4) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a MedicarePlus organization may (in the case of the provision of items and services to an individual under a MedicarePlus plan under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such a law, plan, or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(5) NATIONAL COVERAGE DETERMINATIONS.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1854(b) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to a MedicarePlus organization of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the annual MedicarePlus capitation rate under section 1854 included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(B) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1851(i) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period, unless otherwise required by law.

"(b) ANTIDISCRIMINATION.—A MedicarePlus organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual. A MedicarePlus organization shall notify each enrollee under this part of provisions of this subsection at the time of the individual's enrollment.

"(c) DETAILED DESCRIPTION OF PLAN PROVISIONS.—A MedicarePlus organization shall disclose, in clear, accurate, and standardized form to each enrollee with a MedicarePlus plan offered by the organization under this part at the time of enrollment and at least annually thereafter, the following information regarding such plan:

"(1) SERVICE AREA.—The plan's service area.

"(2) BENEFITS.—Benefits under the plan offered, including information described in section 1851(d)(3)(A) and exclusions from coverage and, if it is a high deductible plan, a comparison of benefits under such a plan with benefits under other MedicarePlus plans.

"(3) ACCESS.—The number, mix, and distribution of participating providers.

"(4) OUT-OF-AREA COVERAGE.— Out-of-area coverage provided by the plan.

"(5) EMERGENCY COVERAGE.—Coverage of emergency services and urgently needed care.

"(6) OPTIONAL SUPPLEMENTAL COVERAGE.—Optional supplemental coverage available from the organization offering the plan, including—

"(A) supplemental items and services covered, and

"(B) the premium price for the optional supplemental benefits.

"(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(8) PLAN GRIEVANCE PROCEDURES.— Any plan-specific appeal or grievance rights and procedures.

"(9) QUALITY ASSURANCE PROGRAM.—A description of the organization's quality assurance program under subsection (e).

"(d) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A MedicarePlus organization offering a MedicarePlus plan may restrict the providers from whom the benefits under the plan are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the plan within the plan service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the plan provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization;

"(D) the organization provides access to appropriate providers, including credentialed specialists, for medically necessary treatment and services, and

"(E) coverage is provided for emergency services (as defined in paragraph (3)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) PROTECTION OF ENROLLEES FOR CERTAIN EMERGENCY SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a participating physician or provider of services to an individual enrolled with a MedicarePlus organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services will accept as payment in full from the organization for such emergency services described in subparagraph (C) the amount that would be payable to the physician or provider of services under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of emergency services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a MedicarePlus organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) EMERGENCY SERVICES DESCRIBED.—The emergency services described in this subparagraph are emergency services which are furnished to an enrollee of a MedicarePlus organization under this part by a physician or provider of services that is not under a contract with the organization.

"(D) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this paragraph shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan (as defined in section 1859(b)(3)).

"(3) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that—

"(A) are furnished by an appropriate source other than the organization,

"(B) are needed immediately because of an injury or sudden illness, and

"(C) are needed because the time required to reach the organization's providers or suppliers would have meant risk of serious damage to the patient's health.

"(e) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each MedicarePlus organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to individuals enrolled with MedicarePlus plans of the organization.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitor and evaluate high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluate the continuity and coordination of care that enrollees receive;

"(F) have mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establish or alter practice parameters;

"(H) take action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate); and

"(J) be evaluated on an ongoing basis as to its effectiveness.

"(3) EXTERNAL REVIEW.—Each MedicarePlus organization shall, for each MedicarePlus plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary.

"(4) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—Paragraphs (1) and (3) and subsection (h)(2) (relating to maintaining medical records) shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.

"(5) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a MedicarePlus organization is deemed to meet the requirements of paragraphs (1) through (3) of this subsection and subsection (h) (relating to confidentiality and accuracy of medical records) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and such subsection.

"(f) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A MedicarePlus organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(g) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each MedicarePlus organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees with MedicarePlus plans of the organization under this part.

"(2) APPEALS.—An enrollee with a MedicarePlus plan of a MedicarePlus organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) INDEPENDENT REVIEW OF CERTAIN COVERAGE DENIALS.—The Secretary shall contract with an independent, outside entity to review and resolve appeals of denials of coverage related to urgent or emergency services with respect to MedicarePlus plans.

"(4) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503, so long as such requirements provide at least as much protection for beneficiaries as would apply if this paragraph did not apply.

"(h) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each MedicarePlus organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(i) INFORMATION ON ADVANCE DIRECTIVES.—Each MedicarePlus organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(j) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each MedicarePlus organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under MedicarePlus plans offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A MedicarePlus organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—No MedicarePlus organization may operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.I26 "(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of *physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and*

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a MedicarePlus organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) LIMITATION ON PROVIDER INDEMNIFICATION.—A MedicarePlus organization may not provide (directly or indirectly) for a provider (or group of providers) to indemnify the organization against any liability resulting from a civil action brought by or on behalf of an enrollee under this part for any damage caused to an enrollee with a MedicarePlus plan of the organization by the organization's denial of medically necessary care.

"(5) EXCEPTION FOR UNRESTRICTED FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a MedicarePlus organization in relation to a MedicarePlus unrestricted fee-for-service plan.

"ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR MEDICAREPLUS ORGANIZATIONS; PROVIDER-SPONSORED ORGANIZATIONS

"SEC. 1853. (a) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A MedicarePlus organization shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a MedicarePlus plan.

"(2) EXCEPTION FOR CERTAIN UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to a MedicarePlus organization that is a union sponsor or Taft-Hartley sponsor.

"(3) EXCEPTION FOR QUALIFIED ASSOCIATIONS SPONSOR.—Paragraph (1) shall not apply to a MedicarePlus organization that is a qualified association sponsor.

"(4) SPECIAL RULES FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—A provider-sponsored organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.

"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—

"(i) the State has failed to complete action on a licensing application of the organization within 90 days of the date of the State's receipt of the completed application; or

"(ii) the State denied such a licensing application and—

"(I) the State's licensing standards or review process imposes any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business,

"(II) such standards or review process applies solvency standards for the organization and the State is not approved under subsection (e)(2)(B), or

"(III) the State has used solvency standards to deny or discriminate against such an organization that has been provided a certificate of solvency under subsection (e)(2).

No period before the date of the enactment of this section shall be included in determining the 90-day period described in clause (i).

"(C) TREATMENT OF WAIVER.—In the case of a waiver granted under this paragraph for a provider-sponsored organization—

"(i) the waiver shall be effective for a 36-month period, except it may be renewed based on a subsequent application filed during the last 6 months of such period,

"(ii) the waiver is conditioned upon the pendency of the licensure application during the period the waiver is in effect, and

"(iii) any provisions of State law which relate to the licensing of the organization and which prohibit the organization from providing coverage pursuant to a contract under this part shall be superseded.

Nothing in this subparagraph shall be construed as limiting the number of times such a waiver may be renewed.

"(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"(5) EXCEPTION IF REQUIRED TO OFFER MORE THAN MEDICAREPLUS PLANS.—Paragraph (1) shall not apply to a MedicarePlus organization in a State if the State requires the organization, as a condition of licensure, to offer any product or plan other than a MedicarePlus plan.

"(6) EXCEPTION IN CASES OF UNREASONABLE BARRIERS TO MARKET ENTRY.—

"(A) IN GENERAL.—A MedicarePlus organization that seeks to offer a MedicarePlus plan in a State may apply for a waiver of the requirement of paragraph (1) for that organization operating in that State.

"(B) STANDARD.—The Secretary shall act on such an application within 60 days after the date it is filed and shall grant such a waiver for an organization with respect to a State if the Secretary determines that—

"(i) the State (I) denied such a licensing application or (II) unreasonably delayed in acting upon the application, and

"(ii) the State's licensing standards or review process imposes unreasonable barriers to market entry, including through the imposition of any requirements, procedures, or other standards to such organizations that are not generally applicable to any other entities engaged in substantially similar business.

"(C) APPLICATION OF CERTAIN RULES.—The provisions of subparagraphs (C) and (D) of paragraph (4) shall apply to this paragraph in the same manner as they apply under such paragraph, except that for this purpose any reference in paragraph (4)(C)(i) to 36-month period is deemed a reference to a 24-month period.

"(b) PREPAID PAYMENT.—A MedicarePlus organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(c) ASSUMPTION OF FULL FINANCIAL RISK.—The MedicarePlus organization shall assume full financial risk on a prospective basis for the provision of the health care services (except, at the election of the organization, hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a MedicarePlus organization that is a union sponsor, Taft-Hartley sponsor, or a qualified association sponsor, this subsection shall not apply with respect to MedicarePlus plans offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(d) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each MedicarePlus organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization and including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency. Such standards shall take into account the nature and type of MedicarePlus plans offered by the organization.

"(2) TREATMENT OF PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of an entity that is a provider-sponsored organization that is operating—

"(i) in a State approved under subparagraph (B), the organization shall meet the standards described in paragraph (1) through licensure by the State, or

"(ii) in a State that is not so approved, the organization shall meet the standards described in paragraph (1) through application and certification licensure by the Secretary.

"(B) APPROVED STATES.—

"(i) APPLICATION PROCESS.—For purposes of subparagraph (A), the Secretary shall establish a process under which a State may apply to the Secretary for a determination that the State is applying to provider-sponsored organizations, through its process for licensing provider-sponsored organizations, solvency standards that are identical with the solvency standards established under section 1856(c) for such organizations.

"(ii) DETERMINATION.—The Secretary shall approve such a State if the Secretary determines that the State is so applying such standards. If the Secretary denies such an approval, the State may reapply for such a determination.

"(iii) PUBLICATION.—The Secretary shall publish a list of States that are approved under this subparagraph.

"(3) TREATMENT OF UNION AND TAFT-HARTLEY SPONSORS.—An entity that is a union sponsor or a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(4) TREATMENT OF CERTAIN QUALIFIED ASSOCIATION SPONSORS.—An entity that is a qualified association sponsor is deemed to meet the requirement of paragraph (1) with respect to MedicarePlus plans offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(e) PROVIDER-SPONSORED ORGANIZATION DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored organization' means a public or private entity—

"(A) that is established or organized by a health care provider, or group of affiliated health care providers,

"(B) that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers, and

"(C) with respect to which those affiliated providers that share, directly or indirectly, substantial financial risk with respect to the provision of such items and services have at least a majority financial interest in the entity.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1)(A), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(C) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(5) HEALTH CARE PROVIDER DEFINED.—In this subsection and subsection (f), the term 'health care provider' means—

"(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, and

"(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

"(6) REGULATIONS.—The Secretary shall issue regulations to carry out this subsection.

"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1998:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"PAYMENTS TO MEDICAREPLUS ORGANIZATIONS

"SEC. 1854. (a) PAYMENTS TO ORGANIZATIONS.—

"(1) MONTHLY PAYMENTS.—

"(A) IN GENERAL.—Under a contract under section 1857 and subject to subsections (e) and (f), the Secretary shall make monthly payments under this section in advance to each MedicarePlus organization, with respect to coverage of an individual under this part in a MedicarePlus payment area for a month, in an amount equal to $1/12$ of the annual MedicarePlus capitation rate (as calculated under subsection (c)) with respect to that individual for that area, adjusted for such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment to a MedicarePlus organization with respect to any individual determined to have end-stage renal disease and enrolled in a MedicarePlus plan of the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the MedicarePlus payment area (or such other area as specified by the Secretary).

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a MedicarePlus organization under a plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1852(c) at the time the individual enrolled with the organization.

"(b) ANNUAL ANNOUNCEMENT OF PAYMENT RATES.—

"(1) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

"(A) the annual MedicarePlus capitation rate for each MedicarePlus payment area for the year, and

"(B) the risk and other factors to be used in adjusting such rates under subsection (a)(1)(A) for payments for months in that year.

"(2) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to MedicarePlus organizations of proposed changes to be made in the methodology from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(3) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions and changes in methodology used in the announcement in sufficient detail so that MedicarePlus organizations can compute monthly adjusted MedicarePlus capitation rates for individuals in each MedicarePlus payment area which is in whole or in part within the service area of such an organization.

"(c) CALCULATION OF ANNUAL MEDICAREPLUS CAPITATION RATES.—

"(1) IN GENERAL.—For purposes of this part, the annual MedicarePlus capitation rate, for a MedicarePlus payment area for a contract year consisting of a calendar year, is equal to the greatest of the following:

"(A) BLENDED CAPITATION RATE.—The sum of—

"(i) area-specific percentage for the year (as specified under paragraph (2) for the year) of the annual area-specific MedicarePlus capitation rate for the year for the MedicarePlus payment area, as determined under paragraph (3), and

"(ii) national percentage (as specified under paragraph (2) for the year) of the input-price-adjusted annual national MedicarePlus capitation rate for the year, as determined under paragraph (4),

multiplied by a budget neutrality adjustment factor determined under paragraph (5).

"(B) MINIMUM AMOUNT.—

"(i) For 1996, $300.

"(ii) For 1997, $350.

"(iii) For a succeeding year, is the minimum amount specified in this subparagraph for the preceding year increased by national average per capita growth percentage, specified under paragraph (6) for that succeeding year.

"(C) MINIMUM INCREASE OF 2 PERCENT OVER PREVIOUS YEAR'S RATE.—

"(i) For 1996, 102 percent of the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment area.

"(ii) For a subsequent year, 102 percent of the annual MedicarePlus capitation rate under this subsection for the area for the previous year.

"(2) AREA-SPECIFIC AND NATIONAL PERCENTAGES.—For purposes of paragraph (1)(A)—

"(A) for 1996 and 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

"(B) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

"(C) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

"(D) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

"(E) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

"(3) ANNUAL AREA-SPECIFIC MEDICAREPLUS CAPITATION RATE.—For purposes of paragraph (1)(A), the annual area-specific MedicarePlus capitation rate for a MedicarePlus payment area—

"(A) for 1996 is the annual per capita rate of payment for 1995 determined under section 1876(a)(1)(C) for the MedicarePlus payment

area, increased by the national average per capita growth percentage for 1996 (as defined in paragraph (6)); or

“(B) for a subsequent year is the annual area-specific MedicarePlus capitation rate for the previous year determined under this paragraph for the MedicarePlus payment area, increased by the national average per capita growth percentage for such subsequent year.

“(4) INPUT-PRICE-ADJUSTED ANNUAL NATIONAL MEDICAREPLUS CAPITATION RATE.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), the input-price-adjusted annual national MedicarePlus capitation rate for a MedicarePlus payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the plan (for each such type) of—

“(i) the national standardized annual MedicarePlus capitation rate (determined under subparagraph (B)) for the year,

“(ii) the proportion of such rate for the year which is attributable to such type of services, and

“(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

“(B) NATIONAL STANDARDIZED ANNUAL MEDICAREPLUS CAPITATION RATE.—In subparagraph (A)(i), the ‘national standardized annual MedicarePlus capitation rate’ for a year is equal to—

“(i) the sum (for all MedicarePlus payment areas) of the product of (I) the annual area-specific MedicarePlus capitation rate for that year for the area under paragraph (3), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

“(ii) the total average number of medicare beneficiaries residing in all the MedicarePlus payment areas for that year.

“(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

“(i) medicare services shall be divided into 2 types of services: part A services and part B services;

“(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

“(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

“(II) for part B services, 100 percent minus the ratio described in subclause (I);

“(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

“(iv) for part B services—

“(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

“(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

“(v) the index values shall be computed based only on the beneficiary population who are 65 years of age or older who are not determined to have end stage renal disease.

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

“(5) BUDGET NEUTRALITY ADJUSTMENT FACTOR.—For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this part shall not exceed the aggregate payments that would have been made under this part if the area-specific percentage for the year had been 100 percent and the national percentage had been 0 percent.

“(6) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE DEFINED.—In this part, the ‘national average per capita growth percentage’ for—

“(A) 1996 is 8.0 percent,

“(B) 1997 is 3.8 percent,

“(C) 1998 is 4.6 percent,

“(D) 1999 is 4.3 percent,

“(E) 2000 is 3.8 percent,

“(F) 2001 is 5.5 percent,

“(G) 2002 is 5.6 percent, and

“(H) each subsequent year is 5.0 percent.

“(d) MEDICAREPLUS PAYMENT AREA DEFINED.—

“(1) IN GENERAL.—In this part, except as provided in paragraph (3), the term ‘MedicarePlus payment area’ means a county, or equivalent area specified by the Secretary.

“(2) RULE FOR ESRD BENEFICIARIES.—In the case of individuals who are determined to have end stage renal disease, the MedicarePlus payment area shall be each State.

“(3) GEOGRAPHIC ADJUSTMENT.—

“(A) IN GENERAL.—Upon request of a State for a contract year (beginning after 1996) made at least 7 months before the beginning of the year, the Secretary shall make a geographic adjustment to a MedicarePlus payment areas in the State otherwise determined under paragraph (1)—

“(i) to a single statewide MedicarePlus payment area,

“(ii) to the metropolitan based system described in subparagraph (C), or

“(iii) to consolidating into a single MedicarePlus payment area noncontinuous counties (or equivalent areas described in paragraph (1)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

“(B) BUDGET NEUTRALITY ADJUSTMENT.—In the case of a State requesting an adjustment under this paragraph, the Secretary shall adjust the payment rates otherwise established under this paragraph for MedicarePlus payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall not exceed the aggregate payments that would have been made under this section for MedicarePlus payment areas in the State in the absence of the adjustment under this paragraph.

“(C) METROPOLITAN BASED SYSTEM.—The metropolitan based system described in this subparagraph is one in which—

“(i) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single MedicarePlus payment area, and

“(ii) all areas in the State that do not fall within a metropolitan statistical area are treated as a single MedicarePlus payment area.

“(D) AREAS.—In subparagraph (C), the terms ‘metropolitan statistical area’, ‘consolidated metropolitan statistical area’, and ‘primary metropolitan statistical area’ mean any area designated as such by the Secretary of Commerce.

“(e) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE PLANS.—

“(1) IN GENERAL.—In the case of an individual who has elected a high deductible plan, notwithstanding the preceding provisions of this section—

“(A) the amount of the monthly payment to the MedicarePlus organization offering the high deductible plan shall not exceed the monthly premium for the plan, and

“(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a High Deductible MedicarePlus MSA established (and, if applicable, designated) by the individual under paragraph (2).

“(2) ESTABLISHMENT AND DESIGNATION OF MEDICAREPLUS MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible plan, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

“(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a High Deductible MedicarePlus MSA (as defined in section 137(b)(2) of the Internal Revenue Code of 1986), and

“(B) if the individual has established more than one High Deductible MedicarePlus MSA, has designated one of such accounts as the individual's High Deductible MedicarePlus MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

“(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible plan effective beginning with a month in a year, the amount of the contribution to the High Deductible MedicarePlus MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

“(4) PERMITTING CONTRIBUTIONS INTO MEDICAREPLUS MSA.—Effective January 1, 1997, if a member of a Federally-qualified health maintenance organization certifies that a Rebate MedicarePlus MSA (as defined in section 137(c) of the Internal Revenue Code of 1986) has been established for the benefit of such member, the health maintenance organization may reduce the basic health services payment otherwise determined under otherwise applicable law by requiring the payment of a deductible by the member for basic health services.

“(f) PAYMENTS OF REBATES.—

“(1) IN GENERAL.—If the amount of the monthly premium for a MedicarePlus plan (other than a high deductible plan) for an MedicarePlus payment area for a year is less than $\frac{1}{12}$ *of the annual MedicarePlus capitation rate applied under this section 1854 for the area and year involved, at the election of an individual enrolled under the plan the Secretary shall either—*

“(A) in the case of an individual who has a Rebate MedicarePlus MSA account (as defined in section 137(b)(3) of the Internal Revenue Code of 1986), to deposit 100 percent of such difference in such an account specified by the individual; or

“(B)(i) pay to the MedicarePlus organization on behalf of such individual the monthly amount equal to 100 percent of such difference up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b),

“(ii) pay to such individual an amount equal to 75 percent of the remainder of such difference, and

"(iii) deposit any remainder of such difference in the Federal Hospital Insurance Trust Fund.

"(2) TIME FOR PAYMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), payments and deposits described in paragraph (1) shall be made on a monthly basis.

"(B) CASH REBATES.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.

"(g) PAYMENTS FROM TRUST FUND.—The payment to a MedicarePlus organization under this section for individuals enrolled under this part with the organization, and payments to a High Deductible or Rebate MedicarePlus MSA under subsection (e)(1)(B) or subsection (f), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(h) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a MedicarePlus plan offered by a MedicarePlus organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the MedicarePlus plan or the Medicare fee-for-service program option described in section 1851(a)(1)(A) (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a MedicarePlus organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding MedicarePlus organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"PREMIUMS AND REBATES

"SEC. 1855. (a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Subject to paragraph (3), each MedicarePlus organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premium for coverage for services under section 1852(a) under each MedicarePlus plan it offers under this part in each MedicarePlus payment area (as defined in section 1854(d)) in which the plan is being offered; and

"(B) the enrollment capacity in relation to the plan in each such area.

"(2) TERMINOLOGY.—In this part—

"(A) the term 'monthly premium' means, with respect to a MedicarePlus plan offered by a MedicarePlus organization, the monthly premium filed under paragraph (1), not taking into account the amount of any payment made toward the premium under section 1854; and

"(B) the term 'net monthly premium' means, with respect to such a plan and an individual enrolled with the plan, the premium (as defined in subparagraph (A)) for the plan reduced by the amount of payment made toward such premium under section 1854.

"(3) LIMITATION ON PORTION OF MONTHLY PREMIUM ATTRIBUTABLE TO REQUIRED COVERAGE.—In no case may the portion of the monthly premium for a MedicarePlus plan for an area and year attributable to required services under section 1852(a)(1) exceed the adjusted community rate for the plan (as defined in subsection (f)(5)).

"(b) NET MONTHLY PREMIUM.—The amount of the net monthly premium charged by a MedicarePlus organization for a MedicarePlus plan offered in a MedicarePlus payment area to an individual under this part shall be equal to the amount (if any) by which—

"(1) the amount of the monthly premium for the plan for the period involved, exceeds

"(2) 1/12 of the annual MedicarePlus capitation rate applied under section 1854 for the area and year involved.

"(c) UNIFORM PREMIUM.—The monthly premium and net monthly premium (including rebates offered) by a MedicarePlus organization under this part may not vary among individuals who reside in the same MedicarePlus payment area.

"(d) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each MedicarePlus organization shall permit the payment of net monthly premiums on a monthly basis and may terminate election of individuals for a MedicarePlus plan for failure to make premium payments only in accordance with section 1851(g)(3)(B)(i).

"(e) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a MedicarePlus organization's monthly premium and the actuarial value of its deductibles, coinsurance, and copayments charged for (to the extent attributable to the required benefits described in section 1852(a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a MedicarePlus organization.

"(f) REQUIREMENT FOR ADDITIONAL BENEFITS, REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each MedicarePlus organization (in relation to a MedicarePlus plan it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the plan for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis), or a combination thereof, in a total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a plan, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under section 1854 for the plan at the beginning of contract year, exceeds

"(ii) the actuarial value of the required benefits described in section 1852(a)(1) under the plan for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a plan, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) NO APPLICATION TO HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan.

"(E) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a plan in a MedicarePlus payment area.

"(F) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a MedicarePlus organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) RULES IN RELATION TO REBATES.—To the extent that the adjusted excess amount for a plan exceeds the value of additional benefits provided under subparagraph (A) by the MedicarePlus organization in relation to the plan for a month, then the organization shall provide for payment of the amount of such excess as follows:

"(A) REBATE MEDICAREPLUS MSA.—If the individual has a Rebate MedicarePlus MSA and elects treatment under this subparagraph, the organization shall provide for payment of such excess into such MSA.

"(B) ADDITIONAL AMOUNT.—The organization shall provide for payment of the amount of any additional excess as follows:

"(i) 75 percent of such excess to the individual.

"(ii) 25 percent to the Federal Hospital Insurance Trust Fund.

"(3) STABILIZATION FUND.—A MedicarePlus organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of the amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the MedicarePlus plan of the organization in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a MedicarePlus organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a

MedicarePlus plan under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other MedicarePlus coverage, or MedicarePlus eligible individuals in the area, in the State, or in the United States, eligible to elect MedicarePlus coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a MedicarePlus organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a MedicarePlus plan of the organization may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a plan.

"(g) TRANSITIONAL FILE AND USE FOR CERTAIN REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a MedicarePlus plan proposed to be offered before the end of the transition period (as defined in section 1851(e)(1)(B)) by a MedicarePlus organization described in section 1853(f)(3) or by a MedicarePlus organization with a contract in effect under section 1857, if the organization submits complete information to the Secretary regarding the plan demonstrating that the plan meets the requirements and standards under section 1852(a) and subsections (a) through (f) of this section (relating to benefits and premiums), the plan shall be deemed as meeting such requirements and standards under such provisions unless the Secretary disapproves the plan within 60 days after the date of submission of the complete information.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as waiving the requirement of a contract under section 1857 or waiving requirements and standards not referred to in paragraph (1).

"ESTABLISHMENT OF STANDARDS; CERTIFICATION OF ORGANIZATIONS AND PLANS

"SEC. 1856. (a) ESTABLISHMENT OF STANDARDS.—

"(1) STANDARDS APPLICABLE TO STATE-REGULATED ORGANIZATIONS AND PLANS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) RECOMMENDATIONS OF NAIC.—The Secretary shall request the National Association of Insurance Commissioners to develop and submit to the Secretary, not later than 12 months after the date of the enactment of the Medicare Preservation Act of 1995, proposed standards consistent with the requirements of this part for MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors, and other than solvency standards described in subsection (b) for provider-sponsored organizations) and MedicarePlus plans offered by such organizations, except that such proposed standards may relate to MedicarePlus organizations that are qualified association sponsors only with respect to MedicarePlus plans offered by them and only if such plans are issued by organizations to which section 1853(a)(1) applies.

"(B) REVIEW.—If the Association submits such standards on a timely basis, the Secretary shall review such standards to determine if the standards meet the requirements of this part. The Secretary shall complete the review of the standards not later than 90 days after the date of their submission. The Secretary shall promulgate such proposed standards to apply to organizations and plans described in subparagraph (A) except to the extent that the Secretary modifies such proposed standards because they do not meet such requirements.

"(C) FAILURE TO SUBMIT.—If the Association does not submit such standards on a timely basis, the Secretary shall promulgate such standards by not later than the date the Secretary would otherwise have been required to promulgate standards under subparagraph (B).

"(D) USE OF INTERIM RULES.—For the period in which this part is in effect and standards are being developed and established under the preceding provisions of this subsection, the Secretary shall provide by not later than June 1, 1996, for the application of such interim standards (without regard to any requirements for notice and public comment) as may be appropriate to provide for the expedited implementation of this part. Such interim standards shall not apply after the date standards are established under the preceding provisions of this paragraph.

"(2) ESTABLISHMENT OF STANDARDS FOR UNION AND TAFT-HARTLEY SPONSORS, QUALIFIED ASSOCIATION SPONSORS, AND PLANS.—

"(A) IN GENERAL.—The Secretary shall develop and promulgate by regulation standards consistent with the requirements of this part for union and Taft-Hartley sponsors, for qualified association sponsors, and for MedicarePlus plans offered by such organizations (other than MedicarePlus plans offered by qualified association sponsors that are issued by organizations to which section 1853(a)(1) applies).

"(B) CONSULTATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor with respect to such standards for such sponsors and plans.

"(C) TIMING.—Standards under this paragraph shall be promulgated at or about the time standards are promulgated under paragraph (1).

"(3) COORDINATION AMONG FINAL STANDARDS.—In establishing standards (other than on an interim basis) under this subsection and subsection (b), the Secretary shall seek to provide for consistency (as appropriate) across the different types of MedicarePlus organizations, in order to promote equitable treatment of different types of organizations and consistent protection for individuals who elect plans offered by the different types of MedicarePlus organizations.

"(4) USE OF CURRENT STANDARDS FOR INTERIM STANDARDS.—To the extent practicable and consistent with the requirements of this part, standards established on an interim basis to carry out requirements of this part may be based on currently applicable standards, such as the rules established under section 1876 (as in effect as of the date of the enactment of this section) to carry out analogous provisions of such section or standards established or developed for application in the private health insurance market.

"(5) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a MedicarePlus organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(6) RELATION TO STATE LAWS.—The standards established under this subsection shall supersede any State law or regulation with respect to MedicarePlus plans which are offered by MedicarePlus organizations under this part and are issued by organizations to which section 1853(a)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"(b) ESTABLISHMENT OF SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards described in section 1853(e) (relating to the financial solvency and capital adequacy of the organization) that entities must meet to qualify as provider-sponsored organizations under this part.

"(B) FACTORS TO CONSIDER.—In establishing solvency standards under subparagraph (A) for provider-sponsored organizations, the Secretary shall consult with interested parties and shall take into account—

"(i) the delivery system assets of such an organization and ability of such an organization to provide services directly to enrollees through affiliated providers, and

"(ii) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, partnerships with other licensed entities, and valuation attributable to the ability of such an organization to meet its service obligations through direct delivery of care.

"(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of medicare beneficiaries, and other interested parties, shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of Medicare Preservation Act of 1995.

"(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the 'target date for publication' (referred to in section 564(a)(5) of such title) shall be September 1, 1996.

"(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, '15 days' shall be substituted for '30 days'.

"(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

"(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

"(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

"(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than June 1, 1996, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress towards such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

"(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

"(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

"(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

"(10) PROCESS FOR APPROVAL OF APPLICATIONS FOR CERTIFICATION OF SOLVENCY.—

"(A) IN GENERAL.—The Secretary shall establish a process for the receipt and approval of applications of entities for certification of solvency of provider-sponsored organizations under this part. Under such process, the Secretary shall act upon a complete application submitted within 60 days after the date it is received.

"(B) CIRCULATION OF PROPOSED APPLICATION FORM.—By March 1, 1996, the Secretary, after consultation with the negotiated rulemaking committee, shall circulate a proposed application form that could be used by entities considering being certified for solvency under this part.

"(c) CERTIFICATION PROCESS.—

"(1) STATE CERTIFICATION PROCESS FOR STATE-REGULATED ORGANIZATIONS AND NON-SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS.—

"(A) APPROVAL OF STATE PROCESS.—The Secretary shall approve a MedicarePlus certification and enforcement program established by a State for applying the standards established under this section to MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and MedicarePlus plans offered by such organizations if the Secretary determines that the program effectively provides for the application and enforcement of such standards in the State with respect to such organizations and plans and does not discriminate in its application by type of organization or plan. Such program shall provide for certification of compliance of MedicarePlus organizations and plans with the applicable requirements of this part not less often than once every 3 years.

"(B) EFFECT OF CERTIFICATION UNDER STATE PROCESS.—A MedicarePlus organization and MedicarePlus plan offered by such an organization that is certified under such program is considered to have been certified under this paragraph with respect to the offering of the plan to individuals residing in the State.

"(C) USER FEES.—The State may impose user fees on organizations seeking certification under this paragraph in such amounts as the State deems sufficient to finance the costs of such certification. Nothing in this subparagraph shall be construed as restricting a State's authority to impose premium taxes, other taxes, or other levies.

"(D) REVIEW.—The Secretary periodically shall review State programs approved under subparagraph (A) to determine if they continue to provide for certification and enforcement described in such paragraph. If the Secretary finds that a State program no longer so provides, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State program to meet the requirements of paragraph (1). If the Secretary makes a final determination that the State program, after such an opportunity, fails to meet such requirements, the provisions of subsection (b) shall apply to MedicarePlus organizations and plans in the State.

"(E) EFFECT OF NO STATE PROGRAM.—Beginning on the date standards are established under section 1856, in the case of organizations and plans in States in which a certification program has not been approved and in operation under subparagraph (A), the Secretary shall establish a process for the certification of MedicarePlus organizations (other than union sponsors and Taft-Hartley sponsors and other than solvency standards for provider-sponsored organizations) and plans of such organizations as meeting such standards.

"(F) PUBLICATION OF LIST OF APPROVED STATE PROGRAMS.—The Secretary shall publish (and periodically update) a list of those State programs which are approved for purposes of this paragraph.

"(2) FEDERAL CERTIFICATION PROCESS FOR UNION SPONSORS AND TAFT-HARTLEY SPONSORS.—

"(A) ESTABLISHMENT.—The Secretary shall establish a process for the certification of union sponsors and Taft-Hartley sponsors and MedicarePlus plans offered by such sponsors and organizations as meeting the applicable standards established under this section.

"(B) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(C) USE OF STATE LICENSING AND PRIVATE ACCREDITATION PROCESSES.—

"(i) IN GENERAL.—The process under this paragraph shall, to the maximum extent practicable, provide that MedicarePlus organizations and plans that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or plan.

"(ii) PERIODIC ACCREDITATION.—The use of an accreditation under clause (i) shall be valid only for such period as the Secretary specifies.

"(D) USER FEES.—The Secretary may impose user fees on entities seeking certification under this paragraph in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(3) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a MedicarePlus organization or plan is decertified under this subsection, the organization shall notify each enrollee with the organization and plan under this part of such decertification.

"(4) QUALIFIED ASSOCIATION SPONSORS.—In the case of MedicarePlus plans offered by a MedicarePlus organization that is a qualified association sponsor and issued by an organization to which section 1853(a)(1) applies or by a provider-sponsored organization, nothing in this subsection shall be construed as limiting the authority of States to regulate such plans.

"CONTRACTS WITH MEDICAREPLUS ORGANIZATIONS

"SEC. 1857. (a) IN GENERAL.—The Secretary shall not permit the election under section 1851 of a MedicarePlus plan offered by a MedicarePlus organization under this part, and no payment shall be made under section 1854 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such plan. Such a contract with an organization may cover more than one MedicarePlus plan. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) MINIMUM ENROLLMENT REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may not enter into a contract under this section with a MedicarePlus organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(2) EXCEPTION FOR HIGH DEDUCTIBLE PLAN.—Paragraph (1) shall not apply with respect to a contract that relates only to a high deductible plan.

"(3) ALLOWING TRANSITION.—The Secretary may waive the requirement of paragraph (1) during the first 3 contract years with respect to an organization.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the MedicarePlus organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part; and

"(C) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract, except that in no case shall a contract under this section which provides for coverage under a high deductible account be effective before January 1997 with respect to such coverage.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a MedicarePlus organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness,

and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(B) shall have the right to audit and inspect any books and records of the MedicarePlus organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

''(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

''(3) DISCLOSURE.—

''(A) IN GENERAL.—Each MedicarePlus organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

''(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

''(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

''(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

''(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

''(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

''(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

''(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

''(i) any director, officer, partner, or employee responsible for management or administration of a MedicarePlus organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a MedicarePlus organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

''(ii) any entity in which a person described in clause (i)—

''(I) is an officer or director;

''(II) is a partner (if such entity is organized as a partnership);

''(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

''(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

''(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

''(iv) any spouse, child, or parent of an individual described in clause (i).

''(C) ACCESS TO INFORMATION.—Each MedicarePlus organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

''(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

''(e) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(f) INTERMEDIATE SANCTIONS.—

''(1) IN GENERAL.—If the Secretary determines that a MedicarePlus organization with a contract under this section—

''(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(B) imposes net monthly premiums on individuals enrolled under this part in excess of the net monthly premiums permitted;

''(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(E) misrepresents or falsifies information that is furnished—

''(i) to the Secretary under this part, or

''(ii) to an individual or to any other entity under this part;

''(F) fails to comply with the requirements of section 1852(j)(3); or

''(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

''(2) REMEDIES.—The remedies described in this paragraph are—

''(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

''(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a MedicarePlus organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

''(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

''(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

''(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

''(g) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a MedicarePlus organization under this section or may impose the intermediate sanctions described in subsection (f) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(1) the Secretary provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

''(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

''(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

''STANDARDS FOR MEDICAREPLUS AND MEDICARE INFORMATION TRANSACTIONS AND DATA ELEMENTS

''SEC. 1858. (a) ADOPTION OF STANDARDS FOR DATA ELEMENTS.—

''(1) IN GENERAL.—Pursuant to subsection (b), the Secretary shall adopt standards for information transactions and data elements of MedicarePlus and medicare information and modifications to the standards under this section that are—

''(A) consistent with the objective of reducing the administrative costs of providing and paying for health care; and

''(B) developed or modified by a standard setting organization (as defined in subsection (h)(8)).

''(2) SPECIAL RULE RELATING TO DATA ELEMENTS.—The Secretary may adopt or modify a standard relating to data elements that is different from the standard developed by a standard setting organization, if—

"(A) the different standard or modification will substantially reduce administrative costs to health care providers and health plans compared to the alternative; and

"(B) the standard or modification is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(3) SECURITY STANDARDS FOR HEALTH INFORMATION NETWORK.—

"(A) IN GENERAL.—Each person, who maintains or transmits MedicarePlus and medicare information or data elements of MedicarePlus and medicare information and is subject to this section, shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(i) to ensure the integrity and confidentiality of the information;

"(ii) to protect against any reasonably anticipated—

"(I) threats or hazards to the security or integrity of the information; and

"(II) unauthorized uses or disclosures of the information; and

"(iii) to otherwise ensure compliance with this section by the officers and employees of such person.

"(B) SECURITY STANDARDS.—The Secretary shall establish security standards and modifications to such standards with respect to MedicarePlus and medicare information network services, health plans, and health care providers that—

"(i) take into account—

"(I) the technical capabilities of record systems used to maintain MedicarePlus and medicare information;

"(II) the costs of security measures;

"(III) the need for training persons who have access to MedicarePlus and medicare information; and

"(IV) the value of audit trails in computerized record systems; and

"(ii) ensure that a MedicarePlus and medicare information network service, if it is part of a larger organization, has policies and security procedures which isolate the activities of such service with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

The security standards established by the Secretary shall be based on the standards developed or modified by standard setting organizations. If such standards do not exist, the Secretary shall rely on the recommendations of the MedicarePlus and Medicare Information Advisory Committee (established under subsection (g)) and shall consult with appropriate government agencies and private organizations in accordance with paragraph (5).

"(4) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards and the modifications to the standards adopted pursuant to paragraph (1) or (3).

"(5) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this section, the Secretary shall rely on recommendations of the MedicarePlus and Medicare Information Advisory Committee established under subsection (g) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register the recommendations of the MedicarePlus and Medicare Information Advisory Committee regarding the adoption of a standard under this section.

"(b) STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions and data elements to make MedicarePlus and medicare information uniformly available to be exchanged electronically, that is—

"(A) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information, enrollment and disenrollment, eligibility, premium payments, and referral certification and authorization; and

"(B) related to other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) UNIQUE HEALTH IDENTIFIERS.—

"(A) ADOPTION OF STANDARDS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the MedicarePlus and medicare information system. In developing unique health identifiers for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(B) PENALTY FOR IMPROPER DISCLOSURE.—A person who knowingly uses or causes to be used a unique health identifier under subparagraph (A) for a purpose that is not authorized by the Secretary shall—

"(i) be fined not more than $50,000, imprisoned not more than 1 year, or both; or

"(ii) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both.

"(3) CODE SETS.—

"(A) IN GENERAL.—The Secretary, in consultation with the MedicarePlus and Medicare Information Advisory Committee, experts from the private sector, and Federal and State agencies, shall—

"(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

"(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

"(B) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under subsection (c)(2).

"(4) ELECTRONIC SIGNATURE.—

"(A) IN GENERAL.—The Secretary, after consultation with the MedicarePlus and Medicare Information Advisory Committee, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this section and written signatures on enrollment and disenrollment forms.

"(B) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this section shall be construed to prohibit the payment of health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(5) TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.—The Secretary shall develop rules and procedures—

"(A) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

"(B) for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"(6) COORDINATION OF BENEFITS.—If, at the end of the 5-year period beginning on the date of the enactment of this section, the Secretary determines that additional transaction standards for coordinating benefits are necessary to reduce administrative costs or duplicative (or inappropriate) payment of claims, the Secretary shall establish further transaction standards for the coordination of benefits between health plans.

"(7) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, the standards adopted under this section shall not require disclosure of trade secrets or confidential commercial information by an entity operating a MedicarePlus and medicare information network.

"(c) TIMETABLES FOR ADOPTION OF STANDARDS.—

"(1) INITIAL STANDARDS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall adopt standards relating to the information transactions, data elements of MedicarePlus and medicare information and security described in subsections (a) and (b).

"(2) ADDITIONS AND MODIFICATIONS DESIRES TO STANDARDS.—

"(A) IN GENERAL.—The Secretary shall review the standards adopted under this section and shall adopt additional or modified standards, that have been developed or modified by a standard setting organization, as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to such standards shall be completed in a manner which minimizes the disruption and cost of compliance.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this paragraph, the modified code set shall include instructions on how data elements of MedicarePlus and medicare information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this paragraph shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"(d) REQUIREMENTS FOR HEALTH PLANS.—

"(1) IN GENERAL.—If a person desires to conduct any of the information transactions described in subsection (b)(1) with a health plan as a standard transaction, the health plan shall conduct such standard transaction in a timely manner and the information transmitted or received in connection with such transaction shall be in the form of standard data elements of MedicarePlus and medicare information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirement imposed on such plan under paragraph (1) by directly transmitting standard data elements of MedicarePlus and medicare information or submitting nonstandard data elements to a MedicarePlus and medicare information network service for processing into standard data elements and transmission.

"(3) TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.—Not later than 24 months after the date on which standards are adopted under subsections (a) and (b) with respect to any type of information transaction or data element of MedicarePlus and medicare information or with respect to security, a health plan shall comply with the requirements of this section with respect to such transaction or data element.

"(4) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modified standard under subsection (a) or (b), a health plan shall be required to comply with the modified

standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification. However, the time determined appropriate under the preceding sentence shall be not earlier than the last day of the 180-day period beginning on the date such modified standard is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines such extension is appropriate.

"(e) GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.—

"(1) GENERAL PENALTY.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall impose on any person that violates a requirement or standard—

"(i) with respect to MedicarePlus and medicare information transactions, data elements of MedicarePlus and medicare information, or security imposed under subsection (a) or (b); or

"(ii) with respect to health plans imposed under subsection (d);

a penalty of not more than $100 for each such violation of a specific standard or requirement, but the total amount imposed for all such violations of a specific standard or requirement during the calendar year shall not exceed $25,000.

"(B) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this paragraph in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(C) DENIAL OF PAYMENT.—Except as provided in paragraph (2), the Secretary may deny payment under this title for an item or service furnished by a person if the person fails to comply with an applicable requirement or standard for MedicarePlus and medicare information relating to that item or service.

"(2) LIMITATIONS.—

"(A) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under paragraph (1) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in paragraph (1).

"(B) FAILURES DUE TO REASONABLE CAUSE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a penalty may not be imposed under paragraph (1) if—

"(I) the failure to comply was due to reasonable cause and not to willful neglect; and

"(II) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(ii) EXTENSION OF PERIOD.—

"(I) NO PENALTY.—The period referred to in clause (i)(II) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(II) ASSISTANCE.—If the Secretary determines that a health plan failed to comply because such plan was unable to comply, the Secretary may provide technical assistance to such plan during the period described in clause (i)(II). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(C) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under paragraph (1) that is not entirely waived under subparagraph (B) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"(f) EFFECT ON STATE LAW.—

"(1) GENERAL EFFECT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), a provision, requirement, or standard under this section shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(B) EXCEPTIONS.—A provision, requirement, or standard under this section shall not supersede a contrary provision of State law if the Secretary determines that the provision of State law should be continued for any reason, including for reasons relating to prevention of fraud and abuse or regulation of controlled substances.

"(2) PUBLIC HEALTH REPORTING.—Nothing in this section shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

"(g) MEDICAREPLUS AND MEDICARE INFORMATION ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a committee to be known as the MedicarePlus and Medicare Information Advisory Committee (in this subsection referred to as the 'committee').

"(2) DUTIES.—The committee shall—

"(A) advise the Secretary in the development of standards under this section; and

"(B) be generally responsible for advising the Secretary and the Congress on the status and the future of the MedicarePlus and medicare information network.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The committee shall consist of 9 members of whom—

"(i) 3 shall be appointed by the President;

"(ii) 3 shall be appointed by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives; and

"(iii) 3 shall be appointed by the President pro tempore of the Senate after consultation with the minority leader of the Senate.

The appointments of the members shall be made not later than 60 days after the date of the enactment of this section. The President shall designate 1 member as the Chair.

"(B) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction in the areas of information systems, information networking and integration, consumer health, or health care financial management, and who possess the demonstrated capacity to discharge the duties imposed on the committee.

"(C) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of not more than 3 members expire at one time.

"(D) INITIAL MEETING.—Not later than 30 days after the date on which a majority of the members have been appointed, the committee shall hold its first meeting.

"(4) REPORTS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the committee shall submit to Congress and the Secretary a report regarding—

"(A) the extent to which entities using the MedicarePlus and medicare information network are meeting the standards adopted under this section and working together to form an integrated network that meets the needs of its users;

"(B) the extent to which such entities are meeting the security standards established pursuant to this section and the types of penalties assessed for noncompliance with such standards;

"(C) any problems that exist with respect to implementation of the MedicarePlus and medicare information network; and

"(D) the extent to which timetables under this section are being met.

Reports made under this subsection shall be made available to health care providers, health plans, and other entities that use the MedicarePlus and medicare information network to exchange MedicarePlus and medicare information.

"(h) DEFINITIONS.—For purposes of this section:

"(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, enrollment information, and encounter data.

"(2) COORDINATION OF BENEFITS.—The term 'coordination of benefits' means determining and coordinating the financial obligations of health plans when health care benefits are payable under such a plan and under this title (including under a MedicarePlus plan).

"(3) MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'MedicarePlus and medicare information' means any information that relates to the enrollment of individuals under this title (including information relating to elections of MedicarePlus plans under section 1851) and the provision of health benefits (including benefits provided under such plans) under this title.

"(4) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK.—The term 'MedicarePlus and medicare information network' means the MedicarePlus and medicare information system that is formed through the application of the requirements and standards established under this section.

"(5) MEDICAREPLUS AND MEDICARE INFORMATION NETWORK SERVICE.—The term 'MedicarePlus and medicare information network service' means a public or private entity that—

"(A) processes or facilitates the processing of nonstandard data elements of MedicarePlus and medicare information into standard data elements;

"(B) provides the means by which persons may meet the requirements of this section; or

"(C) provides specific information processing services.

"(6) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, or any combination thereof:

"(A) Part A or part B of this title, and includes a MedicarePlus plan.

"(B) The medicaid program under title XIX and the MediGrant program under title XXI.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) Worker's compensation or similar insurance.

"(E) Automobile or automobile medical-payment insurance.

"(F) A long-term care policy, other than a fixed indemnity policy.

"(G) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(H) An employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits.

"(7) INDIVIDUALLY IDENTIFIABLE MEDICAREPLUS AND MEDICARE INFORMATION.—The term 'individually identifiable MedicarePlus and medicare information' means MedicarePlus and medicare enrollment information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or MedicarePlus and medicare information network service, and

"(B) identifies an individual.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute and includes the National Council for Prescription Drug Program.

"(9) STANDARD TRANSACTION.—The term 'standard transaction' means, when referring to an information transaction or to data elements of MedicarePlus and medicare information, any transaction that meets the requirements and implementation specifications adopted by the Secretary under subsections (a) and (b).

"DEFINITIONS; MISCELLANEOUS PROVISIONS

"SEC. 1859. (a) DEFINITIONS RELATING TO MEDICAREPLUS ORGANIZATIONS.—In this part—

"(1) MEDICAREPLUS ORGANIZATION.—The term 'MedicarePlus organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(2) PROVIDER-SPONSORED ORGANIZATION.—The term 'provider-sponsored organization' is defined in section 1853(e).

"(3) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(A) is organized for purposes other than to market a health plan,

"(B) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member,

"(C) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);

"(D) does not exist solely or principally for the purpose of selling insurance,

"(E) has at least 1,000 individual members or 200 employer members,

"(F) is a permanent entity which receives a substantial proportion of its financial support from active members; and

"(G) is not owned or controlled by an insurance company.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(4) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(5) UNION SPONSOR.—The term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(6) EMPLOYER, ETC.—In this subsection and section 1851(b), the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(b) DEFINITIONS RELATING TO MEDICAREPLUS PLANS.—

"(1) MEDICAREPLUS PLAN.—The term 'MedicarePlus plan' means health benefits coverage offered under a policy, contract, or plan by a MedicarePlus organization pursuant to and in accordance with a contract under section 1857.

"(2) HIGH DEDUCTIBLE PLAN.—

"(A) IN GENERAL.—The term 'high deductible plan' means a MedicarePlus plan that—

"(i) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the plan) equal to the amount of a deductible (described in subparagraph (B));

"(ii) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

"(iii) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in clause (i) in the year, for a level of reimbursement that is not less than—

"(I) 100 percent of such expenses, or

"(II) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less.

"(B) DEDUCTIBLE.—The amount of deductible under a high deductible plan—

"(i) for contract year 1997 shall be not more than $6,000; and

"(ii) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this subparagraph increased by the national average per capita growth percentage under section 1854(c)(6) for the year.

If the amount of the deductible under clause (ii) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(3) MEDICAREPLUS UNRESTRICTED FEE-FOR-SERVICE PLAN.—The term 'MedicarePlus unrestricted fee-for-service plan' means a MedicarePlus plan that provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the organization offering the plan for the provision of such benefits.

"(c) OTHER REFERENCES TO OTHER TERMS.—

"(1) MEDICAREPLUS ELIGIBLE INDIVIDUAL.—The term 'MedicarePlus eligible individual' is defined in section 1851(a)(3).

"(2) MEDICAREPLUS PAYMENT AREA.—The term 'MedicarePlus payment area' is defined in section 1854(d).

"(3) NATIONAL AVERAGE PER CAPITA GROWTH PERCENTAGE.—The 'national average per capita growth percentage' is defined in section 1854(c)(6).

"(4) MONTHLY PREMIUM; NET MONTHLY PREMIUM.—The terms 'monthly premium' and 'net monthly premium' are defined in section 1855(a)(2).

"(d) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICAREPLUS PLAN.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its MediGrant program under title XXI with those provided under a MedicarePlus plan in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.".

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—

(1) by inserting "1853(g)," after "1833(s),", and

(2) by inserting ", MedicarePlus organization," after "provider of services".

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are emergency services (as defined in section 1853(b)(4)) that are covered under this title and are furnished to any individual enrolled under part C with a MedicarePlus organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

SEC. 8002. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—

(1) IN GENERAL.—Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending clause (i) to read as follows:

"(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title or electing a MedicarePlus plan under section 1851—

"(I) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) in the case of an individual not electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) in the case of an individual electing a MedicarePlus plan, a medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or under another medicare supplemental policy.";

(B) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(C) by adding at the end the following new clauses:

"(iv) For purposes of this subparagraph a health insurance policy shall be considered to 'duplicate' benefits under this title only when, under its terms, the policy provides specific reimbursement for identical items and services to the extent paid for under this title, and a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title.

"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), including a policy (such as a qualified long-term care insurance contract described in section 7702B(b) of the Internal Revenue Code of 1986, as added by the Revenue Reconciliation Act of 1995) providing benefits for long-term care, nursing home care, home health care, or community-based care, that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued after January 1, 1996) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title. For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) A State may not impose, with respect to the sale or issuance of a policy (or rider) that meets the requirements of this title pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B or enrolled under a MedicarePlus plan under part C, any requirement based on the premise that such a policy or rider duplicates health benefits to which the individual is otherwise entitled under this title.".

(2) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (B), by inserting "(including any MedicarePlus plan)" after "health insurance policies";

(B) in subparagraph (C)—

(i) by striking "with respect to (i)" and inserting "with respect to", and

(ii) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(C) by striking subparagraph (D).

(3) MEDICAREPLUS PLANS NOT TREATED AS MEDICARE SUPPLEMENTARY POLICIES.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by inserting "a MedicarePlus plan or" after "and does not include".

(b) ADDITIONAL RULES RELATING TO INDIVIDUALS ENROLLED IN MEDICAREPLUS PLANS.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following new subsection:

"(u)(1) Notwithstanding the previous provisions of this section, this section shall not apply to the sale or issuance of a medicare supplemental policy to an individual who has elected to enroll in a MedicarePlus plan under section 1851.

"(2)(A) It is unlawful for a person to sell or issue a policy described in subparagraph (B) to an individual with knowledge that the individual has in effect under section 1851 an election of a high deductible plan.

"(B) A policy described in this subparagraph is a health insurance policy that provides for coverage of expenses that are otherwise required to be counted toward meeting the annual deductible amount provided under the high deductible plan.".

SEC. 8003. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended—

(1) in subsection (c)(3)(A)(i), by striking "would result in failure to meet the requirements of subsection (f) or";

(2) by amending subsection (f) to read as follows:

"(f)(1) Except as provided in paragraph (3), the Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after—

"(A) the date standards for MedicarePlus organizations and plans are first established under section 1856(a) with respect to MedicarePlus organizations that are insurers or health maintenance organizations, or

"(B) in the case of in the case of such an organization with such a contract in effect as of the date such standards were first established, 1 year after such date.

"(2) The Secretary shall not enter into, renew, or continue any risk-sharing contract under this section with an eligible organization for any contract year beginning on or after January 1, 2000.

"(3) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.

"(4) Notwithstanding subsection (a), the Secretary shall provide that payment amounts under risk-sharing contracts under this section for months in a year (beginning with January 1996) shall be computed—

"(A) with respect to individuals entitled to benefits under both parts A and B, by substituting payment rates under section 1854(a) for the payment rates otherwise established under subsection 1876(a), and

"(B) with respect to individuals only entitled to benefits under part B, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under this title attributable to such part) for the payment rates otherwise established under subsection (a).

For purposes of carrying out this paragraph for payments for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1854(a) (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made under this section not in accordance with such rates."; and

(3) in subsection (i)(1)(C), by striking "(e), and (f)" and inserting "and (e)".

CHAPTER 2—SPECIAL RULES FOR MEDICAREPLUS MEDICAL SAVINGS ACCOUNTS

SEC. 8011. MEDICAREPLUS MSA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICAREPLUS MSA.

"(a) EXCLUSION.—Gross income shall not include any payment to the MedicarePlus MSA of an individual by the Secretary of Health and Human Services under part C of title XVIII of the Social Security Act.

"(b) MEDICAREPLUS MSA.—For purposes of this section—

"(1) MEDICAREPLUS MSA.—The term 'MedicarePlus MSA' means a medical savings account (as defined in section 222(d))—

"(A) which is designated as a MedicarePlus MSA,

"(B) notwithstanding section 222(f)(5), with respect to which no contribution may be made other than—

"(i) a contribution made by the Secretary of Health and Human Services pursuant to part C of title XVIII of the Social Security Act, or

"(ii) a trustee-to-trustee transfer described in subsection (c)(4), and

"(C) the governing instrument of which provides that trustee-to-trustee transfers described in subsection (c)(4) may be made to and from such account.

"(2) HIGH DEDUCTIBLE MSA.—The term 'High Deductible MedicarePlus MSA' means a MedicarePlus MSA which is established in connection with a high deductible plan described in section 1859(b)(2) of the Social Security Act.

"(3) REBATE MEDICAREPLUS MSA.—The term 'Rebate MedicarePlus MSA' means a MedicarePlus MSA other than a High Deductible MedicarePlus MSA.

"(c) SPECIAL RULES FOR DISTRIBUTIONS.—

"(1) DISTRIBUTIONS FOR QUALIFIED MEDICAL EXPENSES.—In applying section 222—

"(A) to a High Deductible MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder, and

"(B) to a Rebate MedicarePlus MSA, qualified medical expenses shall include only expenses for medical care of the account holder and of the spouse of the account holder if such spouse is entitled to benefits under part A of title XVIII of the Social Security Act and is enrolled under part B of such title.

"(2) PENALTY FOR DISTRIBUTIONS FROM HIGH DEDUCTIBLE MSA NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a High Deductible MedicarePlus MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in such MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the high deductible plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

Section 222(f)(2) shall not apply to any payment or distribution from a High Deductible MedicarePlus MSA.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all High Deductible MedicarePlus MSAs of the account holder shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to any payment or distribution from a MedicarePlus MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 222(f)(2) and paragraph (2) of this subsection shall not apply to—

"(A) any trustee-to-trustee transfer from a High Deductible MedicarePlus MSA of an account holder to another High Deductible MedicarePlus MSA of such account holder, and

"(B) any trustee-to-trustee transfer from a Rebate MedicarePlus MSA of an account holder to another Rebate MedicarePlus MSA of such account holder.

"(d) SPECIAL RULES FOR TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—Notwithstanding section 222(f)(1)(B), if, as of the date of the death of the account holder, the spouse of such holder is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(1) the Secretary of Health and Human Services may not make any payments to such MedicarePlus MSA, other than payments attributable to periods before such date, and

"(2) such MSA shall be treated as medical savings account which is not a MedicarePlus MSA.

"(e) REPORTS.—In the case of a MedicarePlus MSA, the report under section 222(h)—

"(1) shall include the fair market value of the assets in such MedicarePlus MSA as of the close of each calendar year, and

"(2) shall be furnished to the account holder—

"(A) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(B) in such manner as the Secretary prescribes in such regulations."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of section 4973(d) of such Code, as added by section 11066(f)(4), is amended by "or section 137(c)(3)" after "section 222(f)(3)".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. MedicarePlus MSA.

"Sec. 138. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under part C of title XVIII of the Social Security Act during the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

CHAPTER 3—MEDICARE PAYMENT REVIEW COMMISSION

SEC. 8021. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"MEDICARE PAYMENT REVIEW COMMISSION

"SEC. 1805. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) GENERAL DUTIES AND REPORTS.—

"(A) IN GENERAL.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title.

"(B) ANNUAL REPORTS.—By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program.

"(C) ADDITIONAL REPORTS.—The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. By not later than May 1, 1997, the Commission shall submit to Congress a report on the matter described in paragraph (2)(G).

"(D) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary a copy of each report submitted to Congress under this subsection and shall make such reports available to the public.

"(2) SPECIFIC DUTIES RELATING TO MEDICAREPLUS PROGRAM.—Specifically, the Commission shall review, with respect to the MedicarePlus program under part C—

"(A) the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas);

"(B) the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries;

"(C) the implications of risk selection both among MedicarePlus organizations and between the MedicarePlus option and the Medicare fee-for-service option;

"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with MedicarePlus organizations;

"(E) the impact of the MedicarePlus program on access to care for medicare beneficiaries;

"(F) the feasibility and desirability of extending the rules for open enrollment that apply during the transition period to apply in each county during the first 2 years in which MedicarePlus plans are made available to individuals residing in the county; and

"(G) other major issues in implementation and further development of the MedicarePlus program.

"(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

"(B) payment methodologies; and

"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

"(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, allopathic and osteopathic physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(3) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(5) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(6) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(d) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) POWERS.—

"(1) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) DATA COLLECTION.—In order to carry out its functions, the Commission shall collect and assess information to—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) ACCESS OF GAO TO INFORMATION.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(5) OPEN MEETINGS, ETC..—Pursuant to regulations of the Comptroller General, rules based upon the requirements of section 10 of the Federal Advisory Committee Act shall apply with respect to the Commission.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) REQUEST FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) ABOLITION OF PROPAC AND PPRC.—

(1) PROPAC.—

(A) IN GENERAL.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) CONFORMING AMENDMENT.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) IN GENERAL.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) CONFORMING AMENDMENTS.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (9)(D) and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w–4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) EFFECTIVE DATE; TRANSITION.—

(1) IN GENERAL.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than September 30, 1996.

(2) TRANSITION.—Effective January 1, 1997, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC") are terminated and amendments made by subsection (b) shall become effective. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) CONTINUING RESPONSIBILITY FOR REPORTS.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

CHAPTER 4—TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS

SEC. 8031. TREATMENT OF HOSPITALS WHICH PARTICIPATE IN PROVIDER-SPONSORED ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.), as amended by title XI, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF HOSPITALS PARTICIPATING IN PROVIDER-SPONSORED ORGANIZATIONS.—An organization shall not fail to be treated as organized and operated exclusively for a charitable purpose for purposes of subsection (c)(3) solely because a hospital which is owned and operated by such organization participates in a provider-sponsored organization (as defined in section 1853 of the Social Security Act), whether or not the provider-sponsored organization is exempt from tax. For purposes of subsection (c)(3), any person with a material financial interest in such a provider-sponsored organization shall be treated as a private shareholder or individual with respect to the hospital."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Health Care Fraud and Abuse Prevention

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

SEC. 8101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 8141(b) and 8142(c) of the Medicare Preservation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1996, $104,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2002, the limit for fiscal year 2002.

"(ii) MEDICARE AND MEDIGRANT ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and MediGrant programs—

"(I) for fiscal year 1996, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1997, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1998, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 1999, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2000, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2001, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2001, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATIONS.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigations to carry out the purposes described in subparagraph (C)(i), to be available without further appropriation—

"(i) for fiscal year 1996, $47,000,000;

"(ii) for fiscal year 1997, $56,000,000;

"(iii) for fiscal year 1998, $66,000,000;

"(iv) for fiscal year 1999, $76,000,000;

"(v) for fiscal year 2000, $88,000,000;

"(vi) for fiscal year 2001, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2001, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDIGRANT FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State MediGrant fraud control units established under section 2134(a) upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2001, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 8102. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

"(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the

Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 8103. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8104. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 8105. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 8101, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States

Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

CHAPTER 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 8111. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Preservation Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 8112. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 8113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 8114. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 8115. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under

paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 8116. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is a MedicarePlus organization under part C of title XVIII or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1996.

SEC. 8117. PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN STATE HEALTH CARE PROGRAM BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program,".

SEC. 8118. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this chapter shall take effect January 1, 1996.

CHAPTER 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 8121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 8101 and 8105, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State MediGrant fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

CHAPTER 4—CIVIL MONETARY PENALTIES

SEC. 8131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Preservation Act of 1995 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(i) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(ii) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 8115(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Preservation Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

SEC. 8132. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1996.

SEC. 8133. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 8141. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 8101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 8142. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 8101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 8143. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 8144. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a Federal health care program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or

"(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 8145. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 8146. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§669. Theft or embezzlement in connection with health care

"(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a Federal health care program, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 8147. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 8148. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any Federal health care program, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any Federal health care program in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) As used in this section the term 'Federal health care program' has the same meaning given such term in section 1128B(f) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"§3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 8151. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7001 of this Act, is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "plan." and inserting "plan; and (B) upon the approval of the relevant Federal agency and the chief executive officer of the State or such officer's designee, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDIGRANT BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7001 of this Act, is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the MediGrant plan funded under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

Subtitle C—Regulatory Relief

SEC. 8201. REPEAL OF PHYSICIAN OWNERSHIP REFERRAL PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2)—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B))," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY"; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 8202. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO OWNERSHIP REFERRAL PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Parenteral and enteral nutrients, equipment, and supplies.

"(C) Radiology services, including magnetic resonance imaging, computerized tomography, and ultrasound services.

"(D) Outpatient physical or occupational therapy services.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 8203. DELAY IN IMPLEMENTATION OF 1993 OWNERSHIP REFERRAL CHANGES UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

SEC. 8204. EXCEPTIONS TO OWNERSHIP REFERRAL PROHIBITIONS.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8201(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which is a MedicarePlus organization under part C or which provides or arranges for the provision of health care items or services pursuant to a written agreement between the organization and an individual or entity if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8201(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8201(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(j) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 8205. EFFECTIVE DATE.

Except as provided in section 8203(b), the amendments made by this subtitle shall apply to referrals made on or after the date of the enactment of this Act, regardless of whether or not regulations are promulgated to carry out such amendments.

Subtitle D—Modification in Payment Policies Regarding Graduate Medical Education

SEC. 8301. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) MULTIYEAR TRANSITION REGARDING PERCENTAGES; 6.7 FOR 1996 TO 5.0 FOR 2001 AND AFTERWARDS.—Section 1886(D)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) us amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power)−1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equal .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.654;

"(III) October 1, 1996, and before October 1, 1998, 'c' is equal to 1.481;

"(IV) October 1, 1998, and before October 1, 1999, 'c' is equal to 1.383;

"(V) October 1, 1999, and before October 1, 2000, 'c' is equal to 1.309; and

"(VI) October 1, 2000, 'c' is equal to 1.235.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 8301(a) of Medicate Preservation Act of 1995".

SEC. 8302. DIRECT GRADUATE MEDICAL EDUCATION.

(a) WEIGHTING FACTORS FOR RESIDENTS.—

(1) IN GENERAL.—Section 1886(h)(4)(C)(iv) (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking "50" and inserting "0.25".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after October 1, 1997.

(b) LIMITATION ON AGGREGATE NUMBER OF FULL-TIME RESIDENTS.—

Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) Adjustments for certain fiscal years in payments for programs in allopathic and osteopathic medicine.—

"(i) IN GENERAL.—With respect to a cost reporting period, the Secretary shall in accordance with clause (ii) adjust the payments for approved medical residency training programs in the fields of allopathic medicine and osteopathic medicine if, in the fiscal year in which such cost reporting period begins, the number of full-time-equivalent residents determined under this paragraph with respect to all such programs exceeds the number of full-time-equivalent residents determined with respect to all such programs as of August 1, 1995.

"(ii) ADJUSTMENT DESCRIBED.—Adjustments under clause (i) shall be made with respect to cost reporting periods such that the total amount of payments under this subsection for the fiscal year involved does not exceed the amount that would have been paid under this subsection for such year if the number of full-time-equivalent residents determined under clause (i) for the year had not exceeded the number of full-time-equivalent residents with respect to all such programs as of August 1, 1995.

"(iii) HOLD HARMLESS.—The Secretary may provide that approved medical residency training programs that reduced or did not expand the number of full-time-equivalent residents determined under this paragraphs for a cost reporting period shall not be subject to the adjustment described in clause (i).

"(iv) EFFECTIVE DATE.—The adjustment described in clause (i) shall apply with respect to cost reporting periods beginning on or after October 1, 1995, and on or before September 30, 2002.".

Subtitle E—Provisions Relating to Part A

CHAPTER 1—GENERAL PROVISIONS RELATING TO PART A

SEC. 8401. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:

"(XI) for fiscal year 1996 for hospitals in all areas, the market basket percentage increase minus 2.5 percentage points,

"(XII) for fiscal years 1997 through 2002 for hospitals in all areas, the market basket percentage increase minus 2.0 percentage points, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase.".

SEC. 8402. PPS-EXEMPT HOSPITAL PAYMENTS.

(a) UPDATE.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "1997" and inserting "1995", and

(ii) by striking "and" at the end,

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V), the following subclause:

"(VI) except as provided in clause (vi), for fiscal years 1996 through 2002, the market basket percentage increase minus the applicable reduction (as defined in clause (vii)(II)); and".

(2) SPECIAL RULES FOR CERTAIN HOSPITALS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B))) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI), the 'applicable percentage increase' for a hospital—

"(I) for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vii)(I)) is at least 10 percent, is the market basket percentage increase, and

"(II) for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, is 0 percent.".

(3) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)), as amended by paragraph (2), is amended by adding at the end the following new clause:

"(vii) For purposes of clauses (ii)(VI) and (vi)—

"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

"(II) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.".

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking "paragraph (3)(B)(ii)(V)" and inserting "subclause (V) or (VI) of paragraph (3)(B)(ii)".

(b) TARGET AMOUNTS FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "and (E)" and inserting "(E), (F), and (G)"; and

(2) by adding at the end the following new subparagraphs:

"(F) In the case of a rehabilitation hospital (or unit thereof) (as described in clause (ii) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995,—

"(i) in the case of a hospital which first receives payments under this section before October 1, 1995, the target amount determined under subparagraph (A) for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of a hospital which first receives payments under this section on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(G) In the case of a hospital which has an average inpatient length of stay of greater than 25 days (as described in clause (iv) of subsection (d)(1)(B)), for cost reporting periods beginning on or after October 1, 1995—

"(i) in the case of a hospital which first receives payments under this section as a hospital that is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital before October 1, 1995, the target amount determined under subparagraph (A) for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under such subparagraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this subparagraph); and

"(ii) in the case of any other hospital which first receives payment under this section as a hospital described in clause (i) on or after October 1, 1995, such target amount may not be greater than 130 percent (or, if the Secretary determines it is appropriate, such alternative percentage based on case-mix and DRG category) of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.".

(c) REBASING FOR CERTAIN LONG-TERM CARE HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (b), is amended—

(A) in subparagraph (A) in the matter preceding clause (i), by striking "and (G)" and inserting "(G), and (H)";

(B) in subparagraph (B)(ii), by striking "(A) and (E)" and inserting "(A), (E), and (G)"; and

(C) by adding at the end the following new subparagraph:

"(H)(i) In the case of a qualified long-term care hospital (as defined in clause (ii)), the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period beginning during fiscal year 1994; or

"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

"(ii) In clause (i), a 'qualified long-term care hospital' means, with respect to a cost reporting period, a hospital described in clause (iv) of subsection (d)(1)(B) during fiscal year 1995 for which the hospital's allowable operating costs of inpatient hospital services recognized under this title for each of the two most recent previous 12-month cost reporting periods exceeded 115 percent of the hospital's target amount determined under this paragraph for such cost reporting periods, if the hospital has a disproportionate patient percentage during such cost reporting period (as determined by the Secretary under subsection (d)(5)(F)(vi) as if the hospital were a subsection (d) hospital) of at least 70 percent.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

(d) TREATMENT OF CERTAIN LONG-TERM CARE HOSPITALS LOCATED WITHIN OTHER HOSPITALS.—

(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended in the matter following clause (v) by striking the period and inserting the following: ", or a hospital classified by the Secretary as a long-term care hospital on or before September 30, 1995, and located in the same building as, or on the same campus as, another hospital.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(e) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 10 percent.".

SEC. 8403. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount"; and

(2) by adding at the end the following new clause:

"(ix) In the case of discharges occurring on or after October 1, 1995, the additional payment amount otherwise determined under clause (ii) shall be reduced as follows:

"(I) For discharges occurring on or after October 1, 1995, and on or before September 30, 1996, by 5 percent.

"(II) For discharges occurring on or after October 1, 1996, and on or before September 30, 1997, by 10 percent.

"(III) For discharges occurring on or after October 1, 1997, and on or before September 30, 1998, by 17.5 percent.

"(IV) For discharges occurring on or after October 1, 1998, and on or before September 30, 1999, by 25 percent.

"(V) For discharges occurring on or after October 1, 1999, and on or before September 30, 2002, by 30 percent.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", and the Secretary shall not take into account any reductions in the amount of such additional payments resulting from the amendments made by section 8403(a) of the Medicare Preservation Act of 1995.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8404. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) REDUCTION IN PAYMENTS.—

(1) CONTINUATION OF CURRENT REDUCTIONS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended in the second sentence—

(A) by striking "through 1995" and inserting "through 2002"; and

(B) by inserting after "10 percent reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

(2) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Medicare Preservation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on such date of enactment).".

(b) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

"(I) is a hospital that may otherwise receive payments under this subsection,

"(II) is not a public hospital, and

"(III) incurs capital-related tax costs for the fiscal year.

"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Medicare Preservation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

"(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease). In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following subparagraph:

"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 85 percent.

"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.".

(2) Limit to Additional Payments.—The amendment made by paragraph (1) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.

(3) Conforming Amendment.—Section 1886(g)(1)(B)(iii) (42 U.S.C. 1395ww(g)(1)(B)(iii)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D)".

SEC. 8405. REDUCTION IN PAYMENTS TO HOSPITALS FOR ENROLLEES' BAD DEBTS.

(a) In General.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T)(i) In determining such reasonable costs for hospitals, the amount of bad debts otherwise treated as allowable costs which are attributable to the deductibles and coinsurance amounts under this title shall be reduced by—

"(I) 75 percent for cost reporting periods beginning during fiscal year 1996,

"(II) 60 percent for cost reporting periods beginning during fiscal year 1997, and

"(III) 50 percent for subsequent cost reporting periods.

"(ii) Clause (i) shall not apply with respect to bad debt of a hospital described in section 1886(d)(1)(B)(iv) if the debt is attributable to uncollectable deductible and coinsurance payments owed by individuals enrolled in a State plan under title XIX or under the MediGrant program under title XXI.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1995.

SEC. 8406. INCREASE IN UPDATE FOR CERTAIN HOSPITALS WITH A HIGH PROPORTION OF MEDICARE PATIENTS.

Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsections (b) and (c)(1) of section 8402, is amended by adding at the end the following new subparagraph:

"(I)(i) For purposes of subsection (d), in the case of a medicare-dependent hospital described in clause (ii), the applicable percentage increase otherwise determined under subparagraph (B)(i) shall be increased by—

"(I) 0.5 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1996, and

"(II) 0.3 percentage points for discharges occurring during cost reporting periods beginning during fiscal year 1997.

"(ii) A hospital described in this clause with respect to a cost reporting period is a subsection (d) hospital meeting the following requirements:

"(I) Not less than 60 percent of the hospital's inpatient days during the most recent cost reporting period for which data is available were attributable to inpatients entitled to benefits under part A.

"(II) The hospital does not receive any additional payment amount under subsection (d)(5)(F) (relating to payments for hospitals serving a disproportionate number of low-income patients) with respect to discharges occurring during the fiscal year.

"(III) The hospital does not receive any additional payment amount under subsection (d)(5)(B) (relating to payment for the indirect costs of medical education) or subsection (h) (relating to payment for direct medical education costs).

"(IV) In the case of a hospital located in a rural area, the hospital has more than 100 beds.".

CHAPTER 2—PAYMENTS TO SKILLED NURSING FACILITIES

Subchapter A—PROSPECTIVE PAYMENT SYSTEM

SEC. 8410. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"Sec. 1889. (a) Establishment of System.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 Percent of Levels Otherwise In Effect.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) Adjustment in Rates to Take Into Account Beneficiary Cost-Sharing.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

Subchapter B—Interim Payment System

SEC. 8411. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) Clarification of Definition of Routine Service Costs.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) Conforming Amendment.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 8412. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) In General.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"Sec. 1888A. (a) Definitions.—For purposes of this section:

"(1) Covered Non-Routine Services.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy, including supplies and support services directly related to such services and therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF Market Basket Percentage Increase.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) Stay.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) New Payment Method for Covered Non-Routine Services Beginning in Fiscal Year 1996.—

"(1) In General.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) Interim Payments.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on *the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).*

“(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

“(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

“(B) PART B BILLING.—In the case of a covered non-routine service other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise). This subparagraph shall not apply to physician's services furnished by a physician (as defined in section 1861(r)(1)) to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.

“(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A or B (including a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

“(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

“(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

“(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

“(A) the per stay amount applicable to the facility under subsection (d) for the period; and

“(B) the number of stays beginning during the period for which payment was made to the facility for such services.

“(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

“(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

“(1) AMOUNT FOR FISCAL YEAR 1996.—

“(A) IN GENERAL.—

“(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before December 31, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

“(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

“(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before December 31, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

“(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.

“(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The ‘facility-specific stay amount’ for a skilled nursing facility for a cost reporting period is—

“(1) the sum of—

“(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

“(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

“(2) the average number of days per stay for all residents of the skilled nursing facility receiving extended care services furnished during the benefit period established under section 1812(a)(2).

“(f) INTENSIVE NURSING OR THERAPY NEEDS.—

“(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

“(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—Upon the implementation of the payment method established under this section, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services..

“(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

“(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

“(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

“(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

“(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

“(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.

“(j) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.”.

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking “1813 and 1886” and inserting “1813, 1886, 1888, 1888A, and 1889”.

SEC. 8413. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 8411, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 8414. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 10 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 8410 of this Act, shall reflect the 10 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(U) of the Social Security Act, as added by subsection (a).

SEC. 8415. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician (as defined in section 1861(r)(1)) from receiving payment for physician's services provided to a resident of a skilled nursing facility if such services are not covered non-routine services (as defined in section 1888A(a)(1)) or services for which routine service costs (as defined in section 1888(e)) are determined.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) (other than a portable X-ray or portable electrocardiogram treated as a physician's service for purposes of section 1848(j)(3)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a) and section 8414(a), is amended by adding at the end the following new subparagraph:

"(V) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 8416. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 8417. REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.

Not later than October 1, 1997, the Medicare Payment Review Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 8412) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 8410) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 8418. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

CHAPTER 3—OTHER PROVISIONS RELATING TO PART A

SEC. 8421. PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:

"(IV) for fiscal years 1996 through 2002, the market basket percentage increase for the fiscal year minus 2.0 percentage points; and

"(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".

SEC. 8422. PERMANENT EXTENSION OF HEMOPHILIA PASS-THROUGH.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act (as amended by section 13505 of OBRA–1993) is amended by striking "and shall expire September 30, 1994".

Subtitle F—Provisions Relating to Part B

CHAPTER 1—PAYMENT REFORMS

SEC. 8501. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) UPDATE.—

(A) IN GENERAL.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to physicians' services furnished on or after January 1, 1997.

(2) CONFORMING AMENDMENTS.—(A) Section 1848(d)(2)(A) (42 U.S.C. 1395w–4(d)(2)(A)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor";

(II) by striking "(beginning with 1991)" and inserting "(beginning with 1996)"; and

(III) by striking the second sentence;

(ii) by amending clause (ii) to read as follows:

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and";

(iii) by amending clause (iii) to read as follows:

"(iii) access to services.";

(iv) by striking clauses (iv), (v), and (vi); and

(v) by striking the last sentence.

(B) Section 1848(d)(2)(B) (42 U.S.C. 1395w–4(d)(2)(B)) is amended—

(i) by striking "and" at the end of clause (iii);

(ii) by striking the period at the end of clause (iv) and inserting "; and"; and

(iii) by adding at the end the following new clause:

"(v) changes in volume or intensity of services.".

(C) Section 1848(d)(2) (42 U.S.C. 1395w4–(d)(2)) is further amended—

(i) by striking subparagraphs (C), (D), and (E);

(ii) by redesignating subparagraph (F) as subparagraph (C); and

(iii) in subparagraph (C), as redesignated, by striking "(or updates) in the conversion factor (or factors)" and inserting "in the conversion factor".

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Medicare Preservation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law (including changes made by the Secretary in response to section 1895), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a MedicarePlus plan offered under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(2) CONFORMING AMENDMENTS.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended—

(A) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(B) in paragraph (1)—

(i) in the heading, by striking "VOLUME PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in subparagraph (A), in the matter preceding clause (i), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and

(iii) in subparagraph (A), by striking "HMO enrollees" each place such term appears and inserting "private plan enrollees";

(C) in subparagraph (B), by striking "performance standard rates of increase" and inserting "sustainable growth rate"; and

(D) in subparagraph (C)—

(i) in the heading, by striking "PERFORMANCE STANDARD RATES OF INCREASE" and inserting "SUSTAINABLE GROWTH RATE";

(ii) in the first sentence, by striking "with 1991), the performance standard rates of increase" and all that follows through the first period and inserting "with 1997), the sustainable growth rate for the fiscal year beginning in that year."; and

(iii) in the second sentence, by striking "January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990" and inserting "January 1, 1997, the sustainable growth rate for fiscal year 1997".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii) (as redesignated by paragraph (1)(a));

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(D)(ii) (as redesignated by paragraph (1)(a)), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 8502. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) Ambulatory Surgical Center Procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) Radiology Services and Diagnostic Procedures.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) Effective Date.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 8503. EXTENSION OF REDUCTIONS IN PAYMENTS FOR COSTS OF HOSPITAL OUTPATIENT SERVICES.

(a) Reduction in Payments for Capital-Related Costs.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "through 1998" and inserting "through 2002".

(b) Reduction in Payments for Other Costs.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 8504. REDUCTION IN UPDATES TO PAYMENT AMOUNTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Change in Update.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) Lowering Cap on Payment Amounts.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997," after "1995,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

SEC. 8505. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) Reduction in Payment Amounts for Items of Durable Medical Equipment.—

(1) Freeze in update for covered items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percentage points; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) Update for orthotics and prosthetics.—Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) for each of the years 1996 through 2002, 1 percent, and".

(b) Oxygen and Oxygen Equipment.—

(1) In general.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) in clause (iv)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(v) in each of the years 1996 through 2002, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year reduced by the applicable percentage described in subparagraph (D) (but in no case may the amount determined under this clause be less than 70 percent of such national limited payment rate); and

"(vi) in a subsequent year, is the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

(2) Applicable percentage described.—Section 1834(a)(9) (42 1395m(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) Applicable percentage described.—In clause (v) of subparagraph (C), the 'applicable percentage' with respect to a year described in such clause is—

"(i) for 1996, 20 percent,

"(ii) for 1997, 21⅔ percent,

"(iii) for 1998, 23⅓ percent,

"(iv) for 1999, 25 percent,

"(v) for 2000, 26⅔ percent,

"(vi) for 2001, 28⅓ percent, and

"(vii) for 2002, 30 percent.".

(c) Payment Freeze for Parenteral and Enteral Nutrients, Supplies, and Equipment.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during each of the years 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 8506. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended—

(1) by striking "1996" and inserting "2003"; and

(2) by inserting before the first sentence the following new sentence: "Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002."

SEC. 8507. PAYMENTS FOR AMBULANCE SERVICES.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 8405(a), section 8414(a), and section 8415(b), is amended by adding at the end the following new subparagraph:

"(W) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize any costs in excess of costs recognized as reasonable for fiscal year 1995.".

SEC. 8508. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) Payment for Jointly Furnished Single Case.—

(1) Payment to physician.—Section 1848(a)(4) (42 U.S.C. 1395w–4(a)(4)) is amended by adding at the end the following new subparagraph:

"(C) Payment for single case.—Notwithstanding section 1862(a)(1)(A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a certified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the physicians' services shall be equal to 50 percent (or 55 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under this section for anesthesia services personally performed by the physician alone (without regard to this subparagraph). Nothing in this subparagraph may be construed to affect the application of any provision of law regarding balance billing.".

(2) Payment to crna.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount for the services furnished by the certified registered nurse anesthetist shall be equal to 50 percent (or 40 percent, in the case of services furnished during 1996 or 1997) of the fee schedule amount applicable under section 1848 for anesthesia services personally performed by the physician alone (without regard to this clause).".

(b) Effective Date.—The amendments made by subsections (a) shall apply to services furnished on or after July 1, 1996.

CHAPTER 2—PART B PREMIUM

SEC. 8511. PROMOTING SOLVENCY OF PART A TRUST FUND THROUGH PART B PREMIUM.

(a) In General.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "1999" and inserting "2003", and

(2) by adding at the end the following new subparagraph:

"(C)(i) For each month beginning with January 1996 through December 2002, the amount of the monthly premium under this part shall be increased by an amount equal to 13 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (a)(1) and applicable to such month.

"(ii) The Secretary shall transfer amounts received pursuant to clause (i) to the Federal Hospital Insurance Trust Fund.

"(iii) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) Effective Date.—The amendments made by subsection (a) apply to premiums for months beginning with January 1996.

SEC. 8512. INCOME-RELATED REDUCTION IN MEDICARE SUBSIDY.

(a) In General.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following:

"(h)(1) Notwithstanding the previous subsections of this section, in the case of an individual whose modified adjusted gross income for a taxable year ending with or within a calendar *year (as initially determined by the Secretary in accordance with paragraph (3)) exceeds the threshold amount described in paragraph (5)(B), the Secretary shall increase the amount of the monthly premium for months in the calendar year by an amount equal to the difference between—*

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over as determined under subsection (a)(1) for that calendar year; and

"(B) the total of the monthly premiums paid by the individual under this section (determined without regard to subsection (b)) during such calendar year.

"(2) In the case of an individual described in paragraph (1) whose modified adjusted gross income exceeds the threshold amount by less than $50,000, the amount of the increase in the monthly premium applicable under paragraph (1) shall be an amount which bears the same ratio to the amount of the increase described in paragraph (1) (determined without regard to this paragraph) as such excess bears to $50,000. In the case of a joint return filed under section 6013 of the Internal Revenue Code of 1986 by spouses both of whom are enrolled under this part, the previous sentence shall be applied by substituting '$60,000' for '$50,000'. The preceding provisions of this paragraph shall not apply to any individual whose threshold amount is zero.

"(3) The Secretary shall make an initial determination of the amount of an individual's modified adjusted gross income for a taxable year ending with or within a calendar year for purposes of this subsection as follows:

"(A) Not later than September 1 of the year preceding the year, the Secretary shall provide notice to each individual whom the Secretary finds (on the basis of the individual's actual modified adjusted gross income for the most recent taxable year for which such information is available or other information provided to the Secretary by the Secretary of the Treasury) will be subject to an increase under this subsection that the individual will be subject to such an increase, and shall include in such notice the Secretary's estimate of the individual's modified adjusted gross income for the year.

"(B) If, during the 30-day period beginning on the date notice is provided to an individual under subparagraph (A), the individual provides the Secretary with information on the individual's anticipated modified adjusted gross income for the year, the amount initially determined by the Secretary under this paragraph with respect to the individual shall be based on the information provided by the individual.

"(C) If an individual does not provide the Secretary with information under subparagraph (B), the amount initially determined by the Secretary under this paragraph with respect to the individual shall be the amount included in the notice provided to the individual under subparagraph (A).

"(4)(A) If the Secretary determines (on the basis of final information provided by the Secretary of the Treasury) that the amount of an individual's actual modified adjusted gross income for a taxable year ending with or within a calendar year is less than or greater than the amount initially determined by the Secretary under paragraph (3), the Secretary shall increase or decrease the amount of the individual's monthly premium under this section (as the case may be) for months during the following calendar year by an amount equal to 1/12 of the difference between—

"(i) the total amount of all monthly premiums paid by the individual under this section during the previous calendar year; and

"(ii) the total amount of all such premiums which would have been paid by the individual during the previous calendar year if the amount of the individual's modified adjusted gross income initially determined under paragraph (3) were equal to the actual amount of the individual's modified adjusted gross income determined under this paragraph.

"(B)(i) In the case of an individual for whom the amount initially determined by the Secretary under paragraph (3) is based on information provided by the individual under subparagraph (B) of such paragraph, if the Secretary determines under subparagraph (A) that the amount of the individual's actual modified adjusted gross income for a taxable year is greater than the amount initially determined under paragraph (3), the Secretary shall increase the amount otherwise determined for the year under subparagraph (A) by interest in an amount equal to the sum of the amounts determined under clause (ii) for each of the months described in clause (ii).

"(ii) Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 (compounded daily) to any portion of the difference between the amount initially determined under paragraph (3) and the amount determined under subparagraph (A) for the period beginning on the first day of the month beginning after the individual provided information to the Secretary under subparagraph (B) of paragraph (3) and ending 30 days before the first month for which the individual's monthly premium is increased under this paragraph.

"(iii) Interest shall not be imposed under this subparagraph if the amount of the individual's modified adjusted gross income provided by the individual under subparagraph (B) of paragraph (3) was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year involved.

"(C) In the case of an individual who is not enrolled under this part for any calendar year for which the individual's monthly premium under this section for months during the year would be increased pursuant to subparagraph (A) if the individual were enrolled under this part for the year, the Secretary may take such steps as the Secretary considers appropriate to recover from the individual the total amount by which the individual's monthly premium for months during the year would have been increased under subparagraph (A) if the individual were enrolled under this part for the year.

"(D) In the case of a deceased individual for whom the amount of the monthly premium under this section for months in a year would have been decreased pursuant to subparagraph (A) if the individual were not deceased, the Secretary shall make a payment to the individual's surviving spouse (or, in the case of an individual who does not have a surviving spouse, to the individual's estate) in an amount equal to the difference between—

"(i) the total amount by which the individual's premium would have been decreased for all months during the year pursuant to subparagraph (A); and

"(ii) the amount (if any) by which the individual's premium was decreased for months during the year pursuant to subparagraph (A).

"(5) In this subsection, the following definitions apply:

"(A) The term 'modified adjusted gross income' means adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986)—

"(i) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax under such Code.

"(B) The term 'threshold amount' means—

"(i) except as otherwise provided in this paragraph, $60,000,

"(ii) $90,000, in the case of a joint return (as defined in section 7701(a)(38) of such Code), and

"(iii) zero in the case of a taxpayer who—

"(I) is married at the close of the taxable year but does not file a joint return (as so defined) for such year, and

"(II) does not live apart from his spouse at all times during the taxable year.

"(6)(A) The Secretary shall transfer amounts received pursuant to this subsection to the Federal Hospital Insurance Trust Fund.

"(B) In applying section 1844(a), amounts attributable to clause (i) shall not be counted in determining the dollar amount of the premium per enrollee under paragraph (1)(A) or (1)(B).".

(b) CONFORMING AMENDMENTS.—(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in subsection (a)(2), by inserting "or section 1839A" after "subsections (b) and (e)";

(B) in subsection (a)(3) of section 1839(a), by inserting "or section 1839A" after "subsection (e)";

(C) in subsection (b), inserting "(and as increased under section 1839A)" after "subsection (a) or (e)"; and

(D) in subsection (f), by striking "if an individual" and inserting the following: "if an individual (other than an individual subject to an increase in the monthly premium under this section pursuant to subsection (h))".

(2) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining whether the individual is subject to an increase in the monthly premium under section 1839 pursuant to subsection (h) of such section (or in determining the amount of such increase) is too low and results in a portion of the premium not being deducted," before "he may".

(c) REPORTING REQUIREMENTS FOR SECRETARY OF THE TREASURY.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME-RELATED REDUCTION IN MEDICARE PART B PREMIUM.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Health Care Financing Administration return information with respect to a taxpayer who is required to pay a monthly premium under section 1839 of the Social Security Act. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer,

"(iii) the adjusted gross income of such taxpayer,

"(iv) the amounts excluded from such taxpayer's gross income under sections 135 and 911,

"(v) the interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1 to the extent such information is available, and

"(vi) the amounts excluded from such taxpayer's gross income by sections 931 and 933 to the extent such information is available.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Health Care Financing Administration only for the purposes of, and to the extent necessary in, establishing the appropriate monthly premium under section 1839 of the Social Security Act."

(2) CONFORMING AMENDMENT.—Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "or (14)" each place it appears and inserting "(14), or (15)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to the monthly premium under section 1839 of the Social Security Act for months beginning with January 1997.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(15) of the Social Security Act (as added by subsection (c)) for taxable years beginning after December 31, 1993.

Subtitle G—Provisions Relating to Parts A and B

CHAPTER 1—PAYMENTS FOR HOME HEALTH SERVICES

SEC. 8601. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395x et seq.), as amended by section 8102, is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1894. (a) IN GENERAL.—

"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICE.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located (as determined without regard to any reclassification of the area under section 1886(d)(8)(B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under section 1886(d)(10) for cost reporting periods beginning after October 1, 1995).

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the home health market basket percentage increase for such subsequent fiscal year minus 2.0 percentage points.

"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 5 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for a year for—

"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and

"(II) each subsequent fiscal year, is the factor determined by the Secretary necessary to remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 5 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has an insufficient number of home health agencies to establish an appropriate per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'episode' means the continuous 120-day period that—

"(I) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(II) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(ii) TREATMENT OF EPISODES SPANNING COST REPORTING PERIODS.—The Secretary shall provide for such rules as the Secretary considers appropriate regarding the treatment of episodes under this paragraph which begin during a cost reporting period and end in a subsequent cost reporting period.

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall reduce payments under this section to the home health agency in the following fiscal year in such manner as the Secretary considers appropriate (including on an installment basis) to recapture the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home

health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the year.

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost episodes (as defined by the Secretary under section (e)(3)(C)) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 60 and 165 days into an episode described in subsection (c)(1)(D).

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—

"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).

"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994.

"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) SPECIAL RULE FOR CHRISTIAN SCIENCE PROVIDERS.—

"(1) PAYMENT PERMITTED FOR SERVICES.—Notwithstanding any other provision of this title, payment shall be made under this title for home health services furnished by Christian Science providers who meet applicable requirements of the First Church of Christ, Scientist, Boston, Massachusetts, and are certified for purposes of this title under criteria established by the Secretary, in accordance with a payment methodology established by the Secretary.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to services furnished during cost reporting periods which begin after the earlier of—

"(A) the date on which the Secretary establishes the payment methodology and the certification criteria described in paragraph (1), or

"(B) July 1, 1996.

"(g) REPORT BY MEDICARE PAYMENT REVIEW COMMISSION.—During the first 3 years in which payments are made under this section, the Medicare Payment Review Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 8412(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1894".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1894(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1894;

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as amended by section 8415(a)(1), is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1894(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(F);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 8415(a)(2), is amended—

(i) by striking "or" at the end of paragraph (15);

(ii) by striking the period at the end of paragraph (16) and inserting "or"; and

(iii) by adding at the end the following new paragraph:

"(17) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 8602. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 8603. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA–1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA–1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996.".

SEC. 8604. EXTENSION OF PERIOD OF HOME HEALTH AGENCY CERTIFICATION.

Section 1891(c)(2)(A) (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking "15 months" and inserting "36 months"; and

(2) by striking the second sentence and inserting the following: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".

PART 2—MEDICARE SECONDARY PAYER IMPROVEMENTS

SEC. 8611. EXTENSION AND EXPANSION OF EXISTING REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of the enactment of the Medicare Preservation Act of 1995"; and

(2) by adding at the end the following new sentence: "Effective for items and services furnished on or after the date of the enactment of the Medicare Preservation Act of 1995, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

SEC. 8612. IMPROVEMENTS IN RECOVERY OF PAYMENTS.

(a) PERMITTING RECOVERY AGAINST THIRD PARTY ADMINISTRATORS OF PRIMARY PLANS.—Section 1862(b)(2)(B)(ii) (42 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

(1) by striking "under this subsection to pay" and inserting "(directly, as a third-party administrator, or otherwise) to make payment", and

(2) by adding at the end the following: "The United States may not recover from a third-party administrator under this clause in cases where the third-party administrator would not be able to recover the amount at issue from the employer or group health plan for whom it provides administrative services due to the insolvency or bankruptcy of the employer or plan.".

(b) EXTENSION OF CLAIMS FILING PERIOD.—Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) is amended by adding at the end the following new clause:

"(v) CLAIMS-FILING PERIOD.—Notwithstanding any other time limits that may exist for filing a claim under an employer group health plan, the United States may seek to recover conditional payments in accordance with this subparagraph where the request for payment is submitted to the entity required or responsible under this subsection to pay with respect to the item or service (or any portion thereof) under a primary plan within the 3-year period beginning on the date on which the item or service was furnished.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

CHAPTER 3—OTHER ITEMS AND SERVICES UNDER PARTS A AND B

SEC. 8621. MEDICARE COVERAGE OF CERTAIN ANTI-CANCER DRUG TREATMENTS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2)(Q) (42 U.S.C. 1395x(s)(2)(Q)) is amended—

(1) by striking "(Q)" and inserting "(Q)(i)"; and

(2) by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following:

"(ii) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer nonsteroidal antiestrogen for the treatment of breast cancer, but only if the manufacturer of such drug has in effect a rebate agreement with the Secretary with respect to such drug which has substantially similar terms and conditions to the terms and conditions for such agreements under section 1927 (as such section is in effect on the date of the enactment of this clause);".

(b) UNIFORM COVERAGE OF ANTICANCER DRUGS IN ALL SETTINGS.—Section 1861(t)(2)(A) (42 U.S.C. 1395x(t)(2)(A)) is amended by inserting "(including a nonsteroidal antiestrogen regimen)" after "regimen".

(c) CONFORMING AMENDMENT.—Section 1834(j)(5)(F)(iv) (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking "prescribed for use" and all that follows through "1861(s)(2)(Q))" and inserting "described in section 1861(s)(2)(Q)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after January 1, 1996.

SEC. 8622. ADMINISTRATIVE PROVISIONS.

(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—

(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or

(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).

(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—

(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(3) GENERAL PROVISIONS.—

(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a–1(h)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

CHAPTER 4—FAILSAFE

SEC. 8631. FAILSAFE BUDGET MECHANISM

(a) IN GENERAL.—Title XVIII, as amended by sections 8102(a) and 8601(a), is amended by adding at the end the following new section:

"FAILSAFE BUDGET MECHANISM

"SEC. 1895. (a) REQUIREMENT OF PAYMENT ADJUSTMENTS TO ACHIEVE MEDICARE BUDGET TARGETS.—

"(1) IN GENERAL.—If the Secretary determines under subsection (e)(3)(C) before a fiscal year (beginning with fiscal year 1998) that—

"(A) the fee-for-service expenditures (as defined in subsection (f) for all sectors of medicare services (as defined in subsection (b)) for the fiscal year, will exceed

"(B) the sum of the allotments specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (g) for that fiscal year) for all sectors,

then, notwithstanding any other provisions of this title, there shall be an adjustment (consistent with subsection (d)) in applicable payment rates or payments for items and services included in each excess spending sector in the fiscal year. In this section, the term 'aggregate excess spending' means, for a fiscal year, the amount by which the amount described in subparagraph (A) (for the fiscal year) exceeds the amount described in subparagraph (B) for such year.

"(2) EXCESS SPENDING SECTOR.—In this section, the term 'excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(3)(C)—

"(A) the fee-for-service expenditures (as defined in subsection (f)) for all the fiscal year, will exceed

"(B) the allotment specified under subsection (c)(2) for such fiscal year (taking into account any adjustment in the allotment under subsection (g) for that fiscal year).

In this section, the term 'excess spending means, for a fiscal year with respect to such a sector, the amount by which the amount described in subparagraph (A) (for the fiscal year and sector) exceeds the amount described in subparagraph (B) for such year and sector.

"(b) SECTORS OF MEDICARE SERVICES DESCRIBED—

"(1) IN GENERAL.—For purposes of this section, items and services included under each of the following subparagraphs shall be considered to be a separate 'sector' of medicare services:

"(A) Inpatient hospital services.

"(B) Home health services.

"(C) Extended care services (for inpatients of skilled nursing facilities).

"(D) Hospice care.

"(E) Physicians' services (including services and supplies described in section 1861(s)(2)(A))

and services of other health care professionals (including certified registered nurse anesthetists, nurse practitioners, physician assistants, and clinical psychologists) for which separate payment is made under this title.

"(F) Outpatient hospital services and ambulatory facility services.

"(G) Durable medical equipment and supplies, including prosthetic devices and orthotics.

"(H) Diagnostic tests (including clinical laboratory services and x-ray services).

"(I) Other items and services.

"(2) CLASSIFICATION OF ITEMS AND SERVICES.—The Secretary shall classify each type of items and services covered and paid for separately under this title into one of the sectors specified in paragraph (1). After publication of such classification under subsection (e)(1), the Secretary is not authorized to make substantive changes in such classification.

"(c) ALLOTMENT.—

"(1) ALLOTMENTS FOR EACH SECTOR.—For purposes of this section, subject to subsection (g)(1), the allotment for a sector of medicare services for a fiscal year is equal to the product of—

"(A) the total allotment for the fiscal year established under paragraph (2), and

"(B) the allotment proportion (specified under paragraph (3)) for the sector and fiscal year involved.

"(2) TOTAL ALLOTMENT.—

"(A) IN GENERAL.—For purposes of this section, the total allotment for a fiscal year is equal to—

"(i) the medicare benefit budget for the fiscal year (as specified under subparagraph (B)), reduced by

"(ii) the amount of payments the Secretary estimates will be made in the fiscal year under the MedicarePlus program under part C.

In making the estimate under clause (ii), the Secretary shall take into account estimated enrollment and demographic profile of individuals electing MedicarePlus products.

"(B) MEDICARE BENEFIT BUDGET.—For purposes of this subsection, subject to subparagraph (C), the 'medicare benefit budget'—

"(i) for fiscal year 1996 is $194.2 billion;

"(i) for fiscal year 1997 is $206.3 billion;

"(ii) for fiscal year 1998 is $217.8 billion;

"(iii) for fiscal year 1999 is $229.2 billion;

"(iv) for fiscal year 2000 is $247.2 billion;

"(v) for fiscal year 2001 is $266.4 billion;

"(vi) for fiscal year 2002 is $289.0 billion; and

"(vii) for a subsequent fiscal year is equal to the medicare benefit budget under this subparagraph for the preceding fiscal year multiplied by the product of (I) 1.05, and (II) 1 plus the annual percentage increase in the average number of medicare beneficiaries from the previous fiscal year to the fiscal year involved.

"(3) MEDICARE ALLOTMENT PROPORTIONS DEFINED.—

"(A) IN GENERAL.—For purposes of this section and with respect to a sector of medicare services for a fiscal year, the term 'medicare allotment proportion' means the ratio of—

"(i) the baseline-projected medicare expenditures (as determined under subparagraph (B)) for the sector for the fiscal year, to

"(ii) the sum of such baseline expenditures for all such sectors for the fiscal year.

"(B) BASELINE-PROJECTED MEDICARE EXPENDITURES.—In this paragraph, the 'baseline, projected medicare expenditures' for a sector of medicare services—

"(i) for fiscal year 1996 is equal to fee-for-service expenditures for such sector during fiscal year 1995, increased by the baseline annual growth rate for such sector of medicare services for fiscal year 1996 (as specified in table in subparagraph (C)); and

"(ii) for a subsequent fiscal year is equal to the baseline-projected medicare expenditures under this subparagraph for the sector for the previous fiscal year increased by the baseline annual growth rate for such sector for the fiscal year involved (as specified in such table).

"(C) BASELINE ANNUAL GROWTH RATES.—The following table specifies the baseline annual growth rates for each of the sectors for different fiscal years:

[In percent]

"For the following sector—	Baseline annual growth rates for fiscal year—						
	1996	1997	1998	1999	2000	2001	2002 and thereafter
(A) Inpatient hospital services	5.7	5.6	6.0	6.1	5.7	5.5	5.2
(B) Home health services	17.2	15.1	11.7	9.1	8.4	8.1	7.9
(C) Extended care services	19.7	12.3	9.3	8.7	8.6	8.4	8.0
(D) Hospice care	32.0	24.0	18.0	15.0	12.0	10.0	9.0
(E) Physicians' services	12.4	9.7	8.7	9.0	9.3	9.6	10.1
(F) Outpatient hospital services	14.7	13.9	14.5	15.0	14.1	13.9	14.0
(G) Durable medical equipment and supplies	16.1	15.5	13.7	12.4	13.2	13.9	14.5
(H) Diagnostic tests	13.1	11.3	11.0	11.4	11.4	11.5	11.9
(I) Other items and services	11.2	10.2	10.9	12.0	11.6	11.6	11.8

"(d) MANNER OF PAYMENT ADJUSTMENT.—

(1) PAYMENT REDUCTIONS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall apply a payment reduction for each excess spending sector for a fiscal year in such a manner as to—

"(i) make a change in payment rates (to the maximum extent practicable) at the time payment rates are otherwise changed or subject to change for that fiscal year; and

"(ii) provide for the full appropriate adjustments so that the fee-for-service expenditures for the sector for the fiscal year will be reduced by 133⅓ percent of the amount of the sector reduction target for that sector.

"(B) SECTOR REDUCTION TARGET.—In paragraph (1), the 'sector reduction target' for an excess spending sector for a fiscal year is equal to the product of—

"(i) the amount of the excess spending for such sector and year (as defined in subsection (a)(2)); and

"(ii) the ratio of—

"(I) the aggregate excess spending for the year (as defined in subsection (a)(1), to

"(II) the sum of the amounts of the excess spending for all excess spending sectors.

"(2) TAKING INTO ACCOUNT VOLUME AND CASH FLOW.—In providing for an adjustment in payments under this subsection for a sector for a fiscal year, the Secretary shall take into account (in a manner consistent with actuarial projections)—

"(A) the impact of such an adjustment on the volume or type of services provided in such sector (and other sectors), and

"(B) the fact that an adjustment may apply to items and services furnished in a fiscal year (payment for which may occur in a subsequent fiscal year),

in a manner that is consistent with assuring that total fee-for-services expenditures for each sector for the fiscal year will not exceed the allotment under subsection (c)(1) for such sector for such year.

"(3) PROPORTIONALITY OF REDUCTIONS WITHIN A SECTOR.—In making adjustments under this subsection in payment for items and services included within a sector of medicare services for a fiscal year, the Secretary shall provide for such an adjustment that results (to the maximum extent feasible) in the same percentage reductions in aggregate Federal payments under parts A and B for the different classes of items and services included within the sector for the fiscal year.

"(4) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A FISCAL YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a fiscal year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished (or, in the case of payment for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined in paragraphs (1)(B) and (9)(A) of section 1886(d)), discharges occurring) during such year.

"(B) DESCRIPTION OF APPLICATION TO SPECIFIC SERVICES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE FACTOR FOR PAYMENT FOR OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS HOSPITALS.—To the computation of the applicable percentage increase specified in section 1886(d)(3)(B)(i) for discharges occurring in the fiscal year.

"(ii) HOME HEALTH SERVICES.—To the extent payment amounts for home health services are based on per visit payment rates under section 1894, to the computation of the increase in the national per visit payment rates established for the year under section 1894(b)(2)(B).

"(iii) HOSPICE CARE.—To the update of payment rates for hospice care under section 1814(i) for services furnished during the fiscal year.

"(iv) UPDATE FACTOR FOR PAYMENT OF OPERATING COSTS OF INPATIENT HOSPITAL SERVICES OF PPS-EXEMPT HOSPITALS.—To the computation of the target amount under section 1886(b)(3) for discharges occurring during the fiscal year.

"(v) COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES.—To the computation of the facility per stay limits for the year under section 1888A(d) for covered non-routine services of a skilled nursing facility (as described in such section).

"(5) APPLICATION TO PAYMENTS MADE BASED ON PROSPECTIVE PAYMENT RATES DETERMINED ON A CALENDAR YEAR BASIS.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of rates that are established on a prospective basis for (and in advance of) a calendar year, the Secretary shall provide for the payment adjustment under such subsection through an appropriate reduction in such rates established for items and services furnished at any time during such calendar year as follows:

"(i) For fiscal year 1997, the reduction shall be made for payment rates during calendar year 1997 in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of calendar year 1997.

"(ii) For a subsequent fiscal year, the reduction shall be made for payment rates during the calendar year in which the fiscal year ends in a manner so as to achieve the necessary payment reductions for such fiscal year for items and services furnished during the first 3 quarters of the calendar year, but also taking into account the payment reductions made in the first quarter of the fiscal year resulting from payment reductions made under this paragraph for the previous calendar year.

"(iii) Payment rate reductions effected under this subparagraph for a calendar year and applicable to the last 3 quarters of the fiscal year in which the calendar year ends shall continue to apply during the first quarter of the succeeding fiscal year.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) UPDATE IN CONVERSION FACTOR FOR PHYSICIANS' SERVICES.—To the computation of the conversion factor under subsection (d) of section 1848 used in the fee schedule established under subsection (b) of such section for items and services furnished during the calendar year in which the fiscal year ends.

"(ii) PAYMENT RATES FOR OTHER HEALTH CARE PROFESSIONALS.—To the computation of payments for professional services, furnished during the calendar year in which the fiscal year ends, of certified registered nurse anesthetists under section 1833(l), nurse midwives, physician assistants, nurse practitioners and clinical nurse specialists under section 1833(r), clinical psychologists, clinical social workers, physical or occupational therapists, and any other health professionals for which payment rates are based (in whole or in part) on payments for physicians' services.

"(iii) UPDATE IN LAB FEE SCHEDULE.—To the computation of the fee schedule amount under section 1833(h)(2) for clinical diagnostic laboratory services furnished during the calendar year in which the fiscal year ends.

"(iv) UPDATE IN REASONABLE CHARGES FOR VACCINES.—To the computation of the reasonable charge for vaccines described in section 1861(s)(10) for vaccines furnished during the calendar year in which the fiscal year ends.

"(v) DURABLE MEDICAL EQUIPMENT-RELATED ITEMS.—To the computation of the payment basis under section 1834(a)(1)(B) for covered items described in section 1834(a)(13), for services furnished during the calendar year in which the fiscal year ends.

"(vi) RADIOLOGIST SERVICES.—To the computation of conversion factors for radiologist services under section 1834(b), for services furnished during the calendar year in which the fiscal year ends.

"(vii) SCREENING MAMMOGRAPHY.—To the computation of payment rates for screening mammography under section 1834(c)(1)(C)(ii), for screening mammography performed during the calendar year in which the fiscal year ends.

"(viii) PROSTHETICS AND ORTHOTICS..—To the computation of the amount to be recognized under section 1834(h) for payment for prosthetic devices and orthotics and prosthetics, for items furnished during the calendar year in which the fiscal year ends.

"(ix) SURGICAL DRESSINGS.—To the computation of the payment amount referred to in section 1834(i)(1)(B) for surgical dressings, for items furnished during the calendar year in which the fiscal year ends.

"(x) PARENTERAL AND ENTERAL NUTRITION.—To the computation of reasonable charge screens for payment for parenteral and enteral nutrition under section 1834(h), for nutrients furnished during the calendar year in which the fiscal year ends.

"(xi) AMBULANCE SERVICES.—To the computation of limits on reasonable charges for ambulance services, for services furnished during the calendar year in which the fiscal year ends.

"(6) APPLICATION TO PAYMENTS MADE BASED ON COSTS DURING A COST REPORTING PERIOD.—

"(A) IN GENERAL.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the Secretary shall provide for the payment adjustment under such subsection for a fiscal year through an appropriate proportional reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

"(B) APPLICATION IN SPECIFIC CASES.—The payment adjustment described in subparagraph (A) applies for a fiscal year to at least the following:

"(i) CAPITAL-RELATED COSTS OF HOSPITAL SERVICES.—To the computation of payment amounts for inpatient and outpatient hospital services under sections 1886(g) and 1861(v) for portions of cost reporting periods occurring during the fiscal year.

"(ii) OPERATING COSTS FOR PPS-EXEMPT HOSPITALS.—To the computation of payment amounts under section 1886(b) for operating costs of inpatient hospital services of PPS-exempt hospitals for portions of cost reporting periods occurring during the fiscal year.

"(iii) DIRECT GRADUATE MEDICAL EDUCATION.—To the computation of payment amounts under section 1886(h) for reasonable costs of direct graduate medical education costs for portions of cost reporting periods occurring during the fiscal year.

"(iv) INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—To the computation of payment amounts under section 1814(j) for inpatient rural primary care hospital services for portions of cost reporting periods occurring during the fiscal year.

"(v) EXTENDED CARE SERVICES OF A SKILLED NURSING FACILITY.—To the computation of payment amounts under section 1861(v) for post-hospital extended care services of a skilled nursing facility (other than covered non-routine services subject to section 1888A) for portions of cost reporting periods occurring during the fiscal year.

"(vi) REASONABLE COST CONTRACTS.—To the computation of payment amounts under section 1833(a)(1)(A) for organizations for portions of cost reporting periods occurring during the fiscal year.

"(vii) HOME HEALTH SERVICES.—Subject to paragraph (4)(B)(ii), for payment amounts for home health services, for portions of cost reporting periods occurring during such fiscal year.

"(7) OTHER.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on a basis not described in a previous paragraph of this subsection, the Secretary shall provide for the payment adjustment under such subsection through an appropriate proportional reduction in the payments (or payment bases for items and services furnished) during the fiscal year.

"(8) ADJUSTMENT OF PAYMENT LIMITS.—The Secretary shall provide for such proportional adjustment in any limits on payment established under part A or B for items and services within a sector as may be appropriate based on (and in order to properly carry out) the adjustment to the amount of payment under this subsection in the sector.

"(9) REFERENCES TO PAYMENT RATES.—Except as the Secretary may provide, any reference in this title (other than this section) to a payment rate is deemed a reference to such a rate as adjusted under this subsection.

"(e) PUBLICATION OF DETERMINATIONS; JUDICIAL REVIEW.—

"(1) ONE-TIME PUBLICATION OF SECTORS AND GENERAL PAYMENT ADJUSTMENT METHODOLOGY.—Not later than October 1, 1996, the Secretary shall publish in the Federal Register the classification of medicare items and services into the sectors of medicare services under subsection (b) and the general methodology to be used in applying payment adjustments to the different classes of items and services within the sectors.

"(2) INCLUSION OF INFORMATION IN PRESIDENT'S BUDGET.—

"(A) IN GENERAL.—With respect to fiscal years beginning with fiscal year 1999, the President shall include in the budget submitted under section 1105 of title 31, United States Code, information on—

"(i) the fee-for-service expenditures, within each sector, for the second previous fiscal year, and how such expenditures compare to the adjusted sector allotment for that sector for that fiscal year, and

"(ii) actual annual growth rates for fee-for-service expenditures in the different sectors in the second previous fiscal year.

"(B) RECOMMENDATION REGARDING GROWTH FACTORS.—The President may include in such budget for a fiscal year (beginning with fiscal year 1998) recommendations regarding percentages that should be applied (for one or more fiscal years beginning with that fiscal year) instead of the baseline annual growth rates under subsection (c)(3)(C). Such recommendations shall take into account medically appropriate practice patterns.

"(3) DETERMINATIONS CONCERNING PAYMENT ADJUSTMENTS.—

"(A) RECOMMENDATIONS OF COMMISSION.—By not later than March 1 of each year (beginning with 1997), the Medicare Payment Review Commission shall submit to the Secretary and the Congress a report that analyzes the previous operation (if any) of this section and that includes recommendations concerning the manner in which this section should be applied for the following fiscal year:

"(B) PRELIMINARY NOTICE BY SECRETARY.—Not later than May 15 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the FEDERAL REGISTER a notice containing the Secretary's preliminary determination, for each sector of medicare services, concerning the following:

"(i) the projected allotment under subsection (c) for such sector for the fiscal year.

"(ii) Whether there will be a payment adjustment for items and services included in such sector for the fiscal year under subsection (a).

"(iii) If there will be such an adjustment, the size of such adjustment and the methodology to be used in making such a payment adjustment for classes of items and services included in such sector.

"(iv) Beginning with fiscal year 1999, the fee-for-service expenditures for such sector for the second preceding fiscal year.

Such notice shall include an explanation of the basis for such determination. Determinations under this subparagraph and subparagraph (C) shall be based on the best data available at the time of such determinations.

"(C) FINAL DETERMINATION.—Not later than September 1 preceding the beginning of each fiscal year (beginning with fiscal year 1998), the Secretary shall publish in the Federal Register a final determination, for each, sector of medicare services, concerning the matters described in subparagraph (B) and an explanation of the reasons for any differences between such determination and the preliminary determination for such fiscal year published under subparagraph (B).

"(4) LIMITATION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1878 or otherwise of—

"(A) the classification of items and services among the sectors of medicare services under subsection (b),

"(B) the determination of the amounts of allotments for the different sectors of medicare services under subsection (c),

"(C) the determination of the amount (or method of application) of any payment adjustment under subsection (d), or

"(D) any adjustment in an allotment effected under subsection (g).

"(f) FEE-FOR-SERVICE EXPENDITURES DEFINED.—In this section, the term "fee-for-service expenditures', for items and services within a sector of medicare services in a fiscal year, means amounts payable for such items and services which are furnished during the fiscal year, and—

"(1) includes types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by organizations described in sections 1816 and 1842) with respect to such items and services, and

"(2) does not include amounts paid under part C.

"(g) LOOK-BACK ADJUSTMENT IN ALLOTMENTS TO REFLECT ACTUAL EXPENDITURES.—

"(1) DETERMINATIONS.—

"(A) IN GENERAL.—If the Secretary estimates under subsection (e)(3)(B) with respect to a particular fiscal year (beginning with fiscal year 1998) that—

"(i) the fee-for-service expenditures for all sectors of medicare services for the second preceding fiscal year, exceeded

"(ii) the sum of the adjusted allotments for all sectors for such year (as defined in paragraph (2)), then the allotment for each final excess spending sector (as defined in subparagraph (B)(i)) for the particular fiscal year shall be reduced by the look-back sector reduction amount determined under subparagraph (B)(ii) for such sector and year.

"(B) FINAL EXCESS SPENDING SECTORS.—

"(i) IN GENERAL.—In this paragraph, the term final excess spending sector' means, for a fiscal year, a sector of medicare services for which the Secretary determines under subsection (e)(B) that—

"(I) the fee-for-service expenditures (as defined in subsection (f) for the fiscal year, exceeded

"(II) the adjusted allotment for such fiscal year.

For purposes of clause (ii), the term 'final excess spending' means, for a fiscal year with respect to such a sector, the amount by which the amount described in subclause (I) (for the fiscal year and sector) exceeds the amount described in subclause (II) for such year and sector.

"(ii) LOOK BACK SECTOR REDUCTION AMOUNT.—In subparagraph (A)(i), the 'look back sector reduction amount' for a final excess spending sector for a fiscal year is equal to the product of—

"(I) the amount of the final excess spending for such sector and year (as defined in clause (i)); and

"(II) the ratio of—

"(a) the aggregate final excess spending for the year (described in subparagraph (A)(i)), to

"(b) the sum of the amounts of the final excess spending for all final excess spending sectors.

"(2) ADJUSTED ALLOTMENT.—The adjusted allotment under this paragraph for a sector for a fiscal year is—

"(A) the amount that would be computed as the allotment under subsection (c) for the sector for the fiscal year if the actual amount of payments made in the fiscal year under the MedicarePlus program under part C in the fiscal year were substituted for the amount described in subsection (c)(2)(A)(ii) for that fiscal year,

"(B) adjusted to take into account the amount of any adjustment under paragraph (1) for that fiscal year (based on expenditures in the second preceding fiscal year).".

(b) REPORT OF TRUSTEES ON GROWTH RATE IN PART A EXPENDITURES.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Each annual report provided in subsection (b)(2) shall include information regarding the annual rate of growth in program expenditures that would be required to maintain the financial solvency of the Trust Fund and the extent to which the provisions of section 1895 restrain the rate of growth of expenditures under this part in order to achieve such solvency.".

Subtitle H—Rural Areas

SEC. 8701. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA-93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 8702. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary-care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8703. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, onsite dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 8702(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 8702(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 8704. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8705. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall adjust the area wage indices referred to in subsection (a) for hospitals not described in such subsection in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year if this section did not apply.

SEC. 8706. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is *amended by striking "10 percent" and inserting "20 percent".*

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(d) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (I); and

(2) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.

SEC. 8707. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 8708. EXPANDING ACCESS TO NURSE AIDE TRAINING IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to nurse aide training and competency evaluation programs under section 1819 of the Social Security Act which are offered on or after October 1, 1995.

TITLE IX—TRANSPORTATION AND RELATED PROVISIONS

SEC. 9001. MINIMUM ALLOCATION FOR HIGHWAY PROGRAMS.

(a) TECHNICAL CORRECTION.—With respect to fiscal year 1996—

(1) the Secretary of Transportation shall determine, in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914)—

(A) which of the States will no longer require an apportionment under section 157(a)(4) of title 23, United States Code; and

(B) which of the States will require decreased funding under such section 157(a)(4);

as a result of the termination of the Interstate construction program; and

(2) as a result of the reduced number of States that may require an apportionment under such section 157(a)(4), and the decrease in the amount of funds some States will require under such section 157(a)(4), the maximum amount available for apportionment under such section 157(a)(4) shall be reduced from the amount apportioned under such section 157(a)(4) for fiscal year 1995 by 60.4 percent.

(b) EFFECT ON CERTAIN CALCULATIONS.—The correction made by subsection (a) shall be made after the reduction required under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1921) and shall not be taken into account in making the calculations under sections 1003(c), 1013(c), and 1015 of such Act (105 Stat. 1921, 1940, and 1943).

SEC. 9002. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 9003. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner that reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.

TITLE X—VETERANS AND RELATED PROVISIONS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 10001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities

Sec. 10011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.

Sec. 10012. Medical care cost recovery authority.

Sec. 10013. Income verification authority.

Sec. 10014. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Sec. 10015. Home loan fees.

Sec. 10016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Sec. 10017. Enhanced loan asset sale authority.

Subtitle B—Other Matters

Sec. 10021. Revision to prescription drug copayment.

Sec. 10022. Rounding down of cost-of-living adjustments in compensation and DIC rates.

Sec. 10023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 10024. Withholding of payments and benefits.

Subtitle A—Extension of Temporary Authorities

SEC. 10011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) Hospital and Medical Care.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) Outpatient Medications.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 10013. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 10015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 10016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

SEC. 10017. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Other Matters

SEC. 10021. REVISION TO PRESCRIPTION DRUG COPAYMENT.

(a) Increase in Amount of Copayment.—Section 1722A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "$2" and inserting in lieu thereof "$4";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph—

(A) striking out "or" at the end of subparagraph (A);

(B) striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) adding at the end the following new subparagraph:

"(C) to a veteran who is a former prisoner of war.".

(b) Recovery of Indebtedness.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:

"(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.".

(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 10022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) Fiscal Year 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans Affairs shall recompute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).

(2) For purposes of paragraph (1):

(A) The term "old-law DIC rate" means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.

(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.

(b) Out-Year Compensation COLAs.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(c) Out-Year DIC COLAs.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

"(2) For purposes of paragraph (1):

"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 10023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) Revised Standard.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a facility over which the Secretary has direct jurisdiction.

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) Conforming Amendments.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) Effective Date.—The amendments made by this section shall apply to any administrative

or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 10024. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) Notice Required in Lieu of Consent or Court Order.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) Conforming Amendment.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) Effective Date.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

TITLE XI—REVENUE PROVISIONS

SEC. 11000. SHORT TITLES; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) Revenue Reconciliation Act.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) Contract With America.—Subtitles A, B, C, and D of this title may be cited as the "Contract With America Tax Relief Act of 1995".

(c) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(d) Table of Contents.—The table of contents for this title is as follows:

TITLE XI—REVENUE PROVISIONS

Sec. 11000. Short titles; amendment of 1986 Code; table of contents.

Subtitle A—Family Tax Relief

Sec. 11001. Child tax credit.

Sec. 11002. Reduction in marriage penalty.

Sec. 11003. Credit for adoption expenses.

Sec. 11004. Deduction for interest on education loans.

Sec. 11005. Deduction for taxpayers with certain persons requiring custodial care in their households.

Subtitle B—Savings and Investment Incentives

Chapter 1—Retirement Savings Incentives

Subchapter A—Individual Retirement Plans

Part I—Restoration of IRA Deduction

Sec. 11011. Restoration of IRA deduction.

Sec. 11012. Inflation adjustment for deductible amount.

Sec. 11013. Homemakers eligible for full IRA deduction.

Part II—Nondeductible Tax-Free IRAs

Sec. 11015. Establishment of American Dream IRA.

Subchapter B—Penalty-Free Distributions

Sec. 11016. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.

Subchapter C—Simple Savings Plans

Sec. 11018. Establishment of savings incentive match plans for employees of small employers.

Sec. 11019. Extension of simple plan to 401(k) arrangements.

Chapter 2—Capital Gains Reform

Subchapter A—Taxpayers Other Than Corporations

Sec. 11021. Capital gains deduction.

Sec. 11022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain.

Sec. 11023. Modifications to exclusion of gain on certain small business stock.

Subchapter B—Corporate Capital Gains

Sec. 11025. Reduction of alternative capital gain tax for corporations.

Subchapter C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

Sec. 11026. Capital loss deduction allowed with respect to sale or exchange of principal residence.

Chapter 3—Corporate Alternative Minimum Tax Reform

Sec. 11031. Modification of depreciation rules under minimum tax.

Sec. 11032. Long-term unused credits allowed against minimum tax.

Chapter 4—Cost Recovery Provisions

Sec. 11035. Treatment of abandonment of lessor improvements at termination of lease.

Sec. 11036. Increase in expense treatment for small businesses.

Subtitle C—Health Related Provisions

Chapter 1—Long-Term Care Provisions

Subchapter A—Long-Term Care Services and Contracts

Part I—General Provisions

Sec. 11041. Treatment of long-term care insurance.

Sec. 11042. Qualified long-term care services treated as medical care.

Sec. 11043. Certain exchanges of life insurance contracts for qualified long-term care insurance contracts not taxable.

Sec. 11044. Exception from penalty tax for amounts withdrawn from certain retirement plans for qualified long-term care insurance.

Sec. 11045. Reporting requirements.

Part II—Consumer Protection Provisions

Sec. 11051. Policy requirements.

Sec. 11052. Requirements for issuers of long-term care insurance policies.

Sec. 11053. Coordination with State requirements.

Sec. 11054. Effective dates.

Subchapter B—Treatment of Accelerated Death Benefits

Sec. 11061. Treatment of accelerated death benefits by recipient.

Sec. 11062. Tax treatment of companies issuing qualified accelerated death benefit riders.

Chapter 2—Medical Savings Accounts

Sec. 11066. Medical savings accounts.

Chapter 3—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 11068. Increase in deduction for health insurance costs of self-employed individuals.

Subtitle D—Estate and Gift Provisions

Sec. 11071. Cost-of-living adjustments relating to estate and gift tax provisions.

Sec. 11072. Family-owned business exclusion.

Sec. 11073. Treatment of land subject to a qualified conservation easement.

Sec. 11074. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

Sec. 11075. Extension of treatment of certain rents under section 2032A to lineal descendants.

Subtitle E—Extension of Expiring Provisions

Chapter 1—Temporary Extensions

Sec. 11111. Work opportunity tax credit.

Sec. 11112. Employer-provided educational assistance programs.

Sec. 11113. Research credit.

Sec. 11114. Orphan drug tax credit.

Sec. 11115. Contributions of stock to private foundations.

Sec. 11116. Delay of tax on fuel used in commercial aviation.

Sec. 11117. Extension of airport and airway trust fund excise taxes.

Sec. 11118. Extension of Internal Revenue Service user fees.

Chapter 2—Sunset of Low-Income Housing Credit

Sec. 11121. Sunset of low-income housing credit.

Chapter3—ExtensionsofSuperfundandOil Spill Liability Taxes

Sec. 11131. Extension of Hazardous Substance Superfund taxes.

Sec. 11132. Extension of oil spill liability tax.

Chapter 4—Extensions Relating to Fuel Taxes

Sec. 11141. Ethanol blender refunds.

Sec. 11142. Extension of binding contract date for biomass and coal facilities.

Sec. 11143. Exemption from diesel fuel dyeing requirements with respect to certain States.

Sec. 11144. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

Chapter 5—Permanent Extension of FUTA Exemption for Alien Agricultural Workers

Sec. 11151. FUTA exemption for alien agricultural workers.

Chapter 6—Disclosure of Return Information for Administration of Certain Veterans Programs

Sec. 11161. Disclosure of return information for administration of certain veterans programs.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

Sec. 11201. Expansion of authority to abate interest.

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Subtitle A—Family Tax Relief

SEC. 11001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.".

(b) NOTICE OF CREDIT.—The Secretary of the Treasury shall transmit to all individual taxpayers by a separate mailing made on or before February 1, 1996, a notice which states only the following: "The Balanced Budget Act of 1995 was recently passed by the Congress. The Act's child tax credit allows taxpayers to reduce their taxes by $500 per child. The credit is effective October 1, 1995. You may wish to check with your employer about changing your tax withholding to take immediate advantage of the credit to which you are entitled for the current tax year. In addition, the Internal Revenue Service will be sending you a form in June of this year which you may use to claim the credit to which you are entitled for the period from October 1 through December 31, 1995 ($125 per child for 1995). In order to obtain your 1995 credit, you should file this form by August 15, 1996. Your refund will be sent to you sometime after October 1, 1996."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Child tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(e) PAYMENT OF 1995 CHILD CREDIT AMOUNT.—

(1) IN GENERAL.—The Secretary shall take such actions as are necessary to ensure that the 1995 child credit amount is paid to taxpayers entitled to payment of such credit amount.

(2) PAYMENTS GENERALLY DURING OCTOBER 1996.—In the case of taxpayers submitting the form referred to in paragraph (4) before August 16, 1996, the Secretary shall take such actions as are necessary to ensure that payments required by paragraph (1) are mailed after September 30, 1996, and before October 16, 1996.

(3) 1995 CHILD CREDIT AMOUNT.—For purposes of paragraph (1), the 1995 child credit amount is an amount equal to 25 percent of the amount of the credit which would be allowed to the taxpayer under section 23 of the Internal Revenue Code of 1986 (as added by this section) if such section were in effect for the taxpayer's taxable year beginning in 1995.

(4) ENTITLEMENT TO CREDIT.—A taxpayer shall be entitled to a 1995 child credit amount if (and only if) the taxpayer submits to the Secretary a form which the Secretary shall prescribe for purposes of determining such amount. The Secretary shall mail such form to taxpayers on or before June 1, 1996.

(5) PAYMENT TREATED AS OVERPAYMENT.—The 1995 child credit amount shall be treated for purposes of subtitle F of such Code as a payment of tax for the taxpayer's taxable year beginning in 1995 which was made on August 15, 1996, or, if later, the date the form referred to in paragraph (4) is filed, and shall be refunded or credited in the same manner as if it were an overpayment of tax for such taxable year. No interest shall be paid under section 6611 of such Code on amounts paid under paragraph (1) before October 16, 1996.

(6) SECRETARY.—For purposes of this subsection, the term "Secretary" means the Secretary of the Treasury or his delegate.

SEC. 11002. REDUCTION IN MARRIAGE PENALTY.

(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—

(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",

(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount for any taxable year shall be the product of the dollar amount in effect under paragraph (2)(C) for such year multiplied by the applicable factor determined under the following table:

"For taxable years beginning in calendar year—	The applicable factor is—
1996	1.68
1997	1.71
1998	1.72
1999	1.73
2000	1.75
2001	1.77
2002	1.78
2003	1.88
2004	1.91
2005 and thereafter	2.00.

If the amount determined under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11003. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 11001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) exceeds $75,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program. The preceding sentence shall not apply to expenses for the adoption of a child with special needs.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 138.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

Such term shall not include expenses for a foreign adoption unless the child is actually adopted.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(4) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents, and

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.

"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by title VIII, is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and sections 911, 931, and 933) exceeds $75,000, bears to

"(B) $40,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 11001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses.".

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking

the item relating to section 138 and inserting the following:

"Sec. 138. Adoption assistance programs.

"Sec. 139. Cross reference to other Acts.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11004. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) In General.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. INTEREST ON EDUCATION LOANS.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) Maximum Deduction.—

"(1) In general.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

"(2) Limitation based on modified adjusted gross income.—

"(A) In general.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.

"(B) Modified adjusted gross income.—The term 'modified adjusted gross income' means adjusted gross income determined—

"(i) without regard to this section and sections 135, 911, 931, and 933, and

"(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(C) Inflation adjustment.—In the case of any taxable year beginning after 1996, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1995' for '1992'.

"(D) Rounding.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(c) Dependents Not Eligible for Deduction.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) Limit on Period Deduction Allowed.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(e) Definitions.—For purposes of this section—

"(1) Qualified education loan.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer or the taxpayer's spouse,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) Qualified higher education expenses.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer or the taxpayer's spouse at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) Half-time student.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) Dependent.—The term 'dependent' has the meaning given such term by section 152.

"(f) Special Rules.—

"(1) Denial of double benefit.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) Married couples must file joint return.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) Marital status.—Marital status shall be determined in accordance with section 7703.".

(b) Deduction Allowed Whether or Not Taxpayer Itemizes Other Deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) Interest on education loans.—The deduction allowed by section 220."

(c) Reporting Requirement.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050P the following new section:

"SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) Education Loan Interest of $600 or More.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) Form and Manner of Returns.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) Application to Governmental Units.—For purposes of subsection (a)—

"(1) Treated as persons.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) Special rules.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Qualified Education Loan Defined.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 220(e)(1).

"(f) Returns Which Would Be Required To Be Made by 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".

(2) Assessable penalties.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, in paragraph (1)(B) and by inserting after clause (viii) of such paragraph the following new clause:

"(ix) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, in paragraph (2) and by inserting after subparagraph (P) of such paragraph the following new subparagraph:

"(Q) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),".

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 220. Interest on education loans.

"Sec. 221. Cross reference.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 220(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1995.

SEC. 11005. DEDUCTION FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a deduction for the taxable year an amount equal to $1,000 for each such person.

"(b) QUALIFIED PERSON.—For purposes of this section, the term 'qualified person' means any individual—

"(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,

"(2) who is physically or mentally incapable of caring for himself,

"(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer,

"(4) over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer, and

"(5) whose name and TIN are included on the taxpayer's return for the taxable year.

For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother.

"(c) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 21(e) shall apply."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

"(17) TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.—The deduction allowed by section 221."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 221. Taxpayers with certain persons requiring custodial care in their households.

"Sec. 222. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

Subchapter A—Individual Retirement Plans

PART I—RESTORATION OF IRA DEDUCTION

SEC. 11011. RESTORATION OF IRA DEDUCTION.

(a) INCREASE IN INCOME LIMITS FOR ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	*The applicable dollar amount is:*
1996	*$45,000*
1997	*$50,000*
1998	*$55,000*
1999	*$60,000*
2000	*$65,000*
2001	*$70,000*
2002	*$75,000*
2003	*$80,000*
2004	*$85,000*
2005	*$90,000*
2006	*$95,000*
2007 and thereafter	*$100,000.*

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	*The applicable dollar amount is:*
1996	*$30,000*
1997	*$35,000*
1998	*$40,000*
1999	*$45,000*
2000	*$50,000*
2001	*$55,000*
2002	*$60,000*
2003	*$65,000*
2004	*$70,000*
2005	*$75,000*
2006	*$80,000*
2007 and thereafter	*$85,000.*

"(iii) In the case of a married individual filing a separate return, zero."

(2) INCREASE IN PHASEOUT RANGE FOR JOINT RETURNS.—

(A) IN GENERAL.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "(the phaseout amount in the case of a joint return)" after "$10,000".

(B) PHASEOUT AMOUNT.—Paragraph (3) of section 219(g) is amended—

(i) by adding at the end the following new subparagraph:

"(C) PHASEOUT AMOUNT.—The phaseout amount is:

"For taxable years beginning in:	*The applicable dollar amount is:*
1996	*$12,500*
1997	*$15,000*
1998	*$17,500*
1999 and thereafter	*$20,000*

and

(ii) by inserting "; PHASEOUT AMOUNT" after "AMOUNT" in the heading.

(3) COST-OF-LIVING ADJUSTMENTS.—Section 219(h), as added by section 11012(a), is amended—

(A) by adding at the end the following new paragraph:

"(2) PHASE-OUT RANGES.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subsection (g)(3)(B) shall each be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, except that subparagraph (B) thereof shall be applied by substituting '2006' for '1992'. If any amount to which either such amount is increased is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.", and

(B) by striking "In the case" and inserting:

"(1) DEDUCTIBLE AMOUNT.—In the case".

(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".

(c) REPORTING REQUIREMENTS.—Section 408(i) is amended by striking "under regulations" and "in such regulations" each place such terms appear.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11012. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'. If the amount to which $2,000 would be increased under the preceding sentence is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

SEC. 11013. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an AD IRA under section 408A for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 11015. ESTABLISHMENT OF AMERICAN DREAM IRA.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. AMERICAN DREAM IRA.

"(a) General Rule.—Except as provided in this section, an American Dream IRA shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) American Dream IRA.—For purposes of this title, the term 'American Dream IRA' or 'AD IRA' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated at the time of the establishment of the plan as an American Dream IRA. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) Treatment of Contributions.—

"(1) No deduction allowed.—No deduction shall be allowed under section 219 for a contribution to an AD IRA.

"(2) Contribution limit.—The aggregate amount of contributions for any taxable year to all AD IRAs maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) Contributions permitted after age 70½.—Contributions to an AD IRA may be made even after the individual for whom the account is maintained has attained age 70½.

"(4) Mandatory distribution rules not to apply, etc.—

"(A) In general.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any AD IRA.

"(B) Post-death distributions.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

"(5) Rules relating to rollover contributions.—

"(A) In general.—No rollover contribution may be made to an AD IRA unless it is a qualified rollover contribution.

"(B) Coordination with limit.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(6) Time when contributions made.—For purposes of this section, the rule of section 219(f)(3) shall apply.

"(d) Distribution Rules.—For purposes of this title—

"(1) General rules.—

"(A) Exclusions from gross income.—Any qualified distribution from an AD IRA shall not be includible in gross income.

"(B) Nonqualified distributions.—In applying section 72 to any distribution from an AD IRA which is not a qualified distribution, such distribution shall be treated as made from contributions to the AD IRA to the extent that such distribution, when added to all previous distributions from the AD IRA, does not exceed the aggregate amount of contributions to the AD IRA. For purposes of the preceding sentence, all AD IRAs maintained for the benefit of an individual shall be treated as 1 account.

"(C) Exception from penalty tax.—Section 72(t) shall not apply to—

"(i) any qualified distribution from an AD IRA, and

"(ii) any qualified special purpose distribution (whether or not a qualified distribution) from an AD IRA.

"(2) Qualified distribution.—For purposes of this subsection—

"(A) In general.—The term 'qualified distribution' means any payment or distribution—

"(i) made on or after the date on which the individual attains age 59½,

"(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

"(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

"(iv) which is a qualified special purpose distribution.

"(B) Distributions within 5 years.—No payment or distribution shall be treated as a qualified distribution if—

"(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an AD IRA (or such individual's spouse made a contribution to an AD IRA) established for such individual, or

"(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an AD IRA.

"(3) Rollovers.—

"(A) In general.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an AD IRA.

"(B) Income inclusion for rollovers from non-AD IRAs.—In the case of any qualified rollover contribution from an individual retirement plan (other than an AD IRA) to an AD IRA established for the benefit of the payee or distributee, as the case may be—

"(i) sections 72(t) and 408(d)(3) shall not apply, and

"(ii) in any case where such contribution is made before January 1, 1998, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

"(C) Additional reporting requirements.—The Secretary shall require that trustees of AD IRAs, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

"(4) Qualified special purpose distribution.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), or (E) of section 72(t)(2) applies.

"(e) Qualified Rollover Contribution.—For purposes of this section—

"(1) In general.—The term 'qualified rollover contribution' means a rollover contribution to an AD IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an AD IRA.

"(2) Conversions.—The conversion of an individual retirement plan to an AD IRA shall be treated as if it were a qualified rollover contribution."

(b) Repeal of Nondeductible Contributions.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph:

"(5) Termination.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) Excess Distributions Tax Not To Apply.—Subparagraph (B) of section 4980A(e)(1) is amended by inserting "other than an AD IRA (as defined in section 408A(b))" after "retirement plan".

(d) Excess Contributions.—Section 4973(b) is amended to read as follows:

"(b) Excess Contributions.—For purposes of this section—

"(1) In general.—In the case of individual retirement accounts or individual retirement annuities, the term 'excess contributions' means the sum of—

"(A) the amount determined under paragraph (2) for the taxable year, plus

"(B) the carryover amount determined under paragraph (3) for the taxable year.

"(2) Current year.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year to the accounts or for the annuities or bonds (other than AD IRAs), over

"(ii) the amount allowable as a deduction under section 219 for the taxable year, plus

"(B) the excess (if any) of—

"(i) the amount described in clause (i) (taking into account contributions to AD IRAs) contributed for the taxable year, over

"(ii) the amount allowable as a deduction under section 219 for the taxable year (computed without regard to section 219(g)).

"(3) Carryover amount.—The carryover amount determined under this paragraph for any taxable year is the amount determined under paragraph (2) for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the amount determined under paragraph (2)(B)(ii) over the amount determined under paragraph (2)(B)(i).

"(4) Special rules.—For purposes of this subsection—

"(A) Rollover contributions.—Rollover distributions described in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e) shall not be taken into account.

"(B) Contributions returned before due date.—Any contribution which is distributed from an individual retirement plan in a distribution to which section 408(d)(4) applies shall not be taken into account.

"(C) Excess contributions treated as contributions.—In applying paragraph (3)(C), the determination as to amounts contributed for a taxable year shall be made without regard to section 219(f)(6)."

(e) Clerical Amendment.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. American Dream IRA."

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter B—Penalty-Free Distributions

SEC. 11016. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST-TIME HOMEBUYERS OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) in the case of an individual retirement plan, by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

"(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter C—Simple Savings Plans

SEC. 11018. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

"(B) DEFINITIONS.—For purposes of this subsection—

"(i) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer who employs 100 or fewer employees on any day during the year.

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such prior year.

"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(D) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the

same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1995, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and

"(ii) are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year."

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p)."

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

"(vi) any simple retirement account (within the meaning of section 408(p)), or".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof)."

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p)."

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless—

"(i) it is paid into another simple retirement account, or

"(ii) in the case of any payment or distribution to which section 72(t)(8) does not apply, it is paid into an individual retirement plan."

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'."

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause."

(5) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end the following new paragraph:

"(2) SIMPLE RETIREMENT ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B)."

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(5) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year."

(6) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p)."

(7) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a simple retirement account described in section 408(p)."

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i)."

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p))."

(c) REPEAL OF SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k) is amended by adding at the end the following new paragraph:

"(10) TERMINATION.—This subsection shall not apply to any years beginning after December 31, 1995. This paragraph shall not apply to a simplified employee pension established before January 1, 1996."

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SIMPLE RETIREMENT ACCOUNTS.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

"(A) The name and address of the employer and the trustee.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the arrangement.

"(D) The time and method of making elections with respect to the arrangement.

"(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408 (p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2)."

(2) FIDUCIARY DUTIES.—Section 404 (c) of such Act (29 U.S.C. 1104(c)) is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

"(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

"(A) an affirmative election with respect to the initial investment of any contribution,

"(B) a rollover to any other simple retirement account or individual retirement plan, or

"(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11019. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive benefit requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—The requirements of this subparagraph are met if, under the arrangement—

"(i) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(ii) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under clause (i) as does not exceed 3 percent of compensation for the year, and

"(iii) no other contributions may be made other than contributions described in clause (i) or (ii).

"(C) EXCLUSIVE BENEFIT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive benefit requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.

CHAPTER 2—CAPITAL GAINS REFORM

Subchapter A—Taxpayers Other Than Corporations

SEC. 11021. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) SPECIAL RULE FOR COLLECTIBLES.—

"(1) IN GENERAL.—The rate of tax imposed by section 1 on the excess of—

"(A) the net capital gain for the taxable year determined as if section 1222(12) had not applied to any collectible which is sold or exchanged during the taxable year and the basis of which was not adjusted under section 1022(a), over

"(B) the net capital gain for the taxable year, shall not exceed 28 percent.

"(2) ELECTION.—A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election, and any specification therein, once made, shall be irrevocable.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) the amount of the net capital gain taken into account in applying section 1(h) for such year shall be reduced by the amount taken into account under subparagraph (A) for such year.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62, as amended by sections 11004 and 11005, is amended by inserting after paragraph (17) the following new paragraph:

"(18) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(c) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles

held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).".

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).".

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent (80 percent in the case of a corporation) of the amount of gain".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 shall not be allowed.".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.".

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account.".

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account".

(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.".

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).".

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(9) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.".

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.".

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.".

(11) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 shall not apply" before the period at the end thereof.

(12) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(13)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. Small business stock eligible for preferential rates.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) COLLECTIBLES.—The amendments made by subsection (c) shall apply to sales and exchanges after December 31, 1994.

(3) REPEAL OF SECTION 1(h).—The amendment made by subsection (d)(1) shall apply to taxable years beginning after January 1, 1995.

(4) CONTRIBUTIONS.—The amendment made by subsection (d)(2) shall apply to contributions after December 31, 1994.

(5) USE OF LONG-TERM LOSSES.—The amendments made by subsection (d)(10) shall apply to taxable years beginning after December 31, 1995.

(6) WITHHOLDING.—The amendment made by subsection (d)(12) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 11022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 2000, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) common stock in a C corporation (other than a foreign corporation), and

"(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

"(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) stock of a foreign investment company (within the meaning of section 1246(b)),

"(ii) stock in a passive foreign investment company (as defined in section 1296), *"(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and*

"(iv) stock in a foreign personal holding company (as defined in section 552).

"(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) GENERAL RULE.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, increased by

"(B) the applicable inflation adjustment.

"(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

"(A) the adjusted basis of the asset, multiplied by

"(B) the percentage (if any) by which—

"(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

"(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

"(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

"(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

"(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

"(2) SHORT SALES.—

"(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

"(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

"(ii) the average of the fair market values of all assets held by such company at the close of each such month.

"(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

"(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

"(ii) the fair market value of all assets held by such trust at the close of such quarter.

"(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

"(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

"(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

"(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

"(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

"(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

"(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

"(B) such addition shall be treated as a separate asset acquired at the close of such taxable

year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired after December 31, 2000, for purposes of determining gain."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 2000.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 2000, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 2001.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 2001, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 2001, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term "readily tradable stock" means any stock which, as of January 1, 2001, is readily tradable on an established securities market or otherwise.

(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 2001, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 2001, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 2001.

Subsection (d) shall not apply to property to which this subsection applies.

SEC. 11023. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) REDUCED RATE IN LIEU OF EXCLUSION.—

(1) Section 1, as amended by section 11021, is amended by adding at the end the following new subsection:

"(h) MAXIMUM CAPITAL GAINS RATE FOR CERTAIN SMALL BUSINESS STOCK.—

"(1) IN GENERAL.—If for any taxable year a taxpayer has gain from the sale or exchange of any qualified small business stock held for more than 5 years, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed on the taxable income reduced by ½ the amount of the small business gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(B) a tax of 14 percent of the small business gain.

"(2) SMALL BUSINESS GAIN.—For purposes of paragraph (1), the term 'small business gain' means the lesser of—

"(A) gain from the sale or exchange of any qualified small business stock held for more than 5 years, or

"(B) the net capital gain taken into account under section 1202(a).

"(3) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c)."

(2) Subsection (a) of section 1203, as redesignated by section 11021, is amended to read as follows:

"(a) APPLICATION OF REDUCED RATES TO QUALIFIED SMALL BUSINESS STOCK GAINS.—

"For treatment of gain on qualified small business stock held for more than 5 years, see sections 1(h) and 1201(b).".

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".

(c) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 11021, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(d) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(e) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(f) CLERICAL AMENDMENT.—The section heading for section 1203, as redesignated by section 11021, is amended to read as follows:

"SEC. 1203. SMALL BUSINESS STOCK ELIGIBLE FOR PREFERENTIAL RATES."

(g) EFFECTIVE DATES.—

(1) REDUCED RATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) INCREASE IN SIZE.—The amendment made by subsection (c) shall apply to stock issued after the date of the enactment of this Act.

(3) OTHER RULES.—The amendments made by subsections (d) and (e) shall apply to stock issued after August 10, 1993.

Subchapter B—Corporate Capital Gains

SEC. 11025. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(c), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of the parent-subsidiary controlled group (as defined in section 1203(d)(3)) which includes the qualified small business.

"(c) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not

exceed the net capital gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1994.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "72 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

Subchapter C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 11026. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

SEC. 11031. MODIFICATION OF DEPRECIATION RULES UNDER MINIMUM TAX.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by inserting "and before January 1, 1996," after "December 31, 1986,".

(b) CONFORMING AMENDMENT.—Clause (ii) of section 56(a)(1)(A) is amended by striking "The method" and inserting "In the case of property placed in service before January 1, 1996, the method".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11032. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 53(c) (relating to limitation) is amended by adding at the end the following new paragraph:

"(2) SPECIAL RULE FOR TAXPAYERS WITH LONG-TERM UNUSED CREDITS.—

"(A) IN GENERAL.—If—

"(i) a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, and

"(ii) no credit would be allowable under this section for the taxable year by reason of paragraph (1),

then there shall be allowed a credit under subsection (a) for the taxable year in the amount determined under subparagraph (B).

"(B) AMOUNT OF CREDIT.—For purposes of subparagraph (A), the amount of the credit shall be equal to the least of the following for the taxable year:

"(i) The long-term unused minimum tax credit.

"(ii) 50 percent of the taxpayer's tentative minimum tax.

"(iii) The excess (if any) of the amount under paragraph (1)(B) over the amount under paragraph (1)(A).

"(C) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 7th taxable year immediately preceding the taxable year for which the determination is being made.

"(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.".

(b) CONFORMING AMENDMENTS.—(1) Section 53(c) (as in effect before the amendment made by subsection (a)) is amended—

(A) by striking "The" and inserting:

"(1) IN GENERAL.—The", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(2) Subparagraph (C) of section 108(b)(4) is amended by striking "and (G)" in the text and heading thereof and inserting ", (C), and (G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 4—COST RECOVERY PROVISIONS

SEC. 11035. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

"(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

"(i) which is made by the lessor of leased property for the lessee of such property, and

"(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned."

(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after March 13, 1995.

SEC. 11036. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	**The applicable amount is:**
1996	$19,000
1997	20,000
1998	21,000
1999	22,000
2000	23,000
2001	24,000
2002 or thereafter	25,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

Subchapter A—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 11041. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (d)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (f).

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity or to cognitive impairment, or

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i).

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) SPECIAL RULES FOR TREATMENT OF INSUREDS.—

"(1) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(A) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceed the dollar amount in effect for such period under subparagraph (C), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(B) PERIODIC PAYMENTS.—For purposes of subparagraph (A), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(D) INFLATION ADJUSTMENT.—In the case of a calendar year after 1996, the dollar amount contained in subparagraph (C) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(11).

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(e) AMOUNTS PAID TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—Section 213(d) is amended by adding at the end the following new paragraph:

"(10) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(f) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1995.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1996, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1997, a contract providing for

long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 11042. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (11)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(11) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	***The limitation is:***
40 or less	*$200*
More than 40 but not more than 50	*375*
More than 50 but not more than 60	*750*
More than 60 but not more than 70	*2,000*
More than 70	*2,500.*

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1995.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11043. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

(a) IN GENERAL.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a qualified long-term care insurance contract (as defined in section 7702B(b))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11044. EXCEPTION FROM PENALTY TAX FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(F) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term care insurance contract (as defined in section 7702B(b)) for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care."

(b) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 7702B(b)) for coverage of such individual or the spouse of such individual are made, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 11045. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by section 11004, is amended by adding at the end the following new section:

"SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1), as amended by section 11004, is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050R (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d), as amended by section 11004, is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(R) section 6050R(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050R. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1995.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 11051. POLICY REQUIREMENTS.

Section 7702B (as added by section 11041) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 11052. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 11053. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 11054. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions of section 11041(g) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 11052 shall apply to actions taken after December 31, 1995.

Subchapter B—Treatment of Accelerated Death Benefits

SEC. 11061. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as determined in such manner as the Secretary may prescribe) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1995.

SEC. 11062. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1996.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

CHAPTER 2—MEDICAL SAVINGS ACCOUNTS

SEC. 11066. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

"SEC. 222. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

"(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

"(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B).

"(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) Medical Savings Account.—For purposes of this section—

"(1) Medical savings account.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) Qualified medical expenses.—

"(A) In general.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) Health insurance may not be purchased from account.—

"(i) In general.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) Exceptions.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care contract (as defined in section 7702B), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) Account holder.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) Certain rules to apply.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) Tax Treatment of Accounts.—

"(1) In general.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Account terminations.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) Tax Treatment of Distributions.—

"(1) Amounts used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) Treatment after death of account holder.—

"(i) Treatment if holder is spouse.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) Treatment if designated holder is not spouse.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) Inclusion of amounts not used for qualified medical expenses.—

"(A) In general.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) Special rules.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) Excess contributions returned before due date of return.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (d)(1)(A)(ii) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) Penalty for distributions not used for qualified medical expenses.—

"(A) In general.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) Exception for disability or death.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) Exception for distributions after age 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) Rollover contribution.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) In general.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) Limitation.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) Coordination with medical expense deduction.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) Transfer of account incident to divorce.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) Cost-of-Living Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) Medical care cost adjustment.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1995.

"(h) Reports.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (18) the following new paragraph:

"(19) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 222."

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—Section 106 (relating to contributions by employer to accident and health plans), as amended by this Act, is amended—

(A) by adding at the end the following new subsection:

"(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 222(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 222", and

(B) by striking "subsection (b)" in subsection (a) and inserting "this subsection".

(2) EXCLUSION FROM WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 is amended by inserting "106(b)," before "117".

(e) EXCLUSION OF MEDICAL SAVINGS ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 222(d)) included in the gross estate."

(f) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**medical savings accounts,**" after "**accounts,**" in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 222(d)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 222(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the account exceeds the amount which may be contributed to the account under section 222(d)(1)(B)(ii) for such taxable year, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 222(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 222 for the taxable year over the amount contributed.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 222(f)(3) applies shall be treated as an amount not contributed."

(g) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 222(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 222(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) FAILURE TO PROVIDE REPORTS ON MEDICAREPLUS MSA'S.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 222(h) (relating to medical savings accounts)."

(i) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 222(d))."

(j) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 222. Medical savings accounts.
"Sec. 223. Cross reference."

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

CHAPTER 3—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 11068. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1996 or 1997	30
1998 or 1999	35
2000 or 2001	40
2002 or thereafter	50."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Estate and Gift Provisions

SEC. 11071. COST-OF-LIVING ADJUSTMENTS RELATING TO ESTATE AND GIFT TAX PROVISIONS.

(a) INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.—

(1) ESTATE TAX CREDIT.—

(A) Subsection (a) of section 2010 (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(B) Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
1996	$625,000
1997	$650,000
1998	$675,000
1999	$700,000
2000	$725,000
2001 or thereafter	$750,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a *calendar year after 2001, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—*

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(C) Paragraph (1) of section 6018(a) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death".

(D) Paragraph (2) of section 2001(c) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(E) Subparagraph (A) of section 2102(c)(3) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(2) Unified gift tax credit.—Paragraph (1) of section 2505(a) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(3) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

(b) Alternate Valuation of Certain Farm, Etc., Real Property.—Subsection (a) of section 2032A is amended by adding at the end the following new paragraph:

"(3) Inflation adjustment.—In the case of estates of decedents dying in a calendar year after 2000, the $750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

"(A) $750,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(c) Annual Gift Tax Exclusion.—Subsection (b) of section 2503 is amended—

(1) by striking the subsection heading and inserting the following:

"(b) Exclusions From Gifts.—

"(1) In general.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) Inflation adjustment.—In the case of gifts made in a calendar year after 2000, the $10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) $10,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the nearest multiple of $1,000."

(d) Exemption From Generation-Skipping Tax.—Section 2631 (relating to GST exemption) is amended by adding at the end the following new subsection:

"(c) Inflation Adjustment.—In the case of an individual who dies in any calendar year after 2000, the $1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) $1,000,000, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(e) Amount of Tax Eligible for 4 Percent Interest Rate on Extension of Time for Payment of Estate Tax on Closely Held Business.—

(1) Subparagraph (A) of section 6601(j)(2) is amended by striking "$345,800" and inserting "the applicable limitation amount".

(2) Subsection (j) of section 6601 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Applicable limitation amount.—

"(A) In general.—For purposes of paragraph (2), the applicable limitation amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $1,000,000.

"(B) Inflation adjustment.—In the case of estates of decedents dying in a calendar year after 2000, the $1,000,000 amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) $1,000,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

SEC. 11072. FAMILY-OWNED BUSINESS EXCLUSION.

(a) In General.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) In General.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,000,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,000,000, but not over $2,500,000.

"(b) Estates to Which Section Applies.—

"(1) In general.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) Includible qualified family-owned business interests.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) Includible gifts of interests.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) Adjusted Gross Estate.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) Adjusted Value of the Qualified Family-Owned Business Interests.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) Qualified Family-Owned Business Interest.—

"(1) In general.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	*The applicable percentage is:*
1 through 6	*100*
7	*80*
8	*60*
9	*40*
10	*20.*

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).

"(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

"(A) the dollar limitation applicable under section 2032A(a)(2), and

"(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 11073. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the applicable percentage of the lesser of—

"(A) the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

"(B) the excess (if any) of $5,000,000 over the lesser of—

"(i) $2,500,000, or

"(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2033A.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

"(i) the date which is 2 years after the date of the decedent's death, or

"(ii) the date of the sale of such land subject to the qualified conservation easement,

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c)).

"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located—

"(I) in or within 25 miles of an area which, on the date of the decedent's death, is a metropolitan area (as defined by the Office of Management and Budget),

"(II) in or within 25 miles of an area which, on the date of the decedent's death, is a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure), or

"(III) in or within 10 miles of an area which, on the date of the decedent's death, is an Urban National Forest (as designated by the Forest Service),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).".

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.".

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 11074. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time), such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1994.

SEC. 11075. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1995.

Subtitle E—Extension of Expiring Provisions

CHAPTER 1—TEMPORARY EXTENSIONS

SEC. 11111. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking "40 percent" and inserting "35 percent".

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a qualified IV–A recipient,

"(B) a qualified veteran,

"(C) a qualified ex-felon,

"(D) a high-risk youth,

"(E) a vocational rehabilitation referral, or

"(F) a qualified summer youth employee.

"(2) QUALIFIED IV–A RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

"(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

"(3) QUALIFIED VETERAN.—

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—

"(i) a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

"(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individual who is certified by the designated local agency as—

"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

"(5) HIGH-RISK YOUTH.—

"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone or enterprise community.

"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

"(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

"(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of this paragraph.

"(8) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(9) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

"(10) SPECIAL RULES FOR CERTIFICATIONS.—

"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

"(ii)(I) on or before the day the individual is offered employment with the employer, a prescreening notice is completed by the employer with respect to such individual, and

"(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'prescreening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

"(B) INCORRECT CERTIFICATIONS.—If—

"(i) an individual has been certified by a designated local agency as a member of a targeted group, and

"(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial."

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 500 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

"(A) after December 31, 1994, and before January 1, 1996, or

"(B) after December 31, 1996."

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking "**Targeted Jobs Credit**" and inserting "**Work Opportunity Credit**".

(3) The table of subparts for such part IV is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(4) The heading for paragraph (3) of section 1396(c) is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(f) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 51(c) is amended by striking ", subsection (d)(8)(D),".

(2) Paragraph (3) of section 51(i) is amended by striking "(d)(12)" each place it appears and inserting "(d)(6)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.

SEC. 11112. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) Extension.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(b) Limitation to Education Below Graduate Level.—The last sentence of section 127(c)(1) is amended by inserting before the period "or at the graduate level".

(c) Effective Dates.—

(1) Extension.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) Limitation.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 11113. RESEARCH CREDIT.

(a) In General.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking "June 30, 1995" each place it appears and inserting "December 31, 1996", and

(2) by striking "July 1, 1995" each place it appears and inserting "January 1, 1997".

(b) Base Amount for Start-up Companies.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

"(i) Taxpayers to which subparagraph applies.—The fixed-base percentage shall be determined under this subparagraph if—

"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.".

(c) Election of Alternative Incremental Credit.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Election of alternative incremental credit.—

"(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

"(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

"(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

"(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

"(B) Election.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1995. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary."

(d) Increased Credit for Contract Research Expenses With Respect to Certain Research Consortia.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

"(C) Amounts paid to certain research consortia.—

"(i) In general.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research.

"(ii) Qualified research consortium.—The term 'qualified research consortium' means any organization described in subsection (e)(6)(B) if—

"(I) at least 15 unrelated taxpayers paid (during the calendar year in which the taxable year of the taxpayer begins) amounts to such organization for qualified research,

"(II) no 3 persons paid during such calendar year more than 50 percent of the total amounts paid during such calendar year for qualified research, and

"(III) no person contributed more than 20 percent of such total amounts.

For purposes of subclause (I), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers."

(e) Conforming Amendment.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1995" and inserting "December 31, 1996".

(f) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1995.

(2) Subsections (c) and (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1995.

SEC. 11114. ORPHAN DRUG TAX CREDIT.

(a) Recategorized as a Business Credit.—

(1) In general.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) Conforming amendment.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the orphan drug credit determined under section 45C(a).".

(3) Clerical amendments.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.".

(b) Credit Termination.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(c) No Pre-1995 Carrybacks.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(7) No carryback of section 45C credit before 1995.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year beginning before January 1, 1995.".

(d) Additional Conforming Amendments.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".

(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".

(5) Section 53(d)(1)(B) is amended—

(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and

(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking "28(d)(2),".

(7) Section 280C(b) is amended—

(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",

(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C(b)", and

(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

SEC. 11115. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) In General.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended by striking "December 31, 1994" and inserting "December 31, 1996".

(b) Effective Date.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 11116. DELAY OF TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) In General.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking "September 30, 1995" and inserting "September 30, 1997".

(b) Conforming Amendment.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall take effect after September 30, 1995, but shall not take effect if section 11117 does not take effect.

(2) Cross reference.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) Floor Stocks Tax.—

(1) Imposition of tax.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) Liability for tax and method of payment.—

(A) Liability for tax.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method of payment.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) Time for payment.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.

(3) Definitions.—For purposes of this subsection—

(A) Held by a person.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) Commercial aviation fuel.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) Secretary.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(4) Exception for exempt uses.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any

use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

SEC. 11117. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(2) Paragraph (2) of section 4081(d), as amended by section 11651 of this Act, is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "October 1, 1996".

(c) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "October 1, 1996".

(2) Paragraph (3) of section 9502(f) is amended by striking "December 31, 1995" and inserting "September 30, 1996".

SEC. 11118. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2000" and by inserting "October 1, 2002".

CHAPTER 2—SUNSET OF LOW-INCOME HOUSING CREDIT

SEC. 11121. SUNSET OF LOW-INCOME HOUSING CREDIT.

(a) REPEAL OF REALLOCATION OF UNUSED CREDITS AMONG STATES.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:

"(v) TERMINATION.—No amount may be allocated under this paragraph for any calendar year after 1995."

(b) TERMINATION.—Section 42 is amended by adding at the end the following new subsection:

"(o) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and

"(B) subsection (h)(4) shall not apply to any building placed in service after such date.

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—

"(A) the bonds with respect to such building are issued before such date,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1999, and

"(C) such building is placed in service before January 1, 2000."

CHAPTER 3—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

SEC. 11131. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1997.".

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before October 1, 1996.".

(b) TERMINATION ON DEPOSITS OF TAXES INTO HAZARDOUS SUBSTANCE SUPERFUND.—Paragraph (1) of section 9507(b) is amended by inserting "before August 1, 1996" after "received".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11132. EXTENSION OF OIL SPILL LIABILITY TAX.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking "after December 31, 1989, and before January 1, 1995" and inserting "after December 31, 1995, and before October 1, 2002".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

CHAPTER 4—EXTENSIONS RELATING TO FUEL TAXES

SEC. 11141. ETHANOL BLENDER REFUNDS.

(a) IN GENERAL.—Paragraph (4) of section 6427(f) (relating to gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels) is amended by striking "1995" and inserting "1999".

(b) SPECIAL RULE.—With respect to refund claims which could have been filed under section 6427(f) of the Internal Revenue Code of 1986 during the period beginning on October 8, 1995, and ending on the date of the enactment of this Act, but for the expiration of such section after September 30, 1995, interest shall accrue on such claims from the date which is the later of—

(1) November 1, 1995, or

(2) 20 days after the claim could have been filed under such section as in effect on September 30, 1995.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11142. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "January 1, 1998" and by striking "January 1, 1996" and inserting "July 1, 1996".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11143. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

"(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State on or after the date on which such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

"(2) the use of which is certified pursuant to regulations issued by the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 11144. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:

"(D) DIESEL FUEL USED IN MOTORBOATS.—

"(i) MORATORIUM.—No tax shall be imposed by subsection (a) or (d)(1) on diesel fuel sold for use or used in a diesel-powered motorboat during the period after December 31, 1995, and before July 1, 1997.

"(ii) SPECIAL TERMINATION DATE.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—

"(I) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax imposed by this paragraph is 24.3 cents per gallon, and

"(II) the termination of the tax under subsection (d) shall not occur before January 1, 2000.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1995.

CHAPTER 5—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

SEC. 11151. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

CHAPTER 6—DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS

SEC. 11161. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended

by striking "Clause (viii) shall not apply after September 30, 1998." and inserting "Clause (viii) shall not apply after September 30, 2002."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

SEC. 11201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 11202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1996.

SEC. 11203. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11204. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1995.

SEC. 11205. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11206. INCREASED LIMIT ON ATTORNEY FEES.

(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following: "In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 11207. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 11208. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 11209. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 11210. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.

Subtitle G—Casualty and Involuntary Conversion Provisions

SEC. 11251. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2),

an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 11252. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 11253. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

"(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

"(A) is insurance proceeds received on account of destruction or damage to crops, or

"(B) is disaster assistance received under any Federal law as a result of—

"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

"(ii) inability to plant crops because of such a disaster.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

SEC. 11254. APPLICATION OF INVOLUNTARY EXCLUSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in use to the property so converted.".

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property",

(2) by striking "Principal Residences" in the heading and inserting "Property", and

(3) by striking "(1) IN GENERAL.—" and inserting "(1) PRINCIPAL RESIDENCES.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

Subtitle H—Exempt Organizations and Charitable Reforms

CHAPTER 1—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

SEC. 11271. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—

"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and

"(2) any organization which was described in paragraph (1) at any time during the 2-year period ending on the date of the transaction.

Such term shall not include a private foundation (as defined in section 509(a)).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(1) Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(2) In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"Subchapter D. Failure by certain charitable organizations to meet certain qualification requirements.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 11272. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) the name of each disqualified person (as defined in section 4958(f)(1)(A)) with respect to such organization and such other information as the Secretary may prescribe, and".

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 11273. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after December 31, 1995.

CHAPTER 2—OTHER PROVISIONS

SEC. 11276. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization, "(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisers, following reasonable notice, if members holding a majority of interest in the account managed by such adviser vote to remove such adviser,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11277. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material published by or on behalf of the payee organization that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.

SEC. 11278. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment required to be made in order to be recognized by the organization as a member of the organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11279. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

SEC. 11301. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 11302. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a direct or indirect participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or such other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the 90th day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the Secretary of the Treasury prescribes guidance with respect to meeting requirements added by such amendments.

SEC. 11303. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACT.—In the case of indebtedness on a contract to which the last sentence of subsection (a) applies—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the last month preceding such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 10 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as one person.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	**The percentage is:**
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment

or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

SEC. 11304. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

"(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 11305. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

"(A) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) SPECIAL RULE FOR REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.

"(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(3) ADDITIONAL RESTRICTED CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant—

"(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

"(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

"(i) the possession income of such corporation for such base period year, plus

"(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

"(i) the CPI for 1995, exceeds

"(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

"(5) BASE PERIOD YEAR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(I) only the last taxable year of the corporation ending in calendar year 1992, or

"(II) a deemed taxable year which includes the first ten months of calendar year 1995.

"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means the income referred to in subsection (a)(1)(A), except that there shall not be taken into account any such income from an applicable possession (as defined in paragraph (8)(B)). In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.

"(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

"(i) which was actively conducting a trade or business in a possession on October 13, 1995, and

"(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

"(D) SPECIAL RULE FOR APPLICABLE POSSESSIONS.—In determining under paragraph (8) whether a taxpayer is an existing credit claimant with respect to an applicable possession, this paragraph shall be applied separately with respect to such possession."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11306. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned before the close of the 10th taxable year following the taxable year in which the property was placed in service in connection with the ultimate use of the property by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the property for the period before the close of such third or 10th taxable year is within 10 percent of the estimated income from the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(D) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 11307. TRANSFERS OF EXCESS PENSION ASSETS.

(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:

"(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—

"(1) IN GENERAL.—If there is a qualified employee benefit transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

"(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and

"(B) such transfer shall not be treated as—

"(i) an employer reversion for purposes of section 4980, or

"(ii) a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified employee benefit transfer made during the taxable year.

"(2) QUALIFIED EMPLOYEE BENEFIT TRANSFER.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified employee benefit transfer' means a transfer—

"(i) of excess pension assets of a defined benefit plan to the employer, and

"(ii) with respect to which—

"(I) the use requirements of paragraph (3) are met, and

"(II) the requirements of subsection (c)(2)(A) are met (determined by treating such transfer as a qualified transfer).

"(B) LIMITATION ON AMOUNTS TRANSFERRED.—The amount of excess pension assets which may *be transferred in qualified employee benefit transfers during any taxable year shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) during the taxable year for qualified current employee benefit liabilities.*

"(C) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).

"(D) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2001, shall be treated as a qualified employee benefit transfer.

"(3) RESTRICTIONS ON USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to an employer in a qualified employee benefit transfer shall be used only to pay qualified current employee benefit liabilities for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY BENEFITS.—An employer shall transfer to a plan an amount equal to any assets transferred out of the plan in a qualified employee benefit transfer which are not used as provided in subparagraph (A). Such amount shall be treated in the same manner as amounts are treated under subsection (c)(1)(B), except that allocable income shall be determined by using the Federal short-term rate under section 1274(d).

"(C) QUALIFIED CURRENT EMPLOYEE BENEFIT LIABILITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'qualified current employee benefit liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) for which a deduction is allowable to the employer for such taxable year with respect to applicable employee benefits.

"(ii) APPLICABLE EMPLOYEE BENEFITS.—The term 'applicable employee benefits' means—

"(I) contributions to a trust described in section 401(a) which is exempt from tax under section 501(a),

"(II) benefits under an accident or health plan (within the meaning of section 105),

"(III) disability benefits,

"(IV) benefits under an educational assistance program of the employer described in section 127(b), and

"(V) benefits under a dependent care assistance program of the employer described in section 129(d).

"(4) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2).

"(B) COORDINATION WITH SECTION 412.—In the case of a qualified employee benefit transfer—

"(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) EXCESS ASSETS.—Section 420(e)(2) is amended to read as follows:

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i)(II), or

"(ii) 125 percent of termination liability determined under section 414(l), except that the actuarial assumptions used in making such determinations shall be the assumptions used by the Pension Benefit Guaranty Corporation for single-employer plan termination purposes under regulations under title IV of the Employee Retirement Income Security Act of 1974.

The determination under the preceding sentence with respect to any transfer shall be made as of the date of the transfer. No substantial changes in the regulations described in clause (ii) which are made after the date of the enactment of the Revenue Reconciliation Act of 1995 shall be taken into account for purposes of such clause."

(c) TAXPAYERS IN BANKRUPTCY MAY NOT MAKE TRANSFERS.—Section 420(e) is amended by adding at the end the following new paragraph:

"(5) EXCLUSION OF TAXPAYERS IN BANKRUPTCY.—No qualified transfer or qualified employee benefit transfer may be made under this section by a taxpayer if—

"(A) the taxpayer has filed, or has had filed against it, a petition in a title 11 or similar case (within the meaning of section 368(a)(3)), and

"(B) such case is still pending."

(d) CONFORMING AMENDMENTS TO ERISA.—

(1) NOTICE.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) by inserting "or a qualified employee benefit transfer," after "to a health benefits account," in paragraphs (1) and (2)(A),

(B) by inserting "or qualified employee benefits" after "the amount of health benefits liabilities" in paragraph (1),

(C) in paragraph (3)—

(i) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995", and

(ii) by striking "paragraph (1)" and inserting "this subsection", and

(D) by striking "TO HEALTH BENEFITS ACCOUNTS" in the heading.

(2) EXCLUSIVE BENEFIT.—Paragraph (1) of section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".

(3) EXEMPTION FROM PROHIBITED TRANSACTION.—Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(A) by striking "retiree health account" and inserting "health benefits account",

(B) by inserting before the period at the end ", or any transfer of such assets in a taxable year beginning before January 1, 2002, in a qualified employee benefit transfer permitted under such section 420", and

(C) by striking "January 1, 1995" and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers on and after the date of the enactment of this Act.

(2) QUALIFIED TRANSFERS.—To the extent the amendments made by subsections (b), (c), and (d) apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act), such amendments shall apply to transfers occurring after December 31, 1995.

SEC. 11308. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities. If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

"(2) both such employer or plan administrator,".

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after October 13, 1995.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

CHAPTER 2—LEGAL REFORMS

SEC. 11311. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical

care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".

(c) Special Rule for States in Which Only Punitive Damages May Be Awarded in Wrongful Death Actions.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Restriction on Punitive Damages Not to Apply in Certain Cases.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages which—

"(1) are awarded in a civil action—

"(A) which is a wrongful death action, and

"(B) with respect to which applicable State law (as in effect on February 1, 1996, and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before February 1, 1996, that only punitive damages may be awarded in such an action, and

"(2) would have been excludable from gross income under subsection (a)(2) as in effect for amounts received on December 31, 1995.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) Exception.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 11312. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) In General.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) Return Required in the Case of Payments to Attorneys.—

"(1) In general.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) Application of subsection.—

"(A) In general.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) Exception.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.".

(b) Reporting of Attorneys' Fees Payable to Corporations.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) Effective Date.—The amendment made by this section shall apply to payments made after December 31, 1996.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 11321. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) In General.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

"(3) Recognition of gain attributable to depreciation.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.".

(b) Comparable Treatment Under 1-Time Exclusion of Gain on Sale of Principal Residence.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

"(10) Recognition of gain attributable to depreciation.—

"(A) In general.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

"(B) Coordination with paragraph (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 11322. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) In General.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 11321) is amended by adding at the end the following new paragraph:

"(4) New residence must be located in United States in certain cases.—

"(A) In general.—In the case of a sale of an old residence by a taxpayer—

"(i) who is not a citizen of the United States at the time of sale, and

"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

"(B) Property held jointly by husband and wife.—Subparagraph (A) shall not apply if—

"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

"(iii) one spouse is a citizen of the United States at the time of sale.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) Treatment of purchases of new residences.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) Certain rules to apply.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

SEC. 11331. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) In General.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) Conforming Amendments.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) Effective Date.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 11332. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) In General.—Section 4682(d)(1) (relating to recycling) is amended by inserting ", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer" before the period at the end.

(b) Certification System.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11333. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) Election to avoid penalties for certain furnishers.—

"(A) In general.—If—

"(i) a person engaged in the local furnishing of electric energy or gas, directly or indirectly financed facilities for such furnishing in whole or in part with exempt facility bonds described in subsection (a)(8) issued before the date of the enactment of this paragraph,

"(ii) such bonds would (but for this paragraph) cease to be tax-exempt by reason of such person failing to meet the local furnishing requirement of such section as a result of a service area expansion by such person, and

"(iii) an election described in subparagraph (B) is made by such person with respect to all such facilities of the person,

then such bonds shall not cease to be tax-exempt by reason of such expansion (and section 150(b)(4) shall not apply to interest on such bonds).

"(B) Election.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person agrees that—

"(i) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to the facilities for the local furnishing of electric energy or gas, or both of such person, other than such a bond issued to refund another bond if the amount of such bond does not exceed the outstanding amount of the refunded bond and the maturity date of the refunding bond is not later than the average maturity date of the refunded bonds to be refunded by the issue of which the refunding bond is a part,

"(ii) the expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and "(iii) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the election.

"(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.

"(4) APPLICATION OF SECTION.—For purposes of this section, no person may qualify on or after the date of the enactment of this paragraph for tax-exempt bond financing for the local furnishing of electric energy or gas unless such person is engaged on such date in the local furnishing of the energy source for which facilities are financed.".

SEC. 11334. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(4) (as added by section 11333(a)) and 147(d) of the Internal Revenue Code of 1986 shall not apply with respect to any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration in determining if such bond is a qualified bond for purposes of such Code.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

SEC. 11341. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ", or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 11342. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 11343. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 11344. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 11345. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses

under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 11346. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 6—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

SEC. 11348. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) INDIVIDUALS DESCRIBED.—

"(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

"(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

"(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

"(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

"(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction."

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) CREDIT FOR FOREIGN DEATH TAXES.—

"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) EXCEPTION.—

"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

"(1) IN GENERAL.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) SPECIAL RULES.—

"(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 11349. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61, as amended by section 11344, is amended by inserting after section 6039F the following new section:

"SEC. 6039G. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Information on individuals losing United States citizenship."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

CHAPTER 7—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 11351. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of a FASIT; other general rules.
"Sec. 860I. Gain recognition on contributions to and distributions from a FASIT and in other cases.
"Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.
"Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.
"Sec. 860L. Definitions and other special rules.

"SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

"(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

"(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income of the holder of the ownership interest in a FASIT—

"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT,

"(3) the amount of the tax imposed by section 860L(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction,

"(4) there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income, and

"(5) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.

"(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

"(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

"(2) section 163(e)(5) shall not apply to such an interest, and

"(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

"SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.

"(a) CONTRIBUTIONS TO FASIT.—

"(1) IN GENERAL.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT, gain (if any) shall be recognized to such holder in an amount equal to the excess (if any) of such property's value under subsection (e) on the date of such contribution over its adjusted basis on such date.

"(2) DEBT INSTRUMENTS ACQUIRED OTHER THAN BY CONTRIBUTION BY HOLDER OF OWNERSHIP INTEREST.—For purposes of this part, any debt instrument which is acquired by a FASIT other than in a contribution by the holder of the ownership interest in the FASIT shall be treated—

"(A) as having been acquired by such holder at its fair market value on the date of its acquisition by the FASIT, and

"(B) as having been contributed by such holder to the FASIT at its value under subsection (e) on such date.

"(3) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

"(A) provide that gain otherwise recognized under paragraph (1) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

"(B) provide such adjustments to the other provisions of this part to the extent appropriate

in the context of the treatment provided under subparagraph (A).

"(b) CERTAIN DISTRIBUTIONS.—If a FASIT makes a distribution of property with respect to the ownership interest in the FASIT, gain (if any) shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its value under subsection (e) on the date of such distribution.

"(c) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

"(1) gain shall be recognized to such holder in the same manner as if such holder had sold such property at its value under subsection (e) on the earliest date such property supports such an interest, and

"(2) such property shall be treated as held by such FASIT for purposes of this part.

"(d) GAIN RECOGNITION ON RETAINED INTERESTS.—If—

"(1) any interest in a debt instrument is contributed to a FASIT, and

"(2) the contributor (or any person related to such contributor) retains any interest in such instrument (including a right to receive excessive servicing fees with respect to such instrument),

then gain shall be recognized to such contributor (or person) in the same manner as if the contributor (or person) had sold the retained interest at its value under subsection (e) on the date of such contribution.

"(e) VALUATION.—For purposes of this section—

"(1) IN GENERAL.—The value of any property under this subsection shall be—

"(A) in the case of property other than a debt instrument, its fair market value, and

"(B) in the case of a debt instrument, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

"(i) as of the date of the event resulting in the gain recognition under this section, and

"(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually.

"(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

"(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

"(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

"(f) SPECIAL RULES.—

"(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

"(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than an eligible corporation (as defined in section 860L(a)(2)).

"(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

"(1) which is supported by any regular interest in a FASIT, and

"(2) which has an original yield to maturity which is greater than each of—

"(A) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

"(B) the yield to maturity on such regular interest,

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(c)(2)) consist of permitted assets, and

"(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

"(B) an entity described in section 851(a) or 856(a),

"(C) a REMIC, and

"(D) an organization to which part I of subchapter T applies.

"(3) ELECTION.—

"(A) IN GENERAL.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(B) ELECTIONS MADE AFTER 1ST TAXABLE YEAR OF ENTITY.—If the election under subparagraph (A) is made after the first taxable year of the entity, all property held (or treated as held under section 860I(c)(2)) by such entity as of the first day of the first taxable year for which such election is made shall be treated as contributed to such entity on such first day by the holder of the ownership interest in such entity.

"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

"(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this part—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) except as otherwise provided by the Secretary—

"(I) in the case of a FASIT which would be treated as a REMIC if an election under section

860D(b) had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

"(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest are determined using a current rate which is reasonably expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which the regular interest is denominated,

"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

"(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

Interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) cash or cash equivalents,

"(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument, permitted by the Secretary, and

"(ii) which is a reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT, and

"(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D).

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

"(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(d) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any loan originated by the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(e) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 857(b)(4)(B) if the FASIT were a real estate investment trust.

"(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraphs:

"(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).".

(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".

(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular or ownership interest in a FASIT," after "REMIC".

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "References in the preceding provisions of this subparagraph to a REMIC shall be treated as including a reference to a FASIT.".

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(7) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

"(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".

(8) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

"Part V. Financial asset securitization investment trusts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 8—DEPRECIATION PROVISIONS

SEC. 11361. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5).".

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"WATER UTILITY PROPERTY 25 YEARS".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer.".

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

SEC. 11362. DEDUCTION FOR CERTAIN OPERATING AUTHORITY.

(a) GENERAL RULE.—For purpose of chapter 1 of the Internal Revenue Code of 1986, in computing the taxable income of a taxpayer who, on January 1, 1995, held one or more operating authorities preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the taxpayer shall be entitled to deduct ratably over the 36-month period beginning with January 1995 an amount equal to the aggregate adjusted bases of such operating authorities held by the taxpayer on January 1, 1995.

(b) TREATMENT AS DEPRECIATION.—Any deduction under subsection (a) shall be treated as a deduction for depreciation for purposes of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.

SEC. 11363. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:

"(E)(iii) .... 20".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

CHAPTER 9—OTHER PROVISIONS

SEC. 11371. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 11372. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.".

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 11373. LOSSES FROM FORECLOSURE PROPERTY.

(a) IN GENERAL.—Section 818(b) is amended by adding at the end the following new paragraph:

"(2) LOSSES FROM FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—The amortizable portion of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss shall be treated as a loss from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(B) AMORTIZABLE PORTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The amortizable portion of a loss referred to in subparagraph (A) is the percentage (not greater than 20 percent) of such loss to which the taxpayer elects to have this paragraph apply.

"(ii) SUBSEQUENT MODIFICATIONS OF AMOUNT.—The taxpayer may elect for any of the taxable years in the change period to change (subject to the limitation under clause (i)) the percentage of a loss referred to in subparagraph

(A) which is treated as the amortizable portion of such loss. If the taxpayer so elects, each such changed percentage shall be treated as if it were the percentage specified in the election made under clause (i), and proper adjustments shall be made for all taxable years to reflect each such change.

"(iii) STATUTE OF LIMITATIONS.— For purposes of section 6501(h) and 6511(d)(2), any change by reason of an election under clause (ii) shall be treated as a capital loss carryback from the year such change is made.

"(iv) CHANGE PERIOD.—For purposes of clause (ii), the change period is the 3-taxable year period following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(C) ELECTION TO TREAT UNAMORTIZED ORDINARY LOSSES AS CAPITAL LOSSES.—

"(i) IN GENERAL.—The taxpayer may elect to treat any unused amount of any ordinary loss described in subparagraph (A) as a capital loss arising in the taxable year for which the election under this subparagraph is made.

"(ii) LIMITATION ON ELECTION.—An election may be made under clause (i) with respect to any loss only for any taxable year in the 5-taxable year period following the taxable year referred to in subparagraph (A).

"(iii) UNUSED AMOUNT OF ORDINARY LOSS.— For purposes of clause (i), the unused amount of an ordinary loss is the amount of the amortizable portion of any loss which has not been recognized as of the close of the preceding taxable year.

"(iv) ORDERING RULE.—Any unused amount of an ordinary loss with respect to which an election was made under clause (i) shall be treated as coming first from the last taxable year in the 10-taxable year period referred to in subparagraph (A) and then from each preceding taxable year in reverse chronological order.

"(D) FORECLOSURE PROPERTY.—For purposes of this paragraph, the term 'foreclosure property' means any real property used in a trade or businesses (as defined in section 1231(b) without regard to this subsection) which is acquired by a life insurance company as the result of—

"(i) such company having bid on such property at foreclosure, or

"(ii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured.

"(E) TIME FOR MAKING ELECTIONS.—Any election under this paragraph for any taxable year shall be made on or before the due date (including extensions) for the return of tax for such taxable year."

(b) CONFORMING AMENDMENTS.—Section 818(b) is amended—

(1) by striking "In the" and inserting:

"(1) IN GENERAL.—In the ", and

(2) by redesignating paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (1) as subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (A), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 11374. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) pursuant to a single plan, a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 11375. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure."

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking "AND SPECIAL RULES" in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1995, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

SEC. 11376. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

"(v) such transferee corporation is not exempt from tax under this chapter.

"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(c)(3).— The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

"(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

"(i) for services performed in connection with such transferee corporation, or

"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

"(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11377. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(18) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

"(i) such organization,

"(ii) an affiliate of such organization which is exempt from tax under section 501(a), or

"(iii) a director or officer of, or an individual who performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services for the benefit of such organization or affiliate.

For purposes of this subparagraph, the determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

SEC. 11378. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11379. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (2)(A), and (4) of section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7) Sections 595 and 596 are hereby repealed.

(8) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(9) Paragraph (3) of section 992(d) is amended by striking "or 593".

(10) Section 1038 is amended by striking subsection (f).

(11) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(12) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(13) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(14) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 593, 595, and 596.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REPEAL OF SECTION 595.—The repeal of section 595 under subsection (b)(7) shall apply to property acquired in taxable years beginning after December 31, 1995.

(d) 6-YEAR SPREAD OF ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change its method of computing reserves for bad debts—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

(i) shall be determined by taking into account only applicable excess reserves, and

(ii) as so determined, shall be taken into account ratably over the 6-taxable-year period beginning with the first taxable year beginning after December 31, 1995.

(2) APPLICABLE EXCESS RESERVES.—

(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

(i) the balance of the reserves described in section 593(c)(1) of such Code (as in effect on the day before the date of the enactment of this Act) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

(ii) the lesser of—

(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

(II) the balance of the reserves described in subclause (I), reduce by an amount determined in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581 of such Code) which is not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995—

(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserve as of the close of its last taxable year beginning before January 1, 1996, if the additions to such reserve for all taxable years had been determined under section 585(b)(2)(A), and

(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5), (6), and (7).

(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in subparagraph (A)(ii) except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for a taxable year beginning after December 31, 1995, and before January 1, 1998—

(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

(ii) such taxable year shall be disregarded in determining—

(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

(II) the amount of such adjustment.

(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term "residential loan" means any loan described in clause (v) of section 7701(a)(19)(C) of such Code but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning before January 1, 1996. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after December 31, 1995, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.

(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1) of such Code, subparagraph (B) shall be applied with respect to such group.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2) of such Code) for its first taxable year beginning after December 31, 1995:

(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii) of such Code, there shall be taken into account only the excess of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4) of such Code—

(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

(ii) no amount shall be includible in gross income by reason of such reduction.

(6) CONTINUED APPLICATION OF SECTION 593(e).—Notwithstanding the amendments made by this section, in the case of a taxpayer to which paragraph (1) of this subsection applies, section 593(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such taxpayer as if such taxpayer were a domestic building and loan association but the amount of the reserves taken into account under subparagraphs (B) and (C) of section 593(e)(1) (as so in effect) shall be the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

(7) CERTAIN ITEMS INCLUDED AS SECTION 381(c) ITEMS.—The balance of the applicable excess reserves, and the balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection, shall be treated as items described in section 381(c) of such Code.

(8) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c)(14)(A)—

(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

(9) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to carry out this subsection, including regulations providing for the application of paragraphs (4) and (6) in the case of acquisitions, mergers, spin-offs, and other reorganizations.

SEC. 11380. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

Subtitle J—Tax Simplification

CHAPTER 1—PROVISIONS RELATING TO INDIVIDUALS

Subchapter A—Provisions Relating To Rollover of Gain on Sale of Principal Residence

SEC. 11401. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034(d) (relating to limitation on rollover of gain on sale of principal residence), as amended by sections 11321 and 11322, is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 11402. SPECIAL RULES IN CASE OF DIVORCE.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,
for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 11403. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES.

(a) IN GENERAL.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new sentence: "For purposes of applying the preceding sentence to individuals who are married to each other, an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.

Subchapter B—Other Provisions

SEC. 11411. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11412. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

CHAPTER 2—PENSION SIMPLIFICATION

Subchapter A—Simplified Distribution Rules

SEC. 11421. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.".

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 11422. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ", for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11423. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	360
More than 55 but not more than 60	310
More than 60 but not more than 65	260
More than 65 but not more than 70	210
More than 70	160.

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 11424. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

Subchapter B—Increased Access to Pension Plans

SEC. 11431. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

"(i) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan.

"(ii) TAX-EXEMPTS ELIGIBLE.—

"(I) IN GENERAL.—Any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

"(II) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing shall be treated as an organization exempt from tax under this subtitle for purposes of subclause (I).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

Subchapter C—Nondiscrimination Provisions

SEC. 11441. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) for the preceding year had compensation from the employer in excess of $80,000 and was in the top-paid group of the employer.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), (8), and (12) and by redesignating paragraphs (3), (4), (7), (9), (10), and (11) as paragraphs (2) through (7), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.".

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1995.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1995, except that in determining whether an employee is a highly compensated employee for years beginning in 1996, such amendments shall be treated as having been in effect for years beginning in 1995.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1995.

SEC. 11442. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11443. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this Act, is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year",

(B) by striking "for such plan year" and inserting "the preceding plan year", and

(C) by adding at the end the following new sentence: "An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee",

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: "This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCESS CONTRIBUTIONS.—The amendments made by subsection (e) shall apply to years beginning after December 31, 1995.

SEC. 11444. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.".

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(4), as redesignated by section 11441, is amended to read as follows:

"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

Subchapter D—Miscellaneous Provisions

SEC. 11451. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of

any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 11452. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 11453. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans).".

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof)."

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1994.

SEC. 11454. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—Nothing in the amendments made by this section shall be construed to infer that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before the date of the enactment of this Act.

SEC. 11455. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11456. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 11457. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating

to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 11454(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

"(16) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11458. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f)."

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of assets and income described in paragraph (1) held by a plan before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature of the State in which the governmental entity maintaining the plan is located beginning after the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before such first day. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 11459. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

"(i) the later of the date a plan amendment applying such amendment is adopted or made effective, or

"(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by subsection (b) shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect)."

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking "Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C)," in clause (i) and inserting "For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),", and

(2) by striking "For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3)," in clause (ii) and inserting "For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767(b) of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 11460. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

"(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

SEC. 11461. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

SEC. 11462. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during *years beginning after December 31, 1995, and before January 1, 1999, and such distributions shall be treated as made first from amounts not described in subsection (f)."*

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(2) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".

(3) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".

(4) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".

(5) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".

(6) Section 416 is amended by striking subsection (h).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1998.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1995.

SEC. 11463. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after December 31, 1995.

SEC. 11464. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

CHAPTER 3—TREATMENT OF LARGE PARTNERSHIPS

SEC. 11471. SIMPLIFIED FLOW-THROUGH FOR ELECTING LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

"PART IV—SPECIAL RULES FOR ELECTING LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to electing large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Electing large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO ELECTING LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to an electing large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of an electing large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes,

"(10) the credit allowable under section 29, and

"(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in an electing large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

''(a) GENERAL RULE.—

''(1) TAXABLE INCOME.—The taxable income of an electing large partnership shall be computed in the same manner as in the case of an individual except that—

''(A) the items described in section 772(a) shall be separately stated, and

''(B) the modifications of subsection (b) shall apply.

''(2) ELECTIONS.—All elections affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

''(3) LIMITATIONS, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of an electing large partnership or the computation of any credit of an electing large partnership shall be applied at the partnership level (and not at the partner level).

''(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

''(i) Section 68 (relating to overall limitation on itemized deductions).

''(ii) Sections 49 and 465 (relating to at risk limitations).

''(iii) Section 469 (relating to limitation on passive activity losses and credits).

''(iv) Any other provision specified in regulations.

''(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

''(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of an electing large partnership—

''(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

''(A) The deduction for personal exemptions provided in section 151.

''(B) The net operating loss deduction provided in section 172.

''(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

''(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

''(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

''(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If an electing large partnership has income from the discharge of any indebtedness—

''(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

''(2) in determining the income tax of any partner of such partnership—

''(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

''(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

''(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of an electing large partnership—

''(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

''(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

''(b) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

''(1) IN GENERAL.—In the case of an electing large partnership—

''(A) any credit recapture shall be taken into account by the partnership, and

''(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

''(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—An electing large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

''(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in an electing large partnership.

''(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

''(c) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to an electing large partnership.

''(d) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to an electing large partnership and shall not be taken into account by the partners of such partnership:

''(1) The credit provided by section 34.

''(2) Any credit or refund under section 852(b)(3)(D).

''(e) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any electing large partnership—

''(1) all interests in such partnership shall be treated as held by disqualified organizations,

''(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

''(3) subparagraph (D) of section 860E(e)(6) shall not apply.

''(f) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of an electing large partnership—

''(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

''(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. ELECTING LARGE PARTNERSHIP DEFINED.

''(a) GENERAL RULE.—For purposes of this part—

''(1) IN GENERAL.—The term 'electing large partnership' means, with respect to any partnership taxable year, any partnership if—

''(A) the number of persons who were partners in such partnership in the preceding partnership taxable year equaled or exceeded 100, and

''(B) such partnership elects the application of this part.

To the extent provided in regulations, a partnership shall cease to be treated as an electing large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

''(2) ELECTION.—The election under this subsection shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

''(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

''(2) EXCLUSION.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership if substantially all the partners of such partnership—

''(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

''(B) are retired partners who had performed such substantial services, or

''(C) are spouses of partners who are performing (or had previously performed) such substantial services.

''(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

''(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, an election under subsection (a) shall not be effective with respect to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

''(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as an electing large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

''(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

''(1) IN GENERAL.—For purposes of this part, an election under section 775(a) shall not be effective with respect to any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

''(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES WHERE PART APPLIES.—

''(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of an electing large partnership, except as provided in paragraph (2)—

''(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

''(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

''(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for electing large partnerships."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 11472. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

(a) IN GENERAL.—Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:

"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

CHAPTER 4—FOREIGN PROVISIONS

Subchapter A—Modifications to Treatment of Passive Foreign Investment Companies

SEC. 11481. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

"(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1995, and

"(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

"(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1995, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made."

SEC. 11482. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

"Subpart C—Election of Mark to Market For Marketable Stock

"Sec. 1296. Election of mark to market for marketable stock.

"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock, shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

"(e) MARKETABLE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN INVESTMENT COMPANIES.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or

is treated under subsection (g) as owning) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) STOCK ACQUIRED FROM A DECEDENT.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

"(j) COORDINATION WITH SECTION 1291 FOR FIRST YEAR OF ELECTION.—

"(1) TAXPAYERS OTHER THAN REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(B) REQUIREMENTS.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

"(2) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"(k) ELECTION.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

"(1) such stock ceases to be marketable stock, or

"(2) the Secretary consents to the revocation of such election.

"(l) TRANSITION RULE FOR INDIVIDUALS BECOMING SUBJECT TO UNITED STATES TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1995, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day."

(b) COORDINATION WITH INTEREST CHARGE, ETC.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

"Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year."

(2) The subsection heading for subsection (d) of section 1291 is amended by striking "SUBPART B" and inserting "SUBPARTS B AND C".

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied."

(c) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".

(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)"

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

"Sec. 1297. Passive foreign investment company.
"Sec. 1298. Special rules."

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Election of mark to market for marketable stock.
"Subpart D. General provisions."

(d) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".

SEC. 11483. MODIFICATIONS TO DEFINITION OF PASSIVE INCOME.

(a) EXCEPTION FOR SAME COUNTRY INCOME NOT TO APPLY.—Paragraph (1) of section 1297(b) (defining passive income), as redesignated by section 11482, is amended by inserting before the period "without regard to paragraph (3) thereof".

(b) PASSIVE INCOME NOT TO INCLUDE FSC INCOME.—Paragraph (2) of section 1297(b), as so redesignated, is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) any foreign trade income of a FSC."

SEC. 11484. EFFECTIVE DATE.

The amendments made by this subchapter shall apply to—

(1) taxable years of United States persons beginning after December 31, 1995, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

Subchapter B—Treatment of Controlled Foreign Corporations

SEC. 11486. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:

"(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not

apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock."

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 11487. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new subsection:

"(g) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 11488. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

SEC. 11489. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking "; and" at the end of subparagraph (B) and inserting a period, and by adding "and" at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 956(b) is amended to read as follows:

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(A) the amount (not including a deficit) referred to in section 316(a)(1), and

"(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year."

(2) Paragraph (3) of section 956(b) is amended to read as follows:

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation."

(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding "or" at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).

(4) Subsection (a) of section 959 is amended by striking "paragraphs (2) and (3)" in the last sentence and inserting "paragraph (2)".

(5) Subsection (c) of section 959 is amended by adding at the end the following flush sentence: "References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1995."

(6) Paragraph (1) of section 959(f) is amended to read as follows:

"(1) In General.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3)."

(7) Paragraph (2) of section 959(f) is amended by striking "subparagraphs (B) and (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(8) Subsection (b) of section 989 is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(9) Paragraph (9) of section 1298(b), as redesignated by section 11482, is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1298, as redesignated by section 11482, are each amended by striking "or section 956A".

(c) Clerical Amendment.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

CHAPTER 5—OTHER INCOME TAX PROVISIONS

Subchapter A—Provisions Relating to S Corporations

SEC. 11501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".

SEC. 11502. ELECTING SMALL BUSINESS TRUSTS.

(a) General Rule.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) Current Beneficiaries Treated as Shareholders.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) Electing Small Business Trust Defined.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) Electing Small Business Trust Defined.—

"(1) Electing small business trust.—For purposes of this section—

"(A) In general.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) Certain trusts not eligible.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) Purchase.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) Potential current beneficiary.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) Election.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) Cross reference.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) Taxation of Electing Small Business Trusts.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) Special Rules for Taxation of Electing Small Business Trusts.—

"(1) In general.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) Modifications.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) Treatment of remainder of trust and distributions.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) Treatment of unused deductions where termination of separate trust.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) Electing small business trust.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

(e) Technical Amendment.—Paragraph (1) of section 1366(a) is amended by inserting ", or of a trust or estate which terminates," after "who dies".

SEC. 11503. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

SEC. 11504. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money."

SEC. 11505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) General Rule.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) Inadvertent Invalid Elections or Terminations.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 11506. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—If any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year."

SEC. 11507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2), any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 11508. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this title—

"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

"(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

"(i) 100 percent of the stock of such corporation is held by the S corporation, and

"(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

"(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock."

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

"(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation."

SEC. 11509. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the

amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 11510. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

SEC. 11511. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d) is amended—

(A) by striking "SUBCHAPTER C" in the paragraph heading and inserting "ACCUMULATED",

(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

*(C) The section heading for section 1375 is amended by striking "***subchapter c***" and inserting "***accumulated***".*

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

SEC. 11512. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."

SEC. 11513. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 11514. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".

SEC. 11515. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1996, shall not be taken into account.

Subchapter B—Repeal of 30-Percent Gross Income Limitation on Regulated Investment Companies

SEC. 11521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subchapter C—Accounting Provisions

SEC. 11551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year."

(b) Modification of Interest Rate.—

(1) In general.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) Adjusted overpayment rate.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

"(7) Adjusted overpayment rate.—

"(A) In general.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) Interest accrual period.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) Effective Date.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 11552. APPLICATION OF MARK TO MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES.

(a) In General.—Section 475 (relating to mark to market accounting method for dealers in securities) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Authority To Extend Method to Traders in Securities.—

"(1) In general.—A trader in securities may elect to have the provisions of this section (other than subsection (d)(3)) apply to securities held by the trader. Such election may be made only with the consent of the Secretary.

"(2) Trader in securities.—For purposes of this subsection, the term 'trader in securities' means a taxpayer who is regularly engaged in trading securities."

(b) Effective Date.—The amendments made by this section shall apply to taxable years ending on and after December 31, 1995.

SEC. 11553. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS.

(a) In General.—Section 468A(d) (relating to ruling amount) is amended by adding at the end the following new paragraph:

"(4) Nonsubstantial modifications.—A taxpayer may modify a schedule of ruling amounts under paragraph (1) without a review under paragraph (3) if such modification does not substantially modify the ruling amount. The taxpayer shall notify the Secretary of any such modification."

(b) Effective Date.—The amendment made by this section shall apply to modifications after the date of the enactment of this Act.

Subchapter D—Tax-Exempt Bond Provision

SEC. 11561. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

(a) In General.—Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

(b) Effective Date.—The amendments made by this part shall apply to bonds issued after the date of the enactment of this Act.

Subchapter E—Insurance Provisions

SEC. 11571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) General Rule.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 11572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) General Rule.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) Computation of Reserves.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) Segregated Assets Under Modified Guaranteed Contracts Marked to Market.—

"(1) In general.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) Segregated asset.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) Special Rule in Computing Life Insurance Reserves.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) Modified Guaranteed Contract Defined.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) Regulations.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section.".

(b) Clerical Amendment.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) Treatment of net adjustments.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

Subchapter F—Other Provisions

SEC. 11581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) General Rule.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) Disposition of entire interest.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) Clerical Amendment.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) Treatment of dispositions.—".

(c) Effective Date.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 11582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) Reporting Requirement Not Considered.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting "(without regard to whether such tips are reported under section 6053)" after "section 3121(q)".

(b) Taxes Paid.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 *is amended by inserting ", with respect to services performed before, on, or after such date" after "1993".*

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 11583. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15' ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

CHAPTER 6—ESTATES AND TRUSTS

Subchapter A—Income Tax Provisions

SEC. 11601. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) IN GENERAL.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

"SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

"(a) GENERAL RULE.—For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) QUALIFIED REVOCABLE TRUST.—The term 'qualified revocable trust' means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

"(2) APPLICABLE DATE.—The term 'applicable date' means—

"(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

"(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

"(c) ELECTION.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable."

(b) COMPARABLE TREATMENT UNDER GENERATION-SKIPPING TAX.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of an estate under section 646."

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 646. Certain revocable trusts treated as part of estate."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 11602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) IN GENERAL.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11603. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) IN GENERAL.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) CONFORMING AMENDMENT.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) DISALLOWANCE OF LOSSES.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(b) ORDINARY INCOME FROM GAIN FROM SALE OF DEPRECIABLE PROPERTY.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 11605. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) IN GENERAL.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

"(a) ESTATES.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

"(b) TRUSTS.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

"(2) EXCEPTION FOR TRUSTS EXEMPT FROM TAX AND CHARITABLE TRUSTS.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

"Sec. 645. Taxable year of estates and trusts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11606. TREATMENT OF FUNERAL TRUSTS.

(a) IN GENERAL.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

"(a) IN GENERAL.—In the case of a qualified funeral trust—

"(1) subparts B, C, D, and E shall not apply, and

"(2) no deduction shall be allowed by section 642(b).

"(b) QUALIFIED FUNERAL TRUST.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

"(5) the trustee elects the application of this subsection, and

"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

"(c) DOLLAR LIMITATION ON CONTRIBUTIONS.—

"(1) IN GENERAL.—The term 'qualified funeral trust' shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of $7,000.

"(2) RELATED TRUSTS.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

"(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b),

"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

"(3) INFLATION ADJUSTMENT.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1996, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

"(d) APPLICATION OF RATE SCHEDULE.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

"(e) TREATMENT OF AMOUNTS REFUNDED TO BENEFICIARY ON CANCELLATION.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such

trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

''(f) SIMPLIFIED REPORTING.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee.''

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 684. Treatment of funeral trusts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subchapter B—Estate and Gift Tax Provisions

SEC. 11611. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

''(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

''SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

''(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

''(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

''(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

''(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

''(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

''(1) IN GENERAL.—For purposes of—

''(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

''(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

''(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

''(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

''(3) MARITAL AND SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

''(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

''(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking ''gifts'' in the item relating to section 2035 and inserting ''certain gifts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:

''(vi) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse.''

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking ''and (iv)'' and inserting ''(iv), and (vi)''.

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end the following new subsection:

''(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 11614. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 11615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 11616. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

''(f) VALUATION OF GIFTS.—If—

''(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

''(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift, the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12.''

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

''(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown

on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a)."

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

"(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the donor.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts."

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 11617. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) PARTIAL TRANSFER-TYPE DISCLAIMERS PERMITTED.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property".

(b) RETENTION OF INTEREST BY DECEDENT'S SPOUSE PERMITTED IN TRANSFER-TYPE DISCLAIMERS.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust."

(c) DISCLAIMERS ARE EFFECTIVE FOR INCOME TAX PURPOSES.—Subsection (a) of section 2518 is amended by inserting "and subtitle A" after "this subtitle" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 11618. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) IN GENERAL.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 11619. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) TRUST.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

Subchapter C—Generation-Skipping Tax Provisions

SEC. 11631. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.

(a) IN GENERAL.—Paragraph (1) of section 2612(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:

"Such term shall not include a direct skip."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

CHAPTER 7—EXCISE TAX SIMPLIFICATION

Subchapter A—Provisions Related to Distilled Spirits, Wines, and Beer

SEC. 11641. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11642. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11643. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "unmerchantable".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "**unmerchantable**".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11644. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 11645. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in *such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."*

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

Subchapter B—Consolidation of Taxes on Aviation Gasoline

SEC. 11651. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.

(a) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".

(b) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) AVIATION GASOLINE.—On and after January 1, 1996, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."

(c) REPEAL OF RETAIL LEVEL TAX.—

(1) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(2) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 4041(k) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".

(3) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(4) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation gasoline on which tax was imposed under section 4081 of the Internal Revenue Code of 1986 before January 1, 1996, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 1 cent per gallon of such gasoline.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation gasoline on January 1, 1996, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1996.

(3) DEFINITIONS.—For purposes of this subsection:

(A) HELD BY A PERSON.—Gasoline shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN AIRCRAFT TANK.—No tax shall be imposed by paragraph (1) on aviation gasoline held in the tank of an aircraft.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation gasoline held on January 1, 1996, by any person if the aggregate amount of aviation gasoline held by such person on such date does not exceed 6,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—

(i) CORPORATIONS.—In the case of a controlled group, the 6,000 gallon amount in subparagraph (A) shall be apportioned among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group under common control where 1 or more of the members is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

Subchapter C—Other Excise Tax Provisions

SEC. 11661. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS.

(a) IN GENERAL.—Paragraph (2) of section 4052(c) (relating to certain combinations not treated as manufacture) is amended by striking "or wood or metal floor" and inserting "wood or metal floor, or a power take-off and dump body".

(b) REMOVAL OF FIFTH WHEEL.—Paragraph (1) of section 4052(c) is amended by inserting before the period "or the removal of any coupling device (including any fifth wheel)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 8—ADMINISTRATIVE PROVISION

SEC. 11671. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.

Subtitle K—Miscellaneous Provisions

SEC. 11701. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 11702. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR CERTAIN POLICIES.

(a) IN GENERAL.—Subparagraph (C)(i) of section 7702(e)(2) (relating to limited increases in death benefit permitted) is amended by striking "$5,000" and inserting "$7,000" and by striking "$25,000" and inserting "$30,000".

(b) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT TO DEATH BENEFIT LIMITS FOR YEARS AFTER 1996.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in paragraph (2)(C)(i) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.".

(c) CONFORMING AMENDMENT.—Section 72(e)(10)(B) is amended by striking "$25,000" and inserting "$30,000 (adjusted at the same time and in the same manner as under section 7702(e)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after December 31, 1995.

SEC. 11703. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after October 13, 1995.

SEC. 11704. CORRECTION OF INFLATION ADJUSTMENT IN LUXURY EXCISE TAX ON AUTOMOBILES.

(a) In General.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

"(e) Inflation Adjustment.—

"(1) In general.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) Rounding.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 11705. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) Extension.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".

(b) Phasedown.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Phasedown.—For sales occurring in a calendar year after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

"If the calendar year is:	The percentage is:
1996	9 percent
1997	8 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001	4 percent
2002	3 percent."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle L—Generalized System of Preferences

SEC. 11801. SHORT TITLE.

This subtitle may be cited as the "GSP Renewal Act of 1995".

SEC. 11802. GENERALIZED SYSTEM OF PREFERENCES.

(a) In General.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

"(a) Authority To Designate Countries.—

"(1) Beneficiary developing countries.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) Least-developed beneficiary developing countries.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) Countries Ineligible for Designation.—

"(1) Specific countries.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.

"(B) Canada.

"(C) European Union member states.

"(D) Iceland.

"(E) Japan.

"(F) Monaco.

"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

"(2) Other bases for ineligibility.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) Factors Affecting Country Designation.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

"(d) Withdrawal, Suspension, or Limitation of Country Designation.—

"(1) In general.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

"(2) Changed circumstances.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

"(3) Advice to congress.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

"(e) Mandatory Graduation of Beneficiary Developing Countries.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) Congressional Notification.—

"(1) Notification of designation.—

"(A) In general.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) Designation as least-developed beneficiary developing country.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) Notification of termination.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

"(a) Eligible Articles.—

"(1) Designation.—

"(A) In general.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) Least-developed beneficiary developing countries.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) Three-year rule.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

"(2) Rule of origin.—

"(A) General rule.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) Exclusions.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) Regulations.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) Articles That May Not Be Designated as Eligible Articles.—

"(1) Import sensitive articles.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

"(C) Import-sensitive electronic articles.

"(D) Import-sensitive steel articles.

"(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(F) Import-sensitive semimanufactured and manufactured glass products.

"(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) Articles against which other actions taken.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) Agricultural products.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) Withdrawal, Suspension, or Limitation of Duty-Free Treatment; Competitive Need Limitation.—

"(1) In general.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) Competitive need limitation.—

"(A) Basis for withdrawal of duty-free treatment.—

"(i) In general.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

"(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(ii) Annual adjustment of applicable amount.—For purposes of applying clause (i), the applicable amount is—

"(I) for 1996, $75,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(B) Country defined.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) Least-developed beneficiary developing countries.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) Articles not produced in the United States excluded.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was *not produced in the United States on January 1, 1995.*

"(F) DE MINIMIS WAIVERS.—

"(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) APPLICABLE AMOUNT.—For purposes applying clause (i), the applicable amount is—

"(I) for calendar year 1995, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

"(4) LIMITATIONS ON WAIVERS.—

"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

"(i) entered duty-free under this title during such calendar year; and

"(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORTS TO CONGRESS.

"The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after December 31, 1996.

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

"SEC. 507. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Agricultural exports of beneficiary developing countries.
"Sec. 507. Definitions.".

SEC. 11803. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RE-LIQUIDATIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—

(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and

(2) that was made after July 31, 1995, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(b) REQUESTS.—Liquidation or re-liquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 11804. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p-4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".

Subtitle M—Increase in Public Debt LImit

SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained in the first sentence and inserting "$5,500,000,000,000" and by striking the second sentence (if any).

TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

SEC. 12001. SHORT TITLE.

Subtitles A through K of this title may be cited as the "Personal Responsibility and Work Opportunity Act of 1995".

SEC. 12002. TABLE OF CONTENTS.

The table of contents of subtitles A through L of this title is as follows:

Sec. 12001. Short title.
Sec. 12002. Table of contents.

Subtitle A—Block Grants for Temporary Assistance for Needy Families

Sec. 12100. References to the Social Security Act.
Sec. 12101. Block grants to States.
Sec. 12102. Report on data processing.
Sec. 12103. Conforming amendments to the Social Security Act.
Sec. 12104. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 12105. Conforming amendments to other laws.
Sec. 12106. Effective date; transition rule.

Subtitle B—Supplemental Security Income

Sec. 12200. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

Sec. 12201. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.
Sec. 12202. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 12203. Denial of SSI benefits for fugitive felons and probation and parole violators.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

Sec. 12211. Definition and eligibility rules.
Sec. 12212. Eligibility redeterminations and continuing disability reviews.
Sec. 12213. Additional accountability requirements.
Sec. 12214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
Sec. 12215. Regulations.

Subtitle C—Child Support

Sec. 12300. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

Sec. 12301. State obligation to provide child support enforcement services.
Sec. 12302. Distribution of child support collections.
Sec. 12303. Privacy safeguards.

CHAPTER 2—LOCATE AND CASE TRACKING

Sec. 12311. State case registry.
Sec. 12312. Collection and disbursement of support payments.
Sec. 12313. State directory of new hires.
Sec. 12314. Amendments concerning income withholding.
Sec. 12315. Locator information from interstate networks.
Sec. 12316. Expansion of the Federal parent locator service.
Sec. 12317. Collection and use of social security numbers for use in child support enforcement.

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 12321. Adoption of uniform State laws.
Sec. 12322. Improvements to full faith and credit for child support orders.
Sec. 12323. Administrative enforcement in interstate cases.
Sec. 12324. Use of forms in interstate enforcement.
Sec. 12325. State laws providing expedited procedures.

CHAPTER 4—PATERNITY ESTABLISHMENT

Sec. 12331. State laws concerning paternity establishment.
Sec. 12332. Outreach for voluntary paternity establishment.
Sec. 12333. Cooperation by applicants for and recipients of temporary family assistance.

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

Sec. 12341. Performance-based incentives and penalties.
Sec. 12342. Federal and State reviews and audits.
Sec. 12343. Required reporting procedures.
Sec. 12344. Automated data processing requirements.
Sec. 12345. Technical assistance.
Sec. 12346. Reports and data collection by the Secretary.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 12351. Simplified process for review and adjustment of child support orders.
Sec. 12352. Furnishing consumer reports for certain purposes relating to child support.
Sec. 12353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 12361. Internal Revenue Service collection of arrearages.
Sec. 12362. Authority to collect support from Federal employees.
Sec. 12363. Enforcement of child support obligations of members of the Armed Forces.
Sec. 12364. Voiding of fraudulent transfers.
Sec. 12365. Work requirement for persons owing past-due child support.
Sec. 12366. Definition of support order.
Sec. 12367. Reporting arrearages to credit bureaus.
Sec. 12368. Liens.
Sec. 12369. State law authorizing suspension of licenses.
Sec. 12370. International child support enforcement.
Sec. 12371. Financial institution data matches.
Sec. 12372. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.

CHAPTER 8—MEDICAL SUPPORT

Sec. 12376. Correction to ERISA definition of medical child support order.
Sec. 12377. Enforcement of orders for health care coverage.

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

Sec. 12381. Grants to States for access and visitation programs.

CHAPTER 10—EFFECT OF ENACTMENT

Sec. 12391. Effective dates.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS

Sec. 12401. Aliens who are not qualified aliens ineligible for Federal public benefits.
Sec. 12402. Limited eligibility of certain qualified aliens for certain Federal programs.
Sec. 12403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.

CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

Sec. 12421. Attribution of sponsor's income and resources to alien.
Sec. 12422. Requirements for sponsor's affidavit of support.
Sec. 12423. Cosignature of alien student loans.

CHAPTER 3-GENERAL PROVISIONS

Sec. 12431. Definitions.
Sec. 12432. Reapplication for SSI benefits.
Sec. 12433. Statutory construction.

Subtitle E—Teaching Hospital and Graduate Medical Education Trust Fund

CHAPTER 1—TRUST FUND

Sec. 13501. Establishment of Fund; payments to teaching hospitals.

CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM

Sec. 13511. Transfer of funds.

Subtitle F—National Defense Stockpile

Sec. 12601. Disposal of certain materials in national defense stockpile for deficit reduction.

Subtitle G—Child Protection Block Grant Program And Foster Care and Adoption Assistance

Sec. 12701. Establishment of program.
Sec. 12702. Conforming amendments.
Sec. 12703. Effective date; transition rule.

Subtitle H—Child Care

Sec. 12801. Short title and references.
Sec. 12802. Authorization of appropriations.
Sec. 12803. Lead agency.
Sec. 12804. Application and plan.
Sec. 12805. Limitation on State allotments.
Sec. 12806. Activities to improve the quality of child care.
Sec. 12807. Administration and enforcement.
Sec. 12808. Payments.
Sec. 12809. Annual report and audits.
Sec. 12810. Allotments.
Sec. 12811. Definitions.

Subtitle I—Child Nutrition Programs

CHAPTER 1—NATIONAL SCHOOL LUNCH ACT

Sec. 12901. Termination of additional payment for lunches served in high free and reduced price participation schools.
Sec. 12902. Direct Federal expenditures.
Sec. 12903. Value of food assistance.
Sec. 12904. Reduced price lunches.
Sec. 12905. Lunches, breakfasts, and supplements.
Sec. 12906. Summer food service program for children.
Sec. 12907. Child care food program.
Sec. 12908. Pilot projects.
Sec. 12909. Information clearinghouse.

CHAPTER 2—CHILD NUTRITION ACT

Sec. 12921. Special milk program.
Sec. 12922. Free and reduced price breakfasts.
Sec. 12923. Conforming reimbursement for paid breakfasts and lunches.
Sec. 12924. School breakfast program authorization.
Sec. 12925. Miscellaneous provisions and definitions.
Sec. 12926. Nutrition education and training.

Subtitle J—Food Stamps and Commodity Distribution

Sec. 13001. Short title.

CHAPTER 1—FOOD STAMP PROGRAM

Sec. 13011. Definition of certification period.
Sec. 13012. Definition of coupon.
Sec. 13013. Treatment of children living at home.
Sec. 13014. Optional additional criteria for separate household determinations.
Sec. 13015. Adjustment of thrifty food plan.
Sec. 13016. Definition of homeless individual.
Sec. 13017. State option for eligibility standards.
Sec. 13018. Earnings of students.
Sec. 13019. Energy assistance.
Sec. 13020. Deductions from income.
Sec. 13021. Vehicle allowance.
Sec. 13022. Vendor payments for transitional housing counted as income.
Sec. 13023. Doubled penalties for violating food stamp program requirements.
Sec. 13024. Disqualification of convicted individuals.
Sec. 13025. Disqualification.
Sec. 13026. Caretaker exemption.
Sec. 13027. Employment and training.
Sec. 13028. Comparable treatment for disqualification.
Sec. 13029. Disqualification for receipt of multiple food stamp benefits.
Sec. 13030. Disqualification of fleeing felons.
Sec. 13031. Cooperation with child support agencies.
Sec. 13032. Disqualification relating to child support arrears.
Sec. 13033. Work requirement.
Sec. 13034. Encourage electronic benefit transfer systems.
Sec. 13035. Value of minimum allotment.
Sec. 13036. Benefits on recertification.
Sec. 13037. Optional combined allotment for expedited households.
Sec. 13038. Failure to comply with other means-tested public assistance programs.
Sec. 13039. Allotments for households residing in centers.
Sec. 13040. Condition precedent for approval of retail food stores and wholesale food concerns.
Sec. 13041. Authority to establish authorization periods.
Sec. 13042. Information for verifying eligibility for authorization.
Sec. 13043. Waiting period for stores that fail to meet authorization criteria.
Sec. 13044. Expedited coupon service.
Sec. 13045. Withdrawing fair hearing requests.
Sec. 13046. Disqualification of retailers who intentionally submit falsified applications.
Sec. 13047. Disqualification of retailers who are disqualified under the WIC program.
Sec. 13048. Collection of overissuances.
Sec. 13049. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 13050. Limitation of Federal match.
Sec. 13051. Work supplementation or support program.
Sec. 13052. Authorization of pilot projects.
Sec. 13053. Employment initiatives program.
Sec. 13054. Reauthorization of Puerto Rico nutrition assistance program.
Sec. 13055. Simplified food stamp program.
Sec. 13056. State food assistance block grant.
Sec. 13057. American Samoa.
Sec. 13058. Assistance for community food projects.

CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS

Sec. 13071. Emergency food assistance program.

Subtitle K—Miscellaneous

Sec. 13101. Food stamp eligibility.
Sec. 13102. Reduction in block grants for social services.

Subtitle L—Reform of the Earned Income Credit

Sec. 13200. Amendment of 1986 code.
Sec. 13201. Earned income credit denied to individuals not authorized to be employed in the United States.
Sec. 13202. Repeal of earned income credit for individuals without children.
Sec. 13203. Modification of earned income credit amount and phaseout.
Sec. 13204. Rules relating to denial of earned income credit on basis of disqualified income.
Sec. 13205. Modification of adjusted gross income definition for earned income credit.
Sec. 13206. Provisions to improve tax compliance.

Subtitle M—Clinical Laboratories

Sec. 13301. Exemption of physician office laboratories.

Subtitle A—Block Grants for Temporary Assistance for Needy Families

SEC. 12100. REFERENCES TO THE SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 12101. BLOCK GRANTS TO STATES.

Part A of title IV (42 U.S.C. 601 et seq.) is amended to read as follows:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

"SEC. 401. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State, that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 406.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 402(a)(2)(B)) for calendar years 1996 through 2005.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 60 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 411 with equitable access to assistance under the State program funded under this part.

"(b) SPECIAL RULE FOR FISCAL YEAR 1996.—Notwithstanding subsection (a), the term 'eligible State' means, with respect to fiscal year 1996, a State that has submitted to the Secretary a plan described in subsection (a) within 3 months after the date of the enactment of this part.

"(c) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 402. PAYMENTS TO STATES.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant. The payment of these grants to States shall not be deemed to entitle any individual or family to any assistance under any State program funded under this part.

"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—

"(i) ⅓ of the total amount required to be paid to the State under section 403 of this title (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect));

"(ii) the total amount required to be paid to the State under such section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect)); or

"(iii) ⅔ of the total amount required to be paid to the State under such section 403 for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under section 403(l) (as so in effect).

"(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a grant in an amount equal to the State family assistance grant multiplied by—

"(i) 5 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or

"(ii) 10 percent—

"(I) if the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

"(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

"(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by

"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—

"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each qualifying State shall, subject to subparagraph (E), be entitled to receive from the Secretary for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the sum of—

"(i) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(ii) 2.5 percent of the sum of—

"(I) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(II) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year specified in the matter preceding clause (i).

"(B) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

"(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census.

"(C) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(E) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(b) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payment to the Fund in a total amount not to exceed $800,000,000.

"(3) COMPUTATION OF GRANT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State for a fiscal year an amount equal to the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on the date of the enactment of this part) of so much of the expenditures by the State in the fiscal year under the State program funded under this part as exceed the historic State expenditures (as defined in section 408(a)(7)(B)(iii)) for the State.

"(B) LIMITATION.—The total amount paid to a State under subparagraph (A) for any fiscal year shall not exceed an amount equal to 20 percent of the State family assistance grant for the fiscal year.

"(C) METHOD OF RECONCILIATION.—If, at the end of any fiscal year, the Secretary finds that a State to which amounts from the Fund were paid in the fiscal year did not meet the maintenance of effort requirement under paragraph (4)(B) for the fiscal year, the Secretary shall reduce the grant payable to the State under subsection (a)(1) for the immediately succeeding fiscal year by such amounts.

"(4) ELIGIBLE STATE.—

"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State for a fiscal year, if—

"(i)(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.

"(B) MAINTENANCE OF EFFORT.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure by the State during the fiscal year of an amount at least equal to 100 percent of the level of historic State expenditures for the State (as determined under section 408(e)).

"(5) STATE.—As used in this subsection, the term 'State' means each of the 50 States of the United States and the District of Columbia.

"(c) CONDITION OF GRANT.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a grant under this section, a State shall not provide cash assistance to a family that includes an adult who has received assistance under any State program funded under this part for 60 months (whether or not consecutive) after September 30, 1995, except as provided in paragraphs (2) and (3).

"(2) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant, as the case may be, has received assistance under the State program funded under this part, there shall be disregarded any month for which such assistance was provided with respect to the individual and throughout which the individual was—

"(A) a minor child; and

"(B) not the head of a household or married to the head of a household.

"(3) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 15 percent of the average monthly number of families to which the State is providing assistance under the program funded under this part.

"(C) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of subparagraph (A), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(i) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(ii) sexual abuse;

"(iii) sexual activity involving a dependent child;

"(iv) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(v) threats of, or attempts at, physical or sexual abuse;

"(vi) mental abuse; or

"(vii) neglect or deprivation of medical care.

"(4) RULE OF INTERPRETATION.—Paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"SEC. 403. USE OF GRANTS.

"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 402 may use the grant—

"(1) in any manner that is reasonably calculated to increase the flexibility of States in operating a program designed to—

"(A) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(B) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(C) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(D) encourage the formation and maintenance of two-parent families; and

"(2) in any manner that the State was authorized to use amounts received under part A or F of this title, as such parts were in effect on September 30, 1995.

"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

"(1) LIMITATION.—A State to which a grant is made under section 402 shall not expend more than 15 percent of the grant for administrative purposes.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

"(c) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 402 for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

"(A) Part B of this title.

"(B) Title XX of this Act.

"(C) The Child Care and Development Block Grant Act of 1990.

"(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

"(d) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

"(e) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 402 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(f) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 402 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

"SEC. 404. ADMINISTRATIVE PROVISIONS.

"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 402 in quarterly installments.

"(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 411(a)(1)(B) with respect to the State.

"(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

"(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

"(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated by the Secretary under paragraph (1) with respect to a State.

"(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"SEC. 405. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

"(a) LOAN AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

"(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 408(a)(1) at any time before the loan is to be made.

"(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 402(a) may be used including—

"(1) welfare anti-fraud activities; and

"(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 411.

"(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant.

"(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.

"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 406. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—

"(1) ALL FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	***The minimum participation rate is:***
1996	*15*
1997	*20*
1998	*25*
1999	*30*
2000	*35*
2001	*40*
2002 or thereafter	*50.*

"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate

specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

"If the fiscal year is:	*The minimum participation rate is:*
1996	*50*
1997	*75*
1998	*75*
1999 or thereafter	*90.*

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

"(ii) the amount by which—

"(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

"(II) the number of families receiving such assistance that are subject in such month to a reduction or termination of assistance pursuant to section 408(a)(2) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect on September 30, 1995) during the fiscal year immediately preceding such effective date.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995. Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 411.

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in such activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)):

"If the month is in fiscal year:	*The minimum average number of hours per week is:*
1996	*20*
1997	*20*
1998	*20*
1999	*25*
2000	*30*
2001	*30*
2002	*35*
2003 or thereafter	*35.*

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in such activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)).

"(3) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

"(5) on-the-job training;

"(6) job search and job readiness assistance;

"(7) community service programs;

"(8) vocational educational training (not to exceed 12 months with respect to any individual);

"(9) job skills training directly related to employment;

"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and

"(11) satisfactory attendance at secondary school, in the case of a recipient who—

"(A) has not completed secondary school; and

"(B) is a dependent child, or a head of household who has not attained 20 years of age.

"SEC. 407. PROHIBITIONS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to a family, unless the family includes—

"(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(B) a pregnant individual.

"(2) REDUCED ASSISTANCE FOR FAMILY IF ADULT REFUSES TO WORK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not fail to—

"(i) reduce the amount of assistance otherwise payable to a family receiving assistance under the State program funded under this part, pro rata (or more, at the option of the State) with respect to any period during a month in which an adult member of the family refuses to engage in work required in accordance with this section; or

"(ii) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult to work if the adult is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(i) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(iii) Unavailability of appropriate and affordable formal child care arrangements.

"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

"(B) may deny the family any assistance under the State program.

"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not fail to require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the the family leaves the program, shall not apply with respect to—

"(i) if the assignment occurs on or after October 1, 1997, and before October 1, 2000, any support (other than support collected pursuant to

section 464) which accrued before the family received such assistance and which the State has not collected by September 30, 2000; or

"(II) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by the date the family leaves the program.

"(B) LIMITATION.—A State to which a grant is made under section 402 may not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

"(5) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—

"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(B) an alternative educational or training program that has been approved by the State.

"(6) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—

"(I) has not attained 18 years of age; and

"(II) is not married, and has a minor child in his or her care.

"(B) EXCEPTION.—

"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 401(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(7) NO MEDICAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide medical services.

"(B) EXCEPTION FOR FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include family planning services.

"(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—a State to which a grant is made under section 402 may not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 402 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the recipient flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the recipient flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(II) is violating a condition of probation or parole imposed under Federal or State law; or

"(III) has information that is necessary for the officer to conduct the official duties of the officer; and

"(ii) the location or apprehension of the recipient is within such official duties.

"(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan submitted pursuant to section 401.

"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 401.

"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part, of the absence of the minor child from the home for the period specified in or provided for under subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

"(11) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 402 uses any part of the grant to provide assistance for any individual who is receiving a payment under a State plan for old-age assistance approved under section 2, a State program funded under part B that provides cash payments for foster care, or the supplemental security income program under title XVI, then the State may not disregard the payment in determining the amount of assistance to be provided to the family of which the individual is a member under the State program funded under this part.

"SEC. 408. PENALTIES.

"(a) IN GENERAL.—Subject to subsections (b), (c), and (d):

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 402 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the *satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.*

"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 410 for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 402 for a fiscal year has failed to comply with section 406(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 405 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary may not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 402(a)(1) for fiscal year 1996, 1997, 1998, 1999, or 2000 by the amount (if any) by which State expenditures under the State program funded under this part for the then immediately preceding fiscal year is less than the applicable percentage of historic State expenditures.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) STATE EXPENDITURES UNDER THE STATE PROGRAM FUNDED UNDER THIS PART.—

"(I) IN GENERAL.—The term 'State expenditures under the State program funded under this part' means, with respect to a State and a fiscal year, the sum of the expenditures by the State under the program for the fiscal year for—

"(aa) cash assistance;

"(bb) child care assistance;

"(cc) education, job training, and work;

"(dd) administrative costs; and

"(ee) any other use of funds allowable under section 403(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplanted by transfers from other State and local programs.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(I) for fiscal year 1996, 75 percent; and

"(II) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(iii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F of this title (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant for the immediately preceding fiscal year; bears to

"(bb) the total amount of Federal payments to the State under section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX or the MediGrant program under title XXI, or any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under title I.

"(C) APPLICABLE PERCENTAGE REDUCED FOR STATES WITH BEST OR MOST IMPROVED PERFORMANCE IN CERTAIN AREAS.—

"(i) SCORING OF STATE PERFORMANCE.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).

"(ii) CATEGORIES.—The categories described in this clause are the following:

"(I) Increasing the number of families that received assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance as a result of unsubsidized employment.

"(II) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.

"(III) Increasing the amount earned by families that receive assistance under this part.

"(IV) Reducing the percentage of families in the State that receive assistance under the State program funded under this part.

"(iii) REDUCTION OF MAINTENANCE OF EFFORT THRESHOLD.—

"(I) REDUCTION FOR STATES WITH 5 GREATEST SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) for the fiscal year is 1 of the 5 highest scores so assigned to States.

"(II) REDUCTION FOR STATES WITH 5 GREATEST IMPROVEMENT IN SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (ii) for which the difference between the score assigned to the State under clause (i) for the fiscal year and the score so assigned to the State for the immediately preceding fiscal year is 1 of the 5 greatest such differences.

"(III) LIMITATION ON REDUCTION.—The applicable percentage for a State for a fiscal year may not be reduced by more than 8 percentage points pursuant to this clause.

"(8) PENALTIES FOR SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall, subject to paragraph (2), reduce the grant payable to the State under section 402(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter throughout which the program is found not to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FOR FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 402(a)(1) for a fiscal year is reduced by reason of any of the preceding paragraphs of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the sum of—

"(A) the applicable percentage of the historic State expenditures; and

"(B) 105 percent of the total amount of such reductions under such preceding paragraphs.

"(b) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under subsection (a), notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any

such violations and how the State will insure continuing compliance with the requirements of this part.

''(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under subparagraph (A) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in subparagraph (A).

''(C) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

''(2) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in paragraph (1) if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

''(d) LIMITATION ON AMOUNT OF PENALTY.—

''(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

''(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year.

''SEC. 409. APPEAL OF ADVERSE DECISION.

''(a) IN GENERAL.—Within 5 days after the date any adverse decision is made or action is taken under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse decision or action, including any decision with respect to the State plan submitted under section 401 or the imposition of a penalty under section 408.

''(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

''(1) IN GENERAL.—Within 60 days after the date a State receives notice under this section of an adverse decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

''(2) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse decision or any portion of such a decision, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.

''(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

''(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

''(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

''(B) the United States District Court for the District of Columbia.

''(2) PROCEDURAL RULES.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

''SEC. 410. DATA COLLECTION AND REPORTING.

''(a) GENERAL REPORTING REQUIREMENT.—Beginning July 1, 1996, each State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on the families receiving assistance under the State program funded under this part:

''(1) The county of residence of the family.

''(2) Whether a child receiving such assistance or an adult in the family is disabled.

''(3) The ages of the members of such families.

''(4) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

''(5) The employment status and earnings of the employed adult in the family.

''(6) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

''(7) The educational status of each adult in the family.

''(8) The educational status of each child in the family.

''(9) Whether the family received subsidized housing, assistance under the State MediGrant plan approved under title XXI, food stamps, or subsidized child care, and if the latter 2, the amount received.

''(10) The number of months that the family has received each type of assistance under the program.

''(11) If the adults participated in, and the number of hours per week of participation in, the following activities:

''(A) Education.

''(B) Subsidized private sector employment.

''(C) Unsubsidized employment.

''(D) Public sector employment, work experience, or community service.

''(E) Job search.

''(F) Job skills training or on-the-job training.

''(G) Vocational education.

''(12) Information necessary to calculate participation rates under section 406.

''(13) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

''(14) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

''(A) employment;

''(B) marriage;

''(C) the prohibition set forth in section 407(a)(8);

''(D) sanction; or

''(E) State policy.

''(15) Any amount of unearned income received by any member of the family.

''(16) The citizenship of the members of the family.

''(b) USE OF ESTIMATES.—

''(1) AUTHORITY.—A State may comply with subsection (a) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

''(2) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

''(c) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by subsection (a) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

''(d) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by subsection (a) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

''(e) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 406(d)) during the quarter.

''(f) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

''(g) REPORT TO CONGRESS.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

''(1) whether the States are meeting—

''(A) the participation rates described in section 406(a); and

''(B) the objectives of—

''(i) increasing employment and earnings of needy families, and child support collections; and

''(ii) decreasing out-of-wedlock pregnancies and child poverty;

''(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

''(3) the characteristics of each State program funded under this part; and

''(4) the trends in employment and earnings of needy families with minor children living at home.

''SEC. 411. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

''(a) GRANTS FOR INDIAN TRIBES.—

''(1) TRIBAL FAMILY ASSISTANCE GRANT.—

''(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 402(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

''(B) AMOUNT DETERMINED.—

''(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or States under parts A and F of this title (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C).

''(ii) USE OF STATE SUBMITTED DATA.—

''(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

''(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making

the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).

"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 406(d).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 408, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 408(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 411(c)' for 'comply with section 406(a)'.

"(g) DATA COLLECTION AND REPORTING.—Section 410 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), a tribal organization in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with the requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the tribal organizations.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 412. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 406.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 402 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 402 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

"(1) the State submits a proposal to the Secretary for such evaluation,

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

"(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 402(a)(1) for the purpose of paying—

"(A) the cost of conducting the research described in subsection (a);

"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

"(C) the Federal share of any State-initiated study approved under subsection (f); and

"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"SEC. 413. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by subtitle A of the Personal Responsibility and Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for payment to the Bureau of the Census to carry out subsection (a).

"SEC. 414. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

"(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 402, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of such waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.

"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 417. DEFINITIONS.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual who—

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmuit.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(xiii) Metlakatla Indian Tribe.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.".

SEC. 12102. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

SEC. 12103. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and

(B) by striking "A or D of title IV of this Act" and inserting "D of such title".

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "under section 402(a)(26) or 471(a)(17)" and inserting "pursuant to section 408(a)(4) or under section 471(a)(17)".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A or aid is being paid under the State's plan approved under part E".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A or aid was being paid under the State's plan approved under part E".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and

(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A)) is amended—

(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and

(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A"; and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(4)".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(c) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(d) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(e) AMENDMENTS TO TITLE XI.—

(1) Section 1108 (42 U.S.C. 1308) is amended to read as follows:

"SEC. 1108. LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and B of title IV for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e).

"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $103,538,000 with respect to for Puerto Rico;

"(B) $4,812,000 with respect to Guam;

"(C) $3,677,397 with respect to the Virgin Islands; and

"(D) $1,122,095 with respect to American Samoa.

"(4) DISCRETIONARY CEILING AMOUNT.—The term 'discretionary ceiling amount' means, with respect to a territory, the dollar amount specified in subsection (c)(2) with respect to the territory.

"(c) DISCRETIONARY GRANTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (2) for the fiscal year for payment to the territory.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

"(A) $7,951,000 for payment to Puerto Rico;

"(B) $345,000 for payment to Guam;

"(C) $275,000 for payment to the Virgin Islands; and

"(D) $190,000 for payment to American Samoa.

"(d) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.

"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1).".

(2) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(3) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "under the program of aid to families with dependent children" and inserting "part A of such title".

(4) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(5) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(6) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(8) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(9) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";

(2) in subsection (e)—

(A) by striking "aid to families with dependent children" and inserting "benefits under a State program funded"; and

(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(3) by adding at the end the following new subsection:

"(i) ELIGIBILITY UNDER OTHER LAW.—Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of *title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".*

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 12105. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) Provision for Reimbursement of Expenses.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children Program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)"; and

(5) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with

dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

SEC. 12106. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.

(b) PENALTIES.—

(1) IN GENERAL.—Paragraphs (2) through (7) and paragraph (9) of section 408(a) of the Social Security Act (as added by section 12101 of this Act) shall apply with respect to fiscal years beginning on or after October 1, 1996.

(2) MISUSE OF FUNDS.—Paragraphs (1) and (8) of section 408(a) of the Social Security Act (as added by section 12101 of this Act, shall apply with respect to fiscal years beginning on or after October 1, 1995.

(c) TRANSITION RULES.—

(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—

(A) 9-MONTH EXTENSION.—A State may elect to continue the State AFDC program until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE AFDC PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under any State AFDC program on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—If a State elects to continue the State AFDC program pursuant to subparagraph (A), the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the State family assistance grant (as defined in section 402(a)(1)(B) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act)); minus

(II) any obligations of the Federal Government to the State under such part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 402(a)(1) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act), the total obligations of the Federal Government to the State under such section 402(a)(1) for fiscal year 1996 after the termination of the State AFDC program shall not exceed an amount equal to—

(I) the amount described in clause (i)(I) of this subparagraph; minus

(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State on or after October 1, 1995.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 401(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under subparagraph (C)(ii) of this paragraph (including the formula for computing the amount of the reduction).

(E) STATE AFDC PROGRAM DEFINED.—As used in this paragraph, the term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a

State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs, and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this subtitle, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 415 of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act).

(d) SUNSET.—The amendment made by section 12101 shall be effective only during the 6-year period beginning on October 1, 1995.

Subtitle B—Supplemental Security Income

SEC. 12200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 12201. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition that prevents the individual from managing such benefits.".

(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II)".

(4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(c) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"SEC. 1636. In the case of any eligible individual whose benefits under this title by reason of disability are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "to—" and all that follows through "in cases in which" and inserting "to individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, in cases in which";

(B) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(C) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, may reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than January 1, 1997, the Commissioner of Social Security shall complete the eligibility redetermination of each individual who reapplies for benefits under clause (i) pursuant to the procedures of title XVI of such Act.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE AND TREATMENT REFERRAL REQUIREMENTS.—The amendments made by subsections (b) and (c) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and

(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

SEC. 12202. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12203. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) A person shall not be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1) and subsection (a), is amended by inserting after paragraph (3) the following new paragraph:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits

under this title, if the officer furnishes the Commissioner with the name of the recipient and notifies the Commissioner that—

''(A) the recipient—

''(i) is described in subparagraph (A) or (B) of paragraph (3); or

''(ii) has information that is necessary for the officer to conduct the officer's official duties; and

''(B) the location or apprehension of the recipient is within the officer's official duties.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 12211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—

(1) in subparagraph (A), by striking ''An individual'' and inserting ''Except as provided in subparagraph (C), an individual'';

(2) in subparagraph (A), by striking ''(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)'';

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

''(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled.''; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking ''(D)'' and inserting ''(E)''.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as subclauses (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and by moving their left hand margin 2 ems to the right;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following:

''(A) in the case of an individual who is age 18 or older—'';

(5) at the end of subparagraph (A)(iii) (as redesignated by paragraphs (3) and (4)), by striking the period and inserting ''; or'';

(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

''(B) in the case of an individual who is under the age of 18—

''(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

''(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked or severe functional limitations; or'';

(7) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph ''in the case of any individual,'' before ''substantial evidence''; and

(8) in the first sentence following subparagraph (C) (as redesignated by paragraph (7)), by—

(A) inserting ''(i)'' before ''to restore''; and

(B) inserting '', or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations'' immediately before the period.

(d) AMOUNT OF BENEFITS.—Section 1611(b) (42 U.S.C. 1382(b)) is amended by adding at the end the following new paragraph:

''(3)(i) Except with respect to individuals described in clause (ii), the benefit under this title for an individual described in section 1614(a)(3)(C) shall be payable at a rate equal to 75 percent of the rate otherwise determined under this subsection.

''(ii) An individual is described in this clause if such individual is described in section 1614(a)(3)(C), and—

''(I) in the case of such an individual under the age of 6, such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the home; or

''(II) in the case of such an individual who has attained the age of 6, such individual requires personal care assistance with—

''(aa) at least 2 activities of daily living;

''(bb) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others; or

''(cc) the administration of medical treatment; and

who without such assistance would require full-time or part-time specialized care outside the home.

''(iii)(I) For purposes of clause (ii), the term 'specialized care' means medical care beyond routine administration of medication.

''(II) For purposes of clause (ii)(II)—

''(aa) the term 'personal care assistance' means at least hands-on and stand-by assistance, supervision, or cueing; and

''(bb) the term 'activities of daily living' means eating, toileting, dressing, bathing, and mobility.''.

(e) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) IN GENERAL.—The provisions of, and amendments made by, subsections (a), (b), and (c) shall apply to applicants for benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(B) ELIGIBILITY RULES.—The amendments made by subsection (d) shall apply to—

(i) applicants for benefits under title XVI of the Social Security Act for months beginning on or after January 1, 1997; and

(ii) with respect to continuing disability reviews of eligibility for benefits under such title occurring on or after such date.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, and amendments made by, subsections (a), (b), and (c). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a), (b), and (c), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REGULATIONS.—The Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(4) APPROPRIATIONS.—

(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1996, $75,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.

(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds otherwise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.

SEC. 12212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 12211(a)(3), is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

"(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(iv) The number of months of ineligibility under this clause for an individual shall be equal to—

"(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—

"(i) the individual intended to dispose of the resources at fair market value;

"(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

"(iii) all resources transferred for less than fair market value have been returned to the individual; or

"(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

"(ii) In the case of a trust established by an individual (within the meaning of paragraph (2)(A) of subsection (e)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (2) of such subsection) or the residue of such portion upon the termination of the trust—

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

"(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan under title XXI (as provided in subparagraph (B)); and

"(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

"(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XXI.

"(3) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust; and

"(B) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an

agreement entered into under section 212(b) of Public Law 93-66.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers of resources for less than fair market value that occur at least 90 days after the date of the enactment of this Act.

(b) TREATMENT OF ASSETS HELD IN TRUST.—

(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:

"TRUSTS

"(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.

"(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(C) This subsection shall apply without regard to—

"(i) the purposes for which the trust is established;

"(ii) whether the trustees have or exercise any discretion under the trust;

"(iii) any restrictions on when or whether distributions may be made from the trust; or

"(iv) any restrictions on the use of distributions from the trust.

"(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.

"(5) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual, including—

"(i) any income otherwise excluded by section 1612(b);

"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—

"(I) such individual;

"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or

"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and

"(D) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.".

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies); except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.

(c) REQUIREMENT TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

"(aa) 6, and

"(bb) the maximum monthly benefit payable under this title to an eligible individual.

"(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

"(II) An allowable expense described in this subclause is an expense for—

"(aa) education or job skills training;

"(bb) personal needs assistance;

"(cc) special equipment;

"(dd) housing modification;

"(ee) medical treatment;

"(ff) therapy or rehabilitation; or

"(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in division (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

"(aa) by a representative payee shall constitute misuse of benefits for all purposes of this paragraph, and any representative payee who knowingly misuses benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such misused benefits; and

"(bb) by an eligible individual who is his or her own representative payee shall be considered an overpayment subject to recovery under subsection (b).

"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

"(iii) The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).".

(2) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (9), by striking "; and" and inserting a semicolon;

(B) in the first paragraph (10), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (10) as paragraph (11), and by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(12) the assets and accrued interest or other earnings of any account established and maintained in accordance with section 1631(a)(2)(F).".

(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking "and" at the end of paragraph (19);

(B) by striking the period at the end of paragraph (20) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 12214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "title XIX, or" and inserting "title XIX,"; and

(2) by inserting "or, in the case of an eligible individual under the age of 18 receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by sections 12211, 12212, 12213, and 12214.

Subtitle C—Child Support

SEC. 12300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this subtitle an amendment is expressed in terms of an amendment to or repeal of *a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.*

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

SEC. 12301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance and adoption assistance are provided under the State program funded under part B of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with paragraph (29)) that it is against the best interests of the child to do so; and

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child."; and

(2) in paragraph (6)—

(A) by striking "provide that" and inserting "provide that—";

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";

(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 12302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) retain, or distribute to the family, the State share of the amount so collected; and

"(B) pay to the Federal Government the Federal share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

"(I) PRE-OCTOBER 1997.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) POST-SEPTEMBER 1997.—With respect to amounts collected on or after October 1, 1997—

"(aa) IN GENERAL.—The State shall distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—To the extent that division (aa) does not apply to the amount, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)(A)) of the amount so collected, to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

"(I) PRE-OCTOBER 2000.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued before the family received assistance, and

"(bb) are collected before October 1, 2000.

"(II) POST-SEPTEMBER 2000.—Unless based on the report required by paragraph (4), the Congress determines otherwise, with respect to amounts collected on or after October 1, 2000—

"(aa) IN GENERAL.—The State shall first distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrears with respect to the family that accrued before the family received assistance from the State .

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—The State shall retain the State share of the amounts so collected in excess of those distributed pursuant to division (aa) and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, to the extent necessary to reimburse all or part of the amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent necessary to reimburse amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, the State shall treat any support arrearages collected as accruing in the following order:

"(I) to the period after the family ceased to receive assistance;

"(II) to the period before the family received assistance; and

"(III) to the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some states has been effective in moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995); or

"(B) benefits under the State plan approved under part E of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995).

"(2) FEDERAL SHARE.—The term 'Federal share' means—

"(A) if the amounts collected and retained by the State (to the extent necessary to reimburse amounts paid to families as assistance by the State) are equal to or greater than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the highest Federal medical assistance percentage in effect for the State in fiscal year 1995 or any succeeding year of the amount so collected; or

"(B) if the amounts so collected and retained by the State are less than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the amounts so collected and retained less the State share in fiscal year 1995.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—When a family with respect to which services are provided under a State plan approved under this part ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under section 454, except that an application or other request to continue services shall not be required of such a family and section 454(6)(B) shall not apply to the family.".

(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

SEC. 12303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 12301(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of one party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of one party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—LOCATE AND CASE TRACKING

SEC. 12311. STATE CASE REGISTRY.

Section 454A, as added by section 12344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDIGRANT AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 12312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b) and 12303(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 12344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 12344(a)(2) and as amended by section 12311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 12313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a) and 12312(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of this section (other than subsection (f)) not later than October 1, 1997.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—

"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1996 and includes any governmental entity and any labor organization.

"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made not later than 20 days after the date the employer hires the employee.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's *wages are not subject to withholding pursuant to section 466(b)(3).*

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

SEC. 12314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.".

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 12315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 12316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and

(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) New Components.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

"(h) Federal Case Registry of Child Support Orders.—

"(1) In general.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) Case information.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i) National Directory of New Hires.—

"(1) In general.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) Entry of data.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) Administration of federal tax laws.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) List of multistate employers.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) Information Comparisons and Other Disclosures.—

"(1) Verification by social security administration.—

"(A) In general.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) Verification by SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) Information comparisons.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) Information comparisons and disclosures of information in all registries for title IV program purposes.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) Provision of new hire information to the social security administration.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

"(5) Research.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k) Fees.—

"(1) For SSA verification.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) For information from state directories of new hires.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) For information furnished to state and federal agencies.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) Restriction on Disclosure and Use.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) Information Integrity and Security.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) Federal Government Reporting.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".

(g) Conforming Amendments.—

(1) To part D of title IV of the Social Security Act.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan" before the semicolon.

(2) To Federal Unemployment Tax Act.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) To State grant program under title III of the Social Security Act.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section

453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DISCLOSURE TO CERTAIN AGENTS.—The address and social security account number (or numbers) of an individual with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C)."

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)" and inserting "paragraph (6) or (12) of subsection (l)".

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations."

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".

SEC. 12317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 12315 of this Act, is amended by adding at the end the following new paragraph:

"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking "may require" and inserting "shall require";

(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.";

(3) in clause (ii), by inserting "or marriage certificate" after "Such numbers shall not be recorded on the birth certificate".

(4) in clause (vi), by striking "may" and inserting "shall"; and

(5) by adding at the end the following new clauses:

"(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.".

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 12321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—

"(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on or after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

"(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.

SEC. 12322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 12323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315 and 12317(a) of this Act, is amended by adding at the end the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 12324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) not later than June 30, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 12325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 12314 of this Act, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the *extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".*

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 12344(a)(2) and as amended by sections 12311 and 12312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

CHAPTER 4—PATERNITY ESTABLISHMENT

SEC. 12331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish.

"(iii) PATERNITY ESTABLISHMENT SERVICES.—

"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II) REGULATIONS.—

"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

"(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child only if—

"(I) the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

"(I) 60 days; or

"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 12332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability *and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.*

SEC. 12333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), and 12313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish through the State agency, or at the option of the State, through the State agencies administering the State programs funded under part A and title XXI;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A or the State program under title XXI; and

"(E) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

SEC. 12341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) Development of New System.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program.

(b) Conforming Amendments to Present System.—Section 458 (42 U.S.C. 658) is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";

(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 407(a)(4)";

(3) in subsections (b) and (c)—

(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and

(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and

(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".

(c) Calculation of IV–D Paternity Establishment Percentage.—

(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in each of subparagraphs (A) and (B), by striking "75" and inserting "90".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—

(A) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(B) by striking "(or all States, as the case may be)".

(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended by adding at the end the following new sentence: "In meeting the 90 percent paternity establishment requirement, a State may calculate either the paternity establishment rate of cases in the program funded under this part or the paternity establishment rate of all out-of-wedlock births in the State.".

(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B) (as so redesignated) by inserting "and securing support" before the period.

(d) Effective Dates.—

(1) Incentive adjustments.—

(A) In general.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1997, except to the extent provided in subparagraph (B).

(B) Application of section 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 1999.

(2) Penalty reductions.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 12342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) State Agency Activities.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages to the extent necessary for purposes of sections 452(g) and 458.".

(b) Federal Activities.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 12343. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(a), 12313(a), and 12333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 12344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) Revised Requirements.—

(1) In general.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 12303(a)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 12344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995;".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

(B) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is 80 percent.".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 12345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 12316 of this Act, is amended by adding at the end the following new subsection:

"(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 12346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 12351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(A) IN GENERAL.—

"(i) 3-YEAR CYCLE.—Except as provided in subparagraphs (B) and (C), the State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(ii) METHODS OF ADJUSTMENT.—The State may elect to review and, if appropriate, adjust an order pursuant to clause (i) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.

"(B) AUTOMATED METHOD.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(C) REQUEST UPON SUBSTANTIAL CHANGE IN CIRCUMSTANCES.—The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(D) NOTICE OF RIGHT TO REVIEW.—The State shall provide notice not less than once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".

SEC. 12352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 12353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section—

(1) FINANCIAL INSTITUTION.—The term "financial institution" means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v));

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

(2) FINANCIAL RECORD.—The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 12361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and";

(3) by adding at the end the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is *based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.*

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death; and

"(iii) worker's compensation benefits paid under Federal or State law but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following: new subparagraph

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 662(i)(2)))"; and

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 662(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 12363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 407(a)(4) of the Social Security Act (42 U.S.C. 607(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 12365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) of the Social Security Act (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), and 12323 of this Act, is amended by adding at the end the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to seek a court order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 406(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C.666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

SEC. 12366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 12316 and 12345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 12367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".

SEC. 12368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) LIENS.—Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.".

SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 12370. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

"(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

"(1) MANDATORY ELEMENTS.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

"(C) An agency of the foreign country is designated as a Central Authority responsible for—

"(i) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and

"(ii) ensuring compliance with the standards established pursuant to this subsection.

"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—

"(1) development of uniform forms and procedures for use in such cases;

"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(b), 12313(a), 12333, and 12343(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting "; and"; and

(3) by adding after paragraph (30) the following new paragraph:

"(31)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".

SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, and 12369 of this Act, is amended by adding at the end the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any Federal or State commercial savings bank, including savings association or cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.".

SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, and 12371 of this Act, is amended by adding at the end the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parents of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parents of such child.".

CHAPTER 8—MEDICAL SUPPORT

SEC. 12376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 12377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, 12371, and 12372 of this Act, is amended by adding at the end the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

SEC. 12381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:

"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or non-profit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 12391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS

SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined section 12431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(5) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle the term "Federal public benefit" means a Federal public benefit providing direct spending for—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 12402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 12431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, and (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—Paragraph (1) shall apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 12403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 12431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage to be a fully insured individual for old-age retirement benefits under title II of the Social Security Act, (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter, and (III) at the time of application is otherwise eligible for such benefits.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID AND MEDIGRANT.—The program of medical assistance under title XIX and XXI of the Social Security Act.

SEC. 12403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 12431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle, the term "Federal means-tested public benefit" means a Federal public benefit providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) Such term does not include the following:

(A) Emergency medical services under title XIX or XXI of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

SEC. 12421. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) In General.—Notwithstanding any other provision of law and except as provided in subsection (c), in determining the eligibility and the amount of benefits of an alien for any means-tested public benefits program (as defined in subsection (e)) the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 12422) in behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) Application.—Subsection (a) shall apply with respect to an alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act.

(c) Exceptions.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(d) Review of Income and Resources of Alien Upon Reapplication.—Whenever an alien is required to reapply for benefits under any means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(e) Means-Tested Public Benefits Program Defined.—The term "means-tested public benefits program" means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) Application.—

(1) If on the date of the enactment of this Act, a means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 12422. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) In General.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"Sec. 213A. (a) Enforceability.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) Forms.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) Remedies.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) Notification of Change of Address.—

"(1) In general.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

"(2) Penalty.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) Reimbursement of Government Expenses.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(f) Definitions.—For the purposes of this section—

"(1) Sponsor.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any State; and

"(D) is the person petitioning for the admission of the alien under section 204.

"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term 'means-tested public benefits program' means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

SEC. 12423. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(C), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another individual who is a United States citizen.".

CHAPTER 3—GENERAL PROVISIONS

SEC. 12431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the terms used in this subtitle have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this subtitle, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 12432. REAPPLICATION FOR SSI BENEFITS.

(a) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the application of section 12402(a)(2)(D), the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(b) REAPPLICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subsection (a) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(2) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under paragraph (1) pursuant to the procedures of such title XVI.

SEC. 12433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this subtitle may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this subtitle may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This subtitle does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle E—Teaching Hospital and Graduate Medical Education Trust Fund

CHAPTER 1—TRUST FUND

SEC. 12501. ESTABLISHMENT OF FUND; PAYMENTS TO TEACHING HOSPITALS.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XXI the following title:

"TITLE XXII—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"TABLE OF CONTENTS OF TITLE

"PART A—ESTABLISHMENT OF FUND
"Sec. 2201. Establishment of Fund.
"PART B—PAYMENTS TO TEACHING HOSPITALS
"Subpart 1—Requirement of Payments
"Sec. 2211. Formula payments to teaching hospitals.
"Sec. 2212. Additional provisions regarding annual payment document.
"Subpart 2—Amount Relating to MedicarePlus Program
"Sec. 2221. Determination of amount relating to MedicarePlus program.
"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education
"Sec. 2231. Determination of amount relating to indirect costs.
"Sec. 2232. Indirect costs; special rules regarding payments from general account.
"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education
"Sec. 2241. Determination of amount relating to direct costs.
"Sec. 2242. Direct costs; special rules regarding payments from general account.
"Sec. 2243. Direct costs; authority for payments to consortia of providers.

"PART A—ESTABLISHMENT OF FUND

"SEC. 2201. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts appropriated to the Fund in subsections (d), (f)(3), and (g), and amounts transferred to the Fund under section 1886(j). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2211.

"(c) ACCOUNTS IN FUND.—There are established within the Fund the following accounts:

"(1) The General MedicarePlus Incentive Account.

"(2) The General Indirect-Costs Medical Education Account.

"(3) The General Direct-Costs Medical Education Account.

"(4) The Medicare Indirect-Costs Medical Education Account.

"(5) The Medicare Direct-Costs Medical Education Account.

"(d) GENERAL TRANSFERS TO FUND.—

"(1) IN GENERAL.—For fiscal year 1997 and each subsequent fiscal year, there are appropriated to the Fund (effective on the date specified in paragraph (2)), out of any money in the Treasury not otherwise appropriated, the following amounts (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, $1,100,000,000.

"(B) For fiscal year 1998, $1,300,000,000.

"(C) For fiscal year 1999, $2,000,000,000.

"(D) For fiscal year 2000, $2,600,000,000.

"(E) For fiscal year 2001, $3,100,000,000.

"(F) For fiscal year 2002, $3,400,000,000.

"(G) For fiscal year 2003 and each subsequent fiscal year, the greater of the amount appropriated for the preceding fiscal year or an amount equal to the product of—

"(i) the amount appropriated for the preceding fiscal year; and

"(ii) 1 plus the percentage increase in the nominal gross domestic product for the one-year period ending upon July 1 of such preceding fiscal year.

"(2) EFFECTIVE DATE FOR ANNUAL APPROPRIATION.—For purposes of paragraph (1), the date specified in this paragraph for a fiscal year is the first day of the fiscal year.

"(3) ALLOCATION FOR GENERAL MEDICAREPLUS INCENTIVE ACCOUNT.—Of the amount appropriated in paragraph (1) for a fiscal year, there shall be allocated to the General MedicarePlus Incentive Account the following percentage (as applicable to the fiscal year involved):

"(A) For fiscal year 1997, 20 percent.

"(B) For fiscal year 1998, 30 percent.

"(C) For fiscal year 1999, 40 percent.

"(D) For fiscal year 2000 and each subsequent fiscal year, 50 percent.

"(4) ALLOCATIONS FOR GENERAL MEDICAL EDUCATION ACCOUNTS.—

"(A) IN GENERAL.—Of the amount appropriated in paragraph (1) for a fiscal year and remaining after the allocation required in paragraph (3) for the year has been made—

"(i) there shall be allocated to the General Indirect-Costs Medical Education Account the percentage determined under subparagraph (B)(ii); and

"(ii) there shall be allocated to the General Direct-Costs Medical Education Account the percentage determined under subparagraph (B)(iii).

"(B) DETERMINATION OF FIXED PERCENTAGES.—The Secretary of Health and Human Services, acting through the Administrator of the Health Care Financing Administration, shall determine the following:

"(i) The total amount of payments that were made under subsections (d)(5)(B) and (h) of section 1886 for fiscal year 1994.

"(ii) The percentage of such total that was constituted by payments under subsection (d)(5)(B) of such section.

"(iii) The percentage of such total that was constituted by payments under subsection (h) of such section.

"(e) TRANSFERS FROM MEDICARE PROGRAM.—Amounts shall, in accordance with section 1886(j), be transferred to the Fund from the trust funds established under parts A and B of title XVIII.

"(f) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(g) MONETARY GIFTS TO FUND.—There are appropriated to the Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"Subpart 1—Requirement of Payments

"SEC. 2211. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—Subject to subsection (d), in the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1997 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and the total of the payments to the hospital for the fiscal year shall equal the sum of the following:

"(1) An amount determined under section 2221 (relating to the MedicarePlus program).

"(2) An amount determined under section 2231 (relating to the indirect costs of graduate medical education).

"(3) An amount determined under section 2241 (relating to the direct costs of graduate medical education).

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital during a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. This subsection is subject to section 2212.

"(c) PERIODIC PAYMENTS.—Payments under subsection (a) for a teaching hospital for a fiscal year shall be made periodically, at such intervals and in such amounts as the Secretary determines to be appropriate (subject to applicable Federal law regarding Federal payments).

"(d) SPECIAL RULES.—

"(1) PAYMENTS TO CONSORTIA OF PROVIDERS.—In the case of payments under subsection (a) that are determined under section 2241:

"(A) The requirement under such subsection to make the payments to teaching hospitals is subject to the authority of the Secretary under section 2243(a) to make payments to qualifying consortia.

"(B) If the Secretary authorizes payments to a consortium under section 2243(a), subsections (a) and (b) of this section (other than subsection (a)(2)) apply to the consortium to the same extent and in the same manner as the subsections apply to teaching hospitals.

"(2) HOSPITALS IN STATES WITH CERTAIN DEMONSTRATION PROJECTS.—Paragraph (2) of subsection (a) is subject to section 2232(d)(1)(B), and paragraph (3) of such subsection is subject to section 2242(d)(1)(B).

"(e) ADMINISTRATOR OF PROGRAMS.—This part, and the subsequent parts of this title, shall be carried out by the Secretary acting through the Administrator of the Health Care Financing Administration.

"(f) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—For purposes of this title, the term 'approved medical residency training program' has the meaning given such term in section 1886(h)(5)(A).

"SEC. 2212. ADDITIONAL PROVISIONS REGARDING ANNUAL PAYMENT DOCUMENT.

"(a) PERIODIC REPORTS.—In collecting information under section 2211(b), the Secretary may require that information be submitted to the Secretary in periodic reports.

"(b) INFORMATION RELATING TO MEDICARE PROGRAM.—Information collected by the Secretary under section 2211(b) with respect to a teaching hospital for a fiscal year shall include information on the following:

"(1) The number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII.

"(2) For each discharge with respect to which payment is received from the Secretary pursuant to part A of title XVIII, the diagnosis-related group within which the discharge is classified (as determined in accordance with section 1886(d)(4)(A)).

"(3) The medicare patient load of the hospital (as defined in section 1886(h)(3)(C)).

"Subpart 2—Amount Relating to MedicarePlus Program

"SEC. 2221. DETERMINATION OF AMOUNT RELATING TO MEDICAREPLUS PROGRAM.

"(a) IN GENERAL.—For purposes of section 2211(a)(1), the amount determined under this section for a teaching hospital for a fiscal year is the product of—

"(1) the amount in the General MedicarePlus Incentive Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

"(2) the percentage determined for the hospital under subsection (b) for the fiscal year.

"(b) ANNUAL HOSPITAL-SPECIFIC PERCENTAGE.—For purposes of subsection (a)(2), the percentage determined under this subsection for a teaching hospital for a fiscal year is the percentage constituted by the ratio of—

"(1) the number of inpatient discharges for the fiscal year attributable to individuals enrolled in the MedicarePlus program under part C of title XVIII; to

"(2) the sum of the respective numbers determined under paragraph (1) for the fiscal year for all teaching hospitals.

"Subpart 3—Amount Relating to Indirect Costs of Graduate Medical Education

"SEC. 2231. DETERMINATION OF AMOUNT RELATING TO INDIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(2), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Indirect-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Indirect-Costs Medical Education Account), subject to section 2232(d)(1)(B).

"(b) PAYMENT FROM GENERAL ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Indirect-Costs Medical Education Account on the date specified in section 2201(d)(2) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (C) for each fiscal year of the applicable period (as defined in subparagraph (B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this paragraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2232.

"(B) APPLICABLE PERIOD REGARDING RELEVANT DATA; FISCAL YEARS 1992 THROUGH 1994.—For purposes of this part, the term 'applicable period' means the period beginning on the first day of fiscal year 1992 and continuing through the end of fiscal year 1994.

"(C) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of

subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(C)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such subsection make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in effect under section 1886(d)(5)(B) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Indirect-Costs Medical Education Account.

"SEC. 2232. INDIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(d)(5)(B) were for discharges occurring in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraph (3).

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for discharges occurring during fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(d)(5)(B) for discharges occurring during fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(d)(5)(B) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital, subject to paragraphs (4) and (5).

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(d)(5)(B) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2231(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2231 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2231(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—

"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2231(b)(2) to the hospital; and

"(B) the hospital is not eligible for any payments from the Medicare Indirect-Costs Medical Education Account.

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):

"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(d)(5)(b) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2231(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2231(b)(2)(C)(i) for such year.

"Subpart 4—Amount Relating to Direct Costs of Graduate Medical Education

"SEC. 2241. DETERMINATION OF AMOUNT RELATING TO DIRECT COSTS.

"(a) IN GENERAL.—For purposes of section 2211(a)(3), the amount determined under this section for a teaching hospital for a fiscal year is the sum of—

"(1) the amount determined under subsection (b) (relating to the General Direct-Costs Medical Education Account); and

"(2) the amount determined under subsection (c) (relating to the Medicare Direct-Costs Medical Education Account), subject to section 2242(d)(1)(B).

"(b) PAYMENT FROM GENERAL ACCOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the amount determined under this subsection for a teaching hospital for a fiscal year is the product of—

"(A) the amount in the General Direct-Costs Medical Education Account on the applicable date under section 2201(d)(2) (once the appropriation under such section is made); and

"(B) the percentage determined for the hospital under paragraph (2).

"(2) FIXED HOSPITAL-SPECIFIC PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the percentage determined under this paragraph for a teaching hospital is the mean average of the respective percentages determined under subparagraph (B) for each fiscal year of the applicable period (as defined in section 2231(b)(2)(B)), adjusted by the Secretary (upward or downward, as the case may be) on a pro rata basis to the extent necessary to ensure that the sum of the percentages determined under this subparagraph for all teaching hospitals is equal to 100 percent. The preceding sentence is subject to section 2242.

"(B) RESPECTIVE DETERMINATIONS FOR FISCAL YEARS OF APPLICABLE PERIOD.—For purposes of subparagraph (A), the percentage determined under this subparagraph for a teaching hospital for a fiscal year of the applicable period is the percentage constituted by the ratio of—

"(i) the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning during the fiscal year involved; to

"(ii) the sum of the respective amounts determined under clause (i) for the fiscal year for all teaching hospitals.

"(3) AVAILABILITY OF DATA.—If a teaching hospital received the payments specified in paragraph (2)(B)(i) during the applicable period but a complete set of the relevant data is not available to the Secretary for purposes of determining an amount under such paragraph for the fiscal year involved, the Secretary shall for purposes of such paragraph make an estimate on the basis of such data as are available to the Secretary for the applicable period.

"(c) PAYMENT FROM MEDICARE ACCOUNT.—For purposes of subsection (a)(2), the amount determined under this subsection for a teaching hospital for a fiscal year is an amount determined in accordance with the methodology in effect under section 1886(h) for such year. Payments made under section 2211 pursuant to the preceding sentence shall be made from the Medicare Direct-Costs Medical Education Account.

"SEC. 2242. DIRECT COSTS; SPECIAL RULES REGARDING PAYMENTS FROM GENERAL ACCOUNT.

"(a) SPECIAL RULE REGARDING FISCAL YEARS 1995 AND 1996.—

"(1) IN GENERAL.—In the case of a teaching hospital whose first payments under section 1886(h) were for the cost reporting period beginning in fiscal year 1995 or in fiscal year 1996 (referred to in this subsection individually as a 'first payment year'), the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraph (3).

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for a teaching hospital is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the total amount of payments received by the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996, the amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for cost reporting periods beginning in fiscal year 1995 if such section, as in effect for fiscal year 1996, had applied to the hospital for fiscal year 1995.

"(B)(i) If the first payment year for the hospital is fiscal year 1995, the amount determined under this subparagraph is the aggregate total of the payments received by teaching hospitals under section 1886(h) for cost reporting periods beginning in fiscal year 1995.

"(ii) If the first payment year for the hospital is fiscal year 1996—

"(I) the Secretary shall make an estimate in accordance with subparagraph (A)(ii) for all teaching hospitals; and

"(II) the amount determined under this subparagraph is the sum of the estimates made by the Secretary under subclause (I).

"(3) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (2) shall be adjusted by the Secretary in accordance with section 2241(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(b) NEW TEACHING HOSPITALS.—

"(1) IN GENERAL.—In the case of a teaching hospital that did not receive payments under section 1886(h) for any of the fiscal years 1992 through 1996, the percentage determined under paragraph (3) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital, subject to paragraphs (4) and (5).

"(2) DESIGNATED FISCAL YEAR REGARDING DATA.—The determination under paragraph (3) of a percentage for a teaching hospital described in paragraph (1) shall be made for the most recent fiscal year for which the Secretary has sufficient data to make the determination (referred to in this subsection as the 'designated fiscal year').

"(3) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1), the percentage determined under this paragraph for the teaching hospital involved is the percentage constituted by the ratio of the amount determined under subparagraph (A) to the amount determined under subparagraph (B), as follows:

"(A) The amount determined under this subparagraph is an amount equal to an estimate by the Secretary of the total amount of payments that would have been paid to the hospital under section 1886(h) for the designated fiscal year if such section, as in effect for the first fiscal year for which payments pursuant to this subsection are to be made to the hospital, had applied to the hospital for cost reporting periods beginning in the designated fiscal year.

"(B) The Secretary shall make an estimate in accordance with subparagraph (A) for all teaching hospitals. The amount determined under this subparagraph is the sum of the estimates made by the Secretary under the preceding sentence.

"(4) ADJUSTMENT OF PERCENTAGE.—The percentage determined under paragraph (3) shall be adjusted by the Secretary in accordance with section 2223(b)(2)(A) to the extent determined by the Secretary to be necessary with respect to a sum that equals 100 percent.

"(5) LIMITATION.—This subsection does not apply to a teaching hospital described in paragraph (1) if the hospital is in a State for which a demonstration project under section 1814(b)(3) is in effect.

"(c) CONSOLIDATIONS AND MERGERS.—In the case of two or more teaching hospitals that have each received payments pursuant to section 2241 for one or more fiscal years and that undergo a consolidation or merger, the percentage applicable to the resulting teaching hospital for purposes of section 2241(b)(2) is the sum of the respective percentages that would have applied pursuant to such section if the hospitals had not undergone the consolidation or merger.

"(d) STATES WITH CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In the case of a teaching hospital in a State for which a demonstration project under section 1814(b)(3) is in effect—

"(A) the percentage determined under paragraph (2) for the hospital is deemed to be the percentage applicable under section 2241(b)(2) to the hospital; and

"(B) the hospital is not eligible for any payments from the Medicare Direct-Costs Medical Education Account.

"(2) DETERMINATION OF FIXED PERCENTAGE.—For purposes of paragraph (1)(A):

"(A) The Secretary shall make an estimate of the total amount of payments that would have been received under section 1886(h) by the hospital involved with respect to each of the fiscal years of the applicable period if such section (as in effect for such fiscal years) had applied to the hospital for such years.

"(B) The percentage determined under this paragraph for the hospital for a fiscal year is a mean average percentage determined for the hospital in accordance with the methodology of section 2241(b)(2), except that the estimate made by the Secretary under subparagraph (A) of this paragraph for a fiscal year of the applicable period is deemed to be the amount that applies for purposes of section 2241(b)(2)(B)(i) for such year.

"SEC. 2243. DIRECT COSTS; AUTHORITY FOR PAYMENTS TO CONSORTIA OF PROVIDERS.

"(a) IN GENERAL.—In lieu of making payments to teaching hospitals pursuant to sections 2221 and 2241, the Secretary may make payments under this section to consortia that meet the requirements of subsection (b).

"(b) QUALIFYING CONSORTIUM.—For purposes of subsection (a), a consortium meets the requirements of this subsection if the consortium is in compliance with the following:

"(1) The consortium consists of a teaching hospital and one or more of the following entities:

"(A) Schools of allopathic medicine or osteopathic medicine.

"(B) Other teaching hospitals.

"(C) Approved medical residency training programs.

"(D) Federally qualified health centers.

"(E) Medical group practices.

"(F) Managed care entities.

"(G) Entities furnishing outpatient services.

"(H) Such other entities as the Secretary determines to be appropriate.

"(2) The members of the consortium have agreed to collaborate in the programs of graduate medical education that are operated by such members.

"(3) With respect to the receipt by the consortium of payments made pursuant to this section, the members of the consortium have agreed on a method for allocating the payments among the members.

"(4) The consortium meets such additional requirements as the Secretary may establish.

"(c) PAYMENTS FROM ACCOUNTS.—The total amount of payments to a qualifying consortium for a fiscal year pursuant to subsection (a) shall be the sum of—

"(1) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2221(a) (relating to the General MedicarePlus Incentive Account);

"(2) the aggregate amount determined for the teaching hospitals of the consortium pursuant to section 2241(a)(1) (relating to the General Direct-Costs Account); and

"(3) an amount determined for the consortium in accordance with the methodology in effect under section 1886(j)(2)(C)(i) for the fiscal year (relating to the Medicare Direct-Costs Account).

"(d) DEFINITION.—For purposes of this title, the term 'qualifying consortium' means a consortium that meets the requirements of subsection (b).".

CHAPTER 2—AMENDMENTS TO MEDICARE PROGRAM

SEC. 12511. TRANSFER OF FUNDS.

Section 1886 (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(5)(B), in the matter preceding clause (i), by striking "The Secretary shall provide" and inserting the following: "For discharges occurring on or before September 30, 1996, the Secretary shall provide";

(2) in subsection (h)—

(A) in paragraph (1), in the first sentence, by striking "the Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

(B) by adding at the end the following paragraph:

"(6) LIMITATION.—

"(A) IN GENERAL.—The authority to make payments under this subsection applies only with respect to cost reporting periods ending on or before September 30, 1996, except as provided in subparagraph (B).

"(B) RULE REGARDING PORTION OF LAST COST REPORTING PERIOD.—In the case of a cost reporting period that extends beyond September 30, 1996, payments under this subsection shall be made with respect to such portion of the period as has lapsed as of such date.

"(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing any payment under section 1861(v) with respect to graduate medical education."; and

(3) by adding at the end the following subsection:

"(j) TRANSFERS TO TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—

"(1) INDIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Indirect-Costs Medical Education Account under section 2201 an amount determined by the Secretary in accordance with subparagraph (B).

"(B) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for the fiscal year

involved of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1996. For purposes of subparagraph (A), the amount determined under this subparagraph for the fiscal year is the estimate made by the Secretary under the preceding sentence.

"(C) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a transfer under subparagraph (A) for a fiscal year is insufficient for making payments in the amounts required pursuant to section 2231(a)(2) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.

"(2) DIRECT COSTS OF MEDICAL EDUCATION.—

"(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1997 and each subsequent fiscal year, transfer to the Medicare Direct-Costs Medical Education Account (under section 2201) the sum of—

"(i) an amount determined by the Secretary in accordance with subparagraph (B); and

"(ii) as applicable, an amount determined by the Secretary in accordance with subparagraph (C)(ii).

"(B) DETERMINATION OF AMOUNTS.—For each hospital (other than a hospital that is a member of a qualifying consortium referred to in subparagraph (C)), the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid under subsection (h) to the hospital during the fiscal year if such payments had not been terminated for cost reporting periods ending on or before September 30, 1996. For purposes of subparagraph (A)(i), the amount determined under this subparagraph for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(C) ESTIMATES REGARDING QUALIFYING CONSORTIA.—If the Secretary authorizes payments under section 2243(a) to one or more qualifying consortia, the Secretary shall carry out the following:

"(i) The Secretary shall establish a methodology for making payments to qualifying consortia with respect to the reasonable direct costs of such consortia in carrying out programs of graduate medical education. The methodology shall be the methodology established in subsection (h), modified to the extent necessary to take into account the participation in such programs of entities other than hospitals.

"(ii) For each qualifying consortium, the Secretary shall make an estimate for the fiscal year involved of the amount that would have been paid to the consortium during the fiscal year if, using the methodology under clause (i), payments had been made to the consortium for the fiscal year as reimbursements with respect to cost reporting periods. For purposes of subparagraph (A)(ii), the amount determined under this clause for the fiscal year is the sum of all estimates made by the Secretary under the preceding sentence.

"(D) ALLOCATION BETWEEN FUNDS.—In providing for a transfer under subparagraph (A) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(E) SUPPLEMENTAL TRANSFERS.—If the Secretary determines that the amount of a transfer under subparagraph (A) for a fiscal year is insufficient for making payments in the amounts required pursuant to sections 2241(a)(2) and 2243(c)(3) for the year, the Secretary shall make such additional transfers for the year between the funds and accounts involved as the Secretary determines to be necessary for making the payments.

"(3) APPLICABILITY OF CERTAIN AMENDMENTS.—Amendments made to subsection (d)(5)(B) and subsection (h) that are effective on or after October 1, 1996, apply only for purposes of estimates under paragraphs (1) and (2) and for purposes of determining the amount of payments under 2211. Such amendments do not require any adjustment to amounts paid under subsection (d)(5)(B) or (h) with respect to fiscal year 1996 or any prior fiscal year.

"(4) RELATIONSHIP TO CERTAIN DEMONSTRATION PROJECTS.—In the case of a State for which a demonstration project under section 1814(b)(3) is in effect, the Secretary, in making determinations of the rates of increase under such section, shall include all amounts transferred under this subsection. Such amounts shall be so included to the same extent and in the same manner as amounts determined under subsections (d)(5)(B) and (h) were included in such determination under the provisions of this title in effect on September 30, 1996.".

Title XII—Other Provisions

Subtitle F—National Defense Stockpile

SEC. 12601. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of other materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	30,000,000 pounds contained
Columbium Ferro	930,911 pounds contained
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Palladium	15,000 troy ounces
Platinum	10,000 troy ounces
Rubber, Natural	125,138 long tons
Tantalum, Carbide Powder.	6,000 pounds contained
Tantalum, Minerals	750,000 pounds contained
Tantalum, Oxide	40,000 pounds contained

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

Subtitle G——Child Protection Block Grant Program And Foster Care and Adoption Assistance

SEC. 12701. ESTABLISHMENT OF PROGRAM.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking subpart 2 of part B and inserting the following:

"Subpart 2—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

"SEC. 430. ELIGIBLE STATES.

"(a) IN GENERAL.—As used in this subpart, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the child protection goals of the program funded under this subpart, including the procedures to be used for—

"(A) receiving and assessing reports of child abuse or neglect;

"(B) investigating such reports;

"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

"(F) protecting children in foster care;

"(G) promoting timely adoptions;

"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;

"(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect; and

"(J) establishing and responding to citizen review panels under section 434.

"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later then 2 years after the date of the enactment of this subpart, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

"(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

"(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(i) the infant is chronically and irreversibly comatose;

"(ii) the provision of such treatment would—

"(I) merely prolong dying;

"(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(III) otherwise be futile in terms of the survival of the infant; or

"(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

"(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

"(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

"(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

"(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

"(14) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this subpart.

"(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

"SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION AND PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

"(a) FUNDING OF BLOCK GRANTS.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (c)(1) a grant in an amount equal to the State share of the child protection amount for the fiscal year.

"(b) MAINTENANCE PAYMENTS.—

"(1) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of each fiscal year specified in subsection (c)(1) an amount equal to the sum of—

"(A) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this subpart) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus

"(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this subpart pursuant to adoption assistance agreements.

"(2) ESTIMATES BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to receive under paragraph (1) for such quarter, such estimates to be based on—

"(i) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

"(ii) records showing the number of children in the State receiving assistance under this subpart; and "(iii) such other information as the Secretary may find necessary.

"(B) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this paragraph.

"(C) PRO RATA SHARE.— The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this subpart shall be considered an overpayment to be adjusted under this paragraph.

"(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

"(A) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.

"(B) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

"(C) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

"(I) upon completion of the review, if it is determined that the claim is not allowable; or

"(II) on the basis of findings of an audit or financial management review.

"(c) DEFINITIONS.—As used in this section:

"(1) CHILD PROTECTION AMOUNT.—The term 'child protection amount' means—

"(A) $1,936,000,000 for fiscal year 1996;

"(B) $1,942,000,000 for fiscal year 1997;

"(C) $2,063,000,000 for fiscal year 1998;

"(D) $2,167,000,000 for fiscal year 1999;

"(E) $2,297,000,000 for fiscal year 2000;

"(F) $2,432,000,000 for fiscal year 2001; and

"(G) $2,593,000,000 for fiscal year 2002;

"(2) STATE SHARE.—

"(A) IN GENERAL.—The term 'State share' means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

"(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term 'qualified child protection expenses' means, with respect to a State the greater of—

"(i) the total amount of—

"(I) ⅓ of the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and

"(II) ⅓ of the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal years 1992, 1993, and 1994; or

"(ii) the total amount of—

"(I) the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal year 1995; and

"(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal year 1995.

"(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect on the day before the date of enactment of this subpart):

"(i) Section 434 of this Act.

"(ii) Section 474(a)(4) of this Act.

"(iii) Section 474(a)(3) of this Act.

"(d) USE OF GRANT.—

"(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the child protection goals of the State program funded under this subpart.

"(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

"(3) RULE OF INTERPRETATION.—This subpart shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this subpart.

"(e) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

"(f) PENALTIES.—

"(1) FOR USE OF GRANT IN VIOLATION OF THIS SUBPART.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this subpart, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

"(2) FOR FAILURE TO MAINTAIN EFFORT.—

"(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this subpart is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1995 under subpart 2 of part B and part E of this title (as in effect on the day before the date of the enactment of this subpart), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

"(B) SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

"(i) For fiscal years 1996 and 1997, 100 percent.

"(ii) For fiscal years 1998 through 2002, 75 percent.

"(3) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 436(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(4) FOR FAILURE TO COMPLY WITH SAMPLING METHODS REQUIREMENTS.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a succeeding fiscal year if the Secretary determines that the State has not complied with the Secretary's sampling methods requirements under section 436(c)(2) during the prior fiscal year.

"(5) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this subpart during the immediately succeeding fiscal year.

"(6) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(7) CORRECTIVE COMPLIANCE PLAN.—

"(A) IN GENERAL.—

"(i) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under this subsection, notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this subpart.

"(ii) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under clause (i) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in clause (i).

"(iii) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

"(B) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in this subsection if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

"(8) LIMITATION ON AMOUNT OF PENALTY.—

"(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 431(a) for the immediately succeeding fiscal year.

"(g) TREATMENT OF TERRITORIES.—

"(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this subpart.

"(2) PAYMENTS.—Each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount, in accordance with section 1108, which shall be used for the purpose of carrying out a child protection program in accordance with the provisions of this subpart.

"(h) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this subpart or enforce any provision of this subpart.

"SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.

"(a) IN GENERAL.—Each State operating a program under this subpart shall make foster care maintenance payments under section 431(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as in effect on the day before the date of the enactment of this subpart) but for the removal of the child from the home of a relative (specified in section 406(a)(as so in effect)), if—

"(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 430(a)(13) have been made;

"(2) such child's placement and care are the responsibility of—

"(A) the State; or

"(B) any other public agency with whom the State has made an agreement for the administration of the State program under this subpart which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

"(4) such child—

"(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or

"(B) would have received such aid in or for such month if application had been made therefore, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made.

"(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this subpart only on behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child-placement or child-care agency; or

"(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 437(6)).

"(c) VOLUNTARY PLACEMENTS.—

"(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of this section, Federal payments may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments under this subpart, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 435(b) or 430(a)(12).

"(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

"(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—

"(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

"(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

"SEC. 433. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.

"(a) IN GENERAL.—A State operating a program under this subpart shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

"(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or through another public or nonprofit private agency, in amounts determined under subsection (d).

"(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b), a child meets the requirements of this subsection if such child—

"(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as in effect on the day before the date of the enactment of this subpart) or would have met such requirements except for such child's removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 431(b) (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

"(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;

"(B) would have received such aid in or for such month if application had been made therefore, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made; or

"(C) is a child described in subparagraph (A) or (B); and

"(3) has been determined by the State, pursuant to subsection (g) of this section, to be a child with special needs.

"(d) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this subpart, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(e) PAYMENT EXCEPTION.—Notwithstanding subsection (d), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this subpart shall keep the State or public or nonprofit private agency administering the program under this subpart informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(f) PRE-ADOPTION PAYMENTS.—For purposes of this subpart, individuals with whom a child who has been determined by the State, pursuant to subsection (g), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(g) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and

"(2) the State had first determined—

"(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this subpart or medical assistance under title XIX or XXI; and

"(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made

to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI.

"SEC. 434. CITIZEN REVIEW PANELS.

"(a) ESTABLISHMENT.—Each State to which a grant is made under section 431(a) shall establish at least 3 citizen review panels.

"(b) COMPOSITION.—Each panel established under subsection (a) shall be broadly representative of the community from which drawn.

"(c) FREQUENCY OF MEETINGS.—Each panel established under subsection (a) shall meet not less frequently than quarterly.

"(d) DUTIES.—

"(1) IN GENERAL.—Each panel established under subsection (a) shall, by examining specific cases, determine the extent to which the State and local agencies responsible for carrying out activities under this subpart are doing so in accordance with the State plan, with the child protection standards set forth in section 430(a)(12) and 435, and with any other criteria that the panel considers important to ensure the protection of children.

"(2) CONFIDENTIALITY.—The members and staff of any panel established under subsection (a) shall not disclose to any person or government any information about any specific child protection case with respect to which the panel is provided information.

"(e) STATE ASSISTANCE.—Each State that establishes a panel under subsection (a) shall afford the panel access to any information on any case that the panel desires to review, and shall provide the panel with staff assistance in performing its duties.

"(f) REPORTS.—Each panel established under subsection (a) shall make a public report of its activities after each meeting.

"SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS.

"(a) REDUCTION OF GRANT.—A State shall not receive a grant under section 431(a) unless such State—

"(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

"(2) has implemented and is operating to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can readily be determined;

"(B) a case review system (as defined in section 437(4)) for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

"(b) ADDITIONAL REQUIREMENTS.—A State shall not receive a grant under section 431(a) unless such State—

"(1) has completed an inventory of the type specified in subsection (a)(1);

"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

"(3) has implemented a preplacement preventive service program designed to help children remain with their families.

"(c) PRESUMPTION FOR EXPENDITURES.—Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

"SEC. 436. DATA COLLECTION AND REPORTING.

"(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the effective date of this subpart and annually thereafter, each State to which a grant is made under section 431(a) shall submit to the Secretary a report that contains quantitative information on the extent to which the State is making progress toward achieving the goals of the State child protection program.

"(b) STATE DATA REPORTS.—

"(1) BIANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall biannually submit to the Secretary a report that includes the following information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this subpart:

"(A) Whether the child received services under the program funded under this subpart.

"(B) The age, gender, and family income of the parents and child.

"(C) The county of residence of the child.

"(D) Whether the child was removed from the family.

"(E) Whether the child entered foster care under the responsibility of the State.

"(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).

"(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.

"(H) Whether the child was released for adoption.

"(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

"(J) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(2) ANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall annually submit to the Secretary a report that includes the following information:

"(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.

"(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.

"(C) The number of families that received preventive services.

"(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

"(E) The number of deaths of children resulting from child abuse or neglect.

"(F) The number of deaths occurring while children were in the custody of the State.

"(G) The number of children served by the State independent living program.

"(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.

"(I) The types of maltreatment suffered by victims of child abuse and neglect.

"(J) The number of abused and neglected children receiving services.

"(K) The average length of stay of children in out-of-home care.

"(L) The response of the State to the findings and recommendations of the citizen review panels established under section 434.

"(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(c) AUTHORITY OF STATES TO USE ESTIMATES.—

"(1) IN GENERAL.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

"(2) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards and shall impose the penalty described in section 431(f)(4) upon a State if a State has not complied with such requirements.

"(d) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—As used in subsection (b), the term 'State program funded under this subpart' includes any equivalent State program.

"SEC. 437. DEFINITIONS.

"For purposes of this subpart, the following definitions shall apply:

"(1) ADMINISTRATIVE REVIEW.—The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"(2) ADOPTION ASSISTANCE AGREEMENT.—The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—

"(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and

"(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.

The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

"(3) CASE PLAN.—The term 'case plan' means a written document which includes at least the following:

"(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 432(a)(1).

"(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(C) To the extent available and accessible, the health and education records of the child, including—

"(i) the names and addresses of the child's health and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

"(v) a record of the child's immunizations;

"(vi) the child's known medical problems;

"(vii) the child's medications; and

"(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

"(4) CASE REVIEW SYSTEM.—The term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

"(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and

"(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

"(5) CHILD-CARE INSTITUTION.—The term 'child-care institution' means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

"(6) FOSTER CARE MAINTENANCE PAYMENTS.—

"(A) IN GENERAL.—The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(B) SPECIAL RULE.—In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

"(ii) payments described in subparagraph (A) are being made under this subpart with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

"(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.

"(8) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(9) VOLUNTARY PLACEMENT.—The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.".

SEC. 12702. CONFORMING AMENDMENTS.

(a) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—Part E of title IV of the Social Security Act (42 U.S.C. 671–679) is hereby repealed.

(b) REPEAL OF SECTION 13712 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is hereby repealed.

(c) REPEAL OF SECTION 435.—Section 435 of the Social Security Act, as amended by section 12701, is repealed on April 1, 1996.

SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect as if enacted on October 1, 1995.

(b) TRANSITION RULE.—

(1) STATE OPTION TO CONTINUE PROGRAMS.—

(A) 9-MONTH EXTENSION.—A State may continue the State programs under subpart 2 of part B and part E of title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State programs") until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under the State programs of any State on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—If a State elects to continue the State programs pursuant to subparagraph (A), the total obligations of the Federal Government to the State under subpart 2 of part B and part E of title IV of the Social Security Act (as such subpart and part are in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the grant to the State under section 431(a) (as in effect pursuant to the amendment made by section 12701 of this Act)); minus

(II) any obligations of the Federal Government to the State under such subpart and part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 430(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12701 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reduction under subparagraph (C) of this paragraph (including the formula for computing the amount of the reduction).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

Subtitle H—Child Care

SEC. 12801. SHORT TITLE AND REFERENCES.

(a) Short Title.—This subtitle may be cited as the "Child Care and Development Block Grant Amendments of 1995".

(b) References.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 12802. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) In General.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".

(b) Social Security Act.—Part A of title IV of the Social Security Act (as amended by section 12101) is amended by adding at the end thereof the following new section:

"SEC. 418. FUNDING FOR CHILD CARE.

"(a) General Child Care Entitlement.—

"(1) General entitlement.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

"(A) the sum of the total amounts of Federal payments for fiscal year 1994 to the State under section—

"(i) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

"(ii) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act, in the case of a State with respect to which section 1108 of this Act applies; and

"(iii) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act; or

"(B) the average of the sum of the total amount of Federal payments for each of the fiscal years 1992 through 1994 to the State under the sections referred to in subparagraph (A);

whichever is greater.

"(2) Remainder.—

"(A) Grants.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after grants are awarded under paragraph (1), to make grants to States under this paragraph.

"(B) Amount.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.

"(C) Matching requirement.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subparagraph (A) for such year and the amount of State expenditures in fiscal year 1995 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of paragraph (1).

"(3) Appropriation.—There is authorized to be appropriated, and there is appropriated, to carry out this section—

"(A) $1,170,000,000 for fiscal year 1996;
"(B) $1,240,000,000 for fiscal year 1997;
"(C) $1,320,000,000 for fiscal year 1998;
"(D) $1,400,000,000 for fiscal year 1999;
"(E) $1,500,000,000 for fiscal year 2000;
"(F) $1,625,000,000 for fiscal year 2001; and
"(G) $1,745,000,000 for fiscal year 2002.

"(4) Redistribution.—With respect to any fiscal year, if the Secretary determines that amounts under any grant awarded to a State under this subsection for such fiscal year will not be used by such State for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

"(b) Use of Funds.—

"(1) In general.—Amounts received by a State under this section shall only be used to provide child care assistance.

"(2) Use for certain populations.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

"(c) Application of Child Care and Development Block Grant Act.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

"(d) Transition Rule.—

"(1) In general.—Amounts obligated to a State under this section for fiscal year 1996 shall not exceed—

"(A) the amount for which a State is eligible under this section for such fiscal year; less

"(B) the amounts obligated to the State for such fiscal year under the provisions of law referred to in subsection (a)(1)(A) (as such provisions were in effect on the day before the date of enactment of this section).

"(2) Acceptance of limitation.—The submission of a plan by a State under section 401(a) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under paragraph (1). If amounts are provided to a State under this section prior to the submission of such a State plan, the acceptance of such amounts by the State shall constitute the State's acceptance of such reductions.".

SEC. 12803. LEAD AGENCY.

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 12804. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858c) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and

(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph";

(ii) in subparagraph (B)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows:

"(D) Consumer education information.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";

(v) in subparagraph (E), to read as follows:

"(E) Compliance with state licensing requirements.—

"(i) In general.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

"(ii) Uniform application of requirements.—A certification under clause (i) shall include an assurance by the State that the State shall apply all such licensing requirements in a uniform manner to child care providers of the same type regardless of whether a child care provider is receiving assistance under this subchapter. Nothing in this subchapter shall be construed to require that a State apply, or prohibit a State from applying, licensing requirements with respect to a particular type of child care.

"(iii) Indian tribes and tribal organizations.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter."; and

(vi) by striking subparagraphs (F), (G), (H), (I), and (J) and inserting the following:

"(F) Meeting the needs of certain populations.—Demonstrate the manner in which the

State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.'';

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''(B) and (C)'' and inserting ''(B) through (D)'';

(ii) in subparagraph (B)—

(I) by striking ''.—Subject to the reservation contained in subparagraph (C), the'' and inserting ''AND RELATED ACTIVITIES.—The'';

(II) in clause (i) by striking ''; and'' at the end and inserting a period;

(III) by striking ''for—'' and all that follows through ''section 658E(c)(2)(A)'' and inserting ''for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate''; and

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

''(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services.''; and

(iv) by adding at the end thereof the following:

''(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 419(b)(2) of the Social Security Act) to the State to carry out activities this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(F).''; and 419(b)(2)

(C) in paragraph (4)(A)—

(i) by striking ''provide assurances'' and inserting ''certify'';

(ii) in the first sentence by inserting ''and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access'' before the period; and

(iii) by striking the last sentence.

SEC. 12805. LIMITATION ON STATE ALLOTMENTS.

Section 658F(b) (42 U.S.C. 9858d(b)) is amended—

(1) in paragraph (1), by striking ''No'' and inserting ''Except as provided for in section 658O(c)(6), no''; and

(2) in paragraph (2), by striking ''referred to in section 658E(c)(2)(F)''.

SEC. 12806. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

''SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

''A State that receives financial assistance under this subchapter, shall use not less than 3 percent of the total amounts received in each fiscal year for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).''.

SEC. 12807. ADMINISTRATION AND ENFORCEMENT.

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking '', and shall have'' and all that follows through ''(2)'';

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 12808. PAYMENTS.

Section 658J(c) (42 U.S.C. 9858h(c)) is amended—

(1) by striking ''expended'' and inserting ''obligated''; and

(2) by striking ''3 fiscal years'' and inserting ''fiscal year''.

SEC. 12809. ANNUAL REPORT AND AUDITS.

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking ''ANNUAL REPORT'' and inserting ''REPORTS'';

(2) in subsection (a), to read as follows:

''(a) REPORTS.—

''(1) COLLECTION OF INFORMATION BY STATES.—

''(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

''(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

''(i) family income;

''(ii) county of residence;

''(iii) the gender and age of children receiving such assistance;

''(iv) whether the family includes only 1 parent;

''(v) the sources of family income, including the amount obtained from (and separately identified)—

''(I) employment, including self-employment;

''(II) cash or other assistance under part A of title IV of the Social Security Act;

''(III) housing assistance;

''(IV) assistance under the Food Stamp Act of 1977; and

''(V) other assistance programs;

''(vi) the number of months the family has received benefits;

''(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

''(viii) whether the child care provider involved was a relative;

''(ix) the cost of child care for such families; and

''(x) the average hours per week of such care; during the period for which such information is required to be submitted.

''(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

''(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

''(2) BIANNUAL REPORTS.—Not later than December 31, following the end of the first fiscal year with respect to which the amendments made by the Child Care and Development Block Grants Amendments of 1995 apply, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

''(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658Q(5);

''(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

''(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

''(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

''(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted.''; and

(2) in subsection (b)—

(A) in paragraph (1) by striking ''a application'' and inserting ''an application'';

(B) in paragraph (2) by striking ''any agency administering activities that receive'' and inserting ''the State that receives''; and

(C) in paragraph (4) by striking ''entitles'' and inserting ''entitled''.

SEC. 12810. ALLOTMENTS.

Section 658O (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)

(i) by striking ''POSSESSIONS'' and inserting ''POSSESSIONS'';

(ii) by inserting ''and'' after ''States,''; and

(iii) by striking '', and the Trust Territory of the Pacific Islands''; and

(B) in paragraph (2), by striking ''3 percent of the amount appropriated under section 658B'' and inserting ''1 percent of the aggregate amount of funds available to the State to carry out this subchapter'';

(2) in subsection (c)—

(A) in paragraph (5) by striking ''our'' and inserting ''out''; and

(B) by adding at the end thereof the following new paragraph:

''(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

''(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

''(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

''(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

''(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.''; and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

''(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.''.

SEC. 12811. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";

(4) in paragraph (5)(B)—

(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";

(B) by striking "is registered and"; and

(C) by striking "State" and inserting "applicable".

(5) by striking paragraph (10);

(6) in paragraph (3)—

(A) by inserting "or" after "Samoa,"; and

(B) by striking ", and the Trust Territory of the Pacific Islands";

(7) in paragraph (14)—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".

Subtitle I—Child Nutrition Programs

CHAPTER 1—NATIONAL SCHOOL LUNCH ACT

SEC. 12901. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by inserting before the period at the end the following: "for the 1995 school year and 1 cent more for each of the 1996 and 1997 school years".

SEC. 12902. DIRECT FEDERAL EXPENDITURES.

(a) ADMINISTRATIVE EXPENSES.—Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended by striking the second and fourth sentences.

(b) AMOUNT OF COMMODITY ASSISTANCE.—Section 6(e) of the Act is amended—

(1) in paragraph (1), by striking subparagraph (E); and

(2) in paragraph (2), by striking the second sentence and inserting the following: "Each State agency shall offer and equitably distribute commodities among schools participating in the school lunch program.".

(c) BREAKFAST COMMODITY ASSISTANCE.—Section 6 of the Act is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(d) COMMODITY ASSISTANCE.—

(1) IN GENERAL.—Section 6(f) of the Act (as redesignated by subsection (c)) is amended by striking "12 percent" and inserting "8 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective on July 1, 1996.

SEC. 12903. VALUE OF FOOD ASSISTANCE.

(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence—

(i) by inserting "for free and reduced price meals" after "thereof,";

(ii) by striking "11 cents" and inserting "14.5 cents"; and

(iii) by striking "1982" and inserting "1998"; and

(B) by inserting after the first sentence the following: "The national average value of donated foods, or cash payments in lieu thereof, for paid meals, shall be 12 cents, adjusted on July 1, 2001, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) ADJUSTMENTS.—

"(i) IN GENERAL.—Except as provided in subparagraph (A), the value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.

"(ii) METHOD OF ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for all meals for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall become effective on July 1, 1996.

SEC. 12904. REDUCED PRICE LUNCHES.

(a) MAXIMUM PRICE.—Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended—

(1) in the last sentence, by striking "The" and inserting "Except as provided in the succeeding 2 sentences, the"; and

(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the price charged for a reduced price lunch shall not exceed 45 cents. In the case of the school year beginning July 1, 2001, and each school year thereafter, the price charged for a reduced price lunch shall not exceed 50 cents.".

(b) REDUCED PRICE MEAL PAYMENT.—Section 11(a)(2) of the Act (42 U.S.C. 1759a(a)(2)) is amended—

(1) by striking "cents and the" and inserting "cents. Except as provided in the succeeding 2 sentences, the"; and

(2) by adding at the end the following: "In the case of the school year beginning July 1, 2000, the special assistance factor for reduced price lunches shall be 45 cents less than the special assistance factor for free lunches. In the case of the school year beginning July 1, 2001, and each school year thereafter, the special assistance factor for reduced price lunches shall be 50 cents less than the special assistance factor for free lunches.".

SEC. 12905. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) (as so designated) and inserting the following:

"(D) ROUNDING.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and

"(iii) round the result to the nearest lower cent increment.

"(E) ADJUSTMENT ON JANUARY 1 AND JULY 1, 1996.—The Secretary shall adjust the rates for breakfasts and supplements on January 1, 1996, for the remainder of the school year, and shall adjust the rates for lunches on July 1, 1996, by rounding the previously established rates to the nearest lower cent increment.

"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the school year beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 12906. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ESTABLISHMENT OF PROGRAM.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "initiate, maintain, and expand" and insert "initiate and maintain"; and

(B) in subparagraph (E) of the second sentence, by striking "the Trust Territory of the Pacific Islands,"; and

(2) in paragraph (7)(A), by striking "Except as provided in subparagraph (C), private" and inserting "Private".

(b) SERVICE INSTITUTIONS.—Section 13(b) of the Act is amended by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.".

(c) ADMINISTRATION OF SERVICE INSTITUTIONS.—Section 13(b)(2) of the Act is amended—

(1) in the first sentence, by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,"; and

(2) by striking the second sentence.

(d) REIMBURSEMENTS.—Section 13(c)(2) of the Act is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (B)—

(A) in the first sentence—

(i) by striking ", and such higher education institutions,"; and

(ii) by striking "without application" and inserting "upon showing residence in areas in which poor economic conditions exist"; and

(B) by adding at the end the following: "The higher education institutions referred to in the preceding sentence shall be eligible to participate in the program under this paragraph without application.";

(3) in subparagraph (C)(ii), by striking "severe need"; and

(4) by redesignating subparagraphs (B) through (E), as so amended, as subparagraphs (A) through (D), respectively.

(e) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the Act is amended—

(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively; and

(2) by adding at the end the following:

"(8) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".

(f) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on January 1, 1996.

SEC. 12907. CHILD CARE FOOD PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in the section heading, by striking "AND ADULT"; and

(2) in the first sentence of subsection (a), by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

(b) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".

(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the Act is amended by striking ", and shall provide technical assistance" and all that follows through "its application".

(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking "two meals and two supplements or three meals and one supplement" and inserting "two meals and one supplement".

(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 12907(e)(1) of the Balanced Budget Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the Act is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "(i)";

(II) in the first sentence, by striking "and expansion funds" and all that follows through "rural areas";

(III) by striking the second sentence; and

(IV) by striking "and expansion funds" each place it appears; and

(ii) by striking clause (ii); and

(2) by striking paragraph (4).

(g) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(h) MODIFICATION OF ADULT CARE FOOD PROGRAM.—Section 17(o) of the Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "adult day care centers" and inserting "day care centers for chronically impaired disabled persons" ; and

(B) by striking "to persons 60 years of age or older or"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "adult day care center" and inserting "day care center for chronically impaired disabled persons"; and

(ii) in clause (i)—

(I) by striking "adult";

(II) by striking "adults" and inserting "persons"; and

(III) by striking "or persons 60 years of age or older"; and

(B) in subparagraph (B), by striking "adult day care services" and inserting "day care services for chronically impaired disabled persons".

(i) UNNEEDED PROVISIONS.—Section 17 of the Act is amended—

(1) by striking subsections (b) and (q);

(2) by redesignating subsections (c) through (p), as so amended, as subsections (b) through (o), respectively; and

(3) in subsection (e), as redesignated by paragraph (2)—

(A) in paragraph (2)(A), by striking "subsection (c)" and inserting "subsection (b)"; and

(B) in paragraph (3)(C), by striking "subsection (d)" and inserting "subsection (c)".

(j) CONFORMING AMENDMENTS.—

(1) Section 11(a)(3)(A)(iv) of the Act (42 U.S.C. 1759a(a)(3)(A)(iv)) is amended by striking "17(c)" and inserting "17(b)".

(2) Section 17A(c) of the Act (42 U.S.C. 1766a(c)) is amended by striking "17(c)(3)" and inserting "17(b)(3)".

(3) Section 17B(f) of the Act (42 U.S.C. 1766b(f)) is amended—

(A) in the subsection heading, by striking "AND ADULT"; and

(B) in paragraph (1), by striking "and adult".

(4) Section 18(e)(3)(B) of the Act (42 U.S.C. 1769(e)(3)(B)) is amended by striking "and adult".

(5) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking "and adult".

(6) Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) is amended by striking "and adult".

(k) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (e) shall become effective on August 1, 1996.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than February 1, 1996, the Secretary shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than August 1, 1996, the Secretary shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

(l) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary data on—

(A) the number of family day care homes participating in the program on July 31, 1996, and July 31, 1997;

(B) the number of family day care homes licensed, certified, registered, or approved for service on July 31, 1996, and July 31, 1997; and

(C) such other data as the Secretary may require to carry out this subsection.

SEC. 12908. PILOT PROJECTS.

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "(A)"; and

(ii) by striking "shall" and inserting "may"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".

SEC. 12909. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.

CHAPTER 2—CHILD NUTRITION ACT

SEC. 12921. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in paragraph (3), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) by striking paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 12922. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) in the second sentence of paragraph (1)(B), by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and

(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.

SEC. 12923. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all that follows through "Act)" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 12924. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).

SEC. 12925. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting "and" at the end; and

(B) by striking ", and (C)" and all that follows through "Governor of Puerto Rico".

SEC. 12926. NUTRITION EDUCATION AND TRAINING.

(a) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)";

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively; and

(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(2) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".

Subtitle J—Food Stamps and Commodity Distribution

SEC. 13001. SHORT TITLE.

This subtitle may be cited as the "Food Stamp Reform and Commodity Distribution Act of 1995".

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 13011. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.".

SEC. 13012. DEFINITION OF COUPON.

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number,".

SEC. 13013. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.".

SEC. 13015. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following: "shall—

"(1) make";

(2) by striking "scale, (2) make" and inserting "scale;

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.".

SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:

"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

SEC. 13018. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "19".

SEC. 13019. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(ii) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);"; and

(C) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) in paragraph (1), by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 13020. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

"(2) EARNED INCOME DEDUCTION.—

"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)) to compensate for taxes, other mandatory deductions from salary, and work expenses.

"(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

"(3) DEPENDENT CARE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

"(i) expenses paid on behalf of the household by a third party;

"(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

"(iii) expenses that are paid under section 6(d)(4).

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

"(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

"(B) METHOD OF CLAIMING DEDUCTION.—

"(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—

"(i) in the 48 contiguous States and the District of Columbia, $247 per month; and

"(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility

allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking ". Under rules prescribed" and all that follows through "verifies higher expenses".

SEC. 13021. VEHICLE ALLOWANCE.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

"(2) INCLUDED ASSETS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

"(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

"(i) any boat, snowmobile, or airplane used for recreational purposes;

"(ii) any vacation home;

"(iii) any mobile home used primarily for vacation purposes;

"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600; and

"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

"(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

"(i) used to produce earned income;

"(ii) is necessary for the transportation of a physically disabled household member; or

"(iii) is depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".

SEC. 13022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

SEC. 13023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i), by striking "six months" and inserting "1 year"; and

(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 13024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking the period at the end and inserting "; or"; and

(3) by inserting after subclause (III) the following:

"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".

SEC. 13025. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term in subparagraph (A);

"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

"(cc) whether an individual is in compliance with a requirement under subparagraph (A).

"(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

"(v) SELECTING A HEAD OF HOUSEHOLD.—

"(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 13026. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;".

SEC. 13027. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than April 1, 1987, each" and inserting "Each";

(B) by inserting "work," after "skills, training,"; and

(C) by adding at the end the following: "Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:";

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(3) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(4) in subparagraph (E), by striking the third sentence;

(5) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State"; and

(B) by striking clause (ii);

(6) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(7) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "Social Security Act" and inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate";

(8)(A) by striking subparagraphs (K) and (L) and inserting the following:

"(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)."; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(9) in subparagraph (L), as redesignated by paragraph (8)(B)—

(A) by striking "(L)(i) The Secretary" and inserting "(L) The Secretary"; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:

"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $77,000,000;

"(ii) for fiscal year 1997, $80,000,000;

"(iii) for fiscal year 1998, $83,000,000;

"(iv) for fiscal year 1999, $86,000,000;

"(v) for fiscal year 2000, $89,000,000;

"(vi) for fiscal year 2001, $92,000,000; and

"(vii) for fiscal year 2002, $95,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.".

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: ", including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work".

(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by redesignating subsection (i), as added by section 12104, as subsection (p); and

(2) by inserting after subsection (h) the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

"(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(26) the guidelines the State agency uses in carrying out section 6(i); and".

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13028, is further amended by inserting after subsection (i) the following:

"(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.".

SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13029, is further amended by inserting after subsection (j) the following:

"(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

"(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

"(2) violating a condition of probation or parole imposed under a Federal or State law.".

SEC. 13031. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13030, is further amended by inserting after subsection (k) the following:

"(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(m) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13031, is further amended by inserting after subsection (m) the following:

"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—No individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 13033. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13032, is further amended by inserting after subsection (n) the following:

"(o) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.

"(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child;

"(D) otherwise exempt under section 6(d)(2); or

"(E) a pregnant woman.

"(4) WAIVER.—

"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 10 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(5) SUBSEQUENT ELIGIBILITY.—

"(A) IN GENERAL.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

"(i) works 80 or more hours;

"(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

"(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(B) LIMITATION.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

"(i) work 20 hours or more per week, averaged monthly;

"(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.".

(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term "preceding 12-month period" in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.

SEC. 13034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ELECTRONIC BENEFIT TRANSFERS.—

"(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 24 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

"(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

"(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

"(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

"(i) commercial electronic funds transfer technology;

"(ii) the need to permit interstate operation and law enforcement monitoring; and

"(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.";

(2) in paragraph (2)—

(A) by striking "effective no later than April 1, 1992,";

(B) in subparagraph (A)—

(i) by striking ", in any 1 year,"; and

(ii) by striking "on-line";

(C) by striking subparagraph (D) and inserting the following:

"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

"(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.";

(D) in subparagraph (G), by striking "and" at the end;

(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(I) procurement standards."; and

(3) by adding at the end the following:

"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.".

SEC. 13035. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 13036. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 13037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".

SEC. 13038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.

"(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.".

SEC. 13039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

"(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

"(B) the individual, if the individual leaves the center.

"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".

SEC. 13040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.".

SEC. 13041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.".

SEC. 13042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting ", which may include relevant income and sales tax filing documents," after "submit information"; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.".

SEC. 13043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.".

SEC. 13044. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking "five days" and inserting "7 days"; and

(B) by inserting "and" at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B), as redesignated by paragraph (3), by striking ", (B), or (C)".

SEC. 13045. WITHDRAWING FAIR HEARING REQUESTS.

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing".

SEC. 13046. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.".

SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) notwithstanding section 14, shall not be subject to judicial or administrative review.".

SEC. 13048. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found eligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "error of a State agency" and inserting the following: "25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency".

SEC. 13049. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.".

SEC. 13050. LIMITATION OF FEDERAL MATCH.

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: "but not including recruitment activities,".

SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:

"(c) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term 'work supplementation or support program' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

"(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

"(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

"(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.".

SEC. 13052. AUTHORIZATION OF PILOT PROJECTS.

The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

"(d) EMPLOYMENT INITIATIVES PROGRAM.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—

"(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.

"(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

"(i) cash assistance under this subsection shall be considered to be an allotment; and

"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.

"(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

"(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(ii) pay the cost of any increase in cash benefits required by clause (i).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

"(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.".

SEC. 13054. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for each of fiscal years

1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, $1,310,000,000 for fiscal year 2000, $1,357,000,000 for fiscal year 2001, and $1,404,000,000 for fiscal year 2002''.

SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.

''(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

''(b) ELECTION.—Subject to subsection (d), a State agency may elect to carry out a Simplified Food Stamp Program (referred to in this section as a 'Program') in accordance with this section.

''(c) OPERATION OF PROGRAM.—If a State agency elects to carry out a Program, within the State or a political subdivision of the State—

''(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

''(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

''(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

''(B) the food stamp program (other than section 25); or

''(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 25).

''(d) APPROVAL OF PROGRAM.—

''(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

''(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

''(A) complies with this section; and

''(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

''(e) INCREASED FEDERAL COSTS.—

''(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

''(A) participation;

''(B) the income of participants in the food stamp program that is not attributable to public assistance; and

''(C) the thrifty food plan under section 3(o).

''(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State agency not later than 30 days after the Secretary makes the determination under paragraph (1).

''(3) ENFORCEMENT.—

''(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State agency shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

''(B) TERMINATION.—If the State agency does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency to operate a Program and the State agency shall be ineligible to operate a future Program.

''(f) RULES AND PROCEDURES.—

''(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

''(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

''(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

''(A) subsections (a) through (g) of section 7;

''(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

''(C) subsection (b) and (d) of section 8;

''(D) subsections (a), (c), (d), and (n) of section 11;

''(E) paragraphs (8), (12), (17), (19), (21), (26), and (27) of section 11(e);

''(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

''(G) section 16.

''(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.''.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 13028(b), is further amended by adding at the end the following:

''(27) if a State agency elects to carry out a Simplified Food Stamp Program under section 24, the plans of the State agency for operating the program, including—

''(A) the rules and procedures to be followed by the State to determine food stamp benefits;

''(B) how the State will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

''(C) a description of the method by which the State will carry out a quality control system under section 16(c).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 13039, is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Act (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

SEC. 13056. STATE FOOD ASSISTANCE BLOCK GRANT.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13055, is further amended by adding at the end the following:

"SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.

''(a) DEFINITIONS.—In this section:

''(1) FOOD ASSISTANCE.—The term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

''(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

''(b) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

''(1) food assistance to needy individuals and families residing in the State; and

''(2) funds for administrative costs incurred in providing the assistance.

''(c) ELECTION.—

''(1) IN GENERAL.—A State may annually elect to participate in the program established under subsection (b) if the State—

''(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

''(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

''(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State's food assistance program, the amount determined under paragraph (2).

''(2) STATE MANDATORY CONTRIBUTIONS.—

''(A) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

''(A)(i) the benefits issued in the State; multiplied by

''(ii) the payment error rate of the State; minus

''(B)(i) the benefits issued in the State; multiplied by

''(ii) 6 percent.

''(B) DETERMINATION.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

''(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

''(3) ELECTION LIMITATION.—

''(A) RE-ENTERING FOOD STAMP PROGRAM.—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

''(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

''(4) PROGRAM EXCLUSIVE.—

''(A) IN GENERAL.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

''(B) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

''(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

''(e) APPLICATION AND PLAN.—

''(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing *such information as the Secretary shall by regulation require, including—*

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

"(3) REQUIREMENTS OF PLAN.—

"(A) LEAD AGENCY.—The State plan shall identify the lead agency.

"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

"(ii) to pay administrative costs incurred in providing the assistance.

"(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

"(i) elderly individuals and families;

"(ii) migrants or seasonal farmworkers;

"(iii) homeless individuals and families;

"(iv) individuals and families who live in institutions eligible under section 3(i);

"(v) individuals and families with earnings; and

"(vi) members of Indian tribes or tribal organizations.

"(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

"(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

"(H) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the exchange of information with other States to verify the identity and receipt of benefits by recipients.

"(I) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

"(J) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(1) entitles any individual or family to assistance under this section; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(g) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(h) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

"(i) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section; the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing penalties under this section.

"(j) GRANT.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year, adjusted for any reduction required under subsection (m)(2).

"(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF GRANTS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c).

"(l) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(m) GRANT CALCULATION.—

"(1) STATE GRANT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs under section 16 for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16 for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.

"(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).".

(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 13027(d)(2), is further amended by adding at the end the following:

"(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 25 shall—

"(A) receive the greater of—

"(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or

"(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and

"(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).".

(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 13055(c)(2), is further amended by adding at the end the following:

"(l) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 25.".

SEC. 13057. AMERICAN SAMOA.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13056, is further amended by adding at the end the following:

"SEC. 26. TERRITORY OF AMERICAN SAMOA.

From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).".

SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13057, is further amended by adding at the end the following:

"SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section for any fiscal year may not exceed $2,500,000.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS

SEC. 13071. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 201A. DEFINITIONS.

"In this Act:

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization—

"(A) that administers—

"(i) an emergency feeding organization;

"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

"(iii) a summer camp for children, or a child nutrition program providing food service;

"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

"(v) a disaster relief program;

"(B) that has been designated by the appropriate State agency, or by the Secretary; and

"(C) that has been approved by the Secretary for participation in the program established under this Act.

"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

"(7) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).".

(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 202A. STATE PLAN.

"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

"(b) REQUIREMENTS.—Each plan shall—

"(1) designate the State agency responsible for distributing the commodities received under this Act;

"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

"(3) set forth the standards of eligibility for recipient agencies; and

"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

"(A) individuals or households to be comprised of needy persons; and

"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

"(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.".

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence—

(A) by striking "1991 through 1995' and inserting "1996 through 2002"; and

(B) by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking "subsection (f) or subsection (j) if applicable," and inserting "subsection (a)"; and

(B) in the second sentence, by striking "subsection (f)" and inserting "subsection (a)";

(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a)."; and

(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".

(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";

(2) in section 204(a), by striking "title" each place it appears and inserting "Act";

(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13058, is further amended by adding at the end the following:

"SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

"(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase $300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

"(1) agricultural market conditions;

"(2) preferences and needs of States and distributing agencies; and

"(3) preferences of recipients.".

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

"Subtitle K—Miscellaneous

"SEC. 13101. FOOD STAMP ELIGIBILITY.

"Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f) is amended by striking the third sentence and inserting the following: 'THe State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.'

"SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

"Section 2003(c) of the Social Security Act (42 U.S.C. 1397b) is amended—

"(1) by striking 'and' at the end of paragraph (4); and

"(2) by striking paragraph (5) and inserting the following:

'(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

'(6) $2,240,000,000 for each fiscal year after fiscal year 1996.'".

Subtitle L—Reform of the Earned Income Credit

SEC. 13200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 13201. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II) of section 205(c)(2)(B)(i) of the Social Security Act.".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13202. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.

(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.".

(b) CONFORMING AMENDMENTS.—Each of the tables contained in paragraphs (1) and (2) of section 32(b) are amended by striking the items relating to no qualifying children.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13203. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) MODIFICATION OF PHASEOUT.—Subparagraph (B) of section 32(a)(2) is amended to read as follows:

"(B) the sum of—

"(i) the initial phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus

"(ii) the final phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the final phaseout amount."

(b) PERCENTAGES AND AMOUNTS.—

(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 13202(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) PERCENTAGES.—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The initial phaseout percentage is:	The final phaseout percentage is:
1 qualifying child	34	15.98	20

"In the case of an eligible individual with:	*The credit percentage is:*	*The initial phaseout percentage is:*	*The final phaseout percentage is:*
2 or more qualifying children	*36*	*21.06*	*25*

"(2) AMOUNTS.—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	*The earned income amount is:*	*The initial phaseout amount is:*	*The final phaseout amount is:*
1 qualifying child	*$6,340*	*$11,630*	*$14,850*
2 or more qualifying children	*$8,910*	*$11,630*	*$17,750".*

(2) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 MORE QUALIFYING CHILDREN.—Subsection (d) of section 32 is amended to read as follows:

"(d) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.—

"(1) IN GENERAL.—If an eligible individual has 2 or more qualifying children, for purposes of applying paragraphs (1) and (2)(A) of subsection (a)—

"(A) the amount of the taxpayer's earned income shall be treated as being equal to 10/9 of such income (determined without regard to this paragraph), and

"(B) the earned income amount shall be treated as being equal to 10/9 of such amount (determined without regard to this paragraph).

"(2) PHASEOUT OF BENEFIT.—If the applicable income of the taxpayer for the taxable year exceeds $14,000 ($17,000 in the case of a joint return), the amount of each increase under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such increase (determined without regard to this subparagraph) as such excess bears to $4,000.

"(3) APPLICABLE INCOME.—For purposes of this subsection, the term 'applicable income' means adjusted gross income or, if greater, earned income."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (j) of section 32 is amended—

(i) by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2) or (d)",

(ii) by striking "1994" and inserting "1996", and

(iii) by striking "1993" and inserting "1995".

(B) Subsection (e) of section 32 is amended to read as follows:

"(e) OTHER SPECIAL RULES—

"(1) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year.

"(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of an individual, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13204. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined). For purposes of subparagraph (D), the term 'passive activity' has the meaning given such term by section 469.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), (d), and (f)(2)(B) of section 32, as amended by the preceding sections of this subtitle, are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the sum of the amounts described in subparagraph (B), and

"(ii) determined without regard to—

"(I) the amounts described in subparagraph (C), or

"(II) the deduction allowed under section 172.

"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—AMOUNTS DESCRIBED IN THIS SUBPARAGRAPH ARE—

"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,

"(ii) amounts which—

"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and

"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),

but only to the extent such amounts exceed $6,000,

"(iii) interest receive or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—an amount is described in this subparagraph if it is—

"(i) the amount of losses form sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or business,

"(iii) the net loss from estates and trusts, and

"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13206. PROVISIONS TO IMPROVE TAX COMPLIANCE.

(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—

(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—

(A) by striking "$250" in subsection (a) and inserting "$500", and

(B) by striking "$1,000" in subsection (b) and inserting "$2,000".

(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—

(A) by striking "$50" and "$25,000" in subsections (a), (b), (c), (d), and (e) and inserting "$100" and "$50,000", respectively, and

(B) by striking "$500" in subsection (f) and inserting "$1,000".

(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "$2,000", and

(2) by striking "10,000" in paragraph (2) and inserting "20,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

MOTION OFFERED BY MR. HOBSON

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. HOBSON moves that the House concur in the Senate amendment to the bill H.R. 2491.

The SPEAKER pro tempore (Mr. EWING). Pursuant to House Resolution 279, the gentleman from Ohio [Mr. HOBSON] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very historic time. We have fully debated this bill back and forth. The Senate made two minor changes as a result of the Byrd rule. The antitrust provision for prior-sponsored organizations was removed and the clinical laboratories was removed for Byrd rule purposes.

But, Mr. Speaker, I think that with the agreement that we have with the President on the CR, we have now reached a very historic point. One that we have worked very hard for on both sides of this aisle. We are now in agreement that we will balance the budget in 7 years and we will use CBO scoring. That, we all believe, is a good move.

Mr. Speaker, I think we all believe that this is a historic moment as we move forward to preserve this country for the future of our children and get the spending of this country under control. It will not be easy, but I think it is something that everyone has general agreement upon that we must do, and we must move forward with it.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this was a bad bill when it left the House. It is a bad bill when it comes back from the Senate. Now it will be a bad bill when it goes to the President. He should veto it.

Mr. Speaker, let us be clear. We want to balance the budget in 7 years, but how we do it is immensely important. I believe my Republican friends also believe how we do it is immensely important, otherwise I would make a simple offer. If only achieving the goal was the only thing my Republican colleagues care about, we will do it, and they can vote for our product. I do not think they would accept it.

Mr. Speaker, we will not vote for their product. We need to get through our differences, get a plan that is fair and moves this country forward, and that is our task in the next several weeks.

Mr. Speaker, I urge a "no" vote on this bill today, and then I and many others stand ready to achieve a 7-year balanced budget that is fair to the American people.

Mr. HOBSON. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I urge that every Member of this House vote against this resolution.

Mr. Speaker, I am against this bill because it is flat out unfair, especially in the area of health care. The almighty quarter-trillion-dollar tax cut was spared from the cutting knife, while health care for poor, sick people was cut by $163 billion.

Mr. Speaker, this bill cuts at the expense of poor people who need medical care. It favors rich people and holds the sorry promise of hurting 35 million people.

These Medicaid cuts could also force as many as 172,000 poor veterans to lose Medicaid coverage by the year 2002. Combined with the effects of other cuts, many poor veterans could be left without any health care at all.

Mr. Speaker, where are the savings in forcing poor people to get their health care at expensive emergency rooms, where the bill must be paid by poor local citizens? Just a year ago in this House, we talked about helping the 37 million Americans who do not have health care. What a difference a year makes.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA], a member of the Committee on the Budget, until recently.

Mr. HOEKSTRA. Mr. Speaker, I think today is a great day. We have reached an agreement with the President that we will work together to balance the budget in 7 years. We will use conservative scoring, so that we can be assured that we will reach that objective, by using the Congressional Budget Office.

Today, we will be voting on one plan to get there: The Balanced Budget Act of 1995, which does get us to a balanced budget by the year 2002. We may have some differences with the President, but at this point in time, we are not sure exactly what they may be. We need a plan for the President so that we can compare our differences about how we achieve a balanced budget.

Mr. Speaker, the other thing that we need is we need a pledge from all the candidates for President that they will work with Congress over the next 7 years to make sure that this becomes a true promise and a true commitment that we will actually all be committed to working toward getting to that balanced budget over the next 7 years.

Mr. Speaker, as we take a look at what our plan does, we can see that this really gets to be a discussion not about cutting spending but actually a discussion about how much money we will spend over the next 7 years.

From 1989 to 1995, the last 7 years, we spent $9.5 trillion in Washington. This Balanced Budget Act says that over the next 7 years we will spend $12 trillion, which is a little bit less than what some people had hoped we would spend, which is about $13.3 trillion.

Mr. Speaker, in 1995, we spent $1.5 trillion. That is going to grow to $1.8 trillion by the year 2002. We are spending plenty of money in Washington over the next 7 years. We are actually growing Federal spending by about 27 percent over the next 7 years.

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That is a lot of money. There is a lot of benefits to balancing the budget. It is estimated that if we balance the budget, the American people will realize a 2-percent reduction in interest rates. That is a significant cost over what a car loan may cost, over what student loans may cost, over what the mortgage that one will pay, the mortgage payments that one will make on interest over the next 7 years. So the benefits to balancing the budget far outweigh the costs.

We need to manage growth in spending to about 2.7 percent over each of the next 7 years to get a balanced budget. That is not a sacrifice; that is just good, sound management. If we manage a 2.7-percent growth, there will be a shared benefit by all the American people and a better standard of living because Washington will finally have gotten their costs under control for the benefit of all the American people.

Mr. SABO. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, my father always told me, if you see someone who acts tough but who picks on defenseless people, that person is a bully. This budget picks on defenseless people, kids, pregnant women, disabled, seniors. This bill takes away the guaranteed basic health care coverage for children in poverty, and guaranteed coverage for pregnant women.

This bill ends the guarantee that we will take care of our disabled children and our seniors. The Portland School District has written to me and said, please protect guaranteed access to Medicaid for poor and disabled children.

I guarantee that I will work to find a sensible way to balance the budget, but not on the backs of children, not on the backs of pregnant women, not on the backs of disabled Americans.

Let us stop the bullies. Reject this really extreme budget.

Mr. HOBSON. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, this truly is an historic moment. I just want to thank my colleagues on this side of the aisle who have weighed in over the last 9 months to come forward with a truly revolutionary budget and to thank my colleagues on this side of the aisle for their criticism, constructive at times, and in some cases maybe not. But ultimately what is exciting is that we all have agreed that we need to balance our budget in the next 7 years and so we have brought forward our budget.

I am looking at the gentleman from New York [Mr. RANGEL] as someone who I have tremendous respect for who has made valid points about concerns that he has as it relates to his urban area. I welcome the opportunity for him to come in with his 7-year budget and the changes he would make. I bet ultimately we will find a document that may even be improved from what is here.

Why do I like what we have done? We have balanced the budget in 7 years. We have created an environment in which we can transform this social and corporate welfare state into an opportunity society and, in the process, also saved our trust funds, particularly Medicare, from bankruptcy.

And I look at the budget, I know there have been incredible criticisms of what we are not spending more of. I have not heard of comments from the other side of the aisle where we need to cut more from. That ultimately will happen now that we have a 7-year budget to have a debate about.

We are spending more on the earned income tax credit. It is going up 28 percent, from $19 billion basically to $25 billion. We are spending more on the school lunch program in the next 5 years. We are going to go up from $6.3

to $7.8 billion. We are spending 50 percent more in the student loan program. It is going to go from $24.4 to $36 billion, a 50-percent increase in the next 7 years.

In the next 5 years students are going to increase from $6.7 to $8.4 million. Medicaid is going to go from $89.2 to $127 billion. Medicare is going to go from $178 to $289 billion. We are going to have, on a per-person, per-elderly basis, we are going to have the seniors, the amount we spend per senior go from $4,800 to $6,700.

If we are spending so much more, why do people call it a cut? Well, partly because they think in some cases that they want you to think that we are cutting when we are spending more and, in part, because we are slowing the growth in spending. Bottom line, to balance the budget in the next 7 years, we have to eliminate some programs and we do. We eliminate the Department of Commerce. We eliminate certain units within departments. We cut back and eliminate discretionary spending. In some cases, what we are doing is slowing the growth in spending like in entitlements. Entitlements are 50 percent of our budget and they are doubling every few years. Medicare and Medicaid are 17 percent of the budget, and they are doubling every 5 to 7 years depending on which years.

The bottom line is, we are going to get our financial house in order and balance the budget compassionately. We are going to save our trust funds, particularly Medicaid, from bankruptcy. And we are going to transform this caretaking, social and corporate welfare state into a care and opportunity society. I believe that we have a wonderful document to present the President. I am told he is going to veto it. Then in the next few weeks we have the opportunity, working with our colleagues on the other side of the aisle, to get their priorities. To weigh it with ours and ultimately to present the President a budget he can balance and sign.

Mr. SABO. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, we have in the Republican plan a unique schedule to balance the budget. The deficit in 1997 will be $25 billion more than it is in 1995. It is a strange path.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, with corporate welfare incredibly off the table and with an incomprehensible call for tax cuts in the fact of these huge deficits, the Republicans want to savagely cut what will be needed to adequately fund Medicare and Medicaid, even though health care costs are increasing and our elderly population is growing.

With the return of this conference report to the House, we have another opportunity to do what we should have done in the first place: say no to these devastating cuts in Medicare and Medicaid.

The President has made it clear he will not sign a bill that destroys these two programs. Medicaid is not only subject to deep and unsustainable cuts in this budget, but the program itself is repealed. And this cannot happen.

We have 18 million kids depending on Medicaid for their health care. That is 1 in 4 in this country. It makes no sense to turn our backs on them.

Millions of seniors and disabled people depend on Medicaid for nursing home coverage, millions of middle-class families need to know that this help will be there for their parents. Severely disabled kids and adults have nowhere else to turn, if they cannot depend on Medicaid.

We cannot accept a program that adds millions of America's kids to the rolls of the uninsured. We cannot undo the only program we have got to help deal with the astronomical cost of long-term care. To take hundreds of billions of dollars out of this program is wrong, especially when we are not touching corporate welfare. Why are we giving tax breaks and paying for it by cutting these two programs?

Every American should be grateful to the President that he is standing up and saying he will not accept the destruction of Medicaid, that he will not see damaging cuts in Medicare. We should not accept them either. Vote no on this conference report.

Mr. HOBSON. Mr. Speaker, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, the ranking member of the Committee on the Budget rightfully pointed out that the deficit in the second year of our budget goes up slightly. I would just point out to the gentleman that if we make no change, it goes from 210 to 230 with present CBO scoring. With the President's 10-year budget it goes from 189 to 217. With new CBO scoring the gentleman is right, it is 157 and it will go to 175. And this, to me, is an example of how all of us need to work together in the second year budget to make sure that instead of going up, it goes down. And I look forward to working with my colleague to see that that does in fact go down.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, we heard a previous speaker on the other side describe this budget as being bullying, heard it described as extreme. I do not know what is extreme about giving the average American family a savings of $2,558, which is what the most conservative projections of economists say that you would get of savings of interest costs on a car loan, savings of interest costs on a car loan, savings of interests costs on a student loan and, of course, tremendous savings of interest on a mortgage loan. I do not know anything that is extreme about giving American families that kind of savings. I do not know anything that is bullying. I think that is helping American families.

Nor do I find anything extreme about a budget that goes from the current amount of $9.5 billion we spent in the last 7 years to $12 billion. That is an increase, a gigantic increase in spending. The difference of course is found in the third column. If we do nothing, if we follow what the President would have us do, it would go up even more. And that is the difference between balancing the budget and saddling American families, saddling children, saddling our next generation with even more debt, borrowing from them today to pay for more debt tomorrow.

A child that is born today is going to pay $179,000 in taxes just to pay the interest on the national debt over the course of his or her lifetime. That is before they pay any of the debt. That is before they get anything from student loans or from health care grants or anything else. That is just to pay the debt, the interest on the national debt.

The President's spokesman did get it right when he said one thing, he said, this is not about numbers. This is much more philosophical than that. This is much more deeper than that. This is about a different vision of where America goes. And I agree. it is a different vision.

We believe it is the vision of America as one where individuals have responsibility and have opportunities. The vision of the other side seems to be to keep the status quo, keep saddling the American family, keep saddling the next generation with more debt. We cannot go on doing that.

The President said he would veto this, but I hope that this President will change his mind when he looks at this and not veto this legislation.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], distinguished ranking member of what used to be the Committee on Energy and Commerce. I do not know what it is called now. The Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I have a vision of America, too, and one which, I think, is far better justified than anything I have heard coming from the other side of the aisle. That is a place where there is compassion, where when people are down, there is a hand out to help them up, not a handout but a handup. That is what is really important.

I rise in strong opposition to this misguided bill. It does more damage to more programs than I can discuss in the time available.

I will talk about Medicaid. Let us recognize the simple truth, this bill destroys the Medicaid Program. That is a program that provides health care coverage for 36 million Americans, including 4 million elderly, 6 million disabled, 18 million children, and 8 million mothers. Now, under the Gingrich and the Republican majority plan, we are no longer concerned with trying to protect health care coverage. Instead, we are taking health care coverage away from millions of Americans.

Under the mantra of States rights, Republicans are shredding the safety net. The Republican bill arbitrarily cuts $160 billion from Medicaid. The Republicans argue this is not a cut, but $160 billion equals almost 2 years of total Federal spending under this program. You cannot tell me that that is not a cut, when you reduce the program by 2 years' worth of Federal expenditures.

Further, the bill abdicates the Federal Government's total responsibility in Medicaid. It destroys the guarantee of health care for the elderly and for the needy, and it invites abuse by the States. In fact, it takes away all guarantees of coverage under current law. Families could be forced to sell their family home or the family farm to pay for a loved one's nursing home care.

Families could face costs of as much as $40,000 a year for nursing home care for their parents. Families caring for seniors with Alzheimer's or strokes would have no guarantees, nor would the disabled, the children, or the pregnant women. That is cruel, and it is unnecessary.

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Last but not least, this program takes away the current law guaranteeing that Medicare premiums of low-income seniors will be paid so they can see a doctor.

The bill walks away from responsible Government to help people in favor of lining the pockets of the wealthiest Americans with tax cuts. This is wrong. I urge my colleagues to reject it.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, I suppose we are all prone to exaggeration at times, and as my colleagues know, sometimes in the political process, when we exaggerate for effect, that is, I suppose, the definition of demagoguery. I suppose we are all guilty of that at some point or another, but as my colleagues know, the consequences of demagoguery can be different depending on what the issue is.

In the case of our side, maybe we demagogued a little bit on the President's tax increase of 1993, but do my colleagues know what? There were no people who really lost sleep about that; there were no people who went to bed at night wondering whether they were going to be able to make it. But there are people that are losing sleep because of what is being said, particularly at this other lectern, about Medicare.

There are people like a lady whose name I would not use who met with me recently at Wade's Restaurant in Spartanburg, SC, who was very worried about Medicare because of some of the things she has heard right here. But when I explained to her what is going to happen in Medicare and the fact that we are going to increase Medicare spending from $4,800 per person to $7,000 per person in the new numbers, she was greatly relieved. In fact, she is now convinced that this will work all right for her after hearing the full presentation.

So I would really urge my colleagues to be very careful in this debate as we talk about the next several weeks about balancing this budget. There are some people that are very scared, and they are scared without reason because we are going to increase Medicare spending; and in fact, in the rest of the budget, what our colleagues see is we are spending more every year over the next 7 years.

So all of those people out there, the scare groups are trying to scare to death, they are having their intended effect, and some people really are scared. But when they hear that we are actually going to increase spending to $12 trillion over the next 7 years, rather than watch it gallop off the cliff at $13.3 trillion, saving about $1.3 trillion over the next 7 years, we can actually balance the budget, and when they see those numbers, they go to sleep at night, and they have a good night of rest.

I hope that we will tell them the truth in this Chamber.

Mrs. MEEK of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, this Republican budget bill should be opposed because it repeals Medicaid, the health care program for low-income people, in order to pay for tax breaks for the rich. In effect, this is Robin Hood in reverse, and I cannot believe that our country has come to this. Thirty-six million people will no longer be guaranteed coverage. They will be dependent upon the States which will receive 18 percent less in Federal funds than the Congressional Budget Office estimates is necessary to maintain current coverage. That means more than 8 million people who would have been covered by Medicaid would likely be without insurance because hard-pressed States would be forced to keep them off the roles. The States do not have the money; where are they going to get it? They are not going to raise taxes, and people will be without health insurance.

The bill, when it came back from conference, also says that States are allowed to spend only 40 cents on a dollar in order to get 60 cents in Federal dollars. So that means that a lot less money could be coming to the States than even is anticipated because States would not have to put up their matching funds.

The bill says it is going to provide protections for women and children up to 100 percent of poverty, but allows States to define the benefits package. It also purports to protect the disabled, but allows the States to define who the disabled are and how they will be treated.

What does that mean? A lot of disabled would not be covered; a lot of pregnant women and children would not be covered; and lastly what it does, it also repeals the current law guarantee of payment of Medicare part B premiums on behalf of the elderly.

Speaker GINGRICH told us a couple weeks ago that that guarantee would be there, that low-income seniors would have their Medicare part B premium paid for. There is no such guarantee in this bill. It is up to the States like everything else.

Mr. Speaker, in this continuing resolution that was adopted today for the first time President Clinton got into the continuing resolution that the budget should provide adequate funding for Medicaid. I hope that this bill is defeated and that, when the negotiations start with the President and the Republican leadership, that that principle that President Clinton has so well articulated, provide adequate funding for Medicaid, is finally accomplished. This bill will not accomplish that goal. Hopefully, once this bill is defeated and the President vetoes it, we will have some negotiations to that effect.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Speaker, I thank the gentleman from Ohio [Mr. HOBSON] for yielding this time to me.

Quick item: We heard a previous speaker talk about lack of corporate welfare, attention in our Balanced Budget Act of 1995. I would suggest looking here in the Joint Committee on Taxation report that we have here at least three or four pages of corporate and other reforms. The total comes to approximately $26 billion. In my book that is not small change.

Like everyone else here, I have listened to the debate all day long about the continuing resolution, and I would like to say that there are no losers in this battle. The people of this country are the big winners as a result of what we have done over the last few days.

Let us talk for a minute about what the President has agreed to with respect to saving Medicare. Well, indeed in our Balanced Budget Act of 1995 we increase spending in Medicare from $178 to $289 billion. The President has said that we must pass tax policies to help working families and to stimulate future economic growth. Well, indeed we do that in our Balanced Budget Act.

For example, in capital gains we allow individuals who make less than $53,500 to benefit from capital gains preferential treatment. The President is agreed that we must provide adequate funding for education, the environment, agriculture, Medicaid, national defense, and veterans. Well, surely our veterans budget, which goes from, let us see, $36.9 to $41.8 billion is an increase and as compared to the President's veterans budget which constituted a reduction from the baseline of over $17.1 billion. Under the GOP budget, student lobbies would increase from $24 billion today to $36 billion by the year 2002.

In short, Mr. Speaker, what this Balanced Budget Act calls for is reasonable increases while we protect and preserve the future of this country for our children and our grandchildren. Who could ask for more? Certainly not anybody who was watching this debate today.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, this is a bad bill for a lot of reasons. We have heard our colleagues on the other side talk about what really is a high goal for all of us, and that is balancing the budget so that we do not pass the debt on to the next generation, but that is exactly what this bill does.

If your parents are lucky enough to survive, and they are going to be in a nursing home facility, there is nothing in this bill that ensures that there is an entitlement in the new Medigrant Program so that they will actually have Medicaid that will be paying for their nursing home care, and so adult children will quite often find themselves paying $35,000 or $40,000 per parent themselves, out of their own pocket, taking away from their own families, taking away from their own savings, taking away from their own ability to buy a home, from their own ability to educate their children. We are really forcing these adult children into poverty because the parents are living longer, and any parent who lives long enough and sees that they are going to become a burden on their children will not want to live, and I say that this really sets the plate for Dr. Kevorkian to have more franchises across this Nation than McDonald's does.

It also will put a tremendous burden on the counties that operate nursing homes. They will either have to throw out these nursing home patients or they are going to have to raise local taxes to make up the difference.

This is a bad bill, and it is a bad direction, and I hope Members will vote no.

Mr. HOBSON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Speaker, I am proud to vote yes on this Balanced Budget Act today. This is a good bill. It is good for America, and it is good for the future of this country and for our children's future.

There are four major goals we have set as Republicans for this year, and this bill incorporates these goals, and the goals are:

To balance the budget in 7 years without smoke and mirrors but real numbers; second, save Medicare; third, welfare reform, real reform focusing on families and work; and fourth, tax relief for families and for job creation.

So we have set out our four major goals, and this bill incorporates those goals.

Now the President basically agrees with our goals; at least he has been rambling on saying he does, and, finally, yesterday he agreed on the 7-year balanced budget. During the campaign in 1992, he said 5 years, and we have gone to 10 years and 7 and 9. Now we have got the President pinned down to 7 years with real numbers.

Now the President talks like he wants to save Medicare, but we have no specifics. We have a specific plan that I think is a good plan. It increases the spending on Medicare per person each year for 7 years. It is the fastest growing part of the Federal budget. We go from $4,800 per person to $6,700 over with the new scoring to $7,100 per person. Every year there is more money for Medicare recipients. We have a good plan because, basically, it just gives choice.

Now what does the President propose? He has no plan. He has no plan. He tried to socialize medicine in his first 2 years in Congress. The vote rejected that last year. He has no plan to save Medicare, but he says he wants to save it, so at least he agrees with the goal.

The goal we have is welfare reform. We have a specific plan passed by both the Senate and the House. We have a welfare plan that is a good plan, passed by both the House and the Senate. The President campaigned on welfare reform in 1992 and said let us change it as we know it. So he agrees with our goals.

And then tax relief. We want to give tax relief to families. So does the President, and the President is going to support a capital gains tax that stimulates jobs in this country.

So what are we fighting over when the goals are there? It is pure politics by the President. They are using fear tactics on Medicare. The Governor in Florida used that to perfection during the campaign in 1992 and now admits it. The President used it, but the previous speaker is talking about Kevorkian, using that as a comparison, talking about destroying Medicare. The Washington Post was right last week when they said, stop scaring seniors.

The end result is we are going to pass the bill the President is going to sign that is going to be remarkably the name as the plan we are going to vote and approve today. I urge my colleagues to pass this bill today.

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I am so tempted to take the 1 minute and respond to my colleague and good friend from Florida [Mr. MILLER] about Medicare because there are just flatout distortions in what he just said, but I think the focus right now is Medicaid, and let us talk about Medicaid for the country and for Florida as well.

Unless there is some part of this bill which I have not seen which figures out how to cure illness and old age, the results of this proposal will be devastating to the country in the whole, but particularly to Florida. Florida will be more adversely affected than any State in this country, and I continue to urge my 15 Republican colleagues in Florida who could make the difference in stopping this bill from becoming law to vote against this proposal. There is an opportunity to make history today, this evening, and I urge my colleagues [Mr. MILLER] as well as my other Republican friends from Florida to do that.

Because, if they do not do it, let us just talk a little bit about what will happen. People will still get sick. People will still get pregnant. But what will happen is they will be treated in community hospitals throughout our State at more cost and less service.

I urge the defeat.

□ 1715

Mrs. MEEK of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, the entire Western World has found a way to provide health insurance for its entire population, yet in the United States we only provide it for elderly people, people who have retired. Yet today under this reconciliation bill, the Republicans are now beginning to chip away at even that. Not only the Medicare cuts are there, but also Medicaid cuts, which will remove the entitlement that currently acts as a safety net for over 65,000 senior citizens in nursing facilities just in my State of Texas alone, millions more in the United States.

In other words, now there is nothing that requires States to assist impoverished seniors and their families with costly nursing home care in the future. Such care averages about $40,000 per year. The requirement that that be provided is now gone.

There is no way to make these numbers add up. While the population of our State grows over the next 7 years, this bill and its ridiculous formula locks in historical spending patterns that will ensure that Texas seniors and their families will be left without medical benefits. The fact of the matter is that a grandmother in New York is going to get twice as much as a grandmother in Texas. This is an outrageous bill. Vote "no."

Mrs. MEEK of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from St. Petersburg, FL [Mr. GIBBONS], the dean of the Florida delegation.

Mr. GIBBONS. Mr. Speaker, we all know this bill is going to be vetoed. It was terrible when it left here, and it is still terrible when it gets back here from the Senate and from conference. This bill savages the most vulnerable people in our society.

Mr. Speaker, let me answer some of the arguments about a balanced budget. Everybody wants to balance the budget. Everybody wants to balance it as quickly as possible, without hurting the economy and without savaging people. The question is, who is going to pay for this? Who is going to bear the burden of this balancing of this budget?

Mr. Speaker, let me say first, we are on the way to a balanced budget. Three years ago the budget deficit was about $300 billion a year, 3 years ago. We just completed the fiscal year, and the budget annual deficit is down to $160 billion. If the economy holds up like it has been going for the last 3 years, we may balance this budget in much less than 7 years, more like 4 or 5 years. That is possible. But it all depends upon the strength of the American economy.

What we want to do here in Congress is not foul up the American economy, to keep it working like it is, and the budget deficit will solve itself.

Second, Mr. Speaker, we have to figure out and present to the President a decent way to balance the budget. Who is going to pay the cost? The Republican proposal, as it is outlined in this legislation, puts the cost on children, on infants, on the working poor, on the sick, and on the elderly. Those are not proper priorities for balancing the budget.

One of the things that vastly complicates this budget balancing is the Republican desire to pay back some of their wealthy political contributors. They give back to them $250 billion, $250 billion that they take away from the sick and the aged and the children.

Let me go over how this $250 billion is distributed. The top 10 percent of American families will get 40 percent of that $250 billion. Let me repeat that. The top 10 percent will get 40 percent of that $250 billion.

The next wealthiest 20 percent, or wealthiest 20 percent, will get 60 percent of that $250 billion. Those with family incomes of more than $150,000 will get 45 percent of all of this tax cut. The average family income in the United States is about $32,000 per year per family. That is the average. Everybody below that, all half of the 55 million families that are below that, have less than $32,000 a year income. But you know how much those 50 percent of the people get? One percent, 1 percent of all these cuts.

That is just not fair, Mr. Speaker. The American public knows it is not fair. That is why the gentleman from Georgia, Mr. GINGRICH's, negatives are so high. That is why the Republicans are losing out in the polls, because the American public understands the simple facts, that this proposal is not fair.

Mrs. MEEK of Florida. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I rise in support of the rule and the reconciliation bill. I hope that during this Thanksgiving, and God knows we have a lot to be thankful for, that when we say our prayers we might think of some of the people that are poor, that are sick, that are disabled, that are aged, and really do not know what the future holds for them.

There are those on the other side that say that we are scaring these people, that they have nothing to worry about, that they are in their mothers' arms with the Republicans' reconciliation bill.

I do not know whether Democrats have the right answer, but when we start talking about the lesser of our brothers and sisters, the blind and the disabled, those who are working hard, trying to keep their pride and their dignity, and you see these programs being reduced, the rate of growth being reduced, and people being denied service, you wonder where is the outrage. How can Republicans come to us and say that they would like to reduce taxes by $250 billion, balance the budget, and nobody is going to get hurt? I was just amazed as to how you got this far with that type of arrogance and that type of contempt.

I am pleased today to know that it is not Democrats and liberals screaming that say that this is outrageous, but it is our moral leaders. And God knows how they are registered; I do not. But is it not exciting to see that we now have the National Conference of Catholic Bishops, and I know they do not have a political axe to grind, but they are saying that in this country, this great Republic, that we should have a safety net for our disadvantaged. They are asking that this bill be vetoed because it is unfair to the poor. This did not come from the DCCC.

One might say, "Catholics are not the most popular people that we have in this country," and lo and behold, we have Christians and Jewish groups calling for a veto. "The very moral fabric of our Nation would be torn," the leader said in his statement. "The Government is renouncing its 60-year-old promise to be protectors of the last resort of its poor, its disabled, and of abused children." It is the Eastern Orthodox denomination, rabbis, ministers, conservative Judaism, the Protestant Council.

I think there is a way out. I think the Republicans really knew that there was a difference in ideology and that they have been getting away with murder, but they signed an agreement, or at least signed off on an agreement with the President. You vowed that you were going to protect these programs. But the great thing about this agreement is that you show "* * * adopt tax policies to help working families, to stimulate the future economic growth * * *."

You also said you were going to protect these programs that made America great, that have given opportunity among our poor. Why do we not forget the politics, why do we not forget the reconciliation bill, why do we not get on with the people's business and say that we do want a balanced budget, but you can only do that after you take care of your budgetary needs and you do not give the tax breaks to the greedy.

Mr. HOBSON. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH], a member of the Committee on the Budget.

Mr. SMITH of Michigan. Mr. Speaker, I think the good news is that there has to be a slowdown of the bomb-throwing from the other side now, because some of those bombs might come back to haunt them. Now, hopefully, we are going to sit down, we are going to talk about what is the best way to achieve a reduction in the increase of spending over the next 7 years.

I just wanted to relate to some of the concerns about the tax breaks and who they are going to. The net tax decrease in this bill is $226 billion. Just for a minute, compare that to what happened in 1990, when we had an increased tax of $280 billion. Compare that to what happened in 1993, when we had a tax increase spread over 7 years of $350 billion.

If you believe the economists when they say that these kinds of tax increases are a depressant on the economic and job expansion, is it reasonable to give some of those tax breaks back, take away some of those tax increases of 1990 and 1993? I say yes, if we want to increase job opportunity and the standard of living, we have to look at ways that leave some of this hard-earned money in the pockets of the people that earned it.

We have to start looking at the fact that this country, over the last 10 years, has a lower savings rate than any other industrialized country in the world. Guess what our savings rate in this country is; about 5 percent. Compare that with South Korea, at 32 percent; compare it with Japan, at 21 percent. We have been paying out, enjoying our benefits now and pay later.

That is what we have been doing in this Government. We have been borrowing from our kids to satisfy what we think are our today's needs.

Mr. Speaker, Republicans promised to provide a tax cut that is targeted to middle-income Americans. Look at this chart. We have kept our word. Our tax plan will help strengthen American families, and it is going to give job creation a boost. Sixty-five percent of the relief goes to people with incomes below $75,000. If you want to go up to $100,000, then 82 percent of these tax cuts go to families that are receiving less than $100,000. It is for middle-class families, it is to benefit job creation.

Mr. Speaker, throwing bombs, it is easy to say, "Well, we think you are hurting this group or this group or this group," or, "You are disadvantaging this group just for tax cuts to the wealthy." Now, if we are going to agree to this, and the Democrats and the President have said, "Yet, we will go with a 7-year balaned budget," now we have to start talking turkey over this Thanksgiving period. We are going to have to say, "Here is where I think you should reduce the spending more than you are reducing it today."

I would say, Mr. Speaker, that it is so good news for the American people that we have agreed to have a 7-year balanced budget. It is what we need to do if we are really concerned about our kids and our grandchildren.

Mr. SABO. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, if the gentleman would respond to a quick question, I would ask him, which tax increase of 1993 is repealed in this bill?

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. SABO. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Speaker, I would tell the gentleman, I do not know the specific tax increase, but I can tell you that we are putting some of this money back in the American people's pockets. It is a $500 tax cut for individuals.

Mr. SABO. The answer is none.

□ 1730

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], the very distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I could not help but just get up here and say a few words, because I heard the gentleman from Florida [Mr. GIBBONS], my friend, stand up here and talk about giving tax breaks to our rich friends; and I heard the gentleman from New York [Mr. RANGEL] stand up here and talk about giving tax breaks to the greedy.

Mr. Speaker, let me say to my colleagues, I have friends in my district who live down the street from me. They have been married quite a while now; they have five children. They have a total income of $41,000. He is a postal worker and his wife works part time—$41,000.

Mr. Speaker, to people on the other side of the aisle, that is rich. I want them to take this $500 tax credit. We are going to put it in their pocket so that they can put it in the bank.

Another couple lives down the street the other way with an income of $47,000. Two of them are working to get that joint income. They are married, and they get penalized for it; while two people living singly together, not married, do not have to pay this kind of a tax.

We are going to take care of that. We are going to do away with that penalty.

Then we have the capital gains tax. I have two people that work for Sears & Roebuck. They have worked there for 38 years, they have saved their money, they have stock options, they have been holding that stock all of these years. They have an income of $49,000 between the two of them. Is that rich?

They want to retire next year, sell their $100,000 home. It cost them $8,000, now it is worth $100,000; and they want to cash in their stock and their house to go to Florida and enjoy the sunshine. Are they called rich?

What is this business about a tax cut for the rich? Republican tax proposals are targeted toward working middle American families.

Vote for this bill. It is good for America.

Mr. GIBBONS. Mr. Speaker, if the gentleman would yield, I would say to the gentleman, what he outlined, they do not pay any taxes. They do not pay any taxes.

Under the facts and circumstances that were outlined here by the previous speaker, those people, if they pay any taxes, they are getting the wrong tax advice. Their home is, under the circumstances that he outlined, completely exempt from taxation.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, this body will now clear reconciliation for the President and he will correctly veto it, and then we will get down to the real negotiations on a balanced budget in 7 years.

Mr. Speaker, I really hope when we get to those negotiations, very serious negotiations, because after what has happened over the last week, we cannot afford any more of this nonsense that we have seen, that we really deal with the facts and not the chart that the gentleman just had on the floor, because if we talk to Treasury, they do not deal in charts, they deal in figures.

Mr. Speaker, that chart ignores the fact that most of the $32 billion of the earned income tax credit on incomes of $28,000 and less are not involved in that chart. They ignore that tens of billions of dollars in tax reductions from a multitude of provisions that primarily benefit corporations and shareholders are not in that chart.

For instance, the particularly bizarre treatment of the alternate minimum tax. That chart ignores the fact that $12 billion in tax reductions in the estate and gift taxes, no matter whether we agree with it or want it or like it, we have to have these things in the numbers to come up with the correct chart; and we know that that is in there, and it is not in that chart.

Another press release that I saw recently from the other side has asserted that 1996 families with children will either have no net change in their earned tax credit or will have a net tax reduction. This is absolutely untrue. This analysis manipulates information by picking and choosing which parts of the earned income tax credit, which is the working, low-income credit for families, are put into the numbers to get that chart.

So even when we consider a combination of the earned income tax credit cuts and the family credit, 8 million families credit, 8 million families are not losers.

Call Treasury, ask for the numbers. Let us forget the charts, the pictures, and the carryings on.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Speaker, as I listen to my friends on the other side of the aisle, they would seemingly suggest that unless the huge bureaucracies of the Federal Government here in Washington spend our tax money, we cannot improve the lot of underprivileged people; that somehow we cannot improve the lot of our American families, unless this huge Washington bureaucracy captures all of the available tax money and spends it; that somehow, if communities spend it, if families spend it, they will not do it as compassionately, they will not do it as thoughtfully. However, the people who look at this town and look at the waste inherent in this huge Government know that if we can transfer power, money, and responsibility back to communities and families, we may be able to make more progress in confronting the challenges that await America in the 21st century.

Mr. Speaker, the greatest threat is for us to do nothing, to merely let this Government run on autopilot, because if we do that, a truly tragic result will ensue. Just 17 years from now, every single tax dollar sent to Washington, DC, will be consumed by just five programs; and four of those programs are vitally important, Social Security, Medicare, Medicaid, and Federal Employee Retirement Benefits. But the fifth program that will consume all of the tax dollars 17 years from now is the interest payment on the national debt.

Mr. Speaker, that is a tragic future awaiting the next generation. We have to relieve that burden of debt that our endless credit card charging has left to our next generation. The only moral course let to us is to make the tough decisions to balance the budget, and that is what the measure before us does.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DE LA GARZA], the ranking member of the Committee on Agriculture.

Mr. DE LA GARZA: Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2491.

Mr. Speaker, while I support the goal of a balanced budget and voted for the Democratic approach to achieving that budget over 7 years, I must take great exception to this agreement which sacrifices one of our most important national goals—that of preserving the health of our rural economy and the adequacy of our Nation's food production system.

Mr. Speaker, the Gingrich-Armey conference agreement endangers our Nation's food security. While the cuts initially ordered to be attained in agriculture were irresponsibly drastic, the approach taken by the Republican leadership to eliminate the farm safety net altogether threatens to wreak havoc on the rural economy. No longer will producers be able to count on the Government when its own macroeconomic policies destroy their markets, as happened in the mid-1980's.

Under H.R. 2491, agricultural commodity programs—which have been key to our success in ensuring a consistently adequate, safe, and affordable food supply—will end with the 2002 crop year. Mr. Speaker, the Republican plan not only eliminates our Federal farm safety net, but it also makes devastating cuts in programs which allow our agricultural sector to compete with the European Union in farm trade. The future of our agricultural economy is in foreign trade but the Republican plan amounts to unilateral disarmament when our competitors are subsidizing heavily to take away markets that our more efficient producers would otherwise capture. With the tremendous beneficial impact that farm trade has on our economy as a whole, the Republican policy of drastically reducing the export enhancement program is extremely foolhardy.

Mr. Speaker, there is substantial agreement now that the budget must be balanced. The American people want it balanced and we are working toward that goal. The Gingrich plan before the House today takes the wrong approach where rural America is concerned. Reductions in discretionary spending totals cut deeply into the programs that are vital to rural Americans. We have to continue to marshal our resources in a way that ensures we do not endanger the future of our rural economy on which our Nation so heavily depends.

And yet, without the benefit of a single hearing, the Gingrich-Armey leadership has imposed an entirely new program that eliminates the Government role in ensuring the farmer a fair return. Instead, the Gingrich plan establishes a program of flat payments to farmers: regardless of what they plant; regardless of the level of market prices.

Mr. Speaker, farmers in every region of this country have very grave concerns about the agriculture provisions in this bill. They represent a sudden and dramatic abandonment by the Government of its role in sharing the farmer's risk. Farmers are particularly concerned that this sudden withdrawal of the Federal Government may make the difference in their fight to stay on the farm. Yes, they may know that each year they will get a cash payment, but if prices collapse next year, will that payment be enough? If wheat prices fall to $2.50, how many wheat farmers will be out of business in Kansas, in the Dakotas, in Washington? If cotton prices fall back down to 45 cents, how many cotton growers—spread out all over the South—will survive? If corn prices are under $2, where will the Corn Belt be?

Agriculture deserves more consideration than has been given by this Congress and I am glad that the President has won from Speaker GINGRICH a commitment to recognize that fact in upcoming negotiations.

Mr. Speaker, other parts of the Republican plan disregard the special needs of the rural economy. The cuts it would make in Medicare and Medicaid will have devastating and inordinate effects on rural hospitals and the provision of health care in rural areas. In block granting Medicaid and reducing funding available for low-income health care services, support to health care in the State of Texas alone will be cut by 20 percent. These cuts will fall heavily in rural areas where health care services are sparsely provided to begin with. In a specific move, the Republican plan removes current rules designed to prevent spousal impoverishment and imposes a new possibility—that a lien could actually be placed on a family farm before the owner's spouse would be eligible to receive public assistance for catastrophic medical services.

In addition, the Republican plan eliminates any link between Medicaid spending and localized economic distress. Currently, an economic recession in a heavily rural State would result in increased resources being made available under Medicaid. Under the Republican block grants, the amount to be available—already severely reduced—would become highly inadequate if conditions in the farm economy deteriorated.

The Republican plan also has tremendous implications for rural hospitals. Rural residents are chronically underserved. The plan's cuts in payments to hospitals will threaten the viability of many rural hospitals and clinics. In the days ahead, we must act to protect the ability of rural Americans to improve the availability of health care in their areas.

Mr. Speaker, I strongly oppose H.R. 2491. Make no mistake: my colleagues who vote for it are voting to end farm programs. It's a bad bill; it is opposed by the American people; and because of that the President will veto it. I am encouraged, however, that the President and the Congress have now explicitly recognized that we will, in fact, agree on a balanced budget. I am encouraged that we can now sit down in a bipartisan manner and fashion an agriculture policy that will recognize these basics: First, the need to preserve the farm safety net; second, agriculture has contributed heavily in the past to deficit reduction; third, continuation of investment in rural America is of crucial importance; and fourth, the need to continue to provide the resources necessary to maintain a level playing field with our export competitors.

Mr. Speaker, I came here in 1965. The first bill I introduced was a balanced budget amendment, so no one can point a finger at me and say I have not tried. I have served with Presidents Johnson, Nixon, Ford, Carter, Clinton, Bush, Reagan, and I respected them always, I respected my colleagues; but when foam comes out of the mouths when they say "tax and spend liberal Democrats," I resent that.

As chairman of the Committee on Agriculture, we cut over $50 billion. My colleagues have to respect that; my colleagues have to admire that. We did. If everybody else had done the same thing, we would not be here.

And then I had to explain to someone, what is this continuing resolution? I said, so we can continue running the Government.

Well, my dear friends, you waited 40 years to get here, and you messed it up the first year. You did not pass your appropriation bills. The President cannot legislate. It is a legislative failure, and you are the majority, and nobody has noted that.

You are arguing with the President, Bill Clinton. You did not pass the appropriation bills. It is a legislative failure, and it is on your side of the aisle, and I am sick and tired; and I am not going to abuse anyone, I am not going to do rhetoric, I am not demagoging, I am telling the truth. You did not pass the appropriation bills. It is a legislative failure.

I have helped cut some $50 billion in 12 years, not from the poor, not from those that need it, but in the area where it could be judiciously done. So think about that.

I am coming over and telling your side, you have been a legislative failure. You waited for 40 years, and you have messed it up.

Mr. HOBSON. Mr. Speaker, we just wish the rest of his colleagues would have followed him in balancing the budget by cutting so much.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleagues ask what items are not in this thing that we are taking back on the taxes. Well, I would tell my colleagues that a balanced budget in 7 years, by itself, is a big reduction in taxes on the American public. When you increase taxes $270 billion and you give back $245 billion, that is a lot. When your bill increased the marginal tax rate on the middle class and we take it off, that is a big tax back to the American public.

When a $500 deduction is given to people, even my colleagues would have to admit, that is not all going to the rich. About 70 to 80 percent of it is going to people below $100,000, and most of that, down below that. So that is being given back. And by not sending billions of dollars to Russia and extensions of Somalia and Haiti and sending 25,000 troops to Bosnia, they are not going to be paying those taxes and those dollars at all.

So I would tell my colleagues, we are doing a lot in the balanced budget and giving money back to people that the President did not.

Mr. HOBSON. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I thank the gentleman from Ohio for yielding. I would say to the gentleman from Texas, in regard to the remark he just made, the biggest appropriation bill of all, the bill funding the Departments of Labor, Health and Human Services, and Education amounting to $270 billion is being held up in the Senate, we passed it in the House, because the Democrats will not let it come to the floor.

So do not say that it is our fault that all the bills have not passed. They are the ones that are preventing it from being heard.

Mr. SABO. Mr. Speaker, I yield 10 seconds to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, the leader in the Senate is named DOLE. The majority is Republican. Do not come to me telling me that the Democrats are holding it up.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON], and I believe that under the rules of the Senate, it takes 60 votes to pass a bill.

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of the Balanced Budget Act of 1995. One of the biggest reasons why I support this bill, and I believe very strongly we need to pass it as a nation, is that it will lower interest rates paid by all Americans on all of their loans.

For example, a typical average American family such as many of those living in my district, Florida's 15th Congressional District, the space coast, can see up to $121 a month in savings on their mortgage payments. That amounts to $1,456.

When decreases in student loans are added in that will occur when the Government is not out borrowing money, the decrease in the interest rate on student loans, car loans, and add that to our child tax credit for those typical hard-working families in my district, they could see up to as much as $2,000 of disposable income in their pocket.

This makes sense. The American public wants the budget balanced. Hardworking Americans across the Nation will benefit from it.

Support the Balanced Budget Act.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM], my good friend.

Mr. STENHOLM. Mr. Speaker, I oppose this version of the balanced budget amendment for many, many reasons, one of which I will talk about, on agriculture. But a second one is that this one that we are about to vote on increases the debt of the United States by $41 billion more over the next 3 years than the balanced budget amendment that I and a large number of Members on both sides, I believe, will soon end up supporting, and that is the so-called coalition budget.

□ 1745

But I repeat, the balanced budget amendment borrows $41 billion more than the better alternative that we could have voted on today.

Let us talk about agriculture for just a moment. We Democrats learned a lesson 2 years ago when we tried to reform our health care system partisanly, in closed meetings, behind closed doors, and excluding the minority, and we were wrong. We paid the price because nothing good happened. Now we have the majority writing farm policy behind closed doors in a partisan manner, excluding the minority. You are wrong today for doing that, to bring a farm bill as part of this reconciliation that destroys the safety net for agriculture, an agriculture community that must compete in an international marketplace, an international marketplace that is not as free as those who have designed this policy, not members of the Committee on Agriculture. This farm part of this reconciliation bill was not written by the House Committee on Agriculture. It was written in the Speaker's office and by certain designated hitters who chose, in fact, to put their philosophical beliefs into this reconciliation agricultural portion.

Another reason I oppose this version of the agriculture component is that it does not by any stretch of imagination recognize the unique needs of rural health care. The Medicare-Medicaid cuts from rate of increase, I readily concur with every chart I have seen, they are totally accurate in what they say, but they are immaterial. It is immaterial what we are talking about numbers unless we change the policy that goes with it.

The policy directions that are present in the budget we are about to vote on do not address the needs of rural America, health care, rural housing, water and sewer, conservation needs, research. Research, we are continuing to cut in that area.

These are the things that concern many of us on this side of the aisle, that the agricultural component, the policy, the decisions in which we are going to see whether or not some future speaker can stand in this area right now, as I am standing and talking to you today, and saying are we not blessed to live in a country that has the most abundant food supply, the best quality of food, the safest food supply at the lowest cost of any other country in the world. We do not do that by accident. We do not do that by following blind philosophical beliefs. We do it by following good policy. Oppose this budget. Support one that will have better policy.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, thank God we are all in the same arena finally with the 7-year balanced budget scored by CBO. For the first time we are comparing apples to apples, not apples to oranges. I think that is terrific.

Now that we are doing that, we need to recognize two things. We need to ask these two things: First, should the Federal Government be doing everything that it is doing right now, and if not, let us figure out how to privatize it. If we should be, let us figure out how to localize it. From there we can go into the budget, cut what needs to be cut, freeze what needs to be frozen, eliminate what needs to be eliminated, and slow the rate of growth for certain programs that need a slowed rate of growth.

The reason why I say this is because we have been doing that since January. The result of this is contained in the Balanced Budget Act of 1995. That is why I support it.

Mr. SABO. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

Mr. GEPHARDT. Ladies and gentleman of the House, let me not today repeat what I said before about this budget. I think everybody knows my criticisms of the budget. Everybody has heard the arguments on the other side, and they have been good on both sides.

I think that yesterday when we reached this agreement, everybody won. Everybody got to put into the resolution their beliefs about how this will hopefully come out. It was a compromise in the truest sense of the word.

More important, yesterday America won and the American people won. Our form of Government is one where people with very different beliefs, from very different backgrounds, from very different parts of the country have to eventually come together and work together to find consensus and compromise. That is hard to do, because all of us hold our beliefs strongly. Both parties have very strong beliefs that they hold dearly.

JOHN KASICH was right the other night when he said we are doing now that people sent us here to do. They sent us to fight for them. They sent us to fight for their beliefs, and they sent us to fight for our beliefs.

And kind of the irony of our form of government is that when we finally get down to that grand compromise, what we started to do yesterday and we are going to have to do a lot more of in the next 3 or 4 or 5 weeks, people get put off because they think we are compromising. People get mad because we are compromising, although it is precisely what we all have to try to do to make this great country work.

So I guess I wanted to rise tonight not to argue the budget again. We have kind of done that.

I rise tonight to talk to all of us as human beings, and to say to each of us and to myself, in the last days, and it is no one's fault, but in the last days things have gotten awfully personal and awfully tough in this body, and people, including myself, have said things that probably, with better judgment, we would not want to say. I ask all of us, Republicans and Democrats alike, in the days ahead, which are going to be tough, that we depersonalize this discussion.

I can disagree with you without being disagreeable. I do not always accomplish that myself, but I should do that.

I can disagree with you vehemently and still respect you and like you as a human being, because I believe all of our motives are good. Our motive is to help the country. Our motive is to make the country better. Our motive is to improve the American society and our people.

So I just ask, as we go through these next 3 or 4 or 5 very difficult weeks, that we continue to respect one another and like one another, and admire one another as Americans and as patriots and as well-meaning human beings, as we disagree, so that at the end we have the ability to stretch and to move to that compromise which the American people want us so desperately to achieve.

We can do this. We can do it. We are smart enough, we are strong enough, we are good enough to find that compromise. With God's will and help, we will do it.

Mr. HOBSON. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. KASICH], our outstanding chairman, a person who has worked so hard to get here and so hard over the weekend.

Mr. KASICH. I appreciate the gentleman yielding me the time.

Mr. Speaker, let me say right off the bat, I am about all speeched out. I think that deserves an ovation.

I think that we were able to achieve a framework which we thought was important, the 7 years counted by CBO. Within that framework, we were able to list the priorities that we all feel strongly about. Over the next 4 or 5 weeks, we will fight within that framework and I think at the end of the day we will reach agreement.

I do not know how to feel about it today. In some sense maybe we overestimate how difficult this will be. I think that the minority leader is right. What a great speech he just made. He just said we are going to not personalize this stuff and we are going to fight in the great American tradition. At the end of the day, we will reach a deal and we will move the country forward. I think we will move it forward, because when the American people understand we are going to use real numbers, we do not have a goal, we do not have a dream, we have a reality, we are going to lay down the first down payment toward certainly rescuing the next generation.

I want to say to my colleagues that the negotiations were very positive. The gentleman from Minnesota [Mr. SABO], the leading Democrat on the Committee on the Budget, sat in. Even though we felt strongly, we were actually able to have discussions with the President's Chief of Staff without anybody yelling and screaming at one another. It is going to be tough over the next 4 or 5 weeks, but I think we will get the job done.

I hope for everybody, we are going home for Thanksgiving tomorrow, we sit around the table, we say our prayers, and my prayer for everybody is to have a very happy Thanksgiving.

Mr. Speaker, we are all in a good mood. Let me not say anything that gets us in a bad mood here. I think we will come back after Thanksgiving rejuvenated. We will sit down and we will go through it.

But I think the people should know, and SAM GEJDENSON just suggested to me that it was a good point, that we all have strongly held principles.

I look over on this side of the aisle. I cannot think of a person that holds principles stronger than JOHN LEWIS. JOHN LEWIS took a beating over principles, and I am proud to serve with him in the House of Representatives.

We will get this done. We will work it out. We will put the country first. We got the framework. Happy Thanksgiving. Let us all come back healthy and happy and ready to go to work.

Mr. EMERSON. Mr. Speaker, I strongly support the Balanced Budget Act of 1995, and I fully intend to carry through on the pledge I made to the people of southern Missouri by voting to pass this historic budget. Over the past several decades the national debt swelled to more than $4.5 trillion. This debt will cost taxpayers $234 billion this year and will saddle our children with an even larger burden. Enough is enough. Conservatives vowed when we took control of Congress to get this great Nation's fiscal house in order. The Balanced Budget Act delivers on that pledge.

Mr. Speaker, the stakes in this debate could not be higher. The fiscal future of the United States hinges on the ability of this Congress to make the tough choices required to balance the budget. It's more than debating trillion dollar figures—it's about making our economy stronger and providing American families with a better chance to make ends meet. A balanced budget enhances our entire economy with lower interest rates that will empower families and workers with stronger purchasing power. Mortgages, cars, and education become more affordable and the American dream moves closer to reality.

This process has not been an easy one, requiring many tough choices. The result is a balanced budget in 7 years, using real budget numbers—not "smoke and mirrors." The Balanced Budget Act limits Government spending increases, provides tax relief for low- and middle-income families, ends welfare as we know it, and preserves and strengthens Medicare and helps small businesses create jobs. Conservatives in Congress and the American people are committed to balancing the budget, and we want President Clinton to join in this commitment. The obligations we owe to the American people, their children, and our Nation's future generations, deserve nothing less than decisive action to preserve our future by balancing the budget.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 2491, the Balanced Budget Act. What we are doing is of enormous significance. We look at all this squabbling and ask: Does this make any difference? This is the ninth shutdown of Government in 12 years, but you probably don't remember any of them. So why is this different?

Those shutdowns were over how much we were going to grow programs. Democrats in Congress would say increase a program by 10 percent and a Republican President would say, I can only give you 5 percent. So, split the difference at 7½ percent.

This is different. We are not talking about the difference between 5 and 10 percent, but eliminating programs and agencies and reducing Government's hold on Americans through its grip on their wallet.

This is a revolution that is underway. And revolutions are messy. The Government shutdown and impasse on the spending bills are just the tip of the iceberg. But it is an important tip.

The President tried to tell the American people he couldn't sign a stopgap spending bill because it had extra things on it—Medicare premiums for example.

So we sent him a clean continuing resolution last night. Nothing on it. Nothing. Just one provision that commits the President to negotiating—not even reaching agreement on a 7-year balanced budget—just to negotiate. This President has said, as recently as 2 months ago, that he favored a balanced budget in 7 years. During the campaign he said he could balance the budget in 5 years. In fact, he has publicly stated that it could be balanced in 10 years, 9 years, and 8 years.

By saying he would veto the continuing resolution, the President has said he cannot, will not, agree to a balanced budget now, next year, 7 years, 10 years—ever.

This rhetoric has been going on for years. The press reported it again yesterday: The President said, "Yes, I'm for a balanced budget, but we can't cut Medicare, we can't savage programs for the poor, we can't abandon welfare recipients, and we can't change job training programs". In other words, I'll talk about a balanced budget, but I just can't bring myself to doing anything about it.

Well, this morning, we are going to do something. We have on the floor, as I speak, a bill that utterly transforms the way we think about government. This Balanced Budget Act preserves Medicare. In fact under this proposal it's going up per person from $4,800 to $6,700 in 2002, or 40 percent. It is a lie to say we are cutting Medicare.

The Balanced Budget Act gives control of Medicaid to the States—a concept that has proven to work with the Arizona Health Care Cost Containment System. It gives States the authority to implement welfare reform; it eliminates all farm subsidies in 7 years; it abolishes the Commerce Department and scales back others; and it eliminates more than 100 Federal programs.

Our Balanced Budget Act also gives each family earning less than $110,000 per year a $500 per child tax credit. That's hardly a tax break for the rich. That's a break for many, many middle-class Americans.

And let's look at the benefits of a balanced budget. Interest rates would go down, making it easier for Americans to purchase homes, cars, major appliances, and so on. That would spur economic growth, and our children and grandchildren would no longer be saddled with this enormous deficit.

More than 80 percent of the American people have said they want a balanced budget, and we have delivered one. We have done it for our children because we have borrowed long enough from our children. Now it's time for the President to stand behind his words with actions and join us—not fight us—in this effort.

I strongly urge my colleagues to support this historic legislation.

Mr. MINGE. Mr. Speaker, I wish to talk about the farm commodity portion of this bill. This body passed the so-called freedom-to-farm bill 1½ months ago. Like most things around here, the title is misleading. It had many shortcomings. My farm friends said it could more aptly be called the Family Failure Act of 1995. However, Chairman ROBERTS at least identified several of the essential points of a good farm program.

Tragically even these good points have now been compromised:

Significant payment limitations have been deleted. While we eliminate fuel assistance for low income rural folks, industrial scale farmers will still receive huge payments. In fact, they will receive an extraordinarily unfair share of farm program funds.

Equity among crops is lost. Corn, wheat, cotton, and rice were all treated the same by Chairman ROBERTS. In the budget reconciliation bill, cotton and rice have a program that could not survive if considered separately.

Flexibility is compromised. Conservation-minded farmers who wish to reduce erosion and renew the soil by growing hay lose a portion of their options. They are forced to cultivate to qualify for benefits.

The inequities of dairy marketing orders survive. We have a national economy, but not for dairy farmers. Upper Midwest dairy farmers are being discriminated against by byzantine milk marketing orders. These orders should be consolidated or abolished.

This bill's farm provisions benefit regional interests, and owners, and industrial-scale farming. It is politics as usual. We had an opportunity to establish a creative farm program; to provide tools that farmers could use to manage risk. This bill blows that opportunity. It should be defeated.

Mr. CALVERT. Mr. Speaker, I rise in strong support on the conference report on H.R. 2491, Balanced Budget Act of 1995. I wish to take my limited time to speak to the importance of the title V, Energy and Natural Resources Provisions, chapter 4—Federal Oil and Gas Royalties as part of the Balanced Budget Act of 1995.

This chapter is the only legislative initiative taken during the last 13 years to cost effectively increase the Nation's third largest source of revenue—oil and gas royalties. This chapter establishes a comprehensive statutory plan to increase, not decrease, collection of royalty receipts due the United States. In short, it reduces the deficit. Without this chapter as part of the Seven Year Balanced Budget Act of 1995, an ineffective and costly royalty collection system will prevail, perpetuating long delays and uncollected royalties.

To increase royalty collections to reduce the deficit, the chapter:

First, requires the Secretary and delegated States to collect and protect all royalty claims within 6 years. To ensure full and complete collection of all receipts, extension of the 6-year period is permitted and lessees are required to provide records necessary for proper collection;

Second, requires the Secretary to increase the value of disputed claims by deciding appeals within 30 months that will result in additional royalty collections. Today, over $450 million of disputed claims languish in a bureaucratic appeal process and continue to lose value;

Third, allows States which receive one-half of royalties collected to protect their interests by performing royalty collection activities in partnership with the Secretary. This partnership increases receipts to both the U.S. Treasury and the States;

Fourth, requires more aggressive and cost-effective royalty collection by the Secretary and the delegated States which will increase the amount of collections within the 6-year period; and,

Fifth, increases oil and gas production on Federal lands by creating economic efficiencies to make Federal leases more competitive with private leases.

The Congressional Budget Office has concluded that these changes increase royalty income over 7 years to the U.S. Treasury by $51 million and another $33 million to the States. Additional royalty collections will continue to occur for each fiscal year after the 7-year period. Collections well in excess of $51 million are likely to occur as the Secretary and States more aggressively collect royalties. Furthermore, net receipts are maximized through increased efficiencies, and production is stimulated under this chapter.

The truth is, the Federal oil and gas royalty chapter makes money, because it makes everybody, lessee and lessor alike, work to collect and pay royalties payments right the first time. And, it empowers the States to do the job on leases within their boundaries to ensure that royalty bills are fully paid on time, and for lower collection costs. The Governors of the two States with the most at stake—Wyoming and New Mexico—support this legislation because it will allow them to do their jobs better, fairer, and less expensively and ensure that this significant source of revenue to the U.S. Treasury and Western States will increase.

Some Democrats oppose this chapter because they would rather promote the status quo to allow bureaucrats an indefinite period of time to pursue money due the taxpayers. In spite of the positive CBO score, these same opponents claim royalties will be lost, but in truth, royalty collections will increase. States will have a more direct role, thereby increasing collections to use for funding schools, highways, and social programs.

There has been many allegations about chapter four which are false and been used in attempt to divert attention from the provisions of this chapter which increase royalty collections, eliminate ineffective and costly administrative actions and allows States to form a partnership with the Secretary to participate in activities that directly impact the royalties they received from Federal leases. As part of the record, I would like to clarify the intent of various provisions of this chapter. This chapter in no way affects Indian lands or alters how the Federal Oil and Gas Royalty Management Act of 1982 applies to Indian lands.

The intent of specific section of this chapter includes:

SEC. 5361. DEFINITIONS

Definitions are contained in this section to provide guidance and clarity. Many of the definitions are critical to the underlying concepts. Under the provisions of the chapter, the definitions apply to Federal lands and Outer Continental Shelf lands, and in no way shall be applied to Indian lands.

The term "obligation" includes all of the duties which arise under a lease issued by the Government. A "lessee" is the person having a contractual relationship with the Federal Government. A "delegated State" defines activities, unless prohibited by the Constitution, a State may choose to perform pursuant to the terms and conditions of an agreement between the State and the Secretary to promote production and increase royalties received by the State and the U.S. Treasury. A "State concerned" is a State that receives a portion of the Federal royalties for Federal lands lying within the boundaries of the State and shall have an equal role with the Secretary in deciding the applicable provisions of the chapter. The term "order to pay" has been expressly defined. The committee believes that the information contained in this definition is necessary information for the tolling of the 6-year period.

SEC. 5362 MAXIMIZING RECEIPTS THROUGH STATE EFFORTS

This entire chapter establishes a partnership between the Secretary and the States for the purpose of increasing royalty collections. This section is necessary to expand existing authority for States to perform all or a part of the activities under this chapter to ensure additional collections to the States and the U.S. Treasury within 6-year period. By expanding the States' role, States are provided the economic incentive to be more aggressive under the net receipts sharing provision of the Mineral Lands Leasing Act to collect new receipts to the States and U.S. Treasury. States receive 50 percent of all royalties received under Federal onshore oil and gas leases.

States currently may perform certain royalty audit activities if they enter into an agreement with the Secretary. This section allows a State to enter into a cooperative agreement with the Secretary to perform legally delegable royalty and lease management activities. If a Federal activity is not deemed to be inherently Federal and can be performed in a manner with the efficient and timely collections of royalty requirements of this section, an interested State may pursue an agreement with the Secretary to perform such activity and funding shall be consistent with current delegation of authority agreements. If an activity is determined to not be constitutionally delegable to a State, it shall not impact any other delegable activity or provision of this chapter. A State's compensation to perform delegated activities shall be subject to net receipt sharing, and the State shall receive compensation for State costs allocated to a State's net receipts during the following fiscal year. As of the date of enactment, existing State delegation agreements to perform audits or inspections, nothing under this chapter shall impair those agreements. All State actions must conform with the provisions of this chapter.

SEC. 5363. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS

This section requires collection of royalties and enforcement of royalty claims within 6 years. This 6-year period is the key component of this chapter because it is the driving mechanism to increase revenues to the U.S. Treasury and the States. To determine the amount owing, this section requires companies to provide records during the 6-year period and provides the Secretary and States a mechanism to toll the statute and protect collections if records are not made available. To ensure timely collections, the Debt Collection Act applies to obligations that are enforced during the 6-year period.

The Secretary and the delegated States are required to perform cost-effective collections in order to have sufficient resources to increase collections during the 6-year period. The Secretary and the State concerned are required to determine what Federal accounting and collection activities cannot be performed cost effectively and eliminate redundant auditing efforts.

This section also requires the Secretary to decide and initiate collection of royalties from appealed claims within 2½ years and provides a framework for settlement of litigated cases. All appeals decided by the Secretary shall be binding on the State. The requirement is a necessary part of this section's purpose, which is to ensure collection of all disputed royalty amounts due the United States, thereby increasing revenues to the U.S. Treasury within the 6-year period. It eliminates losses associated with stale and uncollectible claims.

SEC. 5364. ADJUSTMENT AND REFUNDS

In order to ensure that additional royalties are collected within the 6-year period, all adjustments to royalty payments are required to be made within 5 years. A key component of additional royalties being cost-effectively collected within the 6 years is the requirement that interest be calculated and paid at the time of any adjustment.

SEC. 5365. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

This section creates an analogous system to the IRS for interest on overpaid and underpaid royalties, thereby encouraging royalties to be paid accurately the month following the month of production. The interest rate for under payments will be short term rate plus three points and for overpayments the interest rate will be the short term rate plus two points, regardless of the amounts of the underpayment or overpayment. Increased receipts to the U.S. Treasury and the States are achieved by the establishment of a more efficient and cost-effective accounting system which is necessary so that royalties paid can be verified within the limitation period. This section also imposes a new statutory assessment on lessees who chronically submit erroneous reports, thereby encouraging proper payment and increasing revenues. These are the only type of assessments that can be imposed by the Secretary.

If the Secretary determines that a lessee has paid in excess of 10 percent of its total royalty obligation for all of its leases subject to this act and further determines that such excessive payment was made for the sole purpose of receiving interest, the Secretary shall not pay interest on the amounts paid in excess of 10 percent. The committee expects lessees to place excess cash in other interest-bearing accounts rather than with the Minerals Management Service and hence a determination by the Secretary that an overpayment was made for the sole purpose of receiving interest shall be the exception.

Lessees will be allowed to submit an appropriate amount of royalties to avoid underpayment or nonpayment interest charges. When an estimated payment is made, the royalty payment becomes due at the end of the month following the period covered by the estimated payment. The committee does not intend to restrict the period of time covered by an estimate to 30 days.

This section provides that the lessee clarify who is responsible for the payment of royalties and notify the Secretary. The committee intends to eliminate the delay in collection of these royalties because the Secretary will contact only those parties that are liable, or designated to be liable, to remit royalty. The Interior Board of Land Appeals Mesa decision demonstrates that the Secretary's current royalty collection practices must be altered to comply with the law. This section does not reduce the Secretary's ability to accept payment from any party or their ability to pursue parties who are secondarily liable.

To ensure proper collections, this provision clarifies which party is primarily liable for the underlying royalty obligation, which is consistent with lease terms. The provision does not alter or restrict a lessee designation of who may report and pay royalties on their behalf.

SEC. 5366. ALTERNATIVES FOR MARGINAL PROPERTIES

Regulatory relief and other options to conventional and costly royalty accounting are established for marginal wells to increase royalties and provide the Secretary and States additional resources to aggressively collect royalties from more prolific properties within the 6-year period. This reform for marginal (low production) properties results in additional receipts from oil and gas production that would otherwise be abandoned. This section increases oil and gas production on Federal lands by creating economic efficiencies to make Federal leases more competitive with private leases.

This section requires the Secretary and the State concerned to determine the amount of what marginal production from a lease or leases or well or wells will be subject to a prepayment or regulatory relief. If a State concerned does not consent, the prepayments or regulatory relief cannot be made.

Mr. Speaker, I urge my colleagues to support the Seven Year Balanced Budget Act of 1995. The Federal oil and gas royalty chapter is sound.

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to House Resolution 279, the previous question is ordered.

The question is on the motion offered by the gentleman from Ohio [Mr. HOBSON].

Pursuant to the provisions of House Resolution 245, the yeas and nays are ordered.

Members will record their votes by electronic device.

Without objection, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the motion to concur in the Senate amendment to House Joint Resolution 122 on which the Chair has postponed further proceedings.

There was no objection.

The vote was taken by electronic device, and there were—yeas 235, nays 192, not voting 5, as follows:

[Roll No. 820]

YEAS—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly

Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers

Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays

Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah

Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui

McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)

Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton

Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward

Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—5

Berman
Bryant (TN)

Rose
Shuster

Tucker

□ 1818

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to concur in the Senate amendment to H.R. 2491.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 122, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

The SPEAKER pro tempore. The pending business is the question de novo on the motion to concur in the Senate amendment to House Joint Resolution 122.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON] to concur in the Senate amendment to House Joint Resolution 122.

The question was taken; and the Speaker, pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were ayes 421, noes 4, answered "present" 1, not voting 6, as follows:

[Roll No. 821]

AYES—421

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
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Hall (OH)
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Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
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Kildee
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Kingston
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Knollenberg
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LaFalce
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Lantos
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Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
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Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
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Peterson (FL)
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Pickett
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Portman
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Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
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Torricelli
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Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—4

Cooley
Owens
Stockman
Williams

ANSWERED "PRESENT"—1

Souder

NOT VOTING—6

Bartlett
Berman
Bryant (TN)
Rose
Shuster
Tucker

□ 1829

Mr. DINGELL changed his vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BARTLETT of Maryland. Mr. Speaker, on rollcall No. 821, I was unavoidably detained. Had I been present, I would have voted "aye."

□ 1830

DESIGNATION OF HON. BILL EMERSON TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH NOVEMBER 28, 1995

The SPEAKER pro tempore (Mr. EMERSON) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 20, 1995.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore to sign enrolled bills and joint resolutions through November 28, 1995.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, this vote marks the end of legislative business for the evening and for the week. The House will recess for Thanksgiving district work period until Tuesday, November 28.

When we return on Tuesday, we will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business to consider two measures under the corrections day calendar:

H.R. 2525, The Charitable Gift Annuity Antitrust Relief Act of 1995; and

H.R. 2519, The Philanthropy Protection Act of 1995.

Members should be advised that any recorded votes ordered on these bills will be postponed until 5 p.m. on Tuesday, November 28.

For the balance of the week, we expect the House to continue work on outstanding conference reports. Members should be prepared to work through Friday, December 1 on these conference reports.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, NOVEMBER 29, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, November 29, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND THEIR REMARKS IN CONGRESSIONAL RECORD FOR LEGISLATIVE DAY OF MONDAY, NOVEMBER 20, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that for the legislative day of Monday, November 20, 1995, all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, November 28, 1995, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to make an announcement. The Chair will call special orders without prejudice to possible further housekeeping business.

MOSLEM FUNDAMENTALISTS POSE THREAT IN BOSNIA

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, I know the theme today is about the budget, but we have something even more pressing, I think. Right now, in Ohio, our national leaders are worrying about a peace process, and this House voted not to allow 25,000 troops to go.

Mr. Speaker, I would ask my colleagues on both sides of the aisle, Republicans and Democrats, if now that the peace can be signed, with the backing of the President, with the backing of the House, with the backing of the Senate and the American people, Republicans and Democrats, can you imagine the peace and the strength that will come out of that with those negotiators knowing that 25,000 troops are not included, but the American people and this body is behind them?

Mr. Speaker, I would like to submit for the RECORD a statement by Abu Al-Ma'ali. The real threat are the 400,000 Moslem fundamentalists. The Bosnian Moslems are not the fundamentalists. The problem is from Iran, Iraq, Pakistan, and so on.

Mr. Speaker, I submit the following for the RECORD, showing what the real threat to our troops would be:

Citing the religious-ideological sermons recently delivered in the Mujahedin Brigade. Abu Al-Ma'ali stressed that it was inconceivable that the Islamist forces would ever cooperate in a meaningful way with Croat, Serb, or Western forces * * * "We know that we will have a day in which to fight the Jews, and the Almighty will grant us victory, and also we know that the best soldiers will fight the Christians and all of these are promises and rejoices from the Messenger of Allah. So why do you think that victory would not come to Muslims from Allah. We do not believe in worshipping any one but Allah, we disbelieved in the U.S. and its allies, we disbelieved in transgressors and their religion which they invented and we have relied only on Allah.

Abu Al-Ma'ali reaffirms that the Mujahedin "are continuing on our path, until Allah opens the way from us with those unbelievers," so that the Islamist victory could be completed.

It did not take long for Abu Al-Ma'ali to clarify what he meant On September 27, 1995, the Muhahedin Brigade issued an Urgent Communique called "European Mujahedin Call to Muslims!", which amounts to a call for a worldwide jihad.

* * * "To all of you Muslims of the world we send you our greetings carrying the scents of victory and the joy of Mujahedin so that you share with us the victories of Muslims and their power under the banner of blessed Jihad.

"To all of you Muslims of the world we send you our appeal which we have repeated and are still repeating: To rise up in support of your brothers, and remove the obstacles [to the rule of Islam] from around you.

"We send you our greetings in this victory despite the plots of the enemies and the unbelievers in an evil attempt to suppress these successes and conquests in order to claim it for themselves.

"These attempts are led by the U.S. and the Crusade West, so be aware of the plots of the enemies of Allah and their hate of Islam and Muslims, and Allah is well aware of what they do."

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. EMERSON). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WHAT THE AGREEMENT TO BALANCE THE BUDGET IN 7 YEARS MEANS FOR AMERICA'S FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I want to take a few moments tonight to talk about the significance of what has gone on this past weekend. As many people in the House know, as everyone in the House knows, we have had a partial shutdown of the Government. Last evening there was an agreement reached by the President and leaders in both the Senate and the House and we have been able to restart the Government and postpone any shutdown until December 15.

The agreement on the continuing resolution was that we would, in fact, balance the budget not later than the year 2002, and that we would use the Congressional Budget Office figures. We also went on to list a series of items that are of priority for both sides of the aisle in the House and the Senate, as well as the President, and we will work toward getting those priorities established through the debate process, some of which I would like to start this evening.

As we all know from November 8, 1994, we have been given marching orders from the American people. Many people ran in their campaigns and wanted to talk about various issues that were important to them. It was picked up by members of the public and those individuals who expounded on those issues, such as a balanced budget, were elected to this Congress.

We have, over the course of the last year, been working toward that balanced budget. But just as a review, what we have been given as marching orders are in the accompanying chart I have, which says, basically, Congress is to balance the budget in 7 years, to save Medicare from bankruptcy, to reform welfare, and to provide tax relief for families and job creation.

Those are the priorities that I believe, Mr. Speaker, are from the American public. Those are the priorities that we are going to work toward over this next month, next 3 weeks, and, hopefully, into the next year. And perhaps as we carry out this effort to balance the budget by the year 2002, we are going to achieve these goals on our route to a balanced budget and securing our future.

Mr. Speaker, people have said why should we balance the budget, and we have told people it is important because of our children, and I think that is true. And the reason I do is because our debt is so significant. I brought another chart just to list the amount of the Federal debt.

As of November 8, our Federal debt, this is November 8, 1995, our Federal debt is $4,985,913,011,032.65. Now, that is a tremendous amount of money.

To give people a perspective as to how much money that is. If an individual had gone into business the day Christ rose from the dead, and they lost a million dollars that day, and the following day, and every day of the week, and every week of the month, and every year for almost 2,000 years, they would only be one-fifth of the way to losing $4.9 trillion.

Most of us think a million dollars would be a sufficient amount of money to perhaps retire on. To think of losing that amount of money each day for almost 2,000 years and not even getting one-fifth of the way to losing what we have currently as our Federal debt gives us an idea of how much money that is.

For a child born this year, it would amount to about $187,000 in the form of taxes just to pay the interest on this debt, if we are unable to balance in 7 years.

□ 1845

Next year, in fiscal year 1997, the interest on the loan, on this debt, the national debt, the interest will exceed every other expenditure except for Social Security. It will be more than we spend on the Army and the Navy and the Marines and the Air Force and the Department of Defense structure, the intelligence-gathering community. The entire Department of Defense budget will be secondary to the amount we pay on interest on the debt, with Social Security being the only one we expend more on.

With all of that going toward interest, we do nothing to meet the needs of the poor; we do nothing to meet the nutrition programs. We do nothing to provide part B Medicare support. Nothing on Medicaid. Only interest on the debt.

It is a tremendous problem that we must deal with and solve, and we do that by balancing the budget. When we establish priorities toward getting to that balanced budget, we are going to have to deal with a lot of disinformation that is flowing. One, we have heard that we are trying to balance the budget on the backs of the poor, and the earned income tax credit has been drastically cut. But, Mr. Speaker, between 1995, this year, this fiscal year, in which we are spending $19.85 billion, by 2002, in the budget that we just passed tonight, we plan on spending $25.4 billion by that year. That is an increase. From 19.85 to 25.4, an increase, and yet we have heard that it is a cut and that we are trying to cut individuals to balance the budget. Mr. Speaker, only in Washington, DC, is that called a cut.

The school lunch programs, we saw last spring, the President go to an elementary school and state that the budget that was before the Congress was going to take food away from these children, that they would be starving.

Well, I have visited some of the elementary schools in Wichita, KS, in my district, the Dodge-Edison School, and there were no reports of children starving at that institution, nor at any school in Kansas or any school across the Nation. In fact, the budget that we passed tonight allows for $6.3 billion to go to school lunches this year. It will grow. It will increase to $7.8 billion by 2002.

Mr. Speaker, I want to close tonight by saying that we must establish priorities, we must balance the budget in 7 years, and I am pleased to be able to work toward that effort.

IS BOSNIA WORTH DYING FOR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, we theoretically were supposed to adjourn the first week in October. Theoretically, all 13 major appropriation spending bills finished before that in sequence. Everything would have been authorized in the U.S. House. The Money House, the most important among equals around here in the separation of powers between the Supreme Court, the executive branch, the White House, and the Congress.

We are the first among equals. That is the way it was designed by our Founders, by the Framers of the Constitution. Between this House and the Chamber at the north end of the building, the U.S. Senate, we are the ones who control the power of the purse. The right to tax and the right to spend starts here.

The whole authorization, to appropriations to conference with the Senate process, is completely convoluted and all mixed up. Now, we are going out for 7¾ days, and the talks involving a war criminal from Belgrade at Wright-Patterson Air Force Base are breaking down.

Meanwhile, in Germany the 1st Armored Division over there is being trained to be ready to go in 48 to 72 hours and start sending thousands of men into Bosnia and Herzegovina without the consultation with the U.S. Senate and the U.S. House of Representatives and without Clinton having made his case.

Mr. Speaker, here it is in one sentence on the cover of today's brand-new Time magazine. The face of a typical handsome young soldier and it says, "Is Bosnia Worth Dying For?"

Mr. Speaker, I did not get a chance during the brief debate on Friday to read a letter, which I meant to put in the RECORD and inadvertently forgot, a letter to the editor that I think says it all. It is from the Wall Street Journal of 6 days ago, November 14. It is about somebody who is experienced, Philip Merrill, a former Assistant Secretary General of NATO, and this article about says it all.

Listen to this, Mr. Speaker: "The Clinton administration is still apparently planning to insert 25,000," now they say 20,000, "American troops into Bosnia with no clear military objective, no definition of victory and no exit strategy," a huge mistake.

Jumping forward to the middle of the article, which I ask unanimous consent to put into the RECORD in its totality, listen to this: "This is not to say there is no moral issue in Bosnia." I also believe there is a moral issue. There is especially the atrocities, mostly Serb atrocities. "We can best help the Bosnians by making sure their 120,000-man army fight for itself."

"It's very doubtful that the Balkans can sustain a multiethnic society of the kind envisioned by Clinton. The U.S. has no strategic stake in this fight and cannot and should not be the military arbiter."

"Our future policy seems to be," listen, Mr. Speaker, and any American following this Chamber, about 1,300,000 of our fellow Americans, listen to this: We seem to be simultaneously threatening Serbs from the air and killing them. We are in hiatus on that. We are going to act as a peacekeepers on the ground; at the same time train the Croatian Army, which I just came back from witnessing in August; arm the Bosnian military, which is what the leader in the Senate wants to do, and I do not have much argument with that, we voted overwhelmingly in the House to do that; and at the same time indict Bosnian Serb war criminals and a couple of Croatian war criminals. The Croatians have been turned over. The Bosnians, including three senior army officers, have all been promoted and are not being turned over. There are now over 54 or 54 war criminals involved in this; almost all of them Bosnian Serbs. No Moslems have been indicted yet.

Any one of those policies is in itself coherent and defensible. Taken together they are incoherent. As flare-ups occur, these inherently conflicting policies will leave us powerless to act effectively.

Look at article 10, and I will put all 10 in the RECORD. Look at my 10th commendment that I have sent to every Member in this House over the last 3 years: Thou shalt not commit U.S. combat forces unless the Commander in Chief, that is Clinton, and Congress, that is us, can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot, or aircrewman why their family member or friend was sent in harm's way.

Mr. Speaker, listen to the close of Mr. Merrill's article, and I will end on one sentence, Mr. Speaker. Should Clinton send American troops into Bosnia without congressional approval, he should be impeached. When the body bags start coming home, it will be a disaster, and that means anybody in this House or Senate that let it happen. I will draw articles of impeachment the minute a man or woman is killed in Bosnia.

Mr. Speaker, I submit the following for the RECORD:

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.

What vital interests are at stake? We already are preventing the spread of conflict with troops elsewhere in the Balkins such as Macedonia.

2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered.

What about lifting the arms embargo? What about tightening trade sanctions? What about further air strikes?

3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

Are 25,000 U.S. troops enough? Are there enough European forces?

4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.

What are the political objectives—protect small "enclaves" in the middle of a civil war? What are the military objectives—seize and hold specific terrain or stand and become targets for all warring sides?

5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objectives change.

Will we realistically be able to withdraw U.S. forces after a year if peace is not achieved, even is these forces are directly engaged in combat?

6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action.

Neither Congress nor the American people support this operation. A recent CBS/New York Times poll indicated only 37% of Americans support the President's position on Bosnia. Further, 79% believe he should seek approval from Congress before sending any troops.

7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

The command structure for U.S. troops involved in this operation seems confused at best with U.S. ground troops serving under deputy European commanders and a NATO council representatives from member states. Will France and Denmark have to approve U.S. combat requests for M–1 tanks & AC–130 gunships?

8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.

Why has the President nearly doubled the defense cuts he promised in his campaign and under funded his own "Bottom Up Review" defense plan by as much as $150 billion? Shouldn't he restore spending if he plans to use our military as world policemen in Bosnia, Haiti, and elsewhere?

9. Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information including human intelligence.

What reliable hunint intelligence sources do we have in Bosnia? Will our sources be compromised through intelligence sharing agreements with non-NATO countries such as Russia?

10. Thou shall not commit U.S. combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm's way.

Can we honestly make this case? What do we now tell the families of those killed in Somalia? American lives are at stake!

[From the Wall Street Journal, Nov. 14, 1995]

BOSNIA: WE SHOULDN'T GO

(By Philip Merrill)

The Clinton administration is still apparently planning to insert 25,000 American troops into Bosnia with no clear military objective, no definition of victory and no exit strategy. That would be a huge mistake.

All the parties have coveted each other's assets for a thousand years. In the unlikely event that there is a real peace settlement, American troops are not necessary. If there is no agreement for peace, or a deal falters, American soldiers, like their British and French counterparts, will be hostages to ethnic hatreds.

Once U.S. troops are deployed, it will be in the Bosnian interest to keep them there. The Bosnians will find ways to ensure that enough Americans are killed and the Serbs and Croats are blamed for it. Serbs and Croats will retaliate in kind. Our soldiers will be caught in a deadly and deceptive cross-fire.

To mainain 25,000 Americans under combat conditions would require a rotation of troops in and out of Bosnia. The U.S. Army has only 10 active divisions. A Bosnian deployment could mean that some 40% of our Army would be coming, going, or on the ground in Bosnia, a diversion of people and money that is wildly disproportionate to our strategic interest in the Balkans.

The disastrous result could mean a retreat from Europe, the collapse of NATO, a failure to deal with longer term but more dangerous threats elsewhere, and immeasurable costs as the law of unintended consequences comes into play.

The root problem, more evident every day, is that the Clinton administration, while well-intentioned, has no concept of how, when, or why to use military force. It is preparing to enter Bosnia only because of essentially offhand promises from a president who has no idea of America's role in a post-Cold War world. Our foreign policy objectives should relate far more to integrating Russia and China into the community of civilized nations than to involving ourselves in the ethnic and religious feuds of Eastern Europe.

This is not to say there is no moral issue in Bosnia. There is—especially the Serb atrocities. We can best help the Bosnians by making sure their 120,000 man army can fight for itself.

It's very doubtful that the Balkans can sustain a multiethic society of the kind envisioned by President Clinton. The U.S. has no strategic stake in this fight and cannot and should not be the military arbiter.

Our future policy seems to be to simultaneously threaten Serbs from the air, act as peacekeepers on the ground, train the Croatian army, arm the Bosnia military, conduct peace negotiations and indict Bosnian Serb war Criminals. Any one of those policies is defensible; taken together they're incoherent. As flare-ups occur, these inherently conflicting policies will leave us powerless to act effectively.

The European attitude toward the Balkans—which essentially is a willingness to fight to the last American—is not encouraging. The Germans, for example, are willing to put up 5,000 troops—but only for Croatia, not Bosnia. They know they cannot do what the Romans, Frederick the Great and nine Nazi divisions could not do—pacify the Balkans.

To endorse the president's policy comes close to an act of murder of young Americans who have sworn allegiance to our country but who will serve and die under circumstances that will neither advance U.S. interests nor the cause of freedom.

When the American body bags start coming home, it will be a political disaster for those who did not oppose sending troops to Bosnia. Should President Clinton send Americans into Bosnia without congressional approval, he should be impeached.

The time to face the choice is now, before we enter this war and before American blood is shed.

Mr. Speaker, here is the Dornan-Doolittle language from H.R. 1530.

SUBTITLE A—PEACEKEEPING PROVISIONS

SECTION 1201—LIMITATION ON EXPENDITURE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES FORCES PLACED UNDER UNITED NATIONS COMMAND OR CONTROL

Presidential Decision Directive 25 (PDD-25) signed by President Clinton in May of 1994 contains a number of policy initiatives intended to promote peacekeeping as an important instrument of the Administration's national security policy. Summary documents and extensive public and private briefings on this policy initiative, make clear to the committee that the Administration has adopted a policy of allowing the placement of U.S. armed forces under the operational control of foreign commanders when engaged in peacekeeping operations.

The Administration continues to stress that the President will retain "command" of U.S. forces at all times. However, the usage of the term "command" in this context refers to the administrative control of military forces which has never been an issue of debate or contention. On the other hand, the practice of ceding "operational control" of U.S. military forces to non-U.S. commanders remains a highly controversial and troubling policy. While certain U.S. military units have operated under the operational control of other nations, these instances have been rare and usually as part of larger coalition military operations where the U.S. retains overall operational command of the theater of operation. Further, these instances occurred during traditional military operations that allowed a high degree of planning and coordination to minimize the inherent complications resulting from mixed command chains.

By contrast, the concept of ceding operational control of U.S. forces to a United Nations peacekeeping command is a relatively recent practice that has thus far yielded decidedly mixed results. As demonstrated during the UNOSOM II operation in Somalia, peacekeeping operations place a high premium on the ability to rapidly employ effective military force in response to unplanned circumstances. The tactical demands of such operations tend to stress and exacerbate the limitations of mixed-nationality operations resulting from the usually significant cultural, language, doctrine, and training differences among the participating national contingents. While only U.S. logistics forces were placed under UN operational control during UNOSOM II, the unanimous view of U.S. commanders interviewed by the committee during its review of the Somalia operation was that UN mixed-nationality command chains are inappropriate for demanding UN operations.

Therefore, the committee recommends a provision (sec. 1201) that would regulate the circumstances under which the President could commit U.S. forces under UN command or control. This provision would require that before U.S. forces may be deployed under the command or operational control of the UN, the President must first certify to the Congress that (1) such a command arrangement is necessary to protect U.S. national security interests, (2) the commander of the U.S. force involved will retain the right to report independently to U.S. military authorities and to decline to comply with orders judged to be illegal, militarily imprudent or beyond the mandate of the U.S. mission, (3) the U.S. force involved will remain under U.S. administrative command, and (4) the U.S. will retain the authority to withdraw the U.S. force involved and take action it considers necessary to protect this force if it is engaged.

While this provision seeks to ensure that any deployment of U.S. forces under UN command or control is made with a clear and unambiguous understanding of the right of the United States to withdraw those forces at any time and to take any action considered necessary to protect such forces, the committee recognizes that any such decision to withdraw deployed U.S. forces should be made with due regard and consideration for the safety of U.S. and other national contingents deployed in any such given operation.

The provision would further require the President to submit a report along with the aforementioned certification providing: (1) a description of the national security interests that require such a command arrangement, (2) the mission of the U.S. forces involved, (3) the expected size and composition of the U.S. forces involved, (4) the incremental cost to the U.S. of participation in the operation, (5) the precise command and control relationship between the U.S. forces and the United Nations command structure, (6) the precise command and control relationship between the U.S. forces involved and the U.S. unified commander for the region in which the forces will be operating, (7) the extent to which the U.S. forces involved will be relying on non-U.S. forces for self protection, and (8) the timetable for the complete withdrawal of the U.S. forces involved.

Mr. Speaker consider this Time magazine title "Is Bosnia Worth Dying For?" and these few excerpts from this cover story, of November 27, 1995.

Is the soldier on the cover SP4 Andrew F. Hawley; just another faceless U.S. soldier—No.

1 of 25,000 or 20,000 "American" troops to be sent to Bosnia under "Bill Clinton" foreign policy

He could easily be another Randy Shugart or Gary Gordon, soldiers who gave their lives in Somalia

He could be another "Specialist" Michael New who refuses to serve under U.N. command or U.N. uniform

He could be your husband, or your brother, or your son, going to a place far away to risk his life, not in "peacekeeping" but combat, where we have no vital national security interests, no specific military objectives, and no clear exit strategy.

What are we going to do about it?

The House has passed binding legislation, cosponsored by myself and JOEL HEFLEY of Colorado to prevent any funds from being spent on such a troop deployment until authorized by Congress.

Our National Security Committee has also passed binding legislation by myself and JOHN DOOLITTLE of California that would strictly limit U.N. command of United States troops, which resulted in the death of 19 United States soldiers in Somalia.

But where's the Senate? No binding Bosnia deployment bill. No binding language on U.N. command. We need your help America. Let the Senate know that we do not want troops deployed to Bosnia, at least until the President has made his case to Congress, and we certainly do not want our troops under U.N. command at any time.

COALITION BUDGET IS THE PLACE TO BEGIN NEGOTIATING FOR A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. ROEMER] is recognized for 5 minutes.

Mr. ROEMER. Mr. Speaker, about 17 minutes ago, we passed through this body a continuing resolution that will fund Government, reopen Government, and fund it until December 15. It was very important to pass this because the American people, I think, have spoken very, very loudly through the last year and the last several years for Congress to work together; to not engage in gridlock, in posturing and political partisanship and blame games and ultimately deadlock. For us to pass, in a bipartisan way with an overwhelming vote, legislation that not only reopens Government, but establishes some parameters for us to move forward and negotiate a balanced budget agreement for the next 7 years; to achieve a balanced budget by the year 2002.

Many of us, Mr. Speaker, worked together over the course of the last few weeks, particularly late last week, to try to forge a consensus, a commonsense middle ground restart to these negotiations that seem to be stalled for a host of reasons.

Mr. Speaker, we are delighted that the parties came to an agreement over the weekend. I want to commend the gentleman from Michigan [Mr. UPTON], a Republican, who I worked very closely with in circulating a letter that was signed by 50 Republicans, and we were able to achieve 50 Democratic signatures.

The gentleman from Oklahoma [Mr. LARGENT] and the gentleman from Michigan [Mr. STUPAK] also worked on very similar language to try to get the House to help the leadership to move forward on this bipartisan agreement.

Mr. Speaker, I would salute the President and Mr. Panetta at the White House for their hard work, and I would also salute the gentleman from Ohio, Mr. KASICH and Senator DOMENICI for their very hard work in carefully negotiating this pact over the last few days.

Mr. Speaker, the hard work is ahead of us. The hard work, once we have established these parameters to try to balance this budget in the next 7 years, is just starting. I would recommend that the starting place, Mr. Speaker, be the coalition budget, the only budget that has received bipartisan votes on this floor, where over 300 people have voted for a blanced budget plan over the last 2 months.

This plan achieves a balanced budget by the year 2002. It does it in a fair way with equitable outcomes. It says to the American people we all have to participate in the sacrifice of balancing the budget. But it also says to the politicians and the people in Washington, we are not going to pander for votes. We are not going to provide tax cuts 30 days out from an election, or to the tune of $245 billion, that we must then cut education and farm programs to pay for. We are going to do this by balancing the budget first and then providing tax cuts later.

I think this is a reasonable, prudent, fair budget agreement, Mr. Speaker, and I would encourage this body to start with the coalition budget, which is a bipartisan budget, to move us forward in the next few weeks toward December 15, to a goal that I think 85 percent of the American people want us to achieve, and that is balancing this budget.

It is going to be a very difficult task. It is going to be a very arduous task, but if we continue to work in a bipartisan way for fairness and not devastating Medicare programs, and for opportunity where we provide for education, for student loans, and in terms of providing a father to our children, by not cutting too deeply into programs so that farm can be passed on to the next generation of young Americans.

Mr. Speaker, I think that coalition budget achieves that. I think that coalition budget is the place to start, and I think that coalition budget has the best opportunity to bring America together to make sure that we balance this budget in the next 7 years and to have fair, equitable outcomes.

AMERICA HAS MUCH TO BE THANKFUL FOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, at this time of Thanksgiving week have we much to be thankful for. In looking over the legislation which has been adopted by this House, we only have to look to the line-item veto, which will cut out the pork-barrel legislation that has wasted so much in prior Congresses.

We have to look just to the accountability law, sometimes called the Shays Act, which will force Congress to live under the laws that they pass for others. The prohibition of unfunded mandates. No longer will Congress be able to pass laws that, in fact, have local governments and State governments unnecessarily foot the entire bill. Now, if the Federal Government, through the House and the Senate and the President, wish the local governments to do something, the funding will have to follow.

We also passed historic legislation last week with my support, and all the other colleagues in this body. I think it was almost unanimous that we passed the House rule which will ban gifts from lobbyists. There is no way that our constituents feel that we should have gifts from lobbyists and now we have legislation which will prohibit it, and properly so.

But I am pleased to see tonight that we have the spirit of bipartisanship and we now have the President and Congress working together to achieve a balanced budget within 7 years. Under that specific language, the President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment.

□ 1900

It further stipulates that the balanced budget shall be estimated by the Congressional Budget Office figures. I think it is important to note, Mr. Speaker, that by balancing the budget we will help all American families by reducing mortgage costs, reducing car payments, reducing tuitions costs, and as well stabilizing health care costs.

It should also be brought out to the attention of my colleagues that the proposed Balanced Budget Act passed by the House for 1995 includes important increases from 1995 to 2002 in the following ways: The earned income tax credit will go from almost $19.9 billion to $25.4 billion. The School Lunch Program nationally would go up from $6.3 billion to $7.8 billion. Student loans would go up from $24.5 billion to $36.5 billion. Medicaid will go up from $89.2 billion to $127.3 billion. Medicare will increase from $178.1 billion to $289.8 billion, and veterans' benefits will go from $36.9 billion to $41.8 billion.

So it is a case, Mr. Speaker, of promises made, promises kept. This Congress is moving forward in a bipartisan fashion. And in the spirit of Thanksgiving, I know that each of us can do our best to remove the personalities from the issues and restore the fiscal responsibility of the country by working on policies that Republicans and Democrats can embrace together to bring about the fiscal responsibility to make sure we live within our budgets as families do, as States do, as counties do.

We can work together to make sure that the vital programs of the Federal Government must provide, because State governments and the private sector do not provide them, but do so in a way that removes the waste, fraud, and abuse. If we do that, I know we can achieve the kinds of legislation and the kinds of services the American public wants and deserves.

ON THE BALANCED BUDGET

The SPEAKER pro tempore (Mr. BARR). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, I believe today is a truly historic day. For the first time in 30 years, that is right, in 30 years, Congress finally passed a genuine balanced budget plan. For over 30 years, the American people have heard nothing but hot air and hollow promises about the balanced budget.

This is my second term. I remember hearing all the promises to balance the budget at the beginning of the year. And then at the end of the year, they always have some excuse for running a deficit. And the Government was always in the red and they were always blaming someone else, pointing the finger at each other. I knew that if I ran my business like this, I would be bankrupt a long time ago, but Government just kept printing more money and more money and adding to our national debt.

This is very dangerous for the future generation, future economic security of our Nation. Why? As a result of all these deficits, we now have a national debt of close to $5 trillion. The interest payment alone on this debt alone is about the same as what we spend on national defense.

Let us take a look at this chart. The blue line is the train of national debt. It looks fine until about 1980, suddenly going up like crazy, totally runaway, totally out of control. This is our national debt climbing up.

One might ask what is wrong with this. When our national debt, never mind the debt itself, but interest payment is almost 20 percent of entire national budget, then we know we are in serious trouble.

If this continues, we will owe so much money to all the foreign countries, we will have nothing left. Somebody has to pay off this debt in the future. You cannot borrow something without paying back.

What we are trying to do under this balanced budget resolution is trying to bring this back, a little bit flatten, and then at the year 2002, at the end of seventh year, flatten. So we spend the exact amount we take in. We still have generated an additional $650 billion during this process. Adding this together, we also raise our debt.

This is what they call a mean-spirited cut? I mean, gutting it. Is this cut to you? Still increase more money, spend more money, but simply a slow rate. How we are going to pay off this debt, I do not know. We will worry about that at the end of 7th year.

This is what we are trying to do is let us not accumulate any more debt. We have a serious problem. I do not know why my friends out there do not recognize the seriousness. That is why I came to Congress, to stop this runaway spending.

I know the choices will be difficult. I know the big government liberals would attack me and other Republicans. I know it. But we are willing to take the heat. We have the courage needed to do what is right for the country. Our job is to fix government, not make a career of being in it.

Last November we Republicans asked the American people to put us in charge of Congress and we would deliver a balanced budget. I am proud to report we did just that tonight. We passed a fair, realistic plan that will balance the budget in 7 years.

Some people have said 7 years is too short. We need 10 years. Some people said, how about 7 years too long. We should balance it within 5 years. President Clinton has repeatedly said somewhere between 6 and 9 years.

We must do it as quickly as we can and CBO score the 7 years. We can do it without hurting vital programs.

We all know that we cannot balance the budget without cutting some programs. However, there is so much waste and fraud going on, wasted duplication that we can almost balance the budget simply by eliminating waste and fraud.

Can you believe this? Consolidating some overlapping programs and streamlining bureaucracies. We have more than 5,000 programs ongoing right now. Nobody knows what program does what. All these overlapping programs must be consolidated. We can eliminate waste and fraud. We can literally balance the budget. That is what we plan to do. All we are trying to do, folks, we are trying to slow down the spending rate. By doing it, we can balance the budget.

At this time I would like to thank the American people. I would like to thank those people in my district. They have been calling me the last few days telling me, hang tough. I am telling you, 85 percent of those people telling me, hang tough, hanging in there. I am glad I did it.

Thank you again, American people. Thank you. God bless you.

VINCE FOSTER INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, over the past couple of years I and some of my colleagues and some staff people have been doing an investigation into the death of Vince Foster who was found at Fort Marcy Park a year ago July. It was in 1993, 2 years ago in July. And over the past couple of years we have researched, we have looked into the Fiske report.

We have gone out to Fort Marcy Park. We have talked to numerous people who were witnesses or not witnesses to his death but were at Fort Marcy Park and we found some startling things. One of the things that has really bothered a number of us in the past couple of months is that we found out, when we looked at the report that was filed by the FBI, that there are some severe inconsistencies.

The man who found Vince Foster's body, who was called the confidential witness, was alleged to have said in the FBI report that when he found Vince Foster's body he looked directly into the face, specifically observing that the eyes of his body were partially open and slightly glazed and that traces of dry black blood were running from the side of the mouth and nose down the right side of his face.

When I talked to the confidential witness, he swore under oath before a court reporter that there was no blood on the side of the man's face. You might say that might be just a mistake. But the report went on, he further advised that there were traces of blood stains on the shirt to include the upper right shoulder area, along with traces of what he considered to be vomit or spilled wine, possibly purplish in color. He says there was no blood on his shirt, that there was no blood on the side of his face and no blood on his shirt, and he told the FBI that. Yet the FBI put in a report that there was blood on the side of his face and on his shirt.

Another part of the report says, he further maintained, this is the FBI saying this, he further maintained that he was fixated on the face of the body and did not pay specific attention to body extremities, including the hand. In this regard, he advised he could not remember the exact position of the thumb, stating that while he did not observe a gun, there could have been a gun in his hands.

When this was read to the confidential witness, he went into orbit. He said there is absolutely no question whatsoever that I saw the hands clearly, the thumbs were out, the palms were up and there was no gun in the hands. He said, I was right there. I looked right down in his face, no further than 18 inches from the body. So the FBI, according to him, misstated that.

Now you would say if that was the only problem with the investigation by the FBI, that they may have just made some mistakes, even though there is some glaring ones here.

Then we ran into another witness who was out at the park that same day and an hour earlier. That fellow, when he was there, his name was Patrick Knowlton. He said that when he went into the park he saw a car, a brown car with Arkansas plates, and it was a Honda and that it was an older model.

Yet in the FBI report they say it is a light blue car with Virginia plates. He said, I never said that. I said it was a dark brown car with Arkansas plates and they put it down as a Virginia car with Virginia plates and it is light blue.

He also saw some suspicious people in another car who were doing some things there and they may have been involved in the Foster case. And he said, in the report according to the FBI, he could not further identify this particular individual nor his attire and stated that he would be unable to recognize him in the future. He said that is an absolute lie, because I told the FBI agent specifically I not only could identify him, I could draw a picture of the guy because I would never forget his face. Yet the FBI says he could not identify the gentleman.

Then we go back to the confidential witness. There is another part of the report that says, and the possibility does exist that there was a gun in or near his hands that he might have seen. The confidential witness said that is an absolute lie.

Now, another lady drove up near the park and her car broke down, and it was a Mercedes. When she went into the park to try to find help, she sighted two cars and in her report to the FBI she states the cars were of different color than what she said. She has been contacted.

The interesting thing about all of this is the two FBI agents that did the investigation, gentlemen named Larry Monroe and Bill Colombell. All three of these people say that the report that they gave to the Fiske Commission was wrong, that it was lies.

If one of them was a lie or a mistake, you could understand it or if two of them. But three, these people interviewed three people and there are glaring misrepresentations in these reports.

I have said to the chairman of the Committee on Government Reform and Oversight here in the House, the gentleman from Pennsylvania [Mr. CLINGER], and to the gentleman from New Mexico [Mr. SCHIFF], who is also looking into this for the Speaker, that we ought to have those FBI agents come in and explain these inequities and inconsistencies, these inconsistencies in this report, because according to the witnesses who found the body, according to the witnesses who were there, according to the witnesses who saw the cars and the people involved, they say these are out and out lies in these reports.

If the FBI lied to Mr. Fiske or if they were asked to lie to Mr. Fiske, that is a breach of faith. It is something that has misled the American people as to whether or not this may have been a suicide someplace else or maybe even a murder. These things need to be brought to the attention of the American people.

We have, I believe, Mr. Starr, the special counsel or prosecutor, who has been looking into this. it has been brought to his attention. I hope he pursues this and finds out why these FBI agents did not write the report the way the people who found the body and the way the people who were at the park saw it. I think he should ask those FBI agents directly, why did you misrepresent these things in this report?

In addition to that, I believe it is incumbent upon the Congress of the United States and our committee to call these FBI agents in and go ask them directly face to face why these things are inaccurate.

THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I will try not to use the entire hour this evening. But I did want to get to address the House tonight because I do feel that the two major bills or resolutions that we passed today are rather significant.

First of all, the continuing resolution, which, as I think most of us know, allows the Government to continue to operate, prevents the partial shutdown of the Federal Government, which forced many Federal employees to go home and not provide the services that they normally provide to the public.

Second, I would like to address the budget reconciliation or the budget bill that was passed today in final form before it goes to the President, which obviously seeks to plan or map out our budget priorities for the next decade in this Nation.

□ 1915

I have to start out by saying with regard to the continuing resolution and the effort which was successful today to prevent the continued Government shutdown, Mr. Speaker, I was very pleased to see that it was passed. I think it was very wrong to have the Federal Government partially shut down. There were Federal employees who were home, I guess, for almost a week. They were not working, but of course were going to be paid anyway, and there were many hardships, if you will, for Americans who wanted to sign up for Social Security, for Medicare, for veterans' benefits, those who wanted to join the Army at the recruiting stations; all of these things were prevented over the last few days as we argued in the House and in the Senate over our budget priorities.

As happy as I am over the fact that we were able to come to an agreement on that continuing resolution and the fact that the Government is back to work, I do not think it was necessary to close the Government down, and I hope it does not happen again.

Mr. Speaker, I do not really think that tonight is the place to talk about who to blame, but there is no doubt in my mind that the reason for the partial shutdown was because Speaker GINGRICH and the Republican leadership were determined to impose their own ideology about the budget on the Congress, and on the Democrats, and on the President, and this is really an unprecedented situation. In the past, when we have had disagreements on the budget between Democrats and Republicans or between the President and the Congress, we have not prevented the Government from operating because of our ideological differences.

Essentially what happened today was that the continuing resolution was adopted with language that said that the Congress will try to achieve, and the President will try to achieve, a balanced budget no later than fiscal year 2002, or 7 years from now, and that the balanced budget must protect future generations for such important priorities as Medicare, Medicaid, education, and the environment, and there are others. Well, if you look at this resolution, what it basically says is that we will adopt, or we will try as a goal, to achieve a 7-year balanced budget, and we will try in the context of that 7-year balanced budget to make sure that we do not cut Medicare, that we do not cut Medicaid too much, that we provide adequate funding for the environment and adequate funding for education.

Well, frankly, Mr. Speaker, we knew that this was the reality a few weeks ago. We all were very much in favor of a balanced budget, and Speaker GINGRICH felt that that budget should be balanced in 7 years. We all were very much in favor of trying to make sure that certain programs were protected, but the President insisted that Medicare, Medicaid, the environment, and educational programs, in particular, be protected.

So, if we knew that 2 weeks ago or 1 week ago, and if those are still the goals that we are trying to achieve, why was it necessary to shut the Government down? It was not, and I hope it does not happen again. I hope that over the next few weeks, as these budget priorities on which there are differences are worked out and negotiated, that we do not find ourselves on December 15 in a situation again where the Speaker and the Republican leadership says, "Look, if you don't meet our goals or our priorities, we are going to shut down the place again." It is not necessary. We can continue to work while we work out our differences over the budget.

Now, the second thing that happened today is that we passed the budget reconciliation or the Republican leadership budget bill. It was passed without the support of most of the Democrats. I opposed it. And the reason why the Democrats, or most of the Democrats, opposed it and the reason why President Clinton opposes it is because it essentially provides tax breaks, if you will, tax cuts or tax breaks, primarily for wealthy Americans to the tune of $245 billion, and it takes those tax breaks basically by cutting funds from Medicare and Medicaid as well as for education and environmental programs.

So what the Democrats are saying, what President Clinton is saying, what I am saying, is that we have to go back; now that this budget has been passed, the President will veto it; we have to go back and negotiate a balanced budget over the next few weeks that will not cut Medicare and Medicaid so severely and that will make sure that there is adequate funding for education and also for the environment.

Just to give you an idea of some of the problems with this budget, when I talk about increased tax breaks for wealthy people, at the same time the budget actually provides tax increases for working people and people at a lower income but who continue to work, and just as an example of that, Mr. Speaker, I have a statement, if you will, or a phrase from the Citizens for Tax Justice which did a distributional analysis of the conference or budget agreement, and it shows the following, that the average tax cut for those in the top 1 percent of taxpayers who get a tax cut would be $15,438, but 99.7 percent of all taxpayers in the bottom fifth would have a tax increase or see no change. For those in this group, who have a tax increase, would see their taxes go up by an average of $173 a year.

So here we have it, really for the first time that I can think of in American history, we are passing a budget that is going to give these tax breaks to wealthy Americans but actually increases taxes on working families or lower income families who are still working and still paying taxes.

Now you might say to yourself how is it there is a tax increase on lower income people. Well, basically the reason for that is because of the cuts in the earned income tax credit.

The earned income tax credit is basically something that was implemented a few years ago in a bipartisan way to try to encourage people to get off welfare and to start working and paying taxes, and so, therefore, people in a lower income bracket who are still working get a tax credit essentially to encourage them to continue working rather than go on the welfare rolls.

Well, right now in this budget, the conference agreement, the changes in the earned income tax credit will basically hurt 4 million childless workers who have incomes less than $9,520. That type of person, the childless worker, if you will, loses up to $324 per year. The cuts in the earned income tax credit affect millions of families with children as well.

For example, it affects families with two or more children who have incomes between $18,000 and $28,000. Some of these families will benefit from the children's tax credit that is in the bill, but not all. Put a different way, those who will get something from the children's credit will have much or all of that benefit taken away by cuts in the earned income tax credit.

Essentially what we are doing here is, while we may be giving some of those low-income people a tax credit because they have children, the tax credit they will lose because of the cut in the earned income tax credit will more than make up for that so they will be paying more in taxes, and if they do not have children, then they are going to lose even more in the tax credit because they do not have the children's credit to make up for it.

Again, I know it is complicated, and sometimes it is difficult to understand, but the bottom line is that, if you are an individual who is making less than $30,000 a year, you are more likely to get a tax increase under this Republican leadership budget than a tax cut.

Now I want to walk briefly though about the main concerns that I have with this budget, this Republican budget, in terms of how it affects Medicare and Medicaid because that is where the deepest cuts take place. Those are the two programs, the two health care programs, that are run by the Government which are most deeply impacted by the priorities in the Republican budget. Medicare, for one, is not abolished. It continues to exist. But the nature of the program changes, and essentially senior citizens are asked to pay more to get less in terms of their health care coverage.

Just as an example of that, the part B premium that seniors now pay for their doctors' care—part A Medicare, part A, takes care of the hospital care; Medicare part B takes care of physicians' care—and seniors pay now a premium per month for Medicare part B. Well, Medicare part B premiums are doubled under this Republican budget proposal. At the same time though that seniors are paying more for their physicians' care under Medicare part B, what is happening is that the amount of money that is available to the Medicare Program, particularly for both hospitals, as well as physicians, is significantly decreased.

Now what that means is that hospitals will not get the same level of reimbursement rate that they need, or that they get now, or will need in the future in order to make ends meet, and so what we are predicting and what we know will happen if you talk to the American Hospital Association, for example, is a lot of hospitals will close, or alternatively they will have to cut back on services, and they are essentially squeezed so that they cannot provide the same quality of care.

I know in my own State of New Jersey we have a large number of hospitals that depend on Medicare and Medicaid for a majority of their income. So if that income is significantly cut back, they either close or they cut back on what they can provide.

The other thing that the budget does with Medicare in a very sort of sneaky way is that right now, if you are a senior citizen, most senior citizens simply go to a doctor of their choice, and that doctor gets reimbursed by the Federal Government in what we call a fee-for-service system. You get the service, the Government pays the fee. Well, what this Republican budget bill does is it changes the emphasis and basically encourages seniors to enroll in HMO's or managed care programs because over the life of the 7-year budget or over the life of the budget essentially the amount of money that is reimbursed to individual physicians as opposed to HMO's is skewed. Higher reimbursement rate, more money going to HMO's or managed care systems, less money as the years go by going to doctors who stay in the traditional fee-for-service system. So essentially seniors are encouraged, or almost forced because of their doctors, into HMO's or managed care systems, and a lot of doctors probably would not even take Medicare any more on an individual basis the way we operate now.

So what I believe will happen, and I think this is what the intent is, is that this budget will increasingly force more and more seniors into HMO's or managed care where they do not have a choice of doctors.

The effect on the other health care program, Medicaid, which is for low-income people, is just as bad, if not even worse, because essentially Medicaid, which right now is a guaranteed program; if you are below a certain income, you get Medicaid, and you have your health insurance paid for by the Federal Government because you cannot work, or you are a child, pregnant woman, whatever, who is without work, or you are disabled; right now that is guaranteed, that you get Medicaid, you get the health care coverage. But this budget bill abolishes the entitlement status of Medicaid. In other words, about 36 million Americans who are now eligible for Medicaid automatically are no longer eligible necessarily, and essentially the States are given money in block grants to try to continue to run health care programs for low-income people. But what the budget does, and again in a very sneaky way, is it says "OK, now the States are going to get money, and they're going to decide what kinds of Medicaid programs they are going to have for low-income people." But 18 percent less is available in Federal dollars, 18 percent less than what our Congressional Budget Office says is necessary in order to cover the people that would be eligible for the Medicaid Program over the next 7 years.

So what is happening here is again just like the squeeze in Medicare, the squeeze exists in Medicaid. States are told, look, it is up to you to decide now who you want to cover, but you are going to get a lot less money to provide that coverage, and you do not have to cover the people that previously were entitled to Medicaid, and so what are the States going to do? They are going to cut back. A lot of them will decide that certain categories of disabled people are not going to be eligible for Medicaid or that certain other people will not be eligible for Medicaid, and they do not really have a choice because their only alternative is to raise taxes somehow, and the States obviously are going to be reluctant to do that.

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The other aspect of the Medicaid Program that is particularly damaging is with regard to seniors. I mentioned before that under Medicare, the part B program for Medicare which seniors use to pay for their doctor bills, the premiums are doubled under this budget bill; but on the Medicaid side, the guarantee for low-income seniors, that premium that was paid for by Medicaid is eliminated.

So if you are a senior who can afford to pay for your Medicare coverage, you see your premiums doubled. If you are a senior who right now cannot afford to pay your Medicaid part B premium, and it is covered by Medicaid and you do not have to pay, you now have no guarantee that the Medicare coverage is going to be paid for.

What is going to happen? A lot of senior citizens will simply not take Medicare part B or physician coverage because they cannot afford to pay for the double premium; or, alternatively, if they are too poor and they have had their Medicare part B paid for by Medicaid, they simply will not have Medicare part B coverage, and they will not have any doctors to take care of them.

What we are seeing here more and more with regard to the two health care programs is that the budget, this Republican budget, the budget put forward by Speaker GINGRICH, is going to put a lot more Americans, provide that a lot more Americans do not have health insurance at all. They either will not have physician's coverage, or in some cases they will not have hospital coverage, and we are going to see an increase in the number of Americans who have no health insurance.

Right now it is estimated that something like 40 million Americans have no health insurance. Various estimates, responsible estimates, have said that under this proposal, under this budget, we could easily see over the next 7 years as many as 60 millions Americans or more that will have no health care coverage.

The other aspect of this bill that is particularly troublesome to me when it comes to Medicaid funding, as well as Medicare funding, relates to how States will finance both programs. In other words, right now Medicaid is a program where the States have to put up one dollar for every dollar that the Federal Government provides. So when I say that Medicaid is cut by 8 percent over the next 7 years, I am assuming that a State, for example, my home State of New Jersey, would put up $1 for every $1 that comes from the Federal Government.

But when this budget bill went to conference and came back on an agreement between the House and Senate, I found that it had another provision that even makes the situation for Medicaid and for States that are making an effort to try to provide coverage even worse, because it says that a State only has to spend 40 cents of a dollar in order to get 60 cents in Federal money.

What that means is that instead of putting up $1 and getting $1 in Federal money, the States may decide they will only put up 40 cents and get 60 cents in Federal money, which means that there is only $1 available for Medicaid as opposed to the $2 that is available under the current law. So not only will States see a lot less money coming from the Federal Government, but if they decide that they do not want to put up theirs, there may be half as much money available to the Medicaid recipients in that State than is available right now.

The other thing that really upsets me is that so many times on this floor I have heard the other side, my colleagues on the other side, basically give the impression that somehow, as this bill has moved through committee, through the House, through the Senate, and then in the House and Senate conference until it finally came to the floor today for final consideration before it goes to the President, the suggestion that somehow they have been trying to improve the situation with regard to the States' ability to continue Medicare and Medicaid in an inadequate quality way.

Particularly in my home State of New Jersey, I have been troubled by the fact that, unlike previous to today, most of the Republicans decided to support this budget conference when it came back because of changes that were made supposedly for New Jersey that would help with our ability to continue Medicare and Medicaid coverage.

I basically disagree with what my Republican colleagues or most of my Republican colleagues from New Jersey have been saying in this regard. I think that the bill that has come back to us, and that we voted on today, did not make any real significant changes in the Medicaid or Medicare Programs that help the State of New Jersey. Particularly with regard to our hospitals and the amount of money they are going to be getting from Medicare, it created a very biased system in favor of certain hospitals, and at the expense of other hospitals.

Ms. JACKSON-LEE. Mr. Chairman, will the gentleman yield?

Mr. PALLONE. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from New Jersey for yielding to me. I was in my office and listening to his very detailed explanation and very important explanation.

I think it is very crucial on the eve of this Thanksgiving, away from what we experienced this whole last week, and we were together this whole weekend, I recall being with the gentleman and debating this issue of adjournment on Saturday, of course a separate issue on the continuing resolution. But we decided together not to leave for our home States, which many of us had obligations, to stay here to demand that this Congress deal first of all with the question of the Government shutdown. And in the midst of that discussion, of course, and we have heard a lot of people talk about wins and losses, and knowing your commitment to this whole issue of Medicare and Medicaid, I have not heard the gentleman say that, but what we did get out of the continuing resolution, which I think is very important for the American public to know, is a listing of priorities that includes Medicare and Medicaid. That is a separate issue.

Because the Democrats stayed in, we were here yesterday, we were here when this Congress reconvened late last night to give us the opportunity to vote on the 1-day CR. And then, of course, today it was voted on. It is giving direction, or that listing of priorities will now give us direction for this budget bill, which of course this budget reconciliation came again to the House floor, and it was not responsive to what you have been highlighting.

If I might just add to what you have said——

Mr. PALLONE. Absolutely.

Ms. JACKSON-LEE. We may not have heard the collective voices from the hospitals like we would have liked to. I know they were spending time trying to review all of the numbers, they were concerned that they would not speak precipitously. But now they have come and they have spoken. Five thousand hospitals and health systems nationwide have written, and I am not sure whether the Republicans have read this language, but I would just like to share with you, because your hospital association, the Texas Hospital Association, and the New York Hospital Association, it simply reads: "The undersigned national, state, and metropolitan organizations representing more than 5,000 hospitals and health systems nationwide, cannot support the conference report on H.R. 2491." It did not say we want to reconsider the budget reconciliation bill. "Our reason is straightforward as it stands. This legislation, viewed in its entirety" it did not say a piece here or a piece there, "Is not in the best interests of patients, communities, and the men and women who care for them."

This is from caregivers with no axe to grind, no political or partisan position. In fact, they waited this length of time, and obviously, they agree with your interpretation.

In my State in particular, with the Texas Medical Center nearby my district, but the Harris County Hospital

District largely in my district, we are finding that on the Medicaid issue we are losing some $5 billion in Medicaid. I think if people understand what that means, if we were to have a recession, in Houston we have the Johnson Space Center, and many people were hurt on this furlough and large numbers of individuals were furloughed. That is an employment base.

I am very glad to see that we have certainly made some commitments on funding on the space station, but just think, if something might happen which would create some sort of recession in Houston or in surrounding areas, the State, which the Republicans have so much bragged about as giving them block grants, would be cut off from helping those who newly need health care under Medicaid, because it would be in a block grant and they would already have lost some $5 billion out of the State of Texas.

It indicates in the gentleman's State, and he has already given the numbers, but it just lists all of the States that would do so.

If I could just show you one other plan here, or sort of a graph if I could, because you mentioned this as well, and that is that we seem to be in this trouble because of the Republican tax plan. Certainly I do not think there is one of us who has stood here, many people we know could benefit, if you will, and this is not an issue where you do not want to take credit for giving people money. But we have to, as we did with the continuing resolution—there is a question of priorities.

If you look, the lowest income individuals, and some of those are people working—some people work for between $6,000 and $10,000 a year—would be taxed, and in actuality, would be losing $168. Then, if you want to take the average American, we understand average Americans make about $41,000; somewhere between $30,000 or $41,000, if you are $30,000, say $27,000, you get $226 in a refund.

Of course, I do not give any negatives to any amount of money, but someone was on the House floor today saying you could invest this money for your youngsters' college education. I think I could interview a number of people making $27,000 and find out whether they could get any college education money out of investing $226. Then for someone making $41,000, they would get $514. Certainly a color TV is welcome into the household, but we misrepresent to the American people that they are getting a benefit by getting this tax back but yet losing direct student loans.

Then, as I conclude, to say to you that they would likewise, if they were making $606,000 they would be getting back $13,628. That is a question of priorities. I applaud the gentleman for his persistence. I think he has spoken to me on the House floor and has been asking for Medicare hearings more fully so we can understand the facts. I want to join him in that, because I think this is an important question. I did say I was going to conclude, but if you would just allow me on one point.

Mr. PALLONE. The gentlewoman can speak as long as she likes.

Ms. JACKSON-LEE. I notice we had the VA-HUD rule, and interestingly enough, we were prepared to debate that legislation, and it was mysteriously pulled. I would simply say, coming from Texas, I certainly applaud the work that we did in securing the space station. That is important to us. I would argue vigorously that that creates the work of the 21st century. I was proud to be able to support the funding for that, and not to eliminate or undermine some of the great works of those individuals.

Yet, what we are doing to housing, and then juxtaposing it against the space station, and that effort and science, which that really is not the right scapegoat, it is the $270 billion tax cut, we find in the housing area we are literally gutting an opportunity for what has been the new trend in America, creating affordable housing. My city is just on the precipice of going in and building housing for those who need housing, and here we are, gutting that.

We are gutting historic preservation provisions to protect historic buildings, we are gutting the environment, and interestingly enough, I hope that bill goes back so that we can be fair. We have been fair to those in the science with space station and NASA, and we need to be fair to those who would create the opportunities, young people who will be raised up in these houses, so they can be the next scientists and engineers.

I think this tells a story of that continuing resolution. I will go back to it, which is establishing priorities. No one wins or loses. It is bringing your experience, bringing my experience of my parents who did not have the same opportunities that I had, bringing them to this House of Representatives, to create the doors of opportunity for those seniors, for those young people, for those working people.

I applaud your remarks, and I hope that someone will listen to what we are saying. We are not against the balanced budget. We have all said it. But what we have emphasized is the importance of priorities. It appreciate the gentleman yielding to me.

Mr. PALLONE. I appreciate the gentlewoman for speaking up as she did. I think you are absolutely right, that one of the, if not the, major benefit from this continuing resolution was the fact that it establishes the President's and the Democrats' priorities with regard to Medicaid, Medicare, education, and the environment.

What you were saying particularly about Medicaid and Medicare, I wanted to point out, I see that our leadership is here and I want to yield to them, but I would like to point out at some point how this budget conference actually makes the situation even worse with respect to some aspects of Medicaid and Medicare. It was not an improvement. It made it worse for our area hospitals.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore (Mr. BARR) laid before the House the following resignation as member of the Committee on Science:

WASHINGTON, DC,
November 18, 1995.

Hon. VIC FAZIO,
Chairman, House Democratic Caucus,
Washington, DC.

DEAR CHAIRMAN FAZIO: I hereby resign my seat on the Committee on Science.

Sincerely,

PETE GEREN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF THE COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 1995.

Hon. VIC FAZIO,
Chairman, House Democratic Caucus,
Washington, DC.

DEAR CHAIRMAN FAZIO: I hereby resign my position on the House Small Business Committee. This resignation is to take place immediately.

Sincerely,

PATRICK J. KENNEDY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 281) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 281

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Resources: The following Members: Edward Markey of Massachusetts to rank above Nick Joe Rahall of West Virginia and Patrick Kennedy of Rhode Island.

To the Committee on Transportation and Infrastructure: The following Member: Peter Geren of Texas.

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that the resolution be amended to put the gentleman from Texas, Mr. PETE GEREN, after the gentleman from Tennessee, Mr. TANNER, on the Committee on Transportation and Infrastructure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the resolution, as modified, is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

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Mr. PALLONE. Mr. Speaker, when I was having the dialog with the gentlewoman from Texas before, one of the things that I found out, again in response to the fact that some of my colleagues on the Republican side from New Jersey were sort of touting the changes that happened in the conference with regard to Medicare funding, what they were saying was that $55 million in additional money would be coming to New Jersey hospitals because of changes in Medicare.

What I found out was particularly disturbing to me because of the inequities of the formula that had been put into the conference bill. Essentially, what the formula said was that if a hospital in New Jersey, and of course this is throughout the country, so it applies in every State, if a hospital had more than 60 percent, 60 percent or more Medicare patients, it was going to get a small increase in its reimbursement rate for Medicare.

But then on further discovery, I found out that that was only true if the hospital was not a disproportionate share hospital or a teaching hospital. A disproportionate share hospital is a hospital that has a high number of Medicaid patients, in other words, low-income patients, or patients that receive Social Security disability benefits. Of course, the teaching hospital is a major institution that provides teaching to residents and to young doctors; and which also tends, in many cases, many of the teaching hospitals, happen to be in urban areas.

So what essentially this new formula said was, in my interpretation, if you have a high number of seniors at your hospital, we are going to give you extra money, but not if those seniors happen to be low-income seniors or if they happen to be people who are receiving Social Security disability, or other types of low-income individuals. That is an incredible inequity.

Here we have some of the major teaching hospitals, which serve the underprivileged, disproportionate share hospitals that serve large numbers of poor people, and have the greatest need for help from the Federal Government in terms of their reimbursement rate, and they are being cut at the same time as the hospitals who have a high number of Medicare patients, but do not have a lot of poor people, are being given an increase. That really says a lot about the way Speaker GINGRICH and the Republican leadership have gone about dealing with this bill.

It is not fair; there are a tremendous number of inequities in this bill.

Mr. Speaker, with regard to Medicaid and, again, talking about my home State of New Jersey, my colleagues were touting the fact that there was an increase from Medicaid funding to New Jersey of something like $200 million, largely because now the effort or the services that you provide to illegal immigrants were going to be included, whereas they had not been in the original bill.

But what they fail to point out is that New Jersey loses $6 billion in Medicaid funding over the next 7 years under this Republican budget. So here we have some slight increase, because you are serving illegal aliens, of $200 million, but a shortfall overall of $6 billion.

This prompted one of my local newspapers, the Home News and Tribune, to write an editorial which I would like to quote from briefly. They said, and they complimented Governor Whitman because she had tried to get some extra money for Medicaid in part of this conference. But then they said that the latest GOP plan still doesn't do enough to help needy New Jersey residents.

The new game plan would leave New Jersey with almost $6 billion less than the State would have received under existing law. The undeniable fact is that New Jersey still takes a big hit.

So whether you talk about Medicare or you talk about Medicaid, the bottom line is that, around the country, both programs suffer considerably, and in many ways will not be the type of quality health care programs that they are now.

Before I finish, I wanted to go into two other aspects of this Republican budget bill that I find very objectionable. The gentlewoman from Texas [Ms. JACKSON-LEE] mentioned both of them. I just want to get into a little more detail about how this conference bill, the one that we voted on today and that I oppose, specifically affects certain education programs and certain environmental programs.

The most negative impact in terms of higher education is on what we call the direct student loan program. The Republican proposal basically caps direct student loans at 10 percent of total loan volume. What we know that this is going to do is to force up to 1,000 colleges and universities out of the direct student loan program and cut the number of direct student loans that actually go to students by 1.9 million. So 1.9 million students probably will not have access to these loans and 1,000 colleges and universities will be cut from the program because of this 10-percent cap.

Some people, though, have said to me, well, so what? We do not have a direct student loan program; we can go back to the old guaranteed student loan program that the banks used to operate and still operate under. Why do we need the direct student loan program? I would point out that the direct student loan program, of course, comes directly from the college or university, as opposed to the guaranteed loan program, which is financed; you go to a bank or a loan institution.

Well, there is a key difference, there is a key difference, and this is why so many students will not be able to get a loan and why so many colleges are complaining about this change and this downgrading of the direct student loan program.

One key advantage of direct loans over guaranteed loans is that the direct loans create more flexible repayment terms. Direct lending guarantees students the option of paying their loan back as a percentage of their income. When graduates are starting a family, working in their first job or starting a business, they can choose to make smaller payments. Guaranteed loan holders in the vast majority of cases do not provide this kind of flexibility.

Also, and this is the experience that I can talk to directly because Rutgers University in my district was one of the schools that first started with the direct student loan program and has had tremendous success with it, students have found that their loan money comes through faster under direct loans. There is just a lot less red tape.

Direct loans provide one-stop shopping for students. Borrowers make single loan payments to the Education Department for the life of the loans. The application process is simpler. Students do not have to submit a separate loan application to a bank and students do not wait in lines to endorse bank checks because schools receive the loans electronically from the Federal Government.

There are a tremendous number of reasons, and I do not want to keep talking about them all night, about why this direct loan program has been such a success. But I would like to look at it from the other point of view, which is why is it that the Republicans want to go back to the other guaranteed loan program administered by the banks? For what possible reason?

Well, I would maintain it is because of the special interest groups that are involved. They are the only winners, okay? Just to quote here from the New York Times, and then I would like to yield to the gentlewoman from Texas, the guaranteed student loan program as always been a favorite program for the Nation's banks. The New York Times pointed out in an editorial recently that, "Banks have long treasured the guaranteed student loan program which offers profits with much less risk than they have on the direct loan program ever since it was created in 1993 as unwanted competition.

Here we go. We are going back to this other program where we have to go through the banks, only that they can make a profit. There is no benefit. And from my own experience with Rutgers University and what the administrators there are telling me, the direct loan program is much better.

Mr. Speaker, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. Again, I thank the gentleman from New Jersey, and he has plainly, I think, captured the essence of the problem, and he has captured it for his State. But in my State, the State of Texas, 41 schools will now lose the opportunity of the direct student loan program, but in particular, 57,000 students will not have that opportunity.

You have, I think, laid it out for both parents and faculty and administrators, and my husband happens to be an administrator at one of our institutions, the University of Houston in Texas. There is certainly a lot of merit.

I do not know if any of us can recall the anxiety of being a student, and now more and more students are working. They are commuters sometimes; they are constantly looking for resources in terms of helping them get their education, and there is something about the direct loan program that eases that burden. It is a clean program. The dollars are placed in the institution, you know what they are for, and it really makes sense.

If I might tie just another point to this whole question of education and students, I think it is important to note, because we look at this budget, or at least it has been raised as a budget that helps bring down the deficit and it helps bring us to the point of saving the country money.

First, I think we should note that under the Democrats, this country has the smallest number of Federal employees since 1933, before the New Deal. We are down some 200,000. And of course, my hat is off to the Federal employees who work for us and who were furloughed, because I think they were maligned unnecessarily. But they have streamlined themselves.

The other point is, this Budget Reconciliation Act is based upon numbers that now may not be accurate. That is why I am so glad of the continuing resolution that talked about OMB, it talked about consulting with other economists, it talked about other indicia that might be reflective of where we are. In fact, we are finding out that the CBO was too pessimistic, Congressional Budget Office.

We have been told to use all of those letters for people, but one group of fact-finders were too pessimistic. In fact, our growth is better than we had expected, and in fact, all of these spending cuts that they are recommending may not be necessary. The reason I say that is because we have recommendations to cut out the Commerce Department, the most successful Commerce Department, we have seen in history, that signed, I think, some 3 billion dollars' worth of contracts with China.

We have just heard that our export numbers with Japan, under the President's leadership and the Department of Commerce, have gone up some 44 percent, or maybe $40 billion is the number that comes to mind. But that has gone up.

However, in addition to cutting the Commerce Department, which creates jobs, I tied it because we have youngsters going to college and the anxiety of getting a college education, the need of loans and then getting a job, but we are also in this budget cutting research and development 35 percent. I do not think the corporations will remind me, detailing that they have reduced their research and development departments, they are basically in a profit mode, and that most new research comes out of the partnership between the private and public sector.

For example, in universities like Rutgers University, and here in Houston, Prairie View, Texas Southern University in my community, the University of Texas, and the University of Houston has a project. But that is the way we create work for the 21st century.

So I think that we have a budget reconciliation package, we wish we had had it October 1, meeting the deadlines, but now with a new lease on life, new numbers, a continuing resolution that opens the Government, that clearly sets priorities. New information about what cutting research and development will do for us. I think we can do a better job.

VACATING AND AMENDING PROCEEDINGS ON HOUSE RESOLUTION 281, ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Ms. JACKSON-LEE. Mr. Speaker, before I yield to the gentleman, I am asked to do a procedural matter, I ask unanimous consent to amend the earlier Democratic caucus resolution, House Resolution 281, and place the gentleman from Texas, Mr. PETE GEREN, directly behind the gentleman from Illinois, Mr. COSTELLO, on the Committee on Transportation.

The SPEAKER pro tempore. Without objection, the adoption of House Resolution 281 is vacated, and without objection, the resolution is readopted in the form as requested by the gentlewoman from Texas [Ms. JACKSON-LEE].

There was no objection.

PERSONAL EXPLANATION

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from New Jersey [Mr. PALLONE] and the Congresswoman from Texas [Ms. JACKSON-LEE] for allowing me to take some time this evening for a personal explanation.

Mr. Speaker, on rollcall votes 701 through 713, on Wednesday, October 11 and Thursday, October 12, 1995, I was unavoidably absent.

On rollcall vote 701, the Scott amendment to H.R. 2405, the Omnibus Civilian Science Authorization Act, I would have voted "yes."

On rollcall vote 702, the Jackson-Lee amendment, I would have voted "yes."

On rollcall vote 703, the Richardson substitute to the Roemer amendment, I would have voted "yes."

On rollcall vote 704, the Roemer amendment, I would have voted "no."

Rollcall vote 705 was a quorum call.

On rollcall vote 706, the Doyle substitute to the Walker amendment, I would have voted "yes."

On rollcall vote 707, the motion to recommit to conference committee H.R. 1976, the fiscal year 1996 agriculture appropriations, I would have voted "yes."

On rollcall vote 708, adoption of the agriculture appropriations conference report, I would have voted "yes."

On rollcall vote 709, the Lofgren amendment to the science authorization, I would have voted "yes."

On rollcall vote 710, the Kennedy amendment, I would have voted "yes."

On rollcall vote 711, the Brown amendment, I would have voted "yes."

On rollcall vote 712, the Brown substitute, I would have voted "yes."

On rollcall vote 713, final passage of the science authorization, I would have voted "no."

Mr. Speaker, I thank my colleagues for yielding to me.

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I thank the gentleman from New Jersey for bringing these very vital points. It just caused me to think of an array of opportunity that we now have to really look at the budget that now can reflect on some new economic numbers, on the gross domestic product. It can reflect upon where we want to go in the 21st century.

Do we really want to cut research and development? Do we want to eliminate housing for people who are now getting on their feet, first-time owners, single parents with children who are getting to be homeowner? Do we want to take away a department, for example, I use that just as an example, even though we have brought down the number of Federal employees, that actually has created billions of dollars of new contracts with our world partners, that has created and would create jobs for our young people?

I thank the gentleman for yielding.

Mr. PALLONE. I want to thank the gentlewoman again for emphasizing those priorities that are now in that continuing resolution.

The last one that I wanted to mention, and the one she has already mentioned, is in regard to the environment. Again, the President reiterated that one of the problems that he has with this Republican budget that was adopted today is that it cuts funding or assumes cuts in funding for environmental programs too much.

Perhaps the best example of that, again, which was alluded to by the gentlewoman, was this appropriations bill. We call it the VA, HUD and other independent agencies appropriations bill, which was supposed to come up today but was pulled from the floor, apparently because the Republican leadership does not have the votes. I want to say thank you for the fact that they do not have the votes because this is a very bad bill, particularly with regard to the Environmental Protection Agency.

What it does with regard to the EPA is essentially decrease EPA funding by about 20 percent. In that funding cut, amongst the money that has been cut, the hardest hit is enforcement, which is cut almost 25 percent.

I have said over and over again on the floor of this House, and will continue to say, what is the point of having good environmental laws if you do not have the money to hire people to go out and enforce those laws? It is like basically saying to the polluters, "It's OK, you can do whatever you want, because we're not going to come after you, we're never going to indict you or punish you for violating the law." That is essentially what this bill says.

It also makes particularly deep cuts in aid to the States for water pollution control. I find that particularly offensive because my district is largely along the Atlantic Ocean and also along the Raritan Bay and Raritan River, and we have benefited tremendously the last few years from Federal funding for upgrading our sewage treatment plants and for other provisions that make it easier for us to enforce our water quality standards.

As a result, in Jersey and particularly in my district the ocean water quality has improved, the bay has improved and the river has improved. That has meant a lot to us economically because we depend on tourism for a good part of our income.

Back in the late 1980's when I was first elected to the House of Representatives, we had our beaches closed for most of the summer because of the poor water quality. That has not happened again because the water quality has improved, and largely because of Federal dollars that went back to the States for water pollution control and also because of improvements in enforcement.

The last thing that this appropriation bill does that I want to mention, it does a lot of horrible things to the environment, but another one that is particularly important to my district and something that I care a lot about is the Superfund Program. It is a number of years ago now that the Federal Government established a Superfund Program, which is essentially what it is, a Superfund, a large pot of money that is used to clean up the worst hazardous waste sites around the country in all 50 States.

This appropriations bill that gladly was pulled from the floor today, but I am sure is going to come back, it makes a 19-percent cut in funding for the Superfund Program. What that essentially means is that the only sites that will be cleaned up are the ones that are already on the Superfund list. In fact, it actually says that the EPA cannot add a new hazardous waste site to the national priorities list for cleanup unless the State's Governor requests it.

So basically what they are trying to do here, what the Republican leadership is trying to do, either through this appropriation bill or ultimately when they reauthorize the Superfund Program, is to basically say, "This is a closed shop. We're not going to establish any more Superfund sites," in an effort to try and save money.

That is not the way to go about handling a program which has been very important to many States, particularly in my home State of New Jersey, and it is also not a very rational or scientific way to proceed to simply say, "Well, if you didn't get on the list now, we're not going to put you on the list anymore because we don't have any more money to pay for cleanup."

Mr. Speaker, I would just like to conclude by saying I know that this budget bill passed today. It is a bad bill. The President is going to veto it. As the gentlewoman from Texas said, we hope that in the continuing resolution we establish the priorities, which are to preserve Medicare, to provide adequate funding for Medicaid, to provide enough funding so that we can have a good Student Loan Program and that we can protect the environment.

I am hopeful that after the President vetoes this bill, serious negotiation will take place to emphasize those priorities and not use this budget as a way to simply provide more money for wealthy Americans through tax breaks.

BALANCING THE BUDGET

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 60 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, it is certainly great to be here today talking about what has been going on in this House in a truly historic time. This is the first time in a generation that the executive branch and the legislative branch have come together and decided that we were going to do what Americans have had to do for over 200 years, and, that is, balance our checkbook, to only spend as much money as we take in, and to stop stealing from our children and our grandchildren and future generations.

I think a lot of people have heard the numbers before. They have heard that this is a country that is now $5 trillion in debt. We are a Government that spends $4 for every $3 that we take in, we are a Government that continues to steal from future generations and our children and grandchildren.

I have got a 7-year-old boy and a 4-year-old boy. Right now the debt that they are holding on their head is $20,000. In fact, every man, woman, and child right now is $20,000 in debt if we divide that $5 trillion by the number of people that are in this country.

If you want to drive it home and figure out how much my 7-year-old boy Joey and my 4-year-old boy Andrew will be owing in taxes over the course of their lifetime if we continue down the same failed path that we continued down when the Democrats were in control for 40 years and if we followed the President's plan, my children and your children, your grandchildren would owe $187,000 simply in interest on the Federal debt. That is money that they would be paying over the course of their lifetime, as their taxes continue to escalate.

We cannot say it enough, that today and this past week and over this past year we have drawn a line in the sand. We have ignored the polls. We have ignored the pundits. We have ignored everybody that said, "You can't do it. You can't balance the budget. Washington will not let you, the bureaucrats will not let you, the President will not let you."

In fact, it was 1 year ago that the President, the man who is on the other end of Pennsylvania Avenue and who has been telling the American people for the last 2 weeks that he has always been for a balanced budget, it was that same President who 1 year ago introduced his budget, 1994 style, to the American people.

He introduced that budget that continued to allow deficits to skyrocket continually into the future. Ninety-nine Senators voted on that budget 1 year ago and all 99 Senators voted "no" on the President's plan.

I guess they are pretty smart over there in the other body. They followed the President once. The Democrats followed the President in this Chamber and in the Chamber over there when in 1993 the President introduced his blueprint of what he wanted America to look like.

Do you remember what that blueprint said? It said that President Clinton wanted to raise taxes, he wanted to raise spending, and he wanted to continue to let the deficit soar.

The fact of the matter is his 1993 plan raised taxes more than any other President in the history of this country. He claimed it was the largest deficit reduction plan of all time. The fact of the matter is that if you look at it through the life of it, deficits soared at the end, because he put off all the cuts until the very end.

Now he says, "Well, we've brought the deficit down some in the past few years."

Well, sure, if we wanted to tax Americans and continue to tax Americans and continue to tax Americans and continue to tax Americans, we could bring the deficit down, too. Of course we would continue down the same failed path that we have continued down before and would continue to punish people for being productive, would continue to take their savings away from them, would continue to tax seniors.

This is a thing that has amazed me the most about the debate, that the President and Members from the liberal side could look with a straight face at the American people and say, "We want to protect senior citizens." Because the fact of the matter is that when they had their budget in 1993, when they had their chance to make a difference, what did they do? The first thing they did was they raised taxes on senior citizens. How much? Well, they made senior citizens pay taxes on 85 percent of their Social Security benefits. But that was not enough. Nosiree, Bob. They decided that if you are a senior citizen and you actually want to be productive with your life after you start drawing Social Security benefits, well, productivity is something that liberals cannot put up with, so we are going to have to tax you.

They lowered the earnings limit from $34,000 to $11,000, basically told senior citizens if you work, we are going to punish you.

So let us fast forward. That is 1993. If they wanted to raise taxes on seniors, I guess that was their business. They paid for it. Not a single Republican in 1993 voted for the largest tax increase in the history of the world, Bill Clinton's tax increase, and the Democrats' tax increase, not one Republican voted for it and we saw what happened last year. The Republicans said,

> Elect us and we're going to lower your taxes and we're going to balance the budget, we're going to save future generations from the debt that is now crushing us.

We did that. We got rewarded for it. There was an unprecedented landslide. I refuse to believe, despite what the President says, despite what the Democrats say, I refuse to believe that Americans now are against a balanced budget, or that Americans now believe, 1 year later, that they are not being taxed enough, or that 1 year later Americans believe that they are not being regulated enough.

But if you get past the rhetoric and you look at what the President has done and what liberal Democrats in this Chamber have done, they have continued to espouse higher taxes, more regulations, and a balanced budget is nowhere in sight. I know it has got to be confusing to some who do not live in Washington and are lucky enough to live outside the Beltway, but the fact of the matter is that the President has changed his mind so much on the balanced budget that it is hard to keep track.

Back in 1992, he promised he would balance the budget in 5 years. By my count, he has another year or two. Well, that changed very, very quickly. We all remember the horror that Americans watched as they watched the President tell us that, yes, he had promised a balanced budget plan, and, yes, he had promised a middle-class tax cut. In fact, we remember him in New Hampshire holding up the plan when people ridiculed him. He said, "You laugh at me but I've got the plan right here."

But then we watched when Governor Clinton got elected and became President Clinton. What was the first thing he did? He got on the airwaves and said,

> Well, I know what I said in the campaign, I know, I know, but, listen, we've been looking at the numbers and we're not going to be able to give you the middle-class tax cut.

It gets worse. "We're going to have to raise your taxes." It gets worse. "We're going to have to pass the largest tax increase in the history of this country."

Well, obviously Americans were upset. He paid for it in the polls, he paid for it by reneging on his promise to balance the budget in 5 years and in the off-year election, the Republicans and conservatives were swept into power across this country.

How did the President respond?

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He was in the denial stage, and he denied that Americans really wanted a balanced budget, that it was not a priority.

He introduced a budget plan that did not balance the budget. Then he moved forward and later on he came in an he said, "Well, maybe we can balance the budget. Maybe we can balance it in 10 years." In fact, he went up to New Hampshire, which was coincidentally the site of the first primary, and somebody told him that he needed to support a balanced budget. So he said, "I support a balanced budget."

Then he came back to Washington. His advisers got a hold of him. We said, "No; no, no; maybe I do not support a balanced budget." Then he went back up to New Hampshire. They said, "Mr. President, do you support a balanced?" He said, "Yes, we can balance the budget." Then he came back down to DC, changed his mind. "No, we can't."

Finally he put out a plan that he says will balance the budget in 10 years. Unfortunately, it was about $200 billion short. We run deficits of $200 billion well into the future. The plan did not balance the budget.

House Democrats were enraged, enraged that the President of the United States would actually dare to put forward a plan to balance the budget. The ranking member of Appropriations got on the floor, and like many others, was very up upset. What did he say? He said, "We are upset about the fact that the President proposed to balance the budget." But what we found is if you do not like the President's position on any issue, just be patient, wait a couple weeks, it is sure to change, and sure enough, 2 weeks later it changed again, and he went from 10 years, saying we can do it in 7 years. Then he went to 9 years and 8 years and it was sort of hard to nail down the President exactly on what number he thought.

Finally, the House Republicans said we demand a balanced budget in 7 years using true numbers, that too much is at stake, and we did that.

Now they are starting to try to weasel out of it again and are now saying, "Well, I know we have said that we will commit to 7 years, but it is 7, maybe 8 years."

Well, we are sending a message to the Democrats, to the President on the other side of Pennsylvania Avenue and to all Americans, the freshman class of the 104th Congress will not compromise. We will balance the budget in 7 years using true figures or we will not go along with any plan. It is that simple. It is that simple.

Why do we need to do it? We need to do it to ensure future generations have unprecedented economic growth. We need to do it to stop driving up the deficits, and we need to do it to save, protect, and preserve Medicare.

I have got to tell you I am new to Washington. I have never been elected to office before this year. I have got to tell you one of the most shocking things to me has been the demagoguery that has flown around on this issue of Medicare. The President came out himself in April of this year saying that Medicare was going bankrupt. The trustees reported that. Three members of his own Cabinet are on the Medicare trustees. They said Medicare is going bankrupt. If you do not do something about it, you are going to pay because the system is going to go bankrupt in the year 2002.

Well, we sent a CR to the President that reflected our plan to save, protect, and preserve Medicare, and the President got on the TV and said he could not sign that CR, that he was going to veto it and, he was going to send all the Federal employees out, that he could not have Medicare destroyed like this, it was unbelievable, these mean-spirited Republicans, and the press bought into it. And judging by some of the polls, a lot of Americans bought into it.

But here is the catch: Our plan was almost identical to the very same plan that President Clinton had been supporting for some time. I mean, can you believe that; look at the news footage of him this past week and last week. You would think that this man had a plan that was radically different from the Republican plan and that the Republicans were mean-spirited and that only Bill Clinton could protect and preserve Medicare and he had to save the senior citizens from the mean-spirited Republicans.

But the unpleasant fact, in fact, they are difficult things to get around, but the facts show our Medicare plan is almost identical to the President's Medicare plan.

Let me tell you something, there is a Washington Post editorial that was written last week on this issue, and the editorial reads at the top, "The real default." Now, the Washington Post has never been an ally of the conservative movement or the Republican Party. But let me tell you something, this, I believe, is probably the most important editorial that has been written by any publication in the past 5 years, because it was after this editorial was written that the White House was finally shamed into backing off from their unabashed demagoguery.

Let me read a little bit to you:

> Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over seven years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the president, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that's where the votes are and the way to derail the Republican proposals generally. The president was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto that has shut down the government—and never mind that he himself, in his own budget, would countenance a similar increase.

This is still the Washington Post talking:

> We've said some of this before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving. Politically, they will have helped to lock in place the enormous financial pressure that they themselves are first to deplore on so many other federal programs, not least the programs for the poor.

You see, getting Medicare increases under control is not about protecting the rich. The Post has come out before saying the Medicare cuts have no correlation to the tax cuts, that we are saving Medicare, and in saving Medicare we are saving the system. We are making it solvent. It is about helping all Americans, helping get this debt out of the way and the deficit out of the way.

But some people still want to default on leadership, and in the Washington Post article yesterday, written by Matthew Miller, the Post wrote:

> Though many of the President's advisers think that the G.O.P.'s premium proposal is sensible and differs very little from his own plan, the President fired sound bites from the oval office daily, taking the low road in ways that only Washington pundits could recast as standing tall.

As the polls show, it worked. The fact of the matter is it worked in the short run.

Many, when asked in this body, many had been asked when is this shutdown going to end, and many were cynical and said, well, it ends when the President's poll numbers start going down. It is not a coincidence that it was late Friday night that the President's approval ratings in this crisis had gone down six points, the next morning Leon Panetta marched on Capitol Hill and actually sat down and started negotiating seriously.

I have got to tell you I have been deeply dismayed by this whole process, deeply dismayed not only by the administration's comments but by what Leon Panetta said. He, of course, said Republicans were terrorists. He said we were holding a gun to the President's head, because we simply insisted that he balance the budget in 7 years.

The fact of the matter is Leon Panetta, time after time after time after time, attached things to the continuing resolutions in the 1980's when he was dealing with a Republican administration. He was not called on it. But that is fine. Then we hear him talking CBO numbers and saying that we should have OMB numbers.

Well, it was President Clinton himself who, in 1993, stood right here in this Chamber and told the American people the CBO estimates were the most accurate estimates and we must adhere to CBO estimates so the American people do not think we are playing games.

Well, we listened to the President. We want to adhere to CBO estimates because they are the most conservative, but as conservative as those CBO estimates are, one important fact remains. When the President, in 1993, stood in this Chamber and said we needed to go by CBO estimates because they were the most conservative estimates, those estimates in 1993 had been overly optimistic for 13 years in a row, which meant the deficit continued to shoot up for 13 years in a row.

We have got to be conservative with our children's and our grandchildren's money. We have got to stop stealing from future generations. We have got to balance the checkbook and stop worrying about short-term political gains. My children's future depend on it. All of America's children's future depends on it. We have to draw a line in the sand. That is what we have done, and that is why the President finally sat down and adhered to absolutely every demand that we asked and do it here, too.

I would like to turn now and have a good friend of mine, the gentleman from the State of Minnesota [Mr. GUTKNECHT] discuss the issue.

Were you not surprised at the turn we saw of the President this past week, how he was at 10 years, we were at 7 years, he wanted OMB numbers, we wanted CBO numbers; he came and compromised. Sure, he compromised with the freshman class. He wanted to balance the budget in 5 years. Now he has come in an said he will balance the budget in 7 years using CBO numbers, despite what the administration has been saying today. That is what they are committing to. Is that your understanding?

Mr. GUTKNECHT. If the gentleman will yield, I would like to talk a little bit about this, as both being Members of this freshman class, we have been called extremists, heretics, all kinds of names like that. I do think the American people sent a very clear message a year ago. I think they expect us to fulfill the promises we made.

As you know, if I could, Mr. Speaker, and the gentleman from Florida [Mr. SCARBOROUGH], I would like to read a letter that the gentleman helped me draft, the gentleman from Florida [Mr. SCARBOROUGH], and signed by virtually every Member of our freshman class, that we sent down to the White House last week. I think it sort of frames the issue from our perspective and how much impact this ultimately had on the President's decision over the weekend to get serious about negotiating. We do not know. But, hopefully, it had some impact.

If I could, I would like to read at least some excerpts from it.

> DEAR MR. PRESIDENT: Some are holding us Freshmen Members of the Republican House Caucus responsible for the actions of the last several days. Permit us to share our perspective on this important issue.
>
> It is unfortunate that 800,000 non-essential federal employees were furloughed. But we believe very strongly that it would be a tragedy of historic proportions if we were to back down now on our commitment to balance the federal budget in seven years. Twelve months ago, the voters of this nation sent a powerful message that we needed to change the way Washington does business. They wanted to put the federal government on a diet, and they wanted us to balance their budget.

There is a misguided belief that the current debate surrounding the balanced budget issue is about politics. Balancing the federal budget, Mr. President, is about principle. This is not about the re-election of the Freshmen Class, it's about preserving the future of our country. In fact, we believe it goes deeper than that. What is at stake here is preserving the basic concept of self-government. If we cannot balance our budget when we are the sole surviving super-power, when we're at peace in the world, when we have a relatively strong economy with low unemployment, then when will we?

We want to resolve this. The American people want us to work together. We have been granted an historic opportunity. Our children would not hold us harmless if we squandered it. This is a moment of truth. This is when "We The People" show whether we have the courage and moral character to stop stealing from our children and grandchildren. Future generations are counting on us to show some leadership and courage. Let us agree on the destination. We can then have a healthy debate about the road map.

It was signed by virtually every member of our freshman class.

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We sent that down to the White House Friday because we wanted to send a message that this is not about politics, it is about principle, and it is about the future of this country and whether or not we have the moral courage and character to do what we all know is right. The gentleman from Florida [Mr. SCARBOROUGH] said it. Most of us thought we ought to balance the budget in 5 years or less, and we believed it could be done if we were willing to make some really rough choices. In fact, some might argue that our budget we are proposing today is actually too generous.

But I would also like to read this, because there has been some distortion already today, and, in fact, it started as early as last night, and I was somewhat disappointed in the news conferences at some of the comments made by Mr. Panetta and the President and others about what they duly agreed to. At some point the American people, and, if you would like an extra copy, they can call my office in Washington, drop me a note in care of the Cannon Office Building, I will send them out a copy of exactly what the President and the leaders of the congressional delegation agreed. Too, if I could, I would just like to read this. It is just a paragraph and a half long.

It says:

The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office and the President, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to stimulate future economic growth and to help working families.

Now, that is essentially, in fact, that is word for word, what was agreed to between the House, the Senate, and the President. It says no later than 2002. That means in not more than 7 years.

But no sooner had the ink dried on the paper that it was agreed to on, than already the White House was saying "Well, we did not quite really mean 7 years." I think that is what is frustrating to the Members of the Congress, I think it is what is frustrating to members of the public.

I think the interesting point, there is a story told about Yogi Berra. He has become one of my favorite philosophers. One night Yogi went out by himself to have pizza. He ordered a small pizza. The waitress said, "Do you want that cut into 8 slices or 6?" Yogi said, "Well, I'm not that hungry tonight; just cut it in 6. I do not think I can eat 8 pieces."

That is sort of what the argument is we have been having about the budget lately, because we have not agreed to how big the pizza is going to be. Now we can have the debate, about how much is going to go to the environment, how much is going to go to national defense, how much is going to go to transportation, how much we will spend on welfare, how much we will spend on Medicaid and other entitlements. At least we finally have agreed on the size of the pizza. How many slices and exactly the way it is sliced, I guess, is not as important to us as the fact we have agreed. We have agreed on a destination. Now let us have a healthy argument about the road map.

Let me say this. Two points need to be made. First of all, as far as we are concerned, this is like the Contract With America that we signed last year. The agreement that was reached last night is a contract with the American people, and we take it very seriously, and we hope the White House will take it very seriously.

Second, and this is even more important, it is now incumbent upon the President and this administration to come forward with a budget plan that they like. Now, they spent the last 6 or 8 weeks telling everybody about the things in our plan they do not like. That is fair enough. That is part of the democratic process. They have every right to criticize some of the things they do not like in our budget plan.

But now it is their responsibility to put their plan on the table. I think we in the Congress and the American people have every right and expect and should demand that they put a plan on the table.

Mr. SCARBOROUGH. If the gentleman will yield for 1 minute, I think this is an important point and important distinction. I have heard many say the Democrats do not have the responsibility. The Republicans were elected, they are in charge of the House. The Democrats do not have responsibility to put a plan on the table to save Medicare, which they have not done in the House, or to put forward a budget plan that balances the budget, which the majority of the Members have not done.

But it is important to remember that in 1993, when the Republican Party was in its 39th year in the wilderness, that the gentleman from Ohio, JOHN KASICH, the same JOHN KASICH who has forever changed Washington, DC, through his leadership on the Committee on the Budget, putting together the first balanced budget in this generation, JOHN KASICH came up with a plan. He had a plan, and the Republicans all supported that plan.

That is extremely important. This year, the Democratic leadership has failed to put forward a plan. All they are doing is complaining, saying what we are doing wrong. But if you look at the minority leader and the whip and everybody in the minority, they voted against every single balanced budget plan. I have to tell you, they have had about six chances this year to vote for a balanced budget.

They voted against a balanced budget, whether it is a Republican balanced budget; they voted against a balanced budget, whether it was a coalition balanced budget plan the conservative Democrats put together. They voted against every budget.

So when I hear them get on the floor or get into press conferences and say "Yes, we support a balanced budget, but this one is mean-spirited," I am sorry, those words just do not ring true to me.

Introduce your balanced budget plan, and then you have a right to get involved with this debate. But if you do not introduce your own plan, if you do not have the nerve, if you do not have the guts, if you do not have the political will to show Americans what your vision of America is and how you want to balance the budget and save the next generation, then just be quiet and sit on the bench. I will yield back to the gentleman.

Mr. GUTKNECHT. Mr. Speaker, that is what has really troubled so many Americans for so long. They have seen a lack of courage and will power in the Congress to actually follow through. It is what I call the "yes, buts". In fact, Representative CHRIS SHAYS the other day said it so clearly, I think, on the House floor here. He said you know, everybody gets up and says we want a balanced budget. Everybody wants a balanced budget. But he said if that were true, we would have a balanced budget. Everybody says yes, I want a balanced budget, but. Yes, but. That is what gets the American people so frustrated.

I have to congratulate Chairman ARCHER of the Committee on Ways and Means as well. He went down the other day and said our plan is not perfect. I do not think anybody on this side of the aisle would argue it is perfect. But there is one thing about our plan that nobody else can say about their plan, because they do not have a plan, but at least we have a plan, and it will work according to CBO scoring.

CBO, as the gentleman says, has been the most conservative over the years. Frankly, I think perhaps too conservative, but I would rather err on the side of conservative when you are talking about balancing the budget and trying to save the future generations of Americans from a debt which is actually going to come crashing down around them.

The gentleman talked earlier about polls. Sometimes we here in Washington get too much influenced by polls. The gentleman talked about one of my favorite newspapers, the Washington Post, which he indicated is not exactly a Republican propaganda organ. Many times in fact so many of those on this side of the aisle take what they say with a grain of salt.

I would like to remind you of a poll done a couple of weeks ago by the Washington Post. Here is what they asked. It was October 30, 1995; that was a little over 2 weeks ago. They asked, "Whom do you trust to do a better job with the main problems facing this Nation over the next few years?" And they said, Republicans, 47 percent; Democrats, 39 percent.

Now, when we took over this House, if I remember correctly, on that same test ballot question the day before the election, the score was Republicans, 44; Democrats, 41. We only had a 3 percent advantage a year ago, and we picked up 73 seats.

Even more telling, it seems to me, they went on to ask a somewhat different question, but along the same lines; they asked, "Which party better represents your views on national issues?" And this is according to the Washington Post poll taken about 2½ weeks ago. Republicans, 55 percent; Democrats, 25 percent.

I do not know how your phone messages were over the last week during the furlough of Federal employees, but mine were overwhelming. One day we received something like 270 calls saying hang in there, continue back up, do not blink. We had 27 calls which said cave in to the President. I think that is pretty reflective of where the American people were, and I think the American people were well served by our negotiators, because JOHN KASICH and our Speaker and other leaders did not blink.

As a result, we are going to have a balanced budget agreement. We now have a contract with this President, and a contract with the American people, that we are going to do what we said we are going to do. We are actually going to balance this budget.

Mr. SCARBOROUGH. I appreciate that. I have got to tell the gentleman something. One of the reasons I believe why twice as many people are now saying the Republican Party reflects their views more than the Democratic Party is because the Democratic leadership, at least in this House, has had a total void. They have not told us what they believe in.

Mr. GUTKNECHT. If the gentleman will yield on that point, this is a critical point. They did offer a Medicare alternative. I think it only got about 100 votes. Not even their leader, Mr. GEPHARDT, voted for their plan. On their alternate budget, not even their leader, Mr. GEPHARDT, voted for their plan.

Mr. SCARBOROUGH. He did not vote for either plan. I do not believe the whip from Michigan voted for the plan. Yet they will stand there self-righteously and say they support the balanced budget and want to save Medicare. Yet they voted against every plan that will do that.

Let me show you this chart, because this is an important chart. It shows that so many Americans have not realized because of what the President has been saying for the past few weeks. The Washington Post, and again I am quoting from them, this is not a Republican, this is what the Post says, it says:

> The Democrats and the President have shamelessly demagogued the Medicare issue despite the fact that our plans are so similar.

This is the Medicare part B premiums over the next 7 years, and as we can see, as you go out 7 years to the year 2002, the Republican and the Democrat premium are the same. Look at this. You have got $83 and $87. There is only a $4 difference. That is why the Washington Post said that the President shamelessly demagogued on the Medicare issue.

But it is not just Medicare that they are trying to scare Americans on. In my district, we have about as many veterans as any other district in the country. Our area has a long, proud military history, with a lot of veterans. Let me tell you, they are so important to this country.

But if you remember, Secretary Brown has actually started sending out political messages on the pay stubs, saying that the Republican plan for future veterans benefits was going to savage VA benefits and that it was more mean-spirited than the President's plan.

The fact of the matter is, when he came to Capitol Hill under sworn testimony, he had radically different testimony.

This is what he was asked. This is Secretary Brown from the Department of Veterans Affairs. When asked about Mr. SIMPSON's assertion that veterans would suffer more under the Clinton administration's proposed budget than other congressional plans, Mr. Brown said, "He's absolutely right." That is November 8, 1995.

Now, let me tell you, I understand in the Department of HHS and in other areas, I understand that sometimes we are going to have political differences. But we are talking about veterans. We are talking about going out there and scaring the men and women who fought to protect and defend the Constitution of the United States.

This is just an extension of the mediscarce attack that the Democrats had. We have seen it in Medicare, we have seen it in Veterans Affairs, where they say whatever they want to say, just to scarce people and pick up votes, according to the Washington Post.

Now we are hearing if, and, again, here is a Washington Post quote from November 15, 1995:

> The Democrats have been prospecting harder for votes among the elderly and against the Republican proposal than they have for the savings needed to bring down the deficit.

They have done it in education. I heard the last speaker get up here talking about all the mean-spirited cuts that we were going to have in student loans. I do not support cuts in students loans. Just because I do not want to turn over all the power to the Federal bureaucracy, which is what they are proposing, does not mean I am against student loans.

The fact of the matter is, under our plan this year, we spend $24.5 billion on student loans. Over our 7-year plan, that doubles or actually goes up 50 percent to $36.4 billion. I did not go to Oxford, I am not a Rhodes Scholar, I am just a dumb country lawyer, as they love saying in my part of the country, but the fact of the matter is even where I went to school, if you go from $24 billion to $36 billion, that is an increase.

Also, when I have somebody standing up here with a straight face telling me that direct student lending, where you have a consolidation of power in Washington, DC, is going to be more efficient than allowing the private sector to handle it and to stay involved in it, goes against history. It goes against 40 years of history.

So, if we are increasing student loans by 50 percent, which we are, those are the straight numbers under the budget proposal, then how can that be a cut? The earned income tax credit goes from $19 billion in 1995 to $25 billion through the end of our program. School lunch program goes from $6.3 billion to $7.8 billion; student loans again, from $24 billion to $36 billion; Medicaid spending from $89 billion to $127 billion; and Medicare spending from $178 billion to $289 billion.

□ 2045

So let us talk about new math, real math, and not Washington math, where a spending increase is called a spending cut.

I yield back to the gentleman.

Mr. GUTKNECHT. Mr. Speaker, a long time ago, one of our founding fathers who served in this body, John Adams, said facts are stubborn things. It is one of my favorite expressions, and I really do believe, as we debate this budget, facts are our friends. I think if we can get the facts to the American people, and again anyone who would like a copy of what Representative SCARBOROUGH has just talked about, where earned income tax credit goes from $19.8 billion this year to $25.4 billion in the year 2002; school lunches, where we are making these draconian cuts, actually increases from $6.3 billion to $7.8 billion; student loans, again we have been criticized for these big cuts in student loans, we are spending $24.5 billion this year and we will go to $36.5 billion in only 7 years; Medicaid, again where people are going to be thrown out of hospitals, Medicaid spending this year $89.2 billion will go to $127.3 billion in only 7 years; and, finally, Medicare, where they are using the greatest mediscare tactics, goes from $178 billion to almost $290 billion.

If people will get the facts, I think facts are our friends, and even when we talk about these tax cuts for the rich. I must tell the gentleman, and I do not know if I should share this story. Obviously, I will not use his name, but I had a gentleman talk to me the other day, and by all accounts he is rich. He told me last year he earned $325,000. He will earn about the same amount next year. So he went to his accountant and had the blueprint of the Republican tax plan and he had his accountant go through his taxes and asked him how much of a tax cut will I get next year? Does the gentleman know what the answer was? Zero. Zip. Nada. Nothing.

He will get no tax cut. His kids are grown. He has no capital gains. This is all dividend income and other income that he has, so he gets no tax cut. So this idea that all rich people will get huge tax cuts is just bogus. Most of the tax benefit will go to those families earning less than $75,000 a year. And the trouble is, many of our friends and colleagues here in Congress know that to be a fact and yet they will not acknowledge it.

I yield back and perhaps we can pursue a conclusion after we yield to the gentleman from Rhode Island.

Mr. SCARBOROUGH. I appreciate that. We certainly will, and it is my honor to yield to the gentleman from Rhode Island, who also has a seat with me on the Committee on National Security, and we can work together as a body, Republicans and Democrats alike. He is going to be speaking on something different from what we have been talking about, but something very important and timely today.

I yield to the gentleman from Rhode Island.

RESOLUTION CONDEMNING ATROCITIES COMMITTED IN FORMER YUGOSLAVIA

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank my colleague, Congressman SCARBOROUGH from Florida, for yielding me this time.

Fifty years ago today the Nuremberg trials began. On November 20, 1945, the leaders of Nazi Germany were placed on trial for committing crimes against humanity. The horror of the Holocaust was exposed and the world hoped that it would never ever see such systematic evil perpetrated again.

No one can begin to even compare any evil to that kind of systematic evil perpetrated during the Holocaust, but evil is evil. Tragically, history has proven this optimism wrong. As we all know, the Balkans have been the site of the most recent war crimes in Europe since the end of World War II. As Nuremberg proved, there can be no place for those who commit or order or condone such acts. There can be no tolerance for those who offer refuge for those responsible for such acts.

Recognizing the danger of silence in the face of such tragedy, the United Nations established an international criminal tribunal for the former Yugoslavia. Today I am introducing a resolution condemning the atrocities committed in the former Yugoslavia and expressing the support of this Congress for this war crimes tribunal.

The resolution affirms the following principles:

First, those indicated by the tribunal cannot occupy any position of authority in any government or any entity in the republics of the former Yugoslavia;

Second, that the United States should insist upon the full cooperation of the republics of the former Yugoslavia in bringing those who have been indicted by this war crimes tribunal to justice;

Third, future support for the reintegration of the republics of the former Yugoslavia into the international community should be dependent on their full cooperation and support for this international war crimes tribunal;

Fourth, investigators for their tribunal should be given full access to all the sites, to all the witnesses, and to all the evidence of alleged and suspected war crimes; and

Fifth, the United States should oppose amnesty for any indicated war criminals.

On this, the anniversary, the world hopes for peace in the Balkans, but it is the responsibility of the Congress to say unequivocally that there will be no peace without justice. This century has been marked by many tragedies. If the next century is to be free of such horrors, the responsibility falls on us to lay the foundation today. We cannot erase what has happened, but we can and we must do all that we can to prevent such a recurrence from ever occurring again.

I hope that my colleagues will join me in cosponsoring this resolution, and I thank, once again, my colleague from the State of Florida, JOE SCARBOROUGH, for allowing me this time.

Mr. SCARBOROUGH. I thank the gentleman from Rhode Island, and I also thank him for his leadership on the National Security Committee, and certainly I have been with him when he has asked some very tough questions to our policy leaders and questioned those who would simply say that we would put Americans in harms's way simply to protect our standing in NATO.

I think we have to have a more hard-nosed approach than simply worry about how we are going to look at NATO, and have to ask what America's role is and what America's vital interest is in that conflict.

Certainly there have been horrors. I saw a picture of a 7-year-old who was blown off his bike by a Serbian mortar shell, and the ABC cameras followed him and he was crying to his parents, "Please don't cut off my leg; please don't cut off my leg." And the news reporter said they did not cut off his leg. But, unfortunately, the young boy died a few hours later.

The horrors are absolutely indefensible, and I would gladly sign on to your resolution, and I thank you for bringing that up. Congress has made some controversial decisions on the Bosnian conflict over the past week or two, but that is certainly something I would hope all Republicans and Democrats alike could come together.

I yield back to the gentleman from Minnesota.

Mr. GUTKNECHT. Well, Mr. Speaker, we were talking about balancing the budget, and I think sometimes we have been characterized in the national media as mean spirited and that we are draconian and that this is simply an accounting exercise. But I think sometimes we need to step back and understand that there are going to be enormous benefits to the average American family if we are able to finally, at last, balance the Federal books.

A study was done by DRI McGraw Hill that essentially says that if, and this is pursuant to what Alan Greenspan had said, that if we actually could balance the Federal budget for the first time in over 30 years, it was his opinion that real interest rates would drop by at least 2 percent and that economic growth would be at least 1½ points stronger.

I think people need to understand what that means to the average family in terms of if real interest rates really do continue to come down, as they are now coming down. As a matter of fact, I think just with what we have been doing, and the belief now in the financial markets that we are finally serious, Congress is serious about putting the Federal Government on a diet and limiting the growth of entitlements, we are already seeing the benefits of that.

What this will mean to an average family is, the average cost of a mortgage would drop by $121 a month. The average student loan repayment would drop by $4 a month. A car loan would be $9 a month cheaper. The child tax credit, the economic growth advantages all add up to an increase to the average family of at least $192 a month.

That may not seem like much to some folks, but to the average family trying to get by on $30,000 a year, it works out to $2,300. What we are really talking about is allowing them to keep more of their own money so they can invest and save, and they can be responsible for themselves.

There are enormous benefits if we can simply, for the first time, have the moral courage to say no to some of those interest groups, to limit the growth of entitlements, to actually downsize the Federal Government. We will have eliminated, at least on the House side, over 300 programs. We hope many of those cuts will survive.

There are huge benefits and sometimes those do not get talked about enough. And I would yield back to the gentleman from Florida.

Mr. SCARBOROUGH. I do not know if the gentleman was with us when we had some of the top investment minds in this country from Wall Street come down and talk to our conference, but what did they tell us? They told us, go ahead. If you have to draw a line in the sand and shut down the Federal Government to make a point to force a balanced budget, go ahead and do that. They said Secretary Rubin is telling you that it will cause financial chaos, but that is not the case.

They told us what will cause financial chaos is if you continue to allow deficits to soar over the next 40 years the way we have allowed them to soar over the past 40 years. It will cause an incredible destructive result on Wall Street and in financial markets around the world.

And, sure enough, did you notice that during the Government shutdown that was supposed to cause such conflict that the stock market reached an all-time high and that every indicator was positive?

When we talk to the leading traders on Wall Street, what do they say? They say the reason why is because the Congress has finally showed that they are ready to put their house in order. They have finally shown that they are going to stop stealing from future generations and start doing what Americans have had to do for 200 years and balance their checkbook.

They said, please, hold the line. Your message will get out. And at that time we were upset about getting bashed on Medicare. They said, sure, right now there may be short-term political gain for the other side for attacking you for daring to save Medicare, but on Wall Street and in my business, they said if you raise spending by 45 percent, that is not a cut. And they got the numbers out, got the calculators out, and, sure enough, a 45 percent increase in Medicare is exactly what we are proposing.

More importantly than that, it is a moral issue. More important than that, if we look at what we have done since we have been elected, we have caused interest rates to go down 2 percent because we vowed, elect us, send us to Congress, we will keep our word, we will balance this budget, we will save future generations. And they said to us, these Wall Street traders, the top Wall Street minds said to us, give yourself a pat on the back. You are responsible for the interest rates dropping 2 percent because you finally have gotten serious about balancing the budget. You have finally dared to make a difference. You have finally stood up to special interests. You have finally stood up to bureaucrats. You have finally said good riddance to the tax-and-spend policies that have destroyed this country for the past 40 years.

I think, more importantly, and I cannot say it enough, it is not merely an economic issue. We could be the richest country in the world, but if we failed to be decent, we would be a failure. We have heard the quote before, America is great because America is good. And when America ceases to be good, then it will cease being great. And what is great about stealing money from the future generations?

I do not care how people want to gloss over the fact, when we spend money that we do not have, when we are $5 trillion in debt, when the Japanese and the Germans and people on Wall Street are holding these bonds, who is going to pay those bonds off, if not us?

□ 2100

If not us, it will be my 7-year-old, Joey, my 4-year-old, Andrew. It is going to be your children. It is going to be grandchildren of those people that watch the House every day. It is going to be future generations.

For all the talk about how mean spirited we are, it seems to me that we have offered the only compassionate plan to save future generations from the mean spiritedness of the liberal/socialists that have been running this institution for too long and putting forward tax-and-spend proposals that steal from your children and my children and their children.

This is not a Republican or a Democratic issue. This is about having the discipline and the decency to finally balance the budget and allow our children to have a better future than we even had. That is what it is all about: For Americans to make sure that we can ensure that when we pass the torch to the next generation, that that generation will be assured that they will have the opportunities that we had.

That is not good enough. We want them to have a better life and more opportunities that we ever had. That is what every parent wants. That is what and that is why I am so proud to be part of an institution with Republicans and Democrats alike that this past week stood up, drew a line in the sand and said, "Enough is enough. We are going to get our financial House in order."

Mr. GUTKNECHT. If the gentleman would yield, I would say one of my favorite heroes in world history was Winston Churchill. My wife needle-pointed for me one of my favorite quotes from Winston Churchill, which I have in my office. It says, "Success is never permanent. Failure is seldom fatal. The only thing that really counts is courage."

The thing that I feel proud about, what has happened in this Congress in the last 11 months, and particularly in this past week, we finally demonstrated some courage. I do not know if the American people have responded to that or whether they ever will. But you said this is really a moral issue. This is an un-American issue.

If we look historically, the people who started throwing tea in Boston Harbor, who started this great revolution that started this great American experiment in self-government, the reason, partly, they did that was because they did not believe in taxation without representation.

If we get down to the nub of it, when we talk about borrowing from future generations the way we have for so many years in this Government, it is taxation without representation, because we are taxing people who cannot even vote yet and it is morally wrong. We know it is wrong.

I live in the Midwest and we have an awful lot of farmers in the Midwest. Most of us are no more than one or two generations removed from the farm, and farmers know this. Most farmers, what they want to do is pay off the mortgage and leave their kids the farm. But if we look at it from a societal standpoint, what our previous Congresses have been doing in Washington is they have been selling the farm and leaving the kids the mortgage. I think all Americans know in their bones that it is wrong.

I hope that all Americans will begin to realize that those days are over and we have begun to change the paradigm and we are going to make this Government do what they have to do every single week and every month, and that is live within their means. That is the American thing to do and the morally right thing to do.

I am proud to be a part of this Congress and part of the group of freshmen, and if we take the credit, so be it.

And if we take the blame, so be it. But some day I hope that future generations of Americans will look back and say, "Finally, they had the courage to do the right thing."

Mr. SCARBOROUGH. Mr. Speaker, reclaiming my time, I thank the gentleman. This past weekend while we were in session on Saturday, during lunch I went down and had lunch with the gentleman from Ohio [John Kasich] the budget director, and what you said reminded me of our conversation when you said you do not know whether the Americans will reward us for this. You do not know whether we are going up in the polls.

I turned to Mr. Kasich and I said, "How do you think this is going to turn out?" And he said, "Joe, I don't care. That is not relevant. We are going to balance this budget. I don't care if we get defeated. If I get defeated because of balancing the budget, what a grand and glorious way to go out."

Mr. Speaker, that is the way I feel. It has been such an honor this past week to see the freshman class on Monday and Tuesday and Wednesday and Thursday of this week, when poll numbers shot up for the President and down for us, it was so great to talk to them and not a single one said they were going to budge.

Reporters would come and say, "What about the poll numbers?" And we would cut them off and say, "That does not really matter. The polls do not matter. What matters is we keep our word."

Mr. Speaker, if I could read what we passed tonight, it is a commitment to a 7-year balanced budget and this is the language I would like to end on:

> The President and Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office. The balanced budget agreement shall be estimated by the Congressional Budget Office based on the most recent current economic and technical assumptions.

Mr. Speaker, it goes on and has some more verbiage in there. But what a great honor that tonight we truly were a part of history. We have started down the path that James Madison and Thomas Jefferson and our Founding Fathers intended for us. As James Madison, one of the framers of the Constitution said,

> We have staked the entire future of the American civilization not upon the power of government, but upon the capacity of the individuals to govern themselves, control themselves, and sustain themselves according to the Ten Commandments of God.

Tonight we started down that path. We dared to make a difference. We dared to balance the budget. I am going to be very proud tomorrow when I fly home and get off the plane and see my 7-year-old and 4-year-old and know that we had a part in history and a part in ensuring that their history will be even brighter than our own. That is all we can ask.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Bryant of Tennessee (at the request of Mr. Armey) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Roemer) to revise and extend their remarks and include extraneous material:

Mr. Doggett, for 5 minutes, today.

Mr. Wise, for 5 minutes, today.

Mr. Faleomavaega, for 5 minutes, today.

Ms. Jackson-Lee, for 5 minutes, today.

(The following Members (at the request of Mr. Tiahrt) to revise and extend their remarks and include extraneous material:)

Mr. Riggs, for 5 minutes, today.

Mr. Tiahrt, for 5 minutes, today.

Mr. Dornan, for 5 minutes, today.

Mr. Upton, for 5 minutes, today.

Mr. Fox of Pennsylvania, for 5 minutes, today.

Mr. Kim, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous materials:)

Mr. Burton of Indiana, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; and

H.J. Res. 123. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

On November 19, 1995:

H.J. Res. 123. Joint resolution making further appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. GUTKNECHT. Mr. Speaker, pursuant to Senate Concurrent Resolution 32, I move the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. Barr). Pursuant to the provisions of Senate Concurrent Resolution 32, 104th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, November 28, 1995, for morning hour debate.

Thereupon (at 9 o'clock and 7 minutes p.m.), pursuant to Senate Concurrent Resolution 32, the House adjourned until Tuesday, November 28, 1995, at 12:30 p.m.

NOTICE OF PROPOSED RULEMAKING

U.S. Congress,
Office of Compliance,
Washington, DC, November 13, 1995.

Hon. Newt Gingrich,
Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am transmitting the enclosed notice of proposed rulemaking for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notice be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

Ricky Silberman,
Executive Director.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Procedural Rules

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed rules to govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the Congressional Accountability Act (P.L. 104–1). The proposed rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this notice in the Congressional Record.

Addresses: Submit written comments to the Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipts of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

Supplementary Information:

Background—General

The Congressional Accountability Act of 1995 ("CAA"), PL 104-1, was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 301 of the CAA establishes the Office of Compliance as an independent office within that branch. Section 303 of the CAA directs that the Executive Director, the chief operating officer of the Office of Compliance, shall, subject to the approval of the Board, adopt rules governing the procedures for the Office of Compliance. The rules that follow establish the procedures by which the Office of Compliance will provide for the consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the CAA. The rules include procedures for counseling, mediation, and for electing between filing a compliant with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance.

The Executive Director invites comment from interested persons on the content of these proposed rules.

PART I—OFFICE OF COMPLIANCE

OFFICE OF COMPLIANCE RULES OF PROCEDURE

Subpart A—General Provisions

§1.01 Scope and Policy
§1.02 Definitions
§1.03 Filing and Computation of Time
§1.04 Availability of Official Information
§1.05 Designation of Representative
§1.06 Maintenance of Confidentiality

§ 1.01 Scope and policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Office decisions as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§ 1.02 Definitions

Except as otherwise specifically provided in these rules, for purposes of this Part;

(a) *Act*. The term "Act" means the Congressional Accountability Act of 1995;

(b) *Covered Employee*. The term "covered employee" means any employee of

(1) the House of Representatives;

(2) the Senate;

(3) the Capitol Guide Service;

(4) the Capitol Police;

(5) the Congressional Budget Office;

(6) the Office of the Architect of the Capitol;

(7) the Office of the Attending Physician;

(8) the Office of Compliance; or

(9) the Office of Technology Assessment.

(c) *Employee*. The term "employee" includes an applicant for employment and a former employee.

(d) *Employee of the Office of the Architect of the Capitol*. The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden or the Senate Restaurants.

(e) *Employee of the Capitol Police*. The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

(f) *Employee of the House of Representatives*. The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representative, or another official designed by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(g) *Employee of the Senate*. The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by an entity listed in subparagraph (3) through (9) of paragraph (b) above.

(h) *Employing Office*. The term "employing office" means:

(1) the personal office of a Member of the House of Representatives or a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(i) *Party*. The term "party" means the employee or the employing office or the designated representatives of either of them.

(j) *Office*. The term "Office" means the Office of Compliance.

(k) *Board*. The term "Board" means the Board of Directors of the Office of Compliance.

(l) *Chair*. The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(m) *Executive Director*. The term "Executive Director" means the Executive Director of the Office of Compliance.

(n) *General Counsel*. The term "General Counsel" means the General Counsel of the Office of Compliance.

(o) *Hearing Officer*. The term "Hearing Officer" means any individual designated by the Executive Director to preside over a hearing conducted on matters within the Office's jurisdiction.

§ 1.03 Filing and Computation of Time

(a) *Method of Filing*. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. Requests for mediation under Section 2.04 and complaints under Section 2.06 of these rules may also be filed by facsimile (FAX) transmission. The original copies of documents filed by FAX must also be mailed to the office no later than the day following FAX transmission. The filing of all documents is subject to the limitations set forth below.

(1) *In Person*. A document shall be deemed timely filed if it is hand delivered to the Office in: Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, before the expiration of the applicable time period.

(2) *Mailing*. (a) If mailed, a request for mediation or a complaint is deemed filed on the date of its receipt in the Office of Compliance.

(b) A document, other than a request for mediation or a complaint, is deemed filed on the date of its postmark or proof of mailing. Parties, including those using franked mail, are responsible for ensuring that any mailed document bears a postmark date or other proof of the actual date of mailing. In the absence of a legible postmark a document will be deemed timely if it is received by the Office at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, by mail within five (5) days of the expiration of the applicable filing period.

(3) *Faxing Documents*. Documents transmitted by FAX machine will be deemed filed on the date received at the Office of Compliance at 202-252-3115. A FAX filing will be timely only if the Office receives the document no later than 5:00 PM Eastern Time on the day that it is due under the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner.

(c) *Computation of Time*. All time periods in these rules that are stated in terms of days are calendar days unless otherwise noted. However, when the period of time prescribed is five (5) days or less, intermediate Saturdays, Sundays and Federal government holidays shall be excluded in the computation. To compute the number of days for taking any action required or permitted under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing or service shall be included in the computation. When the last day falls on a Saturday, Sunday, or federal government holiday, the last day for taking the action shall be the next regular federal government workday.

(d) *Time Allowances for Mailing of Official Notices*. Whenever a person or party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by regular mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added if a document is served by express mail or other form of expedited delivery. When documents are served by certified mail, return receipt requested, the prescribed period shall be calculated from the date of receipt as evidenced by the return receipt.

§ 1.04 Availability of Official Information

(a) *Policy*. It is the policy of the Board, the Office and the General Counsel, except as otherwise ordered by the Board, to make available for public inspection and copying final decisions and orders of the Board and the Office, as specified and described in paragraph (d) below.

(b) *Availability*. Any person may examine and copy items described in paragraph (a) above at the Office of Compliance, Adams

Building, Room LA200, 110 Second Street, S.E., Washington, D.C. 20540–1999, under conditions prescribed by the Office, including requiring payment for copying costs, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Office. As ordered by the Board, identifying details or other necessary matters may be deleted and placed under seal, and, in each case, the reason for the deletion shall be stated in writing.

(c) *Copies of Forms.* Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office.

(d) *Final Decisions.* Pursuant to Section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under Section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee or reverses a Hearing Officer's decision in favor of a complaining covered employee, shall be made public, except as otherwise ordered by the Board.

§ 1.05 Designation of Representative

(a) An employee, a witness, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) *Service where there is a representative.* All service of documents shall be directed to the representative, unless the represented individual specifies otherwise and until such time as that individual notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is outstanding, all time limitations for receipt of materials by the represented individual shall be computed in the same manner as for unrepresented individuals with service of the documents, however, directed to the representative, as provided.

§ 1.06 Maintenance of Confidentiality

(a) *Policy.* In accord with Section 416 of the Act, it is the policy of the Office to maintain, to the fullest extent possible, the confidentiality of the proceedings and of the participants in proceedings conducted under Sections 402, 403, and 405 and 406 of the Act and these rules.

(b) At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding, the Office will advise the participant of the confidentiality requirements of Section 416 of the Act and these rules and that sanctions might be imposed for a violation of those requirements.

Subpart B—Procedures Applicable to Consideration of Alleged Violations of Part A title II of the Congressional Accountability Act of 1995

§ 2.01 Matters Covered by Subpart B
§ 2.02 Requests for Advice and Information
§ 2.03 Counseling
§ 2.04 Mediation
§ 2.05 Election of Proceedings
§ 2.06 Complaints
§ 2.07 Appointment of the Hearing Officer
§ 2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§ 2.09 Dismissal of Complaint
§ 2.10 Confidentiality
§ 2.11 Filing of Civil Action

§ 2.01 Matters Covered by Subpart B

(a) These rules govern the processing of any allegation that Sections 201 through 206 of the Act have been violated and any allegation of intimidation or reprisal prohibited under Section 207 of the Act. Sections 201 through 206 apply to covered employees and employing offices certain rights and protections of the following laws:

(1) The Fair Labor Standards Act of 1938

(2) Title VII of the Civil Rights Act of 1964

(3) The Americans with Discrimination in Employment Act of 1990

(4) The Age Discrimination in Employment Act of 1967

(5) The Family and Medical Leave Act of 1993

(6) The Employee Polygraph Protection Act of 1988

(7) The Worker Adjustment and Retraining Notification Act

(8) The Rehabilitation Act of 1973

(9) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) This subpart applies to the covered rules and any activities within the coverage of the laws referred to in Section 2.01(a).

§ 2.02 Requests for advice and information

At any time, an employee or an employing office may seek from the Office informal advice and information on the procedures of the Office and under the Act and information on the protections rights and responsibilities under the Act and these rules. The Office will maintain the confidentiality of requests for such advice or information.

§ 2.03 Counseling

(a) *Initiating a proceeding: formal request for counseling.* In order to initiate a proceeding under these rules, an employee who believes that he or she is covered by the Act shall formally request counseling from the Office regarding an alleged violation of the Act, as referred to in Section 2.01(a), above. All formal requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under Section 2.03(e)(2), below.

(b) *Who may request counseling.* A covered employee who believes that he or she has been or is the subject of a violation of the Act as referred to in Section 2.01(a) may formally request counseling.

(c) *When, how and where to request counseling.* A formal request for counseling:

(1) Shall be made not later than 180 days after the date of the alleged violation of the Act;

(2) May be made to the Office in person, by telephone, or by written request;

(3) A request for counseling shall be directed to: Office of Compliance, Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone: (202) 252–3100; FAX (202) 252–3115; TDD (202) 252– .

(d) *Purpose of counseling period.* The purpose of the counseling period shall be: to discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

(e) *Confidentiality and waiver.* (1) Absent a waiver under paragraph 2, below, all counseling shall be strictly confidential. Nothing in these rules shall prevent a counselor from consulting with personnel within the Office concerning a matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the Office who might be a party or witness without the consent of the person requesting counseling. Nothing contained in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a request for counseling.

(2) The employee and Office may agree to waive confidentiality of the counseling process for the limited purpose of contacting the employing office to obtain information to be used in counseling the employee or to attempt a resolution of any disputed matter(s). Such a limited waiver must be written on the form supplied by the Office and signed by both the counselor and the employee.

(f) *Role of Counselor in informing employee of his or her rights and responsibilities.* The counselor will provide the employee with appropriate information concerning rights and responsibilities under the Act and these rules.

(g) *Role of Counselor in defining concerns.* The counselor may:

(1) obtain the name, home and office mailing addresses, and home and office telephone numbers of the person being counseled;

(2) obtain the name and title of the person(s) whom the employee claims has engaged in a violation of the Act and the employing office in which this person(s) works;

(3) obtain a detailed description of the action(s) at issue, including all relevant dates, and the covered employee's reason(s) for believing that a violation may have occurred;

(4) inquire as to the relief sought by the covered employee;

(5) obtain the name, address and telephone number of the employee's representative, if any, and whether the representative is an attorney.

(h) *Role of Counselor in attempting informal resolution.* In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a waiver of confidentiality pursuant to Section 2.03(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and, pursuant to Section 414 of the Act and Section 9.03 of these rules, seek the approval of the Executive Director.

(i) *Counselor not a representative.* The counselor shall inform the person being counseled that the counselor does not represent either the employing office or the employee. The counselor provides information and may act as a third-party intermediary with the goals of increasing the individual's understanding of his or her rights and responsibilities under the Act and of promoting the early resolution of the matter.

(j) *Duration of counseling period.* The period for counseling shall be 30 days, beginning on the date that the request for counseling is received by the Office unless the employee and the Office agree to reduce the period.

(k) *Duty to proceed.* An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether her or she has designated a representative. An employee, however, may withdraw from counseling at any time without prejudice to the employee's right to reinstate counseling regarding the same matter, provided that counseling on a single matter will not last longer than a total of 30 days.

(l) *Conclusion of the counseling period and notice.* The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) *Employees of the Office of the Architect of the Capitol and Capitol Police.*

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. Pursuant to Section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

(i) The Executive Director shall recommend to the employee that the employee use the procedures of the Architect or of the Capitol Police Board, as appropriate, for a period generally up to 90 days, unless the Executive Director determines a longer period is appropriate for resolution of the employee's complaint through the internal procedures of the Architect or the Capitol Police Board;

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect or to the Capitol Police Board, the employee may return to the procedures under these rules:

(A) after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(B) within 20 days after receiving a final decision as a result of the procedures of the Architect or of the Capitol Police Board.

(iii) The period during which the matter is pending in the internal procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, the Office will consider the case to be closed in its official files.

(2) *Notice to employees who have not initiated counseling with the Office.* When an employee of the Architect of the Capitol or the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, the Architect or the Capitol Police Board should advise the employee in writing that a request for counseling about the allegation must be initiated with the Office within 180 days after the alleged violation of law occurred if the employee intends to use the procedures of the Office.

(3) *Notice in final decisions when employees have not initiated counseling with the Office.* When an employee raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, any final decision pursuant to the procedures of the Architect of the Capitol or of the Capitol Police Board should include notice to the employee of his or her right to initiate the procedures under these rules within 180 days after the alleged violation occurred.

(4) *Notice in final decisions when there has been a recommendation by the Executive Director.* When the Executive Director has made a recommendation under paragraph 1 above, the Architect or the Capitol Police Board should include notice to the employee of his or her right to resume the procedures under these rules within 20 days after service on the employee of the final decision and shall transmit a copy of the final decision, settlement agreement, or other final decision, settlement agreement, or other final disposition of the case of the Executive Director.

§ 2.04 Mediation

(a) *Explanation.* Mediation is a process in which employees, employing offices and their representatives meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives openly discuss alternatives to continuing their dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to Section 416 of the Act.

(b) *Initiation.* Not more than 15 days after receipt by the employee of the notice of the conclusion of the counseling period under section 2.03(l), the employee may file with the Office a written request for mediation. The request for mediation shall contain the employee's name, address, and telephone number, and the name of the employing office. Failure to request mediation within the prescribed period, will preclude the employee's further pursuit of his or her claim.

(c) *Notice of commencement of the mediation period.* The Office shall notify the employing office or its designated representative of the commencement of the mediation period.

(d) *Selection of Neutrals; Disqualification.* Upon receipt of the request for mediation, the Executive Director shall assign one or more neutrals to commence the mediation process. In the event that a neutral considers him or herself unable to perform in a neutral role in a given situation, he or she shall withdraw from the matter and immediately shall notify the Office of the withdrawal. Any party may ask the Office to disqualify a neutral by filing a written request, including the reasons for such request, with the Executive Director. This request shall be filed as soon as the party has reason to believe there is a basis for disqualification. The Executive Director's decision on this request shall be final and unreviewable.

(e) *Duration and Extension.* (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request shall be written and filed with the Office no later than the 28th day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

(f) *Procedures.* (1) *The Neutral's Role.* After assignment of the case, the neutral will promptly contact the parties. The neutral has the responsibility to conduct the mediation, including deciding how many meetings are necessary and who may participate in each meeting. The neutral may accept written submissions from the parties.

(2) *The Agreement to Mediate.* At the commencement of the mediation, the neutral will ask the parties to sign an agreement ("the Agreement to Mediate") to adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neutral testify or otherwise present evidence in any subsequent civil action under Section 408 of the Act or any other proceeding.

(g) *Who may participate.* The covered employee, the employing office, their respective representatives, and the Office may meet, jointly or separately, with the neutral. A representative of an employing office who has actual authority to agree to a settlement agreement on behalf of the employing office must be present at the mediation or must be immediately accessible by telephone during the mediation.

(h) *Conclusion of the Mediation Period and Notice.* If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee and the employing office, and their representatives, with written notice that the mediation period has concluded. At the same time, the Office will notify the employee of his or her right to elect to file a complaint with the Office in accordance with Section 405 of the Act and Section 2.06 of these rules or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(i) *Independence of the Mediation Process and the Neutral.* The Office will maintain the independence of the mediation process and the neutral. No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under Section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(j) *Confidentiality.* Except as necessary to consult with the parties, their counsel or other designated representatives, the parties to the mediation, the neutral, and the Office shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the Mediation process. This rule shall not preclude a neutral from consulting with the Office, except that a neutral shall not consult with a party or witness within the Office when the covered employee is an employee of the Office. This rule shall also not preclude the Office from reporting statistical infomation that does not reveal the identity of the employees or employing offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.

§ 2.05 Election of Proceeding

(a) Pursuant to Section 404 of the Act, not later than 90 days after a covered employee receives notice of the end of mediation under Section 2.04(h) of these rules, but no sooner than 30 days after that date, the covered employee may either: file a complaint with the Office in accordance with Section 405 of the Act and the procedure set out in Section 2.06, below; or file a civil action in accordance with Section 408 of the Act and Section 2.11 below in the United States District Court for the district in which the employee is employed or for the District of Columbia.

(b) A covered employee who files a civil action pursuant to Section 2.11, may not thereafter file a complaint under Section 2.06 on the same matter.

§ 2.06 Complaints

(a) *Who may file*. An employee who has completed mediation under Section 2.04 may timely file a complaint with the Office.

(b) *When to file*. A complaint may be filed no sooner than 30 days after the date of receipt of the notice under Section 2.04(h), but no later than 90 days after that notice.

(c) *Form and Contents*. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(1) the name, mailing address, and telephone number(s) of the complainant;

(2) the name(s) and title(s) of the individual(s) involved in the action that the employee claims is a violation of the Act;

(3) the name, address and telephone number of the employing office involved;

(4) a description of the conduct being challenged, including the date(s) of the conduct;

(5) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the Section(s) of the Act involved;

(6) a statement of the relief or remedy sought; and

(7) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(d) *Amendments*. Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the condition that all parties to the proceeding have adequate notice to prepare to meet the new allegations, and so long as the amendments related to the violations for which the employee has completed counseling and mediation and permitting such amendments will not unduly prejudice the rights of the employing office or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) *Service of Complaint*. Upon receipt of a complaint or an amended complaint, the Office shall serve the employing office named in the complaint, or its designated representative, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) *Answer*. Within 15 days after service of a copy of a complaint or an amended complaint, the respondent employing office shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent employing office on each of the issues raised in the complaint, including admissions, denials, or explanations of each allegation made in the complaint and any other defenses to the complaint. Failure to raise a claim or defense in the answer shall not bar its submission later unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§ 2.07 Appointment of the Hearing Officer

Upon the filing of a complaint, the Executive Director will appoint an independent Hearing Officer, who shall have the authority specified in Section 7.01(b) below. The Hearing Officer shall not be the neutral who mediated the matter under Section 2.04 of these rules.

§ 2.08 Filing, Service, and Size Limitations of Motions, Briefs, Responses or Other Documents

(a) *Filing with the Office: Number*. One original and three copies of all motions, briefs, responses, or other documents, must be filed, whenever required, with the Office or Hearing Office. However, when a party aggrieved by the decision of a Hearing Officer files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office.

(b) *Service*. The parties shall serve on each other one copy of all brief or motions filed with the Office, other that the Complaint, which the Office will serve pursuant to Section 2.06(e) of these rules. Service shall be made by mailing or by hand delivering a copy of the motion, brief, response or other document to each party on the service list previously provided by the Office. Each of these documents, other than the Complaint, must be accompanied by a certificate of service specifying how and when service was made. It shall be the duty of all parties to notify the Office and one another in writing of any changes in the names or addresses on the service list.

(c) *Time limitations of response to motions or brief and reply*. Unless otherwise specified by the Hearing Office or these rules, a party shall file a response to a motion or brief within 15 days of the service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response.

(d) *Size limitations*. Except as otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum filed with the Office shall exceed 35 pages, or 8,750 words, exclusive of attachments. The Board, the Office or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative. Briefs, motions, responses, and supporting memorandum shall be on standard letter size paper (8½″ 11″).

§ 2.09 Dismissal of Complaints

(a) A Hearing Officer may, after notice and opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state and claim upon which relief may be granted.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under these rules.

(c) If any employee fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) *Appeal*. A dismissal by the Hearing Officer made under Section 7.17 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 8.01.

(e) *Withdrawal of Complaint by Complainant*. At any time an employee may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Executive Director.

§ 2.10 Confidentiality

Pursuant to Section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§ 2.11 Filing of Civil Action

(a) *Filing*. Section 4.04 of the Act provides that as an alternative for filing a complaint under Section 2.06, an employee who receives notice of the end of mediation pursuant to Section 2.04(h) may elect to file a civil action in accordance with Section 408 of the Act in the United States District court for the district in which the employee is employed or for the District of Columbia.

(b) *Time for filing*. A covered employee may file such a civil action no earlier than 30 days after receipt of the notice under the Section 2.04(h), but no later than 90 days after that receipt.

Subpart C—[Reserved (Part B—Section 210—ADA Public Services)]

Subpart D—[Reserved (Part C—Section 215—OSHA)]

Subpart E—[Reserved (Part D—Section 220—LMR)]

Subpart F—Discovery and Subpoenas

§ 6.01 Discovery
§ 6.02 Requests for Subpoenas
§ 6.03 Service
§ 6.04 Return of Service
§ 6.05 Motion to Quash
§ 6.06 Enforcement

§ 6.01 Discovery

(a) *Explanation*. Discovery is the process by which a party may obtain relevant information, not privileged, from another person, including a party, for the purpose of assisting that party in developing, preparing and presenting its case at the hearing.

(b) *Office policy regarding discovery*. It is the policy of the Office to encourage the early and voluntary exchange of relevant and material nonprivileged information between the parties, including the names and addresses of witnesses and copies of relevant and material documents, and to encourage Hearing Officers to develop procedures which allow for the greatest exchange of relevant and material information and which minimize the need for parties to formally request such information.

(c) *Discovery availability*. Pursuant to Section 405(e) of the Act, the Hearing Officer in his or her discretion may permit reasonable prehearing discovery. In exercising that discretion, the Hearing Officer may be guided by the Federal Rules of Civil Procedure.

(1) The Hearing Officer may authorize discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection or other purposes; physical and mental examinations; and requests for admission.

(2) The Hearing Officer may make any order setting forth the forms and extent of discovery, including orders limiting the number of depositions and interrogatories and requests for production of documents, and may also limit the length of depositions.

(3) The Hearing Officer may issue any other order to prevent discovery or disclosure of confidential or privileged materials or information, as well as hearing or trial preparation materials and any other information deemed not discloseable, or to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) *Claims of privilege.* Whenever a party withholds information otherwise discoverable under these rules by claiming that it is privileged or confidential or subject to protection as hearing or trial preparation materials, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

§ 6.02 Request for subpoena

(a) *Authority to issue subpoenas.* At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of correspondence, books, papers, documents, or other records. The attendance of witnesses and the production of records may be required from any place within the United States.

(b) *Request.* A request for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 15 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is sought as part of the discovery process, the request shall be submitted to the Hearing Officer at least 10 days in advance of the date set for the attendance of the witness at a deposition or the production of documents.

(c) *Forms and showing.* Requests for subpoenas shall be submitted in writing to the Hearing Officer and shall specify with particularity the witness, correspondence, books, papers, documents, or other records desired and shall be supported by a showing of general relevance and reasonable scope.

(d) *Rulings.* The Hearing Officer shall promptly rule on the request.

§ 6.03 Service

Service of a subpoena may be made by any person who is over 18 years of age and not a party to the proceeding. Service may be made either:

(a) In person,

(b) By registered or certified mail, or express mail with return receipt, or

(c) By delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served.

§ 6.04 Return of service

When service of a subpoena is effected, the person serving the subpoena shall certify on the return of service the date and the manner of service.

§ 6.05 Motion to quash

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the Hearing Officer within 10 days after service of the subpoena.

§ 6.06 Enforcement

(a) *Objections and Requests for enforcement.* If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to comply with its terms or otherwise objects to it, the party or person objecting or the party seeking compliance may seek a ruling from a Hearing Officer. The request for a ruling should be submitted in writing to the Hearing Officer. However, it may be made orally on the record at the hearing at the Hearing Officer's discretion. The party seeking compliance shall present the return of service and, except where the witness was required to appear before the Hearing Officer, shall submit evidence, by affidavit or declaration, of the failure or refusal to obey the subpoena.

(b) *Ruling by Hearing Officer.* (1) The Hearing Officer shall promptly rule on the request for enforcement and/or the objection(s).

(2) On request of the objecting witness or any party, the Hearing Officer shall, or on the Hearing Officer's own initiative the Hearing Officer may, refer the ruling to the Board for review.

(c) *Review by the Board.* The Board may overrule, modify, remand or affirm the ruling of the Hearing Officer and in its discretion, may direct the General Counsel to apply in the name of the Office for an order from a United States district court to enforce the subpoena.

(d) *Application to an appropriate court; civil contempt.* If a person fails to comply with a subpoena, the Board may direct the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the Hearing Officer to give testimony or produce records. Any failure to obey a lawful order of the district court may be held by such court to be a civil contempt thereof.

Subpart G—Hearings

§ 7.01 The Hearing Officer
§ 7.02 Sanctions
§ 7.03 Disqualification of the Hearing Officer
§ 7.04 Motions and Prehearing Conference
§ 7.05 Scheduling the Hearing
§ 7.06 Consolidation and Joinder of Cases
§ 7.07 Conduct of Hearing; disqualification of representatives
§ 7.08 Transcript
§ 7.09 Admissibility of Evidence
§ 7.10 Stipulations
§ 7.11 Official Notice
§ 7.12 Confidentiality
§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer
§ 7.14 Briefs
§ 7.15 Closing the record
§ 7.16 Official Record
§ 7.17 Hearing Officer Decisions; Entry in Records of the Office

§ 7.01 The Hearing Officer

(a) *Exercise of authority.* The Hearing Officer may exercise authority as provided in paragraph (b) of this Section upon his or her own initiative or upon the motion of a party, as appropriate.

(b) *Authority.* Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

(1) Administer oaths and affirmations;

(2) Rule on motions to disqualify designated representatives;

(3) Issue subpoenas in accordance with Section 6.02;

(4) Rule upon offers of proof and receive relevant evidence;

(5) Rule upon discovery issues as appropriate under Sections 6.01 to 6.06;

(6) Hold prehearing conferences for the settlement and simplification of issues;

(7) Convene a hearing as appropriate, regulate the course of the hearing, and maintain decorum and exclude from the hearing any person who disrupts, or threatens to disrupt, that decorum;

(8) Exclude from the hearing any person, except any complainant, any party, the attorney or representative of any complainant or party, or any witness while testifying;

(9) Rule on all motions, witness and exhibit lists and proposed findings, including motions for summary judgment;

(10) Require the filing of briefs, memoranda of law and the presentation of oral argument with respect to any question of law;

(11) Order the production of evidence and the appearance of witnesses;

(12) Impose sanctions as provided under Section 7.02 of these rules;

(13) File decisions on the issues presented at the hearing;

(14) Maintain the confidentiality of proceedings; and

(15) Waive or modify any procedural requirements of Sections 6 and 7 of these rules so long as permitted by the Act.

§ 7.02 Sanctions

The Hearing Officer may impose sanctions upon the parties, under, but not limited to, the circumstances set forth in this Section.

(a) *Failure to comply with an order.* When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(1) Draw an inference in favor of the requesting party on the issue related to the information sought.

(2) Stay further proceedings until the order is obeyed.

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought.

(4) Permit the requesting party to introduce secondary evidence concerning the information sought.

(5) Strike any part of the complaint, briefs, answer, or other submissions of the party failing to comply with such request.

(6) Direct judgment against the non-complying party in whole or in part.

(7) Order that the non-complying party, or the representative advising that party, pay all or part of the attorney's fees and reasonable expenses of the other party or parties or of the Office, caused by the failure, unless the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney's fees and/or expenses unjust.

(b) *Failure to prosecute or defend.* If a party fails to prosecute or defend a position, the Hearing Officer may dismiss the action with prejudice or rule for the petitioner.

(c) *Failure to make timely filing.* The Hearing Officer may refuse to consider any request, motion or other action that is not filed in a timely fashion in compliance with this Part.

§ 7.03 Disqualification of the Hearing Officer

(a) In the event that a Hearing Officer considers himself or herself disqualified, either because of personal bias or of an interest in the case or for some other disqualifying reason, he or she shall withdraw from the case, stating in writing or on the record the reasons for his or her withdrawal, and shall immediately notify the Office of the withdrawal.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) The Hearing Officer shall rule on the withdrawal motion. If the motion is denied, the party requesting withdrawal may take the motion to the Executive Director. The motion to the Executive Director, together with a supporting brief, shall be filed within 5 days of service of the denial of the motion by the Hearing Officer. Upon receipt of the motion, the Executive Director will determine whether a response from the other party or parties is required, and if so, will fix by order the time for the filing of the response. Any objection to the ruling of the Executive Director on the withdrawal motion shall not be deemed waived by further participation in the hearing and may be the basis for an appeal to the Board from the decision of the Hearing Officer under Section 8.01 of these rules. Such objection will not stay the conduct of the hearing.

§ 7.04 Motions and Prehearing Conference

(a) *Motions.* When a case is before a Hearing Officer, motions of the parties shall be filed with the Hearing Office and shall be in writing except for oral motions made on the record during the hearing. All written motions and any responses to them shall include a proposed order, where applicable. Only with the Hearing Officer's advance approval may either party file additional responses to the motion or to the response to the motion. Motions for extension of time will be granted only for good cause shown.

(b) *Scheduling of the Prehearing Conference.* Within 7 days after assignment, the Hearing Office shall service on the employee and the employing office and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

(c) *Prehearing conference memoranda.* The Hearing Officer may order each party to prepare a prehearing conference memorandum. That memorandum may include:

(1) The major factual contentions and legal issues that the party intends to raise at the hearing in short, successive, and numbered paragraphs, along with any proposed stipulations of fact or law. For example, in a case of alleged unlawful discrimination, a complainant's statement of legal issues should include that party's statement of the appropriate prima facie case; and employing office's statement should include the alleged legitimate, non-discriminatory reason(s) that the employing office will articulate; and affirmative defenses, if any, which may be raised.

(2) An estimate of the time necessary for presentation of the party's case;

(3) The specific relief, including the amount of monetary relief, that is being or will be requested;

(4) The names of potential witnesses for the party's case, except for potential rebuttal witnesses, and the purpose for which they will be called and a list of documents that the party is seeking from the opposing party, and, if discovery was permitted, the status of any pending request for discovery. (It is not necessary to list each document requested. Instead, the party may refer to the request for discovery.)

(5) A brief description of any other unresolved issues.

(d) At the prehearing conference, the Hearing Officer may discuss the subjects specified in paragraph 4 above and the manner in which the hearing will be conducted and proceed. In addition the Hearing Officer may explore settlement possibilities and consider how the factual and legal issues might be simplified and any other issues that might expedite the early resolution of the dispute. The Hearing Officer shall issue an order, which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of the parties. Such order, when entered, controls the course of the proceeding, subject to later modification by the Hearing Officer by his or her own order or upon proper request of a party for good cause shown.

§ 7.05 Scheduling the Hearing

(a) *Date, time, and place of hearing.* The Office shall issue the notice of hearing, which shall fix the date, time, and place of hearing. In no event, absent a postponement granted by the Office will a hearing commence after than 60 days after the filing of the complaint.

(b) *Motions for postponement or a continuance.* Motions for postponement or for a continuance by either party shall be made in writing to the Office, shall set forth the reasons for the request and the position of the opposing party on the postponement. Such a motion may be granted upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.

§ 7.06 Consolidation and Joinder of Cases

(a) *Explanation.* (1) Consolidation is when two or more parties have cases that might be treated as one because they contain identical or similar issues or in such other appropriate circumstances.

(2) Joinder is when one person has two or more claims pending and they are united for consideration. For example, where a single individual who has one appeal pending challenging a 30-day suspension and another appeal pending challenging a subsequent dismissal, joinder might be warranted.

(b) The Board, the Office, or a Hearing Officer may consolidate or join cases on their own initiative or on the motion of a party if to do so would expedite processing of the cases and not adversely affect the interests of the parties, taking into account the confidentiality requirements of Section 416 of the Act.

§ 7.07 Conduct of Hearing; Disqualification of Representatives

(a) Pursuant to Section 405(d)(1) of the Act, the Hearing Officer will conduct the hearing in closed session on the record. Only the Hearing Officer, the parties and their representatives, and witnesses during the time they are testifying, will be permitted to attend, except that the Office may not be precluded from observing the hearings. The Hearing Officer, or a person designated by the Hearing Officer or the Executive Director, shall control the recording of the proceedings.

(b) The hearing will be conducted as an administrative proceeding. Witnesses shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer will conduct the hearing, to the greatest extent practicable, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code.

(c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party a typed list of the witnesses, except rebuttal witnesses, expected to be called to testify.

(d) At the commencement of the hearing, or as otherwise ordered by the Hearing Officer, the Hearing Officer may consider any stipulations of facts and law pursuant to Section 7.10, take official notice of certain facts pursuant to Section 7.11, rule on objections made by the parties and hear the examination and cross-examination of witnesses. Each party will be expected to present his or her cases in a concise manner, limiting the testimony of witnesses and submission of documents to relevant matters.

(e) If the Hearing Officer concludes that a representative of an employee, a witness, or an employing office has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits established by the Act, the affected party will have a reasonable time to retain other representation.

§ 7.08 Transcript

(a) *Preparation.* An accurate electronic or stenographic record of the hearing shall be kept and shall be the sole official record of the proceeding. The Office shall be responsible for the cost of transcription of the hearing. Upon request, a copy of a transcript of the hearing shall be provided to each party, provided, however, that such party has first agreed to maintain and respect the confidentiality of such transcript in accordance with the applicable rules prescribed by the Office or the Hearing Officer in order to effectuate Section 416(c) of the Act. Additional copies of the transcript shall be made available to a party upon payment of costs. Exceptions to the payment requirement may be granted for good cause shown. A motion for an exception shall be made in writing and accompanied by an affidavit or declaration setting forth the reasons for the request and shall be granted upon a showing of good cause. Requests for copies of transcripts shall be directed to the Office. The Office may, by agreement with the person making the request, make arrangements with the official hearing reporter for required services to be charged to the requester.

(b) *Corrections.* Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of service of the transcript upon the party. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the Hearing Officer. The Hearing Officer may make corrections at any time with notice to the parties.

§ 7.09 Admissibility of Evidence

The Hearing Officer shall apply the Federal rules of evidence to the greatest extent practicable. These rules provide that the Hearing Officer may exclude evidence if, among other things, it constitutes inadmissible hearsay or its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 7.10 Stipulations

The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.

§ 7.11 Official Notice

The Hearing Officer on his or her own motion or on motion of a party, may take official notice of a fact that is not subject to reasonable dispute because it is either: (a) A matter of common knowledge; or (b) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Official notice taken of any fact satisfies a party's burden of proving the fact noticed.

Where a decision, or part thereof, rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.

§ 7.12 Confidentiality

Pursuant to Section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in Section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it.

§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer

(a) *Review strongly disfavored.* Board review of a ruling by a hearing officer while a proceeding is ongoing (an "interlocutory appeal") is strongly disfavored. In general, a request for interlocutory review may go before the Board for consideration only if the Hearing Officer, on his or her own motion or by motion of the parties, determines that the issue presented is of such importance to the proceeding that it requires the Board's immediate attention.

(b) *Standards for review.* In determining whether to forward a request for interlocutory review to the Board, the Hearing Officer shall consider the following:

(1) Whether the ruling involves a significant question of law or policy about which there is substantial ground for difference of opinion; and

(2) Whether an immediate review of the Hearing Officer ruling by the Board will materially advance the completion of the proceeding; and

(3) Whether denial of immediate review will cause undue harm to a party or the public.

(c) *Time for Filing.* A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination to be made by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.

(d) *Hearing Officer Action.* If the conditions set forth in paragraph (b) above are met, the Hearing Officer may forward a request for interlocutory review to the Board for its immediate consideration. Any such submission shall explain the basis on which the Hearing Officer concluded that the standards for interlocutory review have been met.

(e) *Grant of Interlocutory Review Within Board's Sole Discretion.* The Board, in its sole discretion, may grant interlocutory review.

(f) *Stay pending review.* Unless otherwise directed by the Board, the stay of any proceedings during the pendency of either a request for interlocutory review or the review itself shall be within the discretion of the Hearing Officer.

(g) *Denial of Motion not Appealable; Mandamus.* The grant or denial of a motion for a request for interlocutory review shall not be appealable. The Hearing Officer shall promptly bring a denial of such a motion, and the reasons therefor, to the attention of the Board. If, upon consideration of the motion and the reason for denial, the Board believes that interlocutory review is warranted, it may grant the review *sua sponte.* In addition, the Board may in its discretion, in extraordinary circumstances, entertain directly from a party a writ of mandamus to review a ruling of a Hearing Officer.

(h) *Procedures before Board.* Upon its acceptance of a ruling of the Hearing Officer for interlocutory review, the Board shall issue an order setting forth the procedures that will be followed in the conduct of that review.

(i) *Review of a Final Decision.* Denial of interlocutory review will not affect a party's right to challenge rulings, which are otherwise appealable, as part of an appeal to the Board from the Hearing Officer's decision issued under Section 7.17 of these rules.

§ 7.14 Briefs

(a) *May be filed.* The Hearing Officer may permit the parties to file posthearing briefs on the factual and the legal issues presented in the case.

(b) *Length.* No principal brief shall exceed 50 pages, or 12,500 words, and no reply brief 25 pages, or 6,250 words, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown; the Hearing Officer may in his or her discretion also reduce the page limits. Briefs in excess of 10 pages shall include an index and a table of authorities.

(c) *Format.* Every brief must be easily readable. Briefs must have double spacing between each line of text, except for quoted texts and footnotes, which may be single-spaced.

7.15 Closing the record

(a) The record shall be closed at the conclusion of the hearing. However, when the Hearing Officer allows the parties to submit additional evidence previously identified for introduction, the Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose.

(b) Once the record is closed, no additional evidence or argument shall be accepted into the record except upon a showing that new and material evidence has become available that was not available despite due diligence prior to the closing of the record. However, the Hearing Officer shall make part of the record any motions for attorney fees, supporting documentation, and determinations thereon, and any approved correction to the transcript.

§ 7.16 Official Record

The transcript of testimony and the exhibits, together with all papers and motions filed in the proceeding, shall constitute the exclusive and official record.

§ 7.17 Hearing Officer Decisions; Entry in Records of the Office

(a) Pursuant to Section 405(g) of the Act, no later than 90 days after the conclusion of the hearing, the Hearing Officer shall issue a written decision.

(b) Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

(c) The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

(d) If there is no appeal of a decision and order of a Hearing Officer, that decision becomes a final decision of the Office, which is subject to enforcement under Section 8.01 of these rules.

Subpart H—Proceedings Before the Board

§ 8.01 Appeal to the Board

§ 8.02 Compliance with Final Decisions, Requests for Enforcement

§ 8.03 Judicial Review

§ 8.01 Appeal to the Board

(a) No later than 30 days after the entry of the decision of the Hearing Officer in the records of the Office, an aggrieved party may seek review of that decision by the Board by filing with the Office a petition for review by the Board. The appeal must be served on the opposing party or its representative.

(b) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief. That brief shall identify with particularity those findings or conclusions in the decision that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(c) Upon the request of any party or upon its own order, the Board, in its discretion, may hold oral argument on an appeal.

(d) Upon appeal, the Board shall issue a written decision setting forth the reasons for its decision. The Board may affirm, reverse, modify or remand the decision of the Hearing Officer in whole or in part.

(e) The Board may remand the matter to the Hearing Officer for further action or proceedings, including the reopening of the record for the taking of additional evidence. The Hearing Officer shall render a report to the Board on the remanded matters. Upon receipt of the report, the Board shall determine whether the views of the parties on the content of the report should be obtained in writing and, where necessary, shall fix by order the time of the submission of those views. A decision of the Board following completion of the remand shall be the final decision of the Board and shall be subject to judicial review.

(g) Pursuant to Section 406(c) of the Act, in conducting its review of the decision of a Hearing Officer, the Board shall set aside a decision if it determines that the decision was:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(h) In making determinations under paragraph (g), above, the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(i) *Record: what constitutes.* The complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, depositions, and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together with the hearing officer's decision and the petition for review, and any cross-petition, shall constitute the record in the case.

§ 8.02 Compliance with Final Decisions, Requests for Enforcement

(a) A party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

(b) The Office may require additional reports as necessary;

(c) If the Office does not receive notice of compliance in accordance with paragraph (a) of this Section, the Office shall make inquiries to determine the status of compliance. If the Office cannot determine that full compliance is forthcoming, the Office shall report the failure to comply to the Board and recommend whether court enforcement of the decision should be sought.

(d) Any party may petition the Board for enforcement of a final decision of the Office or the Board. The petition shall specifically set forth the reasons why the petitioner believes enforcement is necessary.

(e) Upon receipt of a report of non-compliance or a petition for enforcement of a final decision, or as it otherwise determines, the Board may issue a notice to any person or party to show cause why the Board should not seek judicial enforcement of its decision or order.

(f) Within the discretion of the Board, it may direct the General Counsel to petition the Court for enforcement of a decision under Section 406(e) of the Act whenever the Board finds that a party has failed to comply with its decision and order.

§ 8.03 Judicial Review

Pursuant to Section 407 of the Act, a party aggrieved by a final decision of the Board under Section 406(e) in cases arising under Part A of Title II of the Act may file a petition for review with the United States Court of Appeals for the Federal Circuit.

Subpart I—Other Matters of General Applicability

§ 9.01 Attorney's Fees and Costs
§ 9.02 Ex parte Communications
§ 9.03 Settlement Agreements
§ 9.04 Revocation, amendment or waiver of rules

§ 9.01 Attorney's Fees and Costs

(a) *Request.* No later than 20 days after the entry of a Hearing Officer's decision under Section 7.17 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a request for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. The Board or the Hearing Officer, after giving the respondent an appointment to reply, shall rule on the request.

(b) *Form of Request.* In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a request for attorney's fees and/or costs shall be accompanied by:

(1) accurate and contemporaneous time records;

(2) a copy of the terms of the fee agreement (if any);

(3) the attorney's customary billing rate for similar work; and

(4) an itemization of costs related to the matter in question.

§ 9.02 [Reserved—Ex parte Communications]

§ 9.03 Settlement Agreements

(a) *Application.* This Section applies to formal settlement agreements between parties under Section 414 of the Act.

(b) *Informal Resolution.* At any time before a covered employee files a complaint under Section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

(c) *Formal Settlement Agreement.* The parties may agree formally to settle all or part of a disputed matter. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval.

§ 9.04 Revocation, amendment or waiver of rules

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

Signed at Washington, D.C., on this 13th day of November, 1995.

R. GAULL SILBERMAN,
Executive Director,
Office of Compliance.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1695. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of November 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–136); to the Committee on Appropriations and ordered to be printed.

1696. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on abnormal occurrences at licensed nuclear facilities for the second quarter of calendar year 1995, pursuant to 42 U.S.C. 5848; to the Committee on Commerce.

1697. A letter from the Secretary of Transportation, transmitting the Department's fiscal year 1995 annual report to Congress on progress in conducting environmental remedial action at federal owned or operated facilities, pursuant to Public Law 99–499, section 120(e)(5) (100 Stat. 1669); to the Committee on Commerce.

1698. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Israel for defense articles and services (Transmittal No. 96–14), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1699. A letter of the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to Canada (Transmittal No. DTC–2–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1700. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to Singapore (Transmittal No. DTC–4–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1701. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–9–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1702. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC–11–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1703. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to Spain (Transmittal No. DTC–12–96), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1704. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license agreement for the transfer of defense articles or defense services sold commercially to the International Maritime Satellite Organization [INMARSAT] (Transmittal No. DTC–61–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1705. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Japan (Transmittal No. DTC–3–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

1706. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the Republic of Korea (Transmittal No. DTC–7–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

1707. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed issuance of export license Agreement for the transfer of defense articles or defense services sold commercially to Japan (Transmittal No. DTC–8–96), pursuant to 22 U.S.C. 2776(c) and (d); to the Committee of International Relations.

1708. A letter from the U.S. Agency for International Development, transmitting the Agency's financial statements on USAID's micro and small enterprise development [MSED] program for fiscal year 1994; to the Committee on International Relations.

1709. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 402 and H.R. 716, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1338–582); to the Committee on Government Reform and Oversight.

1710. A letter from the Office of Independent Counsel, transmitting the Counsel's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1711. A letter from the President and CEO, U.S. Enrichment Corporation, transmitting the Corporation's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec 5(b); to the Committee on Government Reform and Oversight.

1712. A letter from the Executive Director, Office of Compliance, transmitting notice of proposed rulemaking for publication in the CONGRESSIONAL RECORD, pursuant to Public Law 104–1, section 303(b) (109 Stat. 28); to the Committee on House Oversight.

1713. A letter from the Secretary of Transportation, transmitting a report on the national maximum speed limits, travel speeds, enforcement efforts and speed related highway statistics for fiscal year 1993, pursuant to Public Law 102–240, section 1029(e) (105 Stat. 1970); to the Committee on Transportation and Infrastructure.

1714. A letter from the Director, Corporate Financial Audits, General Accounting Office, transmitting a report on the 1995 fiscal year interest rate on rural telephone bank loans, pursuant to 7 U.S.C. 948(b)(3); jointly, to the Committees on Agriculture and Government Reform and Oversight.

1715. A letter from the Secretary of Energy, transmitting the Department's report entitled "Report to Congress: Expressions of Interest in Commercial Clean Technology Projects in Foreign Countries; jointly, to the Committees on Appropriations, Commerce, and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GEKAS: Committee on the Judiciary. H.R. 234. A bill to amend title 11 of the United States Code to make nondischargeable a debt for death or injury caused by the debtor's operation of watercraft or aircraft while intoxicated; with an amendment (Rept. 104–356). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred to as follows:

By Mr. BUNNING of Kentucky (for himself, Mr. HASTERT, Mr. ARCHER, Mr. MCCOLLUM, Mr. EWING, Mr. BILIRAKIS, Mr. COOLEY, Mr. FOX, of Pennsylvania Mr. LEWIS of Kentucky, Mr. ENGLISH of Pennsylvania, Ms. DUNN of Washington, Mr. HASTINGS of Washington, Mr. EMERSON, Mr. BACHUS, Mr. ARMEY, Mr. ROBERTS, Mr. PORTER, Mr. NEY, Mr. OXLEY, Mr. RIGGS, Mr. STUMP, Mr. HANCOCK, Mr. WHITFIELD, Mr. JONES, Mr. CAMP, Mr. BOEHNER, Mrs. VUCANOVICH, Mr. HERGER, Mr. HORN, Mrs. JOHNSON of Connecticut, Mr. SCHIFF, Mr. GOSS, Mr. CHRISTENSEN, Mr. CRANE, Mr. ENSIGN, Mr. SHAW, Mr. HOUGHTON, Mr. BARR, Mr. CHABOT, Mr. FIELDS of Texas, Mr. COLLINS of Georgia, Mr. SAM JOHNSON, Mr. BASS, Mrs. FOWLER, Mr. THOMAS, Mr. BEREUTER, Mr. NUSSLE, Mr. BARTON of Texas, Mr. COBLE, Mr. FOLEY, Mr. BLILEY, Mr. MANZULLO, Mr. CHAMBLISS, Mr. EHRLICH, Mr. RAMSTAD, Mr. KOLBE, Mr. LARGENT, Mr. BARTLETT of Maryland, Mr. GREENWOOD, Mr. FUNDERBURK, Mr. MICA, Mr. LAUGHLIN, Mr. WICKER, Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. FLANAGAN, Mr. SAXTON, Mr. LUCAS, Mr. HEINEMAN, Mr. NORWOOD, Mr. SALMON, Mr. SMITH of Michigan, Mr. STEARNS, Mr. INGLIS of South Carolina, Mr. THORNBERRY, Mr. MCINTOSH, Mr. BOEHLERT, Mr. HOSTETTLER, Mr. LATOURETTE, Mr. HANSEN, Mr. PORTMAN, Mr. ZIMMER, Mr. ROGERS, Ms. MOLINARI, and Mr. TORKILDSEN):

H.R. 2668. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. CREMEANS:

H.R. 2669. A bill to permit private persons to place symbols meaningful to them, including religious symbols, in public places in cases where all persons have the right to do so; to the Committee on the Judiciary.

By Mr. BARCIA of Michigan:

H.R. 2670. A bill to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, MI; to the Committee on Agriculture.

By Mr. BROWDER:

H.R. 2671. A bill to provide that the President and Members of Congress shall not be paid during Federal Government shutdowns, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONDIT (for himself, Mr. SCHIFF, Mr. TOWNS, Mr. RADANOVICH, Mr. POMBO, Mr. ROHRABACHER, Mr. DOOLEY, Mr. MATSUI, Mr. FARR, Mr. ALLARD, Mr. HORN, Mr. RIGGS, Mr. BROWN of California, Mr. CALVERT, Mr. FOLEY, Mr. DOOLITTLE, Ms. WOOLSEY, Mr. BUNN of Oregon, and Ms. ROYBAL-ALLARD):

H.R. 2672. A bill to amend the Poultry Products Inspection Act to allow States to regulate the use of the term "fresh" in the labeling of poultry; to the Committee on Agriculture.

By Mr. DEFAZIO:

H.R. 2673. A bill to amend the Interjurisdictional Fisheries Act of 1986 to authorize use of fishery resource disaster relief funds for assisting persons engaged in commercial fisheries to respond to impacts of fishery resource disasters; to the Committee on Resources.

By Mr. HYDE (for himself, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. GEKAS, Mr. COBLE, Mr. SMITH of Texas, Mr. CANADY, Mr. BONO, Mr. BRYANT of Tennessee, and Ms. LOFGREN):

H.R. 2674. A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts:

H.R. 2675. A bill to establish a grant program to install safety devices and improve safety at convenience stores; to the Committee on the Judiciary.

By Mr. ROBERTS (for himself, Mr. STENHOLM, Mrs. CHENOWETH, Mr. MINGE, Mr. PETERSON of Minnesota, Mr. POMEROY, and Mr. CRAPO):

H.R. 2676. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. HANSEN, Mr. SAXTON, Mr. CALVERT, and Mr. HAYWORTH):

H.R. 2677. A bill to require the Secretary of the Interior to accept from a State donations of services of State employees to perform, in a period of Government budgetary shutdown, otherwise authorized functions in any unit of the National Wildlife Refuge System or the National Park System; to the Committee on Resources.

By Mr. FAZIO of California:

H. Res. 281. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. KENNEDY of Rhode Island:

H. Res. 282. Resolution supporting the International Criminal Tribunal for the former Yugoslavia and expressing the sense of the House of Representatives that war criminals from the conflict among republics of the former Yugoslavia should be brought to justice; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII.

177. The SPEAKER presented a memorial of the Senate of the Commonwealth of Puerto Rico, relative to communicating the Senate of Puerto Rico's Governor Pedro J. Rosello's efforts to advance a new tax credit incentive program entitled section 1397 as a replacement of section 936 of the Internal Revenue Code; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. FRANK of Massachusetts introduced a bill (H.R. 2678) to authorize funds to further the public service mission of the Joseph W. Martin, Jr. Institute for Law and Society; which was referred to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. BLUTE.

H.R. 497: Mr. BARRETT of Wisconsin, Mr. SAWYER, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 972: Mr. CAMP.

H.R. 1127: Mr. DELLUMS, Mr. NETHERCUTT, Mr. ROYCE, and Mr. ZELIFF.

H.R. 1305: Mr. GENE GREEN of Texas, Mr. WAXMAN, and Mr. EVANS.

H.R. 1363: Mr. BEREUTER.

H.R. 1406: Mr. DUNCAN.

H.R. 1448: Mr. JOHNSTON of Florida.

H.R. 1496: Mr. CUNNINGHAM.

H.R. 1619: Mr. BONO, Mr. CLINGER, and Mr. DURBIN.

H.R. 1747: Mr. PASTOR and Mr. KENNEDY of Rhode Island.

H.R. 1787: Mr. STOCKMAN.

H.R. 1856: Mr. HEINEMAN and Mr. LEWIS of Kentucky.

H.R. 2011: Mr. PICKETT, Mr. SISISKY, and Mr. ENGEL.

H.R. 2026: Mr. SHAYS, Mr. HOYER, Mr. MCDERMOTT, Mr. LAZIO of New York, Mr. RADANOVICH, Mr. LONGLEY, Mr. GILCHREST, Mr. SCHIFF, Mr. COLLINS of Georgia, Mr. WICKER, and Mr. FLANAGAN.

H.R. 2101: Mr. WAXMAN, Ms. LOFGREN, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. MANTON, and Mr. VENTO.

H.R. 2133: Mr. DELLUMS.

H.R. 2137: Mr. ENGLISH of Pennsylvania.

H.R. 2147: Mr. HAMILTON.

H.R. 2178: Mr. WARD.

H.R. 2205: Mr. NADLER.

H.R. 2276: Mr. DIAZ-BALART.

H.R. 2281: Mrs. MORELLA, Mr. SAWYER, Mr. BRYANT of Texas, and Mr. LOBIONDO.

H.R. 2310: Mr. BLUTE, Mr. FAZIO of California, Mr. HALL of Texas, Mr. LEWIS of California, and Mr. ABERCROMBIE.

H.R. 2351: Mr. FRANKS of New Jersey.

H.R. 2367: Mr. COMBEST and Mr. MCINTOSH.

H.R. 2391: Mr. GOODLING, Mr. FAWELL, Mr. KNOLLENBERG, Mr. NORWOOD, Mr. GREENWOOD, Mr. BURR, and Mr. GUNDERSON.

H.R. 2400: Mr. FOX and Mr. KLECZKA.

H.R. 2407: Mr. JOHNSTON of Florida.

H.R. 2411: Mr. JEFFERSON.

H.R. 2416: Mr. JOHNSTON of Florida.

H.R. 2471: Mr. SMITH of Michigan.

H.R. 2472: Mr. RAHALL, Mr. ENGEL, Mr. WILSON, Mr. WISE, Mr. FRISA, Mr. BISHOP, Mr. FARR, Mr. HAMILTON, and Mr. DURBIN.

H.R. 2493: Mr. MINGE.

H.R. 2507: Mr. NEY and Mr. GENE GREEN of Texas.

H.R. 2567: Mr. EMERSON, Mr. DOOLITTLE, Mr. LAUGHLIN, Mr. STOCKMAN, and Mr. DOOLEY.

H.R. 2582: Mr. UNDERWOOD.

H.R. 2614: Mrs. KELLY.

H.R. 2627: Mr. BEVILL, Mr. CHAPMAN, Ms. DUNN of Washington, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. MARKEY, Mr. ORTIZ, Mr. PICKETT, and Mr. THOMAS.

H.R. 2632: Mr. SANFORD, Mr. DUNCAN, and Mr. MCHUGH.

H.R. 2648: Mr. PAYNE of Virginia, Mrs. CLAYTON, and Mr. JONES.

H.R. 2651: Mr. CLYBURN, Mr. COSTELLO, and Mr. BROWDER.

H.R. 2655: Mr. YOUNG of Alaska, Mr. SMITH of New Jersey, and Mr. PALLONE.

H.R. 2658: Mr. BROWDER, Mr. FRANK of Massachusetts, and Ms. MCKINNEY.

H.R. 2664: Mr. CUNNINGHAM, Mr. TEJEDA, Mr. MCKEON, Mr. OBERSTAR, Mr. THORNBERRY, Mr. HINCHEY, Mr. WHITFIELD, Mrs. SMITH of Washington, Mr. HEINEMAN, Mr. EVANS, Mr. VOLKMER, Mr. FARR, Mr. WILSON, Mr. SOLOMON, Mr. BARCIA of Michigan, Mr. HALL of Texas, Mr. TAYLOR of North Carolina, Mr. NORWOOD, Mr. SMITH of Texas, Mr. BARTON of Texas, Mrs. CLAYTON, Mr. LAHOOD, Mr. CLYBURN, Mr. INGLIS of South Carolina, Mr. GORDON, Mr. FAZIO of California, and Mr. PORTER.

H.J. Res. 117: Mr. DELLUMS.

H. Con. Res. 31: Mr. BROWN of Ohio.

H. Con. Res. 91: Mr. GILMAN and Mr. ROMERO-BARCELO.

REGULATION OF LOBBYING ACT

In compliance with Public Law 601, 79th Congress, title III, Regulation of Lobbying Act, section 308(b), which provides as follows:

> (b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the CONGRESSIONAL RECORD.

The Clerk of the House of Representatives and the Secretary of the Senate jointly submit their report of the compilation required by said law and have included all registrations and quarterly reports received.

REGISTRATIONS

The following registrations were submitted for the third calendar quarter 1995:

(NOTE.—The form used for reporting is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings. This page (Page 1) is designed to supply identifying data.)

PLEASE RETURN 1 ORIGINAL TO: THE CLERK OF THE HOUSE OF REPRESENTATIVES, OFFICE OF RECORDS AND REGISTRATION, 1036 LONGWORTH HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515

PLEASE RETURN 1 ORIGINAL TO: THE SECRETARY OF THE SENATE, OFFICE OF PUBLIC RECORDS, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19 . . . . . ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

Is this an Amendment? ☐ YES ☐ NO

IDENTIFICATION NUMBER ____________________

NOTE on ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) *"Employee".*—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) *"Employer".*—To file as an "employer", write "None" in answer to Item "B".

(*b*) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

☐ CHECK IF ADDRESS IS DIFFERENT THAN PREVIOUSLY REPORTED

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE on ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER —State name, address, and nature of business. If there is no employer, write "None."

NOTE on ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the specific legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) description, (*b*) quantity distributed, (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed.)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and, if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. *If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page.* Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly Report." ◆

STATEMENT OF VERIFICATION

[Omitted in printing]

PAGE 1 ◆

Organization or Individual Filing	Employer/Client
A. Aaban, 1020 E. 27th Street Texarkana, TX 75502-3802	Tate Management Co (For:Association of Societies & Associations)
J. Aaban, 1020 E. 27th Street Texarkana, TX 75502-3802	International Press Club Credit Union
Aaban Enterprises Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Omar Abdul, 1020 E. 27th Street Texarkana, TX 75502-3802	Sherman Mortgage Co Int'l Investment Banking Dept (For:International Joint Venture Society)
Do	International Stock Exchange Information & Development Assn (For:International Stock Exchange Stock Brokers Asn)
Abt Associates, Inc, 55 Wheeler Street Cambridge, MA 02138	
Beth P. Adams, 1010 Wisconsin Ave., NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc
Jane A. Adams, 1100 New York Ave., NW, #340-West Washington, DC 20005	BASF Corporation
Akin Gump Strauss Hauer & Feld, L.L.P., 1333 New Hampshire Ave., NW, #400 Washington, DC 20036	Perot Systems Corp
Do	Sidmak Laboratories, Inc
James J. Albertine, 1156 15th Street, NW, #505 Washington, DC 20005	Albertine Enterprises, Inc (For:Food Development Corp)
John M. Albertine, 1156 15th Street, NW, #505 Washington, DC 20005	Albertine Enterprises, Inc (For:Food Development Corp)
Albertine Enterprises, Inc, 1156 15th Street, NW, #505 Washington, DC 20005	Food Development Corp
Alcalde & Fay, 2111 Wilson Blvd., #850 Arlington, VA 22201	City of Miami
Do	Dade County
Do	Tenneco Power Co
Do	University of Nevada
Mary Allen, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
Ed Allison, Inc, 145 Brinkby Avenue, Suite B Reno, NV 89509	University of Nevada/Las Vegas Research Center
Do	University of Nevada, Reno
American Assn of Retired Persons, 601 E Street, NW Washington, DC 20049	
American Lands Access Assn, Inc, 13732 N.E. 12th St., #201 Bellevue, WA 98005	
Americans for Choice in Education, 9275 Walter Reed Dr., #1 Arlington, VA 22204	
William H. Applegate, 1001 Pennsylvania Ave., NW, #725S Washington, DC 20004	American Soc of Clinical Pathologists
Arent Fox Kintner Plotkin & Kahn, 1050 Connecticut Ave., NW Washington, DC 20036-5339	Health Industry Initiative
Alice Armstrong, 1150 Connecticut Ave., NW, #1125 Washington, DC 20036	Financial Executives Institute
Thomas K. Arnold, 6043 Shaffer Drive Alexandria, VA 22310	De Angelus Schaffer & Assocs (for American Surety Assn)
Arnold & Porter, 555 Twelfth Street, NW Washington, DC 20004-1202	Consolidated & Administration & Security Services, Inc
Arter & Hadden, 1801 K Street, NW, #400K Washington, DC 20006	Snap-on, Inc
Do	Tribal Alliance of Northern California
Terry Arthur, 1020 E. 27th Street Texarkana, TX 75502-3802	International Arbitration Board Bar Assn (For:Tax Attorneys & Consultants Assn)
Assistance of Counsel, Inc, 1020 E. 27th Street Texarkana, TX 75502-3802	International Business Assn
Associated Students of Arizona State University, Box 871001 Tempe, AZ 85287-1001	
Association of Societies & Associations, 1020 E. 27th Street Texarkana, TX 75502-3802	International Stock Exchange Information & Development Assn
Association Management Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Paul Astor, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
Andy Atwell, 1020 E. 27th Street Texarkana, TX 75502-3802	Church of World Brotherhood Credit Union (For:Lobbyist Federation)
Les AuCoin, Bogle & Gates 1299 Pennsylvania Ave., NW, #875 East Washington, DC 20004	Forest Lieu Selection Comm
Do	Santa Fe Pacific Gold Corp
Do	Tillamook Creamery Assn
APCO Associates, Inc, 1615 L St., NW Washington, DC 20036	Allina Health Systems
Do	Coalition for Fairness in Medicare
Do	St. Jude Medical, Inc
Gregory R. Babyak, 1747 Pennsylvania Ave., NW, #900 Washington, DC 20006	Laboratory Corp of America
Bailey & Robinson, 1201 Connecticut Avenue, NW, #300 Washington, DC 20036	NDMA
Baker & Botts, L.L.P., The Warner 1229 Pennsylvania Ave., NW Washington, DC 20004-2400	Timex Corp
Baker & Daniels, 1701 K Street, NW, #400 Washington, DC 20006	United Companies Lending Corp
Baker & Hostetler, 1050 Connecticut Ave., NW, #1100 Washington, DC 20036	KeyCorp, Inc
Do	Major League Baseball
Baker Donelson Bearman & Caldwell, 801 Pennsylvania Ave., NW, #800 Washington, DC 20004	American Standard, Inc
Do	Puerto Rico Dept of Highways & Transportation
Ball Janik & Novack, 1101 Pennsylvania Avenue, NW, #1035 Washington, DC 20004	Commercial Informations Systems, Inc
Andrew H. Barbour, 1010 Wisconsin Ave., NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc
Barnes & Thornburg, 1313 Merchants Bank Building 11 South Meridian Street Indianaplois, IN 46204	Health & Hospital Corp of Marion County
Barter & Exchange Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	World Nations League Corporate Code Promotion Assn
Michael Barton, 1020 E. 27th Street Texarkana, TX 75750-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Paul W. Bateman, 490 Fort Williams Parkway Alexandria, VA 22304-1810	Klein & Saks, Inc (for Alltrista Zinc Products)
Do	Klein & Saks, Inc (for Platinum Guild Int'l (USA), Inc)
Wendy Batson, 245 Second Street, NE Washington, DC 20002	Friends Comm on National Legislation
Bayh Connaughton Fensterheim & Malone, PC, 1350 Eye Street, NW, #200 Washington, DC 20005	CBI Industries, Inc
Beacon Consulting Group, Inc, 312 Massachuesetts Avenue, NE Washington, DC 20002-5703	American Registry of Pathology
William M. Behan, 1667 K Street, NW, #1230 Washington, DC 20006	Deere & Company
Beverly Bell, 1800 M Street, NW Washington, DC 20036	Coopers & Lybrand, L.L.P.
Judith H. Bello, 1722 Eye Street, NW Washington, DC 20006	Sidley & Austin (For:Pharmaceutical Research & Manufacturers of America)
Linda Bennett, 1875 Connecticut Ave., NW, #510 Washington, DC 20009	Center for Law & Education
Bergner Bockorny Clough & Brain, 1101 16th Street, NW, #500 Washington, DC 20036	Home Care Assn of New York State, Inc
Do	Monsanto-Searle Co, Inc
Paul C. Bergson, Bergson & Company 1319 F Street, NW, #301 Washington, DC 20004	General Dynamics
Thomas J. Bethel, 315 Holme Avenue Elkins Park, PA 19027	American Maritime Officers
Donald Blair, 1020 E. 27th Street Texarkana, TX 75502-3802	International Stock Exchange Stock Brokers Assn (For:International Stock Exchange News, Inc)
Jeffrey Blum, 1730 Rhode Island Ave., NW, #403 Washington, DC 20036	Citizen Action Fund
Brian Boe, Boe Associates, Inc 319 S.W. Washington St., #810 Portland, OR 97207	MultiState Associates, Inc (for Viaticus, Inc)
Bogle and Gates, 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Mineral King District Assn
Boland & Madigan, Inc, 700 13th Street, NW, #350 Washington, DC 20005	ARCO Chemical Co
Do	Ford Motor Co
Do	KPMG Peat Marwick, L.L.P.
Do	National Electrical Manufacturers Assn
Do	Tele-Communications, Inc
Senny Boone, 1525 Wilson Blvd., #550 Arlington, VA 22209	National Newspaper Assn
Chester Booth, 1020 E. 27th Street Texarkana, TX 75502-3802	Kingdom of Brotherhood Information Office (For:Kingdom of God Information Office)
Kevin Bosch, 517 2nd Street, NE Washington, DC 20002	David Turch & Associates
John C. Bottenberg, 800 S.W. Jackson, #1120 Topeka, KS 66612	MultiState Associates, Inc (for Viaticus, Inc)
Brooks J. Bowen, 11 Dupont Circle, NW, #700 Washington, DC 20036	Multinational Business Services, Inc
Christopher Bowlin, 1001 19th Street, NW, North, #800 Arlington, VA 22209-1722	TRW, Inc
Alan C. Bowser, 1101 Pennsylvania Ave., Nw, #1000 Washington, DC 20004	Citicorpo/Citibank
Van R. Boyette, 555 13th Street, NW, #305E Washington, DC 20004	Be-Lo and Jr. Markets
Marshall A. Brachman, 2108 West Freeway Fort Worth, TX 76102	Adams County, Colorado
Bracy Williams & Company, 601 13th Street, NW, #510 South Washington, DC 20005	ARD
Do	City of Atlanta
John R. Bradbury Jr., 1010 Wisconsin Ave., NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc
Brand Lowell & Ryan, 923 15th Street, NW, Fifth Fl. Washington, DC 20005	PRC Environmental Management, Inc (Subsidiary of Tetra Tech)
Do	Quarters Furniture Manufacturers Assn
William E. Brock III, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)
C. F. Brooks, 1020 E. 27th Street Texarkana, TX 75502-3802	Premier Advertising & Supply Co (For:Association of Societies & Associations)
R. Stephen Browning, P.O. Box 1697 Helena, MT 59624	Decision Management, Inc
Brownstein Hyatt Farber & Strickland, P.C., 410 17th Street, 22nd Floor Denver, CO 80202	Columbia/HCA Healthcare Corp
Do	International Planning & Analysis Center
Richard E. Buckley, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers of America
Thomas J. Bulger, 1050 17th Street, NW, #510 Washington, DC 20036	Road Commission for Oakland County
John Elliott Bunce, Box 136 1718 M Street, NW Washington, DC 20036	First Church of Christ, Scientist
Joseph E. Burnside, 104 East Stewart Avenue Alexandria, VA 22301	National Assn of Air Traffic Specialists
Carl Burton, 1020 E. 27th Street Texarkana, TX 75502-3802	International Credit Bureau, Inc
Business Music Legislative Fund, c/o Muzak Limited Partnership 2901 Third Avenue, #400 Seattle, WA 98121	
James J. Butera, 1301 Pennsylvania Ave., NW Washington, DC 20004	Credit Lyonnais
Do	East New York Savings Bank
Do	Northside Savings Bank
Butera & Andrews, 1301 Pennsylvania Ave., NW Washington, DC 20004	Citizens Savings Bank
Do	Lake Sunapee
Do	Poughkeepsie Savings Bank
Do	Savings Bank of the Finger Lakes
Charles L. Calkins, 125 N. West Street Alexandria, VA 22314-2754	Fleet Reserve Assn

Organization or Individual Filing	Employer/Client
Ian Calkins, 1317 F Street, NW, #550 Washington, DC 20004	Specialty Equipment Market Assn
Jeanne Campbell, Campbell-Raupe, Inc 1010 Pennsylvania Avenue, SE Washington, DC 20003	Hoechst-Celanese
Jeffrey Campbell, 1300 Eye Street, NW, #490East Washington, DC 20005	Compaq Computer Corp
John G. Campbell, 9300-D Old Keene Mill Road Burke, VA 22015	John G. Campbell, Inc (For:Primark Corp)
Hugh C. Cannon, 1747 Pennsylvania Ave., NW, #1000 Washington, DC 20006	Potomac Research Group (For:National Medical Device Coalition)
Capitol Associates, Inc, 426 C Street, NE Washington, DC 20002	CSX Corporation
Chris Carey, 1505 Prince Street, #300 Alexandria, VA 22314	American Optometric Assn
Carlos Rodriguez & Associates, 1710 Rhode Island Ave., NW, 10th Floor Washington, DC 20036	Intercargo Insurance Co
Carlyle Consulting, 3000 S. Randolph Street, Suite 317 Arlington, VA 22206	Amdahl Corp
Do	Levi Strauss International
Tracey A. Carnes, Kessler and Associates 510 11th Street, SE Washington, DC 20003	American Assn of Nurse Anesthetists
Do	Burlington Northern Railroad
Do	Mary Scott Guest
Do	Pfizer
Do	Pharmaceutical Research & Manufacturers of America
Do	Sandoz Corp
Do	Joseph E. Seagram & Sons, Inc
Do	Upjohn Company
Susan B. Carver, 1130 17th Street, NW Washington, DC 20036	National Mining Assn
Diane M. Casey, 1850 M Street, NW, #300 Washington, DC 20036	Grant Thornton LLP
Susan Casey, 4900 Leesburg Pike, #305 Alexandria, VA 22302	High Speed Rail/Maglev Assn
Cassidy and Associates, Inc, 700 13th St., NW, #400 Washington, DC 20005	Florida HealthCare Coalition
Do	Forensic Technologies, Inc
Do	Philip Morris Companies, Inc
Sandra Champion, P.O. Box 4658 Gaithersburg, MD 20885	
Luanne Chapman, 750 17th Street, NW, #900 Washington, DC 20006	Nissan North America, Inc
Nancy Chapman & Associates, Inc, 1723 U Street, NW Washington, DC 20009	Apple Processors Assn
Charitable Accord, 1601 Elm Street, Suite 1700 Dallas, TX 75201-7241	
Douglas W. Charnas, Jackson & Campbell, P.C. 1120 20th Street, NW, South Tower Washington, DC 20036-3437	
Chernikoff & Company, 1320 18th Street, NW, #100 Washington, DC 20036	Artists Rights Foundation
Ned Chiodo, Personal Representatives, Inc 2000 Financial Center, #200 Des Moines, IA 50309	MultiState Associates, Inc (for Viaticus, Inc)
Marjorie A. Chorlins, 1350 I Street, NW Washington, DC 20005	Motorola
Ernest S. Christian, 1350 I Street, NW, #1250 Washington, DC 20005	Association for Manufacturing Technology
Do	Center for Strategic Tax Reform
Church of World Brotherhood Cerdit Union, 1020 E. 27th Street Texarkana, TX 75502-3802	Lobbyist Federation
Civic Service, Inc, 1050 Connecticut Avenue, NW, #870 Washington, DC 20036	Unisys Corporation
Clean Congress Foundation, P.O. Box 61407 Vancouver, WA 98666	
Cleary Gottlieb Steen & Hamilton, 1752 N Street, NW Washington, DC 20036	CSFP Capital, Inc
Do	Dime Savings Bank of New York
Do	Long Island Savings Bank
Linda Cody, 1020 E. 27th Street Texarkana, TX 75502-3802	World Nations League Corporate Code Incorporating Services (For:World Nations League Corporate Code Promotion Asn)
Robert L. Coen, 205 F Street, NE Washington, DC 20002	Alliance for American Innovation, Inc
Coffield Ungaretti & Harris, 3500 Three First National Plaza Chicago, IL 60602	Computer & Communications Industry Assn
Collier Shannon Rill & Scott, 3050 K Street, NW, #400 Washington, DC 20007	Garden State Tanning, Inc
Do	Go-Tane Service Station, Inc
Do	Hydrocarbon Trading & Transport Co
Do	Lion Oil Co
Do	Smith Cogeneration International
James Collins, 1020 E. 27th Street Texarkana, TX 75502-3802	Paragon Corporation (For:Association of Societies & Associations)
Richard L. Collins, Collins & Company 1555 Wilson Blvd., #300 Arlington, VA 22209	Lockheed Martin Corp
Colorado Group, Inc, Ponce de Leon Ave. 431 Nacional Plaza BLdg., #1001 Hato Rey, PR 00917	Puerto Rico USA Foundation
Commissioned Officers Assn of the U.S. Public Health Service, 2111 Wilson Boulevard, #321 Arlington, VA 22201	
Convergence Services, Inc, 1800 Diagonal Road, Suite 600 Alexandria, VA 22314	Ad Hoc Coalition of Station Members
Copyright Group, P.O. Box 5496 Beverly Farms, MA 01915	Alliance for American Innovation
Barbara J. W. Cosgriff, 444 N. Capitol St., NW, #801 Washington, DC 20001	National Assn of Independent Insurers
Covington & Burling, P.O. Box 7566 1201 Pennsylvania Avenue, NW Washington, DC 20044	Golden West Financial COrp
Do	Mountain West Savings Bank, F.S.B.
Do	Sun Life Assurance Co of Canada (U.S.), et al.
Wilma Cox, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
Douglas Crandall, 1111 19th Street, NW Washington, DC 20036	American Forest & Paper Assn
Daniel M. Crane, 1010 Pennsylvania Avenue, SE Washington, DC 20003	Hoechst-Celanese
Tina Croft, 1020 E. 27th Street Texarkana, TX 75502-3802	Crown Corporation (For:World Nations League Corporate Code Incorporating Services)
Bart Crosby, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
E. B. Crosby, 1020 E. 27th Street Texarkana, TX 75502-3802	Sherman Insurance Co (For:International Business Assn)
Crowell & Moring, 1001 Pennsylvania Ave., NW Washington, DC 20004-2595	Intermountain Forest Industry Assn
Do	Meridian Oil, Inc
Do	Northwest Forestry Assn
Crown Corporation, 1020 E. 27th Street Texarkana, TX 75502-3802	World Nations League Corporate Code Incorporating Services
Courtney Cuff, 1025 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Friends of the Earth
Christina Cullinan, 1225 Connecticut Ave., NW, #600 Washington, DC 20036	Ernst & Young
William P. Cune, 1100 Wilson Boulevard, #2000 Arlington, VA 22209	Hughes Electronics Corp
B. Guy D'Andrea, 1200 19th Street, NW, #200 Washington, DC 20036	American Managed Care & Review Assn
James Daniel, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations (For:International Stock Exchange Information & Development Assn)
Robert W. Davis, Bob Davis & Associates 2361 Jefferson Davis Highway, #506 Arlington, VA 22202	Modernization Forum
Do	Westinghouse Electric Corp
Davis & Harman, 1455 Pennsylvania Avenue, NW, #1200 Washington, DC 20004	American Land Title Assn
Do	Association of Private Pension & Welfare Plans
Davis Wright & Tremaine, 1501 4th Avenue, Suie 2600 Seattle, WA 98101	Chelan County PUD
William T. Deitz, 1000 Connecticut Avenue, NW Washington, DC 20036	Pennsylvania Institute of Technology
Wilma I. Delaney, 1776 Eye Street, NW, #575 Washington, DC 20006	Dow Chemical Co
Randolph L. DeLay, 801 Pennsylvania Ave., NW, 5th Floor Washington, DC 20004	Pharr Economic Development Corp
Mary Anne Dolbeare, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn
Jorge A. Dominicis, 316 Royal Poinciana Plaza Palm Beach, FL 33480	Flo-Sun, Inc
Dorsey & Whitney, 1330 Connecticut Ave., NW, #200 Washington, DC 20036	Coalition for Fairness in Medicare
Dow Lohnes & Albertson, 1255 23rd St., NW, Suite 500 Washington, DC 20037	American Assn of Cosmetology Schools
Downey Chandler, Inc, 1401 I Street, NW, #1210 Washington, DC 20005	Fuji Photo Film USA, Inc
Do	Microsoft Corp
Do	National Cable Television Assn
Do	University Health System of New Jersey
Ducheneaux Taylor & Associates, 303 Massachusetts Ave., NW Washington, DC 20002	California Ind Legal Services/Timbisha Shoshone Tribe
Do	Minnesota Chippewa Tribe
Duncan Weinberg Miller & Pembroke, P.C., 1615 M Street, NW, #800 Washington, DC 20036	Center for Clean Air Policy
David D. Dunlap, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn
Ann Durling, 1020 E. 27th Street Texarkana, TX 75502-3802	Lobbyist Federation (For:International Arbitration Board)
Dutko & Associates, Inc, 412 First St., SE, #100 Washington, DC 20003	BP America, Inc
Do	Cable & Wireless, Inc
Do	CompTel
Do	Empire Sanitary Landfill, Inc
Do	Federal Express
Do	Household International
Do	JM Family Enterprises
Do	McCaw/AT&T
Do	National Assn of Prepaid Dental Plans
Do	National Center for Manufacturing Sciences
Do	New Balance Athletic Shoe, Inc
Do	Pharmacia Diagnostics Division
Do	Southwestern Bell Corp
Do	Telecommunications Resellers Assn
Do	U.S. West
Do	UniHealth America
Dyer Ellis Joseph & Mills, P.C., 600 New Hampshire Ave., NW, #1000 Washington, DC 20037	Atlantic Maritime

Organization or Individual Filing	Employer/Client
Do	Classic Car Coalition
Do	Dialysis Clinic, Inc
Do	Ocean Marine Navigation Co, Inc
DMS, 201 North Union Street, #360 Alexandria, VA 22314	Riverside South Planning Commission
Anthony S. Earl, One South Pinckney Street P.O. Box 2113 Madison, WI 53701-2113	Quarles & Brady (For:Johnson Controls)
Early Childhood Development Center Legislative Coalition, 3612 Bent Branch Court Falls Church, VA 22041	
Thomas M. Eastep Jr., 205 F Street, NE Washington, DC 20002	Alliance for American Innovation, Inc
Eaton Peabody Bradford & Veague, P.A., P.O. Box 1210 Bangor, ME 04402-1210	AT&T
Brenda L. Eberly, 50 F Street, NW, #1050 Washington, DC 20001	Freeport-McMoRan Copper & Gold, Inc
Eckert Seamans Cherin & Mellott, 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	Independent Assn of Independent Tanker Owners
Do	Nedlloyd Lijnen, B.V.
Edington Wade & Associates, Inc, 803 Prince Street Alexandria, VA 22314	Oceaneering Technologies, Inc
Roy L. Eiguren, P.O. Box 2720 Boise, ID 83701-2720	Givens Pursley & Huntley (For:Idaho Cooperative Utilities Assn)
Stephen Elkins, 1331 Pennsylvania Ave., NW, #1500N Washington, DC 20004-1703	National Assn of Manufacturers
Jo Ann Emerson, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn
Jon Englund, 1616 N. Fort Myer Drive, #1300 Arlington, VA 22209-3106	Information Technology Assn of America, Inc
Ann Eppard Associates, Ltd, 30 Wolfe Street Alexandria, VA 22314	Board of County Commissioners of Dade County, FL
Do	Federal Express Corp
Do	Frito-Lay, Inc
Do	GTE
Do	I-73/74 Association, North Carolina
Do	Los Angeles County Mass Transportation Authority
Do	Puerto Rico Dept of Highways and Transportation
Do	Regulated Common Carrier Commission
Do	Southeastern Economic Development Corp
Matthew E. Eppler, 750 17th Street, NW, #900 Washington, DC 20006	Nissan North America, Inc
Randall Harvey Erben, 807 Brazos Street, Suite 402 Austin, TX 78701	American Insurance Assn
Do	Genentech, Inc
Do	Southwestern Bell Telephone Co
Ernst & Young, 1225 Connecticut Ave., NW, #500 Washington, DC 20036	American Express
Do	Bankers Trust Co
Do	Biltmore Company
Do	BF Goodrich Co
Do	Chevron Corp
Do	Chiquita Brands Int'l, Inc
Do	Citibank
Do	Fina Oil & Chemical Co
Do	J.C. Penney Co
Do	Mallinckrodt Group, Inc
Do	Marmon Group
Do	Mobil Corp
Do	Morgan Guaranty Trust Co
Do	Perkin-Elmer Corp
Do	Shell Oil Co
Do	Square D Corp
Do	Tandem Computers
Do	Thiokol Corp
Rae Evans & Associates, Inc, 1615 L Street, NW, #1220 Washington, DC 20036	Kansas City Southern Industries
F/P Research Associates, 1700 K St., NW, #1000 Washington, DC 20006	National Assn of Manufacturers
Jason Farrow, One Sony Drive Park Ridge, NJ 07656	Sony Electronics, Inc
Leila Farzan, 1875 Connecticut Ave., NW, #300 Washington, DC 20009	Center for Science in the Public Interest
William D. Fay, 1776 Massachusetts Ave., NW, #500 Washington, DC 20036	Highway Users Federation
Federation of Korean American Associations, 6131 Willston Drive Falls Church, VA 22044	
Paul Fekete, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)
George F. Fenton Jr., 1130 17th Street, NW Washington, DC 20036	National Mining Assn
Richard A. Ferreira, 1331 Pennsylvania Ave., NW, #1300 North Washington, DC 20004	EDS Corporation
Cap Ferry, American Towers 44 West 300 South, #803 Salt Lake City, UT 84101	MultiState Associates, Inc (for Viaticus, Inc)
Larry Fields, 1020 E. 27th Street Texarkana, TX 75502-3802	Liberty Management Co (For:World Nations League Philatelic Bureau)
John H. Fish, 1455 Pennsylvania Ave., NW, #525 Washington, DC 20004	R.J. Reynolds Tobacco Co
Julie W. Fishbein, 7102 Plantation Lane Rockville, MD 20852	Fishbein Associates, Inc (For:Science Applications Int'l Corp)
Rand Harrison Fishbein, 7102 Plantation Lane Rockville, MD 20852	Fishbein Associates, Inc (For:Science Applications Int'l Corp)
Fishbein Associates, Inc, 7102 Plantation Lane Rockville, MD 20852	Science Applications Int'l Corp
Linda J. Fisher, 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto Company
Joyce Flannery, 402 West Broadway, #1150 San Diego, CA 92101	Flannery Group (For:Audre, Inc)
Ronnie G. Flippo, 701 Pennsylvania Ave., NW, #800 Washington, DC 20004	R.G. Flippo & Associates, Inc (For:Alabama Nursing Homes Assn)
Gary Flood, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
T. K. Flores, 1020 E. 27th Street Texarkana, TX 75502-3802	Sherman Mortgage Co Int'l Investment Banking Dept (For:International Joint Venture Society)
M. W. Flynn & Associates, Inc, P.O. Box 320115 Tampa, FL 33609	Pan American Life Insurance Co
Joseph P. Foley, P.O. Box 61303 Potomac, MD 20859	Moore and Assoc, Inc
Foreman & Heidepriem, 1100 New York Ave., NW, #1030 Washington, DC 20005	Beef Products, Inc
Do	Procter & Gamble
Michael Fortier, 555 13th Street, NW, #600 East Washington, DC 20004-1109	Health Insurance Assn of America
Marianne Wesley Fowler, 1400 16th Street, NW Washington, DC 20036	Rails-to-Trails Conservancy
Fox Bennett & Turner, 750 17th Street, NW, #1100 Washington, DC 20006	Leukemia Society of America
Karl E. Francis, P.O. Box 741239 Arvada, CO 80006-1239	City of Kaktovik, Alaska
Franklin Group/Public Affairs, Inc, 513 Capitol Court, NE, #300 Washington, DC 20002	Florida Hospital
Freer & McGarry, P.C., 1000 Thomas Jefferson St., NW, #600 Washington, DC 20007	Port Authority to the Territory of Guam
Michael P. French, 800 Connecticut Ave., NW, #600 Washington, DC 20006	Fluor Corporation
Richard L. Fruchterman III, 1120 Connecticut Ave., NW, #400 Washington, DC 20036	WorldCom, Inc
Robert G. Fulton Sr., P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Furman Group, 1299 Pennsylvania Avenue, NW Suite 995 Washington, DC 20004	Basic Investments, Inc
Do	Cadeau Express, Inc
Do	Calleguas Municipal Water District
Do	Central Valley Water Reclamation Facility Board
Do	City of Watsonville, CA
Do	Dacole Investments
Do	San Elijo Joint Powers Authority
Julie Galton Gale, 1400 16th Street, NW, #502 Washington, DC 20036	Grand Canyon Trust
Reginald R. Garcia, Melendi Gibbons & Garcia, P.A. 216 South Monroe St., #300 Tallahassee, FL 32301	Fireworks of America, Inc
Garvey Schubert & Barer, 1000 Potomac Street, NW Washington, DC 20007	Foss Maritime
Neil F. Gasser, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Connie Gates, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
Sheila Gavin, 1200 19th Street, NW, #200 Washington, DC 20036	American Managed Care & Review Assn
General Teamsters Local 959, 4300 Boniface Parkway, 4th Floor Anchorage, AK 99504-4387	
David A. Gerken, 1301 Connecticut Avenue, NW, 7th Floor Washington, DC 20036	Commonwealth of Puerto Rico, Dept of Consumer Affairs
Charlotte E. Giddings, 410 New Jersey Ave., SE Washington, DC 20003	Gabeler Baise & Miller, P.C. (For:Martinizing Environmental Group)
Do	Gabeler Baise & Miller, P.C. (For:National Calcium Council)
Do	Gabeler Baise & Miller, P.C. (For:University of Health Sciences Antigua School of Medicine)
Donald M. Gilbert, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation
Mary Ann Gilleece, 1747 Pennsylvania Ave., NW, #800 Washington, DC 20006	Gadsby & Hannah (For:Colt Manufacturing Co, Inc)
Brad Gilman, 2300 Clarendon Blvd., #1010 Arlington, VA 22201	Robertson Monagle & Eastaugh (For:Aleutian Seafood Processors Assn)
Gold & Liebengood, Inc, 1455 Pennsylvania Ave., NW, #950 Washington, DC 20004	Competitive Long Distance Coalition
Do	Government of Pakistan
Do	National Council of Resistance
Do	Reeves Industries
Marian S. Goodman, 1401 I Street, NW, #210 Washington, DC 20005	American Managed Care & Review Assn
Gorlin Group, 2300 M Street, NW, Suite 800 Washington, DC 20037	Glaxo
Government Affairs Management Associates, 1001 G Street, NW, #400 East Washington, DC 20001	Bechtel/PB Joint Venture
Do	State of Indiana & Indiana Dept of Transportation
Owen J. Graham, P.O. Box 6600 Ketchikan, AK 99901	Ketchikan Pulp Co
Melinda Griffith, 1730 M Street, NW, #700 Washington, DC 20036-4510	Software Publishers Assn
Griffith & Rogers, P.O. Box 960 Yazoo City, MS 39194-0960	Charles Schwab & Co, Inc

Organization or Individual Filing	Employer/Client
Do	Glaxo-Wellcome
Do	National Assn of Immigration Judges
Do	Pharmaceutical Research & Manufacturers of America
Mary Scott Guest, 499 South Capitol Street, SW, #520 Washington, DC 20003	Guest and Associates, Inc
Guest and Associates, Inc, 499 S. Capitol St., SW, #520 Washington, DC 20003	Morris Communications
Jerene B. Guidry, 50 F Street, NW, Suite 1050 Washington, DC 20001	Freeport-McMoRan Copper & Gold, Inc
Robert Gunther, 2815 Northwind Rd. Baltimore, MD 21234	Cable Television Assn of MD DE & DC
W. Roger Gwinn, 1130 Connecticut Ave., NW, Suite 300 Washington, DC 20036	Ferguson Company (For:Central Valley Project Water Assn)
Hale and Dorr, 1455 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Central Maine Power Co
David S. Hamilton, 1725 K Street, NW, #509 Washington, DC 20006	Alliance to Save Energy
Hance Scarborough Woodward & Weisbart, 111 Congress Avenue, Suite 800 Austin, TX 78701	American Society of Assn Executives
Do	Southwestern Bell Corp
Hand Arendall Bedsole Greaves & Johnston, P.O. Box 123 Mobile, AL 36601	Laguna
Jodi Hanson, Hopkins & Sutter 888 16th Street, NW Washington, DC 20006	DuPage Bio-Energy, Inc
David J. Harmer, 3001 Park Center Drive, #1408 Alexandria, VA 22302-1447	Gabeler Baise & Miller, Inc (for National Calcium Council)
Knowles Harmon, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Reuben Harris, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Jeffrey P. Hart, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce
Matt D. Hay, 1235 Jefferson Davis Highway, #305 Arlington, VA 22202	ESCO Electronics Corp
Timothy P. Hecht, 499 South Capitol Street, SW, #507 Washington, DC 20003	Hecht Spencer & Associates (For:New Mexico Indian Gaming Assn)
Do	Hecht Spencer & Associates (For:Tulalip Tribes of Washington)
William H. Hecht, 499 S. Capitol Street, SW, #507 Washington, DC 20003	Hecht Spencer & Associates (For:New Mexico Indian Gaming Assn)
Do	Hecht Spencer & Associates (For:Tulalip Tribes of Washington)
Hecht Spencer & Associates, Inc, 499 South Capitol Street, SW, #507 Washington, DC 20003	New Mexico Indian Gaming Assn
Do	Tulalip Tribes of Washington
John W. Heiderscheit III, 1200 G Street, NW, #600 Washington, DC 20005-3802	Wright & Tallisman, P.C.
Robert F. Hellmuth, 1317 F Street, NW Washington, DC 20004	Specialty Equipment Market Assn
Yeager Hill, 1020 E. 27th Street Texarkana, TX 75502-3802	Trader's Import Co (For:Internatioal Import/Export Assn)
Hill and Knowlton, Inc, 901 31st Street, NW Washington, DC 20007	Brandeis-Bardin Institute
Do	Everglades Trust
David F. Hobson, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn
Marion S. Hoffmann, P.O. Box 020783 Miami, FL 33102-0783	Burger King Corporation
Hogan & Hartson, L.L.P., 555 13th St., NW Washington, DC 20004-1109	American Automobile Assn
Do	Ceridian Corporation
Do	ElderHealth, Inc
Do	Farmland Industries, Inc
Do	Pharmaceutical Research & Manufacturers of America
Holland & Knight, 2100 Pennsylvania Avenue, NW, #400 Washington, DC 20037	City of Lakeland
Alan F. Holmer, 1722 Eye Street, NW Washington, DC 20006	Sidley & Austin (For:Pharmaceutical Research & Manufacturers of America)
Compton Hong, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Alice Hood, 1020 E. 27th Street Texarkana, TX 75502-3802	Aaban Services Co (For:Association of Societies & Associations)
Do	Phoenix Enterprises Co (For:Association of Societies & Associations)
Robin Hood, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises Co (For:Association of Societies & Associations)
Hooper Hooper Owen & Gould, 801 Pennsylvania Ave., NW, #730 Washington, DC 20004	Merck
Leonard L. Hopkins Jr., 2015 Staples Mill Road Richmond, VA 23230	Trigon Blue Cross Blue Shield
Mary C. Hotka, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation
Howe Anderson & Steyer, 1747 Pennsylvania Ave., NW, #1050 Washington, DC 20006	DPIC Companies, Inc
Laura C. Hudson, 1050 Connecticut Ave., NW, #760 Washington, DC 20036	Union Oil Co of California
Carol A. Hulgus, 1745 Jefferson Davis Highway, #1200 Arlington, VA 22202	Rockwell International
Steven E. Humerickhouse, 3454 Vincent Avenue North Minneapolis, MN 55412	National Adoption Center
Humphrey Group, Inc, Box 1461 Concord, NH 03302-1461	Milton Balkany
Hunton & Williams, 2000 Pennsylvania Ave., NW, #9000 Washington, DC 20006	Southern California Gas Co (Socal)
Brad Inman, 1250 H Street, NW, #575 Washington, DC 20005	CH2M Hill
International Credit Bureau, Inc, 1020 E. 27th Street Texarkana, TX 75502-3802	
International Mail Order Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	International Business Assn
International Press Club Credit Union, 1020 E. 27th Street Texarkana, TX 75502-3802	International Press Club
International Stock Exchange Information & Development Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	International Stock Exchange Stock Borkers Assn
International Stock Exchange Stock Brokers Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	International Stock Exchange News, Inc
Rebecca Isaacs, 2000 M Street, NW, #400 Washington, DC 20036	People for the American Way Action Fund
Delos Cy Jamison, Jamison & Sullivan, Inc 1212 New York Ave., NW, #1200 Washington, DC 20005	Prairie Wood Products
John T. Jarvis, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	Rollins International
Thomas Jefferson III, 1020 E. 27th Street Texarkana, TX 75502-3802	Assistance of Counsel, Inc (For:International Business Assn)
Jefferson Group, 1341 G Street, NW, Suite 1100 Washington, DC 20005	AFL-CIO Housing Investment Trust
Do	Diabetes Institute Foundation
Do	National Assn of Home Builders Research Ctr, Inc
Do	Vintage Health Resources, Inc
Do	Vinyl Institute
Do	Virginia Health Quality Center
Do	VA Beach Police Benevolent Assn
Jefferson-Waterman International, 1341 G Street, NW, #1100 Washington, DC 20005	GEC-Marconi Defense Systems Limited
Do	Mission Energy/China
Do	Sequa Corporation
Do	Thapawong International Co, Ltd
Jenner & Block, 601 13th Street, NW, 12th Floor Washington, DC 20005	National Particleboard Assn
Jensen Baird Gardner & Henry, Ten Free Street P.O. Box 4510 Portland, ME 04112	Mid-Maine Waste Action Corp
Jacquelyn M. Johnson, 3050 K Street, NW, #145 Washington, DC 20007	National Marine Manufacturers Assn
Ken Johnson, 627 Elliott St., NE Washington, DC 20002	Northrop Grumman Corp
Johnson Smith Dover Kitzmiller & Stewart, Inc, 1300 Connecticut Ave., NW, #600 Washington, DC 20036	Academy for Educational Development
Do	Envirotest Systems
Do	Lifetime Security Plan
Do	Presbyterian Hospital in the City of New York
Edward J. Kaleta III, 1615 H Street, NW Washington, DC 20062-2000	U.S. Chamber of Commerce
S. Steven Karalekas, 1211 Connecticut Avenue, NW, #302 Washington, DC 20036	Karalekas & Noone (For:Johns Hopkins University Applied Physics Laboratory)
Kaulius & Associates, 1926 Fairfax Street Denver, CO 80220	EurAuPair, International, Inc
Keck Mahin & Cate, 1201 New York Avenue, NW, Penthouse Washington, DC 20005	H. P. Bulmer Holdings, P.L.C.
Jeff Keeler, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents
Keller & Heckman, 1001 G Street, NW, #500 West Washington, DC 20001	American Petroleum Institute
Carol A. Kelly, 1620 L Street, NW, #800 Washington, DC 20036	United HealthCare Corp
Kennedy & Baris, LLP, 112 E. Pecan St., #1775 San Antonio, TX 78205	American Bank Holding Co, Inc
Glenn C. Kenton, Richards Layton & Finger P.O. Box 551, One Rodney Square Wilmington, DE 19899	New England Investment Cos, L.P.
Patricia G. Kenworthy, 700 14th Street, NW Washington, DC 20005	Monsanto Company
Mary Kathleen Kenyon, 2124 Netahoa Court Falls Church, VA 22043	American Group Practice Assn
Michael J. Kerrigan, Kerrigan & Associates, Inc 803 Prince Street Alexandria, VA 22314	Echelon Corporation
Richard S. Kessler, 510 11th Street, SE Washington, DC 20003	AMGEN
Do	Mary Scott Guest
Do	Hoffman-La Roche, Inc
Do	Medtronic, Inc
Do	Pfizer
Ketchikan Pulp Co, P.O. Box 6600 Ketchikan, AK 99901	
Kimberly Kettle, Kettle Company Public Relations 3316 Lakeside View Dr. Falls Church, VA 22041	Response Technologies, Inc
Larry G. Kettlewell, 1600 S. Joyce Street, #1621 Arlington, VA 22202	Lockheed Mrtin Aeronautical Systems Co
Kimmitt Coates & McCarthy, Inc, 1730 M Street, NW, #911 Washington, DC 20036	Hallador Petroleum Co
Do	Talley Defense Systems, Inc
W. Russell King, 50 F St., NW, #1050 Washington, DC 20001	Freeport-McMoRan Copper & Gold, Inc
King & Spalding, 1730 Pennsylvania Ave., NW, #1200 Washington, DC 20006	National Power Lenders Forum
Kingdom of Brotherhood Information Office, 1020 E. 27th Street Texarkana, TX 75502-3802	Kingdom of God Information Office
Do	Kingdom of God Philatelic Bureau
Peter Kinzler, 7310 Stafford Road Alexandria, VA 22307	Kinzler & Swab, L.C. (For:NationsBank Corp)
Kirkpatrick & Lockhart, 1800 M Street, NW, South Lobby, #900 Washington, DC 20036	American Mutual Life Insurance Co
Scott T. Klein, 1501 BDM Way McLean, VA 22102-3204	BDM International, Inc
Kogovsek & Associates, Inc, 700 Broadway, #929 Denver, CO 80203-3443	Arapahoe House
Brian Komar, 1629 K Street, NW, #1010 Washington, DC 20006	Leadership Conference on Civil Rights
Neil Kost, 1020 E. 27th Street Texarkana, TX 75502-3802	International Mail Order Assn (For:International Business Assn)
Fern M. Lapidus, 6736 Hillandale Road Chevy Chase, MD 20815	American Society for the Prevention of Cruelty to Animals

Organization or Individual Filing	Employer/Client
Kristin M. Leary, 900 15th Street, WN Washington, DC 20005	United Mine Workers of America, Int'l Union
Donald E. Ledwig, 1133 15th Street, NW, #640 Washington, DC 20005	American Logistics Assn
Young K. Lee, 6021 Wescott Hills Way Alexandria, VA 22315	Y-Lee Dynamics, Ltd
Legal Action Center of the City of New York, Inc, 236 Massachusetts Ave., NE, #505 Washington, DC 20002	
Lent & Scrivner, 555 13th Street, NW, #305E Washington, DC 20004	Diabetes Treatment Centers of America
Ralph D. Lewis, P.O. Box 6600 Ketchikan, AK 99901	Ketchikan Pulp Co
Robert J. Lewis, 1620 I Street, NW, #800 Washington, DC 20006	Generic Pharmaceutical Industry Assn
Liberty Management Co, 1020 E. 27th Street Texarkana, TX 75502-3802	World Nations League Philatelic Bureau
Howard S. Liebengood, 1341 G Street, NW, #900 Washington, DC 20005	Philip Morris Management Corp
Lisa Linnell, 1156 15th Street, NW, #800 Washington, DC 20005	American Symphony Orchestra League
Lobbyist Federation, 1020 E. 27th Street Texarkana, TX 75502-3802	International Arbitration Board
W. Timothy Locke, 499 S. Capitol Street, SW, #507 Washington, DC 20003	Hecht Spencer & Associates (For:New Mexico Indian Gaming Assn)
Do	Hecht Spencer & Associates (For:Tulalip Tribes of Washington)
Andrew J. Loomis, 110 Maryland Ave., NE Washington, DC 20002	Council for a Livable World
Douglas B. Loon, 1615 H Street, NW Washington, DC 20062-2000	U.S. Chamber of Commerce
Earl Lui, 1535 Mission Street San Francisco, CA 94103	Consumers Union of U.S., Inc
Paul Magliocchetti Associates, Inc, 1755 Jefferson Davis Highway, #1107 Crystal Square 5 Arlington, VA 22202	CAE Electronics, Inc
Andrew K. Maloney, 2300 Clarendon Blvd., #1010 Arlington, VA 22201	Robertson Monagle & Eastaugh (For:Clipper Navigation)
Do	Robertson Monagle & Eastaugh (For:Reeve Aleutian Airways)
Manatt Phelps & Phillips, 1501 M Street, NW, Suite 700 Washington, DC 20005	S-Corporation Reform Project
G. Stephen Manning, P.A., 6622 Southpoint Dr., South, #310 Jacksonville, FL 32216	American Ash Recycling Corp
S. William Manteria, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation
Lawrence D. Markley, Rt. 1, Box 130-A Mt. Solon, VA 22843	Electrical District Number 2
Do	ORMAT Nevada, Inc
Roderick B. Mathews, 2015 Staples Mill Road Richmond, VA 23230	Trigon Blue Cross Blue Shield
Ramon H. Maury, 1395 NW 15th St., 2nd Floor Miami, FL 33125	Secada and Maury, Inc
William I. May Jr., W.I. May Associates 1121 Collins Avenue Frankfort, KY 40601-4307	MultiState Associates, Inc (for Air Products & Chemicals)
Lynn A. McAlister, 1331 Pennsylvania Ave., NW, #1300N Washington, DC 20004	EDS Corporation
Charlie McBride Associates, Inc, 1730 M Street, NW, #800 Washington, DC 20036	Advanced Communications Corp
Do	Biomedical Research Foundation
Do	Cogentrix Energy, Inc
Do	ICON Industrial Controls, Inc
McClure Gerard & Neuenschwander, Inc, 201 Maryland Ave., NE Washington, DC 20002	Abbott Laboratories
Do	Air Transport Assn
Do	American Home Products
Do	Association of Financial Guaranty Insurors
Do	Bristol-Myers Squibb
Do	First USA
Do	LITCO
Do	Merck & Co
Do	Pfizer
Do	Upjohn Co
William D. McColl, 3717 Columbia Pike, #300 Arlington, VA 22204	National Assn of Alcoholism & Drug Abuse Counselors
McDermott Will & Emery, 1850 K Street, NW, #450 Washington, DC 20006	American Spice Trade Assn
Do	Carnival
Do	Kellwood Company
Do	Panduit
Robert M. McGlotten, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	Rollins International
McGuiness & Williams, 1015 15th Street, NW, #1200 Washington, DC 20005	Benefits Alliance
Do	R.R. Donnelley & Sons Co
Do	U.S. Council for International Business
William T. McKinley, 106 E. College Ave., #720 Tallahassee, FL 32301	Air Products & Chemicals
Beverly E. McKittrick, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp
Cherie L. McNett, 1101 Vermont Ave., NW, #606 Washington, DC 20005	American Society of Anesthesiologists
Clem R. McSpadden, McSpadden & Associates 501 Pine Street, Box 317 Chelsea, OK 74016	MultiState Associates, Inc (for Viaticus, Inc)
Beverly Medlock, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Mehl & Associates, Inc, 1400 L Street, NW, #625 Washington, DC 20005	Westinghouse Electric Corp
Robert M. Meissner, 1725 Jefferson Davis Highway, #601 Arlington, VA 22202-3585	Litton Industries, Inc
James R. Meltsner, 1000 Wilson Blvd., #2300 Arlington, VA 22209	Northrop Grumman
Joseph Mendelson, 1025 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Friends of the Earth
J. Roger Mentz, 1747 Pennsylvania Ave. NW, #500 Washington, DC 20006	Mercedes-Benz of North America, Inc
Do	Williams Companies, Inc
Melinda Mercer, P.O. Box 1417-D49 Alexandria, VA 22313-1417	National Assn of Chain Drug Stores
Joseph J. Mettimano, 1775 K Street, NW, #360 Washington, DC 20006	U.S. Committee for UNICEF
Microcosm, Inc, 218 S. Fairfax St. Alexandria, VA 22314	Ritter & Bourjaily, Inc
James C. Miller, 415 2nd Street, NE, #300 Washington, DC 20002	National Assn of Wheat Growers
Miller & Chevalier, Chtd, 655 15th St., NW, #900 Washington, DC 20005-5701	E & J Gallo Winery
Do	National Gypsum Co
Do	Service Corporation Int'l
Do	Wal-Mart Stores, Inc
Denny Miller Associates, Inc, 400 North Capitol Street, NW, #363 Washington, DC 20001	Environmental Technologies, Inc
Miller Nationwide Systems Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Kingdom of Brotherhood Philatelic Bureau
Susan M. Milligan, 1800 K Street, NW, #1100 Washington, DC 20006	New York Stock Exchange
Azim Mohammed, 1020 E. 27th Street Texarkana, TX 75502-3802	Barter & Exchange Assn (For:World Nationsl League Corporate Code Promotion Assn)
Cynthia R. Moran, 1455 F Street, NW, #450 Washington, DC 20004	Upjohn Company
Alan Morgan, 2000 L Street, NW, #200 Washington, DC 20036	North American Society of Pacing & Electrophysiology
Morgan Lewis & Bockius, 1800 M St., NW, #800 Washington, DC 20036	Church Alliance
Cheron Morris, 801 Pennsylvania Ave., NW, #730 Washington, DC 20004	John Hancock Mutual Life Insurance Co
Donald J. Morrissey, 1401 H Street, NW Washington, DC 20005	Investment Company Institute
Aaron Moses, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
L. A. Motley and Company, 1800 K Street, NW, #1000 Washington, DC 20006	Alliance for Competitive Communications
Mudge Rose Guthrie Alexander & Ferdon, 1200 19th Street, NW, #400 Washington, DC 20036	Asociacion Nacional de Industriales
Mullenholz Brimsek & Belair, 1150 Connecticut Ave., NW, #700 Washington, DC 20036	Airforwarders Assn
Daniel J. Murphy, 1101 30th Street, NW, #200 Washington, DC 20007	Murphy & Associates (For:Catalano & Jarvis, P.C.)
Do	Murphy & Associates (For:Pan Pacific Consolidated, Inc)
Donald N. Muse, Muse & Associates 919 18th Street, NW, #1001 Washington, DC 20006	Nutritional Restart Centers
MWW/ Strategic Communications, Inc, 1101 17th Street, NW, #202 Washington, DC 20036	Flo-Sun, Inc
Nabisco, Inc, 7 Campus Drive Parsippany, NJ 07054	
National Assn of Children's Hospitals, 401 Wythe Street Alexandria, VA 22314	
National Assn of Children's Hospitals & Related Institutions, 401 Wythe Street Alexandria, VA 22314	
National Collegiate Athletic Assn, 6201 College Boulevard Overland Park, KS 66211-2422	
National Particleboard Assn, 18928 Premiere Court Gaithersburg, MD 20879	
National Prevention Alliance, 2817 St. Paul Street Baltimore, MD 21218	
David M. Nemtzow, 1725 K Street, NW, #509 Washington, DC 20006	Alliance to Save Energy
E. John Neumann, 701 Pennsylvania Ave., NW Washington, DC 20004	Edison Electric Institute
James A. Noone, 1211 Connecticut Avenue, NW, #302 Washington, DC 20036	Karalekas & Noone (For:Johns Hopkins University Applied Physics Laboratory)
Tom Nottingham, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Terry L. Nyhous, 410 First Street, SE Washington, DC 20003	Northrop Grumman Corp
Debbie O'Brien, 2000 P Street, NW, #708 Washington, DC 20036	National Pollution Prevention Roundtable
O'Brien Calio, 1350 Eye Street, NW, Suite 690 Washington, DC 20005	Federal Express Corp
Do	Massachusetts Mutual Life Insurance Co
Do	Tenneco
O'Connor & Hannan, 1919 Pennsylvania Ave., NW, #800 Washington, DC 20006	BlueDog Olson & Small
Do	Capital One FInancial COrp
Do	College Construction Loan Insurance Assn
Do	CommSource International, Inc
Do	Karalekas & Noone
Do	Muldoon Murphy & Faucette
Do	Prairie Island Tribal Council
Do	Upper Sioux Community
Do	WinStar Communications, Inc
Oceanwatch, 6731 Curran Street, 2nd FLoor McLean, VA 22101	
Oldaker Ryan & Leonard, 818 Connecticut Avenue, NW, #1100 Washington, DC 20006	American President Lines

Organization or Individual Filing	Employer/Client
Do	Central Gulf Lines, Inc
Do	Matson Navigation Co
Do	NPR, Inc
Do	Sea-Land Service, Inc
Do	Union Pacific Co
Do	Vanderbilt University
Olsson Frank & Weeda, 1400 16th Street, NW, #400 Washington, DC 20036-2220	Murray's Steaks
Ralph Oman, 1110 E. Capitol St., NE Washington, DC 20002	Broadcast Music, Inc
Karim Omar, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Sosimo Padilla, 401 Coors Blvd., NW Albuquerque, NM 87121	Westland Development Co, Inc
Barbara Pahl, 112 South West Street Alexandria, VA 22314	Strategic Management Associates, Inc (For:Greater New York Hospital Assn)
Do	Strategic Management Associates, Inc (For:Montefiore Medical Center)
Paragon Corporation, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Richard H. Parker, 1301 Leeland, #300 Houston, TX 77002	Citizens Insurance Co of America
Parry and Romani Associates, Inc, 233 Constitution Avenue, NE Washington, DC 20002	Newspaper Assn of America
Do	Research & Development Laboratories, Inc
Jim Pasco and Associates, 309 Massachusetts Ave., NE Washington, DC 20002	Miller Brewing Co
Do	National Air Cargo
Jerry M. Patterson, Burke Williams & Sorenson 3200 Park Center Drive, #750 Costa Mesa, CA 92626	City of Lake Forest
Patton Boggs, L.L.P., 2550 M Street, NW Washington, DC 20037	Admiralty Lawyers' Trust
Do	BDM Federal, Inc
Do	Center for the Study of Taxation
Do	Dimensions International
Do	Embassy of the State of Qatar
Do	First Union Corp
Do	Charles Heilbronn
Do	Alain Wertheimer
Terri Pauly, 1402 3rd Avenue, #424 Seattle, WA 98101	National Parks & Conservation Assn
M. Pearlstein, 1020 E. 27th Street Texarkana, TX 75502-3802	Reed Nationwide Management Co (For:Association of Societies & Associations)
Wiley H. Pearson, 80 F Stsreet, NW Washington, DC 20001	American Fed of Government Employees
Stanley B. Peck, 444 N. Michigan Ave., #3400 Chicago, IL 60611	American Dental Hygienists' Assn
Lee Peckarsky, 11408 Stonewood Lane Rockville, MD 20853	American Mutual Life Insurance Co
Ellen M. Peel, 1725 DeSales St., NW, #500 Washington, DC 20036	Center for Marine Conservation
Gregory M. Pensabene, Bogle & Gates, PLLC 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Mineral King District Assn
Pepper Hamilton & Scheetz, 1300 19th Street, NW Washington, DC 20036	Sofamor Danek Group, Inc
William D. Phillips, 888 16th Street, NW Washington, DC 20006	Browning-Ferris Industries
Do	General Communications, Inc
Jeffrey R. Pike, 1300 Connecticut Ave., NW, #600 Washington, DC 20036	Cabot LNG Shipping Corp
Kimberly J. Pinter, 1331 Pennsylvania Ave., NW, #1500 North Washington, DC 20004-1703	National Assn of Manufacturers
Piper & Marbury, 1200 19th Street, NW, #700 Washington, DC 20036	Disclosure, Inc
Do	Interactive Services Assn
Do	Netscape
Policy Directions, Inc, 818 Connecticut Ave., NW, #325 Washington, DC 20006	Gynecare, Inc
Van B. Poole, 106 E. College Ave., #720 Tallahassee, FL 32301	Air Products & Chemicals
Mark A. Pope, 200 E. Berry Street, 4R-05 Fort Wayne, IN 46802	Lincoln National Corp
Carlos Portilla, 1020 E. 27th Street Texarkana, TX 75502-3802	Association Management Co (For:Association of Societies & Associations)
Ozetta V. Posey, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Potomac Research Group, 1747 Pennsylvania Ave., NW, Suite 1000 Washington, DC 20006	National Medical Device Coalition
Bridget Powell, 2722 Merrilee Dr., #360 Fairfax, VA 22031	International Bro of Boilermakers Iron Shipbuilders...
Powell Goldstein Frazer & Murphy, 1001 Pennsylvania Ave., NW, 6th Floor Washington, DC 20004	Central & Southern Holding Co
Do	Langdale Industries, Inc
Do	National Assn of Public Hospitals
Premier Advertising & Supply Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Preston Gates Ellis Rouvelas & Meeds, 1735 New York Avenue, NW, #500 Washington, DC 20006	Embassy of Pakistan
Do	H.D. Vest Financial Services
Do	Muckleshoot Indian Tribe
Do	Ray K. Robinson, Inc
Public Strategies Washington, Inc, 1455 Pennsylvania Ave., NW, #1100 Washington, DC 20004	American Tort Reform Assn
Do	Honda North America, Inc
Gretchen Purser, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents
Donald R. Quartel Jr., 3828 Cathedral Ave., NW, Washington, DC 20016	D.R. Quartel, Jr., Inc (For:Jones Act Reform Coalition)
Raffaelli Spees Springer & Smith, 1341 G Street, NW, #200 Washington, DC 20005	City of Boston, MA
Rails-to-Trails Conservancy, 1400 16th Street, NW, #300 Washington, DC 20036	
Robert A. Rapoza Associates, Inc, 601 Pennsylvania Avenue, NW, #850 Washington, DC 20004	Community Development Venture Capital Assn
Do	Impact Services
Do	Montana Women's Economic Development Group
Robert L. Rarog, 1401 H Street, NW, #950 Washington, DC 20005	Digital Equipment Corp
Reed Nationwide Management Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Troy Reinhart, P.O. Box 6600 Ketchikan, AK 99901	Ketchikan Pulp Co
Nooley Reinheardt, Reinheardt & Associates P.O. Box 23190 Washington, DC 20026	Council for Affordable & Rural Housing
John J. Rhodes III, 2000 Pennsylvania Ave., NW, #900 Washington, DC 20036	George Washington University
Chuck Rice Jr., P.O. Box 141488 Austin, TX 78714-1488	Citizens, Inc
Chad W. Robbins, 1333 F Street, Nw, #710 Washington, DC 20004-1108	Advertising Mail Marketing Assn
Dennis J. Roberts II, 1500 Turke Head Place Providence, RI 02903-2215	MultiState Associates, Inc (for Viaticus, Inc)
John Runyan, 100 Daingerfield Rd. Alexandria, VA 22314	McGuiness & Williasm
Sagamore Associates, Inc, 1701 K Street, NW #400 Washington, DC 20006	Organizing Committee for the 1998 Goodwill Games, Inc
Marco Sanchez, 1020 E. 27th Street Texarkana, TX 75502-3802	Kingdom of God Information Office, Inc (For:Kingdom of God Philatelic Bureau)
Eric Savader, Muse & Associates 919 18th Street, NW, #1001 Washington, DC 20006	Nutritional Restart Centers
SaveTAC, 1776 Massachusetts Ave., NW, #620 Washington, DC 20036	
Schatz Paquin Lockridge Grindal & Holstein P.L.L.P., 1225 Eye Street, NW, #1025 Washington, DC 20005	Asea Brown Boveri, Inc
Do	Association of Minnesota Counties
Do	Business Technology Centers Management, Inc
Do	City of Minneapolis
Do	Leech Lake Tribal Council
Do	Minnesota Assn of Urban Counties
Do	MEDTRONIC, Inc
Do	U.S. Satellite Broadcasting/Hubbard Broadcasting Co
Ron Schmidt, Schmidt Schroyer Colwill & Moreno, P.C. 124 S. Euclid Avenue Pierre, SD 57501	MultiState Associates, Inc (for Viaticus, Inc)
Diane S. Schneidman, 1640 Wisconsin Ave., NW, First Floor Washington, DC 20007	American College of Surgeons
Nancy Schoephoester, 601 Pennsylvania Ave., NW North Building, Suite 400 Washington, DC 20004	ARCO Alaska, Inc
Roslyne D. W. Schulman, 1111 19th Street, NW, #650 Washington, DC 20036	American College of Emergency Physicians
Shaw Pittman Potts & Trowbridge, 2300 N Street, NW, #5121 Washington, DC 20037	Chevy Chase Bank, F.S.B.
Sherman Insurance Co, 1020 E. 27th Street Texarkana, TX 75502-3802	International Business Assn
Bernard F. Shire, P.O. Box 269 Elizabethtown, PA 17022	American Assn of Meat Processors
David C. Shoaf, 9524 Foxlair Pl. Gaithersburg, MD 20882	Edison Electric Institute
Riley Sikes, P.O. Box 76 Montgomery, AL 36101-0076	Business Council of Alabama
Julie Simon, 2101 L Street, NW, #405 Washington, DC 20037	Electric Generation Assn
Arthur J. Simonetti, 1001 Pennsylvania Ave., NW, #700 Washington, DC 20004	AlliedSignal, Inc
Lee C. Simpson, P.O. Box 6600 Ketchikan, AK 99901	Ketchikan Pulp Co
Mary Sims, 1020 E. 27th Street Texarkana, TX 75502-3802	Miller Nationwide Systems Co (For:Kingdom of Brotherhood Philatelic Bureau)
Skadden Arps Slate Meagher & Flom, 1440 New York Avenue, NW Washington, DC 20005	Fort Howard Corp
Do	Fruit of the Loom
Do	Temple-Inland, Inc
Skipper's Discount Co, 1020 E. 27th Street Texarkana, TX 75502-3802	International Mail Order Assn
Jonathan Slade, 1101 17th Street, NW, #202 Washington, DC 20036	MWW Strategic Communications (For:Hill International)
Edward Del Smith, 1130 Connecticut Ave., NW, #650 Washington, DC 20036	E. Del Smith & Co (For:Apple Valley)
Do	E. Del Smith & Co (For:Circus Circus Entertainment, Inc)
Do	E. Del Smith & Co (For:City of Barstow)
Do	E. Del Smith & Co (For:City of Downey, Econ Development)
Do	E. Del Smith & Co (For:City of Hesperia, CA)
Do	E. Del Smith & Co (For:Limoneira Co)
Do	E. Del Smith & Co (For:Mojave Water Agency)
Do	E. Del Smith & Co (For:Peach, Inc)
Do	E. Del Smith & Co (For:Town of Corte Madera)

Organization or Individual Filing	Employer/Client
Do	E. Del Smith & Co (For:Woods Hole Oceanographic Institute)
Heather L. Smith, 1400 16th Street, NW, #320 Washington, DC 20036	Zero Population Growth
Tony Smith, Schmeltzer Aptaker & Shepard, P.C. 2600 Virginia Avenue, NW, #1000 Washington, DC 20037-1905	Central Bering Sea Fishermen's Assn
Do	City of St. Paul
Smith Dawson & Andrews, Inc, 1000 Connecticut Ave., NW, #302 Washington, DC 20036	Novopharm, USA
Do	South County Cities Working Group
Smith-Free Group, 1500 K Street, NW, #325 Washington, DC 20005	Pittston Co
Sarah E. Snyder, 5025 Wisconsin Ave., NW Washington, DC 20016	Amalgamated Transit Union
Linda M. Spencer, 1317 F Street, NW, #550 Washington, DC 20004	Specialty Equipment Market Assn
Mark V. Stanga, 1725 Jefferson Davis Highway, #201A Arlington, VA 22202	York International Corp
Law Offices of Deborah Steelman, Columbia Square 555 13th Street, NW, #1220 East Washington, DC 20004-1109	Engquist Pelrine & Powell, Inc
Do	Northwestern Memorial Hospital
Do	TheraTx
J. Steiner, 1020 E. 27th Street Texarkana, TX 75502-3802	Phoenix Enterprises co (For:Association of Societies & Associations)
M. D. Steiner, 1020 E. 27th Street Texarkana, TX 75502-3802	Nationwide Supply, Inc (For:World Nations League Barter Assn)
Susan Steinman, 1050 31st Street, NW Washington, DC 20007-4499	Association of Trial Lawyers of America
Thomas Stenzel, 727 N. Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegegable Assn
J. Gordon 'Skip' Stephens Jr., 4700 North 38th Place Arlington, VA 22207-2915	Degussa Corporation
Do	Ethyl Corporation
Steptoe & Johnson, 1330 Connecticut Ave., NW Washington, DC 20036	Hillman Company
Ben A. Stevens, 2300 Clarendon Blvd., #1010 Arlington, VA 22201	Trident
Kari Stevens, 1020 E. 27th Street Texarkana, TX 75502-3802	Trader's Investment Club
Steven F. Stockmeyer, 801 North Fairfax Street, #215 Alexandria, VA 22314	American Osteopathic Assn
Do	Committee on U.S. Business
Do	Michigan Biotechnology Institute
Do	WMX Technologies, Inc
Susan J. Stohr, 9 Stanford Place Montclair, NJ 07042	Adirondack Hydro Development Corp
John C. Stone, 1420 New York Avenue, NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Washington Consulting Group)
Strategic Policy, Inc, 1615 L Street, NW, Suite 650 Washington, DC 20036	COMSAT World Systems
Do	Monsanto Co
Do	National Medical Transportation Assn
Daniella L. Strother, 1101 17th Street, NW, #600 Washington, DC 20036	American Airlines, Inc
Jay R. Sullivan, Jamison & Sullivan, Inc 1212 New York Ave., NW, #1200 Washington, DC 20005	D.R. Johnson Lumber
Do	Native Operating Co
Do	Umatilla Water Users
John H. Sullivan, 510 11th Street, SE Washington, DC 20003	Mary Scott Guest
Kenneth E. Swab, 7310 Stafford Road Alexandria, VA 22307	Kinzler & Swab, L.C. (For:NationsBank Corp)
Loren E. Sweatt, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America
Swidler & Berlin, Chtd, 3000 K Street, NW, #300 Washington, DC 20007	Microsoft Corp
Do	RSR Corporation
Symms Lehn & Associates, Inc, 210 Cameron Street Alexandria, VA 22314	Association of American Railroads
Do	Government of Nigeria
Tammy Jo Szarka, 1515 Wilson Blvd. Arlington, VA 22209	American Gas Assn
Anna Tarka, 1629 Columbia Rd., #400 Washington, DC 20009	Bruce P. Cameron (for Embassy of Mozambique)
Do	Bruce P. Cameron (for Nat'l Council for Maubene Resistance)
Tate Management Co, 1020 E. 27th Street Texarkana, TX 75502-3802	Association of Societies & Associations
Tax Attorneys & Consultants Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	International Arbitration Board Bar Assn
Tim J. Taylor, Kessler & Associates 510 11th Street, SE Washington, DC 20003	Pfizer
Betty-Grace Terpstra, Terpstra Associates 1150 Connecticut Ave., NW Washington, DC 20036	
Kenneth W. Thompson, 1156 15th Street, NW, #505 Washington, DC 20005	Food Development Corp
Paula Thompson, 1130 Connecticut Ave., NW, #300 Washington, DC 20036	Ferguson Company (For:City of Alhambra)
Do	Ferguson Company (For:City of Brea)
Do	Ferguson Company (For:City of Inglewood)
Do	Ferguson Company (For:City of Norwalk)
Do	Ferguson Company (For:City of Oceanside)
Do	Ferguson Company (For:City of Santa Ana)
Do	Ferguson Company (For:City of Santa Monica)
Do	Ferguson Company (For:West Valley City)
Warren C. Thompson III, P.O. Box 1616 Tacoma, WA 98401	Frank Russell Company
William J. Thomson, Dray Madison & Thomson, P.C. 204 East 22nd Street Cheyenne, WY 82001-3799	MultiState Associates, Inc (for Viaticus, Inc)
Kathryne M. Thorpe, 1299 Pennsylvania Ave., NW, #1175 Washington, DC 20004	Science Applications Int'l Corp
Timmons & Co, Inc, 1850 K St., NW, #850 Washington, DC 20006	Envirocare of Utah, Inc
William J. Tobin, 3612 Bent Branch Ct. Falls Church, VA 22041	Americans for Choice in Education
Do	Early Childhood Development Center Legislative Coalition
William P. Toland, 1100 New York Ave., NW, #340 West Washington, DC 20005	BASF Corporation
Michael A. Tongour, 1500 K Street, Suite 325 Washington, DC 20005	Pittston Co
Bronwyn B. Towle, 499 South Capitol Street, SW #507 Washington, DC 20003	Hecht Spencer & Associates (For:Tulalip Tribes of Washington)
Bud Tracy, P.O. Box 617 Malta, ID 83342	Raft River Rural Electric Cooperative, Inc
Trader's Import Co, 1020 E. 27th Street Texarkana, TX 75502-3802	International Import/Export Assn
Trader's Investment Club, 1020 E. 27th Street Texarkana, TX 75502-3802	
Chris Tuffli, Bogle & Gates 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Mineral King District Assn
Do	Santa Fe Pacific Gold Corp
Christopher J. Tully, 5025 Wisconsin Ave., NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO
David Turch & Associates, 517 2nd Street, NE Washington, DC 20002	County of San Bernardino
Do	Dyno Nobel, Inc
Do	Riverside County Transportation Commission
Jerry G. Udell, Udell & Associates 14841 Bauer Drive Rockville, MD 20853	Alabama Retail Assn Workers' Compensation Self-Insurance...
Do	Alabama Roofing Sheetmetal & Air Conditioning Contractors...
Do	Florida Retail Federation
Do	Louisiana Retailers Assn
Do	SCMA Self-Insurers Fund
Uniform & Textile Service Assn, 1300 North 17th Street, #750 Rosslyn, VA 22209	
Anthony Valanzano, 1825 I Street, NW, #400 Washington, DC 20006	River Downs
Valis Associates, 1700 Pennsylvania Ave., NW, #950 Washington, DC 20006	Koch Industries, Inc
Van Ness Feldman, P.C., 1050 Thomas Jefferson St., NW, #700 Washington, DC 20007	Chelan County Public Utility District
Do	Ecogas Corp
Do	Southwest Water Conservation District of Colorado
H. Stewart Van Scoyoc, 1420 New York Ave., NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Washington Consulting Group)
John W. Vandervort, Vandervort Hill & Gosdeck 120 Washington Avenue Albany, NY 12210	MultiState Associates, Inc (for Air Products & Chemicals...)
Do	MultiState Associates, Inc (for Viaticus, Inc)
Vectre Corporation, 411 East Franklin Street, #602 Richmond, VA 23219	MetraHealth
Do	Overnite Transportation Co
Verner Liipfert Bernhard McPherson & Hand, Chtd, 901 15th Street, NW, #700 Washington, DC 20005-2301	Argent Marine Services, Ltd
Do	AECL Technologies, Inc
Do	Fairchild Aircraft
Francis Vespe, 21 Dupont Circle Washington, DC 20036	Scenic America
Vinson & Elkins, 1455 Pennsylvania Ave., NW, #700 Washington, DC 20004-1008	American Gaming Assn
Do	Greater East Texas Higher Education Authority
Do	S.C. Johnson & Son, Inc
Do	Newport Group
Do	Shell Oil Co
Vorys Sater Seymour & Pease, 1828 L Street, NW, #1111 Washington, DC 20036	First National Bank of SE Ohio
R. Duffy Wall & Associates, Inc, 601 13th Street, NW, #410 South Washington, DC 20005	LaFarge Corp
Do	Metropolitan Tulsa Chamber of Commerce
Do	Water Quality Assn
Wallace Coopwood & Associates, 3862 Mulkey Circle Marietta, GA 30060	
Stephen Ward, 1331 Pennsylvania Ave., NW, #1300 North Washington, DC 20004	EDS Corporation
Earl Warren, 1020 E. 27th Street Texarkana, TX 75502-3802	Skipper's Discount Co (For:International Mail Order Assn)
Washington & Christian, 805 15th Street, NW, #1000 Washington, DC 20005	Government of the Federal Republic of Nigeria
Bruce H. Watzman, 1130 17th Street, NW Washington, DC 20036	National Mining Assn
Todd M. Weiss, Kessler & Associates 510 11th Street, SE Washington, DC 20003	Pfizer
Monica Welch, 1331 Pennsylvania Ave., NW, #1300 North Washington, DC 20004	EDS Corporation
William H. Werst Jr., 1600 Wilson Boulevard, #1008 Arlington, VA 22209	Suppliers of Advanced Composite Materials Assn
Do	U.S. Advanced Ceramics Assn

Organization or Individual Filing	Employer/Client
Wheat First Butcher Singer, Inc, 901 East Byrd Street, 5th Floor Richmond, VA 23219	
White & Case, 1747 Pennsylvania Ave., NW Washington, DC 20006-4604	Bud Smith Organization
Dennis E. Whitfield, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)
James Whittinghill, 4800 Old Dominion Drive Arlington, VA 22207	Arter & Hadden (for Sammons Enterprises)
Do	National Soft Drink Assn
Do	Renewable Fuels Assn
Andrew F. Wiessner, Western Land Group 811 Potato Patch Drive Vail, CO 81654	Lake Gulch, Inc
Terry Wigglesworth, 601 Pennsylvania Ave., NW, #540 Washington, DC 20004	Ashland, Inc
Wiley Rein & Fielding, 1776 K Street, NW, 12th Floor Washington, DC 20006	Advanced Integrated Technology, Inc
Do	United Student Aid Group
Wilkinson Barker Knauer & Quinn, 1735 New York Ave., NW Washington, DC 20006	Home Loan & Investment Bank FSB
Do	Maine Cellular Telephone Co
John Williams, Canadian River Municipal Water Authority P.O. Box 99 Sanford, TX 79078	Meyers & Associates
Williams & Jensen, P.C., 1155 21st Street, NW, #300 Washington, DC 20036	America's Public Television Stations
Do	Charitable Accord
Do	Commonwealth Edison
Do	Fort Howard Corp
Do	Glaxo-Wellcome, Inc
Do	National Public Radio
Do	Public Broadcasting Service
Do	Smith Barney, Inc
Willkie Farr & Gallagher, 1155 21st Street, NW, #600 Washington, DC 20036	Town of Riverhead
Do	Town of Riverhead Community Development Agency
Do	United Metal Recyclers
Do	Wilcox Drug Co, Inc
Clifford C. Wilson, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
Scott A. Wilson, 1875 Eye Street, NW, #800 Washington, DC 20006	Tobacco Institute
Jeanne Barber Wilton, 1200 G Street, NW, #400 Washington, DC 20005	Health Industry Manufacturers Assn
Winston & Strawn, 1400 L Street, NW Washington, DC 20005-3502	Financial Credit Insurance Agency
Do	Rhone Poulenc, Inc
Do	Warner-Lambert Co
Do	Washington Public Power Supply System
WinCapitol, Inc, 1207 Potomac Street NW Washington, DC 20007	Constellation Energy, Inc
S.R. Wojdak and Associates, Inc, The Bellevue - Suite 850 200 S. Broad Street Philadelphia, PA 19102	Federal Advocacy for California Education
Christine Wolf, 850 Sligo Ave., #300 Silver Spring, MD 20910	Fund for Animals
Sean Woo, 1150 Connecticut Ave., NW, #1125 Washington, DC 20036	Financial Executives Institute
Kimberly Woodard, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn
Cara M. Woodson, 1735 New York Ave., NW Washington, DC 20006	American Institute of Architects
World Nations League Corporate Code Promotion Assn, 1020 E. 27th Street Texarkana, TX 75502-3802	World Nations League Corporate Code Incorporating Services
Mark A. Wright, 808 17th Street, NW, #200 Washington, DC 20006	Association of Int'l Healthcare Recruiters & Employers
Walter G. Wright Jr., 320 W. Capitol Avenue, #1000 Little Rock, AR 72201-3525	Entergy Corp
Wright & Talisman, 1200 G Street, NW, #600 Washington, DC 20005	Atlantic County Utilities Authority
Do	Bristol Resource Recovery Facility Operating Committee
Do	City of Indianapolis
Do	Connecticut Resources Recovery Authority
Do	Delaware County (PA)
Do	Greater Detroit Resource Recovery Authority
Do	Housatonic Resources Recovery Authority
Do	Marion County Solid Waste Management
Do	Minnesota Resource Recovery Assn
Do	Montgomery County (OH) & Montgomery County Solid Waste Dist
Do	New Jersey Assn of Environmental Authorities
Do	Ohio Prosecuting Attorneys Assn
Do	Penobscot Valley Refuse Disposal District
Do	Resource Authority Sumner County
Do	Solid Waste Authority of Central Ohio
Do	Solid Waste Disposal Authority
Do	Spokane Regional Solid Waste System
Do	York County Solid Waste & Refuse Authority
David J. Wulf, 501 Merchants National Bank Terre Haute, IN 47807	Templeton Coal Co, Inc
Wunder Diefenderfer Cannon & Thelen, 1615 L St., NW, #650 Washington, DC 20036	Mutual Risk Management Ltd
Do	Talon Manufacturing Co, Inc
Ronald D. Wyatt, P.O. Box 75616 Washington, DC 20013-5616	Coalition of Police Professionals
R. A. Yeates, 1299 Pennsylvania Ave., NW, #995 Washington, DC 20004	Furman Group
James Young, 1020 E. 27th Street Texarkana, TX 75502-3802	Sherman Mortgage Co Int'l Investment Banking Dept (For:International Joint Venture Society)

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the third calendar quarter 1995:

(NOTE.—The form used for reporting is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings. This page (Page 1) is designed to supply identifying data, and Page 2 deals with financial data.)

PLEASE RETURN 1 ORIGINAL TO: THE CLERK OF THE HOUSE OF REPRESENTATIVES, OFFICE OF RECORDS AND REGISTRATION, 1036 LONGWORTH HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515

PLEASE RETURN 1 ORIGINAL TO: THE SECRETARY OF THE SENATE, OFFICE OF PUBLIC RECORDS, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19 . . . . . ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th

(Mark one square only)

Is this an Amendment?
☐ YES ☐ NO

IDENTIFICATION NUMBER

NOTE on ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) *"Employee".*—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) *"Employer".*—To file as an "employer", write "None" in answer to Item "B".

(*b*) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

☐ CHECK IF ADDRESS IS DIFFERENT THAN PREVIOUSLY REPORTED

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE on ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER —State name, address, and nature of business. If there is no employer, write "None."

NOTE on ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the specific legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) description, (*b*) quantity distributed, (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed.)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and, if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. *If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page.* Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly Report."◆

STATEMENT OF VERIFICATION

[Omitted in printing]

PAGE 1◆

NOTE on ITEM "D."—*(a)* IN GENERAL. The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—§ 302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In general.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in connection with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multi-purpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In general.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "NONE" in the space following the number.

Receipts (other than loans)

1. $..............Dues and assessments
2. $..............Gifts of money or anything of value
3. $..............Printed or duplicated matter received as a gift
4. $..............Receipts from sale of printed or duplicated matter
5. $..............Received for services (e.g., salary, fee, etc.)
6. $..............TOTAL for this Quarter (Add "1" through "5")
7. $..............Received during previous Quarters of calendar year
8. $..............TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received—"The term 'contribution' includes a . . . *loan* . . ."—§ 302(a).

9. $..............TOTAL now owed to others on account of loans
10. $..............Borrowed from others during this Quarter
11. $..............Repaid to others during this Quarter

12. $..............."Expense Money" and Reimbursements received this Quarter.

Contributors of $500 or More (from Jan. 1 through this Quarter)

13. Have there been such contributors?
Please answer "yes" or "no": ....◆

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last day of this Quarter, total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and Address of Contributor* *("Period"* from Jan. 1 through............................., 19.......)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE on ITEM "E".—*(a)* IN GENERAL. "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—§ 302 (b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) IN CONNECTION WITH LEGISLATIVE INTERESTS:

Fill in every blank. If the answer to any numbered item is "None," write "NONE" in the spaces following the number.

Expenditures (other than loans)

1. $..............Public relations and advertising services
2. $..............Wages, salaries, fees, commissions (other than Item "1")
3. $..............Gifts or contributions made during Quarter
4. $..............Printed or duplicated matter, including distribution cost
5. $..............Office overhead (rent, supplies, utilities, etc.)
6. $..............Telephone and telegraph
7. $..............Travel, food, lodging, and entertainment
8. $..............All other expenditures
9. $..............TOTAL for this Quarter (Add "1" through "8")
10. $..............Expended during previous Quarters of calendar year
11. $..............TOTAL from Jan. 1 through this Quarter (Add "9" and "10")

Loans Made to Others—"The term 'expenditure' includes a . . . *loan* . . ."—§ 302 (b).

12. $..............TOTAL now owed to person filing
13. $..............Lent to others during this Quarter
14. $..............Repayments received during this Quarter

15. *Recipients of Expenditures of $10 or More*________________

If there were no single expenditures of $10 or more, please so indicate by using the word "NONE".

In the case of expenditures made during this Quarter by, or on behalf of, the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7–11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7–15, 8–15, 9–15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Ann Hadley vom Eigen, 1828 L Street, NW, #705 Washington, DC 20036	American Land Title Assn	6,300.00	
Ande M. Abbott, 2722 Merrilee Drive, #360 Fairfax, VA 22031	International Brotherhood of Boilermakers...	421.00	
Jeffrey S. Abboud, 1600 Wilson Boulevard, #1008 Arlington, VA 22209	Gas Turbine Assn	455.00	7.50
Do	Suppliers of Advanced Composite Materials Assn	195.00	2.40
Do	U.S. Advanced Ceramics Assn	3,652.50	187.57
Paul C. Abenante, 1350 I Street, NW, #1290 Washington, DC 20005	American Bakers Assn		
George Abney, 1785 Massachusetts Ave., NW Washington, DC 20036	National Trust for Historic Preservation		
Pamela Abney, 1101 Vermont Ave., NW, #710 Washington, DC 20005	American Veterinary Medical Assn	90.00	
Richard M. Aborn, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	6,149.46	
Adele L. Abrams, 1415 Elliot Place, NW Washington, DC 20007	National Stone Assn	4,000.00	500.00
Matthew J. Abrams, 1220 19th Street, NW, #400 Washington, DC 20036	CANAMCO (For:Aerospace Industries Assn of Canada)	1,200.00	
Steve Abrams, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Comm	19,999.98	431.00
Adrian Acevedo, P.O. Box 2880 Dallas, TX 75221-2880	Oryx Energy Company		
Elaine Acevedo, 666 Pennsylvania Ave., SE, #403 Washington, DC 20003	Florist's Transworld Delivery Assn	8,000.00	
Rodney J. Ackerman, 1450 Poydras Street New Orleans, LA 70112-6000	CNG Producing Company	750.00	
Charles A. Acquard, 2301 M Street, NW Washington, DC 20037	American Public Power Assn	1,000.00	
Beth P. Adams, 1010 Wisconsin Ave., NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc	127.34	
Cecelia A. Adams, 1901 Pennsylvania Avenue, NW, 10th Floor Washington, DC 20006	International Mass Retail Association	3,000.00	
Jane A. Adams, 1100 New York Ave., NW, #340-West Washington, DC 20005	BASF Corporation	354.11	211.36
Jane M. Adams, 818 Connecticut Avenue, NW, #303 Washington, DC 20006	National Assn for Biomedical Research	799.00	
John M. Adams, 909 N. Washington Street, #301 Alexandria, VA 22314	Retired Enlisted Assn	2,372.00	
David S. Addington, 801 Pennsylvania Ave., NW Washington, DC 20004	Baker Donelson Bearman & Caldwell (For:Competitive Long Distance Coalition, Inc).	45,769.22	
Allan R. Adler, 1333 New Hampshire Ave., NW, #600 Washington, DC 20036	Cohn & Marks (For:Association of American Publishers)	500.00	
Do	Cohn and Marks (For:Direct Marketing Assn)		
Gabriel Adler, 1722 Eye Street, NW Washington, DC 20006	Sidley & Austin (For:Borden, Inc)		
Michael B. Adlin, 1801 K Street, NW, Suite 400K Washington, DC 20006	Arter & Hadden (For:Nintendo of America)		
Advanced Display Manufacturers of America, 3050 K Street, NW, #400 Washington, DC 20007			
Advanced Strategies, 945 Concord Street Framingham, MA 01701	Investment Company Institute	15,000.00	646.00
Advertising Mail Marketing Assn, 1333 F Street, NW, #710 Washington, DC 20004-1108		618.00	618.00
Advocacy Group, 1350 I Street, NW, #680 Washington, DC 20005	American Chiropractic Assn		
Do	American Institute for Foreign Study		
Do	Amorphus Technologies International		
Do	Arizona State University		
Do	Border Trade Alliance		
Do	Brown & Root, Inc		
Do	City of Tempe		
Do	Dowling College		
Do	Florida Board of Regents Foundation, Inc		
Do	Intel Supercomputing Division		
Do	Livingston Health Care Services		
Do	National Assn of Small Business Investment Cos		
Do	National Fuel & Energy, Inc		
Do	Palmer Chiropractic University		
Do	Port of Brownsville, Texas		
Do	Sam Houston State University		
Do	Silicon Graphics, Inc		
Do	U.S. Surgical Corp		
Do	University of Utah		
Do	University of Virginia/Continuing Education		
Advocates for Highway & Auto Safety, 750 First, NE Suite 901 Washington, DC 20002			16,187.50
Aerospace Industries Assn of America, Inc, 1250 Eye Street, NW, #1100 Washington, DC 20005		6,227.50	6,227.50
Kathryn M. Agate, 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	500.00	
John Aguirre, 727 North Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	4,500.00	
David J. Aho, 800 Connecticut Avenue, NW Suite 1100 Washington, DC 20006	Baxter	4,000.00	560.00
Patricia W. Aho, 45 Memorial Circle Augusta, ME 04330-6400	American Petroleum Institute	561.00	
Robert S. Aiken, 800 Connecticut Avenue, NW, #610 Washington, DC 20006	Pinnacle West Capital Corp	24,000.00	7,803.31
Herbert Allen Ailsworth, 1615 L Street, NW, #420 Washington, DC 20036	Sandoz Corp		400.00
Air Products & Chemicals, Inc, 805 15th Street, NW, #330 Washington, DC 20005		16,000.00	16,000.00
Air Taser, Inc, 7307 East Evans Road Scottsdale, AZ 85260			
Aircraft Owners & Pilots Assn, 421 Aviation Way Frederick, MD 21701		10,000.00	23,574.73
Airports Council International - North America, 1775 K Street, NW, #500 Washington, DC 20066			37,621.30
Akin Gump Strauss Hauer & Feld, L.L.P., 1333 New Hampshire Ave., NW, #400 Washington, DC 20036	A.E. Staley Manufacturing	100.00	
Do	Air Transport Assn of America		
Do	Alliance of American Insurers		
Do	Amerada Hess Corp	500.00	
Do	American Airlines, Inc	22,060.00	418.00
Do	American Financial Corp	351.75	16.00
Do	American Share Insurance Corporation	150.00	
Do	American Telephone & Telegraph Co	34,220.00	646.00
Do	Arthur T. Walker	100.00	
Do	Baxter International, Inc	100.00	
Do	Bechtel Group, Inc		
Do	Belridge Water Storage District	335.00	
Do	Bolt Beranek & Newman, Inc		
Do	Cincinnati Companies	335.00	16.00
Do	City of Houston	780.00	19.00
Do	Collagen Corporation	2,280.00	38.00
Do	Dover Corporation	765.00	
Do	Dow Jones & Co	100.00	
Do	Envirotest Systems Corp	13,800.00	247.00
Do	Fremont Group, Inc		
Do	General Instrument Corporation	1,165.00	19.00
Do	Government of Norway		
Do	Hampstead Group	2,400.00	38.00
Do	Hoechst Celanese Corp	1,005.00	19.00
Do	Home Office Assn of America		
Do	Hooters, Inc, et al.	4,750.00	76.00
Do	Joint Corporate Comm on Cuban Claims	4,015.00	76.00
Do	Liberty Mutual Insurance Co	7,440.00	114.00
Do	MacAndrews & Forbes Holdings, Inc	725.00	
Do	Manufactured Housing Institute	2,170.00	38.00
Do	Mazda (North America), Inc		
Do	Medical Protective Company		
Do	Mellon Bank Corp		
Do	Memorial Sloan-Kettering Cancer Center	100.00	
Do	Metropolitan Transit Authority of Harris County	5,925.00	95.00
Do	Miller Brewing Company	100.00	
Do	Robert Mondavi Winery	3,045.00	57.00
Do	Morgan Stanley & Co, Inc		
Do	Mortgage Guaranty Insurance Corp		
Do	Mortgage Insurance Cos of America	11,880.00	209.00
Do	Motion Picture Assn of America, Inc	6,380.00	114.00
Do	Municipal Financial Consultants, Inc	117.25	16.00
Do	MCA, Inc	1,570.00	
Do	Nationwide Mutual Insurance Company	519.25	16.00
Do	New York Public Library		
Do	Oranka, Inc		
Do	Perot Systems Corp		
Do	Riggs National Corp	600.00	
Do	Ryder System, Inc	12,500.00	228.00
Do	Sidmak Laboratories, Inc	100.00	
Do	Southern California Edison Co		
Do	Tenet Healthcare Corporation	1,030.00	19.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Time-Warner		
Do	Transamerica Financial Services	6,300.00	114.00
Do	Uranium Producers of America	820.00	
Do	USA Group, Inc	6,725.00	114.00
Do	Warner-Lambert Co	1,600.00	19.00
Do	Westfield Companies	335.00	16.00
Do	Westinghouse Electric Corp	3,420.00	
William E. Albers, 11 Dupont Circle, NW, #300 . Washington, DC 20036-1207	Albers & Company (For:May Department Stores Co)		
James J. Albertine, 1156 15th Street, NW, #505 Washington, DC 20005	Albertine Enterprises, Inc (For:Association of School Business Officials International).	500.00	70.00
Do	Albertine Enterprises, Inc (For:Coalition for Customer Choice in Electricity)	250.00	60.00
Do	Albertine Enterprises, Inc (For:Exide Electronics)	250.00	120.00
Do	Albertine Enterprises, Inc (For:Food Development Corp)		
Do	Albertine Enterprises (For:Fruit of the Loom, Inc)	1,600.00	250.00
Do	Albertine Enterprises, Inc (For:Greater Washington Society of Assn Executives)	100.00	30.00
Do	Albertine Enterprises, Inc (For:Itron and Amrplus Partners)	40.00	70.00
Do	Albertine Enterprises, Inc (For:Potomac Capital Investment Corp)	200.00	120.00
Do	Albertine Enterprises, Inc (For:Stairway Manufacturers Assn, Inc)	250.00	120.00
Do	Albertine Enterprises, Inc (For:Sunbeam-Oster Co, Inc)	400.00	225.00
Do	Albertine Enterprises, Inc (For:SMS Corp)	1,500.00	250.00
John M. Albertine, 1156 15th Street, NW, #505 Washington, DC 20005	Albertine Enterprises, Inc (For:Association of School Business Offcials International).	900.00	100.00
Do	Albertine Enterprises, Inc (For:Coalition for Customer Choice in Electricity)	300.00	120.00
Do	Albertine Enterprises, Inc (For:Coalition for Protection of Competition in Inform Services).	100.00	35.00
Do	Albertine Enterprises, Inc (For:Exide Electronics, Inc)	900.00	70.00
Do	Albertine Enterprises, Inc (For:Food Development Corp)		
Do	Albertine Enterprises, Inc (For:Fruit of the Loom, Inc)	6,000.00	300.00
Do	Greater Washington Society of Assn Executives	60.00	70.00
Do	Albertine Enterprises, Inc (For:Itron and Amrplus Partners)	60.00	50.00
Do	Albertine Enterprises, Inc (For:Potomac Capital Investment Corp)	300.00	70.00
Do	Albertine Enterprises, Inc (For:Stairway Manufacturers Assn, Inc)	60.00	30.00
Do	Albertine Enterprises, Inc (For:Sunbeam-Oster Co, Inc)	500.00	225.00
Do	Albertine Enterprises, Inc (For:SMS Corp)	1,500.00	155.00
Albertine Enterprises, Inc, 1156 15th Street, NW, #505 Washington, DC 20005	Association of School Business Officials International	1,500.00	300.00
Do	Coalition for Customer Choice in Electricity	500.00	125.00
Do	Coalition for Protection of Competition in Inform Services	200.00	15.00
Do	Exide Electronics, Inc	1,500.00	240.00
Do	Food Development Corp		
Do	Fruit of the Loom, Inc	3,000.00	700.00
Do	Greater Washington Society of Assn Executives	100.00	70.00
Do	ITRON and AMRplus Partners, Inc	200.00	125.00
Do	Potomac Capital Investment Corp	500.00	60.00
Do	Stairway Manufacturers Assn, Inc	500.00	125.00
Do	Sunbeam-Oster Co, Inc	1,000.00	250.00
Do	SMS Corp	2,500.00	300.00
Dale L. Alberts, 6305 Waterford Blvd., Suite 325 Oklahoma City, OK 73118	Rio Algom Mining Corp	8,440.00	14,044.00
Alcalde & Fay, 2111 Wilson Blvd., #850 Arlington, VA 22201	School Board of Broward County	4,000.00	
Gary Aldridge, P.O. Box 3087 Shepherdstown, WV 25443	In Defense of Animals		
Arthur J. Alexander, 1000 Connecticut Ave., NW Washington, DC 20036	Japan Economic Institute of America	500.00	
William Alexander, 1425 Ironwood Drive McLean, VA 22101	Azerbaijan Study Foundation	10,000.00	
Pamela J. Allen, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268	National Assn of Mutual Insurance Companies	291.50	
Virgil Allen, 1300 I St., NW, #470E Washington, DC 20005	Project Acta, Inc	100.00	
Alliance for Competitive Transportation, 1201 Pennsylvania Ave., NW, #821 Washington, DC 20004		18,050.75	3,105.56
Alliance for Reasonable Regulation, 1331 Pennsylvania Ave., NW Suite 1500-North Tower Washington, DC 20004-1790		886,897.82	886,897.82
Alliance of American Insurers, 1211 Connecticut Avenue, NW, #400 Washington, DC 20036			114,209.34
Alliance of Nonprofit Mailers, 2001 S Street, NW, #301 Washington, DC 20009		437.73	5,672.57
Ed Allison, Inc, 145 Brinkby Avenue, Suite B Reno, NV 89509	National Medical Care	13,000.00	
Do	University of Nevada/Las Vegas Research Center	7,500.00	
Alston & Bird, 601 Pennsylvania Avenue, NW, #250 Washington, DC 20004-2601	GTE Mobilnet	27,500.00	
Do	Municipal Electric Authority of Georgia	2,571.00	55.40
Do	Municipal Gas Authority of Georgia	3,375.00	377.00
Harvey Alter, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce		
William J. Althaus, 901 N. Washington Street, #400 Alexandria, VA 22314	National Smokers Alliance		
Amalgamated Transit Union, AFL-CIO, 5025 Wisconsin Avenue, NW Washington, DC 20016			7,000.00
John O. Ambler, 2000 Westchester Avenue White Plains, NY 10650	Texaco Group, Inc		
America's Community Bankers, 900 19th Street, NW Washington, DC 20006		2,460,931.86	164,667.19
American Academy of Family Physicians, 8880 Ward Parkway Kansas City, MO 64114		52,829.17	52,829.17
American Academy of Ophthalmology, 1101 Vermont Ave., NW, #300 Washington, DC 20005			51,701.14
American Advertising Federation, 1101 Vermont Ave., NW, #500 Washington, DC 20005			
American Amusement Machine Assn, 450 East Higgins Road Elk Grove Village, IL 60007-1417		10,500.00	37,794.36
American Apparel Manufacturers Assn, Inc, 2500 Wilson Blvd., #301 Arlington, VA 22201			5,268.00
American Assn for Respiratory Care, 11030 Ables Lane Dallas, TX 75229		50,611.92	50,611.92
American Assn of Airport Executives, 4212 King Street Alexandria, VA 22302			45,147.48
American Assn of Meat Processors, P.O. Box 269 Elizabethtown, PA 17022		139.94	50.00
American Assn of Retired Persons, 601 E Street, NW Washington, DC 20049		1,176,346.67	1,176,346.67
American Assn of University Women, 1111 16th Street, NW Washington, DC 20036			186.34
American Automobile Manufacturers Assn, 1401 H Street, NW, suite 900 washington, DC 20005		151,557.29	151,557.29
American Bankers Assn, 1120 Connecticut Avenue, NW Washington, DC 20036		383,339.19	383,339.19
American Cemetery Assn, 1895 Preston White Drive, Suite 220 Reston, VA 22091-5434			
American Continental Group, Inc, 601 Pennsylvania Avenue, NW Suite 900 Washington, DC 20004	AKT Development Corporation		
Do	Compex Corporation		
Do	Flowind Corporation		
Do	Hill International, Inc		
Do	Maristique Papers, Inc		
Do	Mayer Brown & Platt		
Do	National Assn of Retail Collection Attorneys		
Do	Ncube		
Do	Omni-Tech Medical Inc		
Do	Syracuse University		
American Council for Capital Formation, 1750 K Street, NW, #400 Washington, DC 20006		24,430.00	25,756.00
American Defense International, Inc, 1019 19th Street, NW, #350 Washington, DC 20036	CASA Aircraft USA, Inc	12,000.00	149.61
Do	Marine Energy Systems		
Do	Munitions Industrial Base Task Force	12,000.00	
American Egyptian Chamber of Commerce, 815 Connecticut Ave., NW, #900 Washington, DC 20006			
American Farm Bureau Federation, 225 Touhy Avenue Park Ridge, IL 60068		232,695.00	232,395.00
American Fed of Labor & Congress of Industrial Organizations, 815 16th St., NW Washington, DC 20006			174,529.48
American Financial Services Assn, 919 18th Street, NW Washington, DC 20006			1,000.00
American Foreign Service Assn, 2101 E Street, NW Washington, DC 20037		6,164.00	32,931.00
American Forest & Paper Assn, 1111 19th Street, NW Washington, DC 20036			19,550.00
American Frozen Food Institute, 1764 Old Meadow Rd., #350 Mclean, VA 22102		12,000.00	12,000.00
American Gaming Assn, 555 13th Street, NW, #430 West Washington, DC 20004		37,500.00	28,083.22
American Health Care Assn, 1201 L Street, NW Washington, DC 20005		364,400.00	117,529.53
American Hotel & Motel Assn, 1201 New York Ave., NW Washington, DC 20005		48,285.93	27,535.56
American Institute of Merchant Shipping, 1000 16th Street, NW, #511 Washington, DC 20036			30,289.60
American Insurance Assn, 1130 Connecticut Avenue, NW, #I000 Washington, DC 20036		12,401.00	7,335.00
American International Group, Inc, 70 Pine Street New York, NY 10270			97,228.77
American Israel Public Affairs Comm, 440 First Street, NW, #600 Washington, DC 20001		163,409.00	221,347.89
American Land Title Assn, 1828 L St., NW, #705 Washington, DC 20036			6,650.00
American Lands Access Assn, Inc, 13732 N.E. 12th St., #201 Bellevue, WA 98005		6,758.97	7,847.28
American League for Exports & Security Assistance, Inc, 122 C St., NW, #740 Washington, DC 20001		15,000.00	18,303.18
American Library Assn, 50 E. Huron Street Chicago, IL 60611		1,610.75	12,245.48
American Life League, Inc, Box 1350 Stafford, VA 22555		25,000.00	11,373.40
American Malting Barley Assn, Inc, 735 North Water Street, #908 Milwaukee, WI 53202		19,666.17	3,492.68

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
American Medical Assn, 515 North State Street Chicago, IL 60610			388,886.23
American Medical Security, 3100 AMS Boulevard P.O. Box 19032 Green Bay, WI 54307-9032			28,289.07
American Occupational Therapy Assn, Inc, 4720 Montgomery Lane P.O. Box 31220 Bethesda, MD 20824-1220		23,781.46	23,781.46
American Optometric Assn, 1505 Prince Street, #300 Alexandria, VA 22314			
American Petroleum Institute, 1220 L St., NW Washington, DC 20005		405,028.96	347,009.58
American Physical Therapy Assn, 1111 N. Fairfax Street Alexandria, VA 22314		12,475.91	12,475.91
American Podiatric Medical Assn, 9312 Old Georgetown Road Bethesda, MD 20814-1621			23,425.52
American Portland Cement Alliance, 1212 New York Avenue, NW, #500 Washington, DC 20005			83,171.19
American Public Transit Assn, 1201 New York Avenue, NW Washington, DC 20005		133,362.00	133,362.00
American Pulpwood Assn, 600 East Jefferson Street, Suite 350 Rockville, MD 20852			
American Radio Relay League, Inc, 225 Main Street Newington, CT 06111			17,918.00
American Retreaders' Assn, P.O. Box 37203 Louisville, KY 40233		500.00	500.00
American Short Line Railroad Assn, 1120 G Street NW, #520 Washington, DC 20005			6,060.13
American Soc of Anesthesiologists, 1101 Vermont Ave, NW, #606 Washington, DC 20005			51,951.32
American Soc of Health-System Pharmacists, 7272 Wisconsin Avenue Bethesda, MD 20814			29,804.00
American TelNet, Inc, 21000 N.E. 28th Avenue, #202 Miami, FL 33180			
American Veterans of World War II, Korea & Vietnam (AMVETS), 4647 Forbes Boulevard Lanham, MD 20706			27,200.00
American Veterinary Medical Assn, 1101 Vermont Avenue, NW, #710 Washington, DC 20005-3621		90.00	
American Waterways Operators, Inc, 1600 Wilson Boulevard, #1000 Arlington, VA 22209		499,275.00	5,361.76
Americans for Immigration Control, Inc, 725 2nd Street, NE Washington, DC 20002		15,833.56	15,833.56
Americans for Nonsmokers' Rights, 2530 San Pablo Ave., #J Berkeley, CA 94702		4,610.00	4,610.00
AmeriChoice Health Services, Inc, 8045 Leesburg Pike, Suite 650 Vienna, VA 22182			310.00
Amie Amiot, 10801 Rockville Pike Rockville, MD 20815	American Speech-Language-Hearing Assn		
Morris J. Amitay, P.C., 444 N. Capitol Street, NW, #712 Washington, DC 20001	American Assn of Pharmaceutical Distributors		
Do	Northrop Grumman Corporation	16,000.00	
Do	Thermedics Detection, Inc	7,500.00	608.86
Do	TRW Spce & Electronics Group	5,000.00	
Daniel G. Amstutz, 1300 L Street, NW, #900 Washington, DC 20005	North American Export Grain Assn, Inc		24.75
Jeffrey M. Anders, 1100 15th Street, NW, #900 Washington, DC 20005	Pharmaceutical Research & Manufacturers of America		
Bryan D. Anderson, 800 Connecticut Ave., NW, Suite 711 Washington, DC 20006	Coca-Cola Co	132.00	111.57
Byron Anderson, 1001 Pennsylvania Ave, NW, #460(N) Washington, DC 20004-2505	New York Life Insurance Company	450.00	134.00
Carl A. Anderson, 401 Michigan Avenue, NE Washington, DC 20017	Knights of Columbus	500.00	
Caroline Anderson, 600 Maryland Ave., SW Washington, DC 20024	American Farm Bureau Federation	5,375.00	530.07
Cynthia C. Anderson, 750 17th Street, NW 4th Floor Washington, DC 20006-4607	Enron Corp	3,000.00	
David J. Anderson, 66 S. Pearl Street Albany, NY 12207	KeyCorp/Key Bank of New York		
Frederick M. Anderson, Box 3000 - Bldg. 5803 ECIFi, Dix J Fort Dix, NJ 08640-3000			
John A. Anderson, 1333 H St., NW, The West Tower, 8th Flr Washington, DC 20005	Electricity Consumers Resource Council (ELCON)		
Lori Anderson, 1275 K Street, NW, Suite 400 Washington, DC 20005	Society of the Plastics Industry, Inc		
Mahlon G. Anderson, 12600 Fair Lakes Circle Fairfax, VA 22033-4904	AAA Potomac	120.00	
Margo L. Anderson, 1725 Jefferson Davis Highway, Suite 901 Arlington, VA 22202	Alliant Techsystems, Inc		
Philmore B. Anderson, 412 1st Street, SE, Suite 300 Washington, DC 20003	Independent Insurance Agents of America	9,806.00	
Richard F. Anderson, 1155 Connecticut Ave., NW, #800 Washington, DC 20036	WMX Technologies Inc	11,500.00	
Steven Anderson, 1764 Old Meadow Rd, #350 McLean, VA 22102	American Frozen Food Institute	6,600.00	
Tobyn J. Anderson, 601 Thirteenth Street, NW, #320 South Washington, DC 20005	National Independent Energy Producers	5,000.00	
Andrews' Associates, Inc, 2550 M St., NW, #375 Washington, DC 20037	American Soc of Assn Executives		
Do	Blue Cross and Blue Shield of ND	20,000.00	
Do	Mars, Inc		
Do	National Trailer Dealers Assn		
Do	Safeguard America's Family Enterprises		
Ernest Antczak, 27777 Inkster Road Farmington Hills, MI 48334	Michigan National Corp		
Thomas D. Anthony, 2500 PNC Center Cincinnati, OH 45202	Frost & Jacobs (For:Comprehensive Medical, Inc)		
Do	Frost & Jacobs (For:Western Hills Imaging Center, Inc)		
Apartment & Office Building Assn of Metropolitan Washington, 1050 17th Street, NW, #300 Washington, DC 20036			
Judith C. Appelbaum, 1616 P Street, NW, #100 Washington, DC 20036	National Women's Law Center		164.50
William H. Applegate, 1001 Pennsylvania Ave., NW, #725S Washington, DC 20004	American Soc of Clinical Pathologists		
James N. Arbury, 1850 M Street, NW, Suite 540 Washington, DC 20036	National Multi Housing Council	2,700.00	
Paul W. Arcari, 201 N. Washington Street Alexandria, VA 22314	Retired Officers Assn	8,860.00	
R. M. Julie Archuleta, 1747 Pennsylvania Avenue, NW, 3rd Fl. Washington, DC 20006	Occidental Chemical Corp	312.50	273.55
Samuel J. Ard, P.O. Box 1794 Tallahassee, FL 32302	St. Joe Paper Co	327.00	1,076.00
Arent Fox Kintner Plotkin & Kahn, 1050 Connecticut Ave., NW Washington, DC 20036-5339	American Amusement Machine Assn	17,889.34	3,072.26
Do	American Assn of Bioanalysts	13,588.29	4,328.69
Do	American Assn of Occupational Health Nurses	15,967.54	432.63
Do	American Board of Examiners in Clinical Social Work	93.55	20.16
Do	American TelNet, Inc	337.50	
Do	Association of Professional Flight Attendants		
Do	Children With Attention Deficit Disorder (CHADD)		
Do	Children's Health Fund		
Do	Columbia University	3,305.00	1,545.45
Do	Forschner Group, Inc	40,562.32	717.19
Do	Health Commons Institute		44.00
Do	Health Industry Initiative		
Do	Hoechst Marion Roussel, Inc	5,314.93	215.42
Do	Independent Federation of Flight Attendants	1,322.32	63.15
Do	International Society for Clinical Laboratory Technology	3,000.32	0.40
Do	Mercy Hospital of Des Moines, Iowa	4,796.00	215.22
Do	National Assn of Recording Merchandisers	930.33	
Do	National Parking Association		
Do	Navajo Nation	63,117.93	941.55
Do	North American Training Services, Inc		
Do	Prime Time 24	17,929.14	420.63
Do	Raytheon Company	30,936.42	561.88
Do	Video Software Dealers Assn	104.75	21.62
Do	Worksite Health Promotion Alliance	2,000.64	812.15
Arizona Students' Assn, 511 West University Drive Suite 4 Tempe, AZ 85281-5585			1,675.30
Thipphavone Phabmixay Ark, 1535 Mission Street San Francisco, CA 94103	Consumers Union of U.S., Inc		
John G. Arlington, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn	425.00	
David C. Armijo, 401 Coors Boulevard, NW Albuquerque, NM 87121	Westland Development Co, Inc	500.00	2,689.80
Luther Glenn Arnette, 1101 Mercantile Lane, Suite 100 Landover, MD 20785	American Military Society (AMS)		
Thomas K. Arnold, 6043 Shaffer Drive Alexandria, VA 22310	DeAngelus Schafer & Associates (for CABFETVN)	13,600.00	62.12
Do	DeAngelus Schaffer & Asosciates (for TASA)	4,165.00	
Arnold & Porter, 555 Twelfth Street, NW Washington, DC 20004-1202	American Red Cross		
Do	Atlantic Richfield Co	10,611.58	
Do	Bessemer Group, Inc	2,836.05	
Do	Building and Construction Trade Department, AFL-CIO		
Do	City of Reading		
Do	Commissioner, Dept of Telecommunications City of New York		
Do	Computer Sciences Corp		
Do	Continental Corporation		
Do	General Cable Corp		
Do	General Conference of Seventh-day Adventists	669.75	
Do	Glaxo Wellcome, Inc		
Do	Greenwich Capital Markets, Inc	6,309.62	40.53
Do	Hoffmann-La Roche, Inc		
Do	Hopi Indian Tribe		
Do	Michigan National Corp (for: Beverly Hills Fed Savings Bank)		
Do	Montefiore Medical Center		
Do	Motorola, Inc	16,815.23	113.87
Do	National Assn of Telecommunications Officers & Advisors		
Do	National Coordinating Comm for Multiemployer Plans	8,750.00	414.42
Do	Paine Webber Group, Inc		
Do	Philip Morris, Inc	1,946.60	
Do	Recording Industry Assn of America, Inc	12,993.81	
Do	Republic of Venezuela		
Do	Scripps Research Institute		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Stanford University		
Do	State Farm Mutual Automobile Insurance Co	17,264.29	20.68
Do	Tambrands, Inc		
Do	Unilever United States, Inc		
Thomas M. Arrasmith, 1301 K Street, NW, #1200 Washington, DC 20006	IBM Corp	11,006.14	573.07
Deborah McNeal Arrindell, 519 C Street NE Washington, DC 20002	Home Care Aide Assn of America/National Assn for Home Care	200.00	
Debra B. Arrington, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	17,500.00	
Arter & Hadden, 1801 K Street, NW, #400K Washington, DC 20006	American Insurance Assn	3,750.00	1,600.00
Do	American Koyo Corp	1,480.00	727.00
Do	Association for Responsible Thermal Treatment	4,200.00	1,195.00
Do	Bristol Myers Squibb Co		
Do	BKK Corporation	2,090.00	815.00
Do	Can Manufacturers Institute		
Do	Cellular Telecommunications Industry Assn	4,600.00	2,942.00
Do	Centerior Energy Corp		
Do	Central & South West Corp	3,000.00	2,480.00
Do	Circus Circus Enterprises, Inc	1,125.00	490.00
Do	Citicorp	2,500.00	2,120.00
Do	Corning, Inc	8,300.00	4,935.00
Do	CAI Wireless	3,050.00	2,250.00
Do	Electronic Data Systems Corp		
Do	Fairchild Aircraft, Inc	4,450.00	2,665.00
Do	Federated Investors		
Do	Financial Guaranty Insurance Corp		
Do	Great Lakes Museum of Science Environment & Technology	1,500.00	650.00
Do	Hearst Corp	2,250.00	950.00
Do	Hicks Muse Tate & Furst		
Do	Hong Kong Economic & Trade Office	2,785.00	1,520.00
Do	Hunt Valve Co, Inc	374.00	190.00
Do	Information Technology Industry Council	350.00	105.00
Do	Investment Company Institute		
Do	Jeffries & Co, Inc		
Do	LTV Corp		
Do	Malrite Communications		
Do	Monsanto		
Do	Motorola	13,170.00	9,755.00
Do	Mt Carmel Health	594.00	285.00
Do	National Assn of Broadcasters	2,500.00	2,040.00
Do	Nintendo of America		
Do	Pinpoint Communications		
Do	Sammons Enterprises, Inc	2,200.00	1,760.00
Do	Snap-on, Inc	1,375.00	425.00
Do	Southwest Florida Enterprises, Inc		
Do	Tesoro Petroleum	4,125.00	2,005.00
Do	Tribal Alliance of Northern California	5,050.00	3,735.00
Do	TCI/Liberty	7,250.00	3,680.00
Do	U.S. Long Distance Corp	6,750.00	5,410.00
Do	United Services Automobile Assn		
Do	Westinghouse Electric Corp	7,250.00	4,175.00
Do	Whirlpool Corp	9,825.00	2,365.00
Do	Working Group on R&D	2,400.00	1,880.00
Do	WorldCom, Inc	2,250.00	1,560.00
Anne Asher, 1130 Connecticut Ave., NW, Suite 830 Washington, DC 20036	Southern Company Services, Inc		4,254.09
Asian Pacific Economic Educational Cultural Organization, P.O. Box 891 Manila, Philippines			
Donald D. Asmonga, 1919 Pennsylvania Ave., NW, Suie 300 Washignton, DC 20006	American Health Information Management Assn	4,256.24	42.00
Associated General Contractors of America, 1957 E St., NW Washington, DC 20006			16,500.00
Associated Students of Northern Arizona University, P.O. Box 6003 Flagstaff, AZ 86011-6003			
Association of American Publishers, 1718 Connecticut Avenue, NW Washington, DC 20009-1148		20,491.00	20,491.00
Association of American Railroads, American Railroads Building 50 F Street, NW Washington, DC 20001		153,279.89	153,729.89
Association of American Veterinary Medical Colleges, 1101 Vermont Avenue, NW, #710 Washington, DC 20005			
Association of Bankruptcy Professionals, Inc, P.O. Box 1394 Lynchburg, VA 24505			1,147.13
Association of Maximum Service Television, Inc, 1776 Massachusetts Avenue, NW, #310 Washington, DC 20036			120.00
Association of Oil Pipe Lines, 1725 K St., NW Washington, DC 20006			
Association of State & Territorial Health Officials, 415 Second Street, NE, Suite 200 Washington, DC 20002			2,250.00
Bob Asztalos, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	14,000.00	408.62
Carol F. Aten, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn		
Elise Atkins, 1700 Pennsylvania Ave., NW, #950 Washington, DC 20006	Valis Associates	22,500.00	
Atlantic Richfield Co, 515 South Flower Street Los Angeles, CA 90071			2,216.00
Fritz E. Attaway, 1600 Eye St., NW Washington, DC 20006	Motion Picture Assn of America, Inc	2,220.00	128.27
Jonathan P. Atwood, 100 West Putnam Avenue Greenwich, CT 06830	UST Public Affairs, Inc		
Kenneth E. Auer, 50 F Street, NW, #900 Washington, DC 20001	Farm Credit Council	140.00	640.00
Linda M. Auglis, 1100 South Washington Street Alexandria, VA 22314-4494	National Beer Wholesalers Assn	488.61	204.67
Frank W. Ault, 2009 N. 14th Street, #300 Arlington, VA 22201	American Retirees Assn	4,000.00	
John S. Autry, 1133 Connecticut Avenue, NW, #1010 Washington, DC 20036	JSA-1, Inc	10,000.00	1,433.45
Les AuCoin, Bogle & Gates 1299 Pennsylvania Ave., NW, #875 East Washington, DC 20004	City of Gresham		
Do	Confederated Tribes of the Grand Ronde	101.00	
Do	International Paper	434.00	
Do	Northwest Forest Resource Council	859.00	
Do	Tillamook Creamery Assn	515.00	
Avon Products, Inc, 9 West 57th Street New York, NY 10019			
Merribel Symington Ayres, 601 13th Street, NW, #320 South Washington, DC 20005	National Independent Energy Producers	7,678.13	
AOPA Legislative Action, 500 E Street, SW, #920 Washington, DC 20024		318,467.00	218,690.00
ARCO Chemical Co, 3801 West Chester Pike Newtown Square, PA 19073			
Edward J. Babbitt, 400 Broadway Cincinnati, OH 45202	Western & Southern Life Insurance Co		
Gregory R. Babyak, 1747 Pennsylvania Ave., NW, #900 Washington, DC 20006	Contact Lens Institute		
Do	Genentech		
Do	MacAndrews & Forbes Holding, Inc		
Wendy Baer, 4214 King Steet, West Alexandria, VA 22302	IHPA - The International Wood Products Assn	87.20	42.19
Charlotte M. Bahin, 900 19th Street, NW, Suite#400 Washington, DC 20006	America's Community Bankers		
George F. Bailey Jr., 400 South Union Street, #495 Montgomery, AL 36104	CSX Transportation		
William W. Bailey, 1201 Connecticut Avenue, NW, #300 Washington, DC 20036	Bailey & Robinson (For:Nonprescription Drug Manufacturers Assn)		
Bailey & Robinson, 1201 Connecticut Avenue, NW, #300 Washington, DC 20036	Bayer Corporation	37,500.00	
Do	Natural Disaster Coalition	9,000.00	
Do	North American Vaccine, Inc	75,000.00	
Do	NDMA	31,686.25	
Do	Ormet	30,000.00	
Deborah Baker, 2900 Chamblee Tucker Rd., Bldg. 5 Atlanta, GA 30341	American Forest & Paper Assn, Inc		
Gerald E. Baker, 1625 Massachusetts Avenue, NW Washington, DC 20036	Air Line Pilots Assn	18,750.00	792.72
James Jay Baker, 1742 N Street, NW Washington, DC 20036	National Rifle Assn of America	3,257.00	
Do	Sporting Arms & Ammunition Manufacturers Institute	4,950.00	970.00
John D. Baker, 815 Sixteenth Street, NW Washington, DC 20006	International Longshoremen's Assn, AFL-CIO	8,490.99	
R. Garrity Baker, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn, Inc		
Baker & Botts, L.L.P., The Warner 1229 Pennsylvania Ave., NW Washington, DC 20004-2400	Association for Manufacturing Technologies	13,614.10	1,002.00
Do	Information Technology Industry Council	6,000.00	5.00
Do	Mickey Leland National Urban Air Toxics Research Center		194.00
Do	Ministry of Foreign Affairs of the Republic of Yemen		
Do	Northern California District Export Council	10,000.00	1,276.00
Do	Rhone-Poulenc, Inc		
Do	Sanifill, Inc	4,028.00	16.00
Do	Westinghouse Electric Corp	1,061.00	23.00
Baker Healthcare Consulting, Inc, Suite 2000, Box 82058 One American Square Indianapolis, IN 46282	Armstrong County Memorial Hospital	3,250.00	
Do	Clarion Hospital	3,250.00	
Do	Colquitt Regional Medical Center	7,500.00	
Do	Good Samaritan Hospital & Health Care Center	4,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Greater Dayton Area Hospital Assn	5,000.00	
Do	Hospital Council of Northwest Ohio	5,000.00	
Do	Marion General Hospital	2,000.00	
Do	St. Anthony Hospital & Health Care Center	4,000.00	
Do	Titus County Memorial Hospital	6,500.00	
Do	Trinity Regional Hospital	3,000.00	
Do	United Hospital	6,500.00	
Do	Winter Haven Hospital	10,000.00	
Diane L. Baldwin, 200 South Sixth Street Minneapolis, MN 55402	Grand Metropolitan, Inc		12.00
Elizabeth Baldwin, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn	290.39	19.20
Paul W. Baldwin, 500 Arcola Road Collegeville, PA 19426	Rhone-Poulenc Rorer Pharmaceuticals, Inc	1,500.00	
Andrea Ball, 1601 Connecticut Ave., NW, #601 Washington, DC 20009	Alliance for Justice	96.00	18.00
William L. Ball III, 1101 16th Street, NW Washington, DC 20036	National Soft Drink Assn	1,642.74	
William Lewis Ball, 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corp	3,000.00	2,684.13
Ball Janik & Novack, 1101 Pennsylvania Avenue, NW, #1035 Washington, DC 20004	ARCO	3,199.59	120.53
Do	City of Bellevue (Washington)	5,613.52	631.48
Do	City of Modesto	6,600.00	1,016.65
Do	City of Portland, OR	21,000.00	2,923.28
Do	City University	13,824.50	1,677.00
Do	Clackamas County	21,636.00	1,460.57
Do	Clatsop Community College	9,000.00	3,317.50
Do	Commercial Informations Systems, Inc	1,510.00	165.52
Do	CPAFB (Committee to Preserve the American Family Business	15,000.00	2,469.68
Do	Greenbrier Leasing, Inc	41,160.50	3,243.17
Do	Northwest Industrial Gas Users		
Do	Northwest Woodland Owners Council	18,000.00	2,095.97
Do	Oregon Community College Assn	9,000.00	1,210.26
Do	Oregon Department of State Lands		
Do	Oregon Department of Transportation	24,300.00	2,700.00
Do	Oregon Forest Industries Council		
Do	Oregon Graduate Institute of Science & Technology	9,022.00	446.43
Do	Port of Hood River	10,500.00	1,345.44
Do	Schnitzer Steel Industries	6,876.00	935.87
Debra T. Ballen, 1130 Connecticut Avenue, NW, #1000 Washington, DC 20036	American Insurance Assn		
Thomas M. Balmer, 1250 H Street, NW, Suite 900 Washington, DC 20005	International Dairy Foods Association		
Michael Baly III, 1515 Wilson Blvd Arlington, VA 22209	American Gas Assn	4,000.00	71.72
Balzano Associates, 1730 North Lynn Street Arlington, VA 22209	Northrop Grumman Corporation		10,800.00
James T. Banks, 1155 Connecticut Avenue, NW, #800 Washington, DC 20036	WMX Technologies, Inc	12,812.50	
Kip B. Banks, 1201 New York Avenue, NW Washington, DC 20005	American Public Transit Assn	8,030.00	99.00
M. Graeme Bannerman, 888 16th St., NW Washington, DC 20006	Bannerman & Associates, Inc (For:Arab Republic of Egypt)	3,000.00	70.35
Do	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)	1,000.00	
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)	500.00	
Do	Bannerman & Associates, Inc (For:Government of the United Arab Emirates)	1,500.00	
Do	Bannerman & Associates (For:L.A. Motley & Co (for: Government of the Philippines)).	2,000.00	
Do	Bannerman & Associates, Inc (For:Lebanese American University)	1,000.00	
Elizabeth A. Bannigan, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	4,028.40	
Linda W. Banton, 6801 Rockledge Drive Bethesda, MD 20817	Lockheed Martin Corp	2,175.00	
James W. Bapple III, 5535 Hampstead Way Springfield, VA 22151	National Assn for Uniformed Services	1,102.50	
Dana Barbieri, 600 Maryland Ave., SW, Sutie 700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Andrew H. Barbour, 1010 Wisconsin Ave., NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc	42.33	
Betsy F. Barclay, 1445 New York Avenue, NW, 8th Floor Washington, DC 20005	Public Securities Assn	12,500.00	299.61
Donald P. Barger, 74 Dairypond Road Norris, TN 37828	National Parks & Conservation Assn	993.20	75.62
Russell E. Barker, 9005 Congressional Court Potomac, MD 20854	Peanut and Tree Nut Processors Assn	4,200.00	834.05
Jared A. Barlage, 122 C Street, NW, 4th Floor Washington, DC 20001	American Wind Energy Assn	6,956.22	
Thomas W. Barlow, P.O. Box 14000 Juno Beach, FL 33408	Florida Power & Light Co		
Iraline G. Barnes, 1900 Pennsylvania Ave, NW Washington, DC 20068	Potomac Electric Power Company		
Joseph L. Barnes, 125 N. West Street Alexandria, VA 22314-2754	Fleet Reserve Assn		
Mark Barnes, 1200 G Street, NW, Suite 800 Washington, DC 20005	FireArm Importers Fair Trade Group (FAIR)	244.00	
Do	National Rifle Assn	46,880.18	464.40
Barnes & Thornburg, 1313 Merchants Bank Building 11 South Meridian Street Indianaplois, IN 46204	Health & Hospital Corp of Marion County	1,957.50	1,258.67
Larry P. Barnett, 8752 Center Road Springfield, VA 22152	Aviation Management Associates (For:Wilcox Electric, Inc)		
Barnett & Sivon, PC, 2000 M Street, NW, Suite 740 Washington, DC 20036	Citibank, NA	4,065.00	125.00
Ray A. Barnhart, 1012 East 38 1/2 Street Austin, TX 78751	Marathon Oil Co	4,500.00	1,781.00
Jean M. Baronas, 1401 H Street, NW, #200 Washington, DC 20005	Xerox Corp	1,500.00	
Michael E. Baroody, 1331 Pennsylvania Avenue, NW, #1500-N Washington, DC 20004-1703	National Assn of Manufacturers	990.00	
Eugene M. Barr, Associated Petroleum Industries of PA P.O. Box 925 Harrisburg, PA 17108	American Petroleum Institute		
James C. Barr, 1840 Wilson Blvd., #400 Arlington, VA 22201	National Milk Producers Federation	3,150.00	
Terry N. Barr, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives		
David C. Barrett Jr., 1201 New York Ave., NW, #830 Washington, DC 20005	National Grain & Feed Assn	7,500.00	
David J. Barrett, 801 Pennsylvania Ave., NW, Suite 955 Washington, DC 20004	Morgan Stanley & Co, Inc	4,000.00	
Michael F. Barrett Jr., 1275 Pennsylvania Ave., NW, #1100 Washington, DC 20004-2404	ALZA Corporation	700.00	
Robert E. Barrow, 1616 H Street, NW Washington, DC 20006	National Grange	5,000.00	
Albert P. Barry, 2011 Crystal Drive, #107 Arlington, VA 22202	AAI Corporation	5,837.50	
Colleen L. Barry, 1828 L Street, NW, Suite 1010 Washington, DC 20036	Rosapepe & Spanos, Inc (For:H & R Block)	824.61	
Thomas M. Barry, 1401 I Street, NW, Suite 1100 Washington, DC 20005	SBC Communications, Inc	15,000.00	137.31
Linda Curry Bartholomew, 2 North 9th Street Allentown, PA 18101	Pennsylvania Power & Light Co		
Linda L. Bartlett, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	750.00	
Robert G. Bartlett, 1415 Elliot Place, NW Washington, DC 20007	National Stone Assn	4,000.00	500.00
William N. Bartolone, 1331 Pennsylvania Ave., NW, #1331N Washington, DC 20004	Cray Research, Inc	10,000.00	30,400.00
Jo-Anne R. Basile, 1250 Connecticut Ave., NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Assn		
J. Mel Bass, 1401 H Street, NW Washington, DC 20005	American Automobile Manufacturers Assn	2,000.00	303.05
Robert W. Batchelder, 1201 New York Ave., NW Washington, DC 20005	American Public Transit Assn	1,580.00	
Dick Batchelor Management Group, Inc, 201 South Orange Ave., Suite 1017 Orlando, FL 32801	Orlando-Orange County Expressway Authority	15,000.00	1,684.11
Diane Bateman, 501 2nd Street, NE Washington, DC 20002	Fertilizer Institute	9,000.00	1,177.51
Paul W. Bateman, 490 Fort Williams Parkway Alexandria, VA 22304-1810	Klein & Saks, Inc (for Alltrista Zinc Products)	7,000.00	
Do	Klein & Saks, Inc (for Gold Institute), et al.	9,000.00	
Do	Klein & Saks, Inc (for Platinum Guild Int'l (USA), Inc)	9,000.00	
Richard M. Bates, 1150 17th Street, NW, #400 Washington, DC 20036	Disney Worldwide Services, Inc	12,375.00	1,738.39
Russell B. Batson, 1615 H St., NW Washington, DC 20062	American Furniture Manufacturers Assn	500.00	878.46
Lana R. Batts, 2200 Mill Road Alexandria, VA 22314	Interstate Truckload Carriers Conference	700.00	350.00
Gary Lee Bauer, 700 13th Street, NW, #500 Washington, DC 20005	Family Research Council	2,482.00	
Laura M. Baughman, 325 7th Street, NW, #1110 Washington, DC 20004	Trade Partnership (For:Coalition for GSP)	2,452.50	3,696.26
Barbara Bauman, 1301 Pennsylvania Ave., NW, Suite 1030 Washington, DC 20004	Kansas City Power & Light Company, et al.	19,517.00	9,373.83
Charles E. Baxter, P.O. Box 1682 Austin, TX 78767	Blue Cross & Blue Shield of Texas, Inc	7,500.00	927.77
Carl T. Bayer, 2111 Wilson Boulevard, Suite 1100 Arlington, VA 22201	Teledyne Industries, Inc	5,695.00	
Judith Bayer, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	32,400.00	2,084.57
Bayh Connaughton Fensterheim & Malone, PC, 1350 Eye Street, NW, #200 Washington, DC 20005	Associated Group	6,249.87	450.00
Do	Citicorp		
Do	Cook Group	20,469.99	450.00
Do	National Soft Drink Assn	2,000.33	250.00
Do	Real Estate Capital Recovery Assn		
Do	TENNECO	44,771.02	450.00
Kim Koontz Bayliss, One Massachusetts Ave., NW, Third Floor Washington, DC 20001	United Video, Inc	17,010.00	15,975.63
Joanne Elden Beale, 4455 Woodson Road St. Louis, MO 63134	Catholic Health Assn of the United States		
Bruce A. Beam, 801 Pennsylvania Ave, #214 Washington, DC 20004	American Electric Power Service Corp	252.00	
Bechtel & Cole, Chartered, 1901 L Street, Nw, Suite 250 Washington, DC 20036	Advanced Cordless Technologies, Inc		
Do	Press Broadcasting Co, Inc		
Edward A. Beck III, 1615 L Street, NW, #1205 Washington, DC 20036	Smith Helms Mulliss & Moore	2,554.93	650.28
Steven M. Beckman, 1757 N Street, NW Washington, DC 20036	Int'l Union, United Auto Aerospace & Agric Implement Workers	8,995.66	25.00
Howard Bedlin, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,598.53	615.95
Mary Elizabeth Beetham, 1101 14th St., NW, #1400 Washington, DC 20005	Defenders of Wildlife	2,499.25	53.10
William A. Behan, 1700 N. Moore St., #1801 Arlington, VA 22209	Magnavox Electronic Systems Corp	4,000.00	3,764.91
William M. Behan, 1667 K Street, NW, #1230 Washington, DC 20006	Deere & Company		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Edwin L. Behrens, Market Square 801 Pennsylvania Ave., NW, #720 Washington, DC 20004-2604	Procter & Gamble Co	26.40	
Joe Belew, 1000 Wilson Boulevard, 30th floor Arlington, VA 22209-3908	Consumer Bankers Assn		105.88
Aleesa Bell, 1101 Pennsylvania Ave., NW, #200 Washington, DC 20004	International Paper	3,440.00	336.80
Judith Bell, 1535 Mission Street San Francisco, CA 94103	Consumers Union	389.97	
Rebecca Leone Bell, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	7,253.08	
Stephan D. Bell, 600 Maryland Ave., SW, #202W Washington, DC 20024	Farmers' Educational & Co-Operative Union of America	6,419.23	339.01
Winston Everett Bell, P.O. Box 26543 Las Vegas, NV 89126			
James P. Bellis, 700 11th Street, NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		
T. A. Bellissimo, 1000 Connecticut Ave., NW, Suite 507 Washington, DC 20036	Household Financial Group, Ltd	1,983.00	
Judith H. Bello, 1722 Eye Street, NW Washington, DC 20006	Sidley & Austin (For:Pharmaceutical Research & Manufacturers of America)		36.00
Keith B. Belton, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	5,000.00	301.00
Beverly Ann Benedict, 2414 16th Street Anacortes, WA 98221	Gertrude J. Dombrowski Research Organization		14.02
Maynard Benjamin, 1600 Duke Street, #440 Alexandria, VA 22314-3400	Envelope Manufacturers Assn of America		
David J. Bennett, 1800 M Street, NW, #325 South Washington, DC 20036	Dow Corning Corp	5,000.00	
Barbara Anne Bennison, 1155 15th Street, NW, #801 Washington, DC 20005	Education Finance Council	687.50	
John C. Bennison, 1101 King Street Alexandria, VA 22314	American Soc of Travel Agents	8,500.00	
Frederick S. Benson III, 1100 Connecticut Ave, NW, #530 Washington, DC 20036	Weyerhaeuser Company		161.88
James E. Benton, New Jersey Petroleum Council 150 W. State Street Trenton, NJ 08608	American Petroleum Institute	165.00	
Charles D. Beretz, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	39.60	15.50
Diane Soucy Bergan, 1707 L Street, NW, #300 Washington, DC 20036	United Airlines, Inc		
Douglas L. Berger, 1333 F Street, NW, #710 Washington, DC 20004-1108	Advertising Mail Marketing Assn		
Bergner Bockorny Clough & Brain, 1101 16th Street, NW, #500 Washington, DC 20036	American Bankers Assn	27,162.70	1,767.64
Do	American Medical Security	5,275.00	614.00
Do	Biotechnology Industry Organization	6,600.00	822.00
Do	Business Roundtable	6,600.00	1,040.00
Do	Edison Electric Institute	1,600.00	480.00
Do	Elanco Animal Health	2,700.00	410.00
Do	Electronic Industries Assn	3,300.00	395.00
Do	Fox Broadcasting Company	8,880.00	1,329.00
Do	Friendship in Freedom	650.00	150.00
Do	Georgetown University Medical Center	3,325.00	475.00
Do	Glaxo, Inc	8,115.00	955.00
Do	HealthCare COMPARE Corp	5,400.00	955.00
Do	Home Care Assn of New York State, Inc		
Do	Mallinckrodt Specialty Chemical Co, Inc	2,400.00	442.00
Do	McDonnell Douglas Corp	940.00	250.00
Do	Metpath/Corning Life Sciences	4,200.00	842.00
Do	Ministry of Int'l Affairs of the Gov't of Quebec		
Do	Murry's, Inc	1,350.00	538.00
Do	National Soft Drink Assn	4,800.00	570.00
Do	Newscorp, USA	560.00	114.00
Do	Northwest Airlines	3,800.00	625.00
Do	Ogden Martin Systems, Inc	3,900.00	690.00
Do	Personal Communications Industry Associationo, Inc	4,200.00	670.00
Do	Petroleum Marketers Assn of America	4,720.00	1,000.00
Do	Philip Morris Co, Inc	6,010.00	915.00
Do	Taipei Economic & Cultural Representative Office	725.00	120.00
Do	Ticketmaster	1,625.00	700.00
Do	United Bus Owners of America	550.00	76.00
Do	Wine & Spirits Wholesalers of America	5,400.00	460.00
Gene S. Bergoffen, 66 Canal Center Plaza, Suit 600 Alexandria, VA 22314	National Private Truck Council		
Paul C. Bergson, Bergson & Company 1319 F Street, NW, #301 Washington, DC 20004	General Dynamics	5,000.00	
Do	Methyl Bromide Working Group	2,000.00	
Do	Point of Purchase Advertising Institute	5,000.00	
Do	Smokeless Tobacco Council	1,000.00	
Dayle Berke, 519 C Street, NE Washington, DC 20002	National Assn for Home Care	146.12	
Antoinette C. Berkely, P.O. Box 2972 Washington, DC 20013			
Ann Richardson Berkey, One Post Street, Suite 3275 San Francisco, CA 94104	McKesson Corp	227.16	
Debra Berlyn, 1133 15th Street, NW, #575 Washington, DC 20005	National Assn of State Utility Consumer Advocates	1,750.00	477.57
Keith E. Bernard, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	6,300.00	
Mary E. Bernhard, 1615 H St., NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	
Delanne Bernier, 1023 15th Street, NW, #400 Washington, DC 20005	Wine & Spirits Wholesalers of America, Inc		150.48
Jules Bernstein, 1920 L Street, NW, #602 Washington, DC 20036	Federal Law Enforcement Officers Assn		195.69
Norman W. Bernstein, 2000 M Street, NW, #745 Washington, DC 20036	N. W. Bernstein & Associates		2,326.57
Susan Bernstein, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1790	National Assn of Manufacturers	1,000.00	
Bernstein & Lipsett, 1920 L Street, NW, #602 Washington, DC 20036	National Assn of Police Organizations		695.92
Nancy T. Bernstine, 122 C Street, NW, Suite 680 Washington, DC 20001	National Housing Law Project	4,370.00	
Craig A. Berrington, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn		
Max N. Berry, 3213 O St., NW Washington, DC 20007	American Importers & Exporters Meat Products Group		
Do	Centre National Interprofessional de L'Economic Laitiere		
Do	Florida Department of Citrus	2,500.00	
Max Berry Law Office, 3213 O Street, NW Washington, DC 20007	International Dairy Foods Assn		3,208.48
Maria L. Berthoud, 412 First Street, SE, #300 Washington, DC 20003	Independent Insurance Agents of America, Inc	8,561.00	
Robert Betz, 1350 New York Avenue, NW, Suite 200 Washington, DC 20005	Robert Betz Associates, Inc (For:Alabama Hospital Association)	3,100.00	383.58
Do	American Assn of Eye & Ear Hospitals	2,250.00	278.87
Do	AmeriNet	500.00	
Do	Health Industry Group Purchasing Assn	3,500.00	166.86
Beveridge & Diamond, P.C., 1350 Eye Street, NW, #700 Washington, DC 20005	Foundation for Environmental & Economic Progress, Inc		
Janice Bezanson, 601 Westlake Drive Austin, TX 78746	Texas Committee on Natural Resources	136.66	42.07
Bible Hoy Trachok Wadhams & Zive, 232 Court Street Reno, NV 89501	First American Title Co of Nevada	9,009.30	
Bickerstaff Heath & Smiley, L.L.P., 98 San Jacinto Blvd., #1800 Austin, TX 78701-4039	Systems Control, Inc		
Nathan A. Bicks, 130 North Court Memphis, TN 38103	Belz Investco L.P.		
Heidi Biggs, 1100 Connecticut Avenue, NW, #530 Washington, DC 20036	Weyerhaeuser Company		214.37
James L. Bikoff, 1801 K Street, NW, Suite 400K Washington, DC 20006	Arter & Hadden (For:Nintendo of America, Inc)		
Kevin W. Billings, 1801 K Street, NW, Suite 800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Leon G. Billings, Inc, 1625 K St., NW, #790 Washington, DC 20006	Main San Gabriel Basin Water Quality Authority	23,350.00	
Do	Manville Corp	21,812.50	
Do	Metropolitan Insurance Companies	15,125.00	
Do	South Coast Air Quality Management District	10,000.00	
Do	Sterling Forest Corporation	6,437.50	
Do	Waste Management, Inc	12,500.00	
Ray B. Billups Jr., 1130 Connecticut Ave., NW, #830 Washington, DC 20036	Southern Company Services, Inc	12,787.06	5,938.16
David Billy, 1750 New York Ave., NW Washington, DC 20006	International Assn of Fire Fighters	11,243.00	
Cheryl Birdsall, 555 New Jersey Ave., NW Washington, DC 20001	American Fed of Teachers, AFL-CIO	14,689.26	40.00
John H. Birdsall III, Schelford Farm Route 16, Box 25 Charlottesville, VA 22901	NICOR, Inc		
Cherae Bishop, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1790	National Assn of Manufacturers		
McNair Bishop, 1764 Old Meadow Lane, #350 McLean, VA 22102	American Frozen Food Institute	500.00	
William G. Bishop III, 249 Maitland Avenue Altamonte Springs, FL 32701-4201	Institute of Internal Auditors		
Bituminous Coal Operators' Assn, 918 16th Street, NW, Suite 303 Washington, DC 20006-2971		96,243.29	96,243.29
Gerrie Bjornson, 1825 Eye Street, NW, #400 Washington, DC 20006	B.F. Goodrich Co	100.00	
Judy Black, 1450 G St., NW, Suite 485 Washington, DC 20005	Ticketmaster	350.00	
Kathleen Quint Black, 1200 18th Street, NW Washington, DC 20036-2506	McDermott Will & Emery (For:Comprehensive Health Service)	920.00	31.00
Wayne V. Black, 1001 G Street, NW, #500 West Washington, DC 20001	Keller and Heckman (For:INDA, Assn of the Nonwoven Fabrics Industry)		
Do	Keller and Heckman (For:Tea Assn of the USA, Inc)		
Black & Decker Corp, c/o Samuel A. Bleicher Miles & Stockbridge 1450 G Street, NW, #445 Washington, DC 20005			39,018.43
Black Crotty Sims Hubka Burnett Bartlett & Samuels, 501 North Grandview Avenue P.O. Box 5488 Daytona Beach, FL 32018.	Aetna Life & Casualty		
Do	Embry-Riddle Aeronautical University		
Black Manafort Stone & Kelly, Inc, 211 North Union Street, #300 Alexandria, VA 22314	Allied-Signal Corp	22,500.00	8.25
Do	American Airlines, Inc	15,000.00	
Do	AT&T	30,000.00	
Do	Bethlehem Steel Corp	22,500.00	
Do	Casino Association of New Jersey	1,500.00	
Do	Chrysler Corp	15,000.00	27.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	City of Norfolk	7,200.00	48.53
Do	Clark Construction Group	9,000.00	
Do	Delaware North Companies	15,000.00	
Do	First Alert	18,750.00	
Do	Free Angola Information Service (UNITA)	3,750.00	
Do	GTECH Corp	15,000.00	
Do	Heublein Corp	30,000.00	20.00
Do	ICF Kaiser Engineers, Inc	6,000.00	
Do	Johnson & Johnson, Inc	30,000.00	28.50
Do	Kashmiri American Council	35,000.00	
Do	MacAndrews & Forbes Holdings, Inc	45,000.00	
Do	Maui Pinapple Co	6,750.00	
Do	Morton International	35,000.00	57.25
Do	MGM Grand, Inc	1,000.00	
Do	NBC Corporation	37,500.00	
Do	NEC USA, Inc	37,500.00	8.00
Do	Occidental International COrp	12,000.00	
Do	Philip Morris	6,000.00	
Do	Roger Williams University	3,500.00	409.00
Do	Ticketmaster	17,500.00	
Do	Tiger Management	22,500.00	54.04
Do	Trump Organization	18,000.00	
Do	Union Pacific Corp	15,000.00	
Do	United Parcel Service	5,625.00	
Robert J. Blackwell Jr., 816 Connecticut Avenue, NW, #900 Washington, DC 20006	OHM Corp		
Laricke D. Blanchard, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,000.00	
Julia M. Blankenship, 1301 Pennsylvania Ave., NW, #1030 Washington, DC 20004	CINergy Corp	1,776.92	7,632.49
Samuel A. Bleicher, 1450 G Street, NW, #445 Washington, DC 20005	Miles & Stockbridge (For:Black & Decker Corp)	39,018.43	377.42
Michael E. Bleier, One Mellon Bank Center, #1915 Pittsburgh, PA 15258-0001	Mellon Bank N.A.	2,500.00	
Richard W. Bliss, 1079 Papermill Court, NW Washington, DC 20007	ALZA Corporation	1,400.00	86.60
Do	Consumers Paint Factory, Inc		
Do	Hunter Industrial Facilities, Inc		
Do	National Paint & Coatings Assn, Inc	2,000.00	169.77
Do	National Spa & Pool Institute	600.00	37.81
Bliss & Wilkens, P.O. Box 201128 Anchorage, AK 99520-1128	Akhiok-Kaguyak, Inc	2,522.12	
John R. Block, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn	3,000.00	
L. Thomas Block, 270 Park Avenue New York, NY 10017	Chemical Bank	10,000.00	2,600.00
Peter L. Blocklin, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	17,670.00	3,768.74
Rebecca K. Blood, 2301 M Street, NW Washington, DC 20037	American Public Power Assn	1,000.00	
Mark Bloomfield, 1750 K St., NW, #400 Washington, DC 20006	American Council for Capital Formation	15,156.00	
Robert S. Bludworth, 1100 South Washington Street, 1st floor Alexandria, VA 22314-4494	National Beer Wholesaler's Assn	4,922.58	
Blue Cross & Blue Shield of Florida, P.O. Box 1798 Jacksonville, FL 32231			4,195.80
Jared O. Blum, 3306 Shirley Lane Chevy Chase, MD 20815	Polyisocyanurate Insulation Manufacturers Assn	1,000.00	
Jeffrey Blum, 1730 Rhode Island Ave., NW, #403 Washington, DC 20036	Citizen Action Fund	2,200.00	120.00
Blumenfeld & Cohen, 1615 M Street, NW, #700 Washington, DC 20036	Echelon Corporation	64,983.00	1,163.64
Patti Blumer, 1350 I Street, NW, #1030 Washington, DC 20005-3305	Principal Financial Group	94.05	
Boat Owners Assn of the U.S., 880 S. Pickett St. Alexandria, VA 22304		60,000.00	60,000.00
Jeffrey Bobeck, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	945.00	72.48
Judith Ann Boddie, 701 Pennsylvania Ave., NW, 4th Floor Washington, DC 20004	Edison Electric Institute	17,399.28	620.43
Denise A. Bode, 1101 16th Street, NW Washington, DC 20036	Independent Petroleum Assn of America		40.00
Seth M. Bodner, 386 Park Avenue South New York, NY 10016	National Knitwear & Sportswear Assn	3,750.00	
Larry A. Boggs, 1299 Pennsylvania Ave., NW Washington, DC 20004-2407	General Electric Co	1,500.00	
Bogle and Gates, 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	American Dehydrated Onion & Garlic Assn	241.00	241.00
Do	American Sportfishing Assn	270.00	270.00
Do	Coastal Conservation Assn	1,350.00	1,350.00
Do	Confederated Tribes of the Grand Ronde	525.00	525.00
Do	Direct Service Industries, Inc	3,504.00	3,504.00
Do	Domestic Petroleum Council	719.00	719.00
Do	Hager Hinge Company	402.00	402.00
Do	International Paper	606.00	606.00
Do	Natural Resources United	404.00	404.00
Do	Northwest Forest Resource Council	1,199.00	1,199.00
Do	Santa Fe Energy Resources, Inc		
Do	Santa Fe Pacific Gold Corp	414.00	414.00
Do	Tillamook Creamery Assn	719.00	719.00
Do	Viceroy Gold Corp	225.00	225.00
Do	Washington Wheat Commission	241.00	241.00
S. Alexander Bohler, 8001 Braddock Road Springfield, VA 22160	National Right to Work Committee	3,125.00	182.60
John K. Boidock, 1455 Pennsylvania Ave., NW, #375 Washington, DC 20004	Texas Instruments, Inc	4,500.00	32.00
James B. Boillot, 1005 E Street, SE Washington, DC 20003	National Agricultural Aviation Assn		
Patricia Boinski, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co	540.00	
Stephen A. Bokat, 1615 H Street, NW Washington, DC 20062-2000	Chamber of Commerce of the U.S.		
James E. Boland, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	5,000.00	458.62
Boland & Madigan, Inc, 700 13th Street, NW, #350 Washington, DC 20005	Accounting Coalition	10,000.00	70.85
Do	Alyeska Pipeline Service Co	3,000.00	
Do	ARCO Chemical Co	3,000.00	
Do	Distilled Spirits Council of the U.S.	6,000.00	
Do	Ford Motor Co	5,000.00	
Do	KPMG Peat Marwick, L.L.P.	2,000.00	
Do	Massachusetts Water Resources Authority	5,000.00	
Do	National Electrical Manufacturers Assn	2,500.00	
Do	Portable Rechargeable Battery Assn, et al.	7,000.00	9.00
Do	Southwest Airlines	3,956.80	
Do	Tele-Communications, Inc	3,500.00	
Do	Vencor, Inc	7,000.00	42.40
Edward M. Bolen, 1400 K Street, NW, #801 Washington, DC 20005	General Aviation Manufacturers Assn	3,816.00	
John W. Boling Jr., 1111 19th Street, NW, #1100 Washington, DC 20036	Direct Marketing Assn	500.00	300.00
Eugene R. Bolo, 1233 Main St., #4000 Wheeling, WV 26003	Ormet Corp		
Benjamin C. Bolusky, 1250 Eye Street, NW, #500 Washington, DC 20005	American Assn of Nurserymen		
Manuel E. Bonilla, 1101 Vermont Ave., NW, #700 Washington, DC 20005	American Academy of Ophthalmology	4,760.00	
Janee L. Bonner, 1101 Vermont Avenue, NW, Suite 606 Washington, DC 20005	American Soc of Anesthesiologists		
C. William Booher Jr., Booher & Associates 1333 New Hampshire Ave., NW, #600 Washington, DC 20036	National Wireless Resellers Assn	27,835.98	323.86
Gaylon B. Booker, P.O. Box 12285 Memphis, TN 38182	National Cotton Council of America	4,050.00	27.31
Lydia A. Borland, 2300 M Street, NW, #600 Washington, DC 20037	Capitoline/MS&L (For:Republic of Turkey)	11,000.00	
William J. Bosies Jr., 485 Lexington Avenue New York, NY 10017	New York State Bankers Assn	5,200.00	
Carroll Bostic, 1776 I St., NW, Suite 1050 Washington, DC 20006	Eastman Kodak Company	4,700.00	3,585.00
Stephen Bosworth, 1295 State Street Springfield, MA 01111-0001	Massachusetts Mutual Life Insurance Company		
John C. Bottenberg, 800 S.W. Jackson, #1120 Topeka, KS 66612	MultiState Associates, Inc (for Viaticus, Inc)	4,500.00	
Deborah L. Boudreau, 1120 G Street, NW, Suite 900 Washington, DC 20005	National Ocean Industries Assn	3,712.00	
Claude P. Boudrias, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	400.00	509.50
Monte F. Bourjaily III, 218 South Fairfax Street Alexandria, VA 22314	Management Vision Partners, Inc	800.00	800.00
Do	Ritter & Bourjaily, Inc	1,000.00	300.00
Wayne A. Boutwell, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives	3,000.00	
Joseph Bow, 1901 N. Moore Street Arlington, VA 22209	Foodservice & Packaging Institute		
Melissa L. Bowen, 1090 Vermont Ave., NW, #800 Washington, DC 20005	Equifax, Inc	11,500.00	
Donna Bower, 800 Connecticut Ave., NW, Suite 1100 Washington, DC 20006	Baxter, Gov't Affairs Div	100.00	151.50
Diane K. Bowers, P.O. Box 182 Port Jefferson, NY 11777	Council for Marketing & Opinion Research (CMOR)		
Joanne Borghesi Bowers, 500 E Street, SW, #920 Washington, DC 20024	AOPA Legislative Action	7,500.00	77.23
John Bowers Jr., 815 16th Street, NW Washington, DC 20006	International Longshoremen's Assn, AFL-CIO	21,613.50	
M. Kenneth Bowler, 1455 Pennsylvania Ave., NW Washington, DC 20004	Pfizer, Inc	4,000.00	649.14
Larry G. Bowles, 1150 18th Street, NW, Suite 200 Washington, DC 20036	Halliburton Co		
Richard P. Bowling, 1020 Princess Street Alexandria, VA 22314	Truck Trailer Manufacturers Assn	1,000.00	
John G. Boyd, 1301 K St., NW, #1200 Washington, DC 20005	International Business Machines Corp	9,084.24	210.70
Sandra J. Boyd, McGuiness & Williams 1015 15th Street, NW, #1200 Washington, DC 20005	Labor Policy Assn	8,569.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	National Assn of State Personnel Executives	1,125.00	127.31
Do	State of Washington		2.11
Thomas M. Boyd, 600 Pennsylvania Ave., SE, Suite 206 Washington, DC 20003	Federal Kemper Life Assurance Co	34.00	4.25
Do	Kemper Corp		
Do	Kemper Financial Services, Inc	67.00	8.50
Do	Kemper Corporation (For:Kemper Investors Life Insurance Company)	34.00	4.25
Do	Kemper Corporation (For:Kemper Securities Group, Inc)	67.00	8.50
Philip B. Boyer, 421 Aviation Way Frederick, MD 21701	Aircraft Owners & Pilots Assn	1,866.97	
Do	AOPA Legislative Action	1,710.46	
Violet A. Boyer, 1025 Connecticut Ave, NW, #700 Washington, DC 20036	National Assn of Independent Colleges and Universities	13,656.24	
Van R. Boyette, 555 13th Street, NW, #305E Washington, DC 20004	Be-Lo and Jr. Markets	2,500.00	
Do	Flo Sun, Inc	15,000.00	813.00
Cynthia R. Boynton, 1000 Connecticut Ave., NW, #1106 Washington, DC 20036	Gordley Associates (For:U.S. Canola Assn)		
Bracewell & Patterson, 2000 K Street, NW, #500 Washington, DC 20006	Birdsall, Inc		
Do	Browning-Ferris Industries, Inc		
Do	Centex Corp		
Do	Chemical Manufacturers Assn, Inc	1,575.00	61.50
Do	Council of Industrial Boiler Owners		
Do	COMDISCO, Inc		
Do	Edison Electric Institute		
Do	Empress Cruise Lines		
Do	Enron Corp	500.00	30.00
Do	J.D. Firth Associates	825.00	49.50
Do	Higman Barge Lines, Inc		
Do	Independent Refiners Coaliton		
Do	Louisiana Land & Exploration Co		
Do	Lyondell Petrochemical Co		
Do	MEPC American Properties		
Do	National Cable Television Assn, Inc		
Do	Oxygenated Fuels Assn		
Do	Pennsylvania Natural Gas Assn		
Do	Physicians Insurers Assn of America		
Do	Rohm & Hass Co		
Do	Joseph E. Seagram & Sons, Inc		
Do	Securities Industry Association		
Do	Southdown, Inc	900.00	54.00
Do	Sterling Chemicals, Inc		
Do	Torch Energy Advisors, Inc		
Do	Union Texas Petroleum Energy Corp		
Do	Valero Energy Corporation		
Marshall A. Brachman, 2108 West Freeway Fort Worth, TX 76102	Adams County, Colorado	7,500.00	
Do	City of Nogales, Arizona	15,000.00	
Do	Diamond Management	15,000.00	
Do	Direct Marketing Assn, Inc	20,000.00	
Do	Edmund Scientific Company	2,250.00	
Do	National Wholesale Co, Inc	1,500.00	
Do	TicketMaster Group, Ltd Partnerships	15,000.00	
Bracy Williams & Company, 601 13th Street, NW, #510 South Washington, DC 20005	Allied Pilots Association	10,000.00	100.00
Do	American Institute for Foreign Studies	5,000.00	140.00
Do	American Ship Management, Inc		35.00
Do	City of Ft. Worth	7,000.00	160.00
Do	City of Klamath Falls	5,000.00	50.00
Do	City of Tucson	7,000.00	110.00
Do	Coin Coalition	15,000.00	220.00
Do	County of Winnebago	200.00	40.00
Do	Daishowa America Company, Ltd	15,000.00	110.00
Do	Energy Absorption Systems, Inc	8,000.00	100.00
Do	Fort Worth Transportation Authority	5,000.00	165.00
Do	Greater Rockford Airport Authority		
Do	Michigan Consolidated Gas Co	15,000.00	280.00
Do	St. Louis Airport Authority	4,000.00	120.00
Do	Transportation Communications International Union	6,000.00	110.00
George M. Brady III, 1301 Pennsylvania Ave., NW, Suite 900 Washington, DC 20004	Reinsurance Assn of America		
John J. Brady Jr., 1615 L Street, NW, #1150 Washington, DC 20036	Capitoline International Group, Inc (For:Allied-Signal Corp)		
Do	Capitoline/MS&L (For:Loral Corp)	810.00	
Do	Capitoline/MS&L (For:Psychemedics Corp)		
Do	Capitoline/MS&L (For:Republic of Turkey)	3,645.00	
Do	Capitoline/MS&L (For:Sprint)	2,700.00	
Sarah Brady, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	6,149.46	
Stuart J. Brahs, 1350 I Street, NW, #1030 Washington, DC 20005	Principal Financial Group	1,256.32	
Barbara Bramble, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	258.63	
Matt Branam, 316 Pennsylvania Ave., SE Washington, DC 20003	United Parcel Service	1,500.00	176.02
Brand Lowell & Ryan, 923 15th Street, NW, Fifth Fl. Washington, DC 20005	Hewlett-Packard Co		280.00
Do	National Assn for Home Care		
Do	National Assn of Professional Baseball Leagues, Inc	245.00	
Do	Oracle Corp	5,625.00	1,616.20
Do	PRC Environmental Management, Inc	2,475.00	
Do	PRC Environmental Management, Inc (Subsidiary of Tetra Tech)	630.00	
Do	Quarters Furniture Manufacturers Assn	925.00	14.00
Do	Seafarers International Union		
Do	Unisys	611.00	
Do	West Publishing Co		
Chris Julian Brantley, 1828 L Street, NW, #1202 Washington, DC 20036	Institute of Electrical & Electronics Engineers	750.00	750.00
Fiona Branton, 1250 Eye St., NW, #200 Washington, DC 20005	Information Technology Industry Council	3,000.00	
Christian N. Braunlich, 1331 Pennsylvania Avenue, NW, #1500N Washington, DC 20004-1703	National Assn of Manufacturers	125.00	
Noel Brazil, 1505 Prince Street, #300 Alexandria, VA 22314	American Optometric Assn		
Carolyn J. Breedlove, 1201 16th Street, NW Washington, DC 20036	National Education Assn	4,217.25	64.50
Michael J. Brennan, 1750 New York Ave., NW Washington, DC 20006	International Assn of Bridge Struct & Ornamental Iron Wkrs	10,800.00	2,269.00
Jack E. Bresch, 4455 Woodson Road St. Louis, MO 63134	Catholic Health Assn of the United States	1,911.72	
Thomas M. Bresnahan III, 1401 I Street, NW, #1200 Washington, DC 20005	Chevron Companies	7,500.00	150.00
William O. Bresnick, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc	420.00	
Pamela A. Brewster, 1250 Connecticut Ave., NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Assn		
Brickfield Burchette & Ritts, P.C., 1025 Thomas Jefferson Street, NW 8th Floor, West Tower Washington, DC 20007	American Medical Technologists	1,800.00	605.00
Do	Arvin-Edison Water Storage District	500.00	125.00
Do	East Texas Electric Cooperative		
Do	Northeast Texas Electric Cooperative	3,648.15	912.34
Do	Sam Rayburn G&T Electric Cooperative, Inc	994.95	248.74
Do	Tex-LA Electric Cooperative of Texas, Inc	884.40	221.20
Do	4-County Electric Power Assn	365.50	91.38
William V. Brierre Jr., 1101 Connecticut Ave., NW, #900 Washington, DC 20036	Marine Logistics, Inc	2,500.00	120.00
Do	Miraid, et al.	20,000.00	2,075.00
Sue M. Briggum, 1155 Connecticut Ave., NW Washington, DC 20036	WMX Technologies, Inc	29,140.00	
Craig S. Brightup, 206 E Street, NE Washington, DC 20002	National Roofing Contractors Assn	6,250.00	1,552.30
Kitty Brims, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1703	National Assn of Manufacturers		
William R. Brittingham, 1275 Pennsylvania Ave., NW, #400 Washington, DC 20004	Pacific Telesis Group	13,625.00	
William E. Brock III, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)		
Do	Sinclair Broadcasting Group	5,250.00	
William M. Brodhead, 505 North Woodward, Suite 3000 Bloomfield Hills, MI 48304	Plunkett & Cooney (for Michigan Consolidated Gas Co)	15,000.00	5,654.01
David A. Brody, 1140 Connecticut Avenue, NW, #803 Washington, DC 20036	American Fiber Manufacturers Assn, Inc		
Do	BASF Corp	1,000.00	
Do	Corning, Inc	500.00	
Do	Gordley Associates	2,000.00	
Michael J. Brokovich, 1725 Jefferson Davis Highway, Suite 900 Arlington, VA 22202	Unisys Corporation	1,000.00	
Michael D. Bromberg, Law Offices of Deborah Steelman 555 13th Street, MW. #122- East Washington, DC 20004-1109	Federation of American Health Systems	4,500.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Douglas A. Brook, 1133 Connecticut Avenue, NW, #620 Washington, DC 20036	LTV Corporation	8,750.00	150.00
Robert F. Brothers, 1250 H Street, NW, #800 Washington, DC 20005	Eastman Kodak Company	150.00	10.00
J. Robert Brouse, 1150 Connecticut Ave., NW Washington, DC 20036	Nonprescription Drug Manufacturers Assn (NDMA)	3,120.00	156.00
Joseph Browder, 418 10th St., SE Washington, DC 20003	Dunlap & Browder, Inc		
Cheryl A. Brown, 1655 North Fort Myer Drive, #700 Arlingtonn, VA 22209	American Assn for Respiratory Care	17,923.80	290.85
Cynthia A. Brown, 1640 Wisconsin Ave., NW, First Floor Washington, DC 20007	American College of Surgeons		49.46
Dale E. Brown, 1801 Pennsylvania Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	
David S. J. Brown, 700 14th Street, NW Washington, DC 20005	Monsanto Co	700.00	
Dianne C. Brown, 750 First St., NE Washington, DC 20002-4242	American Psychological Assn		
Doreen L. Brown, 2000 L Street, NW, #200 Washington, DC 20036	Consumers for World Trade		
Felicien J. Brown, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,508.37	287.53
John J. Brown, 50 E Street, SE Washington, DC 20003	Clark S. Herman Associates, Inc	500.00	100.00
Do	Govt Affairs Policy Council of the Reg Bell Operating Co	1,000.00	400.00
Ken Brown, 1350 New York Ave., NW Washington, DC 20005	Spiegel & McDiarmid (For:American Comm for Cleanup Equity)		
Do	Spiegel & McDiarmid (For:City of Piqua, Ohio)	540.00	25.24
Michael J. Brown, 18 East Custis Avenue Alexandria, VA 22301	Barrick Goldstrike Mines, Ltd		
Ralph Brown, Suite 107 701 S. 22nd Street Omaha, NB 68102	M.O.A.A.I.O.A. & Subs, Inc		
Regina A. Brown, 1033 N. Fairfax Street, Suite 404 Alexandria, VA 22314	International Council of Shopping Centers	750.00	
Robert Craig Brown, P.O. Box 12285 Memphis, TN 38182	National Cotton Council of America	7,481.25	257.05
Steven J. Brown, 500 E Street, SW Suite 920 Washington, DC 20024	Aircraft Owners & Pilots Assn	1,635.90	
Do	AOPA Legislative Action	3,764.11	
Valerie L. Brown, New Jersey Law Center 1 Constitution Square New Brunswick, NJ 08901-1500	New Jersey State Bar Assn		
Vincent D. Brown, Nebraska Petroleum Council P.O. Box 95063 Lincoln, NB 68509	American Petroleum Institute	4,500.00	
Will Rolland Brown, 11 Dupont Circle, NW, #300 Washington, DC 20036-1207	Albers & Company (For:May Department Stores Co)		
William C. Brown, Two Ruan Center, Suite 1100 601 Locust Des Moines, IA 50309	Brown Winick Graves Baskerville & Schoenebaum (For:Lisle Corp)		
Brown Winick Graves Baskerville & Schoenebaum, Two Ruan Center, Suite 1100 601 Locust Des Moines, IA 50309			
Arthur W. Brownell, 1101 Pennsylvania Avenue, NW, #200 Washington, DC 20004	International Paper Co		
Thomas H. Brownell, 6801 Rockledge Drive Bethesda, MD 20817	Lockheed Martin Corp	3,143.00	
R. Stephen Browning, P.O. Box 1697 Helena, MT 59624	Burlington Northern Railroad		
Do	Columbia Falls Aluminum Co	300.00	
Do	Cyprus AMAX	2,100.00	
Do	Decision Management, Inc	1,163.00	
Do	Pegasus Gold Corp		
Brownstein Hyatt Farber & Strickland, P.C., 410 17th Street, 22nd Floor Denver, CO 80202	American Salvage Pool Assn		
Do	Apollo Advisors	10,000.00	579.22
Do	Columbia/HCA Healthcare Corp	8,000.00	
Do	Crystal Creek Homeowners Assn		
Do	International Planning & Analysis Center		
Do	Liberty Media Corp		
Do	Liggett Group, Inc	21,590.70	3,892.22
Do	New Valley Corporation	11,101.80	5,954.84
Do	Pfizer, Inc	12,000.00	579.22
Do	Rose Medical Center	670.46	103.62
Do	Tele-Communications, Inc	6,871.27	5,017.51
Do	United Airlines		
Do	US West	926.80	
Do	Vail Associates, Inc	1,000.00	
Brownstein Zeidman & Lore, 1401 New York Ave., NW, #900 Washington, DC 20005	AFL-CIO Housing Investment Trust		
Broydrick & Associates, 777 East Wisconsin Avenue, #3340 Milwaukee, WI 53202	Aurora Health Care, Inc	17,971.25	1,686.25
Do	Blood Center of Southeastern Wisconsin	806.25	6.25
Do	Children's Hospital of Wisconsin	4,721.50	377.73
Do	Electronic Data Systems Corp	5,350.00	93.76
Do	Lac Vieux Desert Bank of Lake Superior Chippewa Indians	100.00	21.41
Do	Loyola University of Chicago	13,508.75	616.99
Do	Managed Health Services, Inc	681.25	21.58
Do	Marquette University	12,483.75	658.91
Do	Milwaukee Metropolitan Sewerage District	287.50	
Do	National Assn of Children's Hospitals & Related Institutions	24,967.50	3,594.86
Do	Oneida Nations	60,912.75	3,812.06
Do	PrimeCare Health Plan	100.00	1.95
Do	Superconductivity, Inc	325.00	22.83
Do	TV Network Bingo	1,412.50	184.74
Thomas P. Bruderle, 7272 Wisconsin Ave. Bethesda, MD 20814	American Soc of Hospital Pharmacists	14,475.00	
Wolf Brueckmann, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	75.00	
William K. Brunette, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	6,948.48	
J. M. Brunkenhoefer, 400 N. Capitol Street, NW, #856 Washington, DC 20001	United Transportation Union	6,250.00	117.49
J. Charles Bruse, 888 16th Street, NW, #500 Washington, DC 20006	Allstate Insurance Cos	1,450.00	419.41
Robert Buckler, 225 East 6th Street, Suite 230 St. Paul, MN 55101	American Professional Pet Distributors, Inc	4,500.00	105.00
Do	National Board of Fur Farm Organizations	9,000.00	2,570.00
Do	Pheasants Forever	5,500.00	1,274.00
Michael Buckley, 1522 K Street, NW, #836 Washington, DC 20005	Consortium of Social Science Assn		2.20
Roy C. Buckner, 1101 Pennsylvania Avenue, NW, #400 Washington, DC 20004	Textron, Inc	600.00	150.00
Matthew J. Budzik, 1 Wycomb Place Coram, NY 11727	George J. Hochbrueckner & Associates, Imc (For:Advanced Acoustic Concepts, Inc).	3,000.00	
Richard W. Buek, 1001 Pennsylvania Ave., NW, #700 Washington, DC 20004	AlliedSignal, Inc		
J. Bruce Bugg Jr., 100 W. Houston Street, #1660 San Antonio, TX 78205	American College of Mohs Micrographic Surgery & Cutaneous...		
Edward M. Bullard, 1725 Jefferson Davis Highway, #501 Arlington, VA 22202	Chrysler Technologies Airborne Systems, Inc		3,095.00
Darrel D. Bunge, Minnesota Petroleum Council 8 Pine Tree Drive, #260 St. Paul, MN 55112	American Petroleum Institute	3,100.00	
David A. Bunn, 1211 Connecticut Avenue, NW, #610 Washington, DC 20036	Hearst Corporation	1,000.00	
Do	Parcel Shippers Assn	2,000.00	
Barbara Burgess, 801 Pennsylvania Ave., NW, Suite 730 Washington, DC 20004	John Hancock Mutual Life Insurance Co		
April L. Burke, 1776 Massachusetts Avenue, NW, #410 Washington, DC 20036-1904	Lewis-Burke Associates (For:Association of Independent Research Institutes (AIRI)).	2,000.00	
Do	Lewis-Burke Associates (For:California Institute of Technology)	3,300.00	
Do	Lewis-Burke Associates (For:National History Museum of LA County, et al.)	2,000.00	
Do	Lewis-Burke Associates (For:University of Cincinnati)	2,220.00	
Gerard P. Burke, 1117 Spotswood Drive Silver Spring, MD 20904	International Air Leases, Inc		
Kevin M. Burke, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn	3,000.00	
Moira Burke, 1250 H Street, NW, Suite 900 Washington, DC 20005	International Dairy Foods Assn		
Burley & Dark Leaf Tobacco Export Assn, 1100 17th St., NW, #505 Washington, DC 20036		85,705.00	1,875.00
Phillip C. Burnett, P.O. Box 12285 Memphis, TN 38182	National Cotton Council of America	2,731.25	7.80
David G. Burney, 1101 17th St. N.W., #609 Washington, DC 20036	U.S. Tuna Foundation	12,000.00	3,000.00
Adrienne M. Burns, 801 Pennsylvania Ave., NW, #230 Washington, DC 20004	Sonat, Inc		5,300.07
Timothy F. Burns, 2501 M St., NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	6,000.00	150.00
Mark R. Burtchi, 1776 I Stret, NW, Suite 400 Washington, DC 20006	American Nuclear Energy Council	3,875.00	978.00
Larry D. Burton, 1776 Eye Street, NW, #1000 Washington, DC 20006	BP America, Inc	6,500.00	549.00
Barbara L. Bush, 1220 L St., NW Washington, DC 20005	American Petroleum Institute	200.00	
Mary Bushman, 2505 S. Finley Road Lombard, IL 60148	AFSA Data Corp		
Michael R. Bushman, 321 North Clark Street Chicago, IL 60610	Quaker Oats Company		
Business Music Legislative Fund, c/o Muzak Limited Partnership 2901 Third Avenue, #400 Seattle, WA 98121		65,895.00	41,664.00
Roy Bussewitz, P.O. Box 1417-D49 Alexandria, VA 22313-1417	National Assn of Chain Drug Stores		
James J. Butera, 1301 Pennsylvania Ave., NW Washington, DC 20004	Credit Lyonnais	3,000.00	
Do	East New York Savings Bank	3,000.00	
Do	Federal Home Loan Bank of Boston	2,000.00	
Do	Northside Savings Bank	1,000.00	
Butera & Andrews, 1301 Pennsylvania Ave., NW Washington, DC 20004	ADVANTA Corporation	4,000.00	
Do	Community Bankers Assn of New York State	1,500.00	
Do	Community Preservation Corp	1,500.00	
Do	Consumers Electronics Group	3,000.00	
Do	Dime Savings Bank of New York	1,500.00	
Do	Federation for American Immigration Reform	5,000.00	
Do	General Atomics	5,000.00	
Do	Household International	10,000.00	
Do	Independent Research Agency for life Insurance, Inc	3,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	National Assn of Retail Collection Attorneys	1,000.00	
Do	NAC International	2,000.00	
Do	Peoples Bank	1,500.00	
Do	River Bank America	1,500.00	
Do	Rochester Community Savings Bank	1,500.00	
Do	Savings Banks Life Insurance Fund	2,000.00	
Do	Superior Bank, FSB	1,000.00	
Do	Texas Savings & Loan League	1,000.00	
Do	Towers Perrin		
Jim Butler, 201 S. Main Street, #1800 P.O. Box 45898 Salt Lake City, UT 84145-0898	Parsons Behle & Latimer (For:Barrick Goldstrike Mines, Inc)		
R. Ian Butterfield, 1801 K Street, NW, #800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
David S. Byer, 1730 M Street, NW, Suite 700 Washington, DC 20036	Software Publishers Assn	1,890.00	75.00
William Byler Associates, Inc, 6000 34th Place, NW Washington, DC 20015-1607	Ak-Chin Indian Community Council		
Do	San Carlos Apache Tribe		
John J. Byrne, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	4,320.00	
Robert D. Byrne Jr., 1250 H Street, NW, Suite 900 Washington, DC 20005	International Dairy Foods Assn		
C & C Consulting Group, Inc, 1156 15th Street, NW, Suite 415 Washington, DC 20005	MacAndrews & Forbes Holdings, Inc		
Do	Western Resources		
Cable Telecommunications Assn (CATA), P.O. Box 1005 Fairfax, VA 22030-1005		426,593.00	19,994.00
Edward S. Cabot, 2030 M Street, NW Washington, DC 20036	Common Cause	6,555.54	
Patrick J. Cacchione, DCHNS 4600 Edmundson Road St Louis, MO 63134	Daughters of Charity National Health System		
John R. Cady, 1401 New York Avenue, NW, #400 Washington, DC 20005	National Food Processors Assn		
Michele L. Cahn, 1401 H Street, Nw, #200 Washington, DC 20005	Xerox Corporation	1,200.00	
Morrison G. Cain, 1901 Pennsylvania Ave., NW, 10th Floor Washington, DC 20006	International Mass Retail Assn	6,250.00	
Alan Caldwell, 9114 Streamview Lane Vienna, VA 22182	Alliance for Fire & Emergency Management	3,125.00	42.75
Bonnie Caldwell, 1445 New York Ave., NW Washington, DC 20005	Public Securities Assn	12,500.00	373.92
Bradley F. Call, 800 Connecticut Ave., NW, Suite 600 Washington, DC 20006	Fluor Corp	5,000.00	40.00
Amy E. Callahan, 1150 Connecticut Ave., NW, Suite 507 Washington, DC 20036	Wallace & Edwards		
Era Eugene Callahan, 1050 Connecticut Ave., NW, Suite 1250 Washington, DC 20036	Major League Baseball	481.21	138.30
Cambridge International, Inc, 2120 Washington Blvd., Suite 350 Arlington, VA 22204	Allied Signal Aerospace		
Do	Allison Engine Company	5,400.00	
Do	Allison Transmission	8,200.00	
Do	General Dynamics Land Systems	9,500.00	
Do	McDonnell Douglas Helicopter Company	9,500.00	
Do	Stewart & Stevenson Services, Inc	10,000.00	
Arthur E. Cameron, 225 C Street NE, #A Washington, DC 20002	FLEX-O-LITE, INC.	1,440.00	
Do	Potters Industries, Inc	720.00	
Do	Safetran Systems Corporation	5,750.00	
Do	Stimsonite Corporation	960.00	
Do	3M Company	28,988.00	
Bruce P. Cameron, 1725 17th Street, NW, #109 Washington, DC 20006	Embassy of Mozambique		3,324.35
Do	National Council for Maubere Resistance		664.96
Cameron & Hornbostel, 818 Connecticut Ave., NW, Suite 700 Washington, DC 20006	Government of Barbados	15,802.81	9,014.75
Do	Polygon Co, Ltd	30,854.68	29,970.49
Nancy Camm, 1000 Wilson Boulevard, #3012 Arlington, VA 22209-3908	Consumers Bankers Assn		337.91
Paul A. Cammer, 2000 L Street, NW, #730 Washington, DC 20036	Cammer & Associates (For:Business Council on Indoor Air)		
Campaign for U.N. Reform-Political Education Committee, 713 D Street, SE Washington, DC 20003		13,784.31	14,126.89
C. R. Campbell Jr., 1850 M St., NW, #1200 Washington, DC 20036	GTE Corporation	5,000.00	
C. Thomas Campbell, 1776 Eye Street, NW, #575 Washington, DC 20006	DowElanco		6,467.00
Candace Campbell, 459 Walker Road Great Falls, VA 22066	American Preventive Medical Assn	400.00	20.00
Charles O. Campbell, 1420 King Street Alexandria, VA 22314-2715	National Society of Professional Engineers	2,000.00	
Jeanne Campbell, Campbell-Raupe, Inc 1010 Pennsylvania Avenue, SE Washington, DC 20003	Algonquin Gas Transmission Co		
Do	American Assn of Advertising Agencies		
Do	Association for Manufacturing Technology		
Do	Chubb Corp		
Do	Citicorp/Citibank		
Do	Invest to Compete Alliance		
Do	Merck & Co		
Do	National Electrical Manufacturers Assn		
Do	Nuclear Energy Institute		
Do	Olsten Kimberly Quality Care		
Do	Securities Industry Assn		
Do	Shriners Hospital for Crippled Children		
Do	Stone & Webster Engineering Corp		
Do	Textron Corp		
Do	University of Massachusetts		
Do	USX Corp		
Jerry L. Campbell, 1201 Chestnut St. Chattanooga, TN 37402	Tennessee Valley Public Power Assn		
John G. Campbell, 9300-D Old Keene Mill Road Burke, VA 22015	John G. Campbell, Inc (For:Applied Power Technologies, Inc)		
Do	John G. Campbell, Inc (For:BDM International, Inc)	4,000.00	4,000.00
Do	John G. Campbell, Inc (For:General Electric Co)		
Do	John G. Campbell, Inc (For:GEO-Centers, Inc)		
Do	John G. Campbell, Inc (For:Hughes Aircraft Company)		
Do	ManTech International Corp	3,333.00	3,333.00
Do	John G. Campbell, Inc (For:Primark Corp)		10,000.00
Do	John G. Campbell, Inc (For:Sierra Nevada Corp)	2,000.00	2,000.00
Do	John G. Campbell, Inc (For:Sippican, Inc)	2,500.00	2,500.00
Do	John G. Campbell, Inc (For:Teledyne Ryan Aeronautical)	3,000.00	3,000.00
Do	John G. Campbell, Inc (For:TASC)		
Do	John G. Campbell, Inc (For:3M Company)		
Margaret A. Campbell, 1129 20th Street, Nw, #305 Washington, DC 20036	National Assn of Real Estate Investment Trusts		
Marilyn E. Campbell, 517 2nd Street, NE Washington, DC 20002	David Turch & Associates	2,400.00	
Thomas D. Campbell & Associates, Inc, 113 South Alfred Street Alexandria, VA 22314	Cyprus Amax Minerals Co	5,000.00	1,457.14
John D. Canatsey, 1735 Jefferson Davis Highway, #1001 Arlington, VA 22202	Thiokol Corp	5,671.00	28,818.00
Sharon M. Canavan, 1125 15th St., NW Washington, DC 20005	Mortgage Bankers Assn of America	21,577.50	558.51
Sharon F. Canner, 1331 Pennsylvania Ave., NW, #1500 N. Washington, DC 20004-1703	National Assn of Manufacturers	195.00	
Michael F. Canning, 12 Francis Street Annapolis, MD 21401	Manis Canning & Associates (For:National Troopers Coalition)	8,500.00	
James R. Cannon Jr., 808 17th Street, NW, #300 Washington, DC 20006-3910	Stewart & Stewart (For:Floral Trade Council)	28.56	
Do	Stewart & Stewart (For:Professional Plant Growers Assn)		
Do	Stewart and Stewart (For:Smith Corona Corp)		
Do	Stewart & Stewart (For:Timken Co)	440.21	
Do	Stewart & Stewart (For:Torrington Company)	489.13	
Mark R. Cannon, One West Fourth Street, #200 Cincinnati, OH 45202	Student Loan Funding Corp	2,246.41	10.00
Julie Cantor-Weinberg, 1331 Pennsylvania Ave., NW, #1500N Washington, DC 20004-1790	National Assn of Manufacturers	150.00	
Francis J. Cantrel Jr., 1801 Pennsylvania Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	
H. Hollister Cantus, 9300 Lee Highway Fairfax, VA 22031	ICF Kaiser International, Inc	3,300.00	190.00
Capital Concepts, 1225 I Street, NW, #500 Washington, DC 20005	Lockheed Aeronautical Systems Co	12,000.00	
Do	Savings Coalition of America	12,000.00	3,672.39
Capital Consultants, 1122 Colorado, #307 Austin, TX 78701	LDDS	6,675.00	
Capitol Associates, Inc, 426 C Street, NE Washington, DC 20002	Academic Health Center Coalition	1,000.00	
Do	Alliance for Eye & Vision Research	700.00	
Do	American Academy of Physician Assistants	600.00	
Do	American Assn of Cancer Research	400.00	
Do	American Assn of Critical-Care Nurses	1,200.00	
Do	American Soc of Tropical Medicine and Hygiene	500.00	
Do	Arthritis Foundation	750.00	
Do	Association for Practitioners in Infectious Control	750.00	
Do	Association of Surgical Technologists	250.00	
Do	Autism Society of America	600.00	
Do	Columbia University	1,000.00	
Do	Credential Information & Verification Services, Inc	300.00	
Do	Cystic Fibrosis Foundation	1,000.00	
Do	CPDD - Colelge on Problems of Drug Dependence	300.00	
Do	CSX Corporation	200.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Fred Hutchinson Cancer Research Center	700.00	
Do	FDA Council	9,000.00	
Do	Illinois Collaboration on Youth	200.00	
Do	John Whitehead/Whitehead Partners	1,000.00	
Do	Johns Hopkins University	1,200.00	
Do	Joint Council of Allergy & Immunology	1,000.00	
Do	National Assn of Pediatric Nurse Associates & Practitioners	1,000.00	
Do	National Assn of Rural Health Clinics	800.00	
Do	National Coalition for Cancer Research	1,500.00	
Do	Neurofibromatosis	2,000.00	
Do	New York University Medical Center	1,500.00	
Do	Northwestern Memorial Hospital	1,000.00	
Do	Rotary International	1,000.00	
Do	George A. Tomasso Construction Corp	1,000.00	
Do	U.S. Healthcare, Inc	1,200.00	
Capitol Link, P.O. Box 9183 Arlington, VA 22219	City of Mobile		
Do	Federal States of Micronesia	10,000.00	
Do	Madison County Commission		
Do	Southern Research Institute		
Caplin & Drysdale, Chtd, One Thomas Circle, NW, #1100 Washington, DC 20005	American Methanol Institute	40,118.08	149.68
Do	Council on Foundations, Inc	2,232.50	17.52
Do	National Rural Electric Cooperative Assn		
James C. Capretta, 4455 Woodson Rd. St. Louis, MO 63134	Catholic Health Assn of the U.S.	1,096.16	
Marie C. Carbone, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	2,389.20	
Robert P. Carbonneau, 4647 Forbes Blvd. Lanham, MD 20706	AMVETS	6,800.00	
Andrew H. Card Jr., 1401 H Street, NW, Suite 900 Washington, DC 20005	American Automobile Manufacturers Assn	24,512.50	701.80
Denise A. Cardman, 1800 M St., NW Washington, DC 20036	American Bar Assn	400.00	50.00
Caremark International, Inc, 2215 Sanders Road, Suite 400 Northbrook, IL 60062			55,401.88
Chris Carey, 1505 Prince Street, #300 Alexandria, VA 22314	American Optometric Assn		
Hugh L. Carey, 919 18th Street, NW, Suite 400 Washington, DC 20006	WR Grace & Co		
Kate Carey, 1620 L Street, NW, #800 Washington, DC 20036	Metropolitan Life Insurance Cos	250.00	
Kevin F. Carey, 801 Pennsylvania Ave., NW, Suite 650 Washington, DC 20004	American Express Company	1,268.00	335.75
Maurice E. Carino Jr., 1667 K St., NW, #600 Washington, DC 20006	Bethleham Steel Corp	650.00	
Linda E. Carlisle, 1747 Pennsylvania Ave., NW, #500 Washington, DC 20006	White & Case (For:Methanex, Inc)		
Catherine A. Carlson, 1400 16th Street, NW Washington, DC 20036	National Wildlife Federation		
David S. Carlson, 122 C Street, NW, #310 Washington, DC 20001	American League for Exports & Security Assistance	3,281.00	
Paul D. Carlson, 1201 New York Ave., NW Washington, DC 20005	American Public Transit Assn	4,600.00	
Nancy Carlton, 601 Pennsylvania Avenue, NW, #1200 Washington, DC 20004	Merck & Co, Inc	1,000.00	400.00
Gerald P. Carmen, 1730 Pennsylvania Ave., NW Washington, DC 20006	Carmen & Muss (For:Newark Center Building Co)		
Carmen & Muss, 1730 Pennsylvania Avenue, NW, #1050 Washington, DC 20006	Newark Center Building Co	73.75	
Carmen Group, Inc, 1225 I St., NW, #300 Washington, DC 20005	ADVO, Inc		
Do	Hyundai Precision & Ind Co, Ltd		
Do	Kennametal, Inc		
William Carney, 523 7th Street, SE Washington, DC 20003	Edison Electric Institute	14,000.00	
Paul E. Carothers, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	3,000.00	1,728.21
Michael C. Carozza, 655 15th Street, NW, #410 Washington, DC 20005	Bristol-Myers Squibb Co	1,500.00	
Bertram W. Carp, 820 First Street, NE, #620 Washington, DC 20002	Turner Broadcasting System, Inc	10,000.00	
Jot David Carpenter Jr., 6 East Nelson Avenue, #302 Alexandria, VA 22301-2054	Telecommunications Industry Assn	21,875.00	
Kenneth A. Carpi, Carpi & Clay Government Relations 427 C Street, #306 San Diego, CA 92101	California Children's Hospital Assn	8,300.00	
Do	Children's Hospital & Health Center	9,000.00	
Do	San Diego County Water Authority	10,816.67	5,769.07
Do	Water Replenishment District of Southern California	5,000.00	
Terry M. Carr, 1350 I St., NW, Suite 590 Washington, DC 20005	College of American Pathologists	6,790.00	
Bruce Carroll, 200 Great Valley Parkway Malvern, PA 19355	Centocor	4,600.00	3,823.13
John R. Carson, 9312 Old Georgetown Rd. Bethesda, MD 20814-1621	American Podiatric Medical Assn	18,000.00	
R. D. Carson Jr., P.O. Box 2021 40 Franklin Rd., SW Roanoke, VA 24022	Appalachian Power Company		
John R. Carter, 1001 19th Street, North, #800 Arlington, VA 22209	TRW, Inc	301.50	
Melanie Carter-Maguire, 801 Pennsylvania Ave., NW, #700 Washington, DC 20004	Northern Telecom, Inc	1,250.00	
James P. Carty, 1331 Pennsylvania Ave., NW, #1500 N. Washington, DC 20004-1703	National Assn of Manufacturers	500.00	
Winthrop Cashdollar, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	12,000.00	580.01
Cashdollar-Jones & Company, 1000 16th Street, NW, #702 Washington, DC 20036	American Bankers Assn	6,000.00	
Do	Bio Gro Systems, Inc		
Do	Council on Education Development and Research	300.00	
Sean M. Cassidy, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn	335.00	
Cassidy and Associates, Inc, 700 13th St., NW, #400 Washington, DC 20005	American Digital Imaging, Inc.	100.05	
Do	American Science and Engineering, Inc	3,601.80	13.20
Do	American Superconductor Corp	4,802.40	46.40
Do	ARCO Chemical Americas Co		
Do	AT&T	4,702.35	
Do	Biomedical Waste Systems, Inc		
Do	Bishop Museum	333.50	
Do	Boston College	6,903.45	53.00
Do	Boston University	6,213.00	68.40
Do	Brazil US Business Council		
Do	Brother International Corp	4,802.40	405.40
Do	Bryant College	600.30	
Do	Buena Vista College	4,302.15	59.25
Do	California Community Colleges	5,602.80	6.60
Do	California Institute of the Arts	800.40	
Do	California Pacific Medical Center		
Do	Charlotte-Mecklenberg Hospital Authority Foundation	600.30	
Do	Chicago Board of Trade	1,600.80	
Do	Chicago Mercantile Exchange	1,700.85	
Do	Children's Hospital and Health Center of San Diego	6,403.20	
Do	Children's Hospital of Pittsburgh	1,001.40	39.70
Do	Children's National Medical Center	3,901.95	148.70
Do	City of Fairfield, CA	3,601.80	17.50
Do	City of Memphis	800.40	6.60
Do	Clark Atlanta University	600.30	
Do	Connecticut Health System, Inc	2,401.20	
Do	Coriell Institute for Medical Research	7,201.40	13.20
Do	Crane Company	14,007.00	136.30
Do	Cray Research, Inc		
Do	CH2M Hill Companies, Ltd	400.20	6.60
Do	Delta Airlines	10,205.10	6.60
Do	Discovery Network		
Do	Dredging Contractors of America	2,501.25	67.90
Do	Duluth Clinic	2,201.10	
Do	Elderhostel, Inc	3,601.80	
Do	Englewood Hospital & Medical Center	5,502.75	35.75
Do	Fairleigh Dickinson University	800.40	
Do	Federal Express	1,110.55	6.50
Do	Florida HealthCare Coalition	3,201.60	
Do	Forensic Technologies, Inc	10,405.20	6.60
Do	Geisinger Foundation	4,969.15	69.95
Do	General Dynamics Corp	8,604.30	16.35
Do	Geriatric & Medical Companies, Inc	3,401.70	
Do	Graduate Health Systems	800.40	
Do	Henry Ford Health System	6,236.45	39.20
Do	Illinois Institute of Technology	500.25	
Do	In Home Health, Inc.		
Do	Inner City, Inc	3,401.70	140.60
Do	Intercontinental Energy Group		
Do	Kids Peace, Inc	1,267.30	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Lahey Clinic	400.20	49.70
Do	Law Firm of Darrell Keith, P.C.	8,604.30	19.80
Do	Kenneth Leventhal & Co		
Do	Limited		
Do	Lucas Industries, Inc.		
Do	Mac Andrews and Forbes		
Do	Maersk, Inc	3,400.90	
Do	Major League Baseball	2,968.15	
Do	Mary Hitchcock Memorial Hospital/Hitchcock Clinic	4,702.35	75.25
Do	McDonnell Douglas Corp	2,650.95	13.20
Do	Medical Center of Central Massachusetts	2,234.45	
Do	Medical College of Pennsylvania	1,600.80	
Do	Mercy Hospital & Medical Center		
Do	Miami-Dade Community College	7,803.90	220.00
Do	Morehouse School of Medicine	2,701.35	19.80
Do	Motion Picture Assn of America		
Do	MCSI Technologies		
Do	MOOG, Inc		
Do	National Indian Lottery, et al.	3,361.45	6.60
Do	National Jewish Center for Immunology & Respiratory Medicine		
Do	Nature Conservancy	133.40	
Do	New Jersey Instutute of Technology	2,768.05	
Do	Northwestern University	11,905.95	63.90
Do	Ocean Spray Cranberries, Inc	2,601.30	6.60
Do	Partnership for Responsible Risk-Sharing	800.40	17.20
Do	Pennsylvania Educational Telecommunications Exchange Network	1,337.35	205.25
Do	Philip Morris Companies, Inc	800.40	9.75
Do	Polaroid Corp	5,802.90	9.75
Do	Polytechnic University	3,101.55	44.75
Do	Providence & Worcester Railroad Company	1,600.80	
Do	PGA Tour	600.30	
Do	Queen's Health System	400.20	29.25
Do	Rochester Institute of Technology	1,200.60	
Do	Rush-Presbyterian St. Luke's Medical Center	3,134.50	6.50
Do	Sacred Heart Hospital	1,467.35	
Do	Saint John's Hospital & Health Center	3,600.40	6.50
Do	Saint Joseph's University	300.15	
Do	Savings Bank and Life Insurance Company of MA	3,401.70	48.50
Do	Scott County Highway Department		
Do	South Dade Land Corp		
Do	Southeastern PA Consortium for Info. Tech. & Training	3,001.50	6.50
Do	St. Francis Healthcare Foundation of Hawaii	400.15	
Do	St. Norberts College	3,901.95	
Do	Taiwan Research Institute	11,405.70	239.15
Do	Tufts University	9,104.55	6.50
Do	Union Memorial Hospital	1,100.55	
Do	Unisys		
Do	University of Dayton	7,003.50	39.60
Do	University of Hawaii-University of Hawaii Found.	1,200.60	
Do	University of San Francisco	1,400.70	9.75
Do	University of Southern Mississippi	4,002.00	19.50
Do	Waimana Enterprises	500.25	
Penelope C. Cate, 321 North Clark Street Chicago, IL 60610	Quaker Oats Company		
Catholic Health Assn of the United States, 4455 Woodson Road St. Louis, MO 63134		59,517.84	15,286.80
C. Dawn Causey, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers	5,980.00	53.00
Lawrence J. Cavaiola, 1725 Jefferson Davis Highway, #900 Arlington, VA 22202	Loral Corporation	2,600.00	
Gordon Cavanaugh, 601 Pennsylvania Ave., NW, #800 Washington, DC 20004	Reno & Cavanaugh (For:Cooperative Housing Foundation)		
Do	Reno & Cavanaugh (For:Council of Large Public Housing Authorities)	17,024.54	1,659.26
Do	Reno & Cavanaugh (For:Housing Assistance Council)	145.00	
Do	Reno & Cavanaugh (For:Housing Authority of the City of Houston)	105.00	8.00
Do	Reno & Cavanaugh (For:Housing Authority of the City of Louisville)	252.50	
Do	Reno & Cavanaugh (For:National American Indian Housing Council)	840.00	64.27
Philip T. Cavanaugh, 1401 Eye Street, NW, #1200 Washington, DC 20005	Chevron Companies	8,000.00	372.04
Red Cavaney, 1275 K Street, NW Washington, DC 20005	American Plastics Council	13,500.00	1,025.00
Carol Cayo, 2008 Dayton Street Silver Spring, MD 20902	Information Technology Assn of America	6,000.00	
Cement Kiln Recycling Coalition, 1212 New York Ave., NW, #500 Washington, DC 20005			
Cendrowski Selecky & Reinhart, 2050 N. Woodward, #310 Bloomfield Hills, MI 48013	Taubman Company, Inc	13,140.25	
Center for Reproductive Law & Policy, 120 Wall Street, 18th Floor New York, NY 10005			18,676.24
David Certner, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	9,938.77	
Warner Chabot, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation	252.26	
Norman W. Chalmers, P.O. Box 26666 Richmond, VA 23261	Virginia Power/North Carolina Power		10,046.25
Maxine Champion, 1133 Connecticut Avenue, NW, #310 Washington, DC 20036	Nestle USA, Inc	1,500.00	250.00
Ed Chandler, 7901 Westpark Drive McLean, VA 22102	AMT - The Assn for Manufacturing Technology	17,063.00	500.00
William J. Chandler, 1776 Massachusetts Avenue, NW, #200 Washington, DC 20036	National Parks & Conservation Association	4,100.00	307.80
John Chandler Associates, Inc, 9816 Hillridge Drive Kensington, MD 20895	York International	500.00	28.79
Arthur A. Chapa, 5210 East Williams Circle, Suite 500 Tucson, AZ 85711	Pima County Board of Supervisors	3,700.00	46.06
Kelly G. Chapman, 2000 Pennsylvania Ave., NW, 9th Floor Washington, DC 20006	Virginia Power/North Carolina Power	5,575.00	458.82
Luanne Chapman, 750 17th Street, NW, #900 Washington, DC 20006	Nissan North America, Inc	8,125.00	
Michael D. Chapman, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,750.00	
Thomas B. Chapman, 500 E Street, SW, #920 Washington, DC 20024	AOPA Legislative Action	18,053.23	1,610.20
Byron Charlton, 815 16th Street, NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	6,379.38	
Richard A. Charter, 6947 Cliff Ave. Bodega Bay, CA 94923	County Administrative Office County of Santa Cruz		
Chemical Manufacturers Assn, Inc, 2501 M Street, NW Washington, DC 20037			242,134.00
Chemical Specialties Manufacturers Assn, Inc, 1913 Eye Street, NW Washington, DC 20006			6,308.13
Chernikoff & Company, 1320 18th Street, NW, #100 Washington, DC 20036	American Architectural Foundation	1,896.00	1,257.75
Do	American Museum of Natural History		1,100.00
Do	Arena Stage	2,098.00	1,398.75
Do	Artists Rights Foundation	1,062.00	1,000.00
Do	Bishop Museum		100.00
Do	Capital Childrens Museum	1,907.00	1,257.75
Do	Corcoran Gallery of Art	2,098.00	1,351.75
Do	Directors Guild of America	15,005.00	407.79
Do	Folger Shakespeare Library	1,997.00	1,307.75
Do	Ford's Theater	1,896.00	1,257.75
Do	Henry Ford Museum & Greenfield Village		1,100.00
Do	Isabella Stewart Gardner Museum		100.00
Do	Meridian House International	1,896.00	1,257.75
Do	Metropolitan Museum of Art		1,100.00
Do	National Building Museum	1,896.00	1,257.75
Do	National Museum of Women in the Arts	1,997.00	1,304.75
Do	National Symphony	4,196.00	1,398.75
Do	Peabody Museum of Salem		100.00
Do	Phillips Collection	1,997.00	1,257.75
Do	Rochester Museum & Science Center		100.00
Do	Science Museum of Minnesota		100.00
Do	Shakespeare Theater	1,997.00	1,257.75
Do	Textile Museum	1,896.00	1,257.75
Do	The Colonial Williamsburg Foundation		100.00
Do	Washington Ballet	1,896.00	1,257.75
Do	Washington Opera	2,098.00	1,398.75
Do	Washington Performing Arts Society	1,997.00	1,304.75
Sidonie Chiapetta, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federatoin	197.11	
Samuel D. Chilcote Jr., 1875 Eye Street, NW, #800 Washington, DC 20006	Tobacco Institute, Inc	1,525.00	
James M. Childress, Koleda Childress & Co, Inc 1110 N. Glebe Rd., #610 Arlington, VA 22201	BASF Corp	2,082.50	100.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Dow Chemical Co	2,082.50	100.00
Do	Eastman Chemical Co	2,082.50	100.00
Do	GE Plastics	2,082.50	100.00
Do	Hoechst Celanese Chemical Group	2,082.50	100.00
Do	Union Carbide Corp	2,082.50	100.00
Ned Chiodo, Personal Representatives, Inc 2000 Financial Center, #200 Des Moines, IA 50309	MultiState Associates, Inc (for Viaticus, Inc)		
Joseph L. Choquette III, Vermont Petroleum Assn P.O. Box 566 Montpelier, VT 05601-0566	American Petroleum Institute	94.00	
Edward C. Chow, 1401 Eye Street, NW, #1200 Washington, DC 20005	Chevron Companies		
Ernest S. Christian, 1350 I Street, NW, #1250 Washington, DC 20005	Association for Manufacturing Technology	414.10	
Do	Center for Strategic Tax Reform		
Christian Action Network, P.O. Box 606 Forest, VA 24551		277,663.10	132,362.55
James T. Christy, 1001 19th Street, North, #800 Arlington, VA 22209	TRW, Inc	40,000.00	
Chubb Corporation, 15 Mountain View Road Warren, NJ 07061		68,191.88	
James R. Churchill, 6301 Stevenson Avenue, #715 Alexandria, VA 22304			
Paul N. Cicio, 1776 Eye Street, NW, Suite 575 Washington, DC 20006	Dow Chemical Corp		6,467.00
Citizen Action Fund, 1730 Rhode Island Avenue, #403 Washington, DC 20036		19,226.00	19,226.00
Citizens for Reliable and Safe Highways (CRASH), 116 New Montgomery Street, #900 San Francisco, CA 94105		19,374.50	8,034.10
Civic Service, Inc, 1050 Connecticut Avenue, NW, #870 Washington, DC 20036	Unisys Corporation	3,125.00	
Terri G. Claffey, 1801 Pennsylvnaia Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	230.86
Donald A. Clarey, 112 South West Street Alexandria, VA 22314	Strategic Management Associates, Inc (For:Greater New York Hospital Assn)	45,000.00	
Do	Strategic Management Associates, Inc (For:Mobile X-Ray Providers of America)	15,000.00	
Do	Strategic Management Associates (For:Montefiore Medical Center)	24,000.00	
Do	Strategic Management Associates (For:New York Hospital)		
Carla E. Clark, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1790	National Assn of Manufacturers	1,500.00	
Dan Clark, 1228 Euclid Avenue, Suite 900 Cleveland, OH 44115-1891	Climaco Climaco Seminatore Lefkowitz & Garofoli Co (For:Blue Cross & Blue Shield of Ohio).	7,200.00	3,125.00
James F. Clark, P.O. Box 21211 Juneau, AK 99802-1211	Alaska Forest Assn		
Julie Clark, 1625 K St., NW, #800 Washington, DC 20006	National Legal Aid & Defenders Assn	16,926.00	234.71
Marshall C. Clark, 7332 SW 21st Street P.O. Box 4267 Topeka, KS 66604	Kansas Electric Cooperatives, Inc (KEC)	3,246.00	
Thomas R. Clark, 919 18th Street, NW, #200 Washington, DC 20006	Federal Agricultural Mortgage Corp	5,700.00	350.00
Vernon A. Clark, P.O. Box 59347 Potomac, MD 20859-9347	Vern Clark & Associates (For:Coalition for Property Rights)	69,000.00	
Do	Vern Clark & Associates (For:Fox Television Stations, Inc)	22,500.00	897.66
Do	LDDS Metromedia Communications, Inc	30,000.00	172.46
Do	Massachusetts Bay Transportation Authority		
Do	Vern Clark & Associates (For:Metromedia Communications)		
Do	Vern Clark & Associates (For:Metromedia Company)	15,000.00	392.58
Do	Morven Partners, L.P.	40,000.00	389.75
Do	Vern Clark & Associates (For:R.J. Reynolds Tobacco Co)	52,500.00	1,012.82
Vern Clark & Associates, P.O. Box 59347 Potomac, MD 20859-9347	Coalition for Property Rights	69,000.00	
Do	Fox Television Stations, Inc	22,500.00	897.66
Do	LDDS Metromedia Communications, Inc	30,000.00	172.46
Do	Massachusetts Bay Transportation Authority		
Do	Metromedia Communications		
Do	Metromedia Company	15,000.00	392.58
Do	Morven Partners, L.P.	40,000.00	389.75
Do	R.J. Reynolds Tobacco Co	52,500.00	1,012.82
Elizabeth T. Clarke, 1420 King Street Alexandria, VA 22314-2792	National Society of Professional Engineers	1,250.00	
Stephen B. Clarkson, 4101 Washington Ave., Dept 016 Newport News, VA 23607	Newport News Shipbuilding & Dry Dock Co	1,000.00	700.00
Kenneth J. Clayton, 1120 Connecticut Ave, NW Washington, DC 20036	American Bankers Assn	10,649.00	810.66
Patrick J. Cleary, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Sinclair Broadcasting Group)	1,312.50	
Cleary Gottlieb Steen & Hamilton, 1752 N Street, NW Washington, DC 20036	CSFP Capital, Inc		
Do	Dime Savings Bank of New York		
Do	Government Representatives Cmte Securities Industry Assn		
Do	Institute of International Bankers	2,900.00	21.00
Do	Long Island Savings Bank		
Do	Ministry of Finance & Public Credit of the United Mexican St		
Do	Salomon Brothers, Inc		
Ronald D. Clements, 701 Pennsylvania Avenue, NW Washington, DC 20004	Edison Electric Institute	3,892.86	1,085.33
Kimberly M. Clennan, 14157 Rahill Court Woodbridge, VA 22193			
Cleveland-Cliffs, Inc, 1100 Superior Avenue Cleveland, OH 44114-2589			264.00
Climaco Climaco Seminatore Lefkowitz & Garofoli Co, 1228 Euclid Ave., #900 Cleveland, OH 44115	Blue Cross & Blue Shield of Ohio		679.50
Michael P. Cline, 1219 Prince Street Alexandria, VA 22314-2916	Enlisted Assn National Guard	5,343.00	
William M. Cloherty, 3211 Tennyson Street, NW Washington, DC 20015-2429	Monterey Institute of International Studies	1,000.00	600.00
Stephen J. Cloud, 1220 L St., NW Washington, DC 20005	American Petroleum Institute	2,000.00	
W. Dewey Clower, 1199 North Fairfax, #801 Alexandria, VA 22314	National Assn of Truck Stop Operators, Inc		
Anthony T. Cluff, 805 15th Street, NW, #600 Washington, DC 20005	Bankers Roundtable	3,125.00	
Coal Industry Health Protection Coalition, 918 16th Street, NW, Suite 303 Washington, DC 20006		71,474.00	71,474.00
Coalition of Disk Exporters ('CODE'), 915 15th Street, NW, Suite 900 Washington, DC 20005			
Coalition of Supporters of the Shipping Act, c/o Morgan Lewis & Bockius 1800 M Street, NW Washington, DC 20036			57.00
Sarah D. Coates, 800 Connecticut Avenue, NW, #1100 Washington, DC 20006	Baxter		
Richard B. Cobb, Georgia Petroleum Council 50 Hurt Plz., SE, #720 Atlanta, GA 30303-2923	American Petroleum Institute		30.00
Drew Patrick Cobbs, 60 West Street, #403 Annapolis, MD 21401	American Petroleum Institute	1,850.00	
Cochran & Lotkin, 201 Massachusetts Avenue, NE, Suite C-1 Washington, DC 20002	City of South Pasadena Redevelopment Agency	2,000.00	
Do	Montgomery Watson	1,000.00	
Anna V. Cochrane, 1747 Pennsylvania Ave., NW, #300 Washington, DC 20006	MidCon Corp	172.00	122.55
Robert L. Coen, 205 F Street, NE Washington, DC 20002	Alliance for American Innovation, Inc		
PerryAnne Coffey, 3800 N. Fairfax Drive, Suite 4 Arlington, VA 22203	National Water Resources	12,000.00	
William F. Coffield, 1785 Massachusetts Ave., NW, 4th Floor Washington, DC 20036	BS&B Safety Sytems, Inc	3,690.00	3,690.00
Do	GTECH Corporation	27,512.50	30,000.00
Coffield Ungaretti & Harris, 3500 Three First National Plaza Chicago, IL 60602	Computer & Communications Industry Assn	284.35	
Do	FMC Defense Systems		
Amy A. Coggin, 1201 New York Ave., NW, #400 Washington, DC 20005	American Public Transit Assn	3,800.00	
Arnold D. Cohen, 900 19th Street, NW, Suite 400 Washington, DC 20006	America's Community Bankers	7,500.00	737.75
Catherine Grealy Cohen, 1250 H Street, NW, #800 Washington, DC 20005	Eastman Kodak Company	2,300.00	453.00
John Cohen, 1331 Penn Ave., NW, #1500-North Washington, DC 20004-1703	National Assn of Manufacturers	550.00	
Kenneth S. Cohen, 1295 State Street Springfield, MA 01111-0001	Massachusetts Mutual Life Insurance Company	450.00	456.62
Linda H. Cohen, 1250 H Street, NW, #500 Washington, DC 20005	Mobil Corp	500.00	119.25
Marvin S. Cohen, 2929 N. Central Ave., 14th Floor Phoenix, AZ 85012-2576	Sacks Tierney & Kasen (For:City of Tucson)	1,833.00	
Philip Q. Cohen, 255 East Kellogg Blvd. St. Paul, MN 55101	Goff/Wilkie & Associates (For:North Metro TH 610/10 Crosstown Council)		
Rita D. Cohen, 1211 Connecticut Ave., NW, #610 Washington, DC 20036	Magazine Publishers of America	5,000.00	
Cohn and Marks, 1333 New Hampshire Ave., NW Washington, DC 20036	Direct Marketing Assn	47,835.00	129.22
Eleanor Cole, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1703	UBA, Inc	500.00	
Jean L. Cole, 2001 Pennsylvania Ave. NW, Suite 300 Washington, DC 20006	Exxon Corp		
Ken W. Cole, 1001 Pennsylvania Avenue, NW, #700 Washington, DC 20004	Allied-Signal, Inc		
Randall I. Cole, 7900 Westpark Drive McLean, VA 22102	Wang Federal, Inc	6,000.00	575.23
Robert E. Cole, 900 17th St., NW Washington, DC 20006	Kaiser Aluminum & Chemical Corp, et al.	650.00	
E. Thomas Coleman, 1100 New York Ave., NW, #340-West Washington, DC 20005	BASF Corporation	1,280.00	996.00
Richard Coleman, 529 14th Street, NW, Suite 1055 Washington, DC 20045	Space Express Corp		
Walter S. Coleman, 1200 19th Street, NW, #300 Washington, DC 20036-2401	Regional Airline Association	1,000.00	
Colex & Associates, 1106 North Taylor Street Arlington, VA 22201	American Stamps, Inc		
Do	Contessa Cruise LInes		
Do	Orleans Levee District	5,000.00	
Do	RGDC, Inc		
Do	St. Bernard Port, Harbor & Terminal District	4,000.00	
Jessie M. Colgate, 1001 Pennsylvania Ave., NW, #460(N) Washington, DC 20004-2505	New York Life Insurance Company	227.50	
Emilio G. Collado III, Collado Associates 1405 Montague Drive Vienna, VA 22180	American Watch Assn	3,750.00	
Collier Shannon Rill & Scott, 3050 K Street, NW, #400 Washington, DC 20007	Allied Corp, Verson Div	68.75	68.75
Do	American Car Rental Assn	3,085.00	3,085.00
Do	American International Group, Inc		
Do	American Textile Machinery Assn		
Do	Association of Certified Trucking Schools		
Do	Australian Dairy Industry	1,500.00	1,500.00
Do	Australian Wheat Board	1,500.00	1,500.00
Do	Bicycle Manufacturers Assn of America		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Carfax		
Do	Cast Iron Soil Pipe Institute		
Do	Coalition for Improved Environmental Audits		
Do	Coalition for Safe Ceramicware		
Do	COMPACT		
Do	CSR Limited - Sugar Division		
Do	Food Marketing Institute		
Do	Footwear Industries of America	110.00	110.00
Do	Garden State Tanning, Inc	585.00	585.00
Do	Go-Tane Service Station, Inc	2,010.00	2,010.00
Do	Golden Gate Petroleum International, Ltd		
Do	GTE Corporation		
Do	Hydrocarbon Trading & Transport Co	1,010.00	1,010.00
Do	In Re Color Picture Tubes		
Do	Independent Lubricant Manufacturers Assn	1,575.00	1,575.00
Do	Inland Steel Corp	4,500.00	4,500.00
Do	International Crystal Federation		
Do	J&B Management Co	4,500.00	4,500.00
Do	Leather Industries of America		
Do	Limousine Industry Manufacturers Organization		
Do	Lion Oil Co	2,210.00	2,210.00
Do	Lykes Brothers, Inc		
Do	Municipal Castings Fair Trade Council	137.50	137.50
Do	National Assn of Convenience Stores	16,050.00	16,050.00
Do	National Cosmetology Assn, Inc		
Do	National Juice Products Assn		
Do	National Limousine Assn	200.00	200.00
Do	National Pasta Assn		
Do	National Pork Producers Council		
Do	NonProfits' Insurance Alliance of California	3,000.00	3,000.00
Do	NACCO Materials Handling Group, Inc		
Do	Oneida, Ltd		
Do	Outdoor Power Equipment Institute		
Do	Owner-Operator Independent Drivers Assn	9,000.00	9,000.00
Do	Petrojam, Ltd		
Do	Petroleos de Venezuela, S.A.	9,620.00	9,620.00
Do	Pittsburgh Corning Corporation		
Do	Planar System, Inc	791.25	791.25
Do	PC Strand Producer Coalition		
Do	Scotsman Industries, Inc		
Do	Shipbuilders Council of America	10,175.00	10,175.00
Do	Smith Cogeneration International	2,600.00	2,600.00
Do	Society of Independent Gasoline Marketers of America	15,025.00	15,025.00
Do	Specialty Steel Industry of the U.S.	137.50	137.50
Do	Specialty Tubing Group		
Do	Steel Manufacturers Assn		
Do	Tanners Countervailing Duty Coalition		
Do	Total Petroleum	4,960.00	4,960.00
Do	TUServices	8,350.00	8,350.00
Do	United Parcel Service	200.00	200.00
Do	Vermont Yankee Nuclear Power Corp	6,550.00	6,550.00
Do	Wickland Oil Co		
Do	Williams Companies	2,000.00	2,000.00
Michael A. Collins, 19300 Bakers Run Court Brookville, MD 20833	United Assn of Jnymen & Appren of Plmbg & Pipeftg Industry	6,000.00	
Richard L. Collins, Collins & Company 1555 Wilson Blvd., #300 Arlington, VA 22209	International Fund for Agricultural Development		
Do	Loral Corporation		
Do	Northrop Grumman Corp		
Do	Oceanic Institute of Hawaii		
Do	Textron Defense Systems		
Stephen J. Collins, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn		
Camilla L. Collova, P.O. Box 3001 Lancaster, PA 17604	Armstrong World Industries, Inc		
Jeffrey Colman, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Comm	18,750.00	1,029.21
Mary Colville, 1155 15th St., NW Washington, DC 20005	National Broiler Council	2,500.00	
Jeffrey W. Combos, c/o Tennessee Petroleum Council 315 Deaderick Street, #1430 Nashville, TN 37238-1430	American Petroleum Institute	2,790.00	
Lori A. Comeau, 1401 Eye Street, NW, #340 Washington, DC 20005	CF Industries, Inc	500.00	129.67
Commercial Finance Association, 225 W. 34th St. New York, NY 10122			9,721.00
Commissioned Officers Assn of the U.S. Public Health Service, 2111 Wilson Boulevard, #321 Arlington, VA 22201		22,836.00	6,026.00
Common Cause, 2030 M St., NW Washington, DC 20036		1,987,059.00	361,388.52
Jon R. Comola, P.O. Box 1682 Austin, TX 78767	Blue Cross Blue Shield of Texas, Inc		
Compressed Gas Assn/Helium Advisory Council, 1725 Jefferson Davis Hwy, #1004 Arlington, VA 22202-4102		12,000.00	20,385.00
John B. Conaway, 5126 Woodmire Lane Alexandria, VA 22311	Conaway Group	15,000.00	209.00
Bert M. Concklin, 8607 Westwood Center Drive, Suite 204 Vienna, VA 22182	Professional Services Council	3,000.00	
William J. Condon Jr., 813 Ridge Lake Blvd Memphis, TN 38120	Conwood Company, LP	19.29	8.71
John L. Conley, 2200 Mill Road Alexandria, VA 22314	National Tank Truck Carriers, Inc	100.00	
Peter J. Connell, 1501 M Street, NW, Suite 400 Washington, DC 20005	Aetna Life & Casualty	3,000.00	71.60
Jeanne K. Connelly, 1875 Eye St., NW, #540 Washington, DC 20006	Champion International Corp	1,788.00	1,082.36
Francis J. Conners, 100 Indiana Avenue, NW Washington, DC 20001	National Assn of Letter Carriers	5,492.99	
Connerton Ray & Simon, 1920 L Street, NW, 4th Floor Washington, DC 20036-5004	International Brotherhood of Teamsters	15,000.00	4,750.00
Do	Laborers National Health & Safety Fund	15,000.00	4,750.00
Do	Laborers-Employers Cooperative & Education Trust	15,000.00	4,750.00
Do	Laborers/AGC Education & Training Fund	15,000.00	4,750.00
Do	Transportation Institute	15,000.00	4,750.00
Catherine Connor, 700 11th Street, NW, #710 Washington, DC 20001	Parsons Brinckerhoff Quade & Douglas, Inc	333.00	
Jerry C. Connors, 2101 Wilson Blvd., Suite 610 Arlington, VA 22201	Manufactured Housing Institute	8,500.00	
David Conover, 1250 H Street, NW, #575 Washington, DC 20005	CH2M Hill	1,062.14	
David R. Conrad, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	3,679.10	
Conservative Action Lobby, P.O. Box 931602 Los Angeles, CA 90093			
Gladys Considine, 2000 K Street, NW, Suite 800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,881.00	
Consortium for Int'l Earth Science Information Network, 2250 Pierce Road University Center, MI 48710			18,570.71
Consortium of Social Science Assns, 1522 K Street, NW, #836 Washington, DC 20005		49,207.50	5,628.17
Consumer Bankers Assn, 1000 Wilson Blvd., #3012 Arlington, VA 22209			337.91
Consumers for World Trade, 2000 L Street, NW, #200 Washington, DC 20036		6,160.00	7,958.12
Consumers Union of U.S., Inc, 1666 Connecticut Ave., NW, Suite 310 Washington, DC 20009-1039			15,899.75
John J. Contney, 1130 East Hallandale Beach Blvd. Suite B Hallandale, FL 33009	Textile Rental Services Assn of America		
Angie Hunter Conway, 1712 New Hampshire Ave., NW Washington, DC 20009	Air Conditioning Contractors of America	3,200.00	200.00
Daniel J. Conway, One Massachusetts Ave., NW, #350 Washington, DC 20001	Chubb Corporation	10,000.00	770.96
Judith W. Cook, 1776 Eye Street, NW, Suite 575 Washington, DC 20006	Marion Merrell Dow, Inc		6,647.00
Thomas M. Cook, 1301 Pennsylvania Ave., NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Cook Group, Inc, 300 Fountain Square P.O. Box 1608 Bloomington, IN 47402-1608			43,150.00
Charles E. Cooke, 1001 Pennsylvania Avenue, NW, #450-N Washington, DC 20004	Southern California Edison Co	7,950.00	5,650.00
Stephen L. Cooney, 701 Pennsylvania Ave., NW, #720 Washington, DC 20004	Siemens Corp		
Julie J. Coons, 900 19th Street, NW, #750 Washington, DC 20006	Fuji Bank, Ltd	3,098.00	98.00
Benjamin Y. Cooper Jr., 100 Daingerfield Road Alexandria, VA 22314	Printing Industries of America, Inc	12,500.00	
Josephine S. Cooper, 1111 19th Street, NW, Suite 800 Washington, DC 20036	American Forest & Paper Assn		
Lisa Cooper, 1101 Vermont Ave., NW, #710 Washington, DC 20005	American Veterinary Medical Assn		
Mitchell J. Cooper, 1001 Connecticut Ave., NW Washington, DC 20036	Rubber & Plastic Footwear Manufacturers Assn	39,000.00	
R. Clarke Cooper, 7700 N. Kendell Dr., #303 Miami, FL 33156	Lehtinen O'Donnell Malman Cortinas Vargas & Reiner, P.A. (For:Miccosukee Tribe of Indians of Florida).	6,999.98	15,024.47
Coordinadora de Organizaciones Empresariales de Comercio Ext, 1025 Thomas Jefferson Street, NW Washington, DC 20007.		78,489.52	15,177.79
Darrell Coover, 10 Masters Court Potomac, MD 20854	National Assn of Independent Insurers	1,500.00	
Do	Niagara Mohawk Power Corp	2,000.00	
Copeland Lowery & Jacquez, 601 13th Street, NW, #710 North Washington, DC 20005	Bay Area Rapid Transit District	10,655.80	
Do	BRAC '95 Task Force	19,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Consolidated - Geare	5,301.98	
Do	County of Alameda	19,200.00	
Do	County of Merced	4,500.00	
Do	International Bottled Water Assn	7,585.76	
Do	ICF International	11,649.03	
Do	Las Vegas Convention and Visitors Authority	5,538.42	
Do	Pacific Mutual Life Insurance Company	6,089.98	
Do	Santa Barbara Metropolitan Transit District	11,322.22	
Do	Western League of Savings Institutions	10,020.57	
Heidi S. Coppola, 425 Park Avenue New York, NY 10043	Citibank N.A.	2,034.00	
Copyright Group, P.O. Box 5496 Beverly Farms, MA 01915	Alliance for American Innovation	3,125.00	
Maria C. Cordone, 9000 Machinists Place Upper Marlboro, MD 20772	International Assn of Machinists & Aerospace Workers	18,288.01	
George F. Cormeny Jr., 25 South Charles Street - BANC #121-013 Baltimore, MD 21203	First Maryland Bancorp		
Do	First National Bank of Maryland	7,250.00	134.02
Corn Refiners Assn, Inc, 1701 Pennsylvania Ave., NW Washington, DC 20036			
Ernest J. Corrado, 1000 16th St., NW, #511 Washington, DC 20036	American Institute of Merchant Shipping	3,525.00	90.00
Richard L. Corrigan, 1250 H Street, NW Washington, DC 20005	CH2M Hill	2,078.70	
Marty Corry, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	9,328.50	188.00
Allan D. Cors, 1455 Pennsylvania Avenue, NW, #500 Washington, DC 20004	Corning, Inc	1,200.00	
Anthony R. Corso, 3225 Gallows Road Fairfax, VA 22037	Mobil Corp		
Philip S. Corwin, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	11,085.00	360.44
Barbara J. W. Cosgriff, 444 N. Capitol St., NW, #801 Washington, DC 20001	National Assn of Independent Insurers		
Paul S. Cosgrove, 121 SW Salmon Suite #1400 Portland, OR 97204	Gardner Cosgrove & Gardner (For:Anadarko Petroleum Corp)	975.00	7.86
Cosmetic Toiletry & Fragrance Assn, Inc, 1101 17th Street, NW, #300 Washington, DC 20036		6,650.00	6,650.00
Louis A. Costantino Jr., 1401 I Street, NW, #1000 Washington, DC 20005	Securities Industries Assn	582.00	
J. Daniel Costello, 12321 La Plata Street Silver Spring, MD 20904	National Trust for Historic Preservation	1,365.00	825.00
Michael E. Costello, 1620 L Street, NW, #1200 Washington, DC 20036	Panhandle Eastern Corp		1,039.48
Patrick J. Costelloe, 1629 K Street, NW, #301 Washington, DC 20006	Evergreen International Aviation, Inc		
John M. Coster, P.O. Box 1417-D49 Alexandria, VA 22313-1417	National Assn of Chain Drug Stores	2,000.00	
Council for a Livable World, 110 Maryland Avenue, NE Washington, DC 20002			47,105.27
Council for Affordable & Rural Housing, 1300 19th Street, NW, #410 Washington, DC 20036		2,000.00	2,000.00
Council for Marketing & Opinion Research (CMOR), 170 N. Country Rd. Port Jefferson, NY 11777			
Council for Responsible Nutrition, 1300 19th Street, NW #310 Washington, DC 20036-1609		47,436.00	47,436.00
Council of Industrial Boiler Owners, 6035 Burke Centre Parkway, #360 Burke, VA 22015			
Council of Institutional Investors, 1730 Rhode Island Ave. NW Suite #512 Washington, DC 20036			
Council of State Chambers of Commerce, 122 C St., NW, #330 Washington, DC 20001		6,405.00	
Countrywide Funding Corp, 1450 G Street, NW, #445 Washington, DC 20005		13,000.00	
Mark J. Covall, 1319 F Street, NW, #1000 Washington, DC 20004	National Assn of Psychiatric Health Systems	500.00	
Covington & Burling, P.O. Box 7566 1201 Pennsylvania Avenue, NW Washington, DC 20044	J.S. Alberici Construction Co, Inc		
Do	American Assn of Oral & Maxillofacial Surgeons	15,567.50	
Do	American Bankers Assn	1,965.00	5.00
Do	American Council on Education		
Do	American PCS, L.P.	8,305.75	
Do	American Watch Assn	175.00	84.00
Do	Anchorage Telephone Utility	1,410.00	
Do	Association of America's Public Television Stations	8,934.74	
Do	Association of American Medical Colleges	2,620.00	23.00
Do	Association of Maximum Service Television, Inc	120.00	
Do	Attorneys' Liability Assurance Society, Inc	7,210.00	14.50
Do	Bankers Trust Co	3,575.00	8.00
Do	BankAmerica Corp		
Do	Brown Brothers Harriman & Co	520.00	16.00
Do	Coalition to Preserve the Integrity of American Trademarks		
Do	Council for Marketing & Opinion Research		
Do	CBS Television Network Affiliates Assn		
Do	Erisa Industry Committee	350.00	10.00
Do	Federal Home Loan Mortgage Corp	215.00	
Do	Golden West Financial COrp		20.50
Do	LeRoy E. Hoffberger		
Do	International Business Machines Corp	5,633.75	10.00
Do	Investment Company Institute	1,300.00	3.75
Do	John E. Simon Trust	11,862.50	201.53
Do	John Hancock Mutual Life Insurance Co	2,275.00	16.00
Do	Mountain West Savings Bank, F.S.B.		
Do	National Capital Newspaper Distributors Assn	2,450.00	9.00
Do	National Football League	150.00	
Do	NationsBank Corp	11,305.00	
Do	Network Affiliated Stations Alliance	28,677.60	
Do	Private Benefits Alliance	1,225.00	4.00
Do	Public Broadcasting Service		
Do	Tobacco Institute, Inc, et al.	14,313.00	
Do	Unocal Corporation		
Do	US West, Inc	1,137.50	
Sharon Cowan, 1828 L Street, NW, #906 Washington, DC 20006	American Soc of Mechanical Engineers		
Andrew J. Cowin, 1200 G Street, NW, #520 Washington, DC 20005	National Rifle Assn	3,750.00	
Archibald Cox, 2030 M St., NW Washington, DC 20036	Common Cause		
Chris Cox, 410 First Street, SE, 2nd Floor Washington, DC 20003	National Rifle Assn of America	1,250.00	329.81
Eric Cox, 713 D Street, SE Washington, DC 20003	Campaign for U.N. Reform-Political Education Committee	4,395.82	102.36
Rebecca G. Cox, 1300 Eye Street, NW, #950 East Washington, DC 20005	Continental Airlines, Inc	416.00	145.00
William J. Cox, 1776 K Street, NW Washington, DC 20006	Catholic Health Association of the United States	1,059.82	
John C. Cozad, 2600 Grand Avenue Kansas City, MO 64108	Morrison & Hecker		
Christine G. Crafton, 1133 21st Street, NW, #405 Washington, DC 20036	General Instrument Corp	3,000.00	
Bruce Craig, P.O. Box 640 Charles Town, WV 25414	Conference of National Park Cooperating Associations		
Daniel Craig, 1724 Massachusetts Avenue, NW Washington, DC 20036	National Cable Television Assn, Inc	4,425.00	570.32
Douglas Crandall, 1111 19th Street, NW Washington, DC 20036	American Forest & Paper Assn	1,200.00	
William F. Crandell, 7104 14th Avenue Tacoma Park, MD 20912	Vietnam Veterans of America		
Daniel M. Crane, 1010 Pennsylvania Avenue, SE Washington, DC 20003	Algonquin Gas Transmission Co		
Do	American Assn of Advertising Agencies		
Do	Association for Manufacturing Technology		
Do	Chubb Corporation		
Do	Citicorp/Citibank		
Do	Invest to Compete Alliance		
Do	Merck & Co		
Do	National Electrical Manufacturers Assn		
Do	Nuclear Energy Institute (NEI)		
Do	Olsten Kimberly QualityCare		
Do	Securities Industry Association		
Do	Shriners Hospitals for Crippled Children		
Do	Campbell-Raupe (For:Stone and Webster Engineering Corporation)		
Do	Textron Corp		
Do	University of Massachusetts		
Do	USX Corp		
Donald A. Crane, 919 18th Street, NW, #400 Washington, DC 20006	W. R. Grace & Co /World Headquarters	4,000.00	
Milly S. Crawford, 1445 New York Ave., NW, 8th Floor Washington, DC 20005	Public Securities Assn	6,000.00	461.86
Credit Union National Assn, Inc, 805 15th Street, NW, #300 Washington, DC 20005-2207		30,000.00	75.00
James R. Cregan, 1211 Connecticut Ave., NW Washington, DC 20036	Magazine Publishers of America	5,000.00	
Richard C. Creighton, 1212 New York Avenue, NW, #500 Washington, DC 20005	American Portland Cement Alliance	17,761.98	218.15
Robert W. Cromartie, 1800 Massachusetts Ave., NW Washington, DC 20036	National Rural Electric Cooperative Assn		
Jennifer B. Cromwell, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268	National Assn of Mutual Insurance Companies	304.00	104.66
Charles H. Cromwell, Inc, 6709 Georgia Street Chevy Chase, MD 20815	MTS Systems Corp	2,000.00	
John H. Crosby IV, 950 North Glebe Road, Suite 160 Arlington, VA 22203	American Boiler Manufacturers Assn, Inc	400.00	175.00
James W. Cross, 125 N. West Street Alexandria, VA 22314-2754	Fleet Reserve Assn		
Mary M. Cross, 555 New Jersey Ave., NW Washington, DC 20001	American Fed of Teachers	19,347.48	40.00
Deborah T. Crouse, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation	155.02	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Crowell & Moring, 1001 Pennsylvania Ave., NW Washington, DC 20004-2595	Associated Gas Distributors		
Do	Avon Products, Inc		
Do	Brooklyn Union Gas Co		
Do	COMSAT Corp		
Do	Eagle-Picher Industries, Inc	177.50	
Do	Helicopter Assn International		
Do	ICF Kaiser International, Inc & Subsidiaries		
Do	L&F Products Group		
Do	Polyisocyanurate Insulation Mfrs Assn		
Do	Regional Airline Association		
Do	RTK Corporation		
Do	United Cities Gas Co		
Do	Wyatt Company		
Crowell & Moring International L.P., 1001 Pennsylvania Ave., NW, #1275 Washington, DC 20004-2505	Limited, Inc		
James P. Crumley Jr., 1100 Wilson Blvd. Arlington, VA 22209	Hughes Electronics Corp	100.00	
Culley-Foster & Co, P.O. Box 17370 Washington, DC 20041			
William E. Cumberland, 1125 15th St., NW Washington, DC 20005	Mortgage Bankers Assn of America		
Philip Cummings, 1101 Pennsylvania Avenue, NW Washington, DC 20004	McCutchen Doyle Brown & Enersen (For:American Iron & Steel Institute)		
Do	McCutchen Doyle Brown & Enersen (For:Browning-Ferris Industries, Inc)	742.00	
Do	McCutchen Doyle Brown & Enersen (For:Clean Water Act Reauthorization Coalition).	14,283.50	
Do	McCutchen Doyle Brown & Enersen (For:Eastman Kodak Company)	2,597.00	
Do	McCutchen Doyle Brown & Enersen (For:Freeport-McMoRan, Inc)		
Do	McCutchen Doyle Brown & Enersen (For:General Electric Co)	33,416.50	
Do	McCutchen Doyle Brown & Enersen (For:Massachusetts Water Resources Authority).	13,382.50	
Do	McCuthchen Doyle Brown & Enersen (For:Rohr Industries, Inc)		
Do	McCutchen Doyle Brown & Enersen (For:Southern California Assn of Governments).	6,943.00	
William P. Cune, 1100 Wilson Boulevard, #2000 Arlington, VA 22209	Hughes Electronics Corp	95.00	
Cuneo Law Group, 317 Massachusetts Ave., NE, Suite 300 Washington, DC 20002	Songwriters Guild of America	5,250.00	279.38
Charles V. Cunningham, 1155 15th Street, NW, Suite 504 Washington, DC 20005	American Textile Manufacturers Institute, Inc	1,500.00	
Do	Dunavant Enterprises, Inc	1,500.00	
Do	Hohenberg Bros. Company	1,500.00	
Stacey C. Cunningham, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn		
William J. Cunningham, 815 16th Street, NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	20,075.90	841.37
James R. Curtiss, 1400 L Street, NW Washington, DC 20005	Washington Public Power Supply System		30.66
Cutler & Stanfield, 700 14th Street, NW, 10th floor Washington, DC 20005	Association of Bankruptcy Professionals	4,041.25	21.00
Do	General Atomics		
Do	Kaiser Resources, Inc		
Do	University of Colorado	16,415.00	14.70
Ralf W.K. Czepluch, 1130 Connecticut Ave., NW, #830 Washington, DC 20036	Gulf Power Company	5,434.00	10,925.65
CBI Parity Coalition, 2500 Wilson Blvd., #301 Arlington, VA 22201		45,000.00	18,708.00
CF Industries, Inc, Salem Lake Dr. Long Grove, IL 60047			1,000.00
D.C. Legislative & Regulatory Services, 1155 21st Street, NW, #310 Washington, DC 20036	Andersons Management Corp	9,000.00	1,369.45
Do	Biotechnology Industry Organization	3,000.00	263.46
Do	British Petroleum, America	9,000.00	978.73
Do	Lebanon Chemical Corp and Lebanon Turf	3,000.00	494.15
Do	National Bark & Soil Producers Assn	3,750.00	635.74
Do	Responsible Industry for a Sound Environment	9,000.00	837.99
Do	Scotts Companies & Subsidiaries	10,500.00	1,739.58
Do	ZENECA Plant Sciences	12,000.00	1,645.22
June S. D'Zurilla, 1331 Pennsylvania Ave., NW, #1500 N. Washington, DC 20004-1790	National Assn of Manufacturers		
Lynne R. Daghlian, 1015 15th Street, NW, #700 Washington, DC 20005	Bechtel Group, Inc		
Kawika M. Daguio, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	5,093.00	
Susan Dahlquist, 2000 K St., NW, 8th Foor Washington, DC 20006	National Comm to Preserve Social Security & Medicare	19,531.00	1,346.95
Frank J. Daily, 411 East Wisconsin Ave. Milwaukee, WI 53202	Quarles & Brady (For:General Motors Corp)	225.00	
Donald W. Dalrymple, 1201 Connecticut Ave., NW, #550 Washington, DC 20036	Bailey & Robinson (For:Bayer Corporation)		
Do	Bailey & Robinson (For:Nonprescription Drug Manufacturers Assn)		
Do	Bailey & Robinson (For:North American Vaccine, Inc)		
Robert P. Daly II, 1000 Wilson Blvd, #2800 Arlington, VA 22209	Northrop Grumman Corp	1,400.00	
John M. Damgard, 2001 Pennsylvania Ave., NW, #600 Washington, DC 20006-1807	Futures Industry Assn, Inc	6,000.00	25.00
Stephanie C. Dance, 1725 K Street, NW, #1404 Washington, DC 20006	American Cotton Shippers Assn	10,000.00	
David S. Danielson, 1505 Prince Street, #300 Alexandria, VA 22314	American Optometric Assn		
Nancy Danielson, 600 Maryland Ave., SW, #202W Washington, DC 20024	Farmers Educational and Co-Operative Union of America	7,868.34	
Marty Dannenfelsner, 700 13th Street, NW, #500 Washington, DC 20005	Family Research Council	1,481.00	
Donald Danner, 600 Maryland Avenue, NW, #700 Washington, DC 20024	National Fed of Independent Business	9,570.00	300.00
Elwyn L. Darden, 1331 Pennsylvania Ave., NW, #1500 North Washington, DC 20004-1790	National Assn of Manufacturers	125.00	
Ed Dauksz, 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Theodore S. J. Davi, 23 Holland Road Pittsburgh, PA 15235			
Bruce A. Davidson, P.O. Box 1798 Jacksonville, FL 32231	Blue Cross & Blue Shield of Florida, Inc		
Linda L. Davidson, 1776 Eye Street, NW, Suite 700 Washington, DC 20006	Phillips Petroleum Co		469.15
Dionne M. Davies, 1120 Connecticut Ave., NW, #727 Washington, DC 20036	American Bankers Assn	9,589.00	490.36
D. Drew Davis, 3M Center St. Paul, MN 55144-1000	Minnesota Mining and Manufacturing Company (3M)	3,500.00	
Drew M. Davis, 1101 16th St., NW Washington, DC 20036	National Soft Drink Assn	117.20	99.00
Edwin H. Davis, 2030 M St., NW Washington, DC 20036	Common Cause	12,734.40	71.00
Frederick G. Davis, 701 Pennsylvania Ave., NW 4th Floor Washington, DC 20004	Edison Electric Institute	3,909.07	396.35
Michael Davis, 735 North Water St., #908 Milwaukee, WI 53202-4105	American Malting Barley Assn, Inc	1,947.75	
Michael R. Davis, 4455 Woodson Road St. Louis, MO 63134	Catholic Health Assn of the United States	1,766.54	
Randall P. K. Davis, 1448 Duke Street Alexandria, VA 22314	International Assn of Amusement Parks & Attractions	200.00	
Robert W. Davis, Bob Davis & Associates 2361 Jefferson Davis Highway, #506 Arlington, VA 22202	Alaska Ocean Seafood	1,000.00	
Do	Frequency Engineering Labortories	1,000.00	
Do	Marinette Marine Corp	2,000.00	
Do	Modernization Forum	2,000.00	14.00
Do	Ocean Common Carriers Coalition		
Timothy S. Davis, 801 Pennsylvania Ave., NW, Suite 650 Washington, DC 20004	American Express Co	15,000.00	
William M. Davis, 1615 M Street, NW, #200 Washington, DC 20036	Amoco Corporation		
Davis & Harman, 1455 Pennsylvania Avenue, NW, #1200 Washington, DC 20004	Ad Hoc Comm of Life Insurance Companies	831.50	177.15
Do	American Home Life Insurance Co	990.00	
Do	American Investors Life Insurance	1,200.00	
Do	Committee of Annuity Insurers	312.00	26.60
Do	Employers Health Insurance Co	8,400.00	96.90
Do	First Penn-Pacific Life Insurance Co		
Do	General Aviation Manufacturers Association	4,500.00	82.14
Do	Hughes & Luce	1,501.50	57.60
Do	Lincoln National Life Insurance Co	329.00	47.55
Do	National Business Aircraft Assn	1,500.00	90.14
Do	Retired Lives Reserve Group	142.50	
Do	Stock Information Group		
Do	Worldspan	357.50	
Davis Polk & Wardwell, 1300 Eye St., NW Washington, DC 20005	Bank Brussels Lambert		
Do	Brown Brothers Harriman & Co		
Do	Firstar Corporation		
Do	Morgan Guaranty Trust Co	825.00	11.00
Do	Norwest Corporation	500.00	16.00
Davis Wright & Tremaine, 1155 Connecticut Ave., NW, #700 Washington, DC 20036	American Tunaboat Assn	8,624.32	
Do	Association of National Advertisers, Inc		
Do	Max & Heather McCarty		
Do	Gerald D. & Ina Thorne		
Do	West Pac Vessel Owners Assn	5,646.00	
Donald S. Dawson, 1133 Connecticut Ave., NW, #1000 Washington, DC 20036	Leo A. Daly Company		
Do	Michael Gaughan		
Do	Opticians Assn of America		
Do	St. Thomas-St. John Chamber of Commerce, Inc		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Brenda T. Day, 1401 H Street, NW, #700 Washington, DC 20005	Chrysler Corporation	6,249.00	613.33
Barbara Daye, 655 Fifteenth Street, NW 300 Metropolitan Square Washington, DC 20005	Blue Cross of California	13,125.00	544.79
Gaston De Bearn, 1300 Eye Street, NW, #520-W Washington, DC 20005-3314	Hoffmann-La Roche, Inc	4,200.00	92.27
Donald K. Dean, 1725 Jefferson Davis Highway, Suite 900 Arlington, VA 22202	Loral Federal Systems Group	3,500.00	
Dean Blakey & Moskowitz, 1101 Vermont Ave., NW, #400 Washington, DC 20005	California State Polytechnic University		
Do	Coalition of Higher Education Assistance Organizations	1,500.00	
Do	Consumer Bankers Assn	6,600.00	
Do	Diversified Collection Services, Inc	6,435.79	
Do	Economics Americas	750.00	
Do	FRAC	375.00	
Do	PBS	375.00	
Do	Student Loan Funding Corp of Ohio	3,400.00	
Do	University of Vermont	2,100.00	
Do	Very Special Arts	2,100.00	
John Russell Deane III, 1317 F Street NW #550 Washington, DC 20004	Trainum Snowdon & Deane (For:Auto International Assn)	87.00	41.91
Do	Trainum, Snowdon & Deane (For:Coalition of Automotive Assns)	99.10	99.10
Do	Trainum Snowdon & Deane (For:Specialty Equipment Market Assn)	933.00	470.16
Mark O. Decker, 1129 20th Street, NW, #705 Washington, DC 20036	National Assn of Real Estate Investment Trusts, Inc		
Tom K. Decker, Box 3529 Portland, OR 97208	Port of Portland		
Norbert Dee, 1899 L Street, NW, #1000 Washington, DC 20036	National Petroleum Refiners Assn	1,000.00	88.44
Cathy Deeds, 700 13th Street, NW, #500 Washington, DC 20005	Family Research Council	2,935.00	
Richard A. Deem, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	25.00	
William T. Deitz, 1000 Connecticut Avenue, NW Washington, DC 20036	Palumbo & Cerrell, Inc (For:American Soc of Composers Authors & Publishers)		
Do	Palumbo & Cerrell, Inc (For:Atlantic Richfield Co)	1,425.00	8.85
Do	Palumbo & Cerrell, Inc (For:Los Angeles County Metropolitan Transportation Authority).	6,075.00	96.90
Do	Pennsylvania Institute of Technology	67.50	7.50
Gene A. Del Polito, 1333 F Street, NW, #710 Washington, DC 20004-1108	Advertising Mail Marketing Assn	130.00	
Mitchell Delk, 1101 Pennsylvania Avenue, NW, #950 Washington, DC 20077-7347	Federal Home Loan Mortgage Corp		
George H. Denison, 5910 Woodacres Drive Bethesda, MD 20816	Edison Electric Institute		
Do	Federation of Electric Power Companies of Japan	1,000.00	
Do	General Atomics		
Denison Scott Associates, 5910 Woodacres Drive Bethesda, MD 20816	Bristol-Myers Squibb Co		
Thomas J. Dennis Sr., 1001 Pennsylvania Ave, NW, #450-N Washington, DC 20004	Southern California Edison Co	10,500.00	5,650.00
Robert Neal Denton, 1211 Connecticut Avenue, NW, #620 Washington, DC 20036-2701	Alliance of Nonprofit Mailers	1,722.47	
John M. Derrick Jr., 1900 Pennsylvania AVe., NW Washington, DC 20068	Potomac Electric Power Co	165.96	
M. Beth Dessen, 222 N. 17th Street Philadelphia, PA 19103-1299	Archidocese of Philadelphia		
Kyra L. Detmer, 1600 M Street, NW, 5th Floor Washington, DC 20036	Hartford Fire Insurance Co	13,500.00	1,040.00
Jo Ellen Deutsch, 1625 Massachusetts Avenue, NW Washington, DC 20036	Association of Flight Attendants, AFL-CIO	5,000.00	
Paul Devlin, 815 16th Street, NW, Suite 308 Washington, DC 20006	Public Employee Department, AFL-CIO	2,661.44	
R. Daniel Devlin, 808 17th Street, NW, #520 Washington, DC 20006	Trans World Airlines, Inc	600.00	
Robert L. Dewey, 1101 14th Street, NW #1400 Washington, DC 20005	Defenders of Wildlife	1,039.64	61.20
Dewey Ballantine, 1775 Pennsylvania Ave., NW, #500 Washington, DC 20006	SEMATECH		
Jennifer S. DeAnna, 601 13th Street, NW, Suite 650 North Washington, DC 20005	Detroit Edison Company	480.00	20.00
H. Edward DeBee III, 6520 North Western, Suite 201 Oklahoma City, OK 73116	DeBee & Associates	7,164.00	985.73
Katherine B. DeCoster, 666 Pennsylvania Avenue, SE, #401 Washington, DC 20003	Trust for Public Land	3,876.00	146.52
Michael DeEmilio, 400 North Capitol Street, NW, #852 Washington, DC 20001	Brotherhood of Maintenance of Way Employes	12,500.00	
DeKieffer Dibble & Horgan, 915 15th Street, NW, Suite 900 Washington, DC 20005	Coalition of Disk Exporters ('CODE')		
Randolph L. DeLay, 801 Pennsylvania Ave., NW, 5th Floor Washington, DC 20004	I-69 Mid-Continent Coalition	15,000.00	2,705.89
Do	Pharr Economic Development Corp	24,000.00	2,415.52
Vincent DeMarco, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc		
Carl S. DeMatteo, 600 Maryland Ave., SW Washington, DC 20024	American Farm Bureau Federation	3,250.00	
Sandra Yartin DePoy, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America	10,661.25	
Geert M. DeProst, 2100 M Street, NW, #200 Washington, DC 20036	Stewart & Stewart (For:Floral Trade Council)		
William R. DeReuter, 3000 K Street, NW, #620 Washington, DC 20007	Merrill Lynch & Co, Inc	2,400.00	
David DeSantis, 1301 Pennsylvania Ave., NW, Suite 305 Washington, DC 20004	Natural Disaster Coalition	18,000.00	1,504.43
Mark DeSantis, 1455 Pennsylvania Ave., NW, Suite 230 Washington, DC 20004	Texas Instruments, Inc	6,000.00	
Caroline Smith DeWaal, 9504 Warren Street Silver Spring, MD 20910	Center for Science in the Public Interest	7,500.00	85.49
Chester T. Dickerson Jr., 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto Co	3,500.00	250.88
Elizabeth Dickerson, 1801 Pennsylvania Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	
Ann Sanders Dickey, 1980 Nonconnah Blvd. Memphis, TN 38132	Federal Express Corp	6,000.00	
J. Hugh Dickey, 1401 Eye Street, NW, Suite 1200 Washington, DC 20005	Chevron Companies	1,200.00	
Kathryn M. Dickey, 555 12th Street, NW, #650 Washington, DC 20004	Eli Lilly & Co	1,000.00	109.16
Elaine Dickinson, 880 S. Pickett Street Alexandria, VA 22304	Boat Owners Assn of the U.S.	7,000.00	
William L. Dickinson, 412 First Street, SE, Suite 60 Washington, DC 20003	Azerbaijan Study Foundation	10,000.00	
David Dickson, 1725 Desales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation	3,905.86	
Dickstein Shapiro & Morin, LLP, 2101 L St., NW Washington, DC 20037	Accountants Coalition		
Do	American Greyhound Track Operators Assn	2,480.75	
Do	Apple Computer Corp		
Do	Bear Stearns & Co		
Do	Cigar Assn of America, Inc	150.00	
Do	Cordova District Fishermen United, Inc		
Do	CoreSource		
Do	Electric Generation Assn	300.00	
Do	Federal National Mortgage Assn	2,287.50	
Do	Federated Cash Management Systems		
Do	Sam Fox	2,175.00	
Do	Harbour Group Industries, Inc		
Do	Hawthorne-Nevada, Inc	1,250.00	
Do	Home Box Office, Inc	1,681.25	
Do	Joslyn Corporation		
Do	Malaysian Palm Oil Promotion Council		
Do	National Assn of Chain Drug Stores		
Do	National Fed of Societies for Clinical Social Work		
Do	Newport Group		
Do	North Carolina Dept of Natural Resources & Community Develop	3,375.00	
Do	Ocean State Power		
Do	Paulucci Enterprises		
Do	Pipe Tobacco Council, Inc	150.00	
Do	Smokeless Tobacco Council	600.00	
Do	State of Arkansas (DOE), et al.		
Do	State of Connecticut		
Do	U.S. Generating Company	300.00	
Rick Diegel, 1125 15th Street, NW Washington, DC 20005	International Brotherhood of Electrical Workers, AFL-CIO-CLC	2,281.25	150.00
John Dill, 325 7th Street, NW, #100 Washington, DC 20004	National Retail Federation	7,600.00	
Robert E. Dillon, Sony Drive, Mail Drop #3F8 Park Ridge, NJ 07656	Sony Electronics, Inc	1,200.00	600.00
Dimas Choi & Lopez, LLP, 521 Fifth Avenue New York, NY 10175-0046		69,000.00	10,628.00
Michael F. Dineen, 600 Pennsylvania Ave., SE, #206 Washington, DC 20003	Lumbermens Mutual Casualty Co (For:Kemper Investors Life Insurance Co)		
Do	Lumbermens Mutual Casualty Company (For:Kemper Reinsurance Company)	900.23	827.00
Do	Lumbermens Mutual Casualty Company	2,100.00	980.27
James C. Dinegar, 1201 New York Ave., NW, #300 Washington, DC 20005	Building Owners & Managers Assn Int'l		
Direct Selling Association, 1776 K Street, NW Washington, DC 20006			
Dale P. Dirks, 711 Second Street, NE, #200 Washington, DC 20002	Health & Medicine Counsel of Washington		
Mary Ann Dirzis, 9 West 57th Street New York, NY 10019	Avon Products, Inc		
Disabled American Veterans, 3725 Alexandria Pike Cold Spring, KY 41076		165,095.53	165,095.53
Patsy B. Dix, 1130 Conn. Ave., NW Suite 1000 Washington, DC 20036	American Insurance Assn		
Barbara A. Dixon, 1600 Eye Street, NW Washington, DC 20006	Motion Picture Assn of America, Inc	1,290.00	401.58
Charles J. DiBona, 1220 L St., NW Washington, DC 20005	American Petroleum Institute	5,000.00	
Ann M. DiDonato, 6200 Oak Tree Blvd. Independence, OH 44131	Centerior Energy Corp	1,017.98	1,042.04
Gerard D. DiMarco, Harris Beach & Wilcox 130 East Main Street Rochester, NY 14604	Reilly Mortgage Group, INc	20,508.23	1,098.86
Nicholas J. DiMichael, 1100 New York Ave, #750 Washington, DC 20005-4006	National Industrial Transportation League	6,940.00	50.00
Lucia DiVenere, 519 C Street, NE Washington, DC 20002	National Assn for Home Care	350.00	
Patrick L. Dober, 1850 M Street, NW, #540 Washington, DC 20036	National Multi Housing Council, Inc	2,125.00	
Julie Domenick Doerr, 1401 H Street, NW Washington, DC 20005	Investment Company Institute	343.41	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
H. A. Doersam, 1000 Connecticut Ave., NW, Suite 507 Washington, DC 20036	Household Financial Group, Ltd	11,555.28	
J. Jon Doggett, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	9,163.00	234.30
Brian M. Dolan, 1 Metro-Tech Center Brooklyn, NY 11201	Brooklyn Union Gas Co	165.00	20.00
Mary Anne Dolbeare, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn	8,000.00	45.00
Robin C. Dole, 1155 21st Street, NW, #321 Washington, DC 20036	Century 21 Real Estate Corp		
Stephan G. Dollinger, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute	200.00	
Marla M. Donahue, 1901 North Moore Street Arlington, VA 22209	Foodservice & Packaging Institute, Inc		
Andrew J. Donelson, 1101 15th Street, NW Washington, DC 20005	Minnesota Mining & Manufacturing Co	3,500.00	
Kevin J. Donnellan, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	929.19	
Mary Adele Donnelly, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation		
Mary Elizabeth Donnelly, 1233 20th St., NW, #200 Washington, DC 20036	Newmont Gold Corporation		
Thomas F. Donnelly, 3800 N. Fairfax Drive, Suite 4 Arlington, VA 22203	National Water Resources Assn	11,000.00	
Sally S. Donner, 1341 G Street NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	2,196.50	481.14
Nancy J. Donohoe, 1828 L Street, NW, #1010 Washington, DC 20365	Rosapepe and Spanos, Inc (For:H&R Block, Inc)	970.13	37.39
Ridgely Thorp Donohue, 60 Wall Street New York, NY 10260	J.P. Morgan & Co, Inc		
William Donovan, 3138 N. 10th Street Arlington, VA 22201	National Assn of Federal Credit Unions	2,500.00	
James R. Dorcy, 1666 Connecticut Avenue, NW, Suite 400 Washington, DC 20009	Federation for American Immigration Reform	203.00	20.00
Keith G. Dorman, 625 Liberty Ave., 7th Pittsburgh, PA 15222	Peoples Natural Gas Company	5,000.00	123.78
Nancy R. Dorn, 2000 M Street, NW, #300 Washington, DC 20036	Coastal Corporation	45,000.00	
Do	SEMATECH	16,000.00	
Dorsey & Whitney, 1330 Connecticut Ave., NW, #200 Washington, DC 20036	Allina		
Do	Association of International Automobile Manufacturers, Inc	5,014.00	
Do	Coalition for Fairness in Medicare	8,147.26	
Do	Elwaha S'Klallam Tribe	916.25	
Do	Geneva Steel	8,612.50	
Do	Shakopee Mdewakanton Sioux (Dakota) Community	3,105.00	
Do	Southern Company	12,865.75	
Do	St. Jude Medical, Inc	1,201.50	
Do	Stockbridge-Munsee Community Bank of Mohican Indians	4,462.50	21.00
Do	Winnebago Tribal Council	540.00	
Do	Yakima Tribal Council of theYakama Indian Nation	450.00	
Dean R. Dort II, 1667 K Street, NW, #1230 Washington, DC 20006	Deere & Company	1,734.00	
W. Carter Doswell, 1101 Pennsylvania Avenue, NW, #900 Washington, DC 20004	Goldman Sachs & Co	2,000.00	
Robert J. Dotchin, 1350 Eye Street, NW, #680 Washington, DC 20005	UST Public Affairs, Inc		
Richard J. Doubrava, 1010 Delta Blvd. Atlanta, GA 30320	Delta Air Lines, Inc	170.00	26.40
Dow Lohnes & Albertson, 1255 23rd St., NW, Suite 500 Washington, DC 20037	Home Shopping Network, Inc		
Do	Stelco, Inc		
Do	Wheelabrator Clean Water Systems, Inc	3,874.50	
Downey Chandler, Inc, 1401 I Street, NW, #1210 Washington, DC 20005	American International Group	7,500.00	7,500.00
Do	American Personal Communications	4,500.00	4,500.00
Do	AIDS Resource Center of Wisconsin	15,000.00	15,000.00
Do	E.I. DuPont de Nemours & Co	3,750.00	3,750.00
Do	Ericsson Corporation	4,500.00	4,500.00
Do	Evergreen Community Development Assn	15,000.00	15,000.00
Do	Fuel Cells for Transportation	1,500.00	1,500.00
Do	Fuji Photo Film USA, Inc	7,000.00	7,000.00
Do	Healthcare Assn of New York State	7,500.00	22,500.00
Do	Independent Forest Products Assn	2,500.00	2,500.00
Do	Institute for Community Development		
Do	Kalkines Arky Zall & Bernstein	750.00	750.00
Do	Limited, Inc	3,000.00	3,000.00
Do	Merck & Company		
Do	Metra Health	1,500.00	1,500.00
Do	Metropolitan Life & Affiliated Companies	6,000.00	6,000.00
Do	Microsoft Corp	2,000.00	2,000.00
Do	National Cable Television Assn	1,500.00	1,500.00
Do	Philipp Brothers Chemicals, Inc	2,400.00	2,400.00
Do	Joseph E. Seagram & Sons, Inc	4,500.00	4,500.00
Do	Teledelsic Corporation	4,500.00	4,500.00
Do	Time Warner, Inc	4,800.00	4,800.00
Mary Theresa Doyle, 801 Pennsylvania Avenue, NW, Suite 250 Washington, DC 20004	Massachusetts Mutual Life Insurance Co		
Michael R. Doyle, c/o New York State Petroleum Council 150 State Street Albany, NY 12207-1675	American Petroleum Institute	350.00	
Ronald W. Drach, 807 Maine Avenue, SW Washington, DC 20024	Disabled American Veterans	32,190.95	
David P. Drake, 1747 Pennsylvania Ave., NW, #700 Washington, DC 20006	Ciba-Geigy Corp	8,000.00	67.35
James E. Drake, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	3,750.00	
Dressendorfer-Laird, Inc, 1730 Rhode Island Avenue, NW, #210 Washington, DC 20036	College Football Assn	250.00	
Do	General Dynamics Corp	250.00	
Do	QualMed, Inc	250.00	
Do	Science Applications Int'l Corp	250.00	
Kevin J. Driscoll, 740 15th Street, NW Washington, DC 20005	American Bar Assn	400.00	50.00
Tim Driscoll, 815 15th Street, NW Washington, DC 20005	International Union of Bricklayers & Allied Craftsmen	2,000.00	60.00
F. Ford Drummond, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	25.00	
Duberstein Group, Inc, 2100 Pennsylvania Ave., NW, #500 Washington, DC 20037	Aetna Life & Casualty	8,800.00	
Do	Civil Justice Reform Group	2,400.00	
Do	Communications Satellite Corp	3,467.00	
Do	Consolidated Rail Corporation	4,534.00	
Do	Dow Corning Corporation	10,934.00	
Do	Federal National Mortgage Assn		
Do	General Motors Corp	7,466.00	
Do	Goldman Sachs & Co	800.00	
Do	Group Health Assn of American	12,534.00	
Do	Healthcare Leadership Council	10,134.00	
Do	Monsanto Company		
Do	National Cable Television Assn, Inc	11,466.00	
Do	Shell Oil Company	1,067.00	
Do	Transportation Institute	17,333.00	
Do	United Air Lines, Inc	267.00	
Do	Warner Communications, Inc	12,083.00	
Stan Dublinske, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
G. Stephen Duca, 1350 I Street, NW, Suite 300 Washington, DC 20005	Marine Spill Response Corporation		
Ducheneaux Taylor & Associates, 303 Massachusetts Ave., NW Washington, DC 20002	California Ind Legal Services/Timbisha Shoshone Tribe	300.00	
Do	Chippewa-Ottawa Treaty Fishery Management Authority	375.00	
Do	Commissioned Officers Assn of the U.S.P.H.S., Inc	300.00	
Do	Delaware Tribe of Indians	247.50	
Do	Gila River Farms	162.50	
Do	Grand Portage Reservation Tribal Council	450.00	
Do	Grand Traverse Bank of Chippewa and Ottawa Indians	450.00	
Do	Intertribal Agricultural Council	300.00	
Do	Leech Lake Tribal Council	562.50	
Do	Miami Tribe of Oklahoma	560.00	
Do	Minnesota Chippewa Tribe		
Do	Modoc Tribe of Oklahoma		
Do	MNE-SOSE International Water Rights Coalition	300.00	
Do	Native American Rights Fund		
Do	Siletz Tribal Council	450.00	
Do	Tohono O'Odham Nation	562.50	
Do	Tulalip Tribes	600.00	
Do	White Earth Tribal Council	562.50	
Tim Dudgeon, 1250 Eye Street, NW, #900 Washington, DC 20005	Distilled Spirits Council of the U.S., Inc	2,000.00	
Diane C. Duff, 1129 20th Street, NW, 2nd Floor Washington, DC 20036	Greater Washington Board of Trade	2,600.00	155.85
John V. Dugan Jr., 1725 Jefferson Davis Highway Crystal Square 2 Arlington, VA 22202	Lockheed Martin Corp	2,400.00	
Francis J. Duggan, 1150 Connecticut Avenue, NW, #700 Washington, DC 20036	Mullenholz & Brimsek (For:American Shooting Sports Council)	600.00	
Juanita D. Duggan, 1401 New York Ave., NW, #400 Washington, DC 20005	National Food Processors Assn	19,306.92	100.00
Valerie M.E.A. Dulk, 1625 K Street, NW, Suite 210 Washington, DC 20005	Americans for Democratic Action	1,406.25	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Garth F. Dull, 5990 Richmond Highway, #506 Alexandria, VA 22303	Nevada Resort Assn		
Amy K. Dunbar, P.O. Box 19230 Washington, DC 20036	National Assn of Bond Lawyers		41.50
Mallory B. Duncan, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation	2,000.00	100.00
Stephen M. Duncan, 110 South Union Street Alexandria, VA 22314	Mays & Valentine (For:General Atomics, et al.)		
William C. Duncan, 1050 17th Street, NW, #410 Washington, DC 20036	Japan Automobile Manufacturers Assn		736.08
Duncan Weinberg Miller & Pembroke, P.C., 1615 M Street, NW, #800 Washington, DC 20036	Mid-West Electric Consumers Assn, Inc		
Do	National Assn of Energy Service Companies		
Do	National Assn of State Energy Officials		
Do	State of Hawaii, Dept of Business & Economic Development		
Bernadette M. Dunham, 1101 Vermont Ave., NW, #710 Washington, DC 20005	American Veterinary Medical Assn		
David D. Dunlap, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn	5,000.00	
Louise C. Dunlap, 418 10th Street, SE Washington, DC 20003	Dunlap & Browder, Inc (For:Acurex Environmental/CA Energy Commission)		
Dunlap & Browder, Inc, 418 Tenth Street, SE Washington, DC 20003	Acurex Environmental/CA Energy Commission		
Do			
Mari Lee Dunn, 1750 K St., NW, #400 Washington, DC 20006-2305	American Council for Capital Formation	2,638.00	
Mark Dunn, P.O. Box 27 Boise, ID 83707	J. R. Simplot Co	12,000.00	3,378.35
Brigid M. Dunne, 850 Sligo Avenue, Suite 300 Silver Spring, MD 20910	Fund for Animals	4,583.33	450.47
Judy C. Durand, 1156 15th Street, NW, #1015 Washington, DC 20005	JC Penney Co, Inc		158.00
Douglas A. Durante, 7315 Wisconsin Avenue, NW, #515 East Bethesda, MD 20814	Clean Fuels Development Coalition	6,000.00	
Martin J. Durbin, 1275 K Street, NW, #400 Washington, DC 20005	American Plastics Council	787.58	323.58
Daniel T. Durham, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	11,105.82	140.00
Ed Durkin, 101 Constitution Ave., NW Washington, DC 20001	United Brotherhood of Carpenters & Joiners of America		
Katherine M. Dutilh, 910 16th Street, NW, #402 Washington, DC 20006	Milliken & Company	5,000.00	800.00
Lloyd L. Duxbury, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	24,340.00	427.30
Marcia L. DuMond, 200 East Berry Street Fort Wayne, IN 46802	Lincoln National Corp		
Amy S. Dwyer, 808 17th Street, NW, Suite 300 Washington, DC 20006-3910	Stewart & Stewart (For:Floral Trade Council)	901.03	
Dyer Ellis Joseph & Mills, P.C., 600 New Hampshire Ave., NW, #1000 Washington, DC 20037	American Coke & Coal Chemicals Institute		25.51
Do	American Healthcorp, Inc	6,394.88	
Do	American Lithotripsy Society	5,639.13	65.21
Do	Atlantic Maritime		
Do	Atlantic Richfield Co	115,290.52	9,589.50
Do	ARCO Transportation Company	34,731.76	617.77
Do	Bender Shipbuilding & Repair Co, Inc		
Do	Classic Car Coalition		74.36
Do	Dialysis Clinic, Inc		
Do	FastShip Atlantic, Inc	21,061.70	395.48
Do	Fruit Shippers Ltd (Bahamas)	264,305.04	
Do	Greek Shipping Cooperation Committee		
Do	International Marine Carriers, Inc		728.04
Do	JM Family Enterprises, Inc	437.50	
Do	Kirby Corp/Dixie Carriers	11,410.00	123.48
Do	Liberty Maritime Corporation	138,427.64	6,009.41
Do	Magnavox Electronic Systems Co	2,305.55	1.80
Do	MH Systems, Inc		0.75
Do	National Maritime Alliance, Inc		1,049.09
Do	National Oilseed Processors Assn	18,204.06	940.27
Do	National Steel & Shipbuilding Co		
Do	Ocean Marine Navigation Co, Inc	10,000.00	237.12
Do	Pacific Fruit, Inc	59,602.80	
Do	Panhandle Eastern Corp		253.47
Do	Rural Hospital Coalition		35.48
Do	Schnitzer Group	982.32	16.67
Do	Sperry Marine, Inc	5,792.55	
Do	Trump Organization	3,565.25	
Do	Van Ommeren Shipping (USA), Inc	16,857.35	
Dykema Gossett, 1300 I Street, NW, #300W Washington, DC 20005	American Automobile Centennial Commission		
Do	American Osteopathic Association		
Do	Citizen's Committee to Save the Federal Center	1,485.00	
Do	City of Detroit	1,095.00	
Do	Comerica	495.00	
Do	Detroit Medical Center	3,384.00	
Do	Ferris State University		
Do	Industrial Technology Institute	795.00	
Do	Magic Line, Inc		
Do	Michigan Biotechnology Institute (MBI)	3,555.00	
Do	Military Boot Manufacturers Assn		
Do	Oakwood Health Services	5,170.00	
Do	Selfridge ANG Base Community Council		
Do	Systems Control, Inc		
Do	Total Petroleum, Inc		
Do	University of Michigan Medical Center	1,137.50	
Do	Wayne State University	880.00	
Do	Wellness Plan	6,201.00	
Do	William Davidson Institute		
Anthony S. Earl, One South Pinckney Street P.O. Box 2113 Madison, WI 53701-2113	Quarles & Brady (For:Johnson Controls)		
Peter J. Earle, 607 14th Street, NW Washington, DC 20005	Dofasco, Inc		
Kerry P. Early, 1120 Connecticut Avenue, NW Washington, DC 20036	American Bankers Assn	4,440.00	239.60
Thomas M. Eastep Jr., 205 F Street, NE Washington, DC 20002	Alliance for American Innovation, Inc		
Jim Easton, 2003 Bluff Oak St. Apopka, FL 32712	Bristol Group, Inc		
Mark Eaton, 1100 17th Street, NW, Suite 505 Washington, DC 20036	Burley & Dark Leaf Tobacco Assn	1,875.00	
Eaton Peabody Bradford & Veague, P.A., P.O. Box 1210 Bangor, ME 04402-1210	AT&T	1,372.18	1,397.26
Do	Central Maine Power Co		
Brenda L. Eberly, 50 F Street, NW, #1050 Washington, DC 20001	Freeport-McMoRan Copper & Gold, Inc	917.00	10.00
Do	Freeport-McMoRan, Inc	917.00	10.00
Do	IMC Global, Inc	917.00	10.00
Echelon Corporation, 4015 Miranda Avenue Palo Alto, CA 94304			108,821.00
Bradley Eckart, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	9,525.00	
Timothy J. Eckels, 4455 Woodson Road St. Louis, MO 63134	Catholic Health Assn of the U.S.		
Eckert Seamans Cherin & Mellott, 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	American Assn of Motor Vehicle Administrators	6,125.00	
Do	American Fuel Cell & Coated Fabrics Co		
Do	National Independent Automobile Dealers Assn		
Daniel J. Edelman, Inc, 1420 K Street, NW Washington, DC 20005	Government of Portugal		
Edington Wade & Associates, Inc, 803 Prince Street Alexandria, VA 22314	Atlanta Comm for the Olympic Games	6,000.00	403.48
Do	Firearms Training Systems, Inc	3,000.00	209.21
Do	Lockheed Corporation	6,000.00	403.48
Do	Maxus Energy Corp	2,000.00	134.49
Do	National Assn of Commissioned Officers		
Do	Oceaneering Technologies, Inc	5,000.00	343.70
Do	Turner Broadcasting System, Inc	5,000.00	343.70
Do	U.S. Cane Sugar Refiners' Assn		
Do	Watkins Associated Industries, Inc		
Edison Electric Institute, 701 Pennsylvania Avenue, NW Washington, DC 20004			97,363.32
Education Legislative Services, Inc, 5855 Stadium Street San Diego, CA 92122	Central California Legislative Consortium	4,375.00	5,014.99
Do	Oakland Unified School District	5,862.88	6,721.07
Do	Sacramento City Unified School District	5,000.00	1,910.45
Do	San Diego Unified School District	7,083.00	8,117.27
Do	San Francisco Unified School District	4,999.98	5,731.41
Christine A. Edwards, 633 Pennsylvania Ave., NW, #600 Washington, DC 20004	Dean Witter, Discover & Co.		
D. Kendall Edwards, 1350 New York Ave., NW, Suite 900 Washington, DC 20005	International Franchise Assn		
Martin E. Edwards III, 555 13th Street, NW, #300 West Washington, DC 20004	Interstate Natural Gas Assn of America	8,000.00	
Michael D. Edwards, 1201 16th Street, NW Washington, DC 20036	National Education Assn	5,009.35	120.00
Sherry L. Edwards, 1100 New York Avenue, NW, #1090 Washington, DC 20005	Synthetic Organic Chemical Manufacturing Assn	500.00	10.00
Tony M. Edwards, 1129 20th Street, NW, Suite 305 Washington, DC 20036	National Assn of Real Estate Investment Trusts, Inc		314.00
Stephen R. Effros, P.O. Box 1005 Fairfax, VA 22030-1005	Cable Telecommunications Assn (CATA)	15,720.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Stephen R. Effros, P.C., P.O. Box 1005 Fairfax, VA 22030-1005	Cable Telecommunications Assn	15,720.00	15,720.00
Paul S. Egan, 2101 Huidekoper Pl., NW Washington, DC 20007	National Marrow Donor Program	13,750.00	
Thomas A. Ehrgood Jr., 1401 H Street, NW, Suite 950 Washington, DC 20005	Digital Equipment Corp	25,000.00	
William J. Ehrig, 700 Anderson Hill Road Purchase, NY 10577	PepsiCo, Inc	750.00	495.11
Tim Eichenberg, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation	301.24	
Jill A. Eicher, 1655 North Fort Myer Drive, Suite 700 Arlington, VA 22209	American Assn for Respiratory Care	14,325.76	84.65
Peter J. Eide, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	250.00
Donald G. Eirich, 1700 K Street, NW, #504 Washington, DC 20006	Bulova Technologies	5,000.00	15.00
Jonathan B. Eisen, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn	3,000.00	
Robert Eisenbud, 1155 Connecticut Ave., NW Washington, DC 20036	WMX Technologies, Inc	34,865.00	100.00
Earl B. Eisenhart, 66 Canal Center Place, #600 Alexandria, VA 22314	National Private Truck Council		
Linda S. Eisnaugle, 225 W. 34th Street New York, NY 10122	Commercial Finance Assn	9,000.00	721.00
Stephen A. Elbert, 1615 M St., NW, #200 Washington, DC 20036	Amoco Corporation		
Albert L. Elder III, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers	20,000.00	230.00
Electric Generation Assn, 2101 L Street, NW, #405 Washington, DC 20037		489.45	391.14
Electronetics Corp, 555 Commerce Drive Amherst, NY 14228			89.50
Elf Atochem North America, Inc, 2000 Market Street Philadelphia, PA 19103		15,890.18	
George K. Eliades, 1199 North Fairfax Street, #801 Alexandria, VA 22314	NATSO, Inc		
Jim Elkin, 1615 L Street, NW, Suite 1320 Washington, DC 20036	Sandoz Pharmaceuticals Corp		570.00
J. Burton Eller Jr., 1301 Pennsylvania Ave., NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Charles W. Elliott, Wisconsin Petroleum Council 25 W. Main St., #703 Madison, WI 53703	American Petroleum Institute	68.00	
Eric J. Ellman, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Gary Elmestad & Associates, P.O. Box 3153 St. Peters, MO 63376	City of St. Peters	7,455.00	0.12
Do	St. Charles County	16,250.01	77.01
Emergency Committee for American Trade, 1211 Connecticut Ave., NW, #801 Washington, DC 20036		90,918.18	100,187.73
Stanley J. Emerling, 2713 Berryland Drive Oakton, VA 22124-1404	National Assn of Meat Purveyors	240.00	
Jo Ann Emerson, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn		
John M. Emery, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
Michael J. Emig, 1125 15th St., NW Washington, DC 20005	International Bro of Electrical Workers, AFL-CIO-CLC	2,249.75	703.66
Christina Emmons, 1450 G Street, NW, #445 Washington, DC 20005	Countrywide Funding Corporation		3,600.00
Irene R. Emsellem, 1800 M Street, NW Washington, DC 20036	American Bar Assn	400.00	50.00
Energy Consumers & Producers Assn, P.O. Box 1288 Muskogee, OK 74402-1288		2,025.00	
Gary D. Engebretson, 1200 G Street, NW, #750 Washington, DC 20005	Contract Services Assn		307.50
Ralph Engel, 1913 Eye Street, NW Washington, DC 20006	Chemical Specialties Manufacturers Assn, Inc	4,796.13	92.00
Charles M. English Jr., 1401 H Street, NW, #500 Washington, DC 20005	Ober Kaler Grimes & Shriver, P.C.	26,220.00	43,709.50
Glenn English, 1800 Massachusetts Ave., NW Washington, DC 20036	National Rural Electric Cooperative Assn	125.00	
Mary Pepper English, 1133 21st Street, NW, #900 Washington, DC 20036	BellSouth Corp	3,200.00	
English First, 8001 Forbes Place, #102 Springfield, VA 22151		218,166.74	225,671.87
Jon Englund, 1616 N. Fort Myer Drive, #1300 Arlington, VA 22209-3106	Information Technology Assn of America, Inc		
Ann Eppard Associates, Ltd, 30 Wolfe Street Alexandria, VA 22314	American Road & Transportation Builders Assn	5,000.00	
Do	AMTRAK	7,500.00	
Do	Board of County Commissioners of Dade County, FL	3,819.16	
Do	Conrail	15,000.00	
Do	FastShip Atlantic, Inc	15,000.00	
Do	Federal Express Corp	5,000.00	
Do	Frito-Lay, Inc	5,000.00	
Do	GTE	2,333.00	
Do	I-73/74 Association, North Carolina	1,666.00	
Do	Los Angeles County Mass Transportation Authority	4,166.00	
Do	Metropolitan Washington Airports Authority		
Do	Natural Disaster Coalition	10,000.00	
Do	Ocean Common Carrier Coalition	6,225.00	
Do	Outdoor Advertising Assn of America, Inc	5,000.00	
Do	OMI Corp		
Do	Pennsylvania Turnpike Commission	8,333.00	
Do	Puerto Rico Dept of Highways and Transportation	6,333.00	
Do	Regulated Common Carrier Commission	4,000.00	
Do	Southeastern Economic Development Corp	1,666.00	
Matthew E. Eppler, 750 17th Street, NW, #900 Washington, DC 20006	Nissan North America, Inc	4,125.00	
Paul A. Equale, 412 First Street, SE, #300 Washington, DC 20003	Independent Insurance Agents of America, Inc	27,418.00	
Equipment Leasing Assn of America, 1300 North 17th St., #1010 Arlington, VA 22209		1,500.00	
Randall Harvey Erben, 807 Brazos Street, Suite 402 Austin, TX 78701	American Insurance Assn	5,000.00	
Do	Genentech, Inc	7,500.00	129.37
Do	Panhandle 2000	30,000.00	920.47
Do	Southwestern Bell Telephone Co	24,000.00	3,032.98
Jack Ericksen, 1501 M Street, NW, Suite 400 Washington, DC 20005	Aetna Life & Casualty	500.00	
Jenny Erickson, 200 Clarendon Street Boston, MA 02117	John Hancock Mutual Life Insurance Co		
Thomas J. Erickson, 1300 L Street, NW, #925 Washington, DC 20005	National Grain Trade Council		4.25
Harvey F. Ernest Jr., 1001 15th Street, NW, #100 Washington, DC 20005	Minnesota Mining & Manufacturing (3M)	1,000.00	
Pamela K. Ernest, 1100 Connecticut Ave., NW, #710 Washington, DC 20036	Honeywell, Inc	3,500.00	3,513.80
Dennis L. Erpelding, 555 12th St. NW, #650 Washington, DC 20004	Eli Lilly & Company	3,000.00	615.80
James L. Ervin, 410 First Street, SE, #300 Washington, DC 20003	Friends of Fort Rucker, Inc	3,000.00	
Do	Hazarous Waste Action Coalition	5,250.00	
Do	Hughes Aircraft Co	4,500.00	
Do	Ingalls Shipbuilding	5,250.00	
Do	Kaman Diversified Technologies, Inc	2,625.00	
Do	Lister Bolt & Chain, Ltd	2,250.00	
Do	Martin Marietta Corp	6,770.83	
Do	Northrop Corp	5,875.00	
Do	Teledyne Industries, Inc	11,250.00	
Ingolf G. Esders, 815 16th Street, NW Washington, DC 20006	International Longshoremen's Assn, AFL-CIO	18,331.77	
Mark Esherick, 1801 Pennsylvania Avenue, NW Washington, DC 20006	MCI Communications Corp	1,000.00	
Anita R. Estell, 1420 New York Avenue, NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Lincoln University)	250.00	
Do	Van Scoyoc Hospital, Inc (For:McLean Hospital)	937.50	
Do	Van Scoyoc Associates, Inc (For:MetaNetworks)		
Do	Van Scoyoc Associates, Inc (For:National Commission on Correctional Health Care).	400.00	
Do	Van Scoyoc Associates, Inc (For:Spelman College)	1,200.00	
Do	Van Scoyoc Associates, Inc (For:University of Puerto Rico)	600.00	
Deborah M. Estes, 1515 Wilson Boulevard Arlington, VA 22209	American Gas Assn	5,000.00	260.14
Nancy U. Etkin, 1515 Wilson Blvd., Suite 1030 Arlington, VA 22209	Natural Gas Vehicle Coalition	5,614.00	
Stephen E. Eure, 1840 Wilson Boulevard Arlington, VA 22201	National Milk Producers Federation	11,250.00	
Mary Jo Eustice, 412 First Street, SE Washington, DC 20003	National Automobile Dealers Assn	6,000.00	
Billy Lee Evans, 407 1st STreet, SE Washington, DC 20003	B.L. Evans & Associates (For:Great Western Financial Corp)		
Do	Royal Norwegian Government	21,000.00	
Brock Evans, 666 Pennsylvania Avenue, SE Washington, DC 20002	National Audubon Society	4,400.00	230.00
Cleve Evans, P.O. Box 841 Abilene, TX 79604	West Texas Utilities Company		
Donald C. Evans Jr., 655 15th St., NW, #310 Washington, DC 20005	AFLAC, Inc		
Eddie D. Evans, 1776 Eye Street, NW, Suite 575 Washington, DC 20006	Marion Merrell Dow, Inc		6,667.00
Lynwood J. Evans, 1020 19th Street, NW, #700 Washington, DC 20036	U S West, Inc	2,492.05	
Robert D. Evans, 1800 M St., NW Washington, DC 20036	American Bar Assn	400.00	50.00
Rae Evans & Associates, Inc, 1615 L Street, NW, #1220 Washington, DC 20036	American Personal Communications	9,375.00	118.88
Do	Hallmark Cards, Inc	9,375.00	
Do	National Capital Newspaper Distributors Assn	9,375.00	36.00
B.L. Evans and Associates, Inc, 407 1st Street, SE Washington, DC 20003	Great Western Financial Corp	5,000.00	
Fawn K. Evenson, 1420 K Street NW, #600 Washington, DC 20005	Footwear Industries of America	1,000.00	
Kellye A. Eversole, 4434 Indigo Lane Harwood, MD 20776	National Corn Growers Assn	2,500.00	
Wayne S. Ewing, Associated Petroleum Industries of PA P.O. Box 925 Harrisburg, PA 17108	American Petroleum Institute		
F/P Research Associates, 1700 K St., NW, #1000 Washington, DC 20006	American Bus Assn	500.00	
Do	Hewlett-Packard Co	1,000.00	
Do	National Assn of Manufacturers	1,000.00	
Do	National Cable Television Assn, Inc	1,500.00	
Do	National Restaurant assn	1,000.00	
Do	Sturm, Ruger & Co		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Thomas L. Fagan, Jr., 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Dan L. Fager, 1401 Eye Street, NW, #1200 Washington, DC 20005	Chevron Companies	2,100.00	
Dale W. Fallat, P.O. Box 119 Maumee, OH 43537	Andersons		
Family Research Council, 700 13th Street, NW, Suite 500 Washington, DC 20005		51,799.00	18,150.00
Frank J. Farfone, 1776 Eye Street, NW, Suite 575 Washington, DC 20006	Dow Chemical USA		6,592.00
S. Jackson Faris, 600 Maryland Avenue, SE, #700 Washington, DC 20024	National Fed of Independent Business	1,150.00	200.00
Farm Credit Council, 50 F Street, NW, #900 Washington, DC 20001		1,775.00	5,910.00
Farm Health Care Coalition, 1735 I Street, NW, #704 Washington, DC 20006			
David M. Farmer, 1211 Connecticut Avenue, NW, Suite 400 Washington, DC 20036	Alliance of American Insurers	20,000.00	
Martin T. Farmer, P.O. Box 40789 Jacksonville, FL 32203-0789	Barnett Banks, Inc	26,125.00	4,747.49
Farmers' Educational & Co-Operative Union of America, 600 Maryland Ave., SW, #202w Washington, DC 20024		9,536.00	103,738.82
Meg Farrage, 1901 Pennsylvania Ave., NW, 10th Floor Washington, DC 20006	International Mass Retail Assn	100.00	
J. Michael Farren, 1401 H Street, NW, #200 Washington, DC 20005-2110	Xerox Corp	3,000.00	
Nina Fascione, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	363.46	
Marcus G. Faust, 332 Constitution Ave., NE Washington, DC 20002	Central Utah Water Conservancy District	20,493.75	935.00
Do	Clark County Nevada-McCarran International Airport	16,820.25	
Do	Clark County Nevada, Office of the County Manager	17,597.25	
Do	Kirton McConkie & Poelman		
Do	Las Vegas Valley Water District	38,680.00	26.35
Do	Public Service Co of New Mexico	22,942.50	500.04
Do	Sierra Pacific Power Co	42,074.50	1,026.04
Do	State of Montana Dept of Natural Resources & Conservation	4,500.00	
Jane Fawcett-Hoover, 801 Pennsylvania Ave., NW, #720 Washington, DC 20004-2604	Procter & Gamble	239.25	
Robert C. Fay, 450 E. Higgins Road, #201-E Elk Grove Vilage, IL 60007-1417	American Amusement Machine Assn		
Nessa E. Feddis, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	2,724.00	191.00
Federal Affairs Office, 11350 Random Hills Rd., #240 Fairfax, VA 22030	Computer Learning Center	6,000.00	7,128.31
Federal Judges Association, 111 West Washington Street, #1100 Chicago, IL 60602-2768		6,624.26	30,463.67
Federation for American Immigration Reform, 1666 Connecticut Avenue, NW, #400 Washington, DC 20009			33,329.53
Federation of American Controlled Shipping, 50 Broadway New York, NY 10004		3,415.38	3,415.38
Federation of American Health Systems, 1111 19th St., NW, #402 Washington, DC 20036		15,000.00	15,000.00
Federation of American Scientists, 307 Massachusetts Ave., NE Washington, DC 20002		5,500.00	6,365.00
John D. Fedor, 1725 Jefferson Davis Highway, #901 Arlington, VA 22202	Alliant Techsystems, Inc	2,835.00	534.86
Edward F. Feighan, 1228 Euclid Avenue, Suite 900 Cleveland, OH 44115-1891	Climaco Climaco Seminatore Lefkowitz & Garofoli Co (For:Blue Cross & Blue Shield of Ohio).	7,200.00	3,125.00
Paul Fekete, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)		
Laura Feldman, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	4,149.00	
Kenneth E. Feltman, 927 15th St., NW, #1000 Washington, DC 20005	Employers Council on Flexible Compensation	200.00	
Denise G. Ferguson, 1020 19th St., NW, #600 Washington, DC 20036	American Express Co	17,238.00	556.00
Maureen H. Ferguson, Indiana Petroleum Council 143 W. Market Street, #714 Indianapolis, IN 46204	American Petroleum Institute		
DeDe Ferrell, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	10,000.00	799.32
Michael J. Ferrell, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America	35,700.00	1,707.03
Edward Ferrigno, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	3,000.00	646.48
Robert M. Ferris, 1101 14th Street, NW, Suite 1400 Washington, DC 20005	Defenders of Wildlife		
Lizabeth Heydt Ferry, 4636 Somerton Road Trevose, PA 19053	Betz Laboratories		
Marvin C. Feuer, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Comm	15,000.00	93.65
Richard G. Fifield, P.O. Box 11000 Montgomery, AL 36198	Alabama Farmers Federation	1,775.00	
Brad G. Figel, 507 Second Street, NE Washington, DC 20002	NIKE, Inc		
Amy Finan De Leon, 818 Connecticut Ave., NW, #303 Washington, DC 20006	National Assn for Biomedical Research		
Financial Executives Institute, 10 Madison Avenue P.O. Box 1938 Morristown, NJ 07962-1938		78,500.00	78,500.00
Jeanne Finberg, 1525 Mission Street San Francisco, CA 94103	Consumers Union	1,600.34	
Joseph T. Findaro Jr., 1350 Eye Street, NW, 2nd Floor Washington, DC 20005	Bayh Connaughton Fensterheim & Malone (For:Alliance for Radon Reduction)	6,400.00	450.00
Do	Eckert Seamans Cherin & Mellott (For:Coachella Valley Water District)	2,900.00	90.00
Do	Denver Water Board	5,000.00	25.00
Do	Bayh Connaughton Fensterheim & Malone (For:Hutchinson Kansas - Local Gov't Superfund Reform).	2,000.00	150.00
Do	Bayh Connaughton Fensterheim & Malone (For:San Luis & Delta Mendota Water Users Assn).	600.00	130.00
Linda D. Findlay, 1420 New York Avenue, NW, Suite 210 Washington, DC 20005	Phelps Dodge Corp	2,500.00	
Sharon R. Fine, 1776 K Street, NW Washington, DC 20006	Washington Citizens for World Trade	3,125.00	
Lawrence A. Fineran, 1331 Pennsylvania Ave., NW, #1500 N Washington, DC 20004	National Assn of Manufacturers	750.00	
Matthew P. Fink, 1401 H Street, NW Washington, DC 20005	Investment Company Institute	114.84	
Peter J. Finnerty, 1331 Pennsylvania Ave., NW #560 Washington, DC 20004	Sea-Land Service, Inc	3,000.00	
Thomas D. Finnigan, 801 Pennsylvania Avenue, NW, #230 Washington, DC 20004	Praxair, Inc		
James J. Finnucan, 2 Hodio Drive Ansonia, CT 06401	Northeast Utilities Service Co	3,753.66	2,935.89
Maria Fiordellisi, 815 16th Street, NW Washington, DC 20006	American Federation of Labor & Congress of Industrial Orgs	18,031.39	144.00
First National Bank of Boston, 100 Federal St. Boston, MA 02110			6,797.47
Charles H. Fischer, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	242.30	
H. David Fish, 5855 Stadium Street San Diego, CA 92122	Education Legislative Services, Inc (For:Central California Legislative Consortium).	253.72	
Do	Education Legislative Services, Inc (For:Oakland Unified School District)	340.03	
Do	Education Legislative Services, Inc (For:Sacramento City Unified School District)	96.65	
Do	Education Legislative Services, Inc (For:San Diego Unified School District)	410.67	
Do	Education Legislative Services, Inc (For:San Francisco Unified School District)	289.96	
Donald W. Fisher, 3814 Ivanhoe Lane Alexandria, VA 22310	American Group Practice Assn	1,800.05	
Donna J. Fisher, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	19,422.00	
Gary K. Fisher, 1401 Eye St., NW, #1200 Washington, DC 20005	Chevron Companies	4,000.00	
Gregory M. Fisher, 1201 Connecticut Ave., NW, #300 Washington, DC 20036	Bailey & Robinson (For:Bayer Corporation)		
Do	Bailey & Robinson (For:Nonprescription Drug Manufacturers Assn)		
J. Paris Fisher, 1801 K St., NW, #800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Scott Fisher, 701 W. 15th Street Austin, TX 78701	Texas Oil Marketers Assn	384.64	102.86
Linda G. Fitcheard, 700 11th Street, NW Washington, DC 20001	National Assn of Realtors	2,000.00	
Clyde Fitzgerald, 815 Sixteenth Street Washington, DC 20006	International Longshoremen's Assn, AFL-CIO		
Thomas H. Fitzpatrick, Connecticut Petroleum Council 55 Farmington Avenue, #704 Hartford, CT 06105	American Petroleum Institute	60.00	
Donald Fix, 2100 Pennsylvania Ave., NW, #560 Washington, DC 20037	Hyjek & Fix, Inc (For:British Aerospace)	1,500.00	686.36
Do	Hyjek & Fix, Inc (For:Canadair Challenger, Inc)	1,500.00	918.27
Do	Hyjek & Fix, Inc (For:Learjet, Inc)	300.00	
Do	Hyjek & Fix, Inc (For:Research & Development Labs)	750.00	717.09
Do	Hyjek & Fix, Inc (For:Short Brothers (USA), Inc)	750.00	
Do	Hyjek & Fix, Inc (For:Thorn EMI)	2,000.00	
Do	Hyjek & Fix, Inc (For:Vickers Bridging)	2,125.00	1,300.81
Hilliard J. Fjord, 6725 Wooster Pike Cincinnati, OH 45227	Ohio River Co	3,000.00	277.47
N. David Flagg, P.O. Box 100303 Gainesville, FL 32610-0303	Shands Hospital	1,759.00	3,460.01
Robert B. Flagg, 9622 Maury Road Fairfax, VA 22032	Chemical Manufacturers Assn, Inc	750.00	500.00
Meghan R. Flaherty, 700 13th Street, NW, Suite 500 Washington, DC 20500	Family Research Council		
Steven H. Flajser, 1725 Jefferson Davis Highway, #900 Arlington, VA 22202	Space Systems/Loral	4,500.00	
Sarah A. Flanagan, 1025 Connecticut Ave., NW, #700 Washington, DC 20036	National Assn of Independent Colleges & Universities	18,687.48	
Joyce Flannery, 402 West Broadway, #1150 San Diego, CA 92101	Flannery Group (For:Audre, Inc)		
John Flatley, 1250 Eye Street, NW, Suite 900 Washington, DC 20005	Distilled Spirits Council of the U.S.	2,000.00	
Fleishman-Hillard, Inc, 1301 Connecticut Ave., NW, 7th Floor Washington, DC 20036	National Spiritual Assembly of the Baha'is of the U.S.	24,000.00	211.00
Terry P. Fleming, Ohio Petroleum Council 88 E. Broad St., #1960 Columbus, OH 43215	American Petroleum Institute		254.37
Nancy J. Fletcher, 1850 M Street, NW, Suite 1040 Washington, DC 20036	Outdoor Advertising Assn of America, Inc	20,000.00	462.52
Ronnie G. Flippo, 701 Pennsylvania Ave., NW, #800 Washington, DC 20004	R.G. Flippo & Associates, Inc (For:Alabama Nursing Homes Assn)	1,500.00	
Do	R.G. Flippo & Associates, Inc (For:Alabama Power Co)	3,000.00	
Do	R.G. Flippo & Associates, Inc (For:Huntsville-Madison County Airport Authority)	1,950.00	
Do	R.G. Flippo & Associates, Inc (For:Massachusetts Mutual Insurance Co)	3,000.00	
Do	R.G. Flippo & Associates, Inc (For:South Central Bell)	1,800.00	
Do	R.G. Flippo & Associates, Inc (For:Troy State Universtity)	2,850.00	
Do	R.G. Flippo & Associates, Inc (For:University of Alabama in Huntsville)	2,850.00	
Florida Business Associates, 1620 L Street, NW, #875 Washington, DC 20036	Alabama Supercomputing Authority	16,409.00	
Do	California Polytechnic University, Pomona	12,268.80	
Do	Cray Research, Inc	35,679.06	
Do	Federal Information Exchange	15,000.00	
Do	Florida Power & Light		
Do	Hampton University	6,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	MEDCO Containment	2,000.00	
Do	Nichols Research, Inc	12,000.00	
Do	University of Alaska	17,297.00	
Do	University of Vermont	13,285.93	
Do	Virginia Commonwealth University	5,333.34	
Do	Westinghouse Electric Corp	9,000.00	
Florida Wetlandsbank, 1800 N. Douglas Road, Suite 203 Pembroke Pines, FL 33024			
Veronica M. Floyd, 3306 Fallen Tree Court Alexandria, VA 22310	Brunswick Marine Group	4,745.00	364.00
James F. Flug, 1401 16th Street, NW Washington, DC 20036	Generic Pharmaceutical Industry Assn	29,710.00	209.13
John J. Flynn, 1125 17th Street, NW Washington, DC 20036	International Union of Operating Engineers	7,500.00	547.03
Laura C. Fogt, P.O. Box 1417-D49 Alexandria, VA 22313-1417	Families USA Foundation		
Do	National Assn of Chain Drug Stores	1,000.00	
M. Todd Foley, 1776 I Street, NW, #1000 Washington, DC 20006	BP America, Inc		
Foley & Lardner, 3000 K Street, NW, #500 Washington, DC 20007-5109	Aurora Health Care, Inc, et al.		
Do	Council of Community Blood Centers		
Do	Real Estate Services Providers Council		
Brian Folkerts, 1401 New York Ave., NW, Suite 400 Washington, DC 20005	National Food Processors Assn	11,962.08	100.00
R. D. Folsom, 601 13th St., Suite 410 South Washington, DC 20005	R. Duffy Wall & Associates	1,250.00	
Richard T. Foltin, 1156 15th Street, NW, Suite 1201 Washington, DC 20005	American Jewish Committee	9,500.00	180.00
Brian F. Fontes, 1250 Connecticut Ave, NW, 2nd Floor Washington, DC 20036	Cellular TElecommunications Industry Assn		
Food & Allied Service Trades Dept, AFL-CIO, 815 16th Street, NW, #408 Washington, DC 20006		13,234.00	13,234.00
Foodservice & Packaging Institute, Inc, 1901 North Moore Street Arlington, VA 22209			
James E. Ford, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co	620.00	
Sonja Fordham, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation		
Donald D. Foreman, 200 E. Randolph Dr. Chicago, IL 60601	R.J. Reynolds Tobacco Co	3,600.00	
Forest Farmers Assn, P.O. Box 95385 Atlanta, GA 30347		9,470.10	8,098.52
Paul Forlenza, 1301 K Street, NW Washington, DC 20005	IBM	2,340.00	314.00
Frank J. Formica, 1735 K Street, NW Washington, DC 20006	National Assn of Securities Dealers	350.00	10.00
Larry Forrester, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268	National Assn of Mutual Insurance Cos		
Anne Forristall, 1201 Connecticut Ave., NW, #550 Washington, DC 20036	Bailey & Robinson (For:Ormet)		
Richard D. Fortin, 1100 New York Avenue, NW Suite 750 Washington, DC 20005	National Industrial Transportation League	640.00	10.00
Tracy Fortson, 818 Connecticut Ave., NW, #303 Washington, DC 20006	National Assn for Biomedical Research	799.00	
David V. Foster, 1020 19th St., NW, #550 Washington, DC 20036	Genzyme Corp	937.50	
Foundation for Environmental & Economic Progress, 1001 Pennsylvania Ave., NW #310 Washington, DC 20004		125,000.00	85,702.69
Marianne Wesley Fowler, 1400 16th Street, NW Washington, DC 20036	Rails-to-Trails Conservancy	8,051.00	
Alissa T. Fox, 311 Massachusetts Avenue, NE Washington, DC 20002	Washington Health Advocates	26,540.50	
Barbara Fox, 1101 Pennsylvania Avenue, NW, #950 Washington, DC 20004	Federal Home Loan Mortgage Corp	3,000.00	200.00
Karl E. Francis, P.O. Box 741239 Arvada, CO 80006-1239	City of Kaktovik, Alaska	6,915.00	2,298.55
Stephen R. Francisco, 815 16th Street, NW, Suite 706 Washington, DC 20006	United Steelworkers of America	15,353.19	
Peter M. Frank, 1667 K St., NW, #250 Washington, DC 20006	Kerr-McGee Corp	2,500.00	
Faye B. Frankfort, 9312 Old Georgetown Road Bethesda, MD 20814-1621	American Podiatric Medical Assn	4,000.00	
David C. Frankil, 1875 Eye Street, NW, Suite 540 Washington, DC 20006	Champion International Corp	1,440.00	
Jordan Frankl, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Committee		303.26
Walter L. Frankland Jr., 1730 M Street, NW, #304 Washington, DC 20006-3868	Silver Users Assn, Inc	1,080.00	73.00
C. Anson Franklin, 1101 Connecticut Ave., NW, #1200 Washington, DC 20036	Illinois Power	3,150.00	167.93
Kevin Frankovich, 733 15th Street, NW, #700 Washington, DC 20005	CGR Associates, iNc (For:Association of Air Medical Services)	3,487.00	256.05
Do	CGR Associates, Inc (For:Fringe Insurance Benefits, Inc)		
Marian C. Franz, 2121 Decatur Place, NW Washington, DC 20008	National Campaign for a Peace Tax Fund	2,662.60	1,389.72
Fraser Trebilcock Davis & Foster, P.C., 1000 Michigan National Tower Lansing, MI 48933	Michigan Cable Television	2,242.50	25.00
Kathleen A. Frawley, 1919 Pennsylvania Ave., NW, Suite 300 Washington, DC 20006	American Health Information Management Assn	3,352.00	18.00
Douglas Freberg II, 1515 Wilson Blvd. Arlington, VA 22209	American Gas Assn	2,000.00	524.09
Robert M. Frederick, 1616 H St., NW Washington, DC 20006	National Grange	6,000.00	
Freeborn & Peters, 311 South Wacker Drive, Suite 3000 Chicago, IL 60606	Boots Pharmaceutical, Inc		
James T. Freeman, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America	6,690.00	284.17
Lewis R. Freeman Jr., 1275 K Street, NW, #400 Washington, DC 20005	Society of the Plastics Industry, Inc		
Paula D. Freer, 1101 Pennsylvania Avenue, NW, #510 Washington, DC 20004	USX Corporation		
Freer & McGarry, P.C., 1000 Thomas Jefferson St., NW, #600 Washington, DC 20007	Amstar Corp	11,286.00	
Verrick O. French, 1455 Pennsylvania Avenue, NW, #1260 Washington, DC 20004	French & Company (For:International Electronics Mfgrs & Consumers of America, Inc).	1,100.00	
Do	French & Company (For:Montgomery Ward & Co, Inc)	175.00	
French & Company, 1455 Pennsylvania Ave., NW, #1260 Washington, DC 20004	International Electronics Mfgrs & Consumers of America, Inc	1,850.00	
Do	Montgomery Ward & Co, Inc	175.00	
Robert H. Frenzel, 316 Pennsylvania Ave., SE, #304 Washington, DC 20003	United Parcel Service	5,000.00	350.00
Fresh Produce Assn of the Americas, P.O. Box 848 Nogales, AZ 85621			
John Freshman Associates, Inc, 1722 I Street, NW, #500 Washington, DC 20006	Anheuser-Busch Companies, Inc	18,000.00	1,958.24
Do	Gulf Coast Waste Disposal Authority	949.00	303.08
Do	Los Angeles County Sanitation District	7,513.00	254.25
Do	Upjohn Co	20,161.00	615.10
G. William Frick, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute		
Fried Frank Harris Shriver & Jacobson, 1001 Pennsylvania Ave., NW, #800 Washington, DC 20004-2505	General Electric Co		3.50
Do	Lonza, Inc		38.22
Do	Ohio Edison Co		
Gay Friedmann, 555 13th Street, NW, #300W Washington, DC 20004	Interstate Natural Gas Assn of America	15,000.00	255.00
Owen V. Frisby, 4 Old Stage Court Rockville, MD 20852	GHL, Inc	6,000.00	
Do	National Mining Association	9,000.00	8.00
Maureen S. Frisch, 1201 Third Avenue, Suite 4900 Seattle, WA 98101-3045	Simpson Investment Company	2,400.00	
Charles H. Fritts, 1515 Wilson Blvd Arlington, VA 22209	American Gas Assn	3,950.00	121.26
Edward O. Fritts, 1771 N Street Washington, DC 20036	National Assn of Broadcasters	2,000.00	
Charles H. Fritzel, 444 North Capitol St. NW, #801 Washington, DC 20001	National Assn of Independent Insurers	600.00	300.00
Alan Front, 666 Pennsylvania Ave., SE, #401 Washington, DC 20003	Trust for Public Land	7,268.00	11,161.64
Richard L. Fruchterman III, 1120 Connecticut Ave., NW, #400 Washington, DC 20036	WorldCom, Inc	15,000.00	370.84
Gordon H. Fry, 900 19th St., NW Washington, DC 20006	Aluminum Assn, Inc	25.00	
Susan L. Fry, 1401 New York Ave., NW, #400 Washington, DC 20005	National Food Processing Assn	11,299.52	100.00
Fuji Bank, Ltd, c/o Washington DC Representative Office 900 19th Street, NW, #750 Washington, DC 20006			3,098.00
Fuji Photo Film, Inc, 211 Pucketts Ferry Road Greenwood, SC 29649			3,300.00
Fulbright & Jaworski, 801 Pennsylvania Avenue, NW Washington, DC 20004	Barrett Resources Corp	4,860.00	34.40
Do	Ernst & Young	20,000.00	
Do	Federal Home Loan Bank of Dallas	12,000.00	60.50
Do	Generic Pharmaceutical Industry Assn		
Do	Siemens Transportation Systems, Inc	7,500.00	52.59
Nancy R. Fulco, 1615 H St., NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	
Carolyn Fuller, 1420 New York Avenue, NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Montana State University)	1,458.25	
Do	Van Scoyoc Associates, Inc (For:North Dakota State University)		
Do	Van Scoyoc Associates, Inc (For:University of New Orleans)	250.00	
Do	Van Scoyoc Associates, Inc (For:WINSM Consortium)	900.00	
Jon Fuller, 1025 Connecticut Ave., NW, #700 Washington, DC 20036	National Assn of Independent Colleges & Universities	1,950.00	
Don Fuqua, 1250 Eye Street, NW Washington, DC 20005	Aerospace Industries Assn of America, Inc	4,375.00	
Furman Group, 1299 Pennsylvania Avenue, NW Suite 995 Washington, DC 20004	Central Basin Municipal Water District	40,000.00	400.00
Do	Central Utah Water Conservancy District		
Do	Southern California Water Co	15,000.00	35.60
Do	Upper San Gabriel Municipal Water District	15,000.00	102.04
Do	West Basin Municipal Water District	40,000.00	500.00
Kurt A. Furst, 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto-Searle		525.00
Colleen Furukawa, 1100 Connecticut Avenue, NW, #910 Washington, DC 20036	Coalition for Employment through Exports	5,170.00	
Jane Futch, 600 Maryland Ave., SW Washington, DC 20024	American Farm Bureau Federation	3,446.00	43.00
Futures Industry Assn, Inc, 2001 Pennsylvania Ave., NW Washington, DC 20006-1807		7,500.00	25.00
Edward M. Gabriel, 1001 G Street, NW, SUite 400 West Washington, DC 20001	Energy Fuels Nuclear, Inc		
James E. Gaffigan, 1201 New York Ave., NW Washington, DC 20005-3931	American Hotel & Motel Assn	6,603.65	
Floyd D. Gaibler, 1155 15th Street, NW, Suite 300 Washington, DC 20005	Agricultural Retailers Assn	7,000.00	5,342.19
Gary P. Galanis, 1100 South Washington Street, 1st Floor Alexandria, VA 22134-4494	National Beer Wholesalers Assn	2,951.44	52.00
Michael R. Gale, 2500 Wilson Blvd. Arlington, VA 22201	American Apparel Manufacturers Assn	2,600.00	75.00
Christopher Gallagher, 1640 Wisconsin Avenue, NW, 1st Floor Washington, DC 20007	American College of Surgeons		1,040.62
Galland Kharasch Morse & Garfinkle, P.C., 1054 31st Street, NW Second Floor Washington, DC 20007	National Assn of Theatre Owners		
Mark Gallant, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	2,600.00	358.33

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Jon T. Gallinger, 10 Lafayette Square Buffalo, NY 14203	National Fuel Gas Distribution Corp, et al.	4,777.96	7,856.94
Joan Galvin, 8607 Westwood Center Drive Vienna, VA 22182	Ringling Bros & Barnum & Bailey		
Cheryl Gannon, 2000 K Street, NW #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	19,132.00	
Brian D. Garber, 1301 Pennsylvania Ave., NW, #300 Washington, DC 20004	Public Lands Council	1,000.00	
Isabelle Garcia, 1201 16th St., NW, #624 Washington, DC 20036	National Education Assn	3,978.55	59.00
Norma Garcia, 1535 Mission Street San Francisco, CA 94103	Consumers Union	33.68	
Margaret Garikes, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	25.00	
David P. Garland, 1629 K Street, NW, #301 Washington, DC 20006	Evergreen International Aviation, Inc		
Tonia Ann Garrett, 400 N. Capitol St., NW, #357 South Washington, DC 20001	Association of California Water Agencies	2,000.00	
Theodore J. Garrish, 1776 I Street, NW, #400 Washington, DC 20006	Nuclear Energy Council	14,190.00	339.00
Janet M. Garry, P.O. Box 749 Rockville, MD 20848-0749	National Council Social Security Management Assns, Inc	14,760.00	964.61
Garvey Schubert & Barer, 1000 Potomac Street, NW Washington, DC 20007	American International Freight Assn	15,000.00	
Do	Canadian Embassy		
Do	Foss Maritime	955.80	
Do	Interocean Management Company		
Do	J & B Management Company	23,082.62	
Do	Port of Grays Harbor, Washington	18,900.73	
Do	Totem Ocean Trailer Express, Inc	50,492.25	
Do	USX	11,280.05	
Jerdy Gary, 701 W. 15th Street Austin, TX 78701	Texas Oil Marketers Assn	1,442.40	244.65
Lillian B. Gaskin, 1800 M St., NW Washington, DC 20036	American Bar Assn	400.00	50.00
Philip Gasteyer, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers		
Monique S. Gaw, 3138 North 10th Street, Suite 300 Arlington, VA 22201	National Assn of Federal Credit Unions	1,250.00	
F. Michael Gaymon, P.O. Box 1200 Columbus, GA 31902-1200	Columbus GA Chamber of Commerce		
A. Fred Gebler, 1331 Pennsylvania Ave., NW, #1300N Washington, DC 20004	EDS Corporation	140.00	
Ruthann Geib, 1156 15th Street, NW, #1101 Washington, DC 20005	American Sugarbeet Growers Assn	7,810.00	
Ethel Z. Geisinger, 113 King Street Armonk, NY 10504-1610	MBIA, Inc	500.00	640.00
Deanna Gelak, 606 North Washington Street Alexandria, VA 22314	Society for Human Resource Management	5,827.00	187.92
Morton A. Geller, Corporate Tax Department 100 Federal Street Boston, MA 02110	First National Bank of Boston		
David F. Gencarelli, 1919 Pennsylvania Ave., NW, Suite 300 Washington, DC 20006	Guardian Life Insurance Co of America		
Do	Richard T. Hines Consulting, Inc (For:Northwestern National Life Insurance Co)	2,500.00	322.30
Do	Olympic Health Management Systems, Inc	7,500.00	541.04
Do	Richard T. Hines Consulting, Inc (For:Pan American Life Insurance Co)	5,000.00	325.70
Do	Richard T. Hines Consulting, Inc (For:Washington National Life Insurance)	3,750.00	325.00
Do	Richard T. Hines Consulting, Inc (For:Wausau Insurance Companies)	10,000.00	293.38
General Aviation Manufacturers Association, 1400 K Street, NW, #801 Washington, DC 20005			11,247.00
General Instrument Corporation, 181 West Madison Street, Suite 4900 Chicago, IL 60602		15,171.25	
General Teamsters Local 959, 4300 Boniface Parkway, 4th Floor Anchorage, AK 99504-4387			45,679.00
Genzyme Corporation, 1020 19th Street, NW, Suite 550 Washington, DC 20036			8,084.61
John J. Geoghegan, 1728 Leisure Way Crofton, MD 21114	Air Force Sergeants Assn		
Larry George, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	3,000.00	
Warren S. George, 5025 Wisconsin Avenue, NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO		
Joseph G. Gerard, 918 16th St., NW, #402 Washington, DC 20006	American Furniture Manufacturers Assn	1,500.00	983.40
Louis Gerber, 501 Third Street, NW Washington, DC 20001	Communications Workers of America	7,857.00	68.00
Matthew Gerson, 1600 Eye Street, NW Washington, DC 20006	Motion Picture Assn of America, Inc	5,737.50	486.16
Alvin J. Geske, 2100 Pennsylvania Avenue, NW, #400 Washington, DC 20037	Renewable Fuels Assn	306.00	0.20
Danny Ghorbani, 8014 Falstaff Road McLean, VA 22102	Association for Regulatory Reform	2,634.00	
Christopher J. Giaimo, 201 North Washington Street Alexandria, VA 22314	Retired Officers Assn	3,544.00	
Wayne Gibbens, 801 Pennsylvania Ave., NW, #840 Washington, DC 20004-2604	Mid-Continent Oil & Gas Assn	17,000.00	189.00
Gibbons & Company, 1455 Pennsylvania Ave., NW, Suite 1180 Washington, DC 20004	Florida Citrus Mutual		
Do	Kellogg Co		
Do	Mutual Life Insurance Co of New York	16,200.00	
Do	Underwriters at Lloyd's of London		
Gail Giblin, 820 First Street, NE, #900 Washington, DC 20002	Turner Broadcasting System, Inc	2,500.00	
Anne Giesecke, 1350 I Street, NW, Suite 1290 Washington, DC 20005	American Bakers Assn	1,020.00	20.00
Judith Gifford, 1840 Wilson Blvd., 4th Floor Arlington, VA 22201	National Milk Producers Federation	718.10	
Lucie Kriste Gikovich, 1275 Pennsylvania Ave., NW, #400 Washington, DC 20004	Pacific Telesis Group	18,000.00	
Gary G. Gilbert, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers		
Edward J. Gill Jr., 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	Eckert Seamans Cherin & Mellott (For:Redevelopment Authority of Luzerne County).	190.00	
Jana L. Gill, 1575 Eye Street, NW, Suite 370 Washington, DC 20005-1175	Coalition for PUHCA		
Do	Eugene Water & Electric Board	750.00	
Do	Missouri Basin Municipal Power Agency	1,750.00	
Do	Northern California Power Agency	2,500.00	
Do	OPCO Wholesale Customer Group	2,500.00	
Do	Public Power Council	1,250.00	
Jacqueline Gillan, 777 North Capitol Street, NE, #410 Washington, DC 20002	Advocates for Highway & Auto Safety	9,281.25	92.75
Joseph A. Gillan, 2001 Pennsylvania Avenue, NW, #300 Washington, DC 20006	Exxon Corporation	450.00	229.25
Neal P. Gillen, 1725 K Street, NW, #810 Washington, DC 20006	American Cotton Shippers Assn	50,000.00	564.33
Edward A. Gillespie, 1301 K Street, NW, #1100 Washington, DC 20005	IBM Corp	341.10	55.00
Daniel F. Gilligan, 1745 Jefferson Davis Hwy, #511 Arlington, VA 22202	Manufactured Housing Institute	1,438.00	
William A. Gillon, P.O. Box 12285 Memphis, TN 38182	National Cotton Council of America	3,562.50	92.03
Brad Gilman, 2300 Clarendon Blvd., #1010 Arlington, VA 22201	Robertson Monagle & Eastaugh (For:Alaska Groundfish Data Bank)		
Do	Robertson Monagle & Eastaugh (For:Aleutians East Borough)	5,850.00	
Do	Robertson Monagle & Eastaugh (For:All Alaska Seafood)		
Do	Robertson Monagle & Eastaugh (For:City of Kodiak)	2,145.00	
Do	Robertson Monagle & Eastaugh (For:Crowley Maritime Corp)	6,150.00	
Do	Robertson Monagle & Eastaugh (For:Kodiak Island Borough)	1,920.00	
Do	Robertson Monagle & Eastaugh (For:Lunds Fisheries, Inc)	1,353.75	
Do	Robertson Monagle & Eastaugh (For:Marco)		
Do	Robertson Monagle & Eastaugh (For:Ocean Shipholdings, Inc)	1,085.00	
Do	Robertson Monagle & Eastaugh (For:Pacific States Marine Fisheries Cons)	5,085.00	
Do	Robertson Monagle & Eastaugh (For:Sea-Land Services, Inc)	4,800.00	
Do	Robertson Monagle & Easthaugh (For:Seafreeze)	1,353.75	
Do	Robertson Monagle & Eastaugh (For:Trinity Marine Group)	6,000.00	
Jim Gilmore, 4039 21st Avenue, #400 Seattle, WA 98199	American Factory Trawler Assn	22,500.00	1,552.50
Ginsburg Feldman & Bress, Chartered, 1250 Connecticut Ave., NW, #800 Washington, DC 20036	United Air Lines, Inc		
Caesar A. Giolito, Capital-International Communications P.O. Box 5793 Carefree, AZ 85377	American Assn of Pastoral Counselors	1,000.00	
Carolyn H. Giolito, P.O. Box 5793 Carefree, AZ 85377	American Assn of Pastoral Counselors	1,000.00	
Girl Scouts of the USA, 420 Fifth Avenue New York, NY 10018-2702			7,942.86
Lawrence L. Gladchun, 27777 Inkster Road Farmington Hills, MI 48334	Michigan National Corp		
Mary A. Gladkowski, 10024 Skokie Blvd., #300 Skokie, IL 60077	Albert G. Rubin & Associates, Ltd. (For:Van Ru Credit Corp)		
David L. Glass, 485 Lexington Avenue New York, NY 10017	New York State Bankers Assn		
Marci Glazer, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation		
Robert E. Gleason, 17 Battery Place New York, NY 10004	International Longshoremen's Assn, AFL-CIO		
Law Offices of Gleason & Mathews, 26 Broadway, 17th Floor New York, NY 10004	International Longshoremen's Assn, AFL-CIO		
Sara B. Glenn, 1250 H Street, NW, #500 Washington, DC 20005	Mobil Corp	2,000.00	1,376.45
Global USA, Inc, 2121 K St., NW, #650 Washington, DC 20037	All Nippon Airways Co, Ltd		
Do	City of Little Rock, Arkansas		
Do	Hitachi, Ltd	69.55	
Do	Hyundai Motor America		
Do	Japan Fed of Construction Contractors, Inc		
Do	K-Mortgage Corp		
Do	Komatsu Ltd		
Do	Kyocera Corporation		
Do	Mazak Corporation		
Do	Metro-Dade Country		
Do	Southwestern Bell Corp		
Do	Westinghouse Electric Corp		
Joseph Gloyd, 1101 Vermont Avenue, #300 Washington, DC 20005	American Veterinary Medical Assn		
Kathryn M. Goatley, 1021 S. Hanover Street Baltimore, MD 21230	Maryland Food Committee		160.00
James W. Godlove, 1776 Eye Street, NW, #700 Washington, DC 20006	Phillips Petroleum Co	1,600.00	50.22
Lee R. Godown, 1111 19th Street, NW, #650 Washington, DC 20036	American College of Emergency Physicians	25.00	675.27
Jean C. Godwin, 1010 Duke Street Alexandria, VA 22314	American Assn of Port Authorities	20,750.00	2,000.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Kevin C. Goebel, 2530 San Pablo Avenue, #J Berkeley, CA 94702	Americans for Nonsmokers' Rights	648.00	
Donald G. Goff, 8003 Rivermont Court Springfield, VA 22153	McDonnell Douglas Corp		
Gold & Liebengood, Inc, 1455 Pennsylvania Ave., NW, #950 Washington, DC 20004	Alaska Legislative Council		2,610.00
Do	Amercan College of Cardiology	7,500.00	2,713.00
Do	American Academy of Dermatology	11,250.00	2,741.00
Do	American Academy of Ophthalmology	15,853.00	2,781.00
Do	American Hospital Assn	16,765.00	2,716.00
Do	Association of American Medical Colleges	22,500.00	2,910.00
Do	Beretta U.S.A. Corp	8,559.00	2,667.00
Do	Camara Nacional de la Industria Pesquera	110,902.00	2,910.00
Do	Camara Nacional de las Industrias Azucarera y Alcoholera		2,745.00
Do	Cementos Mexicanos (CEMEX)	27,000.00	2,910.00
Do	Citizens Flag Alliance	93,750.00	2,910.00
Do	City of North Miami Beach	11,250.00	2,710.00
Do	City of Sunnyvale	82,500.00	2,910.00
Do	Coca Cola Company	18,000.00	2,168.00
Do	Durham Transportation	11,531.00	2,713.00
Do	Federated Investors, Inc	188.00	2,610.00
Do	Fiat, U.S.A., Inc	206.00	2,610.00
Do	Genentech, Inc	27,000.00	2,910.00
Do	Health Industry Manufacturers Assn	16,031.00	2,763.00
Do	International Assn of Fire Fighters	7,500.00	2,615.00
Do	International Council of Shopping Centers	15,000.00	2,910.00
Do	Investment Company Institute	33,244.00	2,610.00
Do	James Capel & Co		2,722.00
Do	Joint Commission on the Accreditation of Health Care Orgs		2,610.00
Do	Mountain-Park Master Conservancy District		2,610.00
Do	MAPCO, Inc	46,875.00	2,910.00
Do	MCI Communications Corp	11,250.00	2,910.00
Do	National Restaurant Assn	32,250.00	2,910.00
Do	National School Transportation Assn	7,125.00	2,910.00
Do	Pennzoil Co	3,750.00	2,610.00
Do	Pirelli Armstrong Tire Corp		2,610.00
Do	Regional Transportation District	24,750.00	2,910.00
Do	Salomon Brothers, Inc	7,388.00	2,872.00
Do	Sweetener Users Assn	28,125.00	2,910.00
Do	Thomson-CSF, Inc	8,334.00	2,655.00
Do	Times Mirror Co	9,000.00	2,625.00
Do	Washington Metropolitan Area Transit Authority	20,625.00	2,910.00
Goldberg Godles Wiener & Wright, 1229 19th St., NW Washington, DC 20036	PanAmSat, L.P.	1,017.00	
Howard Goldblatt, 1511 K Street, NW, Suite 622 Washington, DC 20005	Coalition Against Insurance Fraud	3,250.00	36.16
Mark J. Golden, 1019 19th Street, NW, Suite 1100 Washington, DC 20036	Personal Communications Industry Assn	2,031.25	
Max Goldman, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco Group, Inc		
Goldman Sachs & Co, 1101 Pennsylvania Avenue, NW, #900 Washington, DC 20004			7,650.00
Robert H. Goldsborough, 5508 Lombardy Place Baltimore, MD 21210	Americans for Immigration Control, Inc	2,700.00	
Andrew P. Goldstein, 1750 Pennsylvania Ave., NW, #1105 Washington, DC 20006	McCarthy Sweeney & Harkaway, PC (For:National Grain & Feed Assn)	6,615.00	120.00
Ellen L. Goldstein, 1299 Pennsylvania Ave., NW Washington, DC 20004	General Electric Co	300.00	35.00
John A. Gonzalez, 1745 Jefferson Davis Hwy., #1200 Arlington, VA 22202	Rockwell International Corp	5,000.00	10,477.15
Thomas E. Goode, 1140 Connecticut Avenue, NW Suite 1140 Washington, DC 20036	UTC Telecommunications Assn		
Deborah K. Goodell, 1315 Nueces Austin, TX 78701	Polan-Ingram Advocacy Group (For:Vermont Yankee Nuclear Power Corp)	500.00	1,975.88
Jack Goodman, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	1,000.00	50.00
Laurie Diann Goodman, 3355 Ten Sleep Dr., #5 Jackson, WY 83001		3,000.00	380.36
Richard A. Goodman, 4925 Manor Lane Ellicott City, MD 21042			
Melvin G. Goodweather, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	1,277.50	19,984.36
Linda Goold, 777 14th Street, NW Washington, DC 20005	National Assn of Realtors	1,750.00	
John Gordley, 1000 Connecticut Avenue, NW, #1106 Washington, DC 20036	American Soybean Assn	11,000.00	11,112.68
Do	Iowa Pork Producers Assn	2,500.00	1,655.56
Do	National Sunflower Assn	3,000.00	3,126.97
Do	U.S. Canola Association	9,000.00	2,444.90
Bradley Gordon, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Committee	31,500.00	1,288.75
John E. Gordon, 1725 Jefferson Davis Highway, Suite 601 Arlington, VA 22202-3585	Litton Industries, Inc	1,000.00	1,195.70
Mary S. Gordon, 801 Pennsylvania Ave., NW, #700 Washington, DC 20004	Northern Telecom, Inc	1,250.00	
Randall C. Gordon, 1201 New York Ave., NW #830 Washington, DC 20005	National Grain & Feed Assn	800.00	
Gorlin Group, 2300 M Street, NW, Suite 800 Washington, DC 20037	Glaxo	12,000.00	18.00
Do	Intellectual Property Committee	690.00	
David W. Gorman, 807 Maine Avenue, SW Washington, DC 20024	Disabled American Veterans	28,955.34	
Faye A. Gorman, 1800 M Street, NW, #325-S Washington, DC 20036	Dow Corning Corp	5,000.00	110.00
Regina M. Gorman, 1850 M Street, NW, Suite 540 Washington, DC 20036	National Multi Housing Council	1,650.00	
George B. Gould III, 100 Indiana Ave., NW Washington, DC 20001	National Assn of Letter Carriers	15,088.45	958.50
Rebecca M.J. Gould, 2001 L Street, NW, Suite 400 Washington, DC 20036	Business Software Alliance	11,000.00	
James E. Graf II, 601 Pennsylvania Avenue, NW North Building, Suite 725 Washington, DC 20004	British Telecommunications, plc	5,000.00	
Ronald P. Graf, 1401 Eye Street, NW, #710 Washington, DC 20005	Hershey Foods Corp		
John R. Graff, 1448 Duke Street Alexandria, VA 22314	International Assn of Amusement Parks & Attractions		
Frances Turk Granahan, 1620 L Street, NW, #1200 Washington, DC 20036	Panhandle Eastern Corp		
Gerald W. Grandey, 2121 11th Street West Saskatoon Saskatchewan Canada S7M IJ3	Cameco Corporation		3,450.00
Grange Mutual Casualty Co, 650 South Front Street Columbus, OH 43206			
Suzanne Granville, 100 Indiana Ave., NW Washington, DC 20001	National Assn of Letter Carriers	12,421.44	
Andrew N. Grass Jr., One World Trade Center, #4511 New York, NY 10048	Security Traders Assn, Inc	1,488.00	
Edwin C. Graves, 1615 L Street, NW, Suite 1150 Washington, DC 20036	Capitoline/MS&L (For:Berwind Natural Resources Corp)	500.00	
Do	Edwin C. Graves & Associates (For:Brickfield Burchette & Ritts)	600.00	
Do	Edwin C. Graves and Associates (For:CBI Sugar Group)	600.00	
Do	Ed Graves & Associates (For:McGuiness & Williams)		
Do	Ed Graves & Asociates (For:OPEDA)		
Do	Edwin C. Graves & Associates (For:Republic of Azerbaijan)		
Do	Capitoline/MS&L (For:Republic of Turkey)	875.00	
Do	Edwin C. Graves & Associates (For:South Dade Land Corp)		
Do	Capitoline/MS&L (For:Sprint)		
Do	Edwin C. Graves and Associates (For:U.S. Corrections Corp)	600.00	
W. Lawrence Graves, 1525 Wilson Blvd., #550 Arlington, VA 22209-2411	National Newspaper Assn		
Pamela Graves-Moore, 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto Co		
Adrienne A. Gray, 1301 K Street, NW, #1200 Washington, DC 20005	IBM Corporation	4,496.16	328.43
Barbara Gray, P.O. Box 3958 Missoula, MT 59806	Metropolitan Analysis & Retrieval Systems, Inc (Mars, Inc)	7,500.00	
G. Keith Gray, P.O. Box 11000 Montgomery, AL 36198	Alabama Farmers Federation	2,300.00	400.00
Peter Gray, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp/Citibank	1,820.00	
Scott D. Grayson, 1828 L Street, NW, #1202 Washington, DC 20036	Institute of Electrical & Electronics Engineers (IEEE)	900.00	
Mary R. Grealy, 1111 19th Street, NW, #402 Washington, DC 20036	Federation of American Health Systems	1,500.00	
Greater Cincinnati Television Educational Foundation, 1223 Central Parkway Cincinnati, OH 45214		709.43	709.43
Donald R. Greeley, 919 18th St., NW, #700 Washington, DC 20006	Hoechst Celanese Corp	5,000.00	185.47
James E. Green, 1250 H Street, NW, Suite 500 Washington, DC 20005	Mobil Corp	2,500.00	770.15
Kaylene H. Green, Paul Magliocchetti Associates, Inc 1755 Jefferson Davis Highway, #1107 Arlington, VA 22202	Diagnostic Retrieval Systems, Inc		
Marlene Y. Green, 3380 Webster Avenue Pittsburgh, PA 15219-3975	Ivan Research Management Corp		
Oliver W. Green, 5025 Wisconsin Ave, NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO		
Peggy M. Green, 2220 Valcourt Drive Plano, TX 75023	Housing Roundtable		150.00
Rodney M. Green, P.O. Box 1475 Nashville, TN 37202	United Paperworkers International Union		
Scott H. Green, 8150 Leesburg Pike, #900 Vienna, VA 22182	Boys & Girls Clubs of America	7,500.00	942.00
William Green, 1455 Pennsylvania Ave, #575 Washington, DC 20004	MacAndrews & Forbes Holdings, Inc		
Green Stewart & Farber, P.C., 2600 Virginia Ave., NW, Suite 1111 Washington, DC 20037	Premier Health Alliance, Inc	500.00	500.00
Fred Greene, 316 Teal Crescent Virginia Beach, VA 23456	Denny Miller Associates	2,500.00	
H. Thomas Greene, 412 1st St., SE Washington, DC 20003	National Automobile Dealers Assn	15,000.00	
Lori Valencia Greene, 1120 Connecticut Ave., NW, Suite 461 Washington, DC 20036	Planned Parenthood Federation of America	1,145.65	58.50
Suzanne Greenfield, 2030 M Street, NW Washington, DC 20036	Common Cause	9,224.28	53.00
Greenlee Associates, 19 1/2 N. Fourth St. Harrisburg, PA 17101		11,250.00	11,250.00
Lynn Greenwalt, 1400 16th St., NW Washington, DC 20036-0001	National Wildlife Federation		
Sarah M. Gregg, 800 Connecticut Ave., NW, #1100 Washington, DC 20006	Baxter	3,000.00	2,841.07

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Mark D. Gregory, 1776 K Street, NW, #800 Washington, DC 20006	Seaboard Corp	2,000.00	687.50
Linda W. Greiner, 1317 F Street, NW, Suite 510 Washington, DC 20004	White Consolidated Industries		
Edward F. Greissing Jr., 1455 F St., NW, #405 Washington, DC 20005	Upjohn Company	52,850.00	
Ginny Grenham, 1500 K Street, NW, #360 Washington, DC 20005	Healthcare Leadership Council	3,750.00	250.00
Mary Griffin, 1666 Connecticut Avenue, NW, #310 Washington, DC 20009	Consumers Union	1,000.00	
Robert T. Griffin, 1401 H Street, NW, #700 Washington, DC 20005	Chrysler Corporation	3,000.00	305.00
Terry M. Griffin, 253 Foster Knoll Drive Joppa, MD 21085	Republican Liberty Caucus		136.07
W. M. Griffin, 601 Pennsylvania Avenue, NW, #200 Washington, DC 20004	Texas Utilities Services, Inc	5,625.00	
Edward D. Griffith, 3801 West Chester Pike Newtown Square, PA 19073	ARCO Chemical Co		
Gary W. Griffith, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	1,000.00	64.50
Melinda Griffith, 1730 M Street, NW, #700 Washington, DC 20036-4510	Software Publishers Assn	1,100.00	50.00
Griffith & Rogers, P.O. Box 960 Yazoo City, MS 39194-0960	American Maritime Congress	15,000.00	433.47
Do	American Rice, Inc	20,000.00	
Do	Charles Schwab & Co, Inc	30,000.00	237.52
Do	CBS, Inc	22,500.00	428.37
Do	Glaxo-Wellcome	30,000.00	207.50
Do	Gulf Coast Research Laboratory, Univ of Southern Mississippi	15,000.00	300.83
Do	National Air Traffic Controllers Assn	18,000.00	528.63
Do	National Assn of Immigration Judges	10,500.00	
Do	Pharmaceutical Research & Manufacturers of America	10,000.00	132.30
Do	Southern Company Services, Inc	52,500.00	2,997.63
Do	Textron	20,000.00	844.13
Randy Griggs, 1052 Highway 431 North Dothan, AL 36303	Alabama Farmers Federation	600.00	
Philip M. Grill, 444 N. Capitol Street, NW, #514 Washington, DC 20001	Matson Navigation Company, Inc	15,000.00	9,300.00
Norman E. Grimm Jr., 12600 Fair Lakes Circle Fairfax, VA 22033-4904	AAA Potomac		
Cynthia P. Grisso, 1101 Sixteenth Street, NW Washington, DC 20036	Independent Petroleum Assn of America		30.00
Olga Grkavac, 1616 North Fort Myer Drive, #1300 Arlington, VA 22209	Information Technology Assn of America, Inc	6,500.00	2,300.00
Grocery Manufacturers of America, Inc, 1010 Wisconsin Ave., NW, #900 Washington, DC 20007			6,931.23
James N. Groninger, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco Group, Inc	181.73	
Groom & Nordberg, Chtd, 1701 Pennsylvania Avenue, NW, #1200 Washington, DC 20006	Ad Hoc MGA Group		
Do	Ad Hoc PFIC Group		
Do	American Petroleum Institute		
Do	Amoco Corporation		
Do	Bankers Life & Casualty Co	335.00	35.00
Do	Business Roundtable	550.00	70.00
Do	Cargill, Inc		
Do	Chevron Corp	150.00	25.00
Do	Eli Lilly & Company	125.00	10.00
Do	Maxus Energy Corp	350.00	25.00
Do	Murphy Oil USA, Inc		
Do	Nebraska Public Power District		
Do	New York City Teachers Retirement System		
Do	Phillips Petroleum Co	500.00	
Do	Physicians Mutual Insurance Co	335.00	35.00
Do	Principal Financial Group		
Do	Prudential Insurance Co of America	1,200.00	75.00
Do	Prudential Securities		
Do	Puerto Rico, USA Foundation	1,040.00	6,020.00
Do	Retired Lives Reserve Group		
Do	Southern California Edison Co		
Do	Sunflower Electric Power Corp		
Do	Union Texas Petroleum Corp		
Do	Westinghouse Electric Corp		
George Gross, 1211 Connecticut Ave., NW, #610 Washington, DC 20036	Magazine Publishers of America, Inc	10,000.00	
Jessica A. Gross, 1101 17th Street, NW, Suite 105 Washington, DC 20036	Direct Marketing Assn, Inc		
Jerome Grossman, 110 Maryland Avenue, NE, #409 Washington, DC 20002	Council for a Livable World		488.47
Drew Gruenburg, 1601 Duke Street Alexandria, VA 22314	Society of American Florists	1,000.00	
John A. Gruver, 2649 Turf Valley Road Ellicott City, MD 21042	Westinghouse Electric Corp	500.00	75.00
Derek Guest, 1250 H Street, NW, Suite 800 Washington, DC 20005	Eastman Kodak Co	600.00	30.00
Mary Scott Guest, 499 South Capitol Street, SW, #520 Washington, DC 20003	Guest and Associates, Inc	40,000.00	34,760.00
Guest and Associates, Inc, 499 S. Capitol St., SW, #520 Washington, DC 20003	Morris Communications	40,000.00	142,371.35
Ana Maria Guevara, 316 Pennsylvania Ave., SE, #304 Washington, DC 20003	United Parcel Service	2,000.00	50.00
Pamela D. Guffain, 501 Second Street, NE Washington, DC 20002	Fertilizer Institute	3,000.00	
Jerene B. Guidry, 50 F Street, NW, Suite 1050 Washington, DC 20001	Freeport-McMoRan Copper & Gold, Inc	322.64	15.00
Do	Freeport-McMoRan, Inc	322.64	15.00
Do	IMC Global, Inc	322.64	15.00
Jay F. Guin, P.O. Box 032206 Tuscaloosa, AL 35403	Tanner & Guin (For:Morrow Realty Co, Inc)		
James E. Guirard Jr., 1730 Rhode Island Avenue, NW, #419 Washington, DC 20036	BASF Corp	500.00	40.00
Do	Marine Shale Processors, Inc	1,000.00	60.00
Do	McDermott, Inc	1,000.00	40.00
Do	Walk Haydel & Associates, Inc	1,000.00	50.00
Gun Owners of America, Inc, 8001 Forbes Place Springfield, VA 22151		368,890.41	384,916.07
Peggy A. Gunn, 601 Second Avenue South MPFP 1704 Minneapolis, MN 55402	First Bank System, Inc	16,275.00	2,263.14
Robert Gunther, 2815 Northwind Rd. Baltimore, MD 21234	Cable Television Assn of MD DE & DC	9,167.00	
Judy R. Guse-Noritake, 605 Prince Street Alexandria, VA 22314	Pacific Rivers Council	710.00	760.38
Phyllis A. Guss, 1200 K Street NW Washington, DC 20005	Lockheed Information Management Services Company, Inc		
Ned H. Guthrie, 209 Hayes Avenue Charleston, WV 25314	American Fed of Musicians	10,698.23	2,757.81
Karen Lehman Haas, 9705 G Covered Wagon Drive Laurel, MD 20723	Capital Cities/ABC, Inc	156.25	
William G. Haddeland, 601 Pennsylvania Ave., NW North Building, Suite 540 Washington, DC 20004	Ashland Oil, Inc	2,000.00	
Anthony L. Hadley, 1745 Jefferson Davis Highway, #511 Arlington, VA 22202	Manufactured Housing Institute	9,000.00	161.13
Lonnie E. Haefner, 10 Finlay Road Kirkwood, MO 63122	L.E. Haefner Enterprises, Inc (For:Missouri Botanical Garden)	3,850.00	9.00
Do	L.E. Haefner Enterprises, Inc (For:Surface Systems, Inc)	2,781.25	8.34
Hager Sharp, Inc, 1090 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Rollins Environmental Services, Inc, et al.	11,205.00	3,730.00
Kristina Hagg, 2021 North Key Blvd., #621 Arlington, VA 22201	Harris Corporation	2,000.00	433.04
Katherine L. Hagmeier, 1101 15th Street, NW Washington, DC 20005	Minnesota Mining & Manufacturing Co	1,000.00	
Jay D. Hair, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation		
Jacqueline Halbig, 700 13th Street, NW, #500 Washington, DC 20005	Family Research Council	2,617.00	
Hale and Dorr, 1455 Pennsylvania Ave., NW, #1000 Washington, DC 20004	ACX Technologies, Inc		
Do	Central Maine Power Co	690.00	0.80
Do	Genetics Institute		
Do	Harcourt Brace & Co		
Do	Hybridon, Inc	1,620.00	77.14
Do	Medallion Oil Company		
Do	Micron Technology, Inc	8,275.00	54.00
Do	Northeastern University	510.00	16.05
Do	Nyacol Products, Inc	270.00	7.95
Do	Panda Project, Inc	2,575.00	315.07
Do	Psychological Corp	1,590.00	130.91
Shirley Hales, 1001 N. 19th Street, #800 Arlington, VA 22209	TRW, Inc	500.00	40.84
Debra J. Hall, 1301 Pennsylvania Ave., NW, #900 Washington, DC 20004	Reinsurance Assn of America		
Elliott S. Hall, 1350 I Street, NW, #1000 Washington, DC 20005	Ford Motor Co	7,500.00	1,508.70
John P. Hall Jr., 1350 Eye Street, NW, #810 Washington, DC 20005	Johnson & Johnson		
Joseph M. Hall, 2930 S. Buchanan Street, #A1 Arlington, VA 22230	Harris Corporation	1,475.00	3,272.60
Lawrie Platt Hall, 14901 South Orange Blossom Trail P.O. 2353 Orlando, FL 32801	Dart Industries, Inc, Tupperware U.S., Inc		
Mark A. Hall, 1001 North 19th Street, #800 Arlington, VA 22209	TRW, Inc	1,855.00	1,198.50
Robert P. Hall, 325 7th Street, NW #1000 Washington, DC 20004	National Retail Federation	5,000.00	63.18
Sarah E. Haller, 1615 L Street, NW, #320 Washington, DC 20036	Sandoz Corp		200.00
Paul Hallisay, 1625 Massachusetts Avenue, NW Washington, DC 20036	Air Line Pilots Assn	12,500.00	568.27
James Patrick Halloran, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	7,500.00	90.00
Jean Halloran, 101 Truman Avenue Yonkers, NY 10703	Consumers Union		
Halprin Temple & Goodman, 1100 New York Avenue, NW, #650 East Washington, DC 20005	Bell Atlantic	6,600.00	
Do	Bellcore	660.00	
Do	NYNEX	8,250.00	
Paul T. Haluza, 1325 Pennsylvania Ave., NW, #600 Washington, DC 20004	Motor and Equipment Manufacturers Association	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
John J. Hambel, 1922 F Street, NW Washington, DC 20006-4387	National Assn of Life Underwriters	5,000.00	125.00
Martha R. Hamby, 1212 New York Ave., NW, #500 Washington, DC 20005	American Portland Cement Alliance	10,312.50	970.64
Michael F. Hamerlik, 4510 13th Avenue, SW Fargo, ND 58121-0001	Blue Cross Blue Shield of North Dakota	1,490.40	2,541.29
Matthew W. Hamill, 1025 Connecticut Avenue, NW, #700 Washington, DC 20036	National Assn of Independent Colleges & Universities	6,906.24	
Palmer C. Hamilton, Miller Hamilton Snider & Odom P.O. Box 46 Mobile, AL 36601	Chase Manhattan Bank	31,250.01	2,432.55
Do	Colonial BancGroup, Inc	30,376.50	10,508.93
Philip W. Hamilton, 1828 L St., NW, #906 Washington, DC 20036	American Soc of Mechanical Engineers		
Amy R. Hammer, 2001 Pennsylvania Ave., NW #300 Washington, DC 20006	Exxon Corporation	2,000.00	51.44
Thomas A. Hammer, 2100 Pennsylvania Ave, NW, #695 Washington, DC 20037	Sweetener Users Assn	12,165.00	22,808.75
Mary Moore Hamrick, 1001 Pennsylvania Avenue, NW, #460(N) Washington, DC 20004-2505	New York Life Insurance Co	780.00	735.77
Hance Scarborough Woodward & Weisbart, 111 Congress Avenue, Suite 800 Austin, TX 78701	Kinetic Concepts, Inc	4,000.00	
Do	Southwestern Bell Corp		
Do	Valhi, Inc	5,000.00	3,170.63
Nolan W. Hancock, 2722 Merrilee Drive, Suite 250 Fairfax, VA 22031	Oil Chemical & Atomic Workers International Union	8,004.38	
Hand Arendall Bedsole Greaves & Johnston, P.O. Box 123 Mobile, AL 36601	General Electric Co	1,169.14	
Do	Laguna	1,833.33	
Cynthia Haney, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
Rita H. Hankins, 1300 I Street, NW, Suite 400 Washington, DC 20005	NYNEX Government Affairs	9,100.00	1,347.93
P. S. Hannas, 919 18th Street, NW, #400 Washington, DC 20006	W. R. Grace & Co /World Headquarters	600.00	
Richard L. Hanneman, 700 North Fairfax Street, #600 Alexandria, VA 22314-2040	Salt Institute		
Dolly A. Hanrahan, 1300 I Street, NW, #520 West Washington, DC 20005-3314	Hoffmann-La Roche	4,000.00	627.51
Michael K. Hansen, 101 Truman Avenue Yonkers, NY 10703	Consumers Union		
William D. Hansen, 1155 15th Street, NW Washington, DC 20005	Education Finance Council	3,765.00	
Julie E. Harbin, 1100 Wilson Blvd. Arlington, VA 22209	Hughes Electronics Corp		
Krysta Harden, 1000 Connecticut Ave., NW, Suite 1106 Washington, DC 20036	American Soybean Assn		
Do	Iowa Pork Producers Assn		
Do	National Sunflower Assn		
Do	U.S. Canola Assn		
Stuart B. Hardy, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce		
Donna Akers Harman, 1875 Eye Street, NW, #540 Washington, DC 20006	Champion International Corp	2,238.00	718.51
David J. Harmer, 3001 Park Center Drive, #1408 Alexandria, VA 22302-1447	Gabeler Baise & Miller, Inc (for National Calcium Council)	5,503.75	
Diane Harper, 1000 Wilson Blvd. Arlington, VA 22209	Northrop Grumman Corp	1,400.00	573.07
Edwin L. Harper, 50 F Street, NW Washington, DC 20001	Association of American Railroads	10,000.00	118.46
Eugene Harrington, 8100 Oak Street Dunn Loring, VA 22027	National Pest Control Association		
Kathleen M. Harrington, 1501 M Street, NW, Suite 400 Washington, DC 20005	Aetna Life & Casualty	3,000.00	
A. J. Harris II, 1825 Eye Street, NW, #350 Washington, DC 20006	CIGNA Corp	7,000.00	315.10
Harris & Ellsworth, 2600 Virginia Avenue, NW, #1113 The Watergate Washington, DC 20037	American Railway Car Institute		
Do	Association of Food Industries, Inc		
Do	Cheese Importers Assn of America, Inc		
Do	Committee of Domestic Steel Wire Rope & Specialty Cable Mfrs	450.00	
Do	National Coalition of Food Importing Assns	500.00	
Jack E. Harrison, West Virginia Petroleum Council 1250 One Valley Square Charleston, WV 25301	American Petroleum Institute		
Laurie C. Harrison, 1801 K Street, NW, #800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
L. Ray Harry, 1130 Connecticut Ave., NW, #830 Washington, DC 20036	Southern Company Services, Inc	560.00	4,807.16
Elizabeth Kirby Hart, 3050 K Street, NW, #330 Washington, DC 20007	National Club Assn	1,080.00	
Jayne A. Hart, 1350 Eye Street, NW, #590 Washington, DC 20005	College of American Pathologists	5,115.00	
Lynn S. Hart, 1111 19th St., NW, #402 Washington, DC 20036	Federation of American Health Systems	3,000.00	
Martha A. Hart, 700 North Fairfax Street Alexandria, VA 22314	Railway Progress Institute	2,807.25	
Hartford Fire Insurance Co, Hartford Plaza Hartford, CT 06115			89,540.00
Robert Hartwell, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	15,000.00	861.92
Clifford J. Harvison, 2200 Mill Rd. Alexandria, VA 22314	National Tank Truck Carriers, Inc		150.00
Holly Hassett, 1401 Eye Street, NW, #710 Washington, DC 20005	Hershey Foods Corp		
James C. Hassett, 1747 Pennsylvania Ave., NW, Suite 300 Washington, DC 20006	Occidental Chemical Corp	288.75	435.48
Lee B. Hathaway, 1156 15th Street, NW, Suite 1103 Washington, DC 20005	Hawaiian Sugar Planters' Assn	300.00	55.00
Martin Hatlie, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
James N. Haug, 55 E. Erie Street Chicago, IL 60611	American College of Surgeons		
Todd J. Hauptli, 4212 King Street Alexandria, VA 22302	American Assn of Airport Executives	4,700.00	
Jennifer Hawk, 1722 Eye Street, NW, 4th Floor Washington, DC 20006	Barclays Bank, PLC	5,000.00	789.39
Sidney G. Hawkes, 1667 K St., NW, #420 Washington, DC 20006	Mead Corporation	1,200.00	
Daniel R. Hawkins Jr., 1330 New Hampshire Avenue, NW, #122 Washington, DC 20036	National Assn of Community Health Centers	53.29	
F. William Hawley, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp/Citibank	82.13	
Hawthorn Group, LC, 1300 North 17th Street, Suite 1330 Arlington, VA 22209	Alabama Power Co		1,637.13
John F. Hay, 1801 K Street, NW, #800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
John Michael Hayden, 1033 North Fairfax St., #200 Alexandria, VA 22314	American Sportfishing Assn	1,311.52	25.37
Ludwick Hayden Jr., 1401 I Street, NW, Suite 1200 Washington, DC 20005	Chevron Companies	500.00	
Martin Hayden, 1531 P Street, NW, #200 Washington, DC 20005	Sierra Club	6,198.75	2,997.99
Heidi Wagner Hayduk, 1500 K Street, NW, #360 Washington, DC 20005	Healthcare Leadership Council	550.00	100.00
David J. Hayes, 1001 Pennsylvania Ave., NW Washington, DC 20004	Latham & Watkins (For:American Automobile Manufacturers Assn)	9.00	7.53
Do	Latham & Watkins (For:Semiconductor Industry Assocation)	2,508.38	13.54
Mark L. Hayes, 1300 I Street, NW, #520 West Washington, DC 20005-3314	Hoffmann-La Roche	4,000.00	504.68
Robert G. Hayes, Bogle and Gates 1299 Pennsylvania Ave., NW, #875 East Washington, DC 20004	American Sportfishing Assn	190.00	
Do	Coastal Conservation Assn	950.00	
Do	Direct Service Industries, Inc	1,900.00	
Sherry D. Hayes, 227 Massachusetts Ave., NE, Suite 310 A Washington, DC 20002	InterHealth-Protestant Health Alliance	220.00	
Robert A. Haynos, 4711 Hunt Circle Harrisburg, PA 17112	Harsco Corporation	51,922.00	1,660.29
Maureen Healey, 1275 K Street, NW, Suite 400 Washington, DC 20005	Society of the Plastics Industry, Inc		
Health & Hospital Corp of Marion County, 3838 N. Rural Street Indianapolis, IN 46205-2930			3,600.81
Healthcare Financial Management Assn, 1050 17th Street, NW, #700 Washington, DC 20036			24.63
Healthcare Leadership Council, 1500 K Street, NW, Suite 360 Washington, DC 20005		2,400.00	90.00
Robert Healy Jr., 1201 New York Ave., NW Washington, DC 20005	American Public Transit Assn	11,150.00	
Robert L. Healy, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co	456.00	
Brian Keith Heard, 201 Massachusetts Ave., NE, #C-4 Washington, DC 20002	National Corn Growers Assn	6,000.00	
David E. Hebert, 777 N. Capitol St., NE, #803 Washington, DC 20002	American Assn of Nurse Anesthetists	5,000.00	443.48
James R. Hecht, 180 Admiral Cochrane Dr., #305 Annapolis, MD 21401	Wheelabrator Clean Water Systems, Inc		406.49
Timothy P. Hecht, 499 South Capitol Street, SW, #507 Washington, DC 20003	Boy Scouts of America		
Do	Hecht Spencer & Associates (For:Brown & Williamson Tobacco Corp)		
Do	Hecht Spencer & Associates (For:Kamehameha Schools Bishop Estate)		
Do	Hecht Spencer & Associates (For:Mid-American Waste Systems, Inc)		
Do	Hecht Spencer & Associates (For:MCI Telecommunications)		
Do	Hecht Spencer & Associates (For:National Automatic Merchandising Assn)		
Do	Hecht Spencer & Associates (For:North Village Corp)		
Do	Hecht Spencer & Associates (For:TECO Energy, Inc)		
William H. Hecht, 499 S. Capitol Street, SW, #507 Washington, DC 20003	Hecht Spencer & Associates, Inc (For:Boy Scouts of America)		
Do	Hecht Spencer & Associates, Inc (For:Brown & Williamson Tobacco Corp)		
Do	Hecht Spencer & Associates (For:Kamehameha Schools Bishop Estate)		
Do	Hecht Spencer & Associates, Inc (For:Los Angeles Raiders)		
Do	Hecht Spencer & Associates (For:Mars, Inc)		
Do	Hecht Spencer & Associates (For:Mid-American Waste Systems, Inc)		
Do	Hecht Spencer & Associates (For:MCI Telecommunications)		
Do	Hecht Spencer & Associates (For:National Automatic Merchandising Assn)		
Do	Hecht Spencer & Associates (For:North Village Corp)		
Do	Hecht Spencer & Associates (For:Pacific Lumber Co)		
Do	Hecht Spencer & Associates (For:Charles E. Smith Management, Inc)		
Do	Hecht Spencer & Associates (For:Taiwanese Reichsbanknote Creditors Association (TRC)).		
Do	Hecht Spencer & Associates (For:TECO Energy, Inc)		
Hecht Spencer & Associates, Inc, 499 South Capitol Street, SW, #507 Washington, DC 20003	Boy Scouts of America	1,000.00	
Do	Brown & Williamson Tobacco Corp	2,500.00	
Do	Kamehameha Schools Bishop Estate	1,000.00	
Do	Los Angeles Raiders		
Do	Mid-America Waste Systems, Inc	1,000.00	
Do	MCI Telecommmunications	1,000.00	
Do	National Automatic Merchandising Assn	1,000.00	
Do	North Village Corp	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Pacific Lumber Co	1,000.00	
Do	Taiwanese Reichsbanknote Creditors Assn		
Do	TECO Energy, Inc	1,000.00	
Megan Hedden, 2000 K St., NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	13,461.00	437.01
Jay Hedlund, 2030 M St., NW Washington, DC 20036	Common Cause	11,622.47	
Barbara D. Heffernan, 1776 I Street, NW, #200 Washington, DC 20006	Anheuser-Busch Companies, Inc		
Claire Heffernan, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	8,948.71	256.16
Edward D. Heffernan, One Massachusetts Avenue, NW, #840 Washington, DC 20001	American Cast Iron Pipe Company	1,000.00	
Do	CSX Corporation	2,500.00	
Do	DePaul University	3,000.00	
Do	Regional Transportation Authority	4,000.00	
Do	Renewable Fuel Assn	1,500.00	
Scott E. Heisel, 735 N. Water Street, #908 Milwaukee, WI 53202-4105	American Malting Barley Assn, Inc	1,042.00	
Heller Ehrman White & McAuliffe, 701 Fifth Avenue, #6100 Seattle, WA 98104	Chugach Electric Assn, Inc	67.50	
Do	Direct Service Industries	3,375.00	
Robert W. Helm, 1000 Wilson Boulevard, #2300 Arlington, VA 22209	Northrop Grumman Corporation	3,000.00	
Thomas M. Helscher, 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto Co		110.15
Donald E. Henderson, 225 South East Street Indianapolis, IN 46202	Indiana Farm Bureau, Inc	1,000.00	120.00
Rebecca Poe Henderson, P.O. Box 2450 Clarksburg, WV 26302-2450	CNG Transmission Corp	3,000.00	409.31
Wallace Henderson, 1250 Connecticut Avenue, NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Assn		419.04
Dennis A. Henigan, 1225 Eye Street, NW Washington, DC 20005	Handgun Control, Inc	1,053.11	
George H. Henry, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn	1,014.00	
John Hugh Henry, 1525 Wilson Blvd., #100 Arlington, VA 22209	McDermott, Inc	15,000.00	1,433.39
Herbolsheimer Lannon Henson Duncan & Reagan, PC, 733 15th Street, NW, Suite 1120 Washington, DC 20005	American Environmental Sciences & Technologies, Inc		400.00
Do	Bowling Proprietors' Assn of America		
Do	Village of Orland Park, Illinois		
Angela D. Herman, 1130 Connecticut Ave., NW, Suite 1000 Washington, DC 20036	American Insurance Assn		8.00
Kathryn E. Herring, 1100 South Washington St. Alexandria, VA 22314-4494	National Beer Wholesalers Assn	6,819.29	1,588.38
Heublein, Inc, 16 Munson Road Farmington, CT 06034-0388		17,250.00	3,278.57
Ted Allen Heydinger, 1250 Eye StreetNW #200 Washington, DC 20005	Information Technology Industry Council	1,153.00	64.70
John Drew Hiatt, 1200 18th Street, NW, #500 Washington, DC 20036	National Business Owners Assn, Inc	21,910.48	9,327.54
Sydney T. Hickey, 6401 Phillip Court Springfield, VA 22152	National Military Family Assn, Inc	1,300.00	
Paul T. Hicks, Rhode Island Petroleum Assn 365 Smith Street, #2 Providence, RI 02908	American Petroleum Institute	800.00	
Barbara L. Hiden, 1101 16th Street, NW Washington, DC 20036	National Soft Drink Assn	72.73	127.20
Hans G. Hiemstra, 1101 17th Street, NW, #300 Washington, DC 20036	Cosmetic Toiletry & Fragrance Assn	2,500.00	75.00
John S. Hightower, 5700 Florida Blvd., #310 Baton Rouge, LA 70806	Louisiana-Pacific Corp	7,125.00	4.00
Michael R. Hightower, P.O. Box 1798 Jacksonville, FL 32231	Blue Cross & Blue Shield of Florida, Inc		
Lucy A. Higley, 180 South Clinton Avenue Rochester, NY 14646-0700	Frontier Corporation	5,355.00	4,966.70
Sarah M. Hildebrand, 1111 19th Street, NW Washington, DC 20036	American Forest & Paper Assn	2,400.00	
Clifton T. Hilderley Jr., 601 Pennsylvania Ave., NW North Building, Suite 540 Washington, DC 20004	Ashland Oil, Inc	2,000.00	
John Hildreth, 1300 Guadalupe, #100 Austin, TX 78701	Consumers Union of U.S., Inc	850.00	14,866.66
Catherine J. Hill, 1640 Wisconsin Ave., NW, First Floor Washington, DC 20007	American College of Surgeons		234.69
Robert B. Hill, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	750.00	237.00
Willard I. Hill Jr., 1501 M Street, NW, Suite 400 Washington, DC 20005	Aetna Life & Casualty	1,000.00	
Hill and Knowlton, Inc, 901 31st Street, NW Washington, DC 20007	America West	2,200.00	
Do	Association of International Automoblie Manufacturers	1,500.00	
Do	Blue Cross Blue Shield of Florida		
Do	Boeing Company		
Do	Brandeis-Bardin Institute	2,000.00	
Do	Broward County	1,400.00	
Do	Coalition for Broadcast Diversity	5,250.00	
Do	COBE Laboratories, Inc		
Do	Everglades Trust	500.00	
Do	Great Lakes Museum of Science Environment and Technology	1,750.00	
Do	Louisiana Pacific		
Do	Magnetek	10,000.00	
Do	McAndrews & Forbes Holding, Inc		
Do	N-Viro International Corp		
Do	Port of Cleveland	1,500.00	
Do	Southern Electric Institute		
Do	Synergics, Inc		
Do	Tera Computer Company		
Do	Union Pacific		
Gail Hillebrand, 1535 Mission Street San Francisco, CA 94103	Consumers Union	18.98	
Edward Joseph Hillings, 750 17th Street, NW, 4th Fl Washington, DC 20006	Enron Corp	7,500.00	
Arthur William Hillman, 4301 N. Fairfax Drive, #360 Arlington, VA 22203-1608	National Utility Contractors Assn	500.00	766.62
John L. Hills, Rt. 1, Box 645 Purcellville, VA 22132	Greater Rockford Airport Authority	2,875.00	600.00
John M. Himmelberg, 2100 Pennsylvania Ave., NW, #400 Washington, DC 20037	Florida Fruit & Vegetable Assn	1,200.00	
Do	Holland & Knight (For:Florida Tomato Exchange)	1,500.00	
Do	J.R. Brooks & Son, Inc	500.00	
Richard T. Hines Consulting, Inc, 1019 19th Street, NW, #350 Washington, DC 20036	Health Policy & Strategy (for Mutual of Omaha)	3,750.00	
Do	Health Policy & Strategy (for Washington National)	7,500.00	3,750.00
Do	Health Policy & Strategy (for Wausau Insurance Co)	2,500.00	1,250.00
Do	Health Policy & Strategy (Northwestern National Life)	5,000.00	2,500.00
Anne Hingeley, 888 16th Street, NW Washington, DC 20006	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)		
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)	100.00	
Do	Bannerman & Associates, Inc (For:Government of the United Arab Emirates)	100.00	
Do	Bannerman & Associates, Inc (For:Government of Egypt)	1,000.00	
Do	Bannerman & Associates (For:L.A. Motley & Co (for: Government of the Philippines)).	150.00	
Do	Bannerman & Associates, Inc (For:Lebanese American University)	100.00	
Hinman Straub Pigors & Manning, P.C., 50 E Street, SE Washington, DC 20003	New York State Conference of Blue Cross & Blue Shield Plans	3,527.50	204.36
Mike Hirshfield, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation		
Sheila E. Hixson, 4301 Connecticut Avenue, NW, #300 Washington, DC 20008	National Solid Wastes Management Assn (NSWMA)	500.00	
Hobbs Straus Dean & Wilder, 1819 H St., NW, #800 Washington, DC 20006	Aroostook Band of Micmacs		
Do	Menominee Indian Tribe	440.00	
Do	National Indian Child Welfare Assn	735.00	
Do	National Minority Public Broadcasting Consortia	60.00	
Do	Pueblo de Cochiti	60.00	
Do	Seminole Tribe of Florida	180.00	
David F. Hobson, 1300 North 17th Street, #750 Rosslyn, VA 22209	Uniform & Textile Service Assn	4,000.00	
Julius W. Hobson Jr., 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	3,750.00	185.00
George J. Hochbrueckner & Associates, Inc, 1 Wycomb Place Coram, NY 11727	Frisby Technologies	3,000.00	3,000.00
Scott Hodes, 150 North Michigan Avenue, #2500 Chicago, IL 60601	Investment Company Institute	6,000.00	
Fredrick Hodges, 500 E Street, SW, #920 Washington, DC 20024	AOPA Legislative Action	10,000.00	105.00
Elise Hoerath, 1400 16th Street, NW Washington, DC 20036	National Wildlife Federation	2,850.00	
Kristin Hofeditz, 1401 I Street, NW, Suite 1000 Washington, DC 20005	Securities Industry Assn	1,885.00	
Ann F. Hoffman, 815 16th Street, NW, Suite 103 Washington, DC 20006	Union of Needletrades Industrial & Textile Employees	13,724.75	720.87
John B. Hofmann, 300 Capitol Mall, Suite 350 Sacramento, CA 95814	California Forestry Assn	1,000.00	727.19
Judith L. Hofmann, 919 18th Street, NW, #400 Washington, DC 20006	W. R. Grace & Co		320.00
Elizabeth Hogan, 1801 Pennsylvania Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	572.50
Gerald Hogan, 655 15th Street, NW, #220 Washington, DC 20005	Consumer Federation of America		5,000.00
J. Michael Hogan, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	12,500.00	37.73
Hogan & Hartson, L.L.P., 555 13th St., NW Washington, DC 20004-1109	Advanced Government Strategies, L.L.C.		
Do	American Academy of Pediatrics	187.50	
Do	American Automobile Assn		
Do	American Blood Resources Assn	39,774.62	3,093.74
Do	American Coke & Chemicals Institute		
Do	American College of Osteopathic Surgeons		
Do	American Frozen Food Institute		
Do	American Lawyer Media		
Do	American Registry of Pathology	5,807.50	33.06
Do	American Society for Bone & Mineral Research	17,472.83	380.44
Do	Amgen, Inc		69.25

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Amway Corporation	18,116.25	
Do	Auburn University	7,500.00	415.00
Do	Avions de Transport Regional, Groupement d'Interet Economiqu	1,354.77	0.40
Do	Berg Steel Pipe Corp	2,150.00	78.75
Do	Blue Cross & Blue Shield Assn		
Do	Bristol-Myers Squibb Company		
Do	Brother International Corp	6,531.87	320.51
Do	Burger King Corp	58,707.30	1,250.99
Do	BE&K Construction	1,707.19	74.35
Do	California State Teachers' Retirement System	13,239.00	
Do	Ceridian Corporation		
Do	Chickasaw Nation	9,328.75	
Do	CC Distributors, Inc		
Do	Direct Selling Association		
Do	Drummond Company, Inc	13,930.00	710.16
Do	DryCleaners Environmental Legislative Fund		1,419.62
Do	ElderHealth, Inc	2,634.75	3.18
Do	Freightliner Corp		
Do	Genentech, Inc		
Do	General Electric Co	3,402.50	
Do	Genzyme Corp	435.00	
Do	Glaxo Wellcome, Inc	600.00	26.50
Do	Grand Metropolitan	3,658.75	156.77
Do	Grocery Manufacturers of America, Inc	21,232.50	
Do	Group Hospitalization and Medical Services, Inc	13,033.75	267.26
Do	Harbert Corp		
Do	Hardie-Tynes Mfg Company	3,645.00	68.96
Do	Humane Society of the U.S.	520.00	11.20
Do	Infectious Diseases Society of America, Inc	512.50	8.00
Do	International Assn of Amusement Parks & Attractions	4,395.00	
Do	International Hydrolyzed Protein Council	13,660.90	612.75
Do	May Department Stores Co	4,235.00	332.28
Do	Medtronic, Inc	5,115.00	
Do	Mercedes-Benz of North America, Inc		
Do	Michelin Tire Company	3,300.00	251.94
Do	Michigan Consolidated Gas Co	12,676.25	403.23
Do	Molloy College		
Do	Monsanto Co	6,742.90	
Do	Mortgage Insurance Companies of America	8,000.00	156.47
Do	National Apparel		
Do	National Broiler Council		
Do	National Child Care Assn	4,262.50	729.83
Do	National Consumer Bankruptcy Coalition		
Do	National Hospice Organization	1,251.62	
Do	National Osteoporosis Foundation	8,332.00	475.53
Do	National Structured Settlements Trade Assn	31,233.87	
Do	National Wireless Resellers Assn	16,341.92	339.76
Do	Ostegenesis Imperfecta Foundation	1,248.00	47.55
Do	Paget Foundation		47.55
Do	Polyisocyanierate Insulation Manufacturers Assn (PIMA)	3,778.50	240.80
Do	Private Child Care Providers	12,987.30	899.17
Do	Product Liability Coordination Committee	22,865.00	2,352.59
Do	Rust Engineering	12,918.13	503.31
Do	Simrad, Inc	5,062.50	101.27
Do	Society of Critical Care Medicine	150.00	
Do	Southern Company Services	16,886.62	891.78
Do	Storage Technology Corp		
Do	Texas Heart Institute	69.71	0.20
Do	Timex Corporation		
Do	Toyota Motor Sales, USA, Inc	3,250.00	130.00
Do	University of Pittsburgh Medical Center		
Do	Virginia Ready-Mixed Concrete Assn	3,398.29	41.71
Do	Visiting Nurse Service of New York		
Do	Vulcan Materials Company	42,855.00	3,779.39
Do	Jim Walter Corp	6,151.50	343.09
Do	Williams Telecommunications		
Bruce E. Holbein, 111 Powdermill Rd. (b79) Maynard, MA 01754	Digital Equipment Corp	28,000.00	
Robert A. Holland, 1020 19th Street, NW, #420 Washington, DC 20036	SmithKline Beecham Corp (Beecham, Inc)	200.00	700.00
Holland & Knight, 2100 Pennsylvania Avenue, NW, #400 Washington, DC 20037	American Pyrotechnics Assn	1,200.00	
Do	City of Miami	500.00	
Do	Community Service Society of New York		
Do	Consortium Plant Biotech Research	11,620.00	
Do	Greater Tampa Chamber of Commerce		
Do	Lockheed Advanced Development Co		
Do	Manatee County Public Works Department		
Do	National Peach Council	300.00	
Do	National Railroad Passenger Corp (Amtrak)		
Do	Pan American Satellite Corp		
Do	Peace River/Manasota Regional Water Supply Authority	903.00	
Do	South Tahoe Public Utility District		
Do	Southwest Florida Water Management District		
Do	Spaceport Florida Authority		
Do	Viatical Assn of America	5,988.00	
Do	VITAS HealthCare Corp of Florida	4,220.00	
Do	West Coast Regional Water Supply Authority		
Robert W. Holleyman II, 2001 L Street, NW, #400 Washington, DC 20036	Business Software Alliance	9,062.50	
Jessica J. Holliday, 805 15th Street, NW, #330 Washington, DC 20005	Air Products & Chemicals, Inc	12,500.00	
Kimo S. Hollingsworth, 1608 K Street, NW Washington, DC 20005	American Legion	9,609.00	264.89
Holly Corporation, 100 Crescent Court, #1600 Dallas, TX 75201			
Alan F. Holmer, 1722 Eye Street, NW Washington, DC 20006	Sidley & Austin (For:Pharmaceutical Research & Manufacturers of America)		
Aubrey Holmes, 316 Pennsylvania Ave., SE Washington, DC 20003	United Parcel Service		
Moses D. Holmes Jr., 1201 16th St., NW Washington, DC 20036	National Education Assn	4,217.25	125.29
Thaddeus Holt, P.O. Box 440 Point Clear, AL 36564	American Deposit Corp		
John F. Holtz, NJ Petroleum Council 150 West State Street Trenton, NJ 08608	American Petroleum Institute	588.00	
Home Recording Rights Coalition, P.O. Box 33576 1145 19th Street, NW Washington, DC 20033		20,300.00	20,653.22
Rebecca Honeycutt, 1250 Eye Street, NW, Suite 900 Washington, DC 20005	Distilled Spirits Council of the U.S.	2,000.00	
Theresa D. Hooper, 1101 15th Street, NW Washington, DC 20005	Minnesota Mining & Manufacturing Co	1,000.00	
Hooper Hooper Owen & Gould, 801 Pennsylvania Ave., NW, #730 Washington, DC 20004	Ad Hoc Bankruptcy Coalition	500.00	
Do	Affordable Housing Preservation Tax Policy Group	1,500.00	
Do	Borden Chemicals & Plastics, Inc	6,000.00	
Do	City of San Francisco (Water & Power Div)	6,000.00	
Do	Colonial Penn Life	1,200.00	
Do	Combustion Engineering, Inc	7,000.00	
Do	CSX/Yukon Pacific Corp	1,800.00	
Do	Destec Energy, Inc		
Do	Entergy Corp	18,000.00	
Do	ENSERCH Corp	450.00	
Do	EXOR America	750.00	
Do	Fluor Corp	3,750.00	
Do	Goldstrike Mine	4,500.00	
Do	Hallmark Cards	750.00	
Do	Hillman Company	3,750.00	
Do	Horsham Corporation	2,250.00	
Do	Hubbell, Inc	1,500.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	International Paper Co		
Do	John Hancock Mutual Life Ins Co	7,500.00	
Do	Kansas City Southern Industries	6,000.00	
Do	Land Trust Alliance	937.50	
Do	A.T. Massey Coal Co		
Do	Mobil Corp	9,000.00	
Do	NorAm Energy Corp.	2,500.00	
Do	Panhandle Eastern Corp	7,400.00	
Do	Pennsylvania Engineering Co	7,500.00	
Do	Phillip Morris Management Corp	4,500.00	
Do	Phlcorp, Inc		
Do	Science Applications Intern Corp	9,000.00	
Do	Section 29 Coalition		
Do	Shell Oil CO	4,500.00	
Do	Trammell Crow Co		
Do	TECO Energy, Inc	6,500.00	
Do	Ultramar, Inc	900.00	
Do	Utilicorp United, Inc	2,000.00	
Do	WMX Technology & Services	1,800.00	
Edward Hopkins, 1730 Rhode Island Avenue, NW, Suite 403 Washington, DC 20036	Citizen Action Fund	3,000.00	102.00
Leonard L. Hopkins Jr., 2015 Staples Mill Road Richmond, VA 23230	Trigon Blue Cross Blue Shield	750.00	
Mark D. Hopkins, 1401 Eye Street, NW, Suite 1200 Washington, DC 20005	Chevron Companies	250.00	15.00
Stephen A. Hopkins, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp Washington, Inc	3,500.00	
Hopkins & Sutter (Washington), 888 16th Street, NW Washington, DC 20006	Grand Trunk Corp	2,162.50	15.00
Darnell K. Horio, 801 Pennsylvania Ave., NW, #310 Washington, DC 20004	GPU Service Corporation	12,101.00	1,025.70
Robert Jack Horn, 601 13th Street, NW, #650 N Washington, DC 20005-3808	Detroit Edison Company	1,320.00	60.00
John R. Horner, 8524 Bradford Rd. Silver Spring, MD 20901	Campbell-Crane & Assn (for: NMTBA Assn for Mfgr Technology)		
William K. Hoskins, 9300 Ward Parkway Kansas City, MO 64114	Marion Merrell Dow, Inc		154.00
Charles H. Hossack, 50 South First Avenue Coatesville, PA 19320	Lukens, Inc	328.60	543.96
Peggy A. Houlihan, 1100 Connecticut Ave., NW Suite 910 Washington, DC 20036	Coalition for Employment through Exports	13,750.00	
Household Financial Group, Ltd, 1000 Connecticut Ave., NW, Suite 507 Washington, DC 20036	Household International, Inc		
M'liss Solove Houston, MSH Consulting 5507 Ferndale Street Springfield, VA 22151	Armour Pharmaceutical Co	52,950.00	24,216.24
Do	OSHA Reform Project 1995	28,900.00	916.42
John H. F. Hoving, 1762 Church Street, NW Washington, DC 20036	Society of American Value Engineers		
Hoving Group, 1762 Church Street, NW Washington, DC 20036	American Film Marketing Assn	750.00	
Do	Eagle-Picher Industries, Inc	17,950.00	
Do	Western-Southern Life Insurance Co	750.00	300.00
John Howard, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	540.00	
Earnest E. Howell, 4647 Forbes Blvd Lanham, MD 20706	AMVETS	6,800.00	
Jackie G. Howell, 2030 M Street, NW Washington, DC 20036	Common Cause	5,328.51	
James P. Howell, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives	2,050.00	
Ronnie Allen Howell, 1620 Eye Street, NW, #700 Washington, DC 20006	International Paper	2,500.00	600.00
Jacqueline Howells, 322 Constitution Ave., NE Washington, DC 20002	Marcus G. Faust, P.C. (For:Central Utah Water Conservancy District)	1,785.71	
Do	Marcus G. Faust, PC (For:Clark County Nevada)	1,785.71	
Do	Marcus G. Faust, PC (For:Clark County-McCarran International Airport)	1,785.71	
Do	Marcus G. Faust, PC (For:Las Vegas Valley Water District)	1,785.71	
Do	Marcus G. Faust, PC (For:Public Service Co of New Mexico)	1,785.71	
Do	Marcus G. Faust, PC (For:Sierra Pacific Power Co)	1,787.71	
Do	Marcus G. Faust, PC (For:State of Montana, Dept of Natural Resources & Conservation).	1,785.71	
Susan Howland, 20 Black Oak Mews Newtown, PA 18940	Susan Howland & Associates		
Howrey & Simon, 1299 Pennsylvania Avenue, NW, Washington, DC 20004	CitiCorp Services, Inc, et al.		
Do	Litton Industries, Inc		
Do	Rockwell International Corp		
Paul R. Huard, 1331 Pennsylvania Avenue, NW, #1500N Washington, DC 20004-1703	National Assn of Manufacturers	15,000.00	
David S. Hubbard, 1212 New York Avenue, NW, #520 Washington, DC 20005	American Portland Cement Alliance	8,000.00	532.77
M. Ward Hubbell, 1101 Pennsylvania Ave., NW, #200 Washington, DC 20004	International Paper	2,900.00	1,137.19
Henry A. Hubschman, 1 Neumann Way, Mail Drop J104 Cincinnati, OH 45215	General Electric Co	2,000.00	199.12
Walter D. Huddleston, P.O. Box 456 Elizabethtown, KY 42702	Brown & Williamson Tobacco Corp	36,000.00	
Do	MCI Telecommunications		
J. Michael Hudson, 112 S. West Street Alexandria, VA 22314	Strategic Management Associates, Inc (For:Greater New York Hospital Assn)	45,000.00	
Margaret Renken Hudson, 1212 New York Avenue, NW, Suite 500 Washington, DC 20005	American Portland Cement Alliance	14,375.00	1,212.37
Stewart Hudson, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	774.54	
Thomas H. Hudson, One American Placae, 9th Floor Baton Rouge, LA 70825	Coastal Corporation		
Do	Louisiana State University		
Do	Molten Metal Technology, Inc		
Do	Philip Morris, USA		
Gerald F. Hughes, 1600 Wilson Blvd, Suite 807 Arlington, VA 22209	Roadway Services, Inc	100.00	250.00
John P. Hughes, The West Tower, 8th Floor 1333 H Street, NW Washington, DC 20005	Electricity Consumers Resource Council (ELCON)		
Kevin M. Hughes, 200 Second Avenue North Seattle, WA 98109	Pacific Science Center	1,890.00	39.00
Sharon M. Hughes, 1735 I St., NW, Suite 704 Washington, DC 20006	National Council of Agricultural Employers	1,000.00	450.00
Vester T. Hughes Jr., 1717 Main Street, Suite 2800 Dallas, TX 75201	Holly Corp		
William Hughes, 27357 Avonbourne Lane Easton, MD 21601-7655	National Assn of Federal Veterinarians	27.75	
Hughes & Luce, L.L.P., 1717 Main Street, #2800 Dallas, TX 75201	Sammons Enterprises, Inc	44,250.00	3,507.24
Wesley B. Huisinga, 115 3rd Street, SE, #1200 Cedar Rapids, IA 52401	Simmons Perrine Albright & Ellwood, P.L.C. (For:Association of Bankruptcy Professionals, Inc).	1,339.50	795.29
B. Jeanine Hull, 12500 Fair Lakes Circle, Suite 350 Fairfax, VA 22033-3804	LG&E Power, Inc	10,000.00	25.75
Brenda J. Hull, 1001 19th Street, North, Suite 800 Arlington, VA 22209	TRW, Inc	425.04	229.56
Human Capital Resources, Inc, c/o Mottola Cherny & Associates, Inc 575 Madison Ave. New York, NY 10022-2511			12,835.00
William Thomas Humber, 901 N. Washington Street, Suite 400 Alexandria, VA 22314	National Smokers Alliance		
Cliff Humphrey, 1800 Massachusetts Ave., NW Washington, DC 20036	National Rural Electric Cooperative Assn	1,379.85	
Gregory A. Humphrey, 555 New Jersey Ave., NW Washington, DC 20001	American Fed of Teachers	27,486.36	28.00
Margot Smiley Humphrey, 1150 Connecticut Avenue, NW, 10th Floor Washington, DC 20036	Koteen & Naftalin (For:Alascom, Inc)		
Do	Koteen & Naftalin (For:Telephone & Data Systems, Inc, et al.)	18,540.00	20.00
Humphrey Group, Inc, Box 1461 Concord, NH 03302-1461	Milton Balkany	5,000.00	382.00
Robert R. Humphreys, 2915 34th Street, NW Washington, DC 20008	Helen Keller National Center	250.00	
Do	Recording for the Blind, Inc	250.00	
John M. Humphries, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	2,250.00	3,245.30
Harriet Hunt-Burgess, 456 Montgomery Street #1800 San Francisco, CA 94104	American Land Conservancy	191.55	73.20
Hunton & Williams, 2000 Pennsylvania Ave., NW, #9000 Washington, DC 20006	Ad Hoc Regulatory Reform Group	3,452.50	57.72
Do	Amoco Corp	7,416.25	221.85
Do	Edison Electric Institute	550.00	292.93
Do	Envirotest Systems, Inc	7,880.00	499.00
Do	Hoechst Celanese Corp	64,895.00	2,429.80
Do	Southern California Gas Co (Socal)	6,875.00	399.36
Robert Hurley, 601 13th Street, NW, #610 South Washington, DC 20005	Wall & Associates, R. Duffy	1,250.00	
Cathy Hurwit, 1730 Rhode Island Avenue, NW, Suite 403 Washington, DC 20036	Citizen Action Fund	6,000.00	245.00
Geoffrey B. Hurwitz, 1667 K St., NW, #210 Washington, DC 20006	Rohm & Haas Co	2,300.00	451.54
Brian Huse, P.O. Box 1289 Oakland, CA 94604-1289	National Parks & Conservation Assn	1,079.00	47.00
Michael Hussey, 777 14th Street, NW Washington, DC 20005	National Assn of Realtors	2,500.00	1,552.36
Philip A. Hutchinson, 1001 N. 19th Street, #1200 Arlington, VA 22209	Association of International Automobile Manufacturers, Inc		
Suzanne C. Hutchinson, 727 15th Street, NW, 12th Floor Washington, DC 20005	Mortgage Insurance Companies of America	15,000.00	119.11
John A. Hutten, 750 17th Street, NW, 4th Floor Washington, DC 20006	Enron Corporation	1,500.00	
Randy Huwa, 2030 M St., NW Washington, DC 20036	Common Cause	13,403.84	
Edward Huylebroeck Jr., 125 N. West Street Alexandria, VA 22314-2754	Fleet Reserve Assn		
Steven M. Hyjek, 2100 Pennsylvania Ave., NW, #560 Washington, DC 20037	British Aerospace	1,500.00	
Do	Hyjek & Fix, Inc (For:Canadair Challenger, Inc)	1,500.00	
Do	Hyjek & Fix, Inc (For:Learjet, Inc)	300.00	670.83
Do	Hyjek & Fix, Inc (For:Pilkington/Thorn)	2,000.00	455.64
Do	Hyjek & Fix, Inc (For:Research & Development Labs)	750.00	
Do	Hyjek & Fix, Inc (For:Short Brothers (USA), Inc)	750.00	1,100.74
Do	Hyjek & Fix, Inc (For:Thompson Defence Projects)	2,125.00	
I-66 Project, Inc, 1021 Kingsway, #6 Cape Girardeau, MO 63701		33,825.00	33,519.88
J. William Ichord, 1050 Connecticut Ave., NW, #760 Washington, DC 20036	Union Oil Company of California		254.08

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Shirley Igo, 713 El Paso Street Plainview, TX 79072-6207	National PTA		6,243.31
Torbjorn Ihre, 1634 I Street, NW Suite 600 Washington, DC 20006-4083	Ericsson Corporation	2,000.00	500.00
Illinois Committee to Save Legal Services, 221 North LaSalle St., #863 Chicago, IL 60601		2,495.00	3,472.79
Scot E. Imus, 1199 North Fairfax Street, #801 Alexandria, VA 22314	National Assn of Truck Stop Operators		
Jon J. Indall, Carpenter Comeau Maldegen Nixon... P.O. Box 669 Santa Fe, NM 87504-0669	Uranium Producers of America	1,875.00	
Independent Data Communications Manufacturers Assn, c/o Squire Sanders & Dempsey 1201 Pennsylvania Ave., NW Washington, DC 20044.		5,304.00	5,304.00
Independent Insurance Agents of America, Inc, 127 S. Peyton Street Alexandria, VA 22314		78,026.00	78,026.00
Information Technology Assn of America, Inc, 1616 North Ft. Myer Dr., #1300 Arlington, VA 22209		16,500.00	2,300.00
Charles E. Ing, 1850 M Street, NW, #600 Washington, DC 20036	Toyota Motor Sales, USA, Inc	15,080.00	35.42
Edwin T. C. Ing, 1800 K Street NW, #720 Washington, DC 20006	Hawaiian Electric Industries, Inc		
Do	Kamehameha Schools/Estate of Bernice P. Bishop		
Do	Kenetech Corporation	1,773.75	1,773.75
Charles W. Ingram, 1615 H Street NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	
Dick Ingram, 1315 Nueces Austin, TX 78701	Polan-Ingram Advocacy Group (For:Vermont Yankee Nuclear Power Corp)		
Doug Inkley, 1400 16th St., NW Washington, DC 20036-0001	National Wildlife Federation	2,865.81	
Institute of Clean Air Companies, Inc, 1707 L St., NW Washington, DC 20036			
Institute of International Bankers, 299 Park Avenue New York, NY 10171			69,467.43
Int'l Union, United Auto Aerospace & Agric Implement Workers, of America (UAW) 8000 E. Jefferson Avenue Detroit, MI 48214.		126,133.23	126,133.23
International Assn of Amusement Parks & Attractions, 1448 Duke Street Alexandria, VA 22314		1,652.50	1,652.50
International Assn of Bridge Struct & Ornamental Iron Wkrs, 1750 New York Ave., NW Washington, DC 20006		26,186.06	39,255.06
International Council of Shopping Centers, 665 Fifth Ave. New York, NY 10022		25,284.68	25,284.68
International Fabricare Institute, 12251 Tech Road Silver Spring, MD 20904		16,193.00	7,053.75
International Hearing Society, 20361 Middlebelt Livonia, MI 48152			
International Longshoremen's Assn, AFL-CIO, 17 Battery Place, #1500 New York, NY 10004			70,593.58
International Taxicab and Livery Assn, 3849 Farragut Avenue Kensington, MD 20895			
International Union of Bricklayers & Allied Craftsmen, 815 15th St., NW Washington, DC 20005			8,147.62
International Union of Operating Engineers, 1125 17th St., NW Washington, DC 20036		10,000.00	547.03
InterHealth--Protestant Health Alliance, Suite 233N, Court International 2550 University Avenue West St. Paul, MN 55114-1052.			220.00
Investment Company Institute, 1401 H Street, NW Washington, DC 20005			23,525.97
Peter A. Iovino, 1350 I Street, NW, #1000 Washington, DC 20005	Ford Motor Co	2,900.00	1,607.00
Andy Ireland, 8607 Westwood Center Drive Vienna, VA 22182	Ringling Bros & Barnum & Bailey		
Kathleen Ireland, 1724 Massachusetts Ave., NW Washington, DC 20036	National Cable Television Assn, Inc	2,902.00	165.91
Thomas L. Irmen, P.O. Box 119 Maumee, OH 43537	Andersons		
Iron Ore Lessors Assn, Inc, W-1290 First National Bank Bldg. St. Paul, MN 55101-1361		5,566.76	9,230.32
W. Robert Irvin, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation	2,104.55	
Amy F. Isaacs, 1625 K Street, NW, #210 Washington, DC 20006	Americans for Democratic Action	14,056.86	
John Isaacs, 110 Maryland Ave., NE Washington, DC 20002	Council for a Livable World	7,500.00	
Mark Isakowitz, 600 Maryland Avenue, SW, #700 Washington, DC 20024	National Fed of Independent Business	4,875.00	400.00
Sally D. Iskenderian, 1455 Pennsylvania Ave., NW, #1260 Washington, DC 20004	French & Company (For:International Electronics Mfgrs & Consumers of America, Inc).	250.00	
Russel Iuculano, 1620 L Street, #800 Washington, DC 20036	Metropolitan Life Insurance Co	2,000.00	
Suzanne Iudicello, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation	2,252.25	
Kenneth M. Iwashita, 29400 Lakeland Boulevard Wickliffe, OH 44092	Lubrizol Corp		
J/T Group, 2555 M Street, NW, #327 Washington, DC 20037	Coal Industry Health Protection Coalition	9,000.00	
Do	Smithlkine Beecham	1,500.00	
Do	Stanton and Associates	10,000.00	
Robert A. Jablon, 1350 New York Ave., NW, #1100 Washington, DC 20005-4798	Spiegel & McDiarmid (For:Michigan Municipal/Cooperative Group)		
Alice M. Jackson, 1330 New Hampshire Ave., NW, #122 Washington, DC 20036	National Assn of Community Health Centers	399.28	
Alvin B. Jackson Jr., 1735 Jefferson Davis Highway, #1200 Arlington, VA 22202	American Tort Reform Assn		37,900.00
Do	McDonnell Douglas Corp		
Charles R. Jackson, 225 North Washington Street Alexandria, VA 22314	Non Commissioned Officers Assn of the USA	9,800.00	294.00
Glenn Jackson, 1667 K Street, NW, #800 Washington, DC 20006	Williams Companies, Inc	250.00	
Michael G. Jackson, 1001 19th Street North, #800 Arlington, VA 22209	TRW, Inc	1,650.00	
Robert L. Jackson, 1100 Wilson Boulevard Arlington, VA 22209	Hughes Electronics Corp	140.00	
Shari Jackson, 1275 K Street, NW, Suite 400 Washington, DC 20005	Society of the Plastics Industry, Inc		
Thomas C. Jackson, 1350 I Street, NW, #700 Washington, DC 20005	Beveridge & Diamond (For:Foundation for Environmental & Economic Progress, Inc).		
P. Bernard Jacob, 1130 Connecticut Avenue, NW Washington, DC 20036	Mississippi Power Company	25,500.45	8,381.00
Henry Jacobs, P.O. Box 70 Ashland, MS 38603	Trinity Research Center		8,800.00
Stephen Jacobs, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	10,000.00	276.00
E. A. Jaenke & Associates, Inc, 1100 New York Avenue, NW, #520 East Washington, DC 20005	University of Kansas		
Daniel L. Jaffe, 700 11th Street, NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		102.81
Edward L. Jaffee, 655 - 15th Street, NW, Suite 300 Washington, DC 20005	ISP Management Company, Inc		
Do	Primary Glass Manufacturers Council		
Daniel M. James, P.O. Box 61473 Vancouver, WA 98666-1473	Pacific Northwest Waterways Assn	2,283.75	865.94
Philip J. James, 8200 Greensboro Drive, #302 McLean, VA 22102	National Glass Assn (NGA)		
Thomas M. James, 1299 Pennsylvania avenue, NW Suite 995 Washington, DC 20004	Furman Group	5,000.00	611.31
Timothy P. James, 1125 17th Street, NW Washington, DC 20036	International Union of Operating Engineers	2,500.00	
Jamin Ebell Bolger & Gentry, 323 Carolyn Street Kodiak, AK 99615	Old Harbor Native Corp	21,340.50	18,726.24
Delos Cy Jamison, Jamison & Sullivan, Inc 1212 New York Ave., NW, #1200 Washington, DC 20005	Association of O&C Counties	6,000.00	
Do	Douglas County	3,000.00	
Do	D.R. Johnson Lumber	6,000.00	2,800.00
Do	Malheur Timber Operators	7,500.00	750.00
Do	Native Operating Co	4,000.00	150.00
Do	Prairie Wood Products	4,000.00	150.00
Do	Umatilla Water Users	4,000.00	150.00
Japan Economic Institute of America, 1000 Connecticut Ave., NW Washington, DC 20036		1,660.00	1,660.00
Richard B. Jarman, 1250 H Street, NW, #800 Washington, DC 20005	Eastman Kodak Co		
James R. Jarrad, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	7,700.00	587.86
Marc R. Jartman, 175 Admiral Cochrane Drive Annapolis, MD 21401	UNC, Inc		
John T. Jarvis, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	American Insurance Assn	2,700.00	
Do	BC&T	4,500.00	
Do	Communications Workers of America Printing Publishing...	3,750.00	
Do	Computer Sciences Corp		
Do	Labor-Management Comm for the Timber Industry	20,250.00	
Do	Rollins International	5,850.00	
Do	Tobacco Industry Labor Management Comm	33,750.00	
Steve Jarvis, 1025 Vermont Avenue, NW Washington, DC 20005	American Pulpwood Assn		
Jerry J. Jasinowski, 1331 Pennsylvania Ave., NW, #1500 N. Washington, DC 20004-1703	National Assn of Manufacturers	2,000.00	
Sally Jefferson, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	46.32	46.32
Jefferson Group, 1341 G Street, NW, Suite 1100 Washington, DC 20005	AEG Hi Speed Rail		
Do	AEG Westinghouse Transportation Systems, Inc		
Do	AFL-CIO Housing Investment Trust		
Do	Barona Casino		
Do	Bethune-Cookman College		
Do	Bionetics		
Do	BOC Gases		
Do	Cabazon Bank of Mission Indians		
Do	Carrington Laboratories, Inc		
Do	Children's Health System		
Do	City of Aurora		
Do	City of Orlando		
Do	Coalition to Limit Increases in Postal Rates		
Do	Colorado Springs Chamber of Commerce		
Do	Dallas Area Rapid Transit		
Do	DePuy, Inc		
Do	Doe Run Company		
Do	Dow Chemical Company		
Do	Dunn-Edwards		
Do	Dyncorp		
Do	Embry-Riddle Aeronautical University		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Eye Bank Assn of America		
Do	Florida Memorial College		
Do	Geon Company		
Do	Greater Orlando Aviation Authority		
Do	Grocery Manufacturers of America		
Do	Group Health Cooperative of Puget Sound		
Do	Hampton University		
Do	Health Insurance Plan of Greater New York		
Do	HolidayInn Worldwide		
Do	WN Hunter & Associates		
Do	Illinois Community College Board		
Do	Informix Software, Inc		
Do	ILZRO/Battery		
Do	ISEA		
Do	Lab One		
Do	Lukas McGowan Nace & Guitierrez		
Do	Marshall Fund		
Do	Mission Energy Company		
Do	Molloy College		
Do	National Assn of Community Health Centers		
Do	National Assn of Development Cos		
Do	National Quality Health Council		
Do	Nichols Dezenhall		
Do	Nursing Management Services		
Do	NAVAPD		
Do	Rowland Company		
Do	Seminole Tribe of Florida		
Do	Sentara Health System		
Do	Thunder Child Treatment Center		
Do	University of Miami		
Do	Viejas Tribe		
Do	Vintage Health Resources, Inc		
Do	Vinyl Institute		
Do	Virginia Commonwealth University		
Do	Voice of the Retarded		
Do	Zinc Corporation of America		
Jefferson-Waterman International, 1341 G Street, NW, #1100 Washington, DC 20005	China External Trade Dev Council		
Do	CAE-Link		
Do	Embassy of the Republic of Korea		
Do	Government of Jamaica		
Do	Government of Nicaragua		
Do	Government of Quebec		
Do	Government of Romania Ministry of Foreign Affairs		
Do	Government of State of Bahrain Embassy		
Do	Lockheed Fort Worth Company		
Do	Mantech Quality Services, Inc		
Do	Republic of Croatia		
Do	TCOM, Lp		
Ed Jenkins, 50 E Street, SE Washington, DC 20003	Winburn & Jenkins (For:American Forest & Paper Assn)	2,250.00	
Do	Winburn & Jenkins (For:BR Services)	750.00	
Do	Winburn & Jenkins (For:Equipment Leasing Assn)	1,125.00	
Do	Winburn & Jenkins (For:Fieldale Farms Corp)	500.00	
Do	Winburn & Jenkins (For:Hartford Insurance Co)	2,250.00	
Do	Winburn & Jenkins (For:Leggett & Platt)	1,050.00	
Do	Winburn & Jenkins (For:Michigan Hospital Assn)	100.00	
Do	Winburn & Jenkins (For:Norfolk Southern Railroad)	1,500.00	
Do	Winburn & Jenkins (For:Pfizer, Inc)	2,250.00	
Do	Winburn & Jenkins (For:Philip Morris)	3,300.00	
Do	Winburn & Jenkins (For:Transitional Hospitals Corp)	1,875.00	
Do	Winburn & Jenkins (For:Viacom)	3,000.00	
Harry Jenkins Jr., 1650 Tysons Blvd., Suite 1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Teresa L. Jennings, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Jensen Baird Gardner & Henry, Ten Free Street P.O. Box 4510 Portland, ME 04112	Mid-Maine Waste Action Corp	108.00	
Do	Regional Waste Systems, Inc	310.50	
Per Ingvar Jessing, Box 53046 S-400 14 Gothenburg Sweden	Swedish Shipowners' Assn		
Hugh Jewett, 3025 South Parker Road Aurora, CO 80014	TeleCheck Services, Inc		
Darrel Cox Jodrey, 1350 Eye St., NW, #810 Washington, DC 20005	Johnson & Johnson	548.25	
Calvin P. Johnson, 815 16th Street, NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	15,134.14	
Carl T. Johnson, 1725 Jefferson Davis Hwy, #1004 Arlington, VA 22202-4102	Compressed Gas Assn/Helium Advisory Council	12,000.00	20,385.00
Jacquelyn M. Johnson, 3050 K Street, NW, #145 Washington, DC 20007	National Marine Manufacturers Assn	12,460.00	145.00
Katie Johnson, 2000 K Street, NW, Suite 800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,838.00	
Mark R. Johnson, 1667 K Street, NW, #350 Washington, DC 20006	Maersk, Inc	2,500.00	
Richard W. Johnson Jr., 225 N. Washington Street Alexandria, VA 22314	Non Commissioned Officers Assn of the USA	9,200.00	294.00
Thomas L. Johnson, P.O.Box 2185 Austin, TX 78768	Associated General Contractors of Texas		
William J. Johnson, 750 First St., NE, #1020 Washington, DC 20002-4241	National Assn of Police Organizations	7,279.00	542.00
Johnson Smith Dover Kitzmiller & Stewart, Inc, 1300 Connecticut Ave., NW, #600 Washington, DC 20036	Academy for Educational Development		
Do	Air Transport Assn of America	10,500.00	336.00
Do	Akers Laboratories		
Do	American Academy of Dermatology	10,000.00	320.00
Do	American College of Cardiology		
Do	American Hospital Assn		
Do	American Petroleum Institute	750.00	24.00
Do	American Psychological Assn	11,250.00	360.00
Do	American Transit Services Council	4,500.00	144.00
Do	Apollo Travel Services		
Do	Appalachian Coalbed Methane Assn	19,250.00	616.00
Do	Arthur Andersen & Co	4,500.00	144.00
Do	Caremark, Inc	10,000.00	320.00
Do	Center for Marine Conservation	6,250.00	200.00
Do	Central and South West Services, Inc	4,000.00	128.00
Do	City of Broomfield, CO		
Do	Coalition of Boston Teaching Hospitals	4,500.00	144.00
Do	College of American Pathologists	1,500.00	48.00
Do	Competitive Power Council	20,000.00	640.00
Do	Coopers & Lybrand, et al.	7,000.00	224.00
Do	Council of Smaller Enterprises (COSE)	2,500.00	80.00
Do	CBS, Inc	17,750.00	568.00
Do	Delta Dental Plans Assn	7,750.00	248.00
Do	Discovery 2000	500.00	16.00
Do	Eli Lilly & Co	11,250.00	360.00
Do	Envirotest Systems	5,000.00	160.00
Do	Fluor Corp	10,750.00	344.00
Do	Galileo International		
Do	General Atomics	1,000.00	32.00
Do	General Electric		
Do	Health Insurance Assn of America	3,000.00	96.00
Do	Heartland Health Systems	1,500.00	48.00
Do	Hoffmann-La Roche	10,000.00	320.00
Do	Hong Kong Trade Development Council	7,500.00	240.00
Do	Human Rights Campaign Fund	1,250.00	40.00
Do	Independent Telephone & Telecommunications Alliance	18,250.00	584.00
Do	Joint Commission on Accreditation of Health Care...	5,875.00	188.00
Do	Lifetime Security Plan		
Do	Lockheed/Martin Corp	9,500.00	304.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Maritrans GP, Inc	4,500.00	144.00
Do	Motorcycle Industry Council, Inc		
Do	Mutual of Omaha	10,000.00	320.00
Do	National Assn of Broadcasters	11,000.00	352.00
Do	National Assn of Urban Critical Access Hospitals	8,000.00	256.00
Do	National Coalition of Burn Center Hospitals		
Do	National Football League	1,500.00	48.00
Do	National Independent Energy Producers	3,750.00	120.00
Do	National Music Publishers Assn, Inc	2,250.00	412.00
Do	Nuclear Energy Institute	8,750.00	280.00
Do	Pennzoil Company		
Do	Philip Morris, Inc	3,750.00	120.00
Do	Software Productivity Consortium	5,000.00	160.00
Do	Ticketmaster	750.00	24.00
Do	Times Mirror Co		
Do	Travelers		
Do	Uniform & Textile Service Assn	3,750.00	120.00
Mary M. Johnston, 500 E Street, SW, #920 Washington, DC 20024	AOPA Legislative Action	10,500.00	367.20
Christopher Blake Johnstone, 1000 Connecticut Ave., NW Washington, DC 20036	Japan Economic Institute of America	500.00	
Mary K. Jolly, 410 First Street, SE, 2nd Floor Washington, DC 20003	National Rifle Assn of America	1,652.63	250.00
Herbert A. Jolovitz, 7531 Sebago Road Bethesda, MD 20817	Owens-Corning Fiberglas Corporation	2,000.00	
Barbara J. Jones, 1100 Connecticut Ave., NW, #310 Washington, DC 20036	Dresser Industries, Inc		
E. Whitney Jones, 625 Slaters Lane, Suite 200 Alexandria, VA 22314	National Assn for Medical Equipment Services	6,500.00	111.78
Keith Jones, 901 Maple Street North Little Rock, AR 72114	Central Arkansas Transit Authority		10,140.85
Murray W. Jones, 1455 Pennsylvania Ave., NW, #525 Washington, DC 20004	R.J. Reynolds Tobacco Co	2,600.00	
Neal T. 'Buddy' Jones, 100 Congress Avenue, #1111 Austin, TX 78701	CLD Coalition, Inc	10,000.00	3,132.68
Randall T. Jones, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives	3,500.00	
Russell C. Jones, 1420 King Street Alexandria, VA 22314-2794	National Society of Professional Engineers	1,500.00	
Jones Day Reavis & Pogue, 1450 G Street, NW, #700 Washington, DC 20005-2088	County of Los Angeles	50,823.00	153.00
Do	League of California Cities	1,117.00	8.00
Do	Pfizer, Inc	6,353.00	13.50
Jones Waldo Holbrook & McDonough, 2300 M Street, NW, #900 Washington, DC 20037	American Stores Co		
Do	Space Dynamics Laboratory		
Do	Utah State University	630.00	
Jones Walker Waechter Poitevent Carrere & Denegre, 1776 Eye Street, NW, #245 Washington, DC 20006	Canal Barge Company, Inc		
Do	International Shipholding Corp	1,750.00	
Do	Jefferson Parish Council		
Do	Port of New Orleans		
Do	Sewerage & Water Board of New Orleans	87.50	
Do	Turner Broadcasting System, Inc		
James Jordan Associates, Inc, 1747 Pennsylvania Avenue, NW, #807 Washington, DC 20006	Consortium for International Earth Science Info. Network	18,000.00	18,498.71
Robert R. Jorgensen, 1101 Vermont Avenue, NW, #710 Washington, DC 20005	American Veterinary Medical Assn		
David C. Jory, 1101 Pennsylvania Avenue, NW, #1000 Washington, DC 20004	Citicorp	7,000.00	
Robert G. Josephs, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America	16,218.75	257.91
R. Bruce Josten, 1615 H Street, NW Washington, DC 20062-2000	U.S. Chamber of Commerce		
Sherman Joyce, 1212 New York Ave., NW Washington, DC 20005	American Tort Reform Assn		18,153.34
Ardon B. Judd Jr., 1100 Connecticut Ave., NW, #310 Washington, DC 20036	Dresser Industries, Inc		
John Steven Judge, 1401 I Street, NW, Suite 1000 Washington, DC 20005	Securities Industry Assn	3,581.00	
Robert E. Juliano Associates, 2555 M Street, NW, #303 Washington, DC 20037	American Express Co	15,000.00	
Do	Hotel Employees & Restaurant Employees Int'l Union	59,100.00	1,824.33
Do	International Speedway Corp	9,000.00	
Jim Kaitz, 1100 17th Street, NW, #1203 Washington, DC 20036	Financial Executives Institute	16,813.00	
Edward J. Kaleta III, 1615 H Street, NW Washington, DC 20062-2000	U.S. Chamber of Commerce	2,700.00	89.79
Kalkines Arky Zall & Bernstein, 1675 Broadway, #2700 New York, NY 10019	Coalition of Financially Distressed Hospitals		
Do	Essential Community Hospital Coalition		
Do	St. Luke's-Roosevelt Hospital Center		
Walter Kallaur, 801 Pennsylvania Ave., NW, #700 Washington, DC 20004	Northern Telecom, Inc	1,250.00	
Edward D. Kalman, Behar & Kalman 6 Beacon Street Boston, MA 02108	National Assn of Long Term Hospitals	10,921.44	
Laurel B. Kamen, 801 Pennsylvania Ave., NW, Suite 650 Washington, DC 20004	American Express Co	1,646.00	14.00
John F. Kamp, 1899 L Street, NW Washington, DC 20036	American Assn of Advertising Agencies	1,250.00	
Edward J. Kane, 2 Gannett Drive South Portland, ME 04106	Associated Hospital Service of Maine		
Lesley Kane, 666 Pennsylvania Ave., SE, Suite 401 Washington, DC 20003	Trust for Public Land	3,908.00	254.63
Dennis R. Kanin, Foley Hoag & Eliot One Post Office Square Boston, MA 02109	East Coast Tuna Assn		
Do	Humane Society of the U.S., et al.		
Do	Prime Time 24	5,807.50	1,768.78
Karen Kapen, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America	7,410.00	614.09
Lisa R. Kardell, 1155 Connecticut Ave., NW, #800 Washington, DC 20036	WMX Technologies, Inc	2,175.00	201.48
Phillip J. Kardis, 1745 Jefferson Davis Highway, #1200 Arlington, VA 22202	Rockwell International	3,000.00	4,988.38
Barry Kasinitz, 1750 New York Avenue, NW Washington, DC 20006	International Assn of Fire Fighters	11,243.00	
Michael E. Kastner, 1350 New York Ave., NW, #800 Washington, DC 20005-4797	National Truck Equipment Assn	4,161.00	89.50
Stuart J. Kaswell, 1401 Eye Street, NW, Suite 1000 Washington, DC 20005	Securities Industry Assn	2,585.00	
Alyce Katayama, 1455 Pennsylvania Ave., NW Suite 230 Washington, DC 20004	Texas Instruments	5,000.00	319.00
Paul C. Katz, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers		
Robert J. Kaufman, 400 Perimeter Center Terrace, NE, #720 Atlanta, GA 30346-1234	Kaufman Chaiken & Sorensen (For:Hospitality Services, Inc)		
Kaulius & Associates, 1926 Fairfax Street Denver, CO 80220	Colorado State University	3,750.00	1,260.00
Anthony P. Kavanagh, 801 Pennsylvania Avenue, NW, #214 Washington, DC 20004	American Electric Power Service Corp	594.72	2,420.77
Everett E. Kavanaugh, 1101 17th Street, NW, #300 Washington, DC 20036	Cosmetic Toiletry & Fragrance Assn, Inc	500.00	
Edward M. Kavjian, 1660 L Street, NW Washington, DC 20036	General Motors Corp	3,000.00	1,415.37
David Keaney, 655 15th Street, NW, Suite 410 Washington, DC 20005	Bristol-Myers Squibb Co	1,000.00	
Kearney & Gleason, One State Street - 8th Floor Boston, MA 02109	New England Telephone Co	5,625.00	2,839.53
Do	NYNEX Government Affairs	5,625.00	
Judith A. Kearse, 1350 I Street, NW, Suite 300 Washington, DC 20005	Marine Spill Response Corp	503.75	
Richard F. Keating, 1776 I Street, NW, #200 Washington, DC 20006	Anheuser-Busch Companies, Inc		
Keck Mahin & Cate, 1201 New York Avenue, NW, Penthouse Washington, DC 20005	American Public Communications Council	1,472.63	
Do	Group Health, Inc	23,636.00	
Do	H. P. Bulmer Holdings, P.L.C.	31,640.15	
Jennifer L. Keehan, 1901 Pennsylvania Ave, NW 10th Floor Washington, DC 20006	International Mass Retail Assn	100.00	
Jeff Keeler, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	11,625.00	544.40
J. Michael Keeling, 1726 M Street, NW, #501 Washington, DC 20036	ESOP Association		
John R. Keeling, 600 Maryland Ave., SW Washington, DC 20024	American Farm Bureau Federation	9,581.00	37.85
Lana Keelty, 1800 Massachusetts Ave., NW Washington, DC 20036	National Rural Electric Cooperative Assn	12.50	
Melvin Keener, 1133 Connecticut NW, #1023 Washington, DC 20036	Coalition for Responsible Waste Incineration	3,000.00	
Joan F. Keiser, 1800 Massachusetts Avenue, NW Washington, DC 20036	National Rural Electric Cooperative Assn	35.00	
Kendell W. Keith, 1201 New York Avenue, NW, #830 Washington, DC 20005	National Grain & Feed Assn	750.00	
Susan Keith, 201 Massachusetts Ave., NE, #C-4 Washington, DC 20002	National Corn Growers Assn	4,281.75	
William D. Kelleher, 1415 Elliot Place, NW Washington, DC 20007	National Stone Assn	4,000.00	500.00
Katherine M. Kellenberg, 1330 New Hampshire Ave., NW, #122 Washington, DC 20036	National Assn of Community Health Centers, Inc		
August Keller, Signature Place II 14785 Preston Road, Suite 1100 Dallas, TX 75240	North American Coal Corporation	9,750.00	6,621.00
Keller & Heckman, 1001 G Street, NW, #500 West Washington, DC 20001	American Petroleum Institute		8.00
Do	Canadian Sugar Institute	18,122.64	22,896.90
Do	Cominco, Ltd		
Carolyn M. Kelley, 1225 I Street, NW, #500 Washington, DC 20005	American Payroll Assn	878.00	100.00
Stephen S. Kellner, 1913 Eye Street, NW Washington, DC 20006	Chemical Specialties Manufacturers Assn, Inc	55.00	
Carol A. Kelly, 1620 L Street, NW, #800 Washington, DC 20036	MetraHealth	400.00	
John F. Kelly, 3000 K Street, NW, #620 Washington, DC 20007	Merrill Lynch & Co, Inc	2,400.00	
Linda E. Kelly, 1100 New York Ave; NW, #580 Washington, DC 20005	Ryder System, Inc	450.00	38.00
Mark L. Kemmer, 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corp	3,000.00	4,010.61
Todd E. Kemp, 1201 New York Avenue, NW Washington, DC 20005	National Grain & Feed Assn	2,650.00	
Jackson Kemper Jr., 1215 Jefferson Davis Hwy., #1004 Arlington, VA 22202	Diagnostic/Retrieval Systems, Inc	10,000.00	
Kemper Corporation, 1 Kemper Drive Long Grove, IL 60049			
Kemper Financial Services, Inc, 120 South Lasalle Street Chicago, IL 60603			75.50
Kemper Reinsurance Company, One Kemper Drive Building 3, R-5 Long Grove, IL 60049-0015			2,727.23
Kemper Securities, Inc, 333 W. Wacker Dr. Chicago, IL 60601			75.50
Jonathan Kempner, 1850 M Street, NW, Suite 540 Washington, DC 20036-5803	National Multi Housing Council	3,285.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
David Kemps, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	50.00
Kendall & Associates, Inc, 50 E Street, SE Washington, DC 20003	Manville Corporation		
Do	Toyota Motor Sales, USA, Inc	2,000.00	
Andrew T. Kendzie, 1301 K Street, NW, #1200 Washington, DC 20005-3307	IBM Corporation	1,785.84	781.90
Joseph W. Kennebeck, 955 L'Enfant Plaza, SW, #4000 Washington, DC 20024	Volkswagen of America, Inc	650.00	50.00
Art Kennedy, P.O. Box 200576 Anchorage, AK 99520	Koniag, Inc		
Daniel E. Kennedy Jr., 1015 15th Street, NW, #700 Washington, DC 20005-2605	Bechtel National, Inc		260.92
Jerry W. Kennedy, 313 South Carolina Ave., SE Washington, DC 20003-4213	Calaveras Public Power Agency	3,750.00	159.09
Do	Kennedy Government Relations (For:General Atomics)	2,159.70	94.73
Do	Kennedy Government Relations (For:Pemco Aeroplex)	292.50	
Do	Kennedy Government Relations (For:Stockton East Water District)	12,000.00	3,260.57
Do	Tuolumne Public Power Agency	3,750.00	159.09
John F. Kennedy, 1620 Fuller Street, NW, #503 Washington, DC 20009	Kennedy & Dolan		
Patricia Cregan Kennedy, 205 N. Liberty Street Arlington, VA 22203	Chrysler Corporation	12,000.00	132.00
James J. Kenney, 4647 Forbes Blvd Lanham, MD 20706	AMVETS	6,800.00	
Brendan Kenny, 1625 Massachusetts Avenue, NW Washington, DC 20036	Air Line Pilots Assn	18,750.00	792.72
Cathy Ann Kenny, c/o NYS Petroleum Council 39 Broadway, #2705 New York, NY 10006	American Petroleum Institute	300.00	
J. H. Kent, 1990 M Street, NW, #340 Washington, DC 20036	Kent & O'Connor, Inc (For:American Soc of Plastic & Reconstructive Surgeons)	7,992.00	4,952.97
Do	Kent & O'Connor, Inc (For:American Supply Association)	730.00	483.22
Do	Kent & O'Connor, Inc (For:Carter Footwear, Inc)	3,436.00	1,713.46
Do	Kent & O'Connor, Inc (For:International Assn of Airport Duty Free Stores)	3,791.00	2,416.08
Do	Kent & O'Connor, Inc (For:Liz Claiborne, Inc)	11,058.75	6,885.83
Do	Kent & O'Connor, Inc (For:National Customs Brokers & Forwarders Assn of America).	17,000.00	10,515.98
Do	Kent & O'Connor, Inc (For:Professional Compounding Centers of America)	11,411.00	7,011.59
Do	Kent & O'Connor, Inc (For:Vista Chemical Company)		
Patricia G. Kenworthy, 700 14th Street, NW Washington, DC 20005	Monsanto Company	500.00	776.00
William Kenworthy, 1776 I Strret NW #400 Washington, DC 20006	Nuclear Energy Institute	4,335.00	2,667.00
Mary Kathleen Kenyon, 2124 Netahoa Court Falls Church, VA 22043	American Group Practice Assn	980.78	
Vytautas Kerbelis, P.O. Box 336 Seal Harbor, ME 04675	ARAS		
John P. Kerekes, P.O. Box 10070 Lansing, MI 48901	American Petroleum Institute	2,119.90	
Eleanor W. Kerr, 1020 19th Street, NW, #420 Washington, DC 20036	SmithKline Beecham Corp	200.00	400.00
Suzanne S. Kerr, 110 Maryland Ave., NE Washington, DC 20002	Peace Political Action Committee	5,949.96	
Michael J. Kerrigan, Kerrigan & Associates, Inc 803 Prince Street Alexandria, VA 22314	Echelon Corporation	4,800.00	
Kerrigan & Associates, Inc, 803 Prince Street Alexandria, VA 22314	TicketMaster	500.00	
Christopher J. Kersting, 1317 F Street, NW, #550 Washington, DC 20004	Trainum Snowdon & Deane (For:Auto International Assn)	87.00	41.91
Do	Trainum Snowdon & Deane (For:Coalition of Automotive Associations)	115.00	99.10
Do	Trainum Snowdon & Deane (For:Specialty Equipment Market Assn)	933.00	470.16
G. Chandler Keys III, 1301 Pennsylvania Avenue, NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Karen Keys-Gamarra, P.O. Box 455 Oakton, VA 22124	Citizens for Reliable & Safe Highways	384.60	
Jonathan Keyserling, 1818 N Street, NW Washington, DC 20036	AirTouch Communications	7,020.00	
Mary Turner Khim, 1850 M Street, NW, Suite 600 Washington, DC 20036	Toyota Motor Sales, USA		
Richard F. Kibben, 3281 Alexandria Drive Toledo, OH 43606	Business Roundtable		
Ingolf N. Kiland Jr., 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corp	3,000.00	2,550.08
Joanna Kille, 1010 Wisconsin Ave., NW, Suite 900 Washington, DC 20007	Grocery Manufacturers of America, Inc	758.64	
James L. Kimble, 1130 Connecticut Avenue, NW, #1000 Washington, DC 20036	American Insurance Assn		
Gene Kimmelman, 1666 Connecticut Ave., NW, #310 Washington, DC 20009	Consumers Union	1,000.00	
Kimmitt Coates & McCarthy, Inc, 1730 M Street, NW, #911 Washington, DC 20036	Alliant Techsystems, Inc	1,500.00	
Do	Mansfield Center	900.00	
Do	Montana Technologies Co, Inc	1,100.00	
Do	Royal Teton Ranch		
Do	Talley Defense Systems, Inc		
Do	Textron Defense Systems	2,200.00	
Mike Kinard, P.O. Box 727 Magnolia, AR 71753	Kinard Crane & Butler, P.A. (For:Family of Wallace B. Sawyer, Jr.)		100.00
James Jeffrey Kincheloe, 519 C Street, NE Washington, DC 20002	National Assn for Home Care	61.58	
James A. Kinder, 17300 Redhill Ave., #100 Irvine, CA 92714	Kinder Associates, Inc		
Lewis O. King, 8407 Greenflint Lane Austin, TX 78759	National Guard Assn of Texas	2,800.00	100.00
W. Russell King, 50 F St., NW, #1050 Washington, DC 20001	Freeport McMoran, Inc	8,400.00	66.00
Do	Freeport-McMoRan Copper & Gold, Inc	8,400.00	66.00
Do	IMC Global, Inc	8,200.00	66.00
King & Spalding, 1730 Pennsylvania Ave., NW, #1200 Washington, DC 20006	Alamo Cement Co		
Do	American Veterinary Medical Assn		
Do	Animal Drug Alliance	918.50	
Do	Ash Grove Cement Co, Inc		
Do	Atlanta Committee for the Olympic Games	17,771.00	160.00
Do	Blue Circle America, Inc		
Do	Charter Medical Corp	7,548.00	16.00
Do	Dragon Products Co		
Do	Florida Crushed Stone Co		
Do	Generic Pharmaceutical Industry Assn	2,212.50	16.00
Do	Glens Falls Cement Co, inc		
Do	Greater New York Hospital Assn	450.00	
Do	LaFarge Corp		
Do	Lehigh Portland Cement Co		
Do	Lockheed Martin		
Do	Lone Star Industries, Inc		
Do	Medusa Corp		
Do	National Cement Company of California		
Do	National Power Lenders Forum	400.00	8.00
Do	North Texas Cement Co		
Do	Owens-Illinois	70.00	
Do	Pharmaceutical Resources, Inc (PAR)		
Do	Phoenix Cement Company		
Do	Riverside Cement Co		
Do	Sofamor Danek Group, Inc	12,942.00	192.99
Do	Southdown, Inc		
Do	Southern Tier Cement Committee	1,696.00	
Do	Tarmac America, Inc		
Do	Texas Industires, Inc		
Do	Texas-Lehigh Cement Co		
Kinghorn & Associates, 900 2nd Street, NE, #109 Washington, DC 20002	American Iron & Steel Institute		
Do	American Metalcasting Consortium (AMC)		
Do	Aultman Hospital		
Do	Blue Cross Blue Shield of South Carolina		
Do	Dow Corning Corp		
Do	Elkem Metals		
Do	Empire Wholesale Lumber Distributors		
Do	Macalloy Corporation		
Do	Non-Ferrous Founders' Society		
Do	Nuclear Metals, Inc		
Do	Ohio Academy of Nursing Homes		
Do	South Carolina Research Authority		
Do	Technology Village Partnership		
Do	Timken Company		
Roger P. Kingsley, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
Steven Kingsley, 845 Ninovan Road, SE Vienna, VA 22180	Citizens Scholarship Foundation of America	2,000.00	
Do	National Computer System	3,000.00	
Kevin J. Kinnaw, 1850 M Street, NW, Suite 600 Washington, DC 20036	Toyota Motor Sales USA, Inc		
Jan Kinney, 1250 Eye Street, NW, #900 Washington, DC 20005	Distilled Spirits Council of the U.S.	2,000.00	
Richard J. Kinney, 1850 K Street, NW, #1195 Washington, DC 20006	Schering-Plough Corp	9,000.00	
Peter Kinzler, 7310 Stafford Road Alexandria, VA 22307	American Council of Life Insurance	750.00	20.00
Kevin Kirchner, 1531 P Street, NW, #200 Washington, DC 20005	Sierra Club Legal Defense Fund	2,052.00	946.66
John R. Kirk, Bingham, Dana & Gould 150 Federal Street Boston, MA 02110	First National Bank of Boston		
Sharon Kirk, 1899 L Street, NW, Suite 1000 Washington, DC 20036	National Petroleum Refiners Assn	2,000.00	30.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Kirkpatrick & Lockhart, 1800 M Street, NW, South Lobby, #900 Washington, DC 20036	American Mutual Life Insurance Co		
Do	National Court Reporters Assn		
Walter B. Kirkwood, 111 Monument Circle Indianapolis, IN 46277	Banc One Corporation	13,000.00	3,049.79
Kirlin Campbell & Keating, One Farragut Square South, Second Floor Washington, DC 20006	American Bureau of Shipping	3,550.00	10.60
Marie Kissel, 1401 H Street, NW, Suite 900 Washington, DC 20005	American Automobile Manufacturers Assn	150.00	
Peter C. Kissel, 1225 Eye Street, NW, Suite 1225 Washington, DC 20005	Grammer Kissel Robbins & Shancke (For:Kootenai Electric Cooperative, Inc)	1,282.00	8.00
Do	Grammer Kissel Robbins & Skancke (For:Tuolumne Utilities District)		16.23
Sam Kito Jr., P.O. Box 1350 Sultan, WA 98294	Kito, Inc (For:Alaska Visitors Assn)		2,662.39
Do	Kito, Inc (For:Galena School District)		
Do	Kito, Inc (For:North Slope Borough)	7,500.00	5,786.32
Do	Kito, Inc (For:Sealaska Corporation)	54,600.00	12,417.08
Do	Kito, Inc (For:Southeast Alaska Landless Native Coalition)	22,500.00	2,570.60
Sandra D. Kjellberg, 1775 K Street, NW, #200 Washington, DC 20006	Maritime Institute for Research & Industrial Development	2,465.40	
Dean Kleckner, 225 Touhy Avenue Park Ridge, IL 60068	American Farm Bureau Federation	4,700.00	
Kenneth H. Klein, 490 L'Enfant Plaza East, SW, #4200 Washington, DC 20024	Xerox Corp	2,100.00	
Phil Klein, 1913 Eye Street, NW Washington, DC 20006	Chemical Specialties Manufacturers Assn	1,077.00	288.00
Scott T. Klein, 1501 BDM Way McLean, VA 22102-3204	BDM International, Inc	50.00	16.25
Mark Kleinman, Box 5473 Washington, DC 20016-5473	In God We Trust		
Michael R. Klipper, 1718 Connecticut Avenue, NW, #700 Washington, DC 20009	Association of American Publishers	3,000.00	308.73
William C. Klostermeyer, 1130 Connecticut Avenue, NW, #350 Washington, DC 20036	Bookman-Edmonston Engineering, Inc		
David M. Klucsik, 1415 Wyckoff Road Wall, NJ 07719	New Jersey Natural Gas Co		
Judith E. Knight, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	952.50	
Knights of Columbus, 401 Michigan Avenue, NE Washington, DC 20017			500.00
Barbara Knisely, 1616 H Street, NW Washington, DC 20006	National Grange	3,500.00	
Albert B. Knoll, 555 13th Street, NW, #1010 East Washington, DC 20004-1109	Sun Co, Inc	2,000.00	1,796.08
Kent Knutson, 600 Maryland AVe., SW, Suite 700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Patricia C. Kobor, 750 First St., NE Washington, DC 20002-4242	American Psychological Assn	576.93	
Robert P. Koch, 601 13th Street, NW, #580 South Washington, DC 20005	Wine Institute	6,538.00	216.00
David G. Koenig, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc		
Kogovsek & Associates, Inc, 700 Broadway, #929 Denver, CO 80203-3443	Arapahoe House	2,000.00	1,397.74
Do	City of Greenwood Village	7,500.00	2,406.12
Do	Dolores Water Conservancy District		1,827.18
Do	Northern Colorado Water Conservation District	2,400.00	
Do	Rio Grande Water Conservation District	6,000.00	1,264.05
Do	Rocky Mountain Health Care Corp	7,050.00	2,132.72
Do	San Juan Water Commission	2,227.50	1,383.83
Do	Southern Ute Indian Tribe	13,750.00	13,121.31
Do	Southwestern Water Conservation District, Durango County		14,450.07
Do	Upper Yampa Water Conservancy	1,750.00	969.38
Do	Ute Mountain Ute Tribe	21,667.00	
Do	Water Protection Assn of Central Kansas	500.00	102.22
Do	Wolf Springs Ranches, Inc	9,000.00	798.31
Gary J. Kohn, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn	8,000.00	
Howard Kohr, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public Affairs Comm	23,124.99	
Stanley E. Kolbe Jr., 305 4th Street, NE Washington, DC 20002	Sheet Metal & Air Conditioning Contractors National Assn		1,008.87
Ann Kolker, 1616 P Street, NW, #100 Washington, DC 20036	National Women's Law Center		78.25
Nicholas Kominus, 1730 Rhode Island Avenue, NW Washington, DC 20036	U.S. Cane Sugar Refiners' Assn		74.42
John H. Komoroske, 1735 K Street, NW Washington, DC 20004	National Assn of Securities Dealers	250.00	250.61
Dennis R. Koons, 611 Woodward Avenue Detroit, MI 48226	NBD Bank, NA	3,375.00	1,486.50
George S. Kopp, 2121 K Street, NW, #650 Washington, DC 20037	Global USA, Inc (For:Earth Observation Satellite Co)		
Ronald W. Kosh, 12600 Fair Lakes Circle Fairfax, VA 22033-4900	AAA Potomac		75.00
Susan M. Koski-Grafer, 10 Madison Avenue P.O. Box 1938 Morristown, NJ 07962-1938	Financial Executives Institute	1,150.00	
Michael V. Kostiw, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco Inc		
John F. Kostyack, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	1,299.10	
Gerald J. Kovach, 1801 Pennsylvania Avenue, NW Washington, DC 20006	MCI Communications Corp		
Jerome J. Kozak, 1250 H Street, NW, Suite 900 Washington, DC 20005	International Dairy Foods Assn		
Edward B. Krachmer, 1250 Connecticut Ave., NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Assn		
Alan M. Kranowitz, 1725 K Street, NW, #300 Washington, DC 20006	National Assn of Wholesaler-Distributors		
Barry Krasner, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	567.12	
Robert S. Krebs, 1129 20th Street, NW, #200 Washington, DC 20036	Greater Washington Board of Trade	8,500.00	20.00
Earl R. Kreher, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	6,875.00	878.88
Cecile B. Kremer, Plumbing Manufacturers Institute 1655 N. Ft. Myer Dr., #700 Arlington, VA 22209	C.M. Services	500.00	
Theodore G. Kronmiller, 961 Leigh Mill Road Great Falls, VA 22066		35,500.00	3,218.35
John J. Kropp, 1900 Fifth Third Center 511 Walnut Street Cincinnati, OH 45202	Graydon Head & Ritchey (For:River Downs Investment Co)	4,750.00	
Keith R. Krueger, 1555 Connecticut Avenue, NW, #200 Washington, DC 20036	U S West Communications		85.50
James S. Krzyminski, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives		
Ruth M. Kurtz, 5517 Chevy Chase Pkwy., NW Washington, DC 20015	Coordinadora de Organizaciones Empresariales de Comercio Ext	3,246.66	437.50
Sheena Kuruvilla, 727 N. Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	570.00	
Ester Kurz, 440 First Street, NW, 6th Floor Washington, DC 20001	American Israel Public Affairs Comm	27,499.98	386.36
Peter Dev Kurze, 1843 Mintwood Place, NW, #110 Washington, DC 20009	Daimler-Benz Washington, Inc		133.20
Marsha H. Kwalwasser, 1840 Century Park East Los Angeles, CA 90067	Northrop Grumman Corp		6,516.70
James La Sala, 5025 Wisconsin Avenue, NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO		
Labor Bureau, Inc, 1101 15th Street, NW, #1010 Washington, DC 20005			
Labor Policy Assn, Inc, 1015 15th St., NW, #1200 Washington, DC 20005		11,957.00	38,691.00
Labor-Management Maritime Committee, Inc, 1150 17th Street, NW, Suite 700 Washington, DC 20036		3,966.00	6,538.00
Marc E. Lackritz, 1401 I Street, NW, Suite 1000 Washington, DC 20005	Securities Industry Assn	9,423.00	
Shannon Lahey, 2701 32nd Street, NW Washington, DC 20008	California Correctional Peace Officers Assn	12,000.00	245.29
Myron F. Laible, 1850 M Street, NW, Suite 1040 Washington, DC 20036	Outdoor Advertising Assn of America, Inc		
David F. Lambert III, P.O. Box 1417-D49 Alexandria, VA 22313	National Assn of Chain Drug Stores	2,000.00	
Thomas G. Lambrix, 1730 Rhode Island Avenue, NW, #206 Washington, DC 20036	Union Camp Corp	385.00	594.00
Martha D. Lamkin, 11100 USA Parkway Fishers, IN 46038	USA Group, Inc	330.00	627.89
Robert Joseph Lamoureux, 1735 Jefferson Davis Highway, #1200 Arlington, VA 22202	McDonnell Douglas Corp	564.00	
Jennifer Lamson, 2030 M Street, NW Washington, DC 20036	Common Cause	9,910.26	
Susan Lamson, 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America	3,000.00	32.04
Dina Moses Land, 1764 Old Meadow Lane, #350 McLean, VA 22102	American Frozen Food Institute	500.00	
Maury Lane, 1801 K Street, NW, Suite 800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Robin W. Lanier, 1901 Pennsylvania Ave., NW, 10th Floor Washington, DC 20006	International Mass Retail Assn	9,000.00	
Fern M. Lapidus, 6736 Hillandale Road Chevy Chase, MD 20815	American Society for the Prevention of Cruelty to Animals	6,000.00	37.68
Do	Association of Proprietary Colleges	7,500.00	722.34
Do	California Impact Aid Assn	6,240.00	355.80
Do	New York City Partnership, Inc	6,999.99	204.52
Do	School of Visual Arts	9,000.00	175.04
Richard Eugene Larochelle, 4301 Wilson Boulevard Arlington, VA 22203	National Rural Electric Cooperative Assn	100.00	
Mary Ellen Larson, 1712 New Hamphire Ave., NW Washington, DC 20009	Air Conditioning Contractors of America	2,000.00	75.00
Reed E. Larson, 8001 Braddock Road, #600 Springfield, VA 22160	National Right to Work Committee		
Rod Larson, 4510 13th Avenue Southwest Fargo, ND 58121-0001	Blue Cross Blue Shield of North Dakota		
Theresa Knieriemen Larson, 1331 Pennsylvania Avenue, NW, Suite 1500 Washington, DC 20004-1703	National Assn of Manufacturers	1,500.00	
Warren Lasko, 1125 15th Street, NW Washington, DC 20005	Mortgage Bankers Assn of America		
Robert L. Laszewski, 1225 Connecticut Ave., NW, 7th Floor Washington, DC 20036	Health Policy & Strategy Associates, Inc (For:Northwestern National Life Insurance Co).	7,500.00	5,072.50
Do	Health Policy & Strategy Associates, Inc (For:Washington National Life Insurance Co).	9,375.00	7,626.45
Do	Health Policy & Strategy Associates, Inc (For:Wausau Insurance Companies)	3,750.00	2,537.09
Riaz K. Latifullah, 3415 Fessenden St., NW Washington, DC 20008	Project Acta, Inc	100.00	
Delbert L. Latta, 516 Hillcrest Dr. Bowling Green, OH 43402	Stir-Melter, Inc	2,000.00	1,091.76
Elizabeth Kepley Law, 700 13th Street, NW, #500 Washington, DC 20005	Family Research Council		
Jonathan Lawniczak, 1331 F Street, NW Washington, DC 20004-1171	National Council of Senior Citizens	6,500.00	
M. S. Lawrence, 40 Franklin Rd, SW P.O. Box 2021 Roanoke, VA 24022	Appalachian Power Company	111.90	31.72
Bob Lawrence & Associates, 424 N. Washington Street Alexandria, VA 22314	Irrigation Association	18,000.00	5,475.00
Do	Valmont Industries, Inc	15,000.00	
Patricia Laws, 1747 Pennsylvania Ave., NW, #300 Washington, DC 20006	MidCon Corp	684.78	969.08
Richard C. Lawson, 1130 Connecticut Ave., NW Washington, DC 20036	American Insurance Assn	700.00	
Laxalt Corporation, 801 Pennsylvania Ave., NW, #747 Washington, DC 20004	Academy of Rail Labor Attorneys	5,120.00	
Do	Mesa, Inc	2,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Milliken & Company	2,560.00	
Do	Motion Picture Assn of America, Inc	2,350.00	
Do	Sears Roebuck & Co	3,000.00	
Do	Viacom, Inc	4,700.00	
Paul Laxalt Group, 801 Pennsylvania Ave, NW, #750 Washington, DC 20004	Competitive Long Distance Coalition	36,000.00	
Do	Edison Electric Institute	8,000.00	
Do	Generic Pharmaceutical Industry Assn, et al.	6,000.00	
Do	Martin Marietta Corp	6,250.00	
Do	Milliken & Company	15,000.00	
Do	MGM Grand, Inc		
Do	Nevada Test Site Contractors Assn	18,500.00	
Do	Sears Roebuck & Co	2,750.00	
Do	Sierra Pacific Resources	15,000.00	
William N. LaForge, McGuiness & Williams 1015 15th Street, NW, #1200 Washington, DC 20005	Bridgestone-Firestone	450.00	83.40
Wayne R. LaPierre Jr., 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America		
Clifford C. LaPlante, 1299 Pennsylvania Avenue, NW, #1100 Washington, DC 20004	General Electric Co	1,850.00	
Jeffrey A. Lear, 1010 N. Fairfax Street Alexandria, VA 22314	National Society of Public Accountants	2,650.00	
Thomas B. Leary, Hogan & Hartson 555 13th St., NW Washington, DC 20004-1109	Business Roundtable		
Marvin Leath, One Massachusetts Ave, NW, #330 Washington, DC 20001-1431	Fabrique Nationale Nouvelle Herstal, S.A.	3,000.00	
Do	Lockheed Martin Corp	3,000.00	
Do	National Guard Assn	444.00	
Do	National Soft Drink Assn	3,000.00	
Do	Textron, Inc	3,000.00	
Do	Thiokol Corp	3,000.00	
Do	United Defense, L.P.	6,000.00	
Barbara E. Leatherwood, 1250 H Street, NW, #500 Washington, DC 20005	Mobil Corp	500.00	
Wendy Lechner, 600 Maryland Ave., SW, #700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Marque I. Ledoux, 300 Maryland Avenue, NE Washington, DC 20002	Federal Express Corp	6,000.00	
Cara Lee, 9 Vassar Street Poughkeepsie, NY 12601	Scenic Hudson, Inc		
Eileen C. Lee, 1850 M Street, NW, #540 Washington, DC 20036	National Multi Housing Council, Inc	15,550.00	
Peter A. Lefkin, 1101 Connecticut Ave., NW, #950 Washington, DC 20036	Fireman's Fund Insurance Cos	4,500.00	1,780.00
Mary James Legatski, 1100 New York Ave., NW, #1090 Washington, DC 20005	Synthetic Organic Chemical Manufacturers Assn, Inc	500.00	26.00
J. Mark Leggett, 100 North Tryon Street (NC1-007-11-05) Charlotte, NC 28255	NationsBank Corporation	2,015.00	680.50
Legislative Management Services, 136 Calmont Drive Pittsburgh, PA 15235	Ben Franklin Technology Center of Western PA	6,000.00	
Do	Erie Forge & Steel, Inc	350.00	150.00
Do	University of Pittsburgh	30,000.00	3,605.25
Jack Legler, 4301 Connecticut Avenue NW. #300 Washington, DC 20008	National Solid Wastes Management Assn	500.00	
Lent & Scrivner, 555 13th Street, NW, #305E Washington, DC 20004	Alliance for Competitive Communications-Regional Bell...	9,000.00	4,370.00
Do	Bernard L. Madoff Investment Securities	450.00	750.93
Do	Flo-Sun Sugar	3,000.00	2,256.62
Do	Iroquois Gas Transmission Systems	1,200.00	2,148.61
Do	J. Makowski Co	600.00	985.77
Do	Mobil Corp	2,500.00	2,185.00
Do	Pfizer, Inc	3,000.00	2,830.43
Do	Transaero, Inc		
Burleigh C. W. Leonard, 1919 South Eads Street, #103 Arlington, VA 22202-3028	Nabisco, Inc	21,970.00	400.42
Earl T. Leonard Jr., P.O. Drawer 1734 Atlanta, GA 30301	Coca-Cola Company		
Lepon McCarthy Jutkowitz & Holzworth, 1225 19th Street, NW, #600 Washington, DC 20036	Chilean Exporters' Assn	1,134.57	3.14
Charles Leppert Jr., 801 Pennsylvania Avenue, NW, #720 Washington, DC 20004-2360	Procter & Gamble Co	464.55	
Richard L. Lesher, 1615 H St., NW Washington, DC 20062	U.S. Chamber of Commerce		
William Gene Lesher, 1919 South Eads Street, Suite 103 Arlington, VA 22202-3028	Lesher & Russell, Inc	25,875.00	
Lesher & Russell, Inc, 1919 S. Eads Street, #103 Arlington, VA 22202-3028	California Avocado Commission		
Do	Federal Agriculture Mortgage Corp	15,000.00	
Do	Kraft Foods, Inc	18,000.00	
Do	Monsanto Co		
Do	National Soft Drink Assn	18,750.00	
Do	PepsiCo, Inc		
Do	RJR Nabisco		
William J. Lessard Jr., 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	5,200.00	
Keith Lessner, 1211 Connecticut Ave., NW, Suite 400 Washington, DC 20036	Alliance of American Insurers		
Melissa Ann Lester, 1718 Connecticut Ave., NW, #700 Washington, DC 20009	Association of American Publishers	1,500.00	85.86
Dale Lestina, 1201 16th St., NW Washington, DC 20036	National Education Assn	4,217.25	460.01
Robert John Levering, 1101 17th St., NW, #705 Washington, DC 20036	Direct Marketing Assn	1,000.00	1,000.00
Robert B. Levethal, 1050 17th Street, NW, #350 Washington, DC 20036	AFL-CIO Maritime Committee		
Robert Levi, 100 Indiana Ave., NW Washington, DC 20001	National Assn of Letter Carriers	12,241.44	253.63
Nina Gail Levitt, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn	265.38	248.83
Roger N. Levy, 901 15th Street, NW, #520 Washington, DC 20005-2301	Travelers Insurance Co	4,000.00	
Allison B. Lewis, 412 First Street, SE Washington, DC 20003	National Automobile Dealers Assn	3,500.00	
Deborah J. Lewis, 122 Maryland Ave., NE Washington, DC 20002	Alliance for Justice	5,712.00	84.00
Mary Melinda Lewis, 1050 Connecticut Ave., NW, #1250 Washington, DC 20036-5304	Major League Baseball		
Richard Lewis, 1025 Vermont Ave., NW Washington, DC 20005	American Pulpwood Assn		
Robert J. Lewis, 1620 I Street, NW, #800 Washington, DC 20006	Generic Pharmaceutical Industry Assn	312.00	12.00
Howard Lewis III, 1331 Pennsylvania Ave., NW, #1500-N Washington, DC 20004-1703	National Assn of Manufacturers	3,000.00	100.00
Lewis Rice & Fingersh, 500 N.Broadway St. Louis, MO 63102	John E. Simon Trust		
Lewis White & Clay, P.C., 1300 First National Building Detroit, MI 48226	Powell Goldstein Frazer & Murphy		
John F. Leyden, 815 16th Street, NW, #308 Washington, DC 20006	Public Employee Department, AFL-CIO	3,498.19	
LeBoeuf Lamb Leiby & MacRae, 1875 Connecticut Avenue, NW, Suite 1200 Washington, DC 20009	Farmers Insurance Group of Companies	1,050.00	
Do	London Insurance & Reinsurance Market Assn		
Do	Underwriters at Lloyd's London		
Harris W. LeFew, 300 Pratt Street Luke, MD 21540-1099	Westvaco Corporation		
Lynn H. LeMaster, 701 Pennsylvania Ave., NW 4th Floor Washington, DC 20004	Edison Electric Institute	791.21	
William J. Lhota, One Riverside Plaza Columbus, OH 43215	American Electric Power Service Corp		
Jack W. Liddle, 1735 Jefferson Davis Highway, #1200 Arlington, VA 22202	McDonnell Douglas Corp		
Richard A. Lidinsky Jr., 700 13th Street, NW, #220 Washington, DC 20005	Sea Containers America, Inc		
Diane S. Liebman, 1331 Pennsylvania Avenue, NW, #560 S Washington, DC 20004	CSX Corporation	7,000.00	958.91
Brett E. Lief, 1025 Connecticut Ave, NW, #700 Washington, DC 20036	National Assn of Independent Colleges & Universities	11,334.09	29.66
Louis 'Whit' Light, 400 W. Capitol, #1700 Little Rock, AR 72201	Steven E. Cauley		
Lincoln National Corp, 200 East Berry Street Fort Wayne, IN 46802			1,474.74
Karl W. Lindberg, 2322 Easter Lane New Orleans, LA 70114	Southern Forest Products Assn		
Lindsay Hart Neil & Weigler, 1201 Pennsylvania Ave., NW, #821 Washington, DC 20004	Alliance for Competitive Transportation (ACT)	18,050.75	3,105.56
Do	Maritime Fire & Safety Assn	5,444.00	454.29
Do	Pacific Coast Council	8,002.75	456.73
Linton Mields Reisler & Cottone, 1225 Eye Street, NW, #300 Washington, DC 20005	Air Transport Assn of America		
Do	Carmen Group, Inc (for ADVO, Inc)		
Do	Charles County Community College	150.00	48.00
Do	DC 2000, Inc		
Do	General Contractors Assn of New York, Inc		
Do	Greater Rockford Airport Authority		
Do	Louisville Downtown Development Corp		
Do	Madison County Transit District	450.00	85.00
Do	Maryland Department of Transportation	750.00	240.00
Do	Michigan Dept of Transportation	600.00	192.32
Do	Missouri Highway & Transportation Department		
Do	Montgomery County		
Do	METRA		
Do	Napa County Flood Control District		
Do	National Assn of Flood & Stormwater Management Agencies		
Do	National-Louis University		
Do	Riverside County Flood Control & Water Conservation District	162.00	83.66
Do	Santa Clara Valley Water District	700.00	209.15
Do	State of Colorado, Dept of Highways	390.00	85.11
Do	State of IL, Dept of Transportation	375.00	85.00
Do	State of Nevada		
Do	University of Oregon		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Water Reclamation District of Greater Chicago	900.00	209.55
Lisle Corporation, 807 E. Main Clarinda, IA 51632			
Steven S. List, 130 East Randolph Drive, 23rd Floor Chicago, IL 60601	Peoples Gas Light & Coke Co	2,335.72	1,159.00
Law Office of Richard Littell, 1220 19th St., NW, #400 Washington, DC 20036	Africa Resources Trust/Zimbabwe Trust	38,375.00	526.00
Nelson Litterst, 600 Maryland Ave., SW, Suite 700 Washington, DC 20024	National Fed Independent Business	3,401.00	200.00
Melvin J. Littig, 1801 K Street, NW, Suite 800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Bryan Little, 600 Maryland Ave., SW, #800 Washington, DC 20024	American Farm Bureau Federation	7,688.00	806.69
Charles B. Little, 1331 Pennsylvania Ave., NW #1500 North Tower Washington, DC 20004-1703	UBA, Inc	2,000.00	
William F. Little, 1350 I Street, NW, #1000 Washington, DC 20007	Ford Motor Co	720.00	754.35
Roy E. Littlefield III, 1707 Pepper Tree Court Bowie, MD 20716	American Retreaders' Assn	500.00	
Do	WMDP Service Station & Automotive Repair Assn	750.00	
Orville J. Litzsinger, 5824 Wessex Lane Alexandria, VA 22310	Alliance for American Innovation, Inc	2,400.00	26.40
H. R. Lively Jr., 919 18th Street, NW Washington, DC 20006	American Financial Services Assn	250.00	
Robert W. Lively, 1850 K Street, NW, #1195 Washington, DC 20006	Schering-Plough	7,260.00	11,187.32
Wingate Lloyd, 1600 M Street, NW Washington, DC 20036	ITT Corp	275.00	40.00
John C. Lobert, 499 South Capitol St., SW, #401 Washington, DC 20003	National Assn of Independent Insurers	1,500.00	
Michael A. Lobue, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co		
W. Timothy Locke, 499 S. Capitol Street, SW, #507 Washington, DC 20003	Hecht Spencer & Associates (For:Boy Scouts of America)		
Do	Hecht Spencer & Associates (For:Brown & Williamson Tobacco Corp)		
Do	Hecht Spencer & Associates (For:Mid-America Waste Systems, Inc)		
Do	Hecht Spencer & Associates (For:MCI Telecommunications)		
Do	Hecht Spencer & Associates (For:National Automatic Merchandising Assn)		
Do	Hecht Spencer & Associates (For:North Village Corp)		
Do	Hecht Spencer & Associates (For:TECO Energy, Inc)		
Robert F. Lockhart Jr., 1155 15th Street, NW, #600 Washington, DC 20005	Pennzoil Company	1,300.00	
Lockheed Martin IMS Corp, 1200 K Street, NW Washington, DC 20005		2,000.00	
William E. Loftus, 1120 G Street NW, #520 Washington, DC 20005	American Short Line Railroad Assn	4,095.00	
James E. Lokovic, 4514 Governor Pratt Court Upper Marlboro, MD 20772	Air Force Sergeants Assn, Inc		
London & Satagaj, 1156 15th Street, NW, #510 Washington, DC 20005	National Home Furnishings Assn	6,000.00	
Do	Promotional Products Assn International	6,000.00	
Do	Small Business Legislative Council	6,000.00	
Christopher M. Long, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America	3,000.00	500.00
Patricia Davitt Long, 1331 Pennsylvania Ave., NW, 1500 North Washington, DC 20004-1703	National Assn of Manufacturers	580.00	
Robert Michael Long, The Littlefield Building 106 East 6th St., Suite 400 Austin, TX 78701	American Telephone & Telegraph Co, et al.	20,862.50	100.00
Shelley A. Longmuir, 1707 L Street, NW, Suite 300 Washington, DC 20036	United Airlines, Inc	900.00	
Dennis Longoria, Central Power & Light Co P.O. Box 3400 Laredo, TX 78044	Central Power & Light Co		
Laura Loomis, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn	922.00	201.40
Douglas B. Loon, 1615 H Street, NW Washington, DC 20062-2000	U.S. Chamber of Commerce	13,500.00	218.70
Katherine Loos, 2030 M Street, NW Washington, DC 20036	Common Cause	4,875.00	
Alan G. Lopatin, 4958 Butterworth Place, NW Washington, DC 20016	Ledge Counsel, Inc (For:National Assn of Retired Federal Employees)	12,000.00	209.72
Ramon B. Lopez, P.O. Box 1200 Columbus, GA 31902-1200	Columbus GA Chamber of Commerce		201.80
Philip J. Loree, 50 Broadway New York, NY 10004	Federation of American Controlled Shipping	2,000.00	300.00
Bill Loughrey, One Technology Parkway South Atlanta, GA 30092	Scientific-Atlanta	400.00	
Timothy Lovain, 3719 Gunston Road Alexandria, VA 22302	Denny Miller Associates	5,000.00	
James Lovell, 20361 Middlebelt Livonia, MI 48152	International Hearing Society		
Steve Lovett, 1111 19th Street, NW, #800 Washington, DC 20036	American Forest & Paper Assn	2,000.00	
Aaron M. Lowe, 4600 East-West Highway, #300 Bethesda, MD 20814	Automotive Parts & Accessories Assn	8,250.00	60.00
Amy Loy, 1250 H Street, NW, #900 Washington, DC 20005	International Dairy Foods Assn		
Joe O. Luby Jr., 225 East John Carpenter Freeway Room 1202 Irving, TX 75062-2298	Exxon Corp		
Paula D. Lucak, 815 16th Street, NW, #308 Washington, DC 20006	Public Employee Department, AFL-CIO	7,200.00	10.00
Kenneth M. Ludden, 888 16th Street, NW Washington, DC 20006	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)	1,000.00	48.98
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)		
Do	Bannerman & Associates, Inc (For:Government of the United Arab Emirates)		
Do	Bannerman & Associates, Inc (For:Government of Egypt)	3,000.00	
Do	Bannerman & Associates, Inc (For:L.A. Motley & Co (for: Government of the Philippines)).		
Do	Bannerman & Associates, Inc (For:Lebanese American University)		
Earl Lui, 1535 Mission Street San Francisco, CA 94103	Consumers Union of U.S., Inc	12.38	
J.C. Luman & Associates, 1030 15th Street, NW, #410 Washington, DC 20005	National Assn of Personnel Services		
Lumbermens Mutual Casualty Company, Long Grove, IL 60049			5,248.37
Catherine Lumsden, 5535 Hempstead Way Springfield, VA 22151	National Assn for Uniformed Services		
Michelle Gibson Lusk, 1212 New York Ave. NW Suite 500 Washington, DC 20005	Cement Kiln Recycling Coalition		
R. J. Lyerly, 5335 Wisconsin Ave. NW Suite 500 Washington, DC 20015	Amdahl Corp	1,000.00	
Barbara Lyman, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
Kevin A. Lynch, 1299 Pennsylvania Ave., NW , #875 East Washington, DC 20004	PacifiCorp Electric Operations	8,190.00	1,070.00
James S. Lyon, 410 North Lincoln Street Arlington, VA 22201	Environmental Policy Center		84.00
David C. Lyons, 1350 I Street, NW, #1260 Washington, DC 20005-3305	Louis Dreyfus Corp	29,000.00	321.21
John F. Lyons, 1350 I Street, NW, Suite 400 Washington, DC 20005	Motorola	1,500.00	
Margaret Lyons, 1747 Pennsylvania Ave., NW, #700 Washington, DC 20006	Ciba-Geigy Corp	3,810.00	
William T. Lyons, 1747 Pennsylvania Ave., NW, #700 Washington, DC 20006	Ciba-Geigy Corp	8,813.00	7,880.00
LDDS Communications, Inc, 1120 Connecticut Avenue, NW, #400 Washington, DC 20036			119,336.12
M.O.A.A.I.O.A. & Subs, Inc, 701 S. 22nd, #107 Omaha, NE 68102			
Marcia S. Mabee, 11490 Commerce Park Drive Reston, VA 22091	Coalition for American Trauma Care (CATC)		
James E. Mack, 9005 Congressional Court Potomac, MD 20854	Peanut Butter & Nut Processors Assn	10,000.00	3,172.13
James H. Mack, 7901 Westpark Dr. Mclean, VA 22102	AMT - The Assn for Manufacturing Technology	23,441.00	500.00
Timothy MacCarthy, 750 17th Street, NW, #901 Washington, DC 20006	Nissan North America, Inc	20,000.00	
Gordon D. MacKay, Riva Place South #304 1011 Arlington Blvd. Arlington, VA 22209	Massachusetts Software Council	1,500.00	226.00
Do	New England Mutual Life Insurance Co, ('The New England')	17,500.00	1,326.00
Duncan R. MacKenzie, c/o NYS Petroleum Council 150 State Street Albany, NY 12207-1675	American Petroleum Institute	250.00	
Robb S. MacKie II, 1350 I Street, NW, #1290 Washington, DC 20005-3305	American Bakers Assn	2,160.00	450.00
Larry D. Madison, 1101 Mercantile Lane, #100 Landover, MD 20785	Association Growth Enterprises, Inc		
Cliff Madison Government Relations, Inc, 1611 Landfall Drive Wilmington, NC 28405	Burbank-Glendale-Pasadena Airport Authority	7,500.00	
Do	Federal Express Corp	12,000.00	
Do	Los Angeles County Metropolitan Transportation Authority	19,089.00	
Do	MarkAir, Inc	6,000.00	
Do	Sarasota-Bradenton Airport	6,999.99	
James N. Magill, 200 Maryland Avenue, NE Washington, DC 20002	Veterans of Foreign Wars of the U.S.	4,500.00	1,473.32
Robert Maginnis, 700 13th St., NW, #500 Washington, DC 20005	Family Research Council	627.00	
Paul J. Magliocchetti, 1755 Jefferson Davis Highway, #1107 Arlington, VA 22202	Diagnostic Retrieval Systems, Inc		
Paul Magliocchetti Associates, Inc, 1755 Jefferson Davis Highway, #1107 Crystal Square 5 Arlington, VA 22202	American Ship Building Co		
Do	AT&T		
Do	Bath Iron Works Corp		
Do	Bird-Johnson Co		
Do	BF Goodrich		
Do	Chamberlain Manufacturing Corp		
Do	Computing Devices International		
Do	Diagonstic Retrieval Systems, Inc		
Do	Dynamics Research Corp		
Do	DDP Delta		
Do	Electronic Warfare Associates, Inc		
Do	First Hospital Corp		
Do	Fontana Bleu, S.p.A.		
Do	Foundation Health Corp		
Do	FLIR Systems, Inc		
Do	Harding-Watercraft		
Do	Hughes Aircraft Company		
Do	LifeCell Corp		
Do	Medco Containment Services, Inc		
Do	Menninger Clinic		
Do	MIC Industries, Inc		
Do	Orange Shipbuilding Co, Inc		
Do	Pacific Consolidated Industries		
Do	Sabreliner Corporation		
Do	Schweizer Aircraft Corp		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Short Brothers (USA), Inc		
Do	Sperry Marine, Inc		
Do	Sunquest Information Systems, Inc		
Do	Textron, Inc		
Do	TI Group, Inc		
Do	Vision Service Plan		
A. John Maguire, 1521 New Hampshire Avenue, NW Washington, DC 20036-1205	National Cotton Council of America	8,350.00	188.05
Kevin L. Maher, 1201 New York Ave., NW Washington, DC 20005-3931	American Hotel & Motel Assn	20,900.00	
Linda F. Maher, 9000 Montgomery Ave Chevy Chase, MD 20815	Turner Broadcasting System, Inc	550.00	
James E. Mahoney, 2200 Concord Pike Wilmington, DE 19899	John W. Rollins & Associates	14,500.00	
James Timothy Mahoney, 108 Gibbon Street Alexandria, VA 22314	Koniag, Inc	2,712.50	32.63
Terence P. Mahony, 1299 Pennsylvania Ave., NW 11th Floor East Washington, DC 20004	National Broadcasting Co, Inc	3,250.00	
Christopher J. Mailander, 1201 Connecticut Ave., NW, Suite 300 Washington, DC 20036	Bailey & Robinson (For:Ormet)		
Anthony S. Makris, 116 Waterford Place Alexandria, VA 22314	National Rifle Assn of America		
Do	Quik Pawn Shop		
Andrew T. Malleck, 400 North Capitol St., NW, #852 Washington, DC 20001	Brotherhood of Maintenance of Way Employees	14,922.46	
Claudia Malloy, 2030 M Street, NW Washington, DC 20036	Common Cause	7,249.98	
Mary Jo Malone, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
Manatt Phelps & Phillips, 1501 M Street, NW, Suite 700 Washington, DC 20005	Alameda Corridor Transportation Authority	7,440.00	28.00
Do	ARCO		
Do	ARCO Chemical	4,107.00	17.00
Do	California Chiropractic Assn		
Do	Chemical Bank		
Do	City of Hope	2,568.75	6.00
Do	ConCorde Career Colleges, Inc		
Do	Dole Food Co, Inc		
Do	General Atomics	975.00	
Do	Hawthorn Group		
Do	Lackawanna Leather Co	4,454.50	
Do	Missouri Enterprise Business Assistance Center	1,381.25	
Do	Money Store	14,011.25	124.77
Do	National Assisted Housing Management Assn	2,365.25	
Do	Navajo Nation		
Do	NEC USA, Inc		
Do	Royal Wine Corp	350.00	
Do	UPF		
Do	Western Dental Services, Inc	6,597.50	19.00
Diane S. Mand, 1100 Connecticut Ave., NW, #310 Washington, DC 20036	Dresser Industries, Inc		
Tammy L. Mann, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn	129.23	
Perry Steven Mansfield, 225 Main Street Newington, CT 06111	American Radio Relay League, Inc	2,460.00	2,917.00
Manufactured Housing Institute, 2101 Wilson Blvd., Suite 610 Arlington, VA 22201			25,790.42
Robert Y. Maples, 1627 K Street, NW, #700 Washington, DC 20006	Smokeless Tobacco Council, Inc	2,745.00	400.00
Nancy Marcus, 1614 10th Street Arlington, VA 22204	National Treasury Employees Union	9,938.53	
Joseph N. Mariano, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Marine Preservation Association, 8777 North Gainey Drive, Suite 165 Scottsdale, AZ 85258			
Marine Spill Response Corporation, 1350 I Street, NW, Suite 300 Washington, DC 20005			503.75
Maritime Institute for Research & Industrial Development, 1775 K Street, NW, #200 Washington, DC 20006			14,821.45
Lawrence D. Markley, Rt. 1, Box 130-A Mt. Solon, VA 22843	Alaska Electric Light & Power Co		
Do	Alaska Village Electric Cooperative	12,500.00	
Do	Anchorage Municipal Light & Power		
Do	Cape Fox Corp	12,500.00	2,508.89
Do	City of Kake	18,000.00	
Do	Cordova Electric Cooperative	12,500.00	
Do	Goldbelt, Inc		
Do	INN Electric Cooperative		
Do	Kotzebue Electric Association	6,400.00	
Do	Metlakatla Indian Community	6,000.00	146.86
Do	OSEI Power Corp		
Morry B. Markowitz, 1001 19th Street North, #1200 Arlington, VA 22209	Association of International Automobile Manufacturers, Inc		22,000.00
Luther A. Markwart, 1156 15th St., NW, #1101 Washington, DC 20005	American Sugarbeet Growers Assn	24,292.00	
Ron Marlenee, 9008 Linda Maria Court Fairfax, VA 22031	Flathead Joint Board of Control	1,600.00	
Do	Safari Club International	4,000.00	
Ronald J. Marlowe, Cohen Berke Bernstein Brodie Kondell... 2601 S. Bayshore Drive, 19th Floor Miami, FL 33133	American TelNet, Inc	14,355.00	38.83
John D. Marple, 2001 L Street, NW, #400 Washington, DC 20036	Business Software Alliance	4,500.00	
Mary E. Marra, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	5,166.04	
Martha E. Marrapese, 1001 G Street, NW, #500 West Washington, DC 20001	Keller & Heckman (For:Tea Assn of the USA, Inc)		
James T. Marrinan, 1301 K Street, NW, Suite 1100-East Tower Washington, DC 20005-3317	Community Psychiatric Centers	20,769.18	5,156.35
Beverly K. Marshall, 1001 Pennsylvania Ave., NW, #450-N Washington, DC 20004	Southern California Edison Co	6,945.00	5,650.00
Ellen M. Marshall, 1033 North Fairfax Street, Suite 404 Alexandria, VA 22314	International Council of Shopping Centers	850.00	
Gwen Marshall, 243 Parkway, #3 Cincinnati, OH 45216			63.75
Cynthia L. Martin, 1215 Jefferson Davis Hwy., #1004 Arlington, VA 22202	Diagnostic Retrieval Systems, Inc	12,000.00	
David F. Martin, Plumbing Manufacturers Institute 1655 N. Ft. Myer Drive, #700 Arlington, VA 22209	CM Services, Inc (for Plumbing Manufacturers Institute)	500.00	
David L. Martin, P.O. Box 427 Jackson, MS 39205-0427	Comprehensive Health Insurance Risk Pool Assn		
Gordon G. Martin, 1130 Connecticut Ave., NW, Suite 830 Washington, DC 20036	Alabama Power Co	26,250.00	2,300.98
Larry K. Martin, 2500 Wilson Blvd., #301 Arlington, VA 22201	American Apparel Manufacturers Assn, Inc		
Lora Lee Martin, Carriage House University of California Santa Cruz, CA 95064	University of California	43.16	
Antonio C. Martinez II, 11128 Church Street Fairfax, VA 22030-4901	Nutritional Health Alliance	15,300.00	290.00
Maryland People's Counsel, 6 St. Paul St., Suite 2102 Fl. Baltimore, MD 21202			
Robert A. Marzocchi, P.O. Box 1615 15 Mountain View Road Warren, NJ 07061-1615	Chubb & Son, Inc	5,000.00	
Mark A. Maslyn, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	10,262.00	381.99
Glen David Mason, 1350 I Street, NW, #590 Washington, DC 20005	College of American Pathologists	8,015.00	
Nancy Mason, 1020 19th Street, NW, Suite 700 Washington, DC 20036	US WEST, Inc	1,083.50	
Camille Bares Massic, 1401 I Street, NW, Suite 1100 Washington, DC 20005	SBC Communications Inc	15,000.00	3,349.04
James D. Massie, 601 13th St., NW, Suite 410 South Washington, DC 20005	R. Duffy Wall & Associates	1,250.00	
Sandra Masur, 1250 H Street, NW, #800 Washington, DC 20005	Eastman Kodak Company		
Mary Cheryl Matheis, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	11,327.22	
Roderick B. Mathews, 2015 Staples Mill Road Richmond, VA 23230	Trigon Blue Cross Blue Shield	1,250.00	
Amy Mathews-Amos, 1531 P Street, NW, #200 Washington, DC 20005	Sierra Club Legal Defense Fund	4,633.13	3,219.93
Sandra Windsor Mathiesen, 6103 Bayliss Knoll Court Alexandria, VA 22310	Denny Miller Associates, Inc	1,150.00	
Dawson Mathis, 410 First Street, SE, #300 Washington, DC 20003	Civil Justice Reform Group	5,000.00	
Do	Dawson Mathis & Associates (For:Massachusetts Mutual Life Insurance Co)	7,874.50	
Do	United Parcel Service	3,000.00	
Dawson Mathis & Associates, 410 First Street, NW, #300 Washington, DC 20003	Massachusetts Mutual Life Insurance Co	7,874.50	
Michael P. Matlack, 104 North Carolina Ave., SE Washington, DC 20003	Pearson & Pipkin, Inc (For:National Motorists Assn)		
Do	Pearson & Pipkin, Inc (For:Physicians Who Care)		
Kim M. Matthews, 1020 19th Street, NW, #700 Washington, DC 20036	U S West, Inc	3,196.08	
Robert A. Matthews, 700 North Fairfax St. Alexandria, VA 22314	Railway Progress Institute	1,253.64	
Michael N. Matton, 1735 Jefferson Davis Hwy., Suite 1200 Arlington, VA 22202	McDonnell Douglas Corp	720.00	
Daniel J. Mattoon, 1133 21st St., NW, #900 Washington, DC 20036	BellSouth Corp	3,325.00	668.81
William C. Mattox, 1700 Pennsylvania Avenue, NW Washington, DC 20006	Mutual of Omaha Cos	875.00	
Marshall L. Matz, 1400 16th Street, NW, #400 Washington, DC 20036	Olsson Frank & Weeda (For:American Commodity Distribution Program)	1,500.00	
Do	Olsson Frank & Weeda (For:American School Food Service Assn)	9,000.00	
Do	Olsson Frank & Weeda (For:United Fresh Fruit & Vegetable Assn)	3,000.00	
Robert V. Maudlin, 1511 K Street, NW Washington, DC 20005	C.V. & R.V Maudlin (For:Southern Company Services, Inc)	2,000.00	410.00
Maupin Taylor Ellis & Adams, P. O. Drawer 27619 Raleigh, NC 27619	Robert E. Rader Jr.		
John A. Maxwell, New Jersey Petroleum Council 150 West State Street Trenton, NJ 08608	American Petroleum Institute		
James C. May, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	30,000.00	
John Paul May, 1101 Mercantile Lane, #101 Landover, MD 20785	Association Growth Enterprises, Inc		
Peter G. Mayberry, 1001 G Street, NW, #500 West Washington, DC 20001	Keller and Heckman (For:INDA (Association of the Nonwoven Fabrics Industry))		
Joseph T. Mayer, 1745 Jefferson Davis Hwy., #1200 Arlington, VA 22202	Rockwell International Corp	18,135.00	3,014.48
Marion R. Mayer, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	11,592.67	470.98
Mayer Brown & Platt, 2000 Pennsylvania Avenue, NW, #6500 Washington, DC 20006	Accountants' Liability Assurance Co, Ltd		
Do	American Farm Bureau Federation	200.00	
Do	Arthur Andersen & Co, et al.	387.50	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Bank of America Illinois		
Do	Brunswick Corp		
Do	Chicago Stock Exchange, Inc		
Do	City Colleges of Chicago		
Do	Comdisco, Inc		
Do	Deutsche Lufthansa A.G.		
Do	Enron Development Corp	162.50	
Do	First Chicago Corp		
Do	FMC Corporation		
Do	General Electric Industrial & Power Systems		
Do	GATX Corporation		
Do	Joseph E. Seagram & Sons Inc		
Do	JMB Realty Corp		
Do	Merrill Lynch Capital Markets		
Do	NICOR, Inc		
Do	Quaker Oats Company		
Do	Santa Fe Pacific Corp		
Do	Sara Lee Corporation		
Do	Sears Roebuck & Co		
Do	Solid Waste Agency of Northern Cook County		
Do	Tele-Communications, Inc		
Do	Vulcan Materials Company, Midwest Division		
S. Hubert Mayes Jr., 320 West Capitol Avenue, Suite 1000 Little Rock, AR 72201-3525	Alliance of American Insurers		
Jeffrey G. Mays, 1505 Prince Street, Suite 300 Alexandria, VA 22314	American Optometric Assn		
Michael J. McAdams, 1776 Eye Street, NW, #1000 Washington, DC 20006	BP America, Inc		
H. Wesley McAden, 1155 15th St., NW, #504 Washington, DC 20005	J. G. Boswell Co	3,000.00	
Do	California & Hawaiian Sugar Co	15,000.00	
Do	Marko Zaninovich, Inc	1,500.00	
Do	New York Cotton Exchange	2,000.00	
Marcia McAllister, 1270 West Northwest Highway Palatine, IL 60067	American Salvage Pool Assn		
Elizabeth Anne McAree, 1150 Connecticut Ave., NW, #507 Washington, DC 20036	Wallace & Edwards		
Rebecca McAuliffe, 601 13th Street, NW, Suite 850 South Washington, DC 20005	El Paso Natural Gas Co	1,000.00	
Gary W. McBee, 1133 21st Street, NW, #700 Washington, DC 20036-3349	Alliance for Competitive Communications	11,250.00	115.00
Ann McBride, 2030 M St., NW Washington, DC 20036	Common Cause	21,249.96	200.00
Charlie McBride Associates, Inc, 1730 M Street, NW, #800 Washington, DC 20036	ABB Combustion Engineering, Inc	9,000.00	217.56
Do	Biomedical Research Foundation	4,500.00	996.67
Do	Carolina Power & Light Co	900.00	
Do	Edison Chouest Offshore	2,400.00	192.14
Do	Integrated Resources Group, Inc	3,000.00	349.29
Do	ICON Industrial Controls, Inc	5,852.24	1,141.23
Do	Louisiana Energy Services	1,200.00	
Do	National Electrical Manufacturers Assn		
Do	Nuclear Energy Institute	3,000.00	217.56
Do	Science Applications International Corp	6,000.00	217.56
Do	Sealaska Corp	1,800.00	217.56
Do	Tulane University	5,100.00	217.56
Do	Turlock Irrigation District		
Do	Westinghouse Electric Corp	3,220.00	217.58
Do	Yukon Pacific Corp	2,400.00	217.56
Patrick McCabe, 501 Wythe Street P.O. Box 1417-D50 Alexandria, VA 22313-1480	Animal Health Institute		
Susan P. McCaffrey, 3901 N. Meridian Street P.O. Box 88409 Indianapolis, IN 46208-0409	Community Service Council of Central IN, Inc		
Grady McCallie, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	494.01	
John D. McCallum, 1900 Pennsylvania Ave., NW Washington, DC 20068	Potomac Electric Power Co		
James A. McCarthy, 1711 King Street, Suite One Alexandria, VA 22314	Snack Food Assn		100.00
Kelley J. McCarthy, 888 16th Street, NW Washington, DC 20006	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)		
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)	100.00	
Do	Bannerman & Associates, Inc (For:Government of the United Arab Emirates)		
Do	Bannerman & Associates, Inc (For:Government of Egypt)	100.00	
Do	L.A. Motley & Co (for Government of the Philippines)	100.00	
Do	Bannerman & Associates, Inc (For:Lebanese American University)		
Luckie L. McClintock, 901 Massachusetts Ave., NW Washington, DC 20001	United Assn of Journeymen & Apprentices of the P.& P.F.I.	6,000.00	1,430.00
John M. McClung, 727 N Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	2,000.00	
Donald N. McClure Jr., 20 Erford Road, #115 Lemoyne, PA 17043	Pennsylvania Assn of Home Health Agencies	10,640.46	1,858.92
McClure Gerard & Neuenschwander, Inc, 201 Maryland Ave., NE Washington, DC 20002	Abbott Laboratories		
Do	American Home Products		
Do	American Mining Congress	33.00	
Do	Asarco, Inc	33.00	
Do	Barrick Resources (USA, Inc)	33.00	
Do	Battle Mountain Gold Co	33.00	
Do	Bristol-Myers Squibb		
Do	Brush Wellman, Inc		
Do	BHP Minerals International, Inc	33.00	
Do	Coeur d'Alene Mines Corp	408.00	
Do	Crown Butte Mines, Inc	33.00	
Do	Cyprus Amax Minerals Company	33.00	
Do	Echo Bay Mines	33.00	
Do	Euro-Nevada Mining Corp, Inc	33.00	
Do	Financial Guaranty Insurance Corp	375.00	
Do	Franco-Nevada Mining Corp, Inc	33.00	
Do	FMC Gold	3,300.00	
Do	Goodyear Tire & Rubber Co	100.00	
Do	GE Capital Commercial Real Estate Financing & Servicing		
Do	GE Capital Mortgage Corp	250.00	
Do	Hecla Mining Co	33.00	
Do	Homestake Mining	33.00	
Do	Idaho Power Company	125.00	
Do	Kennecott Corp	33.00	
Do	LITCO	100.00	
Do	Magma Copper Company	33.00	
Do	Merck & Co		
Do	Minorco, USA	33.00	
Do	National Endagered Species Act Reform Coalition		
Do	National Rifle Assn		
Do	Newmont Mining Corp	33.00	
Do	Pacific Gas Transmission Company	250.00	
Do	Pegasus Gold Corp	33.00	
Do	Pfizer		
Do	Phelps Dodge Corp	33.00	
Do	Placer Dome US, Inc	33.00	
Do	Royal Gold, Inc	33.00	
Do	Santa Fe Pacific Gold Corp	33.00	
Do	Stillwater Mining Company	33.00	
Do	Upjohn Co		
Do	Western States Minerals Corp		
Judith A. McCormick, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	2,651.60	
Maryanne McCormick, 1455 Pennsylvania Avenue, NW Washington, DC 20004-1007	Corning, Inc	5,000.00	150.00
Joseph P. McCraren, P.O. Box 219 Bakerton, WV 25410	National Aquaculture Assn	1,167.00	
Carol A. McDaid, 601 13th Street, NW, #410 South Washington, DC 20005	R. Duffy Wall & Associates, Inc	1,250.00	
John McDavitt, 2000 K St., NW, 8th Floor Washington, DC 20006	National Comm to Preserve Social Security & Medicare	4,670.00	
Charles J. McDermott, 1155 Connecticut Ave., NW Washington, DC 20036	WMX Technology (Rust)	13,387.50	
Daniel J. McDermott, 1155 Connecticut Ave, NW, #500 Washington, DC 20036	Providian Corporation	3,000.00	
McDermott Will & Emery, 1850 K Street, NW, #450 Washington, DC 20006	Airlease, Ltd	763.50	
Do	Alaska Seafood Marketing Institute	7,700.00	92.00
Do	Allergan, Inc	200.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Alliance Capital Management, LP	3,666.30	
Do	American College of Radiation Oncology	4,875.00	
Do	American Dental Hygienists Assn	1,500.00	
Do	American Home Products Corp	2,328.75	
Do	American Imaging Assn		
Do	American Restaurant Partners	629.60	
Do	American Soc of Outpatient Surgeons		
Do	American Spice Trade Assn	1,250.00	
Do	Associated Financial Corp	7,074.37	
Do	Association for the Preservation of Civil War Sites		
Do	Association of Freestanding Radiation Oncology Centers	100.00	
Do	ARA Services, Inc		
Do	Borden Chemical & Plastics LP	3,666.30	
Do	California Avocado Commission		31.00
Do	California Canning Peach Assn	5,575.00	37.00
Do	California Kiwifruit Commission		10.00
Do	Campbell Soup Company	8,307.00	
Do	Cedar Fair LP	3,666.30	
Do	Chiquita Brands, Inc	6,875.00	
Do	Co-Bank - National Bank for Cooperatives		
Do	Coalition for Employment Opportunities	3,096.00	
Do	Council of Women's & Infant's Specialty Hospitals	6,000.00	
Do	Fargo Clinic/Medicare	2,500.00	
Do	Fashion Accessories Shippers Association		
Do	Good Sam Club		
Do	GAF Corp	206.00	
Do	Health Insurance Provider Coalition		
Do	Inland Pacific Energy Corp		
Do	Intermountain Health Care, Inc	1,072.00	
Do	International Hearing Society	5,300.00	
Do	H. F. Johnson	4,166.75	
Do	Johnson & Johnson		
Do	Juvenile Diabetes Foundation	6,000.00	
Do	Kmart Corporation		
Do	LAACO, Ltd	71.50	
Do	Marshfield Clinic	2,500.00	
Do	Milbank Tweed Hadley & McCloy	500.25	
Do	Minor Crop Farmer Alliance	1,250.00	51.00
Do	MWW/Strategic Communications		
Do	National Potato Council	1,975.00	27.00
Do	North American Assn of State & Provincial Lotteries		
Do	North West Water Process, Inc	2,002.00	
Do	Oppenheimer Capital LP	3,666.30	
Do	Outpatient Opthalmic Surgery Society		
Do	Public Employees Retirement Assn of Colorado		
Do	PGA Tour, Inc	3,000.00	
Do	PHP Healthcare Corp	637.00	
Do	Red Lion Hotels	3,666.30	
Do	Reynolds Metals		
Do	Rotary International		
Do	Rural Health Network Coalition	2,000.00	
Do	Rural Referral Centers Coalition	2,000.00	
Do	Russ Berrie & Company		
Do	RJR Nabisco Corp		
Do	S.C. Johnson & Son	2,054.00	
Do	Section 2039(e) Group		
Do	Solo Cup Co	3,913.00	
Do	Southland Corporation	5,940.00	
Do	Sun Distributors LP	1,107.50	
Do	Tahlequah Public Works Auth	459.00	
Do	Terra		
Do	U.S. Mink Export Development Council	26,200.00	38.00
Do	VIVRA	9,417.50	
Do	Wear Guard Corp		
Do	Welch Foods, Inc		
Do	Wells Manufacturing Co		
Do	World Airways		
Jack McDonald, 901 15th Street, NW, #700 Washington, DC 20005-2301	Outboard Marine Corp	7,500.00	25.00
Marian E. McDowell, 1275 Pennsylvania Ave., NW, 4th Floor Washington, DC 20004	Pacific Telesis Group	13,000.00	
Deborah C. McElroy, 1200 19th Street, NW, #300 Washington, DC 20036-2401	Regional Airline Assn	1,000.00	
Roland McElroy, 1111 19th Street, NW, Washington, DC 20036	American Forest & Paper Assn	9,500.00	
Robert H. McFadden, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	4,940.00	
Randall H. McFarlane, 900 19th Street, NW, Suite 400 Washington, DC 20006	America's Community Bankers	24,900.00	1,200.00
Paul J. McGeady, 27 Hampton Place Nutley, NJ 07110	Morality in Media, Inc	1,435.00	
Becky McGee, P.O. Box 2880 Dallas, TX 75221-2880	Oryx Energy Company		
Donna Lee McGee, 1001 Connecticut Ave., #701 Washington, DC 20036	Burlington Industries, Inc	9,000.00	3,800.00
Meredith McGehee, 2030 M St., NW Washington, DC 20036	Common Cause	13,907.76	149.53
Robert M. McGlotten, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	AFL-CIO Housing Investment Trust	5,900.00	
Do	Communications Workers of America Printing Publishing...	3,375.00	
Do	Office & Professional Employees Int'l Union	3,000.00	
Do	Rollins International	5,850.00	
Do	Seafarers Int'l Union of North America	16,500.00	
Do	Tobacco Industry Labor Management Comm	24,300.00	
McGrail and Company, 52 Washington Ave. Williamstown, NJ 08094	Aircraft Owners & Pilots Assn		184.20
Do	AT&T Global Information Solutions		224.96
Do	NYMA, Inc		
Do	System Resources Corp		
C. Dean McGrath Jr., 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Asn	369.00	42.00
McGuiness & Williams, 1015 15th Street, NW, #1200 Washington, DC 20005	Benefits Alliance		743.92
Do	Hoechst Celanese Corp	24,125.00	392.29
Do	Hoechst Roussel Agri-Vet	25,750.00	749.60
Do	Hoechst-Roussel Pharmaceuticals, Inc	10,125.00	278.89
Do	National Council of Agricultural Employers	26,876.00	2,620.00
Do	Nisei Farmers League	568.75	1,500.00
Do	Turfgrass Producers International	225.00	11.01
Do	U.S. Council for International Business	12,901.00	1,400.00
Joseph M. McGuire, 1001 Pennsylvania Ave., NW, #700 Washington, D. C.	Allied-Signal, Inc		
Mary Lee McGuire, 2300 Clarendon Blvd., #I0I0 Arlington, VA 22201-3367	Cook Inlet Region, Inc	12,000.00	
Do	Metropolitan Water District of Southern California	6,500.00	
Monica M. McGuire, 1331 Pennsylvania Ave., NW, #1500N Washington, DC 20004	National Assn of Manufacturers	1,000.00	
Robert McIntyre, 1313 L St., NW Washington, DC 20005	Citizens for Tax Justice	17,634.61	
Yvonne McIntyre, 601 13th Street, NW, Suite 650 North Washington, DC 20005	Detroit Edison Co	750.00	69.81
McIntyre Kahn & Kruse Co., L.P.A., The Galleria & Towers At Erieview 1301 East Ninth Street, #1200 Cleveland, OH 44114			
Harrison D. McIver III, 1625 K Street, NW, #725 Washington, DC 20006	Project Advisory Group		
John J. McKechnie III, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,500.00	
K. C. McKee, 600 Maryland Ave., SW, #700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Darina McKelvie, 1101 Pennsylvania Avenue, NW, #1000 Washington, DC 20004	Citicorp Washington, Inc	1,125.00	
McKenna & Cuneo, 1575 Eye Street, NW Washington, DC 20005	California Dental Association		
Do	Cigar Assn of America, Inc		
Do	DSE Industry Coalition		
Do	Fertilizer Institute		
Do	Medical Device Manufacturers Assn		
Do	Pharmaceutical Research & Manufacturers of America		
Jan E. McKenzie, 701 Pennsylvania Avenue, NW Washington, DC 20004	Edison Electric Institute	4,991.21	481.01

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Frank J. McKeown, 1000 Wilson Boulevard, #2300 Arlington, VA 22209	Northrop Grumman Corporation	1,400.00	
William Colm McKeveny, Chadbourne & Park 30 Rockefeller Plaza New York, NY 10112	American Pulpwood Assn		
McKevitt Group, 1101 16th Street, NW, #333 Washington, DC 20036	Kelly Services, Inc	7,312.50	696.00
Robert E. McKew, 919 18th Street, NW Washington, DC 20006	American Financial Services Assn	250.00	
Timothy P. McKone, 1404 I Street, NW, #1100 Washington, DC 20005	SBC Communications, Inc	15,000.00	26,674.56
Patrick M. McLain, 1000 Vermont Avenue, NW, #1000 Washington, DC 20005	Rowan & Blewitt, Inc (For:IVAX Corp)	2,312.50	
Do	Rowan & Blewitt Inc (For:Medtronic, Inc)	2,750.00	
Do	Rowan & Blewitt, Inc (For:National Alliance for Infusion Therapy)		
Do	Rowan & Blewitt, Inc (For:North American Vaccine, Inc)		
Do	Rowan & Blewitt, Inc (For:Par Pharmaceutical, Inc)	3,375.00	
Do	Rowan & Blewitt, Inc (For:Upjohn Company)	5,562.50	
James D. McLaughlin, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	3,000.00	
Lindsay McLaughlin, 1775 K Street, NW, #200 Washington, DC 20006	ILWU	13,000.00	5,670.56
Kevin Patrick McMahon, 1001 19th Street, North, #800 Arlington, VA 22209	TRW, Inc	10,540.00	104.57
Brian McManus, 7440 Woodland Drive Indianapolis, IN 46278	Golden Rule Insurance Company		3,208.05
Roger E. McManus, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation		
William A. McManus, 1101 16th Street, NW Washington, DC 20036-4877	National Soft Drink Assn	187.27	161.66
James D. McMillan, 2001 Pennsylvania Ave., NW, #300 Washington, DC 20006	Exxon Corporation	1,100.00	188.90
Stephen D. McMillan, 501 Wythe Street P.O. Box 1417-D50 Alexandria, VA 22313-1480	Animal Health Institute		
McMillan Group, 11 Canal Center Plaza, #302 Alexandria, VA 22314	Charlotte-Mecklenburg Hospital Authority	30,000.00	75.94
Do	National Assn of Small Business Investment Companies	30,000.00	72.00
Do	North Carolina Electronics & Information Technologies Assn	24,000.00	8.50
Do	Ogden Projects	15,000.00	81.00
Do	Rogers & Wells (for BRACCO)	20,000.00	135.21
Do	Rogers & Wells (for SEMA)	10,000.00	38.80
Do	VEDCO Energy	15,000.00	36.40
Vanda B. McMurtry, 151 Farmington Avenue, RC6A Hartford, CT 06156	Aetna Life & Casualty		
McNair Law Firm, P.A., 1155 15th Street, NW, #400 Washington, DC 20005	Allied-Signal, Inc		
Do	Association of Banks in Insurance (ABI)		
Do	Coalition for Auto Repair Equality		
Do	Del Webb Corp		
Do	Food Lion, Inc		
Do	Fuji Photo Film, Inc		
Do	Georgia-Pacific Corp		
Do	Harnischfeger Industries, Inc		
Do	International Assn for Financial Planning		
Do	INSLAW, Inc		
Do	Norfolk Southern Corp		
Do	Phillips Petroleum Co		
Do	Risk & Insurance Management Society, Inc	470.00	20.00
Do	South Carolina Research Authority		
Do	SCANA Corp		
Do	Viacom, Inc		
Do	W.R. Grace & Company		
Do	Westinghouse Electric Corp		
Mike McNally, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	708.90	
Susan McNally, 1330 New Hampshire Ave., NW, #122 Washington, DC 20036	National Assn of Community Health Centers	278.63	32.50
Kathryn M. McNamara, 1300 I Street NW 12th Floor West Washington, DC 20005	Dean Witter Discover & Co	350.00	133.50
Laura E. McNeill, 1025 Connecticut Ave., NW, #1014 Washington, DC 20036	ENSERCH Corp	800.00	1,613.18
Peter F. McNeish, 1199 N. Fairfax Street, #200 Alexandria, VA 22314	National Assn of Small Business Investment Cos	3,000.00	
Cherie L. McNett, 1101 Vermont Ave., NW, #606 Washington, DC 20005	American Society of Anesthesiologists	2,583.32	
John P. McNicholas, 8008 Westpark Drive McLean, VA 22102	Unisys Corp	2,500.00	2,068.07
James F. McNulty Jr., P.O. Box 2265 Tucson, AZ 85702	Don Bennett Moon		
Gerald T. McPhee, 1747 Pennsylvania Ave., NW, #300 Washington, DC 20006	Occidental International Corp	13,000.00	681.36
Laura J. McPherson, 2101 Wilson Blvd., # 610 Arlington, VA 22201	Manufactured Housing Institute	5,000.00	
Michael J. McShane, 1001 19th Street North, #800 Arlington, VA 22209	TRW, Inc	10,350.00	174.00
Martha McSteen, 2000 K Street, NW, 8th Floor Washington, DC 20006	National Comm to Preserve Social Security & Medicare	18,232.00	
George G. Mead, 1908 Ednor Road Silver Spring, MD 20905	American Movers Conference, Inc	500.00	
Do	Norfolk Southern Corp	500.00	
Leslie S. Mead, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives	250.00	
James Gregory Means, 601 13th Street, NW, #410 South Washington, DC 20005	R. Duffy Wall & Associates, Inc	1,250.00	
William A. Meaux, 1600 M Street, NW, #702 Washington, DC 20036	ICI Americas, Inc	18,000.00	
Myron Meche, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation	2,000.00	
Thomas J. Medaglia III, 1615 M Street, NW, Suite 200 Washington, DC 20036-3260	Amoco Corp	1,150.00	147.77
Charles M. Meehan, 1140 Connecticut Avenue, NW Suite 1140 Washington, DC 20036	Utilities Telecommunications Council		
Fred C. Meendsen, Englewood Cliffs, NJ 07632	CPC International, Inc		20,055.00
Wayne Edward Mehl, 2725 Carter Farm Court Alexandria, VA 22306	Nevada Resort Assn	24,999.99	540.20
Mehl & Associates, Inc, 1400 L Street, NW, #625 Washington, DC 20005	Bogan Aerotech, Inc	650.00	
Do	Cessna Aircraft Company	600.00	
Do	Chandler Evans	1,500.00	
Do	D3 International	3,000.00	
Do	General Atomics	900.00	
Do	Hughes Aircraft Co	1,500.00	
Do	Schweizer Aircraft Corp	900.00	
Do	University of South Carolina	2,400.00	
Do	Westinghouse Electric Corp		
Michelle Meier, 1666 Connecticut Avenue, NW, #310 Washington, DC 20009	Consumers Union of U.S., Inc	1,000.00	
Susan R. Meisinger, 606 North Washington Street Alexandria, VA 22314	Society for Human Resource Management	6,000.00	
Kenneth F. Melley, 1201 16th Street, NW Washington, DC 20036	National Education Assn	8,972.50	
James R. Meltsner, 1000 Wilson Blvd., #2300 Arlington, VA 22209	Northrop Grumman	1,400.00	
Edward L. Menning, 1101 Vermont Avenue, NW, #710 Washington, DC 20005	National Assn of Federal Veterinarians	70.05	
J. Roger Mentz, 1747 Pennsylvania Ave. NW, #500 Washington, DC 20006	Amway Corporation	562.50	
Do	Mercedes-Benz of North America, Inc	225.00	
Do	McClure Trotter & Mentz (For:Methanex, Inc)	187.50	
Do	Williams Companies, Inc	37.50	
Jane Mentzinger, 2030 M Street, NW Washington, DC 20036	Common Cause	7,161.15	
Melinda Mercer, P.O. Box 1417-D49 Alexandria, VA 22313-1417	National Assn of Chain Drug Stores	1,000.00	
Cynthia E. Merifield, 1101 Vermont Ave, NW Washington, DC 20005	American Medical Assn	3,750.00	
Merrill Lynch & Co, Inc, 3000 K Street, NW, #620 Washington, DC 20007			93,811.00
Gordon Merritt, 1100 Wilson Blvd., #2000 Arlington, VA 22209	Hughes Electronics Corp	115.00	
Richard P. Merski, 1455 Pennsylvania Avenue, NW, #900 Washington, DC 20004	American International Group, Inc	6,800.00	85.00
Neil T. Messick, 1299 Pennsylvania Ave., NW Washington, DC 20004	General Electric Co	1,800.00	1,246.29
Raymond A. Messina, 1300 I Street, NW, 12 Floor Washington, DC 20005	Dean Witter Discover & Co	250.00	35.00
Tanya K. Metaksa, 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America	4,000.00	
Metzger Hollis Gordon & Mortimer, 1275 K Street, NW Washington, DC 20005	Major League Baseball		
Do	National Assn of Securities & Commercial Law Attorneys		
Christina A. Metzler, 1383 Piccard Drive P.O. Box 1725 Rockville, MD 20849-1725	American Occupational Therapy Assn, Inc	5,000.00	97.90
Brian M. Meyer, 7272 Wisconsin Avenue Bethesda, MD 20814	American Soc of Hospital Pharmacists	3,456.00	
M. Barry Meyer, 900 19th Street, NW Washington, DC 20006	Aluminum Assn, Inc	200.00	
Larry D. Meyers, 412 First Street, SE, #100 Washington, DC 20003	American Beekeeping Federation		151.47
Do	National Peanut Growers	16,320.00	1,363.13
Do	Texas A&M Research Foundation	22,920.00	2,479.06
Meyers & Associates, 412 First St., SE, #100 Washington, DC 20003	American Sheep Industry Assn	19,299.00	1,100.04
Do	Brownsville Economic Development Council	15,000.00	448.99
Do	Corpus Christi Bay Area Economic Development Corp	18,000.00	299.15
Do	Irrigation Projects Reauthorization Council	18,000.00	410.77
Do	New Mexico State University, College of Agriculture	10,500.00	497.61
Do	New Mexico State University, College of Engineering	10,500.00	422.86
Do	Tenth District Farm Credit Bank	15,000.00	769.23
Do	Wellman, Inc	9,000.00	383.85
David R. Mica, Florida Petroleum Institute 215 South Monroe Street, #800 Tallahassee, FL 32301	American Petroleum Institute		
Stephen W. Michael, 818 Connecticut Ave., NW, #325 Washington, DC 20006	Policy Directions, Inc	2,250.00	
Michael Best & Friedrich, 135 South LaSalle Street, #1610 Chicago, IL 60603	DePaul University		
Laurie L. Michel, 601 Pennsylvania Ave., NW Suite 1200 North Building Washington, DC 20004-2613	Merck & Co, Inc	1,000.00	400.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Michigan Health & Hospital Assn, 6215 West St. Joseph Highway Lansing, MI 48917			230.95
Mid-Continent Oil & Gas Assn, 801 Pennsylvania Ave., NW, #840 Washington, DC 20004-2604		2,680.00	52,715.24
Mid-West Electric Consumers Assn, 999 18th Street, #1635 Denver, CO 80202			
Geralyn Mied, 1001 Pennsylvania Ave., NW, #725S Washington, DC 20004	American Soc of Clinical Pathologists		
Migrant Legal Action Program, Inc, 2001 S St., NW, #310 Washington, DC 20009			
Edmund Joseph Mihalski, 1101 Pennsylvania Avenue, NW, Suite 540 Washington, DC 20004	Eli Lilly and Co	3,000.00	183.32
Nelson L. Milder, 1828 L Street, NW, #906 Washington, DC 20036	American Soc of Mechanical Engineers		
Richard Jeffrey Miles, 1530 Wilson Blvd, Suite 250 Arlington, VA 22209	Allison Engine Co	245.00	
B. Parker Miller III, 1801 K Street, NW, Suite 800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Bradley P. Miller, 2061 Cherry Run Court, NW Grand Rapids, MI 49504	Business & Institutional Furniture Manufacturer's Assn	1,261.00	100.53
Brent V. B. Miller, 4207 South 7th Road Arlington, VA 22204	American Group Practice Assn	9,102.42	
Chaz Miller, 1730 Rhode Island Ave., NW, #1000 Washington, DC 20036	National Solid Wastes Management Assn	500.00	
Craig Miller, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	80.76	109.73
Deborah E. Miller, 919 18th Street, NW Washington, DC 20006	American Financial Services Assn	250.00	
Dennis W. Miller, P.O. Box 427 Jackson, MS 39205-0427	Comprehensive Health Insurance Risk Pool Assn	82.50	42.90
Denny Miller, 2311 South Queen Street Arlington, VA 22202	Denny Miller Associates	7,500.00	
Douglas Miller, 1730 M Street, NW, Suite 700 Washington, DC 20036	Software Publishers Assn	1,450.00	
Grant Miller, 1800 Diagonal Rd., #600 Alexandria, VA 22314	Northrop Grumman Corporation	6,000.00	600.00
Harris N. Miller, 1616 N. Ft. Myer Dr., #1300 Arlington, VA 22209-3106	Information Technology Assn of America, Inc	2,000.00	
Joseph A. Miller, 1130 Connecticut Ave., NW, Suite 830 Washington, DC 20036	Southern Nuclear Operating Company	32,052.39	22,635.89
Michael D. Miller, 325 7th Street, NW, #1200 Washington, DC 20004	Pfizer, Inc	1,500.00	330.19
Paul M. Miller, 500 Arcola Road Collegeville, PA 19426	Rhone-Poulenc Rorer Pharmaceuticals, Inc	3,027.00	
R. Scott Miller, 801 Pennsylvania Ave., NW, #720 Washington, DC 20004	Procter & Gamble Co	208.04	
Richard G. Miller, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	16,000.00	800.12
Sandra Burgess Miller, 2311 South Queen Street Arlington, VA 22202	Denny Miller Associates	1,250.00	
Sarah Miller, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	4,259.83	
Steven T. Miller, 1101 Vermont Ave., NW, #700 Washington, DC 20005	American Academy of Ophthalmology	2,565.00	
W. Kirk Miller, 1300 L Street, NW, #900 Washington, DC 20005	North American Export Grain Assn, Inc		7.50
Miller & Chevalier, Chtd, 655 15th St., NW, #900 Washington, DC 20005-5701	Davidson Colling Group	1,000.00	
Do	Export Source Rule Coalition		
Do	Government of British Columbia/Min. of Dev. Trade & Tourism		
Do	Great Northern Insured Annuity Corp		
Do	Hewlett-Packard Co	12,000.00	
Do	Marine Preservation Assn		
Do	Organization for International Investment	1,375.00	
Do	Pulte Home Corp	4,351.11	
Do	Service Corporation Int'l	625.00	
Denny Miller Associates, Inc, 400 North Capitol Street, NW, #363 Washington, DC 20001	Alaska Air Group, Inc	1,500.00	1,230.00
Do	Boeing Company	3,000.00	2,460.00
Do	Cell Therapeutics, Inc	1,062.00	862.00
Do	Central Puget Sound Regional Transit Authority	1,500.00	1,235.00
Do	Environmental Technologies, Inc	300.00	245.00
Do	First Church of Christ, Scientist	300.00	245.00
Do	Makah Indian Council	300.00	245.00
Do	Momentum 94	1,875.00	1,530.00
Do	Montana Technology Center	300.00	245.00
Do	Olin Corporation	3,000.00	2,460.00
Do	Port of Tacoma	1,125.00	928.00
Do	Port Blakely Tree Farms	1,500.00	1,235.00
Do	State of Washington, Dept of Transportation	1,500.00	1,235.00
Do	Toy Manufacturers of America	1,500.00	1,230.00
Do	VECTRA	1,062.00	862.00
John K. Mills, 1150 17th Street, NW, #600 Washington, DC 20036	Health Insurance Plan of Greater New York	4,062.50	
William Miner, 888 16th Street, NW Washington, DC 20006	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)	1,000.00	
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)		
Do	Bannerman & Associates, Inc (For:Government of the U.A.E.)	1,500.00	
Do	Bannerman & Associates, Inc (For:Government of Egypt)	2,000.00	
Do	Banneraman & Associates (For:L.A. Motley & Co (for: Government of the Philippines)).		
Do	Bannerman & Associates, Inc (For:Lebanese American University)		
Edward F. Mitchell, 1900 Pennsylvania Avenue, NW Washington, DC 20068	Potomac Electric Power Co		
Gina Shea Mitchell, 1150 Connecticut Avenue, NW, #1125 Washington, DC 20036	Financial Executives Institute	12,600.00	
H. Maurice Mitchell, 320 West Capitol Ave., #1000 Little Rock, AR 72201	Entergy Corp		
Lawrence W. Mitchell, 600 Maryland Ave., NE, #202 W Washington, DC 20024	Farmers' Education al & Co-Operative Union of America	15,187.49	975.18
Mitchell Williams Selig Gates & Woodyard, 1420 New York Ave., NW, #750 Washington, DC 20005	Acxiom Corp		
Do	Alliance of American Insurers		
Do	Entergy Corporation		
Do	Institute of Scrap Recycling Industries, Inc		
Do	National Assn of Professional Employer Organizations	870.00	467.50
Mark A. Mix, 8001 Braddock Road Springfield, VA 22160	National Right to Work Committee	5,200.00	752.23
Robert R. Mix, 225 North Washington Street Alexandria, VA 22314	Non Commissioned Officer Assn	2,200.00	
David T. Modi, 1875 Eye Street, NW, #775 Washington, DC 20006	Georgia-Pacific Corp	630.00	
Albert L. Modiano, 801 Pennsylvania Ave., NW, Suite 840 Washington, DC 20004-2604	Mid-Continent Oil & Gas Assn	8,300.00	690.00
David T. Mohler, 1455 F Street, NW, #450 Washington, DC 20004	Upjohn Co	8,900.00	
Martha Mohler, 2000 K Street, NW, 8th Floor Washington, DC 20006	National Comm to Preserve Social Security & Medicare	2,870.00	
George F. Mohrmann, 6801 Rockledge Drive Bethesda, MD 20817	Lockheed Martin Corp	2,825.00	
Brian R. Moir, 2000 L Street, NW, #512 Washington, DC 20036-4907	American Petroleum Institute		
Do	International Communications Assn	1,000.00	
Do	National Assn of Broadcasters		
Peter A. Molinaro, 801 Pennsylvania Ave., NW, #230 Washington, DC 20004	Union Carbide Corp	2,000.00	
John V. Moller, 1707 L Street, NW, #725 Washington, DC 20036	Policy Consulting Services, Inc (For:Nissan Motor Company, Ltd)		
Do	Policy Consulting Services, Inc (For:Nissan Motor Manufacturing, U.S.A.)		
Do	Policy Consulting Services, Inc (For:Nissan North America, Inc)		
Do	Sharretts Paley Carter & Blauvelt, P.C.	3,700.00	25.00
Donna R. Mollis, 555 New Jersey Ave., NW Washington, DC 20001	American Federation of Teachers, AFL-CIO	10,053.00	40.00
Robert A. Molofsky, 5025 Wisconsin Avenue, NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO	5,000.00	260.00
John M. Moloney, 1629 K Street, NW, #501 Washington, DC 20006	Delta Airlines, Inc	200.00	250.00
C. Manly Molpus, 1010 Wisconsin Avenue, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc	2,599.21	
Eric Mondres, 900 19th Street, NW, Suite 400 Washington, DC 20006	America's Community Bankers	20,150.00	889.00
Seth Mones, 700 13th Street, NW, #950 Washington, DC 20054	Electronic Industries Assn	4,000.00	298.83
Do	National Electrical Manufacturers Assn, et al.	15,000.00	891.09
Do	Philips Electronics North America Corp	1,000.00	171.32
Charles F. Monk Jr., P.O. Box 6287 Washington, DC 20015-6287	BellSouth	15,000.00	1,105.48
Ark Monroe III, 1420 New York Ave, NW, Suite 750 Washington, DC 20005	Axciom Corp		
Do	Institute of Scrap Recycling Industries, Inc		
Do	National Assn of Professional Employer Organizations	280.00	
Kevin P. Montgomery, 1215 17th Street, NW, 3rd Floor Washington, DC 20036	Polar Air Cargo, Inc		279.00
Lisa C. Moody, 1101 16th Street, NW Washington, DC 20036	Independent Petroleum Assn of America		8.00
Joan Mooney, 1101 Vermont Ave., NW, #700 Washington, DC 20005	American Academy of Ophthalmology	12,600.00	
Alan J. Moore, 2000 Pennsylvania Avenue, NW, #6500 Washington, DC 20006	Atchison Topeka & Santa Fe Railway Co	1,000.00	
Albert W. Moore, 7901 Westpark Drive McLean, VA 22102	AMT - The Assn for the Manufacturing Technology	1,575.00	25.00
Carlos Moore, 1801 K Street, NW, #900 Washington, DC 20006	American Textile Manufacturers Institute, Inc	1,200.00	21.00
Frank B. Moore, 1155 Connecticut Ave. NW, #800 Washington, D.C.	WMX Technologies, Inc	18,375.00	2,017.03
Powell A. Moore, 1615 L Street, NW, Suite 1150 Washington, DC 20036	Capitoline/MS&L (For:Agusta Group)		
Do	Capitoline/MS&L (For:Allied-Signal Corp)		
Do	Capitoline/MS&L (For:Berwind Natural Resources Corp)	900.00	
Do	Capitoline/MS&L (For:E.H. Industries, Inc)		
Do	Capitoline/MS&L (For:Equifax Corp)	600.00	
Do	Capitoline/MS&L (For:Lockheed Corporation)	1,500.00	
Do	Capitoline/MS&L (For:Loral Corp)	1,500.00	
Do	Capitoline/MS&L (For:National Assn of Broadcasters)	2,400.00	
Do	Capitoline/MS&L (For:Psychemedics Corp)	3,000.00	
Do	Capitoline/MS&L (For:Republic of Turkey)	7,500.00	
Do	Capitoline/MS&L (For:Sprint)	300.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Capitoline/MS&L (For:U.S. Cane Sugar Refiners Assn)		
W. Henson Moore, 1111 19th St., NW Washington, DC 20036	American Forest & Paper Assn	2,000.00	
Walter K. Moore, 1747 Pennsylvania Avenue, NW, #1223 Washington, DC 20006	Genentech, Inc	3,000.00	374.25
Fred P. Moosally, 1745 Jeff Davis Highway, #1200 Arlington, VA 22202	Rockwell International Corp	20,000.00	2,992.22
Morality in Media, Inc, 475 Riverside Dr., #239 New York, NY 10115		5,068.00	2,354.71
Cynthia R. Moran, 1455 F Street, NW, #450 Washington, DC 20004	Upjohn Company	28,750.00	
Peter J. Moran, 1601 Duke Street Alexandria, VA 22314	Society of American Florists	1,000.00	
Robert J. Moran, 1120 G Street, NW, #900 Washington, DC 20005	National Ocean Industries Assn	5,733.00	
Dudley Digges Morgan III, 4900 Baronne Street New Orleans, LA 70115	Southern Forest Products Assn	3,711.84	
E.M. Chip Morgan, P.O. Box 257 Stoneville, MS 38776	Delta Council	1,500.00	3,546.36
Peter Denis Morgan, 700 11th Street, NW Washington, DC 20001	National Assn of Realtors	2,000.00	60.25
Stephen L. Morgan, 1895 Preston White Drive, Suite 220 Reston, VA 22091-5434	American Cemetery Assn		
Suzanne Morgan, 1401 I Street, NW, #1000 Washington, DC 20005	Securities Industry Assn	1,060.00	
Thomas Morgan, 700 11th Street, NW Washington, DC 20001-4507	National Assn of Realtors	1,250.00	610.94
Morgan Lewis & Bockius, 1800 M St., NW, #800 Washington, DC 20036	Chemical Manufacturers Assn		
Do	City of San Antonio	1,995.00	21.00
Do	Coalition of Supporters of the Shipping Act	57.00	
Do	Columbia Presbyterian Medical Center		
Do	Cornell University		
Do	Financial Institutions Insurance Assn	755.00	
Do	Hazardous Waste Cleanup Project		
Do	Johns Hopkins Health System Corp		
Do	Johns Hopkins University		
Do	New York Hospital		
Do	Strong Memorial Hospital		
Do	UGI Utilities, Inc	6,455.00	13.30
Do	Yale New Haven Hospital		
Do	Yale School of Medicine		
William G. Morin, 1331 Pennsylvania Avenue, NW, #1500-N Washington, DC 20004-1703	National Assn of Manufacturers	107.25	
Morisset Schlosser Ayer & Jozwiak, 1815 H Street, NW, #750 Washington, DC 20006-3604	Central Council of Tlingit & Haida Tribes of Alaska	290.45	
Do	Ketchikan Indian Corp	211.88	
Do	Mille Lacs Band of Chippewa Indians	2,215.67	
Do	Organized Village of Kake	78.00	
Do	Prairie Band of Potawatomi Indians	165.00	
Do	Quechan Indian Tribe	2,391.69	
Do	Red Lake Band of Chippewa Indians	7.50	
Do	Saginaw Chippewa Tribe	1,290.84	
Do	Sitka Tribe of Alaska	89.15	
Do	Wampanoag Tribe of Gay Head	9,453.26	
Sara E. Morningstar, 8714 Ridge Road Bethesda, MD 20817	Montgomery County (Maryland) Government	4,470.00	
James A. Morrill, 1455 Pennsylvania Ave., NW, #1260 Washington, DC 20004	Lincoln National Corp	900.00	93.00
Gerald D. Morris, 555 New Jersey Ave., NW Washington, DC 20001	American Fed of Teachers	23,968.68	80.00
John V. Morris, 8425 Woodfield Crossing Blvd., #401 Indianapolis, IN 46240	Education Financial Services of Indiana, Inc	5,780.00	2,427.00
Robert Kellogg Morris, 1331 Pennsylvania Ave., NW, Suite 1500 Washington, DC 20004-1703	National Assn of Manufacturers	2,000.00	25.00
Christopher G. Morrison, 3138 North 10th Street, #300 Arlington, VA 22201	National Assn of Federal Credit Unions	1,250.00	
D. Gail Morrison, 323 - 2nd Street, SE, #L1 Washington, DC 20003	National Motorists Assn	4,500.00	200.00
Gary L. Morrison, 10 Lafayette Square Buffalo, NY 14203	National Fuel Gas Company, et al.		
John W. Morrison, 5535 Hempstead Way Springfield, VA 22151	National Assn for Uniformed Services	1,026.67	
Lynn Morrison, 311 Massachusetts Avenue, NE Washington, DC 20002	Washington Health Advocates	26,540.50	
Mark E. Morrison, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	2,000.00	
William C. Morrison, 2001 North Adams St. Arlington, VA 22201	Meat Importers Council of America, Inc		
Donald J. Morrissey, 1401 H Street, NW Washington, DC 20005	Investment Company Institute	1,374.31	1,193.93
Morrow Realty Co, Inc, P.O. Box 020887 Tuscaloosa, AL 35402-0887			
Valerie T. Morse, 453 New Jersey Avenue, SE Washington, DC 20003	Beneficial Management Corp	18,450.00	
Mortgage Bankers Assn of America, 1125 15th St., NW Washington, DC 20005		1,995,500.00	170,964.87
Ann P. Morton, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	15,752.33	104.00
Cheryl O. Morton, 1100 New York Avenue, NW, #1090 Washington, DC 20005	Synthetic Organic Chemical Manufacturers Assn	500.00	
Evelyn M. Morton, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,592.30	241.95
James C. Morton Jr., P.O. Box 19001 Greenville, SC 29602	Michelin Tire Corp	2,100.00	3,714.70
Gloria Moser, 1101 Vermont Ave., NW, #700 Washington, DC 20005	American Academy of Ophthalmology	2,025.00	
Russell N. Mosher, 950 N. Glebe Rd., #160 Arlington, VA 22203	American Boiler Manufacturers Assn, Inc		
Richard Moskowitz, 4301 Connecticut Ave., NW, #300 Washington, DC 20008	National Solid Wastes Management Assn (NSWMA)	500.00	
Ralph L. Moss, 1776 K Street, NW, #800 Washington, DC 20006	Seaboard Corporation	2,000.00	687.50
Robert E. Moss, 1401 H St., NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	3,713.98	2,396.35
Kate Moss Company, 1401 Eye Street, NW, #1100 Washington, DC 20005	Dean Witter Discover & Co		
Do	Nations Bank Corp	500.00	
Do	SBC Communications, Inc	1,625.00	
Do	Trans Union Corp	750.00	
Motion Picture Assn of America, Inc, 1600 Eye Street, NW Washington, DC 20006		27,981.58	27,981.58
Motor and Equipment Manufacturers Association, 1325 Pennsylvania Ave., NW, #600 Washington, DC 20004			1,000.00
Robert J. Mrazek, 301 Constitution Ave., NE Washington, DC 20002	Douglas Elliman Co	10,000.00	
Mudge Rose Guthrie Alexander & Ferdon, 1200 19th Street, NW, #400 Washington, DC 20036	American Home Products Corp		
Do	Asociacion Nacional de Industriales	2,650.00	2,838.00
Do	Bristol-Myers Squibb Co		
Do	Footwear Distributors & Retailers of America		
Do	Hong Kong Trade Development Council		
Do	Johnson & Johnson		
Do	Major League Baseball		
Do	Onondaga County Resource Recovery Agency	550.00	180.00
Do	Pfizer, Inc	275.00	90.00
Do	Safe Transit & Rail Transportation	3,975.00	1,325.00
Do	Upjohn Co		
Terry L. Muilenburg, 1701 K Street, NW, Suite 400 Washington, DC 20006	USA Group	7,498.92	243.97
Muldoon Murphy & Faucette, 5101 Wisconsin Ave., NW, #508 Washington, DC 20016	Astoria Federal Savings & Loan Assn	700.00	61.74
Do	Collective Federal Savings Banks	700.00	34.22
Do	GP Financial Corp	700.00	369.94
Do	Talman Home Federal Savings and Loan Assn	700.00	250.30
Heather M. Mullen, 325 7th St., NW, #1200 Washington, DC 20004	Pfizer, Inc	1,200.00	150.00
Mullenholz Brimsek & Belair, 1150 Connecticut Ave., NW, #700 Washington, DC 20036	Airforwarders Assn	1,200.00	
Do	City of Fergus Falls, MN	570.00	
Do	Delaware & Hudson Railroad		
Do	Florida East Coast Railway Co		
Do	National Air Cargo	400.00	
Do	North American Equipment Dealers Assn	5,978.25	
Do	Soo Line Corporation	5,150.00	
Do	Taca International Airlines		
Do	Trade Assn Healthcare Coalition	455.00	
William J. Mulligan, 1401 Eye Street, NW, Suite 1200 Washington, DC 20005	Chevron Companies	150.00	
Thomas S. Mullikin, 1315 Monument Square P.O. Box 745 Camden, SC 29020	Laidlaw Environmental Services	9,000.00	4,280.18
Tracy Mullin, 325 7th Street, NW, #1000 Washington, DC 20004	National Retail Federation	2,500.00	35.00
Lisa J. Mullings, 1199 North Fairfax St., #801 Alexandria, VA 22314	NATSO, Inc		
Edgar J. Mullins, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	5,000.00	3,858.24
Kevin C.W. Mulvey, 1455 Pennsylvania Ave., NW, Suite 900 Washington, DC 20004	American International Group, Inc	3,000.00	50.00
Cyril D. Murphy, 1707 L Street, NW, Suite 300 Washington, DC 20036	United Airlines, Inc	100.00	
Edward L. Murphy, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	3,000.00	
James P. Murphy, 56 East 42nd Street, #346 New York, NY 10017	Fleet Financial Group, Inc	15,000.00	
Jeanne Marie Murphy, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	8,000.00	
Michael M. Murphy, 1101 17th St., NW, #400 Washington, DC 20036	American President Companies, Ltd, et al.		
Hyde H. Murray, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	9,500.00	
James V. Murray, 801 Pennsylvania Avenue, NW, #230 Washington, DC 20004	Union Carbide Corp	1,500.00	
Richard D. Murray, 1133 15th Street, NW, #640 Washington, DC 20005	American Logistics Assn		
Rosemary Griffin Murray, Crystal Park Four, 2345 Crystal Drive Arlington, VA 22227	USAir, Inc		
Murray Scheer & Montgomery, 2715 M Street, NW, #300 Washington, DC 20007	Cleveland Cliffs Iron Co	1,000.00	15.00
Do	Iron Ore Assn	1,200.00	15.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Mine Safety Appliances	1,100.00	45.00
Do	Mutual of New York	800.00	30.00
Do	National Council of Coal Lessors	600.00	10.00
Do	New England Life Insurance Co	800.00	30.00
Do	Pacific Mutual Life Insurance Co	800.00	25.00
Do	Penn Mutual Life Insurance Co	800.00	25.00
Do	PepsiCo	800.00	35.00
Do	Piedmont Environmental Council	2,600.00	30.00
Do	Porsche Cars North America, Inc	1,000.00	25.00
Do	Qualimetrics, Inc	500.00	25.00
Do	Shubert Organization, Inc	900.00	10.00
Do	State Mutual Insurance Co	800.00	20.00
Do	Swaziland Sugar Assn	3,465.00	10.00
Richard Murrell, Maritime Building, 3rd Floor 4 East Port Road Riviera Beach, FL 33404	NICOR, Inc		
R. C. Murtha, 614 N. 3rd Street Harrisburg, PA 15230	Westinghouse Electric Corp		30.00
Susan T. Muskett, 227 Massachusetts Ave., NE, #101 Washington, DC 20002	Christian Coalition	10,728.64	
William D. Mutch, 2500 Wilson Boulevard, Suite 301 Arlington, VA 22201	American Apparel Manufacturers Assn	1,000.00	50.00
Robert J. Muth, 180 Maiden Lane New York, NY 10038	Asarco, Inc	3,150.00	1,674.00
Mutual Life Insurance Co Tax Committee, One Madison Ave. New York, NY 10010-3690			
Lawrence D. Muzzy, 2200 W. Salzburg Road, Mail #W281 Midland, MI 48611	Dow Corning Corp		
Deborah B. Myers, 1747 Pennsylvania Ave., NW, Suite 700 Washington, DC 20006	Ciba	5,500.00	
Gary D. Myers, 501 2nd Street, NE Washington, DC 20002	Fertilizer Institute	4,500.00	397.40
Karen Magee Myers, 1331 Pennsylvania Ave., NW, #1300-N Washington, DC 20004	Electronic Data Systems Corp	88.00	
Roland H. Myers III, 3138 North 10th St., #300 Arlington, VA 22201	National Assn of Federal Credit Unions	1,250.00	
William G. Myers III, 1301 Pennsylvania Avenue, NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Nabisco, Inc, 7 Campus Drive Parsippany, NJ 07054			1,500.00
Steven T. Nadherny, 2101 L Street, NW, Suite 405 Washington, DC 20037	Electric Generation Assn	86.44	
Alan Y. Naftalin, 1150 Connecticut Avenue, NW Washington, DC 20036	Koteen & Naftalin (For:Alascom, Inc)		
Do	Koteen & Naftalin (For:Telephone & Data Systems, Inc)		
Laurie Naismith, 1150 17th Street, NW, Suite 307 Washington, DC 20036	Chambers Development Co, Inc	18,000.00	
Martha Naismith, 1350 Eye Street, NW, Suite 810 Washington, DC 20005	Johnson & Johnson HMI	995.21	
Kennon H. Nakamura, 2101 E Street, NW Washington, DC 20037	American Foreign Service Assn	12,462.00	106.00
Gerald F. Nalepa, 1627 I Street, NW, #1200 Washington, DC 20006	Air Liquide America Corp	2,500.00	
John Francis Nash Jr., 910 16th Street, NW, #402 Washington, DC 20006	Milliken & Company	5,000.00	1,000.00
National Air Carrier Assn, 1730 M St., NW, #806 Washington, DC 20036			
National Air Traffic Controllers Assn, 1150 17th Street NW #701 Washington, DC 20036		41,744.23	4,922.12
National Aquaculture Assn, P.O. Drawer 1569 Shepherdstown, WV 25443		1,585.00	8,184.82
National Assn for Biomedical Research, 818 Connecticut Ave., NW, #303 Washington, DC 20006		22,077.00	6,980.35
National Assn for Uniformed Services, 5535 Hempstead Way Springfield, VA 22151		1,516.40	13,490.40
National Assn of Broadcasters, 1771 N Street, NW Washington, DC 20036		240,516.28	240,516.28
National Assn of Chain Drug Stores, Inc, P.O. Box 1417-D49 Alexandria, VA 22313			8,000.00
National Assn of Children's Hospitals, 401 Wythe Street Alexandria, VA 22314		23,987.71	320.98
National Assn of Children's Hospitals & Related Institutions, 401 Wythe Street Alexandria, VA 22314			
National Assn of Federal Veterinarians, 1101 Vermont Avenue, NW, #710 Washington, DC 20005			97.80
National Assn of Independent Colleges & Universities, 1025 Connecticut Ave, NW, #700 Washington, DC 20036			128,221.36
National Assn of Letter Carriers, 100 Indiana Ave., NW Washington, DC 20001		7,870,637.13	162,262.24
National Assn of Manufacturers, 1331 Penn Ave., NW 15th Floor, N. Lobby Washington, DC 20004-1703		755,365.95	755,365.95
National Assn of Mutual Insurance Cos, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268		620.50	725.16
National Assn of Police Organizations, Inc, 750 First Street, NE, Suite 935 Washington, DC 20002-4241		22,900.00	22,838.00
National Assn of Real Estate Investment Trusts, Inc, 1129 20th St., NW, #705 Washington, DC 20036			337.00
National Assn of Realtors, 430 North Michigan Avenue Chicago, IL 60611-4087			42,536.33
National Assn of Truck Stop Operators, Inc, 1199 N. Fairfax Street, #801 Alexandria, VA 22314			
National Automobile Dealers Assn, 8400 Westpark Drive Mclean, VA 22102			36,780.00
National Beer Wholesalers Assn, 1100 South Washington Street Alexandria, VA 22314-4494		12,584.10	47,406.80
National Broiler Council, 1155 15th St., NW Washington, DC 20005		4,500.00	4,500.00
National Club Association, Washington Harbour 3050 K Street, NW, #330 Washington, DC 20007			2,731.00
National Comm to Preserve Social Security & Medicare, 2000 K Street, NW, #800 Washington, DC 20006		2,696,816.00	2,696,816.00
National Comm Against Repressive Legislation, 3321 12th Street, NE Washington, DC 20017		105.00	4,045.32
National Community Action Foundation, Inc, 2100 M Street, NW, #604A Washington, DC 20037		89,786.46	47,859.37
National Corn Growers Assn, 201 Massachusetts Ave., NE Suite C-4 Washington, DC 20002		15,281.75	27,692.06
National Cotton Council of America, P.O. Box 12285 Memphis, TN 38182		47,382.59	47,382.59
National Council for Languages & Int'l Studies, 300 Eye Street, Suite 211 Washington, DC 20002		22,689.78	39,317.77
National Council of Farmer Cooperatives, 50 F Street, NW, #900 Washington, DC 20001		14,427.25	10,843.85
National Council on Alcoholism & Drug Dependence, Inc, 1511 K Street, NW, #443 Washington, DC 20005			5,557.00
National Court Reporters Assn, 8224 Old Courthouse Road Vienna, VA 22182-3808			
National Education Assn, 1201 16th St., NW Washington, DC 20036		40,401.56	40,401.56
National Electrical Manufacturers Assn, 2101 L Street, NW, #300 Washington, DC 20037		4,182.04	4,182.04
National Employee Benefits Institute, 601 Pennsylvania Ave., NW, #750 North Washington, DC 20004			261.00
National Fed of Independent Business, 53 Century Blvd., #300 Nashville, TN 37214		44,277.00	44,277.00
National Food Processors Assn, 1401 New York Avenue, NW, #400 Washington, DC 20005		1,250.00	42,868.52
National Glass Assn, 8200 Greensboro Drive, #302 McLean, VA 22102		3,500.00	7,000.00
National Grain & Feed Assn, 1201 New York Avenue, NW, #830 Washington, DC 20005-3917			11,700.00
National Grain Trade Council, 1300 L Street, #925 Washington, DC 20005			4,025.00
National Grange, 1616 H St., NW Washington, DC 20006		17,875.00	17,875.00
National Grass Roots & Communications, Inc, 116 N. Saint Asaph Street Alexandria, VA 22314	Coalition for Auto Repair Equality		
Do	Wal-Mart		
National Grocers Assn, 1825 Samuel Morse Drive Reston, VA 22090		3,000.00	1,000.00
National Guard Assn of the U.S., One Massachusetts Ave., NW Washington, DC 20001		45,206.41	33,949.83
National Independent Energy Producers, 601 13th Street, NW, #320 South Washington, DC 20005		103,912.50	15,207.67
National Leased Housing Assn, 1300 19th Street, NW, #410 Washington, DC 20036		2,000.00	2,000.00
National Milk Producers Federation, 1840 Wilson Blvd. Arlington, VA 22201		15,118.10	15,118.10
National Motorists Assn, 6678 Pertzborn Road Dane, WI 53529			9,594.33
National Multi Housing Council, 1850 M Street, NW, Suite 540 Washington, DC 20036		22,141.97	22,141.97
National Newspaper Assn, 1525 Wilson Blvd., #550 Arlington, VA 22209		6,300.00	6,300.00
National Pest Control Assn, 8100 Oak St. Dunn Loring, VA 22027			
National Realty Committee, 1420 New York Ave., NW, Suite 1100 Washington, DC 20005		9,615.39	9,615.39
National Right to Work Committee, 8001 Braddock Rd., #600 Springfield, VA 22160		12,246.98	12,246.98
National Rural Electric Cooperative Assn, 1800 Massachusetts Ave., NW Washington, DC 20036			3,596.15
National Society of Professional Engineers, 1420 King Street Alexandria, VA 22314		10,100.00	10,100.00
National Soft Drink Assn, 1101 16th St., NW Washington, DC 20036			2,407.80
National Stone Assn, 1415 Elliot Place, NW Washington, DC 20007			
National Strategies, Inc, 888 17th Street, NW, 12th Floor Washington, DC 20006	Cellular Telecommunications Industry Assn	5,780.00	57.72
Do	CIGNA Corporation	33,842.00	1,264.59
Do	Edison Electric Institute	1,781.00	
Do	General Reinsurance Co	16,522.50	692.74
Do	Instinet	37.50	0.25
Do	Reuters North America, Inc	7,500.00	882.95
Do	Superfund 1995 Reform Coalition	11,250.00	832.21
Do	Triarc Companies, Inc.		
National Truck Equipment Assn, 37400 Hills Tech Drive Farmington Hills, MI 48331-3414			6,343.70
National Wildlife Federation, 1400 16th Street, NW Washington, DC 20036-0001			47,269.28
National-American Wholesale Grocers' Assn, 201 Park Washington Court Falls Church, VA 22046		15,000.00	15,000.00
Natural Gas Supply Assn, 1129 20th St., NW, #300 Washington, DC 20036		5,785.00	123,683.69
Michael W. Naylor, 1001 Pennsylvania Ave, NW, #700 Washington, DC 20004-2502	Allied-Signal, Inc		
Rick J. Neal, 1800 South Baltimore Avenue Tulsa, OK 74119	Mapco, Inc	5,250.00	
Mark Nebergall, 1730 M Street, NW, Suite 700 Washington, DC 20036	Software Publishers Assn	2,750.00	75.00
Thayne T. Needles, 1129 20th Street, NW, Suite 305 Washington, DC 20037	National Assn of Real Estate Investment Trusts, Inc		23.00
Roy M. Neel, 1401 H Street, NW, #600 Washington, DC 20005	U.S. Telephone Assn	8,250.00	
Janet E. Neigh, 519 C Street, NE Washington, DC 20002	Hospice Assn of America	35.00	
Neighbor-To-Neighbor Action Fund, 2601 Mission Street, #400 San Francisco, CA 94110		14,140.00	155,293.00
Frederick W. Neill, 600 5th Street Aurora, IL 60505			
Lori M. Nelson, P.O. Box 25354 Woodbury, MN 55125-0354	National Parks & Conservation Assn		502.30
Mark E. Nelson, 1341 G Street, NW, #620 Washington, DC 20005	GTT Communications, Inc	3,000.00	1,500.00
Michael A. Nelson, 201 North Washington Street Alexandria, VA 22314	Retired Officers Assn		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Paul Nelson, 1747 Pennsylvania Ave., NW, Suite 900 Washington, DC 20006	Federal National Mortgage Assn	1,500.00	1,025.00
Do	Institute of International Bankers	6,000.00	1,350.00
Do	Investment Company Institute	2,000.00	1,250.00
Michael A. Nemeroff, 1722 Eye Street, NW 7th Floor Washington, DC 20006	Sidley & Austin (For:Borden, Inc)		
Do	Sidley & Austin (For:Forensic Technology, Inc)		
Frederick H. Nesbitt, 1750 New York Avenue, NW Washington, DC 20006	International Assn of Fire Fighters	19,911.00	
Alexander Netchvolodoff, 1320 19th Street, NW, #200 Washington, DC 20036	Cox Enterprises, Inc		50.00
Network, 801 Pennsylvania Avenue, SE Suite 460 Washington, DC 20003-2167		54,943.17	57,822.38
E. John Neumann, 701 Pennsylvania Ave., NW Washington, DC 20004	Edison Electric Institute	2,915.47	3,097.21
Louis H. Nevins, 1960 E. Grand Avenue, #1000 El Segundo, CA 90245	Western League of Savings Institutions	6,561.00	
New York State Bankers Assn, 485 Lexington Avenue New York, NY 10017		12,000.00	12,676.00
William B. Newman Jr., P.O. Box 23451 Washington, DC 20024	Consolidated Rail Corporation	5,500.00	384.66
Richard W. Newpher, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	14,375.00	28.00
Stephen M. Newton, Box 95385 Atlanta, GA 30347-0385	Forest Farmers Assn		
Daniel A. Nichols, One Giralda Farms Madison, NJ 07940-1000	Schering-Plough Corp	2,500.00	
Frederic A. Nichols, 1331 Pennsylvania Ae., NW, #1500-N Washington, DC 20004-1790	National Assn of Manufacturers	10,936.00	
Julie L. Nichols, 1101 17th Street, NW, Suite 600 Washington, DC 20036	American Airlines, Inc	662.55	
E. Bruce Nicholson, 1800 M St., NW Washington, DC 20036	American Bar Assn	400.00	50.00
Marlene Nicholson, 1722 Eye St., NW, Fifth Floor Washington, DC 20006	Barclays Bank, PLC	11,000.00	134.45
Ronald G. Nickson, 1850 M Street, NW, #540 Washington, DC 20036	National Multi Housing Council	675.00	
David P. Nicoli, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	1,500.00	126.98
Scott H. Nishioki, 1275 Pennsylvania Ave., NW, #400 Washington, DC 20004	Pacific Telesis Group	12,186.00	
Alan Nissalke, 1133 15th Street, NW, #640 Washington, DC 20005	American Logistics Assn		
William A. Nitze, 1725 K Street, NW, #914 Washington, DC 20006	Alliance to Save Energy		
Allan Noe, 1156 15th Street, NW Washington, DC 20005	National Agricultural Chemicals Assn		
Walker F. Nolan, 701 Pennsylvania Ave., NW 4th Floor Washington, DC 20004	Edison Electric Institute		
Non Commissioned Officers Assn, P.O. Box 33610 San Antonio, TX 78265			78,938.76
Nonprescription Drug Manufacturers Assn, 1150 Connecticut Ave., NW, #1200 Washington, DC 20036			3,276.00
David A. Norcross, 1156 15th Street, NW, #550 Washington, DC 20005	Blank Rome Comisky & McCauley (For:CIGNA Corporation)	1,650.00	
Do	Blank Rome Comisky & McCauley (For:Hill International, Inc)	850.00	
Do	Blank Rome Comisky & McCauley (For:Maritime Exchange for the Delaware River & Bay).	275.00	
Julia J. Norrell, 1155 Connecticut Ave., NW, #400 Washington, DC 20036	Chubb Corp	200.00	
Do	Employers Health Insurance Co	250.00	
Do	Health Insurance Association of America	400.00	
Do	Lincoln National Corp	300.00	
Do	National Assn of Insurance Brokers	200.00	
Do	UNUM Life Insurance Co	350.00	
Do	Washington National Insurance Corp	250.00	
North American Export Grain Assn, Inc, 1300 L Street NW, #900 Washington, DC 20005-4113			32.25
Patrice North-Rudin, 1100 New York Ave., NW, Suite 450 Washington, DC 20005-3934	Travel & Tourism Gov't Affairs Council	2,723.00	
Northeast Utilities Service Co, 107 Selden Street Berlin, CT 06037			6,689.55
Rita Ersfeld Norton, 1300 Eye Street, NW, Suite 520 West Washington, DC 20005	Hoffmann-La Roche, Inc	4,000.00	868.83
Julie Noufer, 8607 Westwood Center Drive, #204 Vienna, VA 22182	Professional Services Council	2,500.00	
Mary Ann Novak, 700 11th Street, NW, #710 Washington, DC 20001	Parsons Brinkerhoff Quade & Douglas, Inc	100.00	
Nuclear Energy Institute, 1776 I Street, NW, #400 Washington, DC 20006		920,160.00	171,606.00
Nussbaum & Wald, One Thomas Circle, NW #200 Washington, DC 20005	American Soc of Composers Authors & Publishers		
Do	National Football League Players Assn	4,000.00	
J. Michael Nussman, 1033 N. Fairfax Street Suite 200 Alexandria, VA 22314	American Sportfishing Assn	4,419.16	211.13
Nutritional Health Alliance, P.O. Box 25317 Washington, DC 20007		21,272.00	75,242.13
Franklin W. Nutter, 1301 Pennsylvania Ave., NW, #900 Washington, DC 20004	Reinsurance Assn of America		
Terry L. Nyhous, 410 First Street, SE Washington, DC 20003	Friends of Fort Rucker, Inc		
Do	Hazardous Waste Action Coalition	5,250.00	
Do	Hughes Aircraft Co	4,500.00	
Do	Ingalls Shipbuilding	5,250.00	
Do	Kaman Diversified Technologies, Inc	2,625.00	
Do	Lister Bolt & Chain, Ltd	2,250.00	
Do	Lockheed Martin Corp	6,770.83	
Do	Teledyne Industries, Inc	11,250.00	
Scott Nystrom, 601 13th Street, NW, #410 South Washington, DC 20004	R. Duffy Wall & Associates, Inc	1,250.00	
Hubert K. O'Bannon, 50 F Street, NW Washington, DC 20001	Association of American Railroads	3,403.71	275.11
Lynne Fletcher O'Brien, 1447 Colleen Lane McLean, VA 22101	DuPont Merck Pharmaceutical Company	5,000.00	
Rosemary L. O'Brien, 1401 Eye Street, NW, #340 Washington, DC 20005	CF Industries, Inc	500.00	
Urban F. O'Brien III, 2000 Post Oak Boulevard Houston, TX 77056-4400	Apache Corporation	2,018.80	5,033.80
O'Brien Calio, 1350 Eye Street, NW, Suite 690 Washington, DC 20005	3M Corp		
James E. O'Connor, 900 19th Street, NW Washington, DC 20006	America's Community Bankers	23,750.00	144.00
Kelley E. O'Connor, 666 Pennsylvania Avenue, SE, #403 Washington, DC 20003	Florists' Transworld Delivery Assn	8,000.00	
Michael J. O'Connor, 11 Dupont Circle, NW, Suite 300 Washington, DC 20036	Albers & Company (For:May Department Stores Co)		
Patrick C. O'Connor, 1990 M Street, NW, #340 Washington, DC 20036	Kent & O'Connor, Inc (For:American College of Occupational & Environmental Medicine).	5,257.00	3,229.80
Do	Kent & O'Connor, Inc (For:American Supply Association)	730.00	478.49
Do	Kent & O'Connor (For:American Warehousemen's Association)	540.00	35.90
Do	Kent & O'Connor, Inc (For:National Assn of Fleet Administrators)	4,034.00	2,512.06
O'Connor & Hannan, 1919 Pennsylvania Ave., NW, #800 Washington, DC 20006	Alliance of Marine Parks and Aquariums		
Do	Aluminum Co of America	10,000.00	
Do	American Automobile Manufacturers Assn	3,000.00	
Do	American Clinical Laboratory Assn	300.00	
Do	American Forest & Paper Assn	85.71	
Do	American Petroleum Institute	4,000.00	
Do	ARCO	10,000.00	
Do	ASARCO, Inc	6,600.00	
Do	Bobby Berosini, Ltd		
Do	Camara Nacional de la Industria Pesquera	1,580.00	
Do	Coalition for Tax Equity	8,000.00	60.00
Do	Elf Atochem North America, Inc	1,400.00	
Do	Fishing Vessel Owners' Assn		
Do	Ft. Howard Corp		
Do	General Electric Co	3,500.00	
Do	Government of Peru		
Do	Health Images, Inc		
Do	Hercules, Inc	1,400.00	
Do	Kennecott	5,000.00	
Do	Lockheed Martin Corp	6,000.00	
Do	Mirage		
Do	Mobil	1,000.00	
Do	National Assn of Portable X-Ray Providers	8,100.00	
Do	National Automated Clearing House Assn		
Do	Ontario Flue-Cured Tobacco Growers Marketing Board		
Do	Pacific Seafood Processors Assn		
Do	PROEXPORT		
Do	Reynolds Metals Co	3,000.00	
Do	Joseph E. Seagram & Sons, Inc		
Do	Solid Waste Agency of Northern Cook County	2,648.50	
Do	Southeast Alaska Seiners Assn		
Do	State of Alaska	5,054.46	
Do	USX Corporation	1,400.00	
Do	Wards Cove Packing Company		
Do	Zeneca, Inc	2,860.00	
Thomas A. O'Day, 1211 Connecticut Avenue, NW, #400 Washington, DC 20036	Alliance of American Insurers	15,000.00	
Wayne O'Dell, 6004 Wilmington Dr. Burke, VA 22015	Cable Television Assn of MD, DE & DC	26,250.00	
Denise M. O'Donnell, 1875 Eye Street, NW, #775 Washington, DC 20006	Georgia-Pacific Corp		
John O'Donnell, 1776 I Street, NW, #400 Washington, DC 20006	Nuclear Energy Institute	8,400.00	2,956.00
Gerald P. O'Driscoll, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp/Citibank	500.00	
Jane O'Grady, 815 16th St., NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	20,393.23	105.35

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Terri O'Grady-Smith, 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America	1,489.48	725.67
Barbara E. O'Hara, 1101 King Street Alexandria, VA 22314	American Soc of Travel Agents	75.00	
Dean O'Hare, 15 Mountain View Road Warren, NJ 07061	Chubb Corporation		
O'Keefe Ashenden Lyons & Ward, 30 North La Salle, #4100 Chicago, IL 60602	Mutual of America		
Janet O'Keeffe, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn		
O'Melveny & Myers, 555 13th St., NW Washington, DC 20004	CIGNA Corp	837.00	53.80
Jim O'Neal, 4404 Fairfax Hill Plano, TX 75024	People for America		4,935.35
John Vincent O'Neill, 13411 Running Pump Ct. Herndon, VA 22071	Institute of Electrical & Electronics Engineers	2,944.00	1,020.00
William S. O'Neill, 500 E Street, SW, Suite 920 Washington, DC 20024	AOPA Legislative Action	12,125.00	2,813.62
Charles Robert O'Regan, Palumbo & Cerrell, Inc 1000 Connecticut Avenue, NW Washington, DC 20036	American Society of Composers, Authors & Publishers	9,855.00	192.00
Do	Atlantic Richfield Co	187.50	7.75
John T. O'Rourke, 801 Pennsylvania Avenue, N.W., 5th Floor Washington, DC 20004	Coaxial Communications		33.65
Do	Pacific Telesis	1,000.00	22.48
Do	PNC Mortgage Corp of America	750.00	66.78
Do	Securities Industry Assn	2,370.00	
Do	The Limited, Inc	2,813.00	27.58
Rita W. O'Rourke, 1875 Eye St., NW, #800 Washington, DC 20006	Philip Morris Companies, Inc		
John J. O'Shaughnessy, 112 S. West Street Alexandria, VA 22314	Strategic Management Associates, Inc (For:Greater New York Hospital Assn)	45,000.00	
Do	Strategic Management Associates, Inc (For:Mobile X-Ray Providers of America)	15,000.00	
Do	Strategic Management Associates, Inc (For:Montefiore Medical Center)	24,000.00	
Do	Strategic Management Associates, Inc (For:National Medical Enterprises, Inc)		
Do	Strategic Management Associates (For:New York Hospital)		
J. Denis O'Toole, 1000 Connecticut Ave., NW, Suite 507 Washington, DC 20036	Household Financial Group, Ltd	15,500.00	
M. Diane O'Toole, 1000 Wilson Blvd., #2300 Arlington, VA 22209	Northrop Grumman Corporation	1,400.00	503.84
Stephen E. O'Toole, 1660 L St., NW Washington, DC 20036	General Motors Corp	3,000.00	3,679.36
Mary Rose Oakar & Asssociates, Inc, 2621 Lorain Avenue Cleveland, OH 44113	National Assn of Geriatric Education Centers	2,000.00	
Paul C. Oakley, 50 F Street, NW Washington, DC 20001	Association of American Railroads	4,991.57	
Obadal & McLeod, P.C., 121 North Henry Street Alexandria, VA 22314	Associated Equipment Distributors		
James C. Odom Jr., 701 Pennsylvania Ave., NW Washington, DC 20004-2696	Edison Electric Institute	2,668.14	241.28
Neil H. Offen, 1666 K Street, NW, #1010 Washington, DC 20006	Direct Selling Association		
Joanne Ogaitis, 777 North Capitol Street, NE, #803 Washington, DC 20002	American Assn of Nurse Anesthetists	5,000.00	123.19
Donald G. Ogilvie, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn		
Marion Browne Oglesby Jr., 1455 Pennsylvania Ave., NW, #525 Washington, DC 20004	RJR Nabisco, Inc	5,000.00	
B. Robert Okun, 1299 Pennsylvania Ave., NW 11th Floor East Washington, DC 20004	National Broadcasting Co	3,250.00	835.12
Philip M. Ola, 1033 North Fairfax Street, #404 Alexandria, VA 22313	International Council of Shopping Centers	250.00	
Oldaker Ryan & Leonard, 818 Connecticut Avenue, NW, #1100 Washington, DC 20006	Aetna Life & Casualty	27,750.00	2,497.32
Do	American Assn of Retired Persons	818.18	13.82
Do	American Insurance Association	1,500.00	31.75
Do	American International Group, Inc		
Do	American President Lines	700.00	11.24
Do	Anheuser-Busch/BTT Working Group	3,750.00	17.72
Do	Association of American Railroads	11,833.20	
Do	Avis, Inc	4,500.00	107.03
Do	Browning-Ferris Industries	3,000.00	53.93
Do	Business Roundtable	3,000.00	95.58
Do	California Waterfowl Assn	750.00	59.90
Do	Carbonic Industries Corp	3,999.99	163.12
Do	Carbonic Reserves	3,999.99	163.12
Do	Central & South West	6,250.00	373.55
Do	Central Gulf Lines, Inc	700.00	11.24
Do	Champion International Corp		30.48
Do	Citibank		30.48
Do	Commonwealth Edison	1,875.00	
Do	CIGNA Corp	3,000.00	1,226.55
Do	Federal Express	4,500.00	287.36
Do	Ford Motor Co	1,500.00	80.66
Do	General Electric Co	3,000.00	15.24
Do	Grassland Water District	784.37	59.90
Do	Harsch Investment Co	697.80	22.98
Do	Hewlett-Packard Co	5,060.00	169.72
Do	Investment Company Institute	5,568.75	199.90
Do	Jones Intercable, Inc	6,750.00	65.11
Do	Liquid Carbonic Industrial Gases	9,000.00	734.00
Do	Lowe's Companies, Inc	2,250.00	47.59
Do	Matson Navigation Co	700.00	11.24
Do	MetraHealth	3,000.00	1,226.55
Do	MCI Communications Corp	750.00	16.91
Do	National Cable Television Assn		
Do	National Foreign Trade Council		34.75
Do	National-American Wholesale Grocers' Assn...	15,000.00	899.16
Do	Nuclear Energy Institute	7,200.00	670.70
Do	NPR, Inc	700.00	11.24
Do	Pain Enterprises, Inc	3,999.99	163.12
Do	Pfizer, Inc	4,500.00	1,569.87
Do	Phillip Morris, Inc	7,500.00	
Do	Piedmont Environmental Council	750.00	47.08
Do	Proctor & Gamble Co		30.48
Do	Prudential Insurance	3,000.00	1,226.55
Do	RJR Nabisco, Inc	2,700.00	18.67
Do	Sea-Land Service, Inc	700.00	11.24
Do	Texas Industries	6,750.00	527.90
Do	Union Pacific Co	5,000.00	11.32
Do	Vanderbilt University	1,200.00	36.59
Do	Williams Companies, Inc	1,875.00	26.82
Do	Working Group on R & D	2,250.00	179.66
Do	Ziff Investors Partnership	12,000.00	189.62
Nina Oligino, 1331 Pennsylvania Ave., NW, #512 Washington, DC 20004	Pennsylvania Power & Light Co	1,237.50	
Mike Oliva, 1301 K Street, NW, Suite 1200 Washington, DC 20005	IBM Corp	1,014.21	298.12
Heidi Belz Oliver, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	1,000.00	
R. Teel Oliver, 601 Pennsylvania Avenue, NW North Building, Suite 1200 Washington, DC 20004-2601	Merck & Co, Inc	3,000.00	500.00
Laura L. Olson, 1200 19th Street, #300 Washington, DC 20036	Smith Buklin & Assocs (for Amusement & Music Operators Assn)		
Sydney Olson, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
Olsson Frank & Weeda, 1400 16th Street, NW, #400 Washington, DC 20036-2220	American Academy of Audiology	10,500.00	
Do	Beef Products, Inc		
Do	Chocolate Manufacturers Assn/Nat'l Confectioners Assn	6,000.00	
Do	ConAgra, Inc	6,000.00	
Do	Council for Responsible Nutrition	3,750.00	
Do	Duramed Pharmaceuticals, Inc		
Do	General Mills	618.75	
Do	McDonald's Corporation		
Do	National American Wholesale Grocers Assn	7,875.00	
Do	National Assn of Margarine Manufacturers	405.50	
Do	National Assn of Pharmaceutical Manufacturers	14,368.00	
Do	National Food Processors Assn	13,878.00	
Do	National Frozen Pizza Instutute		
Do	PennField Oil Co	34,101.00	
Do	Pillsbury Company		
Do	Ross Laboratories	2,000.00	
Do	San Tomo Group	21.00	
Do	Schwan's Sales Enterprises, Inc	15,504.98	
Do	Southeastern Poultry & Egg Assn		
Do	Western States Meat Assn	5,000.00	
Franz M. Oppenheimer, 3000 K Street, NW, #300 Washington, DC 20007-5116	Association Francaise des Banques		
Do	Bremer Vulkan Verbund AG		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Commerzbank Aktiengesellschaft		
Stuart I. Oran, P.O. Box 66100 Chicago, IL 60666	United Airlines, Inc	100.00	
Organization of Professional Employees of USDA, Rm. SM-3-S U.S. Dept of Agriculture Washington, DC 20250		3,099.43	1,109.97
David S. Osterhout, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	6,000.00	
Tamar L. Osterman, 1785 Massachusetts Ave., NW Washington, DC 20036	National Trust for Historic Preservation	6,594.00	
Robert V. Oswald, 801 Pennsylvania Ave., NW, Suite 650 Washington, DC 20004	American Express Co	10,037.00	470.90
Richard D. Otis, 1275 K Street, NW, #400 Washington, DC 20005	American Plastics Council	8,386.00	5,179.25
Kathleen Galiher Ott, 1001 19th Street North #800 Arlington, VA 22209	TRW, Inc	7,303.74	702.99
Michael F. Ouellette, 225 N. Washington Street Alexandria, VA 22314	Non Commissioned Officers Assn	6,700.00	262.56
Arthur R. Ouslander, P.O. Box 23451 Washington, DC 20026	Consolidated Rail Corporation	2,667.00	1,183.31
Jack C. Overstreet, 1725 Jefferson Davis Highway Suite 300 Arlington, VA 22202	Lockheed Martin Corp	4,000.00	
Sally LaHue Owen, 900 19th Street, NW, #400 Washington, DC 20006	America's Community Bankers	18,000.00	180.29
Stephen F. Owen Jr., 107 Park Washington Court Falls Church, VA 22046	Classroom Publishers Assn		
Thomas E. Owens, 815 16th Street, NW, #309 Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	19,190.60	619.86
Thomas J. Owens, P.O. Box 12266 Seattle, WA 98102	Dollar Savings Bank, et al.	81,800.00	22,664.75
William J. Owens, 1745 Jefferson Davis Highway, #511 Arlington, VA 22202	Manufactured Housing Institute	450.00	156.29
OSHA Reform Project 1995, c/o John Bolt P.O. Box 877 Eastland, TX 76448		49,827.93	30,981.44
Pacific Northwest Waterways Assn, P.O. Box 61473 Vancouver, WA 98666-1473		47,316.00	5,231.75
Thomas L. Pacino, 1101 Mercantile Lane, #100 Landover, MD 20785	Association of Growth Enterprises, Inc		
Joel Packer, 1201 16th Street, NW Washington, DC 20036	National Education Assn	4,217.25	115.75
Lee W. Paden, P.O. Box 201 Tulsa, OK 74102	Public Service Co of Oklahoma		
Anthony Padilla, 815 16th Street, NW, #511 Washington, DC 20006	Transportation Communications Union	3,000.00	100.32
Barbara Page, 401 Coors Boulevard, NW Albuquerque, NM 87121	Westland Development Co., Inc		
John Palafoutas, 1901 Pennsylvania Ave., NW, #210 Washington, DC 20006	AMP, Inc	2,000.00	
Fredrick D. Palenske, 1133 Topeka Boulevard Topeka, KS 66629	Blue Cross & Blue Shield of Kansas		
Michael C. Palmer, 1350 I St., NW, Suite 590 Washington, DC 20005	College of American Pathologists	2,620.00	
Benjamin L. Palumbo, 1000 Connecticut Avenue, NW, #706 Washington, DC 20036	Palumbo & Cerrell, Inc (For:American Soc of Composers Authors & Publishers)	17,675.00	427.38
Do	Palumbo & Cerrell, Inc (For:Atlantic Richfield Co)	1,037.50	12.25
Do	Palumbo & Cerrell, Inc (For:Los Angeles County Metropolitan Transit Authority)	575.00	8.00
Do	Palumbo & Cerrell, Inc (For:Pennsylvania Institute of Technology)	675.00	
Palumbo & Cerrell, Inc, 1000 Connecticut Ave. NW, #706 Washington, DC 20036	American Soc of Composers Authors & Publishers	105,000.00	57,498.71
Do	Atlantic Richfield Co	27,000.00	7,938.37
Do	Los Angeles County Metropolitan Transportation Authority	12,726.00	8,936.25
Do	Pennsylvania Institute of Technology	9,359.00	3,893.82
Vincent A. Panvini, 1750 New York Ave., NW Washington, DC 20006	Sheet Metal Workers' Internatinional Assn	19,731.00	
PanAmSat, LP, One Pickwick Plaza Greenwich, CT 06830			1,017.00
Jonathan R. Paret, 1401 I Street, NW, #1000 Washington, DC 20005	Securities Industry Assn	4,451.00	
Akhandal Parija, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	2,100.00	200.00
Nancy L. Parke, 5410 Grosvenor Lane, #100 Bethesda, MD 20814-2122	American Congress on Surveying & Mapping	2,692.65	
Bruce J. Parker, 1730 Rhode Island Ave., NW, #1000 Washington, DC 20036	National Solid Wastes Management Assn	500.00	
Richard H. Parker, 1301 Leeland, #300 Houston, TX 77002	Citizens Insurance Co of America	10,000.00	1,817.65
Tom V. Parker, Arkansas Petroleum Council One Riverfront Place, #460 North Little Rock, AR 72114	American Petroleum Institute	2,708.00	2,069.07
Leslie Parks, 1776 I Street NW, #400 Washington, DC 20006	Nuclear Energy Institute	1,760.00	1,850.00
Ann M. Parman, 2101 Wilson Blvd., #610 Arlington, VA 22201	Manufactured Housing Institute	650.00	
Charles C. Partridge, 5535 Hempstead Way Springfield, VA 22151	National Assn for Uniformed Services	5,760.17	
Caren Pasquale, 3000 K Street, NW, Suite 620 Washington, DC 20007	Merrill Lynch & Co	1,200.00	
Andrea B. Passarelli, 3025 South Parker Road, #1100 Aurora, CO 80014	TeleCheck Services, Inc		
Enzo Pastore, 2000 K Street, NW, Suite 800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,838.00	
Richard A. Pate, 1130 Connecticut Ave., NW, SUite 830 Washington, DC 20036	Southern Company Services, Inc	8,273.96	7,800.82
John Patrick, 211 Pucketts Ferry Road Greenwood, SC 29649	Fuji Photo Film, Inc		3,300.00
Gary B. Patterson, Delaware Petroleum Council P.O. Box 1429 Dover, DE 19903-1429	American Petroleum Institute		
Jerry M. Patterson, Burke Williams & Sorenson 3200 Park Center Drive, #750 Costa Mesa, CA 92626	City of Lake Forest	5,012.50	2,008.08
Do	Burke Williams & Sorensen (For:City of Santa Clarita)	1,440.00	
Laird D. Patterson, 1667 K Street, NW, Suite 600 Washington, DC 20006	Bethlehem Steel Corp	240.00	
C. James Patti, 1775 K Street, NW, #200 Washington, DC 20006	Maritime Institute for Research & Industrial Development	7,698.04	
Charles R. Patton, 1050 17th Street, NW, Suite 1250 Washington, DC 20036	Houston Industries, Inc	1,500.00	
Patton Boggs, L.L.P., 2550 M Street, NW Washington, DC 20037	Ad Hoc Coalition for Intermarket Coordination		
Do	Admiralty Lawyers' Trust	240.00	
Do	American Bankers Assn	950.00	
Do	American College of Gastroenterologists	677.50	
Do	American Institute of Merchant Shipping		
Do	American Medical Security		
Do	American Soc of Assn Executives	1,831.25	50.00
Do	Armco, Inc		
Do	Association of Trial Lawyers of America	1,832.50	145.00
Do	Bio Compression Systems, Inc	502.50	50.00
Do	Blair Corporation	2,000.00	
Do	Blue Cross of California	192.50	
Do	Blue Cross of Western Pennsylvania		
Do	Bright Beginnings Inc.		
Do	Bristol Myers/Squibb Corp		
Do	Brown & Williamson Tobacco Corp		
Do	BDM Federal, Inc		
Do	BIC Corporation		
Do	Center for Molecular Medicine & Immunology		
Do	Chamber of Commerce Health Care Coalition		
Do	Charlotte North Carolina Federal Liaison Task Force		
Do	Cherokee Nation of Oklahoma	5,250.00	
Do	Cherokee Nation Industries, Inc		
Do	Christopher Columbus Center Development, Inc		
Do	Chrysler Corporation		
Do	City of Baltimore		
Do	City of Cincinnati		
Do	Climate Council		
Do	Clorox Company		
Do	Coalition for Local Government Choice on Flow Control	1,606.25	326.00
Do	Coalition on State Use Taxes	2,000.00	
Do	College Savings Bank	1,102.50	60.00
Do	Council on Community Blood Centers	97.50	
Do	CH2M Hill Companies, Ltd		
Do	Denver Colorado Planning Department		
Do	Direct Marketing Assn, Inc		
Do	Dole Food Co	5,326.00	
Do	Drycleaner Environmental Legislative Fund		
Do	Duty Free Shoppers Group, Ltd		
Do	DuPont-Merck		
Do	Embassy of the State of Qatar	240.00	
Do	Fastship Atlantic, Inc		
Do	Federation of American Health	3,150.00	42.00
Do	First Union Corp	2,506.25	
Do	Flexi-Van Leasing, Inc		
Do	Forethought Group/Forethought Life Insurance Co		
Do	Freedom to Advertise Coalition	3,141.25	623.90
Do	FAG Kugelfischer Georg Schager KGaA		
Do	George Mason University Foundation, Inc		
Do	Government of Pakistan	6,250.00	306.00
Do	Great American Lines, Inc		
Do	Greater Baltimore Committee Foundation		
Do	GE Capitol Services		
Do	Halogenated Solvents Industry Alliance	180.00	
Do	Hillenbrand Industries	295.00	
Do	Homesteaders Life Co		
Do	I-69 Mid-Continent Highway Coalition	397.50	22.00
Do	Infinity Broadcasting Corp	700.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	International Fabricare Institute		
Do	International Swaps Dealers Assn, Inc		
Do	International Union of Police Assns		
Do	Irvin Industries	360.00	
Do	J.P. Morgan & Co, Inc		
Do	Johnson Controls		
Do	Kaiser Aluminum & Chemical Corp		
Do	Laquidara & Edwards (for Jacksonville Transporation Auth)		
Do	Liberty Corp		
Do	Loop, Inc		
Do	Loyola University		
Do	Major League Baseball Players Assn	1,560.00	175.00
Do	Manhole Adjusting, Inc		
Do	Manor Care	4,525.00	26.00
Do	Marathon Oil Co		
Do	Mars, Inc	6,175.00	50.00
Do	Maryland Hospital Assn	195.00	
Do	Mashantucket Peqush Tribe		
Do	Mass Mutual	770.00	10.00
Do	Matson Navigation Co		
Do	MovieFone, Inc		
Do	Mutual Legislative Committee	385.00	
Do	MCI Telecommunications, Inc	2,687.50	40.00
Do	Nashua Corporation	1,290.00	15.00
Do	National Assn of Health Underwriters		
Do	National Assn of Life Underwriters		
Do	National Assn of Theatre Owners		
Do	National Automatic Merchandising Assn	716.25	
Do	National Cable Television Assn, Inc	131.25	
Do	National Propane Gas Assn		
Do	National Retail Federation (RITAC)	2,260.00	
Do	National Soft Drink Assn	720.00	10.00
Do	New England Student Loan Marketing Corp	3,150.00	85.00
Do	New York Life Insurance Company	770.00	
Do	Newspaper Assn of America	1,050.00	65.00
Do	Northwestern Mutual Life Insurance Co		
Do	NAFSO Coalition (Coalition on Indian Reform)		
Do	OSG Bulk Ships, Inc	147.50	
Do	Pacific Lumber Co	2,375.00	
Do	Preneed Insurers Gov't Programs Coalition		
Do	Project ACTA, Inc		
Do	PNC Financial Corp		
Do	Reader's Digest Assn, Inc	1,000.00	
Do	Reinsurance Assn of America		
Do	Reliance Group Holdings, Inc		
Do	Republic National Bank of New York	950.00	
Do	Raymond F. Schoenke Jr.	2,887.50	11.00
Do	Sedgwick James, Inc		
Do	Shell Oil Co		
Do	Sheriff Harry Lee		
Do	Charles E. Smith Companies	805.00	
Do	Smokeless Tobacco Council, Inc	6,431.25	125.00
Do	Sprat Bay Corp		
Do	Steel Service Center Institute		
Do	Sultantate of Oman		
Do	Susan G. Komen Foundation		
Do	Thomson US, Inc		
Do	Travelers		
Do	Triton Container		
Do	TANO Marine Systems		
Do	U.S. Tobacco Company		
Do	United Family Life		
Do	University of Arizona Foundation		
Do	USAir, Inc		
Do	USX Corporation		
Do	Viatical Assn of America	680.00	25.00
Do	Villa Julie College		
Do	Vulcan Materials Co		
Do	Wayne County Michigan		
Do	Westinghouse Electric Corp		
Do	Woodlands Corp		
Andrew R. Paul, 225 Reinekers Lane, #600 Alexandria, VA 22314	Satellite Broadcasting & Communications Assn	1,000.00	12.54
Paul Hastings Janofsky & Walker, 1299 Pennsylvania Ave., NW, 10th Floor Washington, DC 20004	Allegheny Power System Inc, et al.	3,900.00	
Do	Alliance for Competitive Communications	16,350.00	50.18
Do	Amdahl Corp		
Do	American Institute of Merchant Shipping	1,725.00	
Do	American President Companies	1,800.00	
Do	American Trucking Assns, Inc	2,850.00	
Do	Business Council on Indoor Air		
Do	Grocery Manufacturers of America, Inc		
Do	Kawasaki Motors Corp, USA		
Do	Morehouse College		
Do	Norfolk Southern Corp	3,375.00	
Do	Tyson Foods, Inc	5,250.00	
Do	Union Pacific Corp		
Gwen Gampel Paulson, 206 G Street, NE Washington, DC 20002	International Subacute Healthcare Assn	2,000.00	100.00
Do	Kinetic Concepts, Inc	2,000.00	
Do	Congressional Consultants (For:National Renal Administrators Assn)	3,000.00	100.00
Kristin E. Paulson, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	639.00	355.50
Terri Pauly, 1402 3rd Avenue, #424 Seattle, WA 98101	National Parks & Conservation Assn	190.00	91.00
Tommy J. Payne, 1455 Pennsylvania Ave., NW, #525 Washington, DC 20004	R.J. Reynolds Tobacco Co	4,335.00	168.57
Peabody & Brown, 1255 23rd Street, NW, #800 Washington, DC 20037	Council for Affordable and Rural Housing	2,000.00	
Do	Great Western Financial Corp	2,500.00	38.86
Do	National Leased Housing Assn	2,000.00	
Peace Political Action Committee, 110 Maryland Avenue, NE, #409 Washington, DC 20002			13,137.40
George A Peapples, 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corporation	3,600.00	9,481.30
Marc A. Pearl, 1616 N. Ft. Myer Dr., #1300 Arlington, VA 22209-3106	Information Technology Assn of America, Inc	2,000.00	
Norman E. Pearson, 125 N. West Street Alexandria, VA 22314-2754	Fleet Reserve Assn		
Ronald Pearson, 104 North Carolina, SE Washington, DC 20003	Pearson & Pipkin, Inc (For:Christian Action Network)		
Do	Pearson & Pipkin, Inc (For:National Motorists Assn)		
Do	Pearson & Pipkin (For:Physicians Who Care)		
Russell H. Pearson, 1156 15th Street, NW, #1015 Washington, DC 20005	J. C. Penney Co, Inc		121.09
Pearson and Pipkin, Inc, 104 North Carolina, SE Washington, DC 20003	Christian Action Network	3,000.00	
Do	National Motorists Assn	1,800.00	
Do	Physicians Who Care	1,500.00	
Joe P. Peck Jr., 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	750.00	111.36
Dean R. Peeler, P.O. Box 4220 Montgomery, AL 36103-4220	American Petroleum Institute	1,780.00	1,354.82
Mary Dwyer Pembroke, 1101 Pennsylvania Ave., NW, Suite 950 Washington, DC 20004	Federal Home Loan Mortgage Corp	3,000.00	376.98
George D. Pence, 9100 Mill Creek Landing Great Falls, VA 22066	WESPAC Constructers, Inc	3,000.00	430.50
Nicholas J. Penning, 1801 N. Moore Street Arlington, VA 22209	American Assn of School Administrators	6,750.00	
Brenda K. Pennington, 1250 Connecticut Ave., NW, Sutie 200 Washington, DC 20036	Cellular TElecommunications Industry Assn		
James C. Pennington, 5535 Hempstead Way Springfield, VA 22151	National Assn for Uniformed Services	3,755.41	
Pennsylvania Power & Light Co, 2 North 9th Street Allentown, PA 18101			17,183.29
Charles D. Penry, 4301 Wilson Boulevard Arlington, VA 22203	National Rural Electric Cooperative Assn	380.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Gregory M. Pensabene, Bogle & Gates, PLLC 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Domestic Petroleum Council	12.00	
Do	Santa Fe Energy Resources, Inc		
Do	Santa Fe Pacific Gold Corp		
Do	Viceroy Gold Corp	300.00	
Judith K. Pensabene, 1301 Pennsylvania Ave., NW, #1050 Washington, DC 20004	Baltimore Gas & Electric Co		592.03
Eugene K. Pentimonti, 1101 17th Street, NW, #400 Washington, DC 20036	American President Companies, Ltd	15,000.00	
People for America, Inc, 4404 Fairfax Hill Plano, TX 75024			6,134.08
Pamela Slane Pepe, 950 N. Washington Street Alexandria, VA 22314	American Academy of Physician Assistants	15,500.00	
Pepsico, Inc, 700 Anderson Hill Rd. Purchase, NY 10577			2,519.02
Perkins Coie, 607 14th Street, NW #800 Washington, DC 20005-2011	Boeing Company		
Do	Cook Inlet Region, Inc		
Do	James River II, Inc	2,062.50	2,600.00
Gary J. Perkinson, 453 New Jersey Ave., SE Washington, DC 20003	Beneficial Management Corp		
Jeffry L. Perlman, 1101 Vermont Avenue, NW, #500 Washington, DC 20005	American Advertising Federation	6,000.00	467.32
Karla Perri, 1111 19th Street, NW Washington, DC 20036	American Forest & Paper Assn		
Cidette S. Perrin, 1319 F Street, NW, Suite 1000 Washington, DC 20004	National Assn of Private Psychiatric Health Systems	500.00	
John Perrine, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	121.14	10.20
Beverly Perry, 1900 Pennsylvania Ave, NW Washington, DC 20068	Potomac Electric Power Company	95.04	
Edmund F. Perry, 1301 K Street, NW, Suite 1100 Washington, DC 20005	IBM Corp	3,335.00	49.00
Schley Louie Perry III, 1521 New Hampshire Avenue N.W. Washington, DC 20036	National Cotton Council of America	4,425.00	141.20
Susan Perry, 1100 New York Avenue, NW, #1050 Washington, DC 20005-3934	American Bus Assn	2,687.50	75.00
John C. Perryman, 333 Piedmont Avenue, 23rd Floor Atlanta, GA 30308	Georgia Power Co	21,255.36	5,225.28
Mark Pertschuk, 2530 San Pablo Ave, #J Berkeley, CA 94702	Americans for Nonsmokers' Rights		
Phillips S. Peter, 1200 18th Street, NW Washington, DC 20036	Reed Smith Shaw & McClay	600.00	
Robert Peters, 35 West 11th Street, #1R New York, NY 10011-3515	Morality in Media, Inc	272.00	
Robert L. Peters, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife		
Robert R. Petersen, 1300 L Street, #925 Washington, DC 20005	National Grain Trade Council		
Alan Peterson, 1505 Prince Street, #300 Alexandria, VA 22314	American Optometric Assn		
Helena Hutton Peterson, 1101 15th Street, NW Washington, DC 20005	Minnesota Mining & Manufacturing Co	2,500.00	
Kenneth W. Peterson, Kansas Petroleum Council 1005 Merchants Tower Topeka, KS 66612	American Petroleum Institute		
Joseph P. Petito, 1800 M Street, NW, #400 Washington, DC 20036	Coopers & Lybrand	2,200.00	20.00
Susan F. Petniunas, 1625 K Street, NW, #750 Washington, DC 20006	Manville Corporation	4,200.00	
Michael J. Petrina Jr., 1101 17th Street, NW, #300 Washington, DC 20036	Cosmetic Toiletry & Fragrance Assn, Inc	3,500.00	75.00
Stephan Petry, 4301 Wilson Blvd. Arlington, VA 22203	National Rural Electric Cooperative Assn	138.00	
C. L. Pettit, 1005 E Street, SE Washington, DC 20003	National Agricultural Aviation Assn		
Mitchell S. Pettit, 1133 Connecticut Ave., NW, #1000 Washington, DC 20036	Alliance for Competitive Communications	45,000.00	
Do	American Bankers Assn	33,000.00	523.06
Do	SBC Communications, Inc	60,000.00	1,754.10
Do	United Recycling Industries, Inc	7,000.00	
Steven J. Pfister, 325 7th Street, NW #1000 Washington, DC 20004	National Retail Federation	5,000.00	129.00
Kurt Pfotenhauer, 316 Pennsylvania Avenue, SE, #304 Washington, DC 20003	United Parcel Service	7,500.00	121.08
James R. Phalen, 1776 EYE Street, NW, #400 Washington, DC 20006	Nuclear Energy Institute	7,200.00	372.00
Marshall A. Pharr, 6103 Adirondack Amarillo, TX 79106	Southwestern Public Service Co	4,686.91	8.41
Dennis J. Phelan, 1101 17th St., N.W., #609 Washington, DC 20036	Pacific Seafood Processors Assn	25,000.00	406.00
Mary Frances Phelps, 1050 Connecticut Ave., NW, #760 Washington, DC 20036	Union Oil Co of California		
William W. Phelps, P.O. Box 2159 Dallas, TX 75221	FINA, Inc	6,525.08	5,251.60
James R. Phifer, 1700 N. Moore St., #1801 Arlington, VA 22209	Magnavox Electronic Systems Co	7,815.60	378.46
Edward J. Philbin, 1 Massachusetts Avenue, NW Washington, DC 20001	National Guard Assn of the U.S.	3,366.25	260.22
Barbara Phillips, 1818 N Street, NW Washington, DC 20036	AirTouch Communications	8,612.50	
Deirdre B. Phillips, 100 Federal Street Boston, MA 02110	First National Bank of Boston	2,925.00	3,872.47
Joseph M. Phillips, 1600 Rhode Island Ave., NW Washington, DC 20036	National Rifle Assn of America	2,750.00	158.50
Karen B. Phillips, 50 F Street, NW Washington, DC 20001	Association of American Railroads	4,040.38	254.94
William H. Phillips, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	2,192.60	
Kristine Phillips-Geddings, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	2,482.00	
Mary Elizabeth Piccione, 1629 K Street, NW, #501 Washington, DC 20006	Delta Air Lines, Inc	4,500.00	1,207.65
Joann Piccolo, 1350 I Street, NW, #400 Washington, DC 20005	Motorola, Inc	4,500.00	
Lori J. Pickford, 2301 M Street, NW Washington, DC 20037	American Public Power Assn	1,000.00	
Jim Pierce, 1420 King Street Alexandria, VA 22314-2794	National Society of Professional Engineers	1,000.00	
Pierson Semmes & Bemis, 1054 31st Street, NW Washington, DC 20007	Mauritius Sugar Syndicate		19.86
Steven J. Piguet, 1025 Connecticut Ave., NW, #1007 Washington, DC 20036	Armstrong World Industries, Inc		70.00
Jeffrey R. Pike, 1300 Connecticut Ave., NW, #600 Washington, DC 20036	Cabot LNG Shipping Corp	5,000.00	25.00
Do	Massachusetts Water Resources Authority	3,000.00	40.00
Do	National Wireless Resellers Assn	2,300.00	20.00
Do	Oceantrawl, Inc	6,000.00	65.00
Do	Patton Boggs, L.L.P.	15,000.00	89.00
Do	United Catcher Boats	7,500.00	108.00
Piliero Mazza & Pargament, Farragut Square 888 17th Street, NW, #1100 Washington, DC 20006	Latin American Management Assn		
Do	Villa Banfi, U.S.A		
Pillsbury Madison & Sutro, 1667 K St., NW, #1100 Washington, DC 20006	Securities Litigation Reform Coalition	688.00	
Valerie F. Pinson, 1724 Massachusetts Avenue, NW Washington, DC 20036	National Cable Television Assn, Inc	2,749.00	
Piper & Marbury, 1200 19th Street, NW, #700 Washington, DC 20036	Edison Electric Institute		
Peter A. Piscitelli, Wilson Elser Moskowitz Edelman & Dicker One Steuben Place Albany, NY 12207	Healthcare Asn of New York State	4,167.00	85.00
William H. Pitsenberger, 1133 Topeka Boulevard Topeka, KS 66629-0001	Blue Cross & Blue Shield of Kansas		
William R. Pitts Jr., 4767 North 24th Road Arlington, VA 22207	Capital Cities/ABC, Inc	3,124.94	54.00
Frank M. Pizzoli, 1335 North Front Street Harrisburg, PA 17102	Pennsylvania Chiropractic Society		
Planned Parenthood Fed of America, Inc, 1120 Connecticut Ave., NW, #461 Washington, DC 20036		6,862.44	6,862.44
Michael L. Platner, 1220 L Street, NW, Suite 900 Washington, DC 20005	American Petroleum Institute	10,210.00	235.84
Jon Plebani, 1801 K Street, NW, Suite 400K Washington, DC 20006	Arter & Hadden (For:Can Manufacturers Institute)		
Wyll W. Pleger, 1150 18th Street, NW, #200 Washington, DC 20036	Brown & Root, Inc		
E. R. Plourd, 400 N. Capitol Street, NW, #856 Washington, DC 20001	United Transportation Union	2,500.00	
Kraege Polan, 1315 Nueces Austin, TX 78701	Polan-Ingram Advocacy Group (For:Vermont Yankee Nuclear Power Corp)	2,000.00	1,060.00
Policy Consulting Services, Inc, 1707 L Street, NW, #725 Washington, DC 20036	Nissan Motor Company, Ltd		
Do	Nissan Motor Manufacturing Corp, U.S.A.		
Do	Nissan North America, Inc		
Policy Directions, Inc, 818 Connecticut Ave., NW, #325 Washington, DC 20006	Bausch & Lomb	1,200.00	862.00
Do	Carnation Nutritional Products	3,750.00	1,823.00
Do	Gynecare, Inc	300.00	270.00
Do		5,250.00	2,955.00
Diane Pollack, 1120 Connecticut Ave., NW, Suite 461 Washington, DC 20036	Planned Parenthood Federation of America	628.26	334.05
Michele Pollak, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons		
Alfred M. Pollard, 805 15th Street NW, #600 Washington, DC 20005	Bankers Roundtable	20,961.54	
Kris D. Polly, 3800 North Fairfax Drive, Suite 4 Arlington, VA 22203	National Water Resources Assn	3,125.00	
Mark D. Polston, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	2,737.68	
Kathryn Pontzer, 1383 Piccard Drive P.O. Box 1725 Rockville, MD 20849-1725	American Occupational Therapy Assn, Inc	5,000.00	
Pope McGlamry Kilpatrick & Morrison, 318 11th St., 2nd Floor Columbus, GA 31902	INSLAW, Inc		
John D. Porter, 1150 Connecticut Ave., NW, Suite 1125 Washington, DC 20036	Financial Executives Institute	10,640.00	
Potomac Research Group, 1747 Pennsylvania Ave., NW, Suite 1000 Washington, DC 20006	National Venture Capital Assn	12,000.00	1,113.06
Potomac Strategies & Analysis, Inc, P.O. Box 132 Clifton, VA 22024-0132	3M Company		
John Pottridge, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	25,000.00	
Jack R. Pounds, Betz Laboratories Inc 4636 Somerton Road Trevose, PA 19053	Betz Laboratories Inc		
Bridget Powell, 2722 Merrilee Dr., #360 Fairfax, VA 22031	International Bro of Boilermakers Iron Shipbuilders...	178.00	
Wayne A. Powell, 1101 Vermont Ave., NW, #700 Washington, DC 20005	American Academy of Ophthalmology	5,980.00	
Powell Goldstein Frazer & Murphy, 1001 Pennsylvania Ave., NW, 6th Floor Washington, DC 20004	U.S. Assn of Importers of Textiles & Apparel	5,000.00	
Jan Geiselman Power, 816 Connecticut Ave., NW, Suite 900 Washington, DC 20006	OHM Corp		
John J. Power, 815 16th St., NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	20,393.23	
Charles H. Powers, Porter/Navelli 1120 Connecticut Ave., NW Washington, DC 20036	MasterCard International	2,750.00	333.03
Libby L. Powers, 201 Massachusetts Ave., NE, #C-4 Washington, DC 20002	National Corn Growers Assn	2,500.00	
Linda F. Powers, 750 17th Street, NW, 4th Floor Washington, DC 20006	Enron Corporation	3,000.00	
Jill Poznick, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	2,833.00	
David J. Pratt, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn	850.00	
Russell R. Pratt, 1033 N. Fairfax St., #404 Alexandria, VA 22314	International Council of Shopping Centers	900.00	
Premark International, Inc, 1717 Deerfield Road Deerfield, IL 60015		4,000.00	4,000.00
S. Patrick Presley, 1776 I Street, NW, #1000 Washinton, DC 20006	BP America, Inc	2,000.00	
Preston Gates Ellis Rouvelas & Meeds, 1735 New York Avenue, NW, #500 Washington, DC 20006	Akitsu Shipping Co, Ltd		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	American Classic Voyages Company	350.00	
Do	American Forest & Paper Assn		
Do	American President Lines	398.00	
Do	ASARCO, Inc		
Do	Brown Forman Corp	2,906.00	
Do	Burlington Northern Railroad Co	3,562.00	
Do	Business Software Alliance	2,738.50	
Do	Calista Corp		
Do	Chambers Development Co, Inc		
Do	Coalition for Stability in Marine Financing	8,735.00	
Do	Coastal Transportation, Inc	2,438.00	
Do	Domino Sugar Corp	29,493.00	
Do	Dynasty Cruise Line, Inc		
Do	Embassy of Pakistan	14,203.50	
Do	Hazardous Waste Action Coalition		
Do	Hewlett-Packard Co		
Do	Intelsat		
Do	Intermodal Association of North America	7,296.00	
Do	Maruha Corporation		
Do	Massachusetts Port Authority	588.00	
Do	Microsoft Corp	9,381.50	
Do	Mining Law Coalition		
Do	Mormac Marine Group, Inc/Mormac Marine Transport, Inc		
Do	Muckleshoot Indian Tribe	247.50	
Do	National Council on Compensation Insurance		
Do	Natural Disaster Coalition	726.00	
Do	Nichiro Corp		
Do	Nissui Shipping Corp		
Do	Ocean Common Carrier Coalition	44,311.00	
Do	OMI Corp	16,692.00	
Do	Port of Seattle	440.00	
Do	Rokuchuo Marine Corp		
Do	Royal Seafoods, Inc	27,498.50	
Do	Seattle Housing Authority		
Do	Sunmar Shipping, Inc		
Do	Transportation Institute		
Do	Tri-City Industrial Development Council	306.00	
Do	University of Washington		
Do	USTF Conference Group		
Do	Washington State Hospital Assn		
Do	Western Sugar Co, Inc		
Woodruff M. Price, 1331 Pennsylvania Ave., NW, #560-South Washington, DC 20004	CSX Corporation	8,500.00	194.30
Sheila M. Prindiville, 4301 Connecticut Ave., NW #300 Washington, DC 20008	National Solid Waste Management Assn	500.00	
William Prindle, 1725 K St., NW, #914 Washington, DC 20006	Alliance to Save Energy		
Curtis A. Prins, 4708 Briar Patch Ct. Fairfax, VA 22032	Acclerated Payment Systems	9,000.00	
Do	American Collectors Assn	15,833.32	
Do	Credit Union National Assn	6,249.99	
Do	National Auctioneers Assn	15,000.00	
Do	U-Haul International	15,000.00	
Paul Clement Pritchard, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Association	950.00	442.89
Procompetitive Rail Steering Committee, c/o Vuono, Lavelle & Gray 2310 Grant Building Pittsburgh, PA 15219			
Project Acta, Inc, 1 Steppingstone Lane Kings Point, NY 11024			700.00
Project Advisory Group, 1625 K Street, NW, #725 Washington, DC 20006			431.93
Peter D. Prowitt, 1299 Pennsylvania Ave., NW, #1100 Washington, DC 20004-2407	General Electric Co	1,900.00	473.00
James C. Pruitt, 1050 17th St., NW, #500 Washington, DC 20036	Texaco Group, Inc		
Jerry Z. Pruzan, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co	600.00	
Alan C. Ptak, 916 Harriman Street Great Falls, VA 22066	Martin Marietta Corp	2,875.00	
Public Employee Department, AFL-CIO, 815 16th St., NW Washington, DC 20006		56,297.79	19,127.00
Public Service Electric and Gas Company, 80 Park Plaza, T4A Newark, NJ 07101			30.00
Public Strategies, 98 San Jacinto, Suite 900 Austin, TX 78701	Hillwood Development Corp	4,800.00	26.99
Public Strategies Washington, Inc, 1455 Pennsylvania Ave., NW, #1100 Washington, DC 20004	Advanced Micro Devices	7,500.00	
Do	American Methanol Institute	30,000.00	
Do	American Trucking Assns, Inc	18,000.00	
Do	Anheuser-Busch Companies, Inc	40,000.00	
Do	Beneficial Management Corp	20,000.00	
Do	Blue Cross Blue Shield Assn	48,000.00	
Do	Boston Capital Partners, Inc	5,000.00	
Do	Chiquita Brands International	100,000.00	
Do	G-Tech Corporation	15,000.00	
Do	Mexican Department of Commerce & Finance		
Do	Nafta-El Paso Business Development Council	10,000.00	
Do	Southwest Airlines	6,000.00	
Do	Varity Corporation	24,000.00	
David E. Pullen, 1625 K Street, NW, #750 Washington, DC 20006	Manville Corporation	5,000.00	
Brenda Pulley, 607 14th Street, NW, #800 Washington, DC 20005	Safety-Kleen Corp	5,000.00	
Thomas W. Purcell, 100 Daingerfield Road Alexandria, VA 22314	Printing Industries of America, Inc	2,500.00	
Gretchen Purser, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	12,875.00	1,226.87
Sue P. Purvis, P.O. Box 14042 St. Petersburg, FL 33733	Florida Power Corp	12,000.00	2,159.00
Do	Florida Progress Corp	3,000.00	540.00
Earle W. Putnam, 5025 Wisconsin Avenue, NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO		
Howard Pyle III, 1050 17th Street, NW, #1250 Washington, DC 20036	Houston Industries, Inc	8,000.00	
Robert N. Pyle & Associates, P.O. Box 3731 Washington, DC 20007	Elkem Metals Company	750.00	
Do	Independent Bakers Assn	1,200.00	
Do	Stratcor	3,000.00	
Do	Welch Foods, Inc	1,000.00	
Quaker Oats Company, 321 North Clark Street Chicago, IL 60610			
Patricia A. Quealy, 1133 21st Street, NW, #450 Washington, DC 20036	HealthCare COMPARE Corp	3,000.00	238.05
Harold P. Quinn Jr., 1130 17th St., NW Washington, DC 20036	National Mining Assn	10,850.00	
John E. Quinn, Massachusetts Petroleum Council 11 Beacon Street Boston, MA 02108	American Petroleum Institute	2,500.00	
Patrick H. Quinn, 601 13th Street, NW, #410 Washington, DC 20005	R. Duffy Wall & Associates, Inc	1,250.00	
Earl C. Quist, 1850 M Street, NW, #600 Washington, DC 20036	Toyota Motor Sales, USA, Inc		
Jeffrey L. Quyle, 720 N. High School Rd. Indianapolis, IN 46214	Indiana Statewide Assn of Rural Electric Cooperatives, Inc	2,000.00	4,912.96
R.J. Reynolds Tobacco Company, 401 North Main Street Winston-Salem, NC 27101			24,461.32
Mark J. Raabe, 601 Pennsylvania Ave., NW North Building, Suite 1200 Washington, DC 20004	Merck & Co, Inc	1,500.00	500.00
Eugene M. Rackley, 1350 New York Ave., NW, Suite 900 Washington, DC 20005	International Franchise Assn		
Robert E. Rader Jr., 2777 Stemmons Freeway, #1233 Dallas, TX 75207	Rader Campbell Fisher & Pyke, P.C.		74.11
Alex Radin, 1615 L St. NW, #900 Washington, DC 20036	Radin & Associates, Inc (For:Tennessee Valley Public Power Assn)	16,687.50	
Do	Radin & Associates, Inc (For:Washington Public Utility Districts Assn)	3,156.25	
Radio-Television News Directors Assn, 1000 Connecticut Avenue, NW, #615 Washington, DC 20036		2,500.00	
Raffaelli Spees Springer & Smith, 1341 G Street, NW, #200 Washington, DC 20005	Bristol-Myers Squibb Co	9,000.00	102.28
Do	Chabot Observatory & Science Center	1,200.00	74.68
Do	Consortium for Regional Climate Centers	3,750.00	29.19
Do	Council of American Overseas Research Centers		45.00
Do	Crystal Holdings Corp	2,000.00	398.05
Do	Everglades Trust	5,000.00	164.89
Do	Johnson Controls, Inc	2,000.00	
Do	Orlando-Orange County Expressway Authority	2,500.00	110.43
Do	Tudor Investment Corp	1,000.00	
Do	University of Nevada, Reno	8,000.00	74.55
Zvi Rafiah, Asia House 4 Weizman Street Tel Aviv, 64239 Israel	Rabintex Industries, Ltd		
Do	Rafael Armament Development Authority	16,721.00	3,548.00
Do	TAAS, Israeli Industries LTD (IMI)	6,406.00	2,624.00
Do	Urdan Industries LTD	500.00	81.00
Timothy L. Raftis, 6410 Rockledge Drive, Suite 412 Bethesda, MD 20817	American Soc of Hematology	500.00	300.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Association of American Cancer Institutes	350.00	300.00
Robert H. Ragan, 1015 15th Street, NW, Suite 700 Washington, DC 20005-2605	Bechtel Group, Inc		
Rails-to-Trails Conservancy, 1400 16th Street, NW, #300 Washington, DC 20036			
Railway Progress Institute, 700 North Fairfax St. Alexandria, VA 22314			
Barbara Raimondo, 128 North Abingdon St. Arlington, VA 22203	Consumer Action Network	825.00	
Lisa J. Raines, 1020 19th Street, NW Washington, DC 20036	Genzyme Corp	1,825.00	
Meghan B. Rainey, 1250 Eye Street, NW, #200 Washington, DC 20005	Information Technology Industry Council	3,000.00	171.15
Jack M. Rains, 9 Greenway Plaza, #1717 Houston, TX 77046	Southwestern Bell Corp	3,500.00	
Jack Ramirez, 2600 River Road Des Plaines, IL 60018	National Assn of Independent Insurers	1,500.00	
M. Kristen Rand, 2000 P Street, NW, #200 Washington, DC 20036	Violence Policy Center	1,000.00	150.00
Howard W. Randolph Jr, 815 16th St., NW Washington, DC 20006	Transportation-Communications Union	1,000.00	
Edward M. Ranier, 800 One Center Plaza 120 West Fayette St. Baltimore, MD 21201-3700	Lord & Whip (For:National Funeral Directors Assn)	6,967.00	264.79
Robert L. Rarog, 1401 H Street, NW, #950 Washington, DC 20005	Digital Equipment Corp	18,667.48	
Magda A. Ratajski, Three Commercial Place Norfolk, VA 23510-2191	Norfolk Southern Corp		
John W. Rauber Jr., 1730 Rhode Island Ave., NW, #206 Washington, DC 20036	Union Camp Corp	1,297.75	99.00
G. David Ravencraft, 601 Pennsylvania Ave., NW, North Building, Suite 540 Washington, DC 20004	Ashland Oil, Inc	2,000.00	
Eiler C. Ravnholt, 3566 Raymoor Road Kensington, MD 20895	Hawaiian Sugar Planters' Assn		
William Randall Rawson, 950 N. Glebe Road, #160 Arlington, VA 22203-1824	American Boiler Manufacturers Assn, Inc		
Bruce A. Ray, Bruce Ray & Company 636 A Street, NE Washington, DC 20002	Bayley Seton Hospital	10,459.55	
Do	Cumberland Packing Company	10,525.25	
Do	Lutheran Medical Center	6,777.49	
Do	Simply Lite Foods Corp		
Rhonda J. Ray, 3201 Mayfair Road Baltimore, MD 21207	Maryland Food Committee		
John K. Rayburn, 1801 K Street, NW Washington, DC 20006	Westinghouse Electric Corp	1,000.00	45.00
Helene Rayder, 1020 19th Street, NW, #600 Washington, DC 20036	Mutual of Omaha Companies	150.00	
Edgar L. Ready, 1800 Concord Pike Wilmington, DE 19897	Zeneca, Inc	6,200.00	1,927.00
Joanna E. Reagan, 815 15th Street, NW Washington, DC 20005	International Union of Bricklayers & Allied Craftsmen	3,000.00	87.62
Clark E. Rector Jr., 1101 Vermont Ave., NW, Suite 500 Washington, DC 20005	American Advertising Federation	500.00	
John M. Rector, 205 Daingerfield Rd. Alexandria, VA 22314	National Assn of Retail Druggists	700.00	150.00
Donald L. Redfoot, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,358.64	176.41
Gregory Redmond, 1620 L Street, NW, Suite 800 Washington, DC 20036	Metropolitan Life Insurance Co	50.00	
Jill C. Redmond, 606 N. Washington Street Alexandria, VA 22314	Society for Human Resource Management	3,020.00	139.50
Laura Redoutey, 6215 West St. Joseph Way Lansing, MI 48917	Michigan Health & Hospital Assn	100.00	130.95
Jo Reed, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,254.45	100.10
Mary Reed, 600 Maryland Ave., Sw, #700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Reed Smith Shaw & McClay, 1301 K Street, NW East Tower Washington, DC 20005	High Speed Rail Maglev Assn		1,351.83
Do	Mid-America Transplant Association	555.00	8.00
Do	Owens-Illinois, Inc	8,180.00	177.90
Do	Paging Network, Inc	1,712.00	124.84
Do	Radio-Television News Directors Assn	1,500.00	
Do	Techneglas, Inc	185.00	
Robert K. Reeg, 1420 King Street Alexandria, VA 22314-2715	National Society of Professional Engineers	1,250.00	
Robert S. Reese Jr., 1341 G Street, NW, #900 Washington, DC 20005	Philip Morris Management Corp	3,000.00	1,927.38
J. Ronald Reeves, 2345 Crystal Drive Arlington, VA 22227	U.S. Air, Inc	2,000.00	100.00
R. Brent Regan, 1401 I Street, NW, #1100 Washington, DC 20005	SBC Communications, Inc	15,000.00	410.11
Regional Airline Association, 1200 19th Street, NW., #300 Washington, DC 20036-2401		6,500.00	2,150.00
David K. Rehr, 1100 South Washington Street, Ist Floor Alexandria, VA 22314-4494	National Beer Wholesalers Assn	10,305.10	1,531.42
Reichler Milton & Medel, 1747 Pennsylvania Ave., NW, #1200 Washington, DC 20006	Republic of Guyana	84,811.22	2,210.45
Do	Republic of Nicaragua		791.75
Do	Republic of Uganda		486.53
Do	Saharawi Arab Democratic Republic		
Do	United Republic of Tanzania		
Reid & Priest, 701 Pennsylvania Avenue, NW Washington, DC 20004	Alliance for Power Privatization	6,550.00	
Do	ABB C-E Nuclear Fuel		
Do	City of Cleveland, Department of Port Control		
Do	City of Philadelphia	907.50	
Do	Denver International Airport	9,385.75	422.59
Do	Edison Electric Institute		
Do	Henschel, Inc		
Do	Kabi Pharmacia, Inc	1,687.50	162.76
Do	Metro Machine Corporation	32,277.50	678.18
Do	Minnesota Power		
Do	MDU Resources Group, Inc	1,000.00	
Do	Nishika Corp		
Do	Parsons Brinckerhoff Quade & Douglas, Inc	13,044.25	464.28
Do	Pride Refining, Inc		
Do	SPD Technologies	20,980.00	760.55
Do	Tucson Electric & Power Co	2,300.00	
Do	United Illuminating Company		
Do	Utility Decommissioning Tax Group		
Do	Western Energy, Inc	5,595.00	136.86
Burke G. Reilly, 1350 I Street, NW Washington, DC 20005	Ford Motor Co	2,250.00	754.35
Reinhart Boerner Van Deuren Norris & Rieselbach, 601 Pennsylvania Ave., NW North Bldg., Suite 750 Washington, DC 20004-2612.	National Employee Benefits Institute		
Andrew Reinsdorf, 1133 Connecticut Ave., NW, #310 Washington, DC 20036	Nestle USA, Inc		6,950.00
Reinsurance Assn of America, 1301 Pennsylvania Avenue, N.W., #900 Washington, DC 20004			
Christine W. Reiter, 1100 New York Avenue, Suite 1090 Washington, DC 20005	Synthetic Organic Chemical Manufacturers Assn	500.00	
Rebecca Relic, 1601 Duke Street Alexandria, VA 22314	Society of American Florists	1,000.00	
Jack Rendler, 116 New Montgomery St., #900 San Francisco, CA 94105	Citizens for Reliable & Safe Highways		
Martin S. Rendon, 1775 K Street, NW Ste 360 Washington, DC 20006	U.S. Committee for UNICEF	6,000.00	7,000.00
Renewable Fuels Assn, One Massachusettes Ave, NW, #820 Washington, DC 20002		425,000.00	129,563.08
Diane Rennert, 1718 Connecticut Avenue, NW, #700 Washington, DC 20009	Association of American Publishers	6,500.00	860.10
Lee P. Reno, 301 Pennsylvania Avenue, NW, #800 Washington, DC 20004	Reno & Cavanaugh (For:Housing Authority Insurance, Inc)		
Edward Repa, 4301 Connecticut Ave., NW #300 Washington, DC 20008	National Solid Wastes Management Assn	500.00	
Galen J. Reser, 700 Anderson Hill Road Purchase, NY 10577	PepsiCo, Inc	500.00	278.91
John M. Reskovac, 601 13th Street, NW, #410 South Washington, DC 20005	R. Duffy Wall & Associates, Inc	1,250.00	
Barclay T. Resler, 800 Connecticut Ave., NW, Suite 711 Washington, DC 20006	Coca-Cola Company	200.00	137.71
Resource Management Consultants, Inc, 205 S. Whiting Street, #308 Alexandria, VA 22304		33,501.00	972.51
Retired Officers Assn, 201 N. Washington St. Alexandria, VA 22314		141,931.09	63,018.77
Vincent P. Reusing, 1620 L Street, NW, #800 Washington, DC 20036	Metropolitan Life Insurance Co	500.00	
Alan V. Reuther, 1757 N Street, NW Washington, DC 20036	Int'l Union, United Auto Aerospace & Agric Implement Workers	24,276.35	215.55
Allan R. Rexinger, 717 A Street, SE Washington, DC 20003	Nonprescription Drug Manufacturers Assn		
Jimmie V. Reyna, 808 17th Street, NW, Suite 300 Washington, DC 20006-3910	Stewart & Stewart (For:COMSAT/RSI)		
Do	Stewart & Stewart		
David Lyon Reynolds, 444 North Capitol Street, NW Washington, DC 20001	Association of California Water Agencies	2,000.00	
Gregg M. Reynolds, 4305-68th Ave. NE Olympia, WA 98516	Real Estate National Network		
Nicholas S. Reynolds, 1400 L Street, NW Washington, DC 20005	Washington Public Power Supply System		30.66
Larry D. Rhea, 225 N. Washington Street Alexandria, VA 22314	Non Commissioned Officers Assn	4,300.00	
Frederick W. Rhodes, 1725 Jefferson Davis Highway, #900 Arlington, VA 22202	K & F Industries		
Do	Loral Corporation	4,250.00	
John J. Rhodes III, 2000 Pennsylvania Ave., NW, #900 Washington, DC 20036	California State University at Monterey Bay	12,499.98	35.84
Do	Central Arizona Water Conservation District	24,000.00	1,893.00
Chuck Rice Jr., P.O. Box 141488 Austin, TX 78714-1488	Citizens, Inc	10,000.00	2,398.04
Patricia M. Richards, 1101 Pennsylvania Ave., NW, #510 Washington, DC 20004	USX Corporation		
Richard Richards, Law Office of Richard Richards 1025 Thomas Jefferson Street, NW, #105 Washington, DC 20007	Sunrider International		
Alan H. Richardson, 2301 M St., NW Washington, DC 20037	American Public Power Assn	5,000.00	
Bonnie Richardson, 1600 Eye Street, NW Washington, DC 20006	Motion Picture Assn of America, Inc		
Debi Q. Richardson, 1275 K Street, NW, #400 Washington, DC 20005	Society of the Plastics Industry		
John G. Richardson, 1130 Connecticut Ave, NW, #830 Washington, DC 20036	Southern Company Services, Inc	1,750.00	4,366.89
Lois Richerson, 1724 Massachusetts Avenue, NW Washington, DC 20036	National Cable Television Assn, Inc	3,863.00	
Max Richtman, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	36,652.00	
Lisa A. Rickard, 1200 19th Street, NW, Suite 603 Washington, DC 20036	Ryder System, Inc	1,350.00	50.00
Clarine Nardi Riddle, 1850 M Street, NW, #540 Washington, DC 20036	National Multi Housing Council, Inc	3,500.00	
Lowell J. Ridgeway, North Dakota Petroleum Council P.O. Box 1395 Bismarck, ND 58502	American Petroleum Institute	2,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
E. George Riedel, 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Quentin Riegel, 1331 Pennsylvania Ave., NW, Suite 1500 North Tower Washington, DC 20004-1790	National Assn of Manufacturers	300.00	
Francis J. Rienzo, 1455 F Street, NW, Suite 450 Washington, DC 20005	Upjohn Company	6,666.00	
Judith Assmus Riggs, 1319 F Street, NW #710 Washington, DC 20004	Alzheimer's Assn	7,665.00	25.00
Michael R. Riksen, 2706 Davis Ave. Alexandria, VA 22302	Harris Corporation	2,025.00	2,850.71
Karen Rindge, 1120 Connecticut Ave., NW, #461 Washington, DC 20036	Planned Parenthood Federation of America	1,451.38	147.00
Russell C. Ring, 1700 Pensylvania Ave., NW, #500 Washington, DC 20006	Mutual of Omaha Insurance Co	375.00	
Joan D. Ringel, 511 16th Street, Suite 210 Denver, CO 80202-4227		540.00	
Durwood W. Ringo, 1299 Pennsylvania Ave., NW, Suite 1100 Washington, DC 20004	GE Company	1,375.00	
Irene Ringwood, Bogle & Gates 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	American Dehydrated Onion & Garlic Assn	121.00	
Do	Direct Service Industries, Inc	404.00	
Do	Hager Hinge Company	202.00	
Do	Natural Resources United	202.00	
Do	Washington Wheat Commission	121.00	
Rini Coran & Lancellotta, P.C., 1350 Connecticut Ave., NW, Suite 900 Washington, DC 20036			
Mary Jane Rintelman, 3100 AMS Boulevard P.O. Box 19032 Green Bay, WI 54313	American Medical Security	457.69	444.30
Kevin J. Riordan, 1299 Pennsylvania Ave., NW 11th Floor West Washington, DC 20004-2407	General Electric Co	661.50	
John S. Rippey, 805 15th Street, NW, #600 Washington, DC 20005	Bankers Roundtable	6,024.15	
Carol A. Risher, 1718 Connecticut Ave., NW, #700 Washington, DC 20009-1148	Association of American Publishers	2,000.00	
Edward W. Rissing, 701 Pennsylvania Ave, NW Washington, DC 20004	Edison Electric Institute		
Tom Ritter, 33045 Hamilton Boulevard Farmington Hills, MI 48018	Household Financial Group, Ltd		
William R. Ritz, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	6,337.00	
Ivette E. Rivera, 412 First Street, SE Washington, DC 20003	National Automobile Dealers Assn	5,000.00	
Andrew W. Robart, 701 Pennsylvania Avenue, NW Washington, DC 20004	Edison Electric Institute	166.49	422.19
Wade H. Robert, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	5,001.00	1,367.07
Arch W. Roberts Jr., 1615 L Street, NW, Suite 1150 Washington, DC 20036	Capitoline/MS&L (For:Loral Corporation)	7,500.00	
Do	Capitoline/MS&L (For:Psychemedics Corp)	750.00	
Do	Capitoline/MS&L (For:Republic of Turkey)	3,000.00	
Do	Capitoline/MS&L (For:Sprint)		
Carole T. Roberts, 901 15th Street, NW, #520 Washington, DC 20005	Travelers Companies	2,750.00	
David Gwyn Roberts, 411 Fayetteville Street Mall Raleigh, NC 27601	Carolina Power & Light Company	1,285.00	3,449.00
Dennis J. Roberts II, 1500 Turke Head Place Providence, RI 02903-2215	MultiState Associates, Inc (for Viaticus, Inc)	2,500.00	
Glenn Roberts, 1620 I Street, NW, #925 Washington, DC 20006	American Spice Trade Association	250.00	
Do	Flavor and Extract Manufacturers Assn		
Do	Fragrance Materials Assn		
Do	International Assn of Color Manufacturers		
Michael A. Roberts, 1101 Vermont Avenue, NW, #300 Washington, DC 20005	American Academy of Ophthalmology	10,720.00	
Roselee N. Roberts, 1735 Jefferson Davis Highway, #1200 Arlington, VA 22202	McDonnell Douglas Corp		
Rebecca Roberts-Malamis, 1 Massachusetts Ave., NW, #350 Washington, DC 20001	Chubb Corporation	5,000.00	222.99
Dennis Robertson, 8000 Scott Hamilton Drive Little Rock, AR 72209	Arkansas Electric Cooperatives, Inc	25,380.00	270.00
Steve A. Robertson, 1608 K Street, NW Washington, DC 20006	American Legion	14,403.00	95.84
Cas M. Robinson, 1776 Eye Street, NW, #400 Washington, DC 20006	Nuclear Energy Institute		
Gail Robinson, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	1,019.92	
H. Alexander Robinson, 122 Maryland Ave., NE Washington, DC 20002	American Civil Liberties Union		
Kenneth L. Robinson, 3138 North l0th Street, Suite 300 Arlington, VA 22201	National Assn of Federal Credit Unions		
Peter D. Robinson, 1201 Connecticut Ave., NW, Suite 550 Washington, DC 20036	Bailey & Robinson (For:Natural Disaster Coalition)		
Do	Bailey & Robinson (For:Ormet)		
Richard H. Robinson, 4301 Connecticut Ave., NW, #300 Washington, DC 20008	National Solid Wastes Management Assn	500.00	
Richard L. Robinson, 1900 Fifth Third Center 511 Walnut Street Cincinnati, OH 45202	Graydon Head & Ritchey (For:River Downs Investment Co)	7,033.00	693.26
Robinson Lake Lerer & Montgomery/Sawyer Miller Group, 1501 M St., NW, #600 Washington, DC 20005	CALCOT, Ltd	3,000.00	
Do	Ingersoll-Rand	4,000.00	
Do	Mesa, Inc		
Do	Sun Diamond Growers	1,500.00	
Robison International, Inc, 1 Massachusetts Ave., NW, #880 Washington, DC 20001	Alliant TechSystems	1,600.00	638.38
Do	Allied-Signal Aerospace Co	3,000.00	1,260.53
Do	Armtec Defense Products	3,150.00	765.52
Do	British Aerospace, Inc (Government Programs Office)	10,353.00	4,012.09
Do	Composting Council	2,014.00	433.38
Do	Mas-Hamilton Group		1,733.54
Do	McDonnell Douglas Corp	11,250.00	6,302.61
Do	Munitions Industrial Base Task Force	-2,800.00	400.88
Do	Optical Imaging Systems, Inc	4,531.27	826.77
Do	Oshkosh Truck Corp	8,148.00	3,744.07
Do	Prudential Insurance Co	1,400.00	433.38
Do	United Defense, LP	9,600.00	4,912.09
Julie Rochman, 1211 Connecticut Avenue, NW, #400 Washington, DC 20036	Alliance of American Insurers	5,000.00	
James A. Rock, 1101 Pennsylvania Avenue, NW, #530 Washington, DC 20004-2514	Montana Power Co, et al.	2,500.00	39.87
Rock & Associates, 818 Connecticut Ave., NW, Suite 1100 Washington, DC 20006	American Soc of Assn Executives		
Do	Kinetic Concepts, Inc	3,000.00	
Do	National Assn of Industrial & Office Parks	2,000.00	
Do	Southern Company Services, Inc	3,000.00	
Do	Valhi, Inc	3,000.00	
Rocking K Development, 2200 East River Road, #115 Tuscon, AZ 85718			
Daniel Rode, 1050 17th Street, NW, #700 Washington, DC 20036	Healthcare Financial Management Assn		24.63
Quincy Rodgers, 1133 21st Street, NW Suite 405 Washington, DC 20036	General Instrument Corporation	9,100.00	
Richard F. Rodgers, 300 Maryland Avenue, NE Washington, DC 20002	Federal Express Corp	6,000.00	
Raymund Rodriguez, P.O. Box 982 El Paso, TX 79960	El Paso Electric Co		
Robert A. Roe Associates, Inc, 1680 Route 23 Wayne, NJ 07470	City of Newark		
Do	County of Bergen		
Do	New Jersey Sports & Exposition Authority		
Rogers & Wells, 607 14th Street, NW Washington, DC 20005	Canadian Pulp & Paper Assn		
Do	Dofasco, Inc		
Do	Major League Baseball Players Assn		
M. Guy Rohling, 11 Dupont Circle, NW, Suite 300 Washington, DC 20036	Albers & Co (For:May Department Stores)	306.25	
Frank G. Rohrbough, 201 North Washington Street Alexandria, VA 22314	Retired Officers Assn	3,490.50	
Ian M. Rolland, 200 East Berry Street Fort Wayne, IN 46802	Lincoln National Corp		
Emil A. Romagnoli, 1600 M Street, NW, #700 Washington, DC 20036	Asarco, Inc	10,000.00	
E. Mitchell Roob Jr., 3838 N. Rural Street Indianapolis, IN 46205-2930	Health & Hospital Corp of Marion County	384.64	582.00
Curtis D. Rooney, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	25.00	
J. Patrick Rooney, 7440 Woodland Drive Indianapolis, IN 46278	Golden Rule Insurance Company		54.00
Ropes & Gray, 1001 Pennsylvania Ave., NW, #1200 Washington, DC 20004	Business Roundtable	17,807.23	940.93
Do	Eastern Enterprises	21,542.14	93.89
Do	Industrial Development Authority of Ireland		
James C. Rosapepe, 1828 L Street, NW, #1010 Washington, DC 20036	Rosapepe & Spanos, Inc (For:H&R Block, Inc)	1,164.16	
Rosapepe & Spanos, Inc, 1828 L Street, NW, #1010 Washington, DC 20036	H&R Block, Inc	8,166.66	2,205.17
Clifton Peter Rose, 1101 Pennsylvania Ave., NW, #900 Washington, DC 20004	Goldman Sachs & Co	2,500.00	
Rose Communications, Inc, 1625 K Street, NW, Suite 790 Washington, DC 20006	Fuel Cells for Transportation	2,600.00	2,600.00
Do	Johnson Matthey, Inc		
Albert B. Rosenbaum III, 499 South Capitol Street, SW, #520 Washington, DC 20003	Allwaste, Inc	2,000.00	
Ernie Rosenberg, 3211 North Kenmore St. Arlington, VA 22207	Occidental Petroleum Corp		126.00
Robert M. Rosenberg, 8100 Oak Street Dunn Loring, VA 22027	National Pest Control Assn		
Herb Rosenbleeth, 1811 R Street, NW Washington, DC 20009	Jewish War Veterans of the USA	14,931.00	20.00
Marilyn Rosenthal, 1707 L Street, NW, #300 Washington, DC 20036	United Air Lines, Inc	1,400.00	
Roger C. Rosenthal, 2001 S St., NW, #310 Washington, DC 20009	Migrant Legal Action Program, Inc		
Richard D. Ross, 1301 Pennsylvania Ave., NW, #305 Washington, DC 20004	Natural Disaster Coalition		
Stephen R. Ross, 888 16th Street, NW Washington, DC 20006	Ross & Hardies (For:InterMedia Partners)		
William F. Ross, South Carolina Petroleum Council 1220 L Street, NW Washington, DC 20005-8	American Petroleum Institute	438.00	1,316.60
Ross & Green, 1010 Vermont Avenue, #811 Washington, DC 20005	Citizens Comm for Right to Keep & Bear Arms	4,000.00	4,555.55
Do	Democracy Unlimited	1,000.00	1,289.25
Do	Manute Bol		
Toby Roth Jr., 122 C Street, NW, #310 Washington, DC 20001	American League for Exports & Security Assistance	2,625.00	104.32
John C. Rother, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	8,943.18	82.00
Lauren J. Rothfarb, 1126 16th St., NW Washington, DC 20036	International Union of Electronic Electrical Salaried...	12,600.00	150.64
Rothleder-Lowenthal Group, 1100 New York Ave., NW, #350W Washington, DC 20005	Marconi Communications, Inc	3,000.00	1,580.02

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Edwin Rothschild, 1730 Rhode Island Avenue, NW, #403 Washington, DC 20036	Citizen Action Fund	250.00	34.00
Robert G. Rothstein, 2200 Mill Road Alexandria, VA 22314	Interstate Truckload Carriers Conference	700.00	350.00
F. Scott Rotruck, Rt. 5, Box 155 Keyser, WV 26726	Anker Group, Inc	250.00	7.40
Michael O. Roush, 600 Maryland Avenue, SW, #700 Washington, DC 20024	National Fed of Independent Business	4,875.00	400.00
Lori Groves Rowley, 1025 Connecticut Ave, NW, #1014 Washington, DC 20036	Enserch Corp	3,396.00	2,931.89
P. Norman Roy, P.O. Box 1938 (10 Madison Ave) Morristown, NJ 07962-1938	Financial Executives Institute	1,325.00	
Robert S. Royer, 1747 Pennsylvania Ave., NW, #900 Washington, DC 20006	Conference of State Bank Supervisors		
Do	Eaton Vance Corp		
Do	Federal Home Loan Bank of New York		
Do	Long Island Savings Bank		
Do	MacAndrews & Forbes Holdings, Inc		
Do	Michigan Trade Exchange		
Do	Republic Boston Capital Corp		
Do	Thorn Americas		
Eldon Rudd, 6909 Main Street Scottsdale, AZ 85251	Central Arizona Project Assn		
Robert E. Ruddy, 1500 K Street, NW, #325 Washington, DC 20005	Mortgage Insurance Companies of America	4,500.00	2,364.58
Paul M. Ruden, 1101 King Street Alexandria, VA 22314	American Soc of Travel Agents		
Deborah K. Rudolph, 1828 L Street, NW, #1202 Washington, DC 20036	Institute of Electrical & Electronics Engineers	3,000.00	1,100.00
Gregory Ruehle, 1301 Pennsylvania Avenue, NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Sheryl M. Ruffing, 1400 K Street, NW, #801 Washington, DC 20005	General Aviation Manufacturers Assn	5,169.00	
Thomas Rugg, 1616 H Street, NW Washington, DC 20006	National Grange	3,375.00	
Nicholas L. Ruggieri, 3 Bethesda Metro Ctr., #700 Bethesda, MD 20814	Serono Laboratories	1,000.00	225.00
John Runyan, 100 Daingerfield Rd. Alexandria, VA 22314	McGuiness & Williasm	7,106.00	
Do	Printing Industries of America, Inc	10,000.00	
Timothy R. Rupli, 601 13th Street, NW, Suite 410 South Washington, DC 20005	R. Duffy Wall & Associates, Inc	1,250.00	
Carey D. Ruppert, 701 Pennsylvania Ave., NW, #710 Washington, DC 20004	Tenneco, Inc	3,375.00	136.68
Robert A. Rusbuldt, 412 First Street, SE, #300 Washington, DC 20003	Independent Insurance Agents of America, Inc	34,735.00	437.51
Tonda F. Rush, 1525 Wilson Blvd., #550 Arlington, VA 22209	National Newspaper Association		
Robert Rusis, 15 Mountain View Road Warren, NJ 07061	Chubb Corporation		
Glenn S. Ruskin, 1747 Pennsylvania Avenue, NW, #700 Washington, DC 20006	CIBA-GEIGY Corp	4,375.00	
Barry Russell, 1101 16th St., NW Washington, DC 20036	Independent Petroleum Assn of America		70.00
Randall M. Russell, 1919 S. Eads Street #103 Arlington, VA 22202-3028	Lesher & Russell, Inc	25,875.00	
Shannon M. Russell, 601 Pennsylvania Ave., NW Washington, DC 20004	Ashland Oil, Inc	2,000.00	
Lynn B. Russo, 2001 Pennsylvania Ave., NW, #300 Washington, DC 20006	Exxon Corp		
Wally Rustad, 4301 Wilson Boulevard Arlington, VA 22203	National Rural Electric Cooperative Assn	125.00	
Wayne A. Rustin, 1156 15th Street, NW, #1015 Washington, DC 20005	J.C. Penney Co, Inc		4.25
John G. Ryan, 655 15th Street, NW, #410 Washington, DC 20005	Bristol-Myers Squibb Co	1,000.00	
Paul D. Ryan, 750 17th Street, NW, #900 Washington, DC 20006	Nissan North America, Inc	11,000.00	
RASP, INC, P.O. Box 3674 Arlington, VA 22203-0674	Boeing Information Services	3,880.00	1,011.00
Do	Diagnostic/Retrieval Systems, Inc	1,200.00	337.00
Dean Sackett, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	17,225.00	1,181.55
G. J. Thomas Sadler Jr., 1155 Connecticut Ave., NW Suite 800 Washington, DC 20036	WMX Technology, Inc	23,115.00	
Kenneth J. Salaets, 1250 Eye Street, NW, #200 Washington, DC 20005	Information Technology Industry Council	3,000.00	138.30
Stephen Sale, 910 16th Street, NW Washington, DC 20006	Sale Quinn Deese & Weiss (For:CSC Credit Services, Inc)		274.88
Frank Max Salinger, 650 Naamans Road Claymont, DE 19703	ADVANTA Corp	3,000.00	2,500.00
Scott R. Salmon, 1101 Pennsylvania Ave., NW, #510 Washington, DC 20004	USX Corp		
Shannon Salmon, 1350 Eye Street, NW, #810 Washington, DC 20005	Johnson & Johnson	3,066.00	307.40
Robert S. Salomon III, DFC Group, Inc 7201 Wisconsin Ave. Bethesda, MD 20814	Council of Development Finance Agencies	6,000.00	
Do	Pennrose Properties	1,000.00	
Do	Related Companies, Inc	9,000.00	
David M. Saltz, 815 16th Street, NW Washington, DC 20006	AFL-CIO	16,138.98	699.04
Joel Saltzman, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute	1,000.00	213.32
Sammons Enterprises, Inc, 300 Crescent Court Dallas, TX 75201		44,250.00	3,507.24
Joseph E. Samora Jr., 1901 Pennsylvania Ave., NW 10th Floor Washington, DC 20006	International Mass Retail Assn	6,250.00	
William Samuel, 900 15th Street, NW Washington, DC 20005	United Mine Workers of America	16,470.00	367.21
Helen Sanders, 1700 Pennsylvania Ave., NW, #950 Washington, DC 20006	Valis Associates	20,250.00	
Lee Sanders, 1350 I Street, NW, Suite 1290 Washington, DC 20005	American Bakers Assn	1,462.00	178.00
Rose Marie Sanders, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	900.00	529.72
Julie Sanderson-Austin, 4240 Brittany Court Woodbridge, VA 22192	American Group Practice Assn		
Stephen E. Sandherr, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America	4,000.00	500.00
Mike Sandifer, 2419 Chain Bridge Road, NW Washington, DC 20016	American Telemarketing Assn	1,950.00	383.15
Charles E. Sandler, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute	6,000.00	
Peter G. Sandlund, 1730 M Street, NW, Suite 602 Washington, DC 20036	Council of European & Japanese National Shipowners' Assn		
James D. Santini, 1101 King Street, #350 Alexandria, VA 22314	National Air Access Council	10,500.00	837.40
Do	National Parks Hospitality Association	7,500.00	444.06
Do	National Tour Assn, Inc	29,337.00	9,854.54
Leslie Sarasin, 1764 Old Meadow Lane, #350 McLean, VA 22102	American Frozen Food Institute	4,400.00	
Ronald A. Sarasin, 1100 South Washington Street Alexandria, VA 22314-4494	National Beer Wholesalers Assn, Inc	4,396.61	67.50
Susan Sarason, 1515 Wilson Boulevard Arlington, VA 22209	American Gas Assn	4,300.00	32.10
Satellite Broadcasting & Communications Assn, 225 Reinekers Lane, #600 Alexandria, VA 22314		9,431.62	9,431.62
Klara B. Sauer, 9 Vassar Street Poughkeepsie, NY 12601	Scenic Hudson, Inc		
Mary Jane Saunders, 1801 K Street, NW, #400K Washington, DC 20006	Arter & Hadden (For:Nintendo of America, Inc)		
Saunders Consulting, 4806 Bentonbrook Dr. Fairfax, VA 22030	Pharmaceutical Research & Manufacturers of America	7,749.99	666.91
Paul R. Savary, 1199 North Fairfax Street, Suite 801 Alexandria, VA 22314	National Assn of Truck Stop Operators		
Savings Coalition of America, 1225 EYE Street, NW, Suite 500 Washington, DC 20005		47,000.00	103,125.39
Richard N. Sawaya, 601 Pennsylvania Ave., NW North Building, 4th Floor Washington, DC 20004	Atlantic Richfield Co		
Alice C. Saylor, 1120 G Street, NW, #520 Washington, DC 20005	American Short Line Railroad Assn	262.56	18.80
Elizabeth K. Scanlon, 1111 19th Street, NW, #1100 Washington, DC 20036	Direct Marketing Assn, Inc	462.00	
Keith Scarborough, 700 11th St., NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		
Jeanne Schaaf, North Building, Suite 725 601 Pennsylvania Ave., NW Washington, DC 20004	British Telecommunications, plc	2,500.00	
Victoria V. Schaff, Missouri Electric Utitlies 1800 K Street, NW, #1018 Washington, DC 20006	Kansas City Power & Light Company, et al.	6,500.00	9,415.76
Schatz Paquin Lockridge Grindal & Holstein P.L.L.P., 1225 Eye Street, NW, #1025 Washington, DC 20005	Asea Brown Boveri, Inc		
Do	Association of Minnesota Counties	42.00	
Do	Business Technology Centers Management, Inc	137.50	
Do	Hennepin County, MN	1,310.00	
Do	Mille Lacs Band of Ojibwe Indians	3,502.25	35.00
Do	U.S. Satellite Broadcasting/Hubbard Broadcasting Co	481.00	
Do	Washington County Housing & Redevelopment Authority		
Do	West Publishing Company	4,723.75	147.89
Marc J. Scheineson, 1201 Connecticut Avenue, NW, #300 Washington, DC 20036	Bailey & Robinson (For:Bayer Corporation)		
Do	Bailey & Robinson (For:Nonprescription Drug Manufacturers Assn)		
David E. Scherb, 54 Farview Farm Road Redding, CT 06896	PepsiCo, Inc	175.00	300.00
Daniel B. Scherder, 122 C Street, NW, Suite 240 Washington, DC 20001-2109	Peabody Holding Company, Inc		
Walter G. Schiller, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc		
Michael T. Schilling, 1001 19th Street North, #800 Arlington, VA 22209	TRW, Inc	3,315.00	
Jeffrey L. Schlagenhauf, 1627 K Street, NW, #700 Washington, DC 20006	Smokeless Tobacco Council, Inc		
Paul Schlegel, 1100 Connecticut Ave., NW, #530 Washington, DC 20036	Weyerhaeuser Company		527.29
David S. Schless, 1850 M Street, NW, Suite 540 Washington, DC 20036	National Multi Housing Council	2,250.00	
James P. Schlicht, 1350 Eye Street, NW, #810 Washington, DC 20005-3305	Johnson & Johnson	1,012.50	128.45
Rodger Schlickeisen, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife		21.50
Lin Schmale, 1601 Duke Street Alexandria, VA 22314	Society of American Florists	1,000.00	
Adam P. Schmidt, 888 16th Street, NW Washington, DC 20006	Bannerman & Associates, Inc (For:Elf Atochem, N.A., Inc)		
Do	Bannerman & Associates, Inc (For:Embassy of El Salvador)	100.00	
Do	Bannerman & Associates, Inc (For:Government of the United Arab Emirates)	500.00	
Do	Bannerman & Associates, Inc (For:Government of Egypt)	500.00	32.00
Do	Bannerman & Associates, Inc (For:L.A. Motley & Co (for Government of the Philippines)).	500.00	57.17
Do	Bannerman & Associates, Inc (For:Lebanese American University)		
Richard M. Schmidt Jr., 1333 New Hampshire Ave., NW, #600 Washington, DC 20036	Association of American Publishers	500.00	
Schmidt Schroyer Colwill & Moreno, P.C., Suite 201 Pierre Professional Plaza 124 South Euclid P.O. Box 1174 Pierre, SD 57501-1174.	Home Box Office	16,000.00	152.47
Robert Richard Schmitt, 234821 3500 North Elm Street Jackson, MI 49201-8877			
Schnader Harrison Segal & Lewis, 330 Madison Ave., l4th Floor New York, NY 10017-5092	Gulfcoast Transit Co	29,649.50	2,549.09
Do	Lafarge Corp	25,394.50	1,587.13

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Anna-Maria Stephens Schneider, 1111 19th Street, NW, #600 Washington, DC 20036	Mitsubishi Motors America, Inc	160.00	
Phillip L. Schneider, P.O. Box 1417-D49 Alexandria, VA 22313-1417	National Assn of Chain Drug Stores		
Richard C. Schneider, 225 N. Washington Street Alexandria, VA 22314	Non Commissioned Officers Assn	4,100.00	
Diane S. Schneidman, 1640 Wisconsin Ave., NW, First Floor Washington, DC 20007	American College of Surgeons		
Abraham Schneier, McKevitt Group 1101 16th St., NW, #333 Washington, DC 20036	Kelly Services, Inc	7,312.50	141.59
Do	PepsiCo, Inc	12,726.00	318.48
Nancy Schoephoester, 601 Pennsylvania Ave., NW North Building, Suite 400 Washington, DC 20004	ARCO Alaska, Inc		
Cindy Z. Schonhaut, 3000 K Street, NW, Suite 300 Washington, DC 20007	Metropolitan Fiber Systems Communications Co, Inc	3,000.00	
Jan Schoonmaker, 1420 New York Ave., NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Alton Ochsner Medical Foundation)	1,125.00	
Do	Van Scoyoc Associates, Inc (For:Coalition of EPSCoR States)	2,500.00	
Do	Van Scoyoc Associates, Inc (For:National Assn of Water Companies)	750.00	
Do	Van Scoyoc Associates, Inc (For:National Institute for Water Resources)		
Do	Van Scoyoc Associates, Inc (For:Tulane University)		
Do	Van Scoyoc Associates, Inc (For:University of Alabama System)	1,350.00	
Do	Van Scoyoc Associates, Inc (For:WINSM Consortium)	900.00	
Paul A. Schosberg, 900 19th Street NW, #400 Washington, DC 20006	America's Community Bankers		
Charles G. Schreiber, 1 Massachusetts Ave., NW Washington, DC 20001	National Guard Assn of the U.S.	9,492.50	1,372.37
Shannon J. Schriefer, 1250 H Street, NW, #700 Washington, DC 20005	Citizens for a Sound Economy	8,503.35	
H. B. W. Schroeder, 1016 16th Street, NW, 5th Floor Washington, DC 20036	Consumers Power Co		
John G. Schroeder, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	Sikorsky Aircraft/United Technologies	2,852.00	246.96
N. Donald Schroeder, Maryland Petroleum Council 60 West St., #403 Annapolis, MD 21401	American Petroleum Institute		
Roslyne D. W. Schulman, 1111 19th Street, NW, #650 Washington, DC 20036	American College of Emergency Physicians	25.00	
Richard F. Schultz, 807 Maine Avenue, SW Washington, DC 20024	Disabled American Veterans	30,247.28	503.55
Mary A. Schulz, 9200 Indian Creek Parkway, #220 Overland Park, KS 66210-2008	Crop Insurance Research Bureau	50.00	39.30
Do	National Assn of Mutual Insurance Cos	25.00	
Richard T. Schulze, 1700 Pennsylvania Ave., NW, Suite 950 Washington, DC 20006	Valis Associates	49,000.00	1,085.06
James C. Schwaninger, 1156 15th Street, NW, Suite 1015 Washington, DC 20005	J.C. Penney Co, Inc		
A. R. Schwartz, Box 3398 Galveston, TX 77552	Mitchell Energy & Development Co		
Do	Vulcan Materials		
Adam D. Schwartz, 4301 Wilson Boulevard Arlington, VA 22203	National Rural Electric Cooperative Association	45.00	
Arthur E. Schwartz, 1420 King St. Alexandria, VA 22314-2715	National Society of Professional Engineers	1,000.00	
Michael Schwartz, 1101 Pennsylvania Ave. NW, #950 Washington, DC 20077	Federal Home Loan Mortgage Corp	3,000.00	150.00
Phillip L. Schwartz, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn		
Richard Schwartz, 880 S. Pickett St. Alexandria, VA 22304	Boat Owners Assn of the U.S.	3,000.00	
Scientific-Atlanta, One Technology Parkway Box 105600 Norcross, GA 30092			400.00
Michael Sciulla, 880 S. Pickett St. Alexandria, VA 22304	Boat Owners Assn of the U.S.	20,000.00	
David A. Scott, 3225 Gallows Road Fairfax, VA 22037	Mobil Corporation	2,000.00	
Gregory R. Scott, 1341 G Street, NW, #900 Washington, DC 20005	Philip Morris Management Corp	1,660.00	239.58
James L. Scott, 400 N. Capitol Street, NW, #590 Washington, DC 20001	AmHS Institute	2,870.00	359.79
John H. Scott, 1111 19th Street, NW, #650 Washington, DC 20036	American College of Emergency Physicians	25.00	164.75
Michael Scott, 1101 Vermont Avenue, NW, #606 Washington, DC 20005	American Society of Anesthesiologists	18,018.00	
Scribner Hall & Thompson, 1850 K Street, NW, #1100 Washington, DC 20006	California Department of Insurance		
Do	CNA Financial Corp		
Do	Estate of Helen W. Halbach		
Do	Provident Life & Accident Insurance Co		
Do	Security Life of Denver Insurance Co		
Do	Transamerica Corporation		
Kerrill K. Scrivner, 1025 Connecticut Ave., NW, #1014 Washington, DC 20036	Enserch Corporation	6,375.00	3,326.74
Robert T. Scully, 750 First Street, NE, Suite 935 Washington, DC 20002-4241	National Assn of Police Organizations, Inc	9,861.00	2,091.00
Thomas Andrew Scully, 1111 19th Street, NW, #402 Washington, DC 20036	Federation of American Health Systems	6,000.00	
Timothy Scully, 1341 G Street, NW Washington, DC 20005	Philip Morris Management Corp		
Murray S. Scureman, 5305 Wisconsin Avenue, NW, #500 Washington, DC 20015	Amdahl Corp	1,000.00	
Securities Industry Assn, 1401 I Street, NW, Suite 1000 Washington, DC 20005			420,187.00
Security Traders Assn, Inc, One World Trade Center, #4511 New York, NY 10048			5,556.00
Christopher C. Seeger, 655 15th Street, NW, #400 Washington, DC 20005	USAA	6,728.00	5,792.00
Julie A. Segal, 1816 Jefferson Place, NW Washington, DC 20036	Americans United for Separation of Church & State	10,250.00	726.00
Ruth L. Segal, 1850 M Street, NW, #1040 Washington, DC 20006	Outdoor Advertising Assn of America	33,750.00	31.07
George H. Seidel Jr., Associated Petroleum Industries of PA P.O. Box 925 Harrisburg, PA 17108	American Petroleum Institute		
Elliott M. Seiden, 901 15th Street, NW, #310 Washington, DC 20005	Northwest Airlines, Inc	10,000.00	100.00
Elizabeth T. Seifert, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	25.00	
Elizabeth Seiler, 1010 Wisconsin Avenue, NW, Suite 900 Washington, DC 20007	Grocery Manufacturers of America, Inc	96.18	
Dennis G. Seipp, 1801 K Street, NW, #800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
George M. Seitts, 23733 N. Scottsdale Road Scottsdale, AZ 85255	Giant Industries, Inc		
Beverly M. Selby, 301 G Street, SW, #713 Washington, DC 20024	Alliance for American Innovation	3,000.00	
Gary B. Sellers, 1800 M Street, NW Washington, DC 20036	American Bar Assn	400.00	50.00
William H. Sells III, 4301 Connecticut Ave., NW, #300 Washington, DC 20008	National Solid Wastes Management Assn	500.00	
W. Edward Senn, 1300 I Street, NW, #400 West Washington, DC 20005	NYNEX	8,987.00	1,165.46
David Senter, 1901 L Street, NW, #300 Washington, DC 20036	David Senter & Associates, Inc		
David Senter & Associates, Inc, 1901 L Street, NW, Suite 300 Washington, DC 20036			
Robert A. Seraphin, 1911 N. Ft. Myer Dr., #800 Arlington, VA 22209	Alliant Techsystems, Inc	2,835.00	
Peter M. Seremet, 16 Munson Road Farmington, CT 06034-0338	Heublein, Inc	17,250.00	3,278.57
Seward & Kissel, 1200 G Street, NW, #350 Washington, DC 20005	Ship Finance Assn, Inc		
Eva Seydel, 1401 I Street, NW, Suite 600 Washington, DC 20005	United Technologies Corp	951.00	202.47
Seyfarth Shaw Fairweather & Geraldson, 815 Connecticut Ave., NW, #500 Washington, DC 20006	Agricultural Producers	14,553.75	260.88
Erin E. Shaffer, 1101 Pennsylvania Ave., NW, #200 Washington, DC 20004	International Paper		130.00
Sally Shake, 7648 Ivanhoe Avenue, East La Jolla, CA 92037	Education Legislative Services, Inc	12,000.00	
Thomas A. Shallow, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute	200.00	
Nancy J. Shancke, 1225 Eye Street, NW, #1225 Washington, DC 20005	Grammer Kissel Robbins & Shancke (For:Kootenai Electric Cooperative, Inc)		
Deborah L. Shannon, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	12,140.00	612.44
Kenneth L. Shapiro, Wilson Elser Moskowitz Edelman & Dicker One Steuben Place Albany, NY 12207	Healthcare Assn of New York State	4,167.00	329.00
John Hunter Sharp, 1129 20th St., NW, #300 Washington, DC 20036	Natural Gas Supply Assn	27,610.80	1,506.33
Norman F. Sharp, 1100 17th Street, NW, #504 Washington, DC 20036	Cigar Assn of America, Inc		
Do	Pipe Tobacco Council		
Angela L. Sharpe, 1522 K Street, NW, #836 Washington, DC 20005	Consortium of Social Science Assns		21.65
Sharretts Paley Carter & Blauvelt, P.C., 1707 L Street, NW, #725 Washington, DC 20036	Toy Manufacturers of America	7,400.00	3,725.00
Charles N. Shaw, 1250 H Street, NW, #900 Washington, DC 20005	International Dairy Foods Assn		
Shaw Bransford & O'Rourke, 815 Connecticut Avenue, NW, #800 Washington, DC 20006	ICA, et al.	9,000.00	268.00
Do	PHH Group	3,000.00	376.00
Do	Senior Executives Assn	10,000.00	1,052.00
Matthew R. Shay, 1350 New York Avenue, NW, #900 Washington, DC 20005	International Franchise Assn		407.00
Shea & Gardner, 1800 Massachusetts Avenue, NW Washington, DC 20036	Societe Generale de Surveillance, S.A.		
James V. Sheahan, 3333 State Bridge Rd. Alpharetta, GA 30202	Siemens Corporation		
Gail E. Shearer, 1666 Connecticut Avenue, NE, #310 Washington, DC 20009	Consumers Union	4,000.00	
John J. Sheehan, 815 16th St., NW, #706 Washington, DC 20006	United Steelworkers of America	18,955.38	
Mark Sheehan, 1525 Wilson Blvd., Suite 550 Arlington, VA 22209-2411	National Newspaper Association		
Shaun M. Sheehan, 1722 Eye Street, NW, Washington, DC 20006	Tribune Broadcasting Co	3,700.00	209.81
C. Douglas Shelby, Florida Petroleum Council 215 South Monroe Street, #800 Tallahassee, FL 32301	American Petroleum Institute		
Jeffrey L. Sheldon, 1140 Connecticut Avenue, NW, #1140 Washington, DC 20036	UTC Telecommunication Assn		
John E. Shelk, 1600 M Street, NW, 5th Floor Washington, DC 20036	Hartford Fire Insurance	30,000.00	1,040.00
Zack H. Shelley Jr., 1212 Falster Road Alexandria, VA 22308	Lockheed Martin Corp	4,600.00	
Cynthia D. Shenker, Wilson Elser Moskowitz Edelman & Dicker One Steuben Place Albany, NY 12207	Healthcare Assn of New York State	4,167.00	85.00
Neal Sher, 440 First Street, NW, #600 Washington, DC 20001	American Israel Public AFfairs Committee	24,375.00	2,520.90
Sheridan Group, 1775 T Street, NW Washington, DC 20009	Cities Advocating Emergency Aids Relief (CAEAR)	91,363.65	29,433.77
Do	CFIDS Assn of America	21,000.00	5,493.06
Do	III(b) Coalition	19,083.33	5,643.13
Dawn M. Shiley, 1100 New York Avenue, NW, #1090 Washington, DC 20005	Synthetic Organic Chemical Manufacturing Assn	500.00	
Cathleen Shine, 767 Fifth Avenue New York, NY 10153-0183	Sanford C. Bernstein & Co, Inc (For:Zalman C. Bernstein)		
William Jeffry Shipp, 50 F St., NW, #900 Washington, DC 20001	Farm Credit Council	200.00	1,280.00
Bernard F. Shire, P.O. Box 269 Elizabethtown, PA 17022	American Assn of Meat Processors		
David C. Shoaf, 9524 Foxlair Pl. Gaithersburg, MD 20882	Edison Electric Institute	3,000.00	3,000.00
Jeffrey D. Shoaf, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America	2,000.00	500.00
Kathy L. Shobert, 901 15th Street, NW, #900 Washington, DC 20005	General Communication, Inc	1,492.00	
Bard D. Shollenberger, 1200 K Street, NW Washington, DC 20005	Lockheed Information Management Services Co, Inc	2,000.00	
Harold A. Shoup, 1899 L Street, NW Washington, DC 20036	American Assn of Advertising Agencies	2,500.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Jill Showell, 1101 Pennsylvania Ave., NW, #950 Washington, DC 20004	Federal Home Loan Mortgage Corp	3,000.00	722.87
A. Z. Shows, 1801 Columbia Rd., NW, #203 Washington, DC 20009			
Diane M. Shust, 1201 16th Street, NW Washington, DC 20036	National Education Assn	3,978.55	154.50
William H. Shute, 1401 I Street, NW, #1100 Washington, DC 20005	SBC Communications, Inc	15,000.00	5,877.63
Zelda Shute, 816 Connecticut Ave., NW, Suite 900 Washington, DC 20006	OHM Corp	1,500.00	229.39
Linda S. Sickels, 806 Canal Street Irving, TX 75063	Trinity Industries, Inc		
David Todd Sidor, One Constitution Square New Brunswick, NJ 08901-1500	New Jersey State Bar Assn		
Kristin Siemann, 1725 DeSales Street, NW, #500 Washington, DC 20036	Center for Marine Conservation	158.52	
Susan Siemietkowski, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn	3,000.00	
Jill Sigal, 601 Pennsylvania Avenue, NW, #900 South Washington, DC 20004	ASARCO, Inc	22,500.00	3,054.75
Gerry Sikorski, 1225 I Street, NW, #1025 Washington, DC 20005	Save America's Forests		
Allan Silber, 365 Main Street Nashua, NH 03060	Recyclers of Copper Alloy Products	10,500.00	4,833.45
Mark Silbergeld, 1666 Connecticut Avenue, NW, #310 Washington, DC 20009	Consumers Union of U.S., Inc	4,000.00	20.00
Hilary Sills, 1615 L Street, NW, Suite 1150 Washington, DC 20036	Capitoline/MS&L (For:Berwind Natural Resources Corp)		
Do	Capitoline/MS&L (For:Psychemedics Corp)	3,900.00	
Do	Capitoline/MS&L (For:Sprint)	975.00	
Howard J. Silver, 1522 K Street, NW, #836 Washington, DC 20005	Consortium of Social Science Assns		19.50
Steve Silver, 2300 Clarendon Blvd., #1010 Arlington, VA 22201	Robertson Monagle & Eastaugh (For:Alaska Loggers Assn)		
Do	Robertson Monagle & Eastaugh (For:BP America, Inc)	3,500.00	
Do	Robertson Monagle & Eastaugh (For:City of Craig, AK)	3,000.00	
Do	Robertson Monagle & Eastaugh (For:City of Kotzebue)	2,000.00	
Do	Robertson Monagle & Eastaugh (For:City of Silverton)		
Do	Robertson Monagle & Eastaugh (For:Echo Bay Mining Company)		
Do	Robertson Monagle & Eastaugh (For:Georgia Pacific)	5,325.00	
Do	Robertson Monagle & Eastaugh (For:Goldbelt)		
Do	Intermountain Forest Industry Assn	5,165.00	
Do	Robertson Monagle & Eastaugh (For:Kennecott Corp)	3,253.00	
Do	Ketchikan Pulp Co	18,400.00	
Silver Users Assn, Inc, 1730 M St., NW, #911 Washington, DC 20036		1,367.00	1,810.00
Edward Silverman, 1150 17th Street, NW, Suite 400 Washington, DC 20036	Greenwich Capital Markets, Inc	3,000.00	215.00
Reuben Silvers, 2030 M Street, NW Washington, DC 20036	Common Cause		
Silverstein & Mullens, 1776 K Street, NW, #800 Washington, DC 20006	Association for Advanced Life Underwriting	5,000.00	
Do	Bristol-Myers Co		
Do	C & M Services, Inc		
Do	Cushman & Wakefield		
Do	International Chiropractors Assn	5,000.00	
Do	Life College	5,000.00	
Do	Monrovia Nursery Company	5,000.00	
Do	MCA, Inc	10,000.00	
Do	National Assn of Home Builders Trade Assn		
Do	National Structured Settlements Trade Assn	9,000.00	
Do	5600, Inc	300.00	
Don Simon, 3rd Floor 2030 M Street, NW Washington, DC 20036	Common Cause	19,999.98	75.50
Emery Simon, 2001 L Street, NW, #400 Washington, DC 20036	Alliance to Promote Software Innovation	9,000.00	
Arthur J. Simonetti, 1001 Pennsylvania Ave., NW, #700 Washington, DC 20004	AlliedSignal, Inc		
Talmage E. Simpkins, 1150 17th Street, N.W., #700 Washington, DC 20036	Labor-Management Maritime Committee, Inc		
Thomas D. Simpson, 700 N. Fairfax Street, #601 Alexandria, VA 22314	Railway Progress Institute	3,951.01	
William G. Simpson, 1155 15th St., NW, #504 Washington, DC 20005	Entergy Services, Inc (Mississippi Power & Light Co)	2,000.00	
Do	Federal Express	3,000.00	
Do	First Mississippi Corp	1,500.00	
Do	Mississippi Chemical Corp	2,000.00	
Jennifer Singleton, 1666 Connecticut Ave., NW, Suite 400 Washington, DC 20009	Federation for American Immigration Reform	150.00	20.00
Stephen G. Sinkez, 1111 19th Street, NW, #408 Washington, DC 20036	Mitsubishi Motors America, Inc		
Skadden Arps Slate Meagher & Flom, 1440 New York Avenue, NW Washington, DC 20005	Allied-Signal, Inc		
Do	American International Group, Inc	8,000.00	82.00
Do	Anheuser-Busch Companies, Inc	1,000.00	100.00
Do	AK Steel	4,000.00	
Do	Bell Atlantic	3,000.00	72.00
Do	Bethlehem Steel Corp	20,000.00	
Do	BET Holdings, Inc		
Do	Consolidated Freightways, Inc	7,500.00	4.50
Do	CINergy Corp	7,650.00	86.40
Do	COMSAT Corp	300.00	
Do	Dun & Bradstreet		
Do	Entergy Corporation	35,375.00	530.50
Do	Export Source Coalition	163.00	
Do	Fort Howard Corp	638.00	
Do	Fruit of the Loom	1,000.00	
Do	Geotek Communication, Inc		
Do	Inland Steel Industries, Inc	10,000.00	
Do	LTV Steel Company, Inc	10,000.00	
Do	MCI Communications Corp	3,188.00	5.00
Do	National Steel Corp	10,000.00	
Do	New World Communications Group, Inc	3,000.00	45.00
Do	Public Broadcasting Service		
Do	Sara Lee Corporation	3,000.00	
Do	Sequent Computer Systems, Inc	813.00	20.00
Do		575.00	21.00
Do	State Universities Retirement System of Illinois Pension...		
Do	USX Corp	20,000.00	
Do	Wing Group		
Kerry A. Walsh Skelly, 850 Dixie Highway Louisville, KY 40210	Brown-Forman Corp	909.00	
Edmund J. Skernolis, 1155 Connecticut Ave., NW, #800 Washington, DC 20036	WMW Technologies, Inc	2,612.50	
William J. Skinner, 751 Rockville Pike, #27B Rockville, MD 20852	U.S. Pharmacopeial Convention, Inc.	665.06	12.00
Mitchell C. Sklar, 3717 Columbia Pike, Suite 300 Arlington, VA 22204	National Assn of Alcoholism & Drug Abuse Counselors		
Sklar Associates, 100 West Linden Street Alexandria, VA 22301	Institute for International Sport		210.00
Lucy N. Skrabut, 655 15th Street, NW, Suite 410 Washington, DC 20005	Bristol-Myers Squibb Company	1,500.00	
Paul A. Skrabut Jr., 1000 Connecticut Avenue, NW, #706 Washington, DC 20036	Palumbo & Cerrell, Inc (For:American Soc of Composers Authors & Publishers)	9,450.00	266.50
Do	Palumbo & Cerrell, Inc (For:Atlantic Richfield Co)	2,550.00	
Do	Palumbo & Cerrell, Inc (For:Pennsylvania Institute of Technology)	1,275.00	
Dale D. Skupa, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268	National Assn of Mutual Insurance Cos		
Robert G. Slaughter, 1615 M St., NW, #200 Washington, DC 20036	Amoco Corporation	1,500.00	451.03
Albert J. Slechter, 1100 Connecticut Ave., NW, #900 Washington, DC 20036	Chrysler Corporation	4,998.00	631.67
Catherine Reiss Sloan, 1825 I Street, NW, #400 Washington, DC 20006	LDDS Communications, Inc		
David Sloan, Corporate Strategies International, Inc 1331 Pennsylvania Avenue, NW, #905 N. Washington, DC 20004	Oriental Rug Importers, Inc		
Do	Pande Cameron & Co of New York		
Kirsten A. Sloan, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	9,954.67	165.85
Kelly Campbell Slone, 800 Connecticut Ave., NW, #1100 Washington, DC 20006	Baxter	3,000.00	2,235.34
Slover & Loftus, 1224 17th St., NW Washington, DC 20036	Western Coal Traffic League	25,000.00	50,000.00
Small Business Council of America, Inc, P.O. Box 4299 Columbus, GA 31904		18,820.50	3,508.45
Douglas T. Smalls, 316 Pennsylvania Ave., SE, #304 Washington, DC 20003	United Parcel Service		
Brian D. Smedley, 750 First Street, NE Washington, DC 20002-4242	American Psychological Assn	200.72	34.00
Donald E. Smiley, 2001 Pennsylvania Ave., NW, #300 Washington, DC 20006	Exxon Corporation		
James Smiley, 1020 19th Street, NW, Suite 700 Washington, DC 20036	US West, Inc	1,420.48	
C. Douglas Smith, 1850 M St., NW, #600 Washington, DC 20036	Toyota Motor Sales, USA, Inc		
Daniel Smith, P.O. Box 1058 Montpelier, VT 05601	Northeast Interstate Dairy Compact Committee	7,500.00	6,444.31
Daniel C. Smith, 1815 H Street, NW, Suite 1001 Washington, DC 20006	National Field Selling Assn		
Diane Smith, 655 15th Street, NW, #220 Washington, DC 20005	ALLTEL Corporation		2,600.00
F. Scott Smith, 1130 Connecticut Avenue, NW, #830 Washington, DC 20036	Southern Company Services, Inc		4,486.89
James E. Smith, One State Street Boston, MA 02109	Century Council		
Jennifer L. Smith, 1000 Connecticut Avenue, NW, #304 Washington, DC 20036	Fresh Produce Assn of the Americas	300.00	
Keith H. Smith, 1455 Pennsylvania Ave, NW, #1260 Washington, DC 20004	French & Company (For:International Electronics Mfgrs & Consumers of America, Inc).	500.00	
M. Elizabeth Smith, 1718 22nd Street, NW Washington, DC 20008	Housing Development Corp of South Africa		54.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Michael P. Smith, 485 Lexington Ave. New York, NY 10017	New York State Bankers Assn	6,200.00	883.00
Patricia Smith, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,393.05	518.67
Patrick Smith, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,750.00	
Richard F. Smith, 1101 Pennsylvania Avenue, NW, #400 Washington, DC 20004	Textron, Inc	600.00	150.00
Robert E. Smith, 1730 K St., NW, #1300 Washington, DC 20006	Olin Corporation	12,500.00	8,000.00
Susan Snyder Smith, 7900 Westpark Drive, #A320 Mclean, VA 22102	Chocolate Manufacturers Assn of the USA	200.00	265.50
Tim Smith, 1776 Eye Street, NW, #400 Washington, DC 20006	Nuclear Energy Institute	9,835.00	1,654.00
Smith & Sowalsky, One State Street, Suite 950 Boston, MA 02109	NYNEX Government Affairs	4,350.00	2,954.13
Smith Dawson & Andrews, Inc, 1000 Connecticut Ave., NW, #302 Washington, DC 20036	Children's Hospital & Medical Center	15,000.00	
Do	Cities of Crainville & Carterville, Illinois	2,750.00	
Do	City of Eugene, Oregon	10,500.00	
Do	City of Gillespie, IL	2,250.00	
Do	City of Macon	15,000.00	
Do	City of Ontario, California	19,500.00	
Do	City of Sacramento	11,250.00	
Do	City of San Francisco		
Do	City of Springfield, Oregon	4,500.00	
Do	CRASH	7,500.00	
Do	Haarmann & Reimer Corp	6,000.00	
Do	Kansas City Transit Authority	9,000.00	
Do	Lane Community College	3,000.00	
Do	Lane County, Oregon	4,500.00	
Do	Metropolitan Water Reclamation District of Greater Chicago		
Do	National Assn of Foreign Trade Zones	4,500.00	
Do	New York Metropolitan Transportation Authority	17,400.00	
Do	Novopharm, USA	3,000.00	
Do	Port of San Francisco		
Do	San Francisco Public Utilities Commission		
Do	South County Cities Working Group	45,000.00	
Do	Union Switch & Signal, Inc	15,000.00	
Do	USAir	6,000.00	
Do	WOCN	9,000.00	
Smith Heenan & Althen, 1110 Vermont Avenue, NW, Suite 400 Washington, DC 20005	Private Benefits Alliance		
Smith-Free Group, 1500 K Street, NW, #325 Washington, DC 20005	American Institute of Architects	2,250.00	
Do	American Petroleum Institute	1,875.00	
Do	American Telephone & Telegraph	31,250.00	
Do	Association of Trial Lawyers of America	20,312.00	
Do	AFFYMETRIX	1,227.25	
Do	Broadcast Music Industries	15,000.00	
Do	CSX Corporation	3,750.00	
Do	Federal Home Loan Mortgage Corp	2,250.00	
Do	Kennecott Corp	3,750.00	
Do	Koch Industries, Inc	1,500.00	
Do	MBNA America Bank NA	6,000.00	
Do	National Assn of Protection & Advocacy Systems	600.00	
Do	Northville Industries Corp		
Do	Northwestern Mutual Life Insurance Co		
Do	Nuclear Energy Institute	1,125.00	
Do	Sony Music Entertainment, Inc	7,500.00	
Do	Sony Pictures Entertainment, Inc	10,000.00	
Do	Southern Company Services, Inc	2,500.00	
Do	USA Group, Inc	7,500.00	
Do	Wheelabrator Environmental Systems, Inc	1,250.00	
David A. Smitherman, Iowa Petroleum Council 218 6th Avenue, #1012 Des Moines, IA 50309-4006	American Petroleum Institute		
Smokeless Tobacco Council, Inc, 1627 K Street, NW, #700 Washington, DC 20006		11,301.25	11,301.25
William Snape, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	648.91	40.00
Randall D. Snodgrass, 666 Pennsylvania Ave., SE Washington, DC 20003	National Audubon Society	2,950.00	1,100.00
David F. Snyder, 1130 Connecticut Avenue, NW, #1000 Washington, DC 20036	American Insurance Assn	520.00	25.00
John M. Snyder, 2301 South Jefferson Davis Highway, #925 Arlington, VA 22202	Abraham Lincoln Foundation for Public Policy Research	450.00	
Do	Citizens Comm for the Right to Keep & Bear Arms	9,000.00	
Sarah E. Snyder, 5025 Wisconsin Ave., NW Washington, DC 20016	Amalgamated Transit Union		
Snyder Ball Kriser & Assoc, Inc, 499 S. Capitol St., SW, #520 Washington, DC 20003	Allison Engine Co	140.00	643.20
Do	Puget Sound Naval Bases Assn, Inc (PSNBA)	126.84	
Alan C. Sobba, 1301 Pennsylvania Ave., NW, #300 Washington, DC 20004	National Cattlemen's Assn	1,000.00	
Jack Sobel, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation		
Society for Animal Protective Legislation, P.O. Box 3719 Georgetown Station Washington, DC 20007		20,931.00	19,072.86
Society for Human Resource Management, 606 North Washington Street Alexandria, VA 22314			25,937.16
Society for Nutrition Education, 2001 Killebrew Drive, #340 Minneapolis, MN 55425-1882		1,200.00	9,804.19
Software Publishers Assn, 1730 M Street, NW, Suite 700 Washington, DC 20036		76,406.00	20,036.87
Gary L. Sojka, 8304 Harland Drive Springfield, VA 22152	APTI, E-Systems	500.00	
Do	Electronetics Corp		89.50
Do	Litton Inter Optical Systems	12,750.00	479.43
Do	Mason & Hangaer-Silas Mason Co, Inc	7,625.00	61.33
Eric W. Sokol, 519 C Street, NE Washington, DC 20002	National Assn for Home Care	207.00	
Andrea L. Solarz, 750 First St., NE Washington, DC 20002-4242	American Psychological Assn		
Vincent R. Sombrotto, 100 Indiana Ave., NW Washington, DC 20001	National Assn of Letter Carriers	6,444.90	
Frederick P. Somers, 4720 Montgomery Lane P.O. Box 31220 Bethesda, MD 20824-1220	American Occupational Therapy Assn, Inc	5,000.00	3.00
Judah C. Sommer, 1101 Pennsylvania Ave., NW, #900 Washington, DC 20004	Goldman Sachs & Co	3,000.00	
Mary Sophos, 1010 Wisconsin Avenue, NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc	1,369.98	
Southern Forest Products Assn, P.O. Box 641700 Kenner, LA 70064-1700		4,813.60	4,813.60
Southwest Airlines Co, P.O. Box 36611 Dallas, TX 75235-1611			14,558.50
Barbara R. Spangler, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	7,800.00	156.89
Sparber and Associates, Inc, 1319 F St., NW #301 Washington, DC 20004	Association of Fire Districts of the State of New York	1,500.00	
Do	New York State Fire Chiefs Assn	1,500.00	
Do	RJR Nabisco	27,000.00	
John S. Sparkman, 2 North 9th Street Allentown, PA 18101	Pennsylvania Power & Light Co	3,281.53	8,164.26
John D. Sparks, 1156 15th Street, NW, #800 Washington, DC 20005	American Symphony Orchestra League		12,150.00
Ian D. Spatz, 601 Pennsylvania Avenue, NW, #1200 Washington, DC 20004-2613	Merck & Co, Inc	1,000.00	400.00
Specialized Carriers & Rigging Assn, Inc, 2759 Prosperity Avenue, #620 Fairfax, VA 22314			
Richard L. Spees, 1341 G Street, NW, #200 Washington, DC 20005	McAuliffe Kelly & Raffaelli (For:Desert Research Institute)	2,100.00	1,305.51
Barney H. Speight, 200 SW Market, Suite 1200 Portland, OR 97201	Blue Cross & Blue Shield of Oregon	1,857.00	891.18
Rachel E. Speltz, 1050 17th Street, NW, Suite 500 Washington, DC 20036	Texaco, Inc		
Collins Robert Spencer III, 410 First St., SE, 2nd Floor Washington, DC 20003	National Rifle Assn of America	1,387.50	772.50
Andrew Sperling, 12300 Twinbrook Parkway Rockville, MD 20815	National Community Mental Healthcare Council	1,557.36	
Brian D. Spickard, 333 Piedmont Ave., 23rd Floor Atlanta, GA 30308	Georgia Power Co	24,893.96	11,897.96
Spiegel & McDiarmid, 1350 New York Ave., NW Washington, DC 20005-4798	City of St. Louis Airport Authority		
Do	Des Moines Community School District		
Do	Former Residents of Centralia, Pennsylvania		
Do	Minneapolis/St. Paul Metropolitan Airports Commission		
Do	Northern California Power Agency	306.25	
Do	Orange County		
Do	Transmission Access Policy Study Group		
William M. Spodak, 1801 K St., NW Washington, DC 20006	Westinghouse Electric Corp	7,500.00	175.00
Joel B. Spoonheim, 110 Maryland Avenue, NE, Suite 409 Washington, DC 20002	Council for a Livable World	984.39	
Lisa M. Sprague, 601 13th Street, NW, #370 South Washington, DC 20005	American Assn of Preferred Provider Organizations	3,250.00	
Patricia Spurlock, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	6,000.00	364.87
Mark G. Spurrier, 700 E. Joppa Road Towson, MD 21286	Baltimore County Police Department, et al.		
Squire Sanders & Dempsey, 1201 Pennsylvania Ave., NW P.O. Box 407 Washington, DC 20044	American Soc of Anesthesiologists		
Do	Independent Data Communications Manufacturers Assn		
Do	Information Technology Association of America		
Do	National Collegiate Athletic Assn		
Janet G. St. Amand, 1000 Connecticut Ave., NW, #507 Washington, DC 20036	Household Financial Group, Ltd	11,250.00	
Charles A. St. Charles, 2100 M Street, NW, #200 Washington, DC 20036	Stewart & Stewart (For:Libbey Glass)	2,280.83	
Do	Stewart & Stewart (For:Novus International, Inc)		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Sewart & Stewart (For:PPG Industries, Inc)	1,983.33	
Do	Stewart & Stewart (For:SCM Chemicals)		
Diane D. Staab, 1101 Pennsylvania Ave., NW, #200 Washington, DC 20004	International Paper	12,000.00	734.00
Connell Stafford, P.O. Drawer 1734 Atlanta, GA 30301	Coca-Cola Company	150.00	836.10
Roger Staiger Jr., 1667 K Street, NW, #450 Washington, DC 20006	Alyeska Pipeline Service Co	3,000.00	1,200.00
Michael J. Stanton, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	9,750.00	3,084.26
Stanton & Associates, 1310 19th Street, NW Washington, DC 20036	National Assn of Bankruptcy Trustees		
Do	Philip Morris		
Do	University Hospitals of Cleveland		
Mary Murray Staples, P.O. Box 660634 Dallas, TX 75266-0634	Frito-Lay, Inc	3,000.00	26,194.00
James D. Staton, 320 Timberbrook Drive Waldorf, MD 20601	Air Force Sergeants Assn, Inc		
Rozann M. Stayden, 740 15th Street, NW Washington, DC 20005	American Bar Assn	400.00	50.00
Randolph J. Stayin, 1401 Eye Street, Nw, #500 Washington, DC 20005	Barnes & Thornburg (For:Indiana Glass Company)		
Do	Barnes & Thornburg (For:Special Comm for Workplace Product Liability Reform)		
Barbara E. Steakley, 1155 15th Street, NW, #600 Washington, DC 20005	Pennzoil Company	900.00	
Kathryn A. Steckelberg, 701 Pennsylvania Ave., NW Washington, DC 20004-2696	Edison Electric Institute	4,435.90	1,091.37
Steele Silcox & Browning, P.C., 1150 Connecticut Avenue, NW, 9th Floor Washington, DC 20036	Kmart Corp		
Henry J. Steenstra Jr., 1001 - 19th Street North, Suite 800 Arlington, VA 22201-1722	TRW, Inc	1,031.00	1,068.00
Allan Stein, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	American Insurance Assn		
Dan Stein, 1666 Connecticut Ave., NW, #400 Washington, DC 20009	Federation for American Immigration Reform		
Gary C. Stein, 7272 Wisconsin Avenue Bethesda, MD 20814	American Soc of Health-System Pharmacists	3,125.00	
Steptoe & Johnson, 1330 Connecticut Ave., NW Washington, DC 20036	American Restaurant China Council		
Do	Bear Stearns & Co, Inc		
Do	Canyon Forest Village Corp		
Do	Citizens Savings & Financial Corp		
Do	Co-Operative Central Bank		
Do	CSO Company		
Do	Del Webb Corp		
Do	Federal Home Loan Bank of San Francisco	44,355.86	
Do	Mutual Life Insurance Company Tax Committee		
Do	New York Life Insurance Co		
Do	Western Financial	1,813.50	
Do	Yavapai-Prescott Indian Tribe		
Michael Stern, 1401 H Street, NW Washington, DC 20005	Investment Company Institute	3,892.31	926.77
Urvan R. Sternfels, 1899 L Street, NW, Suite 1000 Washington, DC 20036	National Petroleum Refiners		
Heidi Sternheim, 2000 K Street, NW, Suite 800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,267.00	
Michael E. Steward, 1101 Pennsylvania Ave., NW, #530 Washington,, DC 20004-2514	Puget Sound Power & Light Co	4,798.00	63.10
Robert B. Stewart, 1120 G Street, NW, #900 Washington, DC 20005	National Ocean Industries Assn	7,403.00	
Terence P. Stewart, 2100 M Street, NW, #200 Washington, DC 20036	Floral Trade Council	1,481.65	978.94
Do	Stewart & Stewart (For:Hudson Industries Corp)		
Do	Stewart & Stewart (For:Libbey, Inc)	8,268.93	2,909.91
Do	Monsanto Co		
Do	Novus International, Inc		
Do	Professional Plant Growers Assn		
Do	PPG Industries, Inc	6,323.74	1,999.13
Do	Radiation Systems, Inc		
Do	Smith Corona Corp		
Do	Stewart and Stewart		133.94
Do	SCM Chemicals		
Do	Timken Co	3,878.98	516.13
Do	Torrington Company	3,744.28	515.53
William F. Stiers, 11250 Waples Mill Road, #350 Fairfax, VA 22030	Quick Pawn Shop		
Stephen W. Still, 2001 Third Avenue, South Birmingham, AL 35233	Torchmark Corp/Liberty Nat'l Life Insurance Co		
Don Stillman, 1757 N Street, NW Washington, DC 20036	Int'l Union, United Auto Aerospace & Agric Implement Workers	2,241.02	10.00
Lee J. Stillwell, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	750.00	
Bonny S. Stilwell, 3803 Densmore Ct. Alexandria, VA 22309	Alliance for American Innovation	5,400.00	707.13
Do	National Vietnam Veterans Coalition	6,500.00	615.38
Edward W. Stimpson, 1400 K Street, NW, #801 Washington, DC 20005	General Aviation Manufacturers Association	2,262.00	
Caroline Stinebower, 453 New Jersey Ave., SE Washington, DC 20003	Beneficial Management Corp	7,245.00	
Kaye L Stinson, 1567 Eye Street, NW, #200 Washington, DC 20005	Mead Corporation		
John J. Stirk, 1725 Jefferson Davis Hwy., #601 Arlington, VA 22202-3585	Litton Industries	2,000.00	3,128.42
Carlton A. Stockton, 1801 Pennsylvania Ave., NW Washington, DC 20006	MCI Communications Corp	1,000.00	
Alex Stoddard, 1111 19th Street, NW, Suite 800 Washington, DC 20036	American Forest & Paper Assn	1,200.00	
Thomas M. Stohler, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America	3,000.00	500.00
Sean A. Stokes, 1140 Connecticut Ave., NW, Suite 1140 Washington, DC 20036	UTC Telecommunications Assn	15.71	
Dennis C. Stolte, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	9,187.00	351.60
Robin E. Stombler, 1001 Pennsylvania Avenue, NW, #725 Washington, DC 20007	American Society of Clinical Pathologists		7.40
John C. Stone, 1420 New York Avenue, NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:American Gas Assn)	750.00	
Do	Van Scoyoc Associates, Inc (For:Natural Gas Vehicle Coalition)		
Do	Van Scoyoc Associates, Inc (For:Raytheon Services)	1,500.00	
Do	Van Scoyoc Associates, Inc (For:University of New Orleans)	250.00	
Do	Van Scoyoc Associates, Inc (For:Washington Consulting Group)	250.00	
Judith Lee Stone, 750 First Street, NE, Suite 901 Washington, DC 20002	Advocates for Highway & Auto Safety	1,562.50	8.00
Floyd E. Stoner, 1120 Connecticut Avenue, NW Washington, DC 20036	American Bankers Assn	18,720.00	
Stormwater Reform Coalition, 3050 K Street, NW, #400 Washington, DC 20007		130.00	130.00
Carol Gray Storrs, 1401 I Street, NW, #1000 Washington, DC 20005	Securities Industry Assn	2,361.00	
Todd A. Stottlemyer, 1501 BDM Way McLean, VA 22102	BDM International, Inc	180.30	20.00
Anna Stout, 122 C Street, NW, #740 Washington, DC 20001	American League for Exports & Security Assistance, Inc	10,500.00	519.86
Susan M. Stout, 1010 Wisconsin Avenue, NW, #900 Washington, DC 20007	Grocery Manufacturers of America, Inc	662.87	
Mark R. Stover, 1525 Wilson Blvd., #550 Arlington, VA 22209	National Newspaper Assn		
Luther J. Strange III, 2101 Highland Avenue, #250 Birmingham, AL 35205	Sonat, Inc	5,000.00	
Do	Vulcan Materials Co	5,000.00	
Raymond L. Strassburger, 801 Pennsylvania Ave., NW, #700 Washington, DC 20004	Northern Telecom, Inc	1,250.00	
Strategic Management Associates, Inc, 112 S. West Street Alexandria, VA 22314	Greater New York Hospital Assn	45,000.00	
Do	Mobile X-Ray Providers of America	15,000.00	
Do	Montefiore Medical Center	24,000.00	
Do	National Medical Enterprises, Inc		
Do	New York Hospital		
Strategic Policy, Inc, 1615 L Street, NW, Suite 650 Washington, DC 20036	American Trucking Assn, Inc	2,518.85	37.87
Do	Arthur Andersen & Co	3,375.00	59.56
Do	Coopers & Lybrand	3,375.00	59.56
Do	Deloitte & Touche	3,375.00	59.56
Do	Ernst & Young	3,375.00	59.56
Do	Interstate Natural Gas Assn of America	800.00	27.52
Do	Kimberly-Clark	1,000.00	7.27
Do	KPMG Peat Marwick	3,375.00	59.56
Do	Lockheed IMS	1,500.00	35.59
Do	Los Angeles Convention & Visitors Bureau	1,000.00	36.81
Do	Price Waterhouse	3,375.00	59.56
Terrence D. Straub, 1101 Pennsylvania Avenue, NW Washington, DC 20004	USX Corporation	250.00	
W. Martin Strauss, 700 14th Street, NW, Suite 1100 Washington, DC 20005	Monsanto Co		
Stephen P. Strickland, 1835 K Street, NW, #610 Washington, DC 20006	National Peace Foundation	107.13	
Steven P. Strobridge, 201 N. Washington Street Alexandria, VA 22314	Retired Officers Assn	3,535.50	
Jack B. Strong, 400 West 15th Street, Suite 804 Austin, TX 78701	LDDSMetromedia, Inc	6,825.00	1,599.29
David G. Strongin, 1401 I Street, NW, #1000 Washington, DC 20005	Securities Industry Assn	525.00	
Stroock & Stroock & Lavan, 1150 17th St., NW Washington, DC 20036	J. Aron & Co, Inc		
Do	Dreyfus Corporation		
Do	EF Au Pair		
Do	Jones Act Reform Coalition		
Do	Rongelap Community	12,980.00	76.00
Daniella L. Strother, 1101 17th Street, NW, #600 Washington, DC 20036	American Airlines, Inc	5,499.99	
George Strumpf, 1150 17th St., NW, #600 Washington, DC 20036	Health Insurance Plan of Greater New York	12,000.00	6,500.00
Dorothy Strunk, 12612 Tartan Lane Ft. Washington, MD 20744	United Parcel Service (UPS)	7,500.00	194.28
Cory N. Strupp, Legal Dept., 38th Floor 60 Wall Street New York, NY 10260	J.P. Morgan & Co, Inc	2,852.23	2,333.20

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Stuntz & Davis, P.C., 1201 Pennsylvania Ave., NW, #819 Washington, DC 20004	Amoco Corporation	815.00	6.00
Do	ARCO	1,092.00	8.00
Do	Bridgestone/Firestone, Inc	1,475.00	21.00
Do	Columbia Gas Systems Service Corp	2,275.00	9.00
Do	Ethyl Corp	2,171.00	30.00
Do	General Electric Appliances	4,238.00	9.00
Do	General Electric Industrial & Power Systems	952.00	12.00
Do	General Electric Power Delivery		
Do	Marathon Oil Co	195.00	
Do	Newport News Shipbuilding	182.00	
Do	Nextel Communications, Inc	1,105.00	9.10
Do	Northern States Power Co	1,040.00	16.00
Do	Pharmaceutical Research & Manufacturers of America	130.00	
Do	PURPA Reform Coalition	3,399.00	33.00
Do	R.J. Reynolds Tobacco Co	520.00	20.00
Do	Southern California Edison Co		
Scott B. Styles, 805 15th Street, NW, #410 Washington, DC 20005	Air Products & Chemicals, Inc	3,500.00	
Joseph P. Sudbay, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc		
Glenn Sugameli, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	2,035.41	
Charles S. Sullivan, P.O. Box 2310 Washington, DC 20013	Citizens United for Rehabilitation of Errants	2,300.00	1,450.00
Dianne Sullivan, 601 13th Street, NW, #410 South Washington, DC 20004	R. Duffy Wall & Associates, Inc	1,250.00	
John J. Sullivan, 8900 Keystone Crossing Indianapolis, IN 46240	Miller Muller Mendelson & Kennedy (For:Golden Rule Insurance)	15,318.00	4,384.39
Marcia Z. Sullivan, 1000 Wilson Boulevard, Suite 3012 Arlington, VA 22209	Consumer Bankers Assn		
Pauline Sullivan, P.O. Box 2310 Washington, DC 20013-2310	Citizens United for Rehabilitation of Errants	900.00	
Rebecca M. Sullivan, 1033 N. Fairfax Street, Suite 404 Alexandria, VA 22314	International Council of Shopping Centers	1,450.00	
Sullivan & Worcester, 1025 Connecticut Ave., NW, #806 Washington, DC 20036	Marion Merrell Dow, Inc	7,500.00	
Rick Surratt, 807 Maine Avenue, SW Washington, DC 20024	Disabled American Veterans	21,653.64	
Gavin J. Sutcliffe, 1201 New York Ave., NW Washington, DC 20005-3931	American Hotel & Motel Assn	1,567.51	
Francis A. Sutherland Jr., 100 N. Greene St. Greensboro, NC 27401	Jefferson-Pilot Life Insurance Co	2,000.00	
Bob Sutton, c/o South Dakota Petroleum Council 222 E. Capitol, #16 Pierre, SD 57501	American Petroleum Institute		
Stephen Sutton, 1000 Wilson Blvd., #2300 Arlington, VA 22209	Northrop Grumman Corporation	1,400.00	
Deborah Swartz, 1225 19th Street, NW, #210 Washington, DC 20036	Luggage & Leather Goods Manufacturers of America, Inc		
Do	Neckwear Assn of America, Inc		
Elizabeth J. Swasey, 11250 Waples Mill Road Fairfax, VA 22030	NRA - Institute for Legislative Action/CrimeStrike		
Loren E. Sweatt, 1957 E Street, NW Washington, DC 20006	Associated General Contractors of America	2,000.00	500.00
David M. Sweet, 1101 16th Street, NW Washington, DC 20036	Independent Petroleum Assn of America		
Frederic H. Sweet, 720 East Wisconsin Avenue Milwaukee, WI 53202	Northwestern Mutual Life Insurance Co	500.00	
Diane K. Swenson, 1212 New York Ave., NW Washington, DC 20005	American Tort Reform Assn		13,500.00
Leland H. Swenson, 10065 East Harvard Avenue Denver, CO 80251	Farmers' Educational & Co-Operative Union of America	12,564.25	147.49
Swidler & Berlin, Chtd, 3000 K Street, NW, #300 Washington, DC 20007	National Council of Community Hospitals		
Do	New York City Housing Development Corp	1,092.00	
Do	New York State Mortgage Loan Enforcement & Admin Corp		
Do	Starrett Corp	78.00	
Virginia M. Swope, 901 15th Street, NW, #320 Washington, DC 20005	Travelers, Inc	1,500.00	
David A. Sykuta, Illinois Petroleum Council P.O. Box 12047 Springfield, IL 62791	American Petroleum Institute	420.00	1,204.76
Ronald P. Szabat, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
SJA International, Inc, 1001 Connecticut Ave., NW, Suite 401 Washington, DC 20036	Zenith Data Systems	3,400.00	1,679.19
Janis Tabor, 1828 L Street, NW, #906 Washington, DC 20036	American Soc of Mechanical Engineers		
George C. Tagg, 300 Maryland Ave., NE Washington, DC 20002	Federal Express Corp	6,000.00	
Taggart & Associates, Inc, 1156 15th Street, NW, #415 Washington, DC 20005	American Crop Protection Association		
Do	Association of American Railroads		
Do	CGI Systems, Inc		
Do	M&M/Mars, Inc		
Do	Marion Merrell Dow, Inc		
Do	TDS Telecom		
Mariko Takayasu, 1535 Mission Street San Francisco, CA 94103	Consumers Union	104.40	
Robin M. Tallon, 1875 Eye Street, NW, Suite 800 Washington, DC 20006	Tobacco Institute	1,000.00	87.80
William Tammelleo, 555 New Jersey Ave., NW Washington, DC 20001	American Fed of Teachers	15,583.98	40.00
Susan Tannenbaum, 2030 M St., NW Washington, DC 20036	Common Cause	8,004.54	
Tanner & Guin, P.C., P.O. Box 032206 Tuscaloosa, AL 35403	Morrow Realty Co, Inc		
Augustine D. Tantillo, 900 2nd Street, Suite 306 Washington, DC 20002	SRG & Associates	35,000.00	5,000.00
Tapestry Consultants, Inc, P.O. Box 2403 Leesburg, VA 22075			
Gary W. Tappana, 1776 I STreet, NW, Suite 200 Washington, DC 20006	Anheuser-Busch Companies		
Anna Tarka, 1629 Columbia Rd., #400 Washington, DC 20009	Bruce P. Cameron (for Embassy of Mozambique)	1,999.50	
Do	Bruce P. Cameron (for Nat'l Council for Maubene Resistance)	596.13	
Joseph Tasker Jr., 1300 Eye Street, NW, #490East Washington, DC 20005	Compaq Computer Corp	6,250.00	25.00
Jeffrey A. Tassey, 919 18th Street, NW Washington, DC 20006	American Financial Services Assn	250.00	
Eula M. Tate, 1757 N Street, NW Washington, DC 20036	United Auto. Aerospace & Agricultural Implement Wks of Amer.	18,669.18	194.00
Thomas N. Tate, 1250 Eye Street, NW Washington, DC 20005	Aerospace Industries Assn of America, Inc	1,852.50	
Victor Tawil, 1776 Massachusetts Avenue, NW, Suite 310 Washington, DC 20036	Association for Maximum Service Television, Inc		
Charles A. Taylor III, 499 South Capitol St., SW, #401 Washington, DC 20003	National Assn of Independent Insurers	1,500.00	
Gary J. Taylor, 444 North Capitol Street, NW, #534 Washington, DC 20001	International Assn of Fish & Wildlife Agencies	16,495.00	
Jefferson D. Taylor, 655 15th Street, NW, #1200 Washington, DC 20005	Safe Buildings Alliance		
Margaret J. Taylor, 700 13th Street, NW, #525 Washington, DC 20005	Meridian Oil, Inc	1,750.00	110.27
Marie Taylor, 1825 Eye Street, NW, #400 Washington, DC 20006	BF Goodrich Co	100.00	
Mary Beth Savary Taylor, 1101 Vermont Ave., NW Washington, DC 20005	American Medical Assn	25.00	
Patricia Taylor, 7121 Sycamore Ave. Takoma Park, MD 20912	Seedco	1,250.00	300.00
Peggy Taylor, 815 16th St., NW Washington, DC 20006	American Fed of Labor & Congress of Industrial Organizations	23,452.13	1,095.71
Taylor Thiemann & Aitken, 908 King Street, #300 Alexandria, VA 22314	Association of Test Publishers	170.00	
Do	CTB MacMillan/McGraw-Hill	375.00	
Do	National Assn of Convenience Stores		
Randy Teach, 1275 Pennsylvania Avenue, NW, #503 Washington, DC 20004-2404	Medical Group Management Association		
Technical Group, Inc, 1300 Eye Street, NW, #1000 West Washington, DC 20005	NEDA/RCRA Project	500.00	
Do	Steel Shipping Container Institute	500.00	
Peter B. Teeley, 502 Summers Court Alexandria, VA 22301	Amgen, Inc	29,625.00	1,345.53
Richard Telthorst, Missouri Oil Council 428 East Capitol, Suite 203 Jefferson City, MO 65101	American Petroleum Institute	1,160.00	969.13
Joshua P. Tenuta, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	6,485.00	
John H. Terry, 25 Erregger Terrace Syracuse, NY 13221-2151	Hiscock & Barclay (For:Niagara Mohawk Power Corp)	3,705.00	1,409.62
Richard Paul Teske, 1500 K Street, NW, #625 Washington, DC 20005	Burroughs Wellcome Co	35,000.00	
Richard Tessier, 1133 15th Street, NW, #640 Washington, DC 20005	American Logistics Assn		
Texas Committee on Natural Resources, 5952 Royal Lane, #168 Dallas, TX 75230		334.50	334.50
Texas Oil Marketers Assn, 701 W. 15th Street Austin, TX 78701		1,000.00	4,851.03
Mary Kay Thatcher, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	8,125.00	221.24
Richard R. Thaxton, 5112 Althea Drive Annandale, VA 22003	National Assn of State Auditors Comptrollers & Treasurers	15,000.00	336.55
Daniel O. Theno, 1919 S. Broadway P.O. Box 19130 Green Bay, WI 54304-1919	Fort Howard Corp	3,417.42	3,800.75
Theradynamics Corp, P.O. Box 229 28 Linden Street Geneva, NY 14456			
Janelle C.M. Thibau, 3000 K Street, NW, #620 Washington, DC 20007	Merrill Lynch & Co, Inc	1,800.00	
Gregory A. Thies, 1100 New York Avenue, NW, #340 West Washington, DC 20005	BASF Corporation	355.00	20.00
Philip E. Thoden, 1199 North Fairfax Street, Suite 801 Alexandria, VA 22314	NATSO, Inc		
Edlu J. Thom, 601 Pennsylvania Avenue, NW, #400 Washington, DC 20004	Arco Chemical Company		
Robert G. Thoma, 1100 New York Avenue, NW, #340-West Washington, DC 20005	BASF Corp	1,800.00	436.00
Amber Thomas, 7901 Westpark Drive McLean, VA 22102	AMT - The Assn for Manufacturing Technology	2,090.00	500.00
Cindy Thomas, 1990 M Street, NW, #340 Washington, DC 20036	Kent & O'Connor, Inc (For:Carter Footwear, Inc)	3,436.00	1,416.08
Gordon M. Thomas, 1101 Pennsylvania Avenue, NW, #400 Washington, DC 20004	Textron, Inc	600.00	150.00
Jennifer L. Thomas, 1001 Pennsylvania Ave., NW, Suite 725 Washington, DC 20004	American Soceity of Clinical Pathologists		9.00
Rich Thomas, 2030 M Street, NW Washington, DC 20036	Common Cause	6,499.98	
W. Dennis Thomas, 1620 Eye St., NW, #700 Washington, DC 20006	International Paper Co	2,400.00	224.60
Bruce E. Thompson Jr., 3000 K Street, NW, #620 Washington, DC 20007	Merrill Lynch & Co, Inc	9,000.00	
C. Nicholas Thompson, 1420 New York Ave., NW, Suite 750 Washington, DC 20005	Acxiom Corp		
Dana S. Thompson, 305 4th Street, NE, Washington, DC 20002	Sheet Metal & Air Conditioning Contractors National Assn		
Kenneth W. Thompson, 1156 15th Street, NW, #505 Washington, DC 20005	Association of School Business Officials International	1,666.66	10.00
Do	BellSouth Corp	12,000.00	10.00
Do	Coalition for Customer Choice in Electricity	15,000.00	10.00
Do	Food Development Corp		10.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Itron and AMRplus Partners	15,000.00	10.00
Do	Potomac Capital Investment Corp	15,000.00	10.00
Otis N. Thompson, U.S. Department of Agriculture (OPEDA) Room SM - 3 - South Ag. Bldg. Washington, DC 20250	Organization of Professional Employees of USDA	629.67	
Richard L. Thompson, 655 15th Street, NW, #410 Washington, DC 20005	Bristol-Myers Squibb Co	1,500.00	
Robert L. Thompson Jr., P.O. Box 70 Fort Mill, SC 29715	Springs Industries, Inc		
Timothy C. Thompson, 2200 First Interstate Plaza P.O. Box 1157 Tacoma, WA 98401-1157	Bechtel Hanford, Inc	15,000.00	
Warren C. Thompson III, P.O. Box 1616 Tacoma, WA 98401	Frank Russell Company	2,000.00	31,809.84
R. Thompson & Company, One Massachusetts Ave., NW, Suite 330 Washington, DC 20001	Golden Rule Insurance Co	18,000.00	3,143.54
Do	Government of Guatemala	35,000.00	41,163.32
Do	Mitsubishi Electronics America, Inc	4,050.00	3,122.73
Thompson & Mitchell, 700 14th Street, NW, #900 Washington, DC 20005	Cold Finished Steel Bar Institute	180.00	
Lynn Harding Thomson, 1299 Pennsylvania Ave., NW Washington, DC 20004	General Electric Co	1,500.00	487.51
Robert B. Thomson III, 453 New Jersey Avenue Washington, DC 20003	Beneficial Management Corp	3,949.31	
William J. Thomson, Dray Madison & Thomson, P.C. 204 East 22nd Street Cheyenne, WY 82001-3799	MultiState Associates, Inc (for Viaticus, Inc)		20.00
Jill Thorne, 1500 SW 5th, #2301 Portland, OR 97201	Round-Up City Development Corp, et al.	13,071.00	520.00
Margo Thorning, 1750 K St., NW, #400 Washington, DC 20006	American Council for Capital Formation	6,462.00	
John Thornton, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	1,835.20	
Gil Thurm, 1331 Pennsylvania Ave., NW, #1500N Washington, DC 20004-1790	National Assn of Manufacturers	5,000.00	
Maria Tilves-Aguilera, 801 Pennsylvania Ave., NW, #700 Washington, DC 20004	Northern Telecom, Inc	1,250.00	
Timmons & Co, Inc, 1850 K St., NW, #850 Washington, DC 20006	American Medical Assn	3,071.25	
Do	American Petroleum Institute	1,102.50	
Do	Ameritech	2,960.00	
Do	Anheuser-Busch Companies, Inc	1,725.00	
Do	Black Entertainment Television	945.00	
Do	Capital Cities/ABC, Inc	3,307.50	
Do	Chrysler Corporation	1,968.75	
Do	Cox Enterprises	748.13	
Do	Envirocare of Utah, Inc	945.00	
Do	General American Life Insurance Co	870.00	
Do	General Instrument Corp	3,071.25	
Do	H.J. Heinz Co	1,472.50	
Do	Major League Baseball	1,968.75	
Do	Metricom, Inc	1,496.25	
Do	National Rifle Assn	1,085.00	
Do	Natural Disaster Coalition	1,864.32	
Do	Northrop Grumman Corporation	3,465.00	
Do	Omnipoint Corp	748.13	
Do	G. D. Searle & Co	3,071.25	
Do	SCEcorp and Subsidiaries	1,811.25	
Do	Union Pacific Corp	1,575.00	
Alan R. Timothy, Mail No. BC300 Golden, CO 80401	Coors Brewing Co	5,700.00	
D'Anna Stanfield Tindal, 2346 Greenwich St. Falls Church, VA 22046	Recon/Optical, Inc	25,500.00	3,010.92
G. Wayne Tingle, 1725 Jefferson Davis Highway, #900 Arlington, VA 22202	Loral Aeronutronic	800.00	30.00
Do	Loral Vought Systems Corp	1,700.00	95.00
Constance E. Tipton, 1250 H St., NW, Suite 900 Washington, DC 20005	International Dairy Foods Association		386.20
E. Linwood Tipton, 888 16th St., NW Washington, DC 20006	International Dairy Foods Assn		126.32
Eben S. Tisdale, 900 17th Street, NW, #1100 Washington, DC 20006	Hewlett-Packard Co	3,000.00	805.00
Francis M. Tivnan, Massachusetts Petroleum Council 11 Beacon Street Boston, MA 02108	American Petroleum Institute	3,000.00	
Merry M. Tobin, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	5,750.00	
Greta Todd, 777 North Capitol Street, #803 Washington, DC 20002	American Assn of Nurse Anesthetists	5,000.00	245.92
James S. Todd, 515 North State Street Chicago, IL 60610	American Medical Assn	4,000.00	
William P. Toland, 1100 New York Ave., NW, #340 West Washington, DC 20005	BASF Corporation	446.00	200.00
Michael A. Tongour, 1500 K Street, Suite 325 Washington, DC 20005	American Institute of Architects	2,250.00	
Do	Koch Industries, Inc	1,500.00	
Do	National Assn of Protection & Advocacy Systems	900.00	
Neil Tonnesen, 5 Wildwood Gardens Port Washington NY11050			
Frank Toohey, 1401 Eye Street, NW, #1000 Washington, DC 20005-2225	Securities Industry Assn	4,248.00	
Michael J. Toohey, 601 Pennsylvania Ave., NW North Building, Suite 540 Washington, DC 20004	Ashland Oil, Inc	2,000.00	
Jonathan M. Topodas, 151 Farmington Avenue Hartford, CT 06156	Aetna Life & Casualty Co	1,000.00	
William T. Torgerson, 1900 Pennsylvania Ave., NW Washington, DC 20068	Potomac Electric Power Co		
Virginia Torsch, 201 North Washington Street Alexandria, VA 22314	Retired Officers Assn	2,529.00	
Leslie Touma, 21557 Telegraph Road Southfield, MI 48034	Lear Seating Corp		
Bronwyn B. Towle, 499 South Capitol Street, SW #507 Washington, DC 20003	Hecht Spencer & Associates (For:Brown & Williamson Tobacco Corp)		
Do	Hecht Spencer & Associates (For:Kamehameha Schools Bishop Estate)		
Do	Hecht Spencer & Associates (For:National Automatic Merchandising Assn)		
Christopher Townsend, 17901 Von Karman Irvine, CA 92714	Taco Bell Corp	1,326.00	2,556.20
Wanda Townsend, 1724 Massachusetts Ave., NW Washington, DC 20036	National Cable Television Assn, Inc	3,778.00	99.58
Toy Manufacturers of America, Inc, 200 Fifth Ave., #740 New York, NY 10010			12,600.00
Transportation - Communications International Union, 815 16th St., NW, #511 Washington, DC 20006		4,000.00	5,100.32
Mark Traphagen, 1730 M Street, NW, Suite 700 Washington, DC 20036	Software Publishers Assn	2,630.00	
Thomas C. Trauger, 1350 New York Avenue, NW Washington, DC 20005	Spiegel & McDiarmid (For:Michigan Municipal/Cooperative Group)		
E. Neil Trautwein, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	2,500.00	40.00
Travel & Tourism Government Affairs Council, 1100 New York Ave., NW, #450 Washington, DC 20005-3934		5,063.00	5,063.00
Travel Industry Assn of America, 1100 New York Avenue, NW, #450 Washington, DC 20005-3934			5,063.00
Jeffery S. Trinca, 1420 New York Ave., NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:American Forest & Paper Assn)	1,875.00	
Do	Van Scoyoc Associates, Inc (For:Anheuser-Busch Companies)	2,500.00	
Do	Van Scoyoc Associates, Inc (For:California Water Service Co)	300.00	
Do	Van Scoyoc Associates, Inc (For:Kellogg Company)	285.00	
Do	Van Scoyoc Associates, Inc (For:National Assn of Water Companies)	750.00	
Do	Van Scoyoc Associates, Inc (For:Schering-Plough Corp)	750.00	
Do	Van Scoyoc Associates, Inc (For:USF&G Insurance)		
Do	Van Scoyoc Associates, Inc (For:VIACOM International, Inc)	2,250.00	
Tripp Scott Conklin & Smith, 110 Tower, 28th Floor 110 Southeast 6th Street Fort Lauderdale, FL 33301	Alamo Rent-A-Car, Inc		816.00
Julie Trocchio, 4455 Woodson Road St. Louis, MO 63134	Catholic Health Assn of the United States	2,674.45	
Michael G. Troop, 9072 East Friess Dr. Scottsdale, AZ 85260	America's Community Bankers	8,400.00	
Troutman Sanders, 601 Pennsylvania Ave., NW, Suite 640 North Building Washington, DC 20004	Central & South West Corp	9,360.00	84.15
Do	Southern Company	9,360.00	84.15
Thomas L. Trueblood, 455 North Cityfront Plaza Drive Chicago, IL 60611	Navistar International Transportation Corp	1,000.00	
Francine L. Trull, 818 Connecticut Ave., NW, Suite 303 Washington, DC 20006	National Assn for Biomedical Research	2,000.00	
Do	Policy Directions, Inc	2,700.00	
Patrick A. Tucker, 701 Pennsylvania Ave., NW, Suite 710 Washington, DC 20004	Tenneco, Inc	10,432.50	452.08
Tucker Flyer & Lewis, P.C., 1615 L Street, NW, #400 Washington, DC 20036-5601	National Realty Committee		
Shannon B. Tuel, P.O. Box 020783 Miami, FL 33102-0783	Burger King Corp	37.00	
Chris Tuffli, Bogle & Gates 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	City of Gresham		
Do	Confederated Tribes of the Grand Ronde	144.00	
Do	Domestic Petroleum Council	434.00	
Christopher J. Tully, 5025 Wisconsin Ave., NW Washington, DC 20016	Amalgamated Transit Union, AFL-CIO	2,000.00	185.00
Michael R. Tuosto, One Massachusetts Avenue, NW, Suite 710 Washington, DC 20001	Pubic Service Electric and Gas Company	30.00	
David Turch & Associates, 517 2nd Street, NE Washington, DC 20002	City of Rialto	3,200.00	1,275.00
Do	Inland Valley Development Agency	4,200.00	1,275.00
Do	Recovery Engineering	6,600.00	875.00
Do	San Bernardino Associated Governments	2,400.00	1,275.00
Do	San Bernardino International Airport Authority	3,200.00	1,275.00
Do	Southern California Regional Rail Authority	12,600.00	1,675.00
Jane L. Turner, 1111 19th Street, NW, Suite 800 Washington, DC 20036	American Forest & Paper Assn	1,200.00	
John M. Turner, 1875 Eye St., NW, #775 Washington, DC 20006	Georgia-Pacific Corp	2,700.00	
Pamela J. Turner, 1724 Massachusetts Ave., NW Washington, DC 20036	National Cable Television Assn, Inc	8,859.00	466.67
Turner Broadcasting System, Inc, 820 First Street, NE Washington, DC 20002		21,506.75	21,506.75
James S. Turpin, 3444 S. Wakefield St. Arlington, VA 22206	Horsehead Resource Development		
Tuttle Taylor & Heron, 1025 Thomas Jefferson Street, NW, #407 Washington, DC 20007	Sunkist Growers, Inc	39,125.00	978.12
John R. Tydings, 1129 20th Street, NW Washington, DC 20036	Greater Washington Board of Trade	9,500.00	
George Randall Tyree, 1800 Massachusetts Ave., NW Washington, DC 20036	National Rural Electric Cooperative Assn	56.80	
G. John Tysse, 1015 15th Street, NW, #1200 Washington, DC 20005	McGuiness & Williams (For:Labor Policy Assn)	9,273.00	
U.S. Border Control, 8180 Greensboro Dr., #1070 McLean, VA 22102		58,858.82	31,040.81

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
U.S. Cane Sugar Refiners' Assn, 1730 Rhode Island Avenue, NW Washington, DC 20036			74.42
U.S.-China Business Council, 1818 N Street, NW Washington, DC 20036		4,134.74	4,134.74
Stewart L. Udall, 1244 Camino Cruz Blanca Santa Fe, NM 87501	Claimants Under the Radiation Exposure Compensation Act	45,000.00	
Jerry G. Udell, Udell & Associates 14841 Bauer Drive Rockville, MD 20853	Alabama Retail Assn Workers' Compensation Self-Insurance...	75.00	5.00
Do	Alabama Roofing Sheetmetal & Air Conditioning Contractors...	25.00	5.00
Do	Florida Retail Federation	25.00	5.00
Do	Louisiana Retailers Assn	25.00	5.00
Do	SCMA Self-Insurers Fund	25.00	5.00
Philip J. Ufholz, 1111 19th Street, NW Washington, DC 20036	American Forest & Paper Assn	600.00	
Daniel Ulmer, 2000 Schafer Street P.O. Box 2657 Bismarck, ND 58502	Blue Cross Blue Shield of North Dakota		
John R. Ulrich, 1776 Eye Street, NW, #575 Washington, DC 20006	Dow Chemical Company		6,467.00
John R. Undeland, 12600 Fair Lakes Circle Fairfax, VA 22033-4904	AAA Potomac	200.00	
Ronald Ungvarsky, 2001 S Street, NW, #310 Washington, DC 20009	Migrant Legal Action Program, Inc		
Uniform & Textile Service Assn, 1300 North 17th Street, #750 Rosslyn, VA 22209			32,045.00
United Fresh Fruit & Vegetable Assn, 727 N. Washington St. Alexandria, VA 22314			8,262.12
United Way/Community Service Council of Central IN, Inc, 3901 North Meridian Street P.O. Box 88409 Indianapolis, IN 46208-0409.			
Chase Untermeyer, Box 692000-110703 Houston, TX 77269-2000	Compaq Computer Corp	37,500.00	66.00
Upjohn Co, 1455 F Street, NW, Suite 450 Washington, DC 20005			462,436.00
Jane Usdan, 555 New Jersey Ave, NW Washington, DC 20001	American Fed of Teachers	17,527.74	40.00
UTC Telecommunications Assn, 1140 Connecticut Avenue, NW Suite 1140 Washington, DC 20036			3,840.82
Robert E. Vagley, 1130 Connecticut Avenue, NW, #1000 Washington, DC 20036	American Insurance Assn		
Anthony Valanzano, 1825 I Street, NW, #400 Washington, DC 20006	American Council of Life Insurance, Inc	25,700.00	227.51
Do	American Insurance Assn		
Do	Valanzano & Associates (For:American International Group, Inc)	1,500.00	
Do	American Land Title Assn	6,000.00	
Do	Association for Regulatory Reform	3,000.00	73.30
Do	Chubb Corporation	10,000.00	826.28
Do	Colonial Life & Accident Insurance Co	15,000.00	3,745.32
Do	Michigan Consolidated Gas Co	15,000.00	436.30
Do	Valanzano & Assocs. (For:Natural Disaster Coalition National Comm. on Property Insur.).	250.00	
Do	River Downs		10.74
Mark Valente III, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Armour Pharmaceutical Co	26,075.00	835.94
Do	Kelly Anderson Pethic & Associates, Inc (For:GBQC Architects)		
Do	I M & I (for America's Health Plan)	1,375.00	680.57
Do	Kelly Anderson & Associates (for U.S. Banknote Corp)		
Do	Kelly Anderson Pethick & Associates (For:Portals Limited)	5,031.25	272.92
Paula R. Valente, 2211 Congress Street Portland, ME 04122-0545	UNUM Life Insurance Co of America		
Jack J. Valenti, 1600 Eye St., NW Washington, DC 20006	Motion Picture Assn of America, Inc	2,040.00	
Ellen Valentino-Benitez, Manis Canning & Associates 12 Francis Street Annapolis, MD 21404	National Troopers Coalition (NTC)	500.00	
Wayne Valis, 1700 Pennsylvania Ave., NW, #950 Washington, DC 20006	Valis Associates	49,000.00	470.45
Valis Associates, 1700 Pennsylvania Ave., NW, #950 Washington, DC 20006	Koch Industries, Inc		
Read Carson Van de Water, 901 15th Street, NW, #310 Washington, DC 20005	Northwest Airlines, Inc	8,765.00	175.00
Van der Voort Associates, Ltd, 1134 Westmoreland Road Alexandria, VA 22308	SPACEHAB	500.00	
R. Thomas Van Arsdall, 50 F Street, NW, #900 Washington, DC 20001	National Council of Farmer Cooperatives		
Nancy Van Duyne, 1300 Eye Street, NW, #950E Washington, DC 20005	Continental Airlines, Inc	10,625.00	5,725.00
Van Fleet Associates, Inc, 499 South Capitol St., SW, #520 Washington, DC 20003	Cadillac Gage Textron	6,000.00	153.17
Do	Harsco Corporation		
Do	United Defense Limited Partnership	36,252.00	434.61
Van Fleet-Meredith Group, 499 S. Capitol Street, SW, #520 Washington, DC 20003	American Gas Assn	32,812.50	862.58
Do	American Gas Cooling Center	15,000.00	
Do	ADI Technologies, Inc	9,000.00	17.20
Do	Electrospace Corporation	10,500.00	21.24
Do	Engelhard/ICC	7,500.00	73.70
Do	HARSCO Corp	6,000.00	5.34
Do	Litton Applied Technologies	14,250.00	616.69
Do	Lockheed-Martin	19,999.98	123.66
Do	Magnavox Government & Industrial Relations Co	22,350.00	
Do	Miltope Corp	10,050.00	22.95
Do	Southern California Gas Co	88,999.98	1,907.15
Do	Southern Maryland Naval Alliance	10,500.00	126.07
Do	SNECMA	84,640.00	5,534.79
Do	Thermo Trex	7,500.00	21.24
Do	Thiokol Corp	15,000.00	22.44
Van Ness Feldman, P.C., 1050 Thomas Jefferson St., NW, #700 Washington, DC 20007	Arctic Slope Regional Corp	2,861.50	265.00
Do	Barron Collier Co		
Do	City of Tacoma, WA, Dept of Public Utilities		
Do	Clean Coal Technology Coalition		
Do	Cogen Technologies, Inc		
Do	Consumers United for Rail Equity (C.U.R.E.)	1,260.00	113.00
Do	Doyon, Ltd		
Do	Ecogas Corp	1,092.00	30.00
Do	Electric Transportation Coalition		
Do	Foothills Pipe Lines, Ltd		
Do	Geothermal Resources Assn	331.50	
Do	GE Industrial & Power Systems		
Do	International Energy Development Council	1,272.00	
Do	Intertribal Agricultural Council		
Do	Kenai Natives Assn		
Do	Koncor Forest Products Company		
Do	Large Public Power Council (LPPC)	1,537.50	30.00
Do	Los Angeles Department of Water & Power		
Do	Mack Trucks, Inc		
Do	McKesson Corp	475.50	
Do	National Endangered Species Act Reform Coalition	3,547.50	283.00
Do	National Wetlands Coalition	1,053.25	78.00
Do	Navajo Nation	500.00	17.00
Do	North Slope Borough		899.75
Do	Petro Star, Inc	60.00	
Do	Piquniq Management Corp	60.00	
Do	Public Generating Pool		
Do	Risk Policy Council		
Do	Royal Thai Government, Ministry of Commerce		
Do	Sealaska Corp	1,151.50	
Do	Section 382 Coalition	2,040.00	15.00
Do	Southwest Water Conservation District of Colorado	828.50	
Do	Toyota Motor Corporate Services of North America, Inc		
Do	United Alaska Fuels Corporated		
Do	Washington County Commission		
H. Stewart Van Scoyoc, 1420 New York Ave., NW, #1050 Washington, DC 20005	Van Scoyoc Associates, Inc (For:Alton Ochsner Medical Foundation)	1,125.00	
Do	Van Scoyoc Associates, Inc (For:American Forest & Paper Assn)	1,875.00	
Do	Van Scoyoc Associates, Inc (For:American Gas Assn)	750.00	
Do	Van Scoyoc Associates, Inc (For:Anheuser-Busch Companies, Inc)	2,500.00	
Do	Van Scoyoc Associates, Inc (For:California Water Service Co)	300.00	
Do	Van Scoyoc Associates (For:Champion International Corp)		
Do	Van Scoyoc Associates (For:Coalition of EPSCoR States)	2,500.00	
Do	Van Scoyoc Associates, Inc (For:Kellogg Company)	285.00	
Do	Van Scoyoc Associates, Inc (For:Lincoln University)	250.00	
Do	Van Scoyoc Associates, Inc (For:McLean Hospital)	937.50	
Do	Van Scoyoc Associates, Inc (For:MetaNetworks)		
Do	Van Scoyoc Associates, Inc (For:Montana State University)	1,458.25	
Do	Van Scoyoc Associates, Inc (For:National Assn of Water Companies)	750.00	
Do	Van Scoyoc Associates, Inc (For:National Commission on Correctional Health Care).	400.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Van Scoyoc Associates, Inc (For:National Institute for Water Resources)		
Do	Van Scoyoc Associates, Inc (For:Natural Gas Vehicle Coalition)		
Do	Van Scoyoc Associates, Inc (For:North Dakota State University)		
Do	Van Scoyoc Associates (For:Quanex)	837.50	
Do	Van Scoyoc Associates, Inc (For:Raytheon Services)	1,500.00	
Do	Van Scoyoc Associates, Inc (For:Schering-Plough Corp)	750.00	
Do	Van Scoyoc Associates, Inc (For:Spelman College)	1,200.00	
Do	Van Scoyoc Associates, Inc (For:Tulane University)		
Do	Van Scoyoc Associates (For:University of Alabama System)	1,350.00	
Do	Van Scoyoc Associates, Inc (For:University of New Orleans)	250.00	
Do	Van Scoyoc Associates, Inc (For:University of Puerto Rico)	600.00	
Do	Van Scoyoc Associates (For:USF&G Insurance)		
Do	VIACOM International, Inc	2,250.00	
Do	Van Scoyoc Associates, Inc (For:Washington Consulting Group)	250.00	
Do	Van Scoyoc Associates (For:Weyerhaeuser)		
Do	Van Scoyoc Associates, Inc (For:WINSM Consortium)	900.00	
B. Wayne Vance, 1203 Essex Manor Alexandria, VA 22308	Discovery Cruise Line		510.00
J. Vander Stoep, 345 NW Pacific Chehalis, WA 98532	Vander Stoep Redmund & Kelly	3,600.00	
Norman C. VanderNoot, New Hampshire Petroleum Council 11 Depot Street Concord, NH 03301	American Petroleum Institute	154.00	1.28
Charlene Vanlier, 6203 A Waterway Drive Falls Church, VA 22044	Capital Cities/ABC, Inc	3,211.50	224.64
Glenn Vanselow, P.O. Box 61473 Vancouver, WA 98666-1473	Pacific Northwest Waterways Assn	1,522.00	
Margaret VanAmringe, 700 13th Street, NW, Suite 950 Washington, DC 20005	Joint Commission on Accreditation of Healthcare Orgs	9,975.00	11,935.00
Norman W. VanCor, 111 Tallwood Drive Southington, CT 06489	Yankee Gas Services Company	641.73	417.62
L. Todd VanHoose, 50 F Street, NW, #900 Washington, DC 20001	Farm Credit Council	70.00	640.00
Barbara J. Varca, 13210 Mountain Ash Court Woodbridge, VA 22192	Syntex (U.S.A.), Inc		
John Vaughan, 6603 Jerry Place McLean, VA 22101	Daimler-Benz Washington, Inc		98.65
Audrey S. Vaughn, 1130 Connecticut Ave., NW, #830 Washington, DC 20036	Alabama Power Co	19,500.00	5,815.01
Lisa F. Vaughn, 422 South Church Street, PB05D Charlotte, NC 28242-0001	Duke Power Co	1,443.74	2,951.81
Philip M. Vaughn, 800 Connecticut., NW, #600 Washington, DC 20006	Fluor Corp	5,000.00	
Joseph J. Vecchio, 1299 Pennsyvlania Ave., NW Washington, DC 20004	General Electric Co	50.00	10.00
Vectre Corporation, 411 East Franklin Street, #602 Richmond, VA 23219	Browning Ferris Industris	3,790.00	30.74
Do	Electronic Data Systems Corp		
Do	MetraHealth	1,482.00	
Do	Overnite Transportation Co	1,180.00	
Do	Tarmac America, Inc		
Do	Virginia Power		
Do	Wheat First Butcher Singer, Inc		
Vedder Price Kaufman Kammhoz & Day, 2121 K Street, NW, 7th Floor Washington, DC 20037	Bankers' Assn for Foreign Trade (BAFT)	16,134.00	148.81
Do	Government of Rheinland-Pfalz		
Jay Velasquez, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,750.00	
Nicholas A. Veliotes, 1718 Connecticut Avenue, NW Washington, DC 20009	Association of American Publishers	4,000.00	
Carol Verby, 1776 I Street, NW, #770 Washington, DC 20006	CNA Insurance Co		
Stephen J. Verdier, 900 19th Street, NW, #400 Washington, DC 20005-5802	America's Community Bankers	29,388.75	3,164.40
Robert J. Verdisco, 1901 Pennsylvania Avenue, NW, 10th Fl. Washington, DC 20006	International Mass Retail Assn	10,000.00	200.00
Frank Verrastro, 1155 15th Street, NW, #600 Washington, DC 20005	Pennzoil Co	1,500.00	
Sara Vickerman, 1101 14th Street, NW #1400 Washington, DC 20005	Defenders of Wildlife		
Linda Vickers, 1706 23rd St., South Arlington, VA 22202	Rural Community Insurance Services	36,000.00	2,085.00
Ralph Vinovich, 1875 Eye Street, NW, #800 Washington, DC 20006	Tobacco Institute	1,000.00	46.75
Vinson & Elkins, 1455 Pennsylvania Ave., NW, #700 Washington, DC 20004-1008	Alliance for Business Investment	150,000.00	
Do	Attorneys' Liability Assurance Society, Inc		
Do	Bank Tax Group		
Do	BMC Software, Inc	10,266.25	
Do	Cheyne Walk Trust	35,668.75	
Do	Cook Inlet Region, Inc		
Do	Federal Express Corp		
Do	Goldman Sachs & Co	22,544.00	
Do	Greater East Texas Higher Education Authority	44,615.00	
Do	S.C. Johnson & Son, Inc	12,907.50	
Do	Merrill Lynch & Co, Inc		
Do	Methodist Hospital System	10,337.50	
Do	National Hospitality Tax Committee	9,617.50	
Do	Newport Group	59,686.25	
Do	Panhandle Eastern Corp		
Do	Scott & White Clinic		
Do	Texas Veterans Land Board	3,543.75	
Do	X L Insurance Company		
Walter D. Vinyard Jr., Vinyard and Associates 555 13th St., NW, #800 East Washington, DC 20004	Lutheran Brotherhood	5,000.00	
Do	Mennonite Mutual Aid Assn	15,000.00	
Joseph A. Violante, 807 Maine Avenue, SW Washington, DC 20024	Disabled American Veterans	25,925.71	
Virginia Association of Railway Patrons, P.O. Box 867 Richmond, VA 23207			0.64
Dina Vizzaccaro, 1401 H Street, NW, #900 Washington, DC 20005	American Automobile Manufacturers Assn	11,088.00	355.90
John R. Vogt, 1445 New York Avenue, NW, 8th Floor Washington, DC 20005	Public Securities Assn	10,000.00	220.07
Douglas K. Vollmer, 801 18th St., NW Washington, DC 20006	Paralyzed Veterans of America	21,079.51	
Volpe Boskey & Lyons, 918 16th Street, NW, #602 Washington, DC 20006	Equipment Leasing Assn of America		
Ingrid A. Voorhees, 1801 K Street, NW, Suite 400K Washington, DC 20006	Arter & Hadden (For:Nintendo of America)		
Vorys Sater Seymour & Pease, 1828 L Street, NW, #1111 Washington, DC 20036	Anthem Blue Cross & Blue Shield	5,499.10	699.18
Do	Clinton Gas Systems, Inc		
Do	Committee of Publicly Owned Companies	860.92	128.55
Do	Fraternal Order of Police - National Headquarters	59.95	573.02
Do	Fraternal Order of Police - Postal Police	95.00	10.37
Do	Grocery Manufacturers of America, Inc		
Do	Honda North America, Inc	2,386.40	408.40
Do	Ohio Advanced Technology Center, Inc	77.34	
Do	Ohio Assn of Broadcasters	120.27	17.40
Do	Ohio Cable Television Assn	275.72	40.40
Do	Ohio Corporation for Health Information	381.00	37.78
Do	Ohio Forestry Assn		
Do	Ohio Soft Drink Assn		
Do	Ohio Supercomputer Center	142.50	
Do	Recyclers of Copper Alloy Products	12,629.99	765.39
Do	Snow Aviation International, Inc		
Frank J. Voyack, 1750 New York Ave., NW Washington, DC 20006	International Assn of Bridge Struct & Ornamental Iron Wkrs	24,803.07	1,382.99
Richard E. Vuernick, 1730 Rhode Island Ave., NW, #403 Washington, DC 20036	Citizen Action Fund	3,200.00	95.00
John A. Vuono, Vuono Lavelle & Gray 2310 Grant Building Pittsburgh, PA 15219	Procompetitive Rail Steering Committee		
Rex B. Wackerle, 1101 17th Street, NW, #1002 Washington, DC 20036	Bank of America		12,449.17
Harrison Morton Wadsworth, 1155 15th Street, NW, #801 Washington, DC 20005	Education Finance Council	900.00	
Robert Waffle, 4214 King Street, West Alexandria, VA 22302	International Hardwood Products Assn (IHPA)	215.21	207.64
Joan Wages, 913 East Taylor Run Parkway Alexandria, VA 22302	Cash Smith & Wages (For:Association of Professional Flight Attendants)	6,000.00	1,407.00
Do	Cash Smith & Wages (For:Independent Federation of Flight Attendants)	3,000.00	1,805.00
Jennifer C. Wagner, 1150 Connecticut Ave., NW, Suite 1125 Washington, DC 20036	Financial Executives Institute	2,325.00	
Pamela Hyde Wagner, 4301 North Fairfax Srive, #360 Arlington, VA 22203-1608	National Utility Contractors Assn	2,866.76	40.19
Susan Stephenson Walden, 1350 Eye Street, NW, #810 Washington, DC 20005	Johnson & Johnson	350.00	
Doug Walgren, 8312 Hunting Hill Lane McLean, VA 22102	Institute of Scrap Recycling Industries, Inc	15,000.00	
Clinton W. Walker, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp	750.00	
Gerald M. Walker, 1401 Eye Street, NW, Suite 1200 Washington, DC 20005	Chevron Companies	500.00	
Kelley Walker, 3050 K Street, NW, Suite 330 Washington, DC 20007	National Club Assn	750.00	
Robert J. Walker, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	5,091.77	
Walker/Potter Associates, Inc, 1730 Pennsylvania Ave., NW Washington, DC 20006	Mexican Department of Commerce & Industrial Development		
Do	Oil Chemical & Atomic Workers Int'l Union, AFL-CIO, et al.	2,400.00	
Do	PURPA Reform Group	1,200.00	
R. Duffy Wall & Associates, Inc, 601 13th Street, NW, #410 South Washington, DC 20005	Ad Hoc Comm on Coal Taxation	1,000.00	
Do	Alliance for Power Privitization	1,000.00	
Do	American Crop Protection Assn	1,000.00	
Do	American Forest & Paper Assn	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Bell Atlantic Corp	1,500.00	
Do	Betty Ford Center	1,000.00	
Do	BHP Holdings (USA), Inc	1,000.00	
Do	BP America	1,000.00	
Do	Committee on Radioisotopes & Radionucleide Industries II	500.00	
Do	Committee on Radioisotopes and Radiopharmaceuticals I	1,000.00	
Do	CIBA-GEIGY Corp	500.00	
Do	Environmental Transportation Assn, et al.	1,000.00	
Do	Ernst & Young	3,000.00	
Do	ENERCO & Affiliates	1,000.00	
Do	Footwear Distributors and Retailers of America	1,500.00	
Do	Hazelden Foundation	1,000.00	
Do	Hong Kong Trade Development Council	2,500.00	
Do	Jackson National Life Insurance Co	1,000.00	
Do	LaFarge Corp	1,000.00	
Do	Metropolitan Tulsa Chamber of Commerce	1,000.00	
Do	Peabody Holding Co, Inc	500.00	
Do	Pharmaceutical Research and Manufacturers of America	1,000.00	
Do	Pittston Group	1,000.00	
Do	Procter & Gamble Co	1,000.00	
Do	Sandoz Agro, Inc	1,000.00	
Do	Seattle Disposal/RABANCO	1,000.00	
Do	State of California	500.00	
Do	Torchmark Corporation	1,000.00	
Do	Water Quality Assn	250.00	
Do	Ziegler Coal Holding Co	1,000.00	
Mary L. Wallace, 7272 Wisconsin Avenue Bethesda, MD 20814	American Soc of Hospital Pharmacists	8,748.00	
Richard Wallace, 1000 Wilson Boulevard, Floor 30 Arlington, VA 22209	ITT Defense & Electronics	1,000.00	50.00
Rob Wallace, 1299 Pennsylvania Ave., NW, #1100 West Washington, DC 20004-2407	General Electric Co	2,400.00	1,979.00
Wallace & Edwards, 1150 Connecticut Ave., NW, #507 Washington, DC 20036	Alabama Farmers Federation	1,400.00	
Do	Alabama Power Co	6,000.00	
Do	American Soc of Farm Managers & Rural Appraisers	3,150.00	
Do	American Sugar Cane League	37,500.00	
Do	Calgene, Inc		
Do	Cash America International		
Do	Cotton Warehouse Assn of America		
Do	Delta & Pine Land Co of Miss		
Do	Domino Sugar Corp		
Do	Flue-Cured Tobacco Cooperative Stabilization Corp	3,000.00	
Do	Service Corporation International		
Charles S. Walsh, Fleischmen & Walsh 1400 16th Street, NW Washington, DC 20036	National Cable Television Assn, Inc	2,000.00	
Richard J. Walsh, 6770 Lake Ellenor Drive Orlando, FL 32809-3330	Darden Restaurants, Inc	1,687.50	91.91
Susan M. Walter, 1299 Pennsylvania Ave., NW, Suite 1100 Washington, DC 20004	General Electric Co	5,000.00	200.00
H. Steven Walton, 2777 Allen Parkway, #700 Houston, TX 77019	Sanifill, Inc	1,750.00	
John C. Walton, 1401 North Oak Street, #302 Arlington, VA 22209	John E. Chance & Associates, Inc	6,000.00	
Do	General Dynamics Corp	15,000.00	
Do	Grumman Corporation	24,241.99	476.72
Do	Textron, Inc	15,000.00	531.22
Do	Thiokol Corp	15,000.00	318.50
Do	TRW, Inc	15,000.00	288.75
Bonnie B. Wan, 700 11th Street, NW, Suite 660 Washington, DC 20001	Kimberly-Clark Corp		
Thomas E. Wanley, 1019 19th Street, NW, Suite 1100 Washington, DC 20036	Personal Communications Industry Assn	2,850.00	306.96
Clarence D. Ward, 1727 Hoban Road, NW Washington, DC 20007	Lockheed Martin Corporation		
Craig A. Ward, 1101 16th Street, NW Washington, DC 20036	Independent Petroleum Assn of America		30.00
Michael D. Ward, c/o Virginia Petroleum Council, 701 E. Franklin Street, #105 Richmond, VA 23219	American Petroleum Institute	100.00	
Stephen E. Ward, 1401 Eye Street, NW, Suite 1030 Washington, DC 20005	Shell Oil Company	6,500.00	
Michael A. Waring, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	1,500.00	1,791.71
Ann D. Warner, 1775 K Street, NW, #500 Washington, DC 20006	Airports Council International - North America	9,000.00	
James H. Warner, 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America		
David E. Warr, 655 15th Street, NW, #410 Washington, DC 20005	Bristol-Myers Squibb Company	1,000.00	
Barbara Warren, 101 Truman Avenue Yonkers, NY 10703-1057	Consumers Union		
David L. Warren, 1025 Connecticut Ave., NW, #700 Washington, DC 20036	National Assn of Independent Colleges & Universities	3,890.64	
Tristan Carter Warren, 1771 N Street, NW Washington, DC 20036	National Assn of Broadcasters	8,000.00	499.00
Kenneth Wasch, 1730 M Street, NW, Suite 700 Washington, DC 20036	Software Publishers Assn	6,112.00	
Michael D. Wascom, 412 First Street, SE Washington, DC 20003	National Automobile Dealers Assn	3,500.00	
Barbara J. Washburn, 1660 L Street, NW, #400 Washington, DC 20036	General Motors Corp	3,000.00	3,163.11
Gregory J. Washington, 1050 17th Street, NW, Suite 500 Washington, DC 20036	Texaco, Inc		
Sheryl Washington, 316 Pennsylvania Avenue, SE Washington, DC 20003	United Parcel Service	3,000.00	93.17
Washington Public Affairs Group, 5910 Woodacres Drive Bethesda, MD 20816	Federal Republic of Nigeria		
Washington Strategies, L.L.C., 142 N. Abingdon Street Arlington, VA 22203	Florida Sugar Cane League	30,000.00	329.71
Robert A. Waspe, Law Offices of Robert A. Waspe 601 Pennsylvania Ave., NW, #900 Washington, DC 20004-2601		900.00	134.40
Jerry B. Waters, 1100 New York Ave., NW, #520 East Washington, DC 20005	Farmland Industries, Inc	10,000.00	102.51
Rosemarie Watkins, 600 Maryland Ave., SW, #800 Washington, DC 20024	American Farm Bureau Federation	8,063.00	159.75
John L. Watson III, One World Trade Center, #4511 New York, NY 10048	Security Traders Assn, Inc	4,068.00	
George B. Watts, 1155 15th St., NW, #614 Washington, DC 20005	National Broiler Council	2,000.00	
William H. Weatherspoon, North Carolina Petroleum Council 150 Fayetteville St. Mall Raleigh, NC 27601-2919	American Petroleum Institute	250.00	
Sandra M. Webb, 1150 18th Street, NW, #200 Washington, DC 20036	Halliburton Co		
Margaret L. Webber, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,750.00	500.00
Jack Weber, 1301 Pennsylvania Ave., N.W. #900 Washington, DC 20004	Natural Disaster Coalition	63,000.00	2,000.00
Vin Weber, Clark & Weinstock, Inc 888 16th Street, NW Washington, DC 20006	American Insurance Assn	68.75	
Do	AT&T	575.00	
Do	Bristol-Myers Squibb Co		
Do	Browning-Ferris Industries	412.50	
Do	United Waste Systems, Inc	412.50	
Do	USA Waste, Inc	412.50	
Do	West Publishing Co		
William R. Weber, 50 F Street, NW, Suite 900 Washington, DC 20001	Farm Credit Council	840.00	2,100.00
Webster Chamberlain & Bean, 1747 Pennsylvania Ave., NW, #1000 Washington, DC 20006	International Taxicab and Livery Assn		
Robert K. Weidner, 2300 M Street, NW, #900 Washington, DC 20037	Andalex Resources, Inc	4,000.00	
Do	BP Alaska		
Do	Envirocare of Utah		
Do	James W. Bunger & Associates		
Do	Rural Utah Public Lands Council	2,000.00	500.00
Do	Tooele Redevelopment Agency		
Weinberg Bergeson & Neuman, 1300 Eye Street, NW, #1000 West Washington, DC 20005	Battery Council International	111.25	27.81
Do	National Assn for Plastic Container Recovery (NAPCOR)		
Do	Portable Rechargeable Battery Association		
Heather Weiner, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	599.52	83.15
Donald G. Weinert, 1420 King St. Alexandria, VA 22314-2715	National Society of Professional Engineers	1,500.00	
Walter F. Weiss, 1762 Church Street, NW Washington, DC 20036	American Foreign Service Assn	5,400.00	
William J. Welch, 701 Pennsylvania Ave., NW, Suite 710 Washington, DC 20004	Tenneco, Inc		
Brad G. Welling, 1455 Pennsylvania Ave., NW, Suite 900 Washington, DC 20004	American International Group, Inc	3,000.00	50.00
Arnold Wellman, 316 Pennsylvania Ave., SE, #304 Washington, DC 20003	United Parcel Service	4,300.00	254.85
Kent M. Wells, 1401 I Street, NW, Suite 1100 Washington, DC 20005	SBC Communications Inc.	15,000.00	4,405.45
Robert C. Wells, 1101 Pennsylvania Ave., NW, #1000 Washington, DC 20004	Citicorp Washington, Inc		
Margaret A. Welsh, 2101 L Street, NW, #405 Washington, DC 20037-1526	Electric Generation Assn	307.70	
Gerard A. Wendelken, 28 Clarissa Drive Syosset, NY 11791	Human Capital Resources, Inc		6,423.83
Thomas F. Wenning, 1825 Samuel Morse Dr. Reston, VA 22090	National Grocers Assn	500.00	
Fred Wertheimer, 2030 M St., NW Washington, DC 20036	Common Cause	1,875.00	
Carla L. West, 1521 New Hampshire Ave., NW Washington, DC 20036	National Cotton Council of America	687.50	89.09
Charles M. West, 205 Daingerfield Road Alexandria, VA 22314	National Assn of Retail Druggists	1,500.00	300.00
Ford B. West, 501 Second Street, NE Washington, DC 20002	Fertilizer Institute	25,000.00	193.81
Western Coal Traffic League, 1224 17th St., NW Washington, DC 20036		25,000.00	25,000.00
Westland Development Co, inc, 401 Coors Boulevard, NW Albuquerque, NM 87121		500.00	4,354.18

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
John F. Wetzel Jr., 50 F St., NW Washington, DC 20001	Association of American Railroads	2,561.22	326.70
Brian B. Whalen Jr., 455 North Cityfront Plaza Drive Chicago, IL 60611	Navistar International Transportation Corp	10,000.00	233.27
Curtis E. Whalen, 1600 Wilson Blvd., #1000 Arlington, VA 22209	American Waterways Operators, Inc	13,000.00	5,361.76
Larry Wheeler, 1100 Wilson Blvd. Arlington, VA 22209	Hughes Aircraft Comp		
Sandra Wheeler, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	6,169.00	
Thomas E. Wheeler, 1250 Connecticut Ave., NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Association		
June M. Whelan, 1899 L Street, NW, Suite 1000 Washington, DC 20036	National Petroleum Refiners Assn	4,000.00	
Michael G. Whitaker Sr., P.O. Box 66100 Chicago, IL 60666	United Air Lines, Inc		
Bernard H. White, The White Group 333 Clay Avenue, #710 Houston, TX 77002-4086	Zapata Protein, Inc	13,456.25	3,385.85
Jerrildine Reed White, 1667 K Street, NW, #210 Washington, DC 20006	Rohm & Haas Company		
Larry White, 601 E Street, NW Washington, DC 20049	American Assn of Retired Persons	10,828.57	
Margita E. White, 1776 Massachusetts Avenue, NW, Suite 310 Washington, DC 20036	Association for Maximum Service Television, Inc		
Raymon M. White Jr., 5501 Seminary Road, Apt. 2211-South Falls Church, VA 22041	Harris Corporation	6,000.00	1,290.40
Richard H. White, 1875 I Street, NW, #800 Washington, DC 20006	Tobacco Institute	1,000.00	96.45
Steven C. White, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
Toni D. White, 1745 Jefferson Davis Highway, #605 Arlington, VA 22202	Texas Instruments, Inc	1,500.00	51.47
Ward H. White, 1133 21st Street, NW, #900 Washington, DC 20036	BellSouth Corp	5,225.00	2,848.09
White & Case, 1747 Pennsylvania Ave., NW Washington, DC 20006-4604	Bud Smith Organization		
Do	Coca-Cola Co	1,903.13	96.77
Do	Aubrey Greene	653.33	7.01
Do	Laura Greene	653.33	7.01
Do	Teresa Greene	653.33	7.01
Do	Motion Picture Assn of America, Inc	290.63	2.03
Do	Perpetual Corp		
Do	Rank Video Services America		
David W. Whitehead, 6200 Oak Tree Boulevard Independence, OH 44131	Centerior Energy Corp		
K. Elizabeth Whitehead, 1420 New York Avenue, NW, #750 Washington, DC 20005-2122	Acxiom Corp		
Do	Institute of Scrap Recycling Industries, Inc		
Do	National Assn of Professional Employer Organizations	187.50	
Dennis E. Whitfield, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	Brock Group, Ltd (For:Glaxo, Inc)		
Do	Brock Group, Ltd (For:Sinclair Broadcasting Group)	2,165.62	
Richard M. Whiting, 805 15th Street, NW——#600 Washington, DC 20005	Bankers Roundtable	3,620.50	
Richard C. Whitner, 1800 N. Kent Street, #1104 Arlington, VA 22209	Northrop Grumman Corp	24,000.00	
Larry H. Whitt, 9111 E. Douglas Wichita, KS 67207	Pizza Hut, Inc	630.00	4,192.26
Pamela J. Whitted, 1225 Eye Street, NW, #500 Washington, DC 20005	BHP Petroleum Americas	500.00	
Jeff Whorley, 1701 K Street, NW, #400 Washington, DC 20006	USA Group, Inc	4,264.00	251.00
William E. Wickert Jr., 1667 K Street, NW, #600 Washington, DC 20006	Bethlehem Steel Corp	325.00	
James Wickett, 600 Maryland Avenue, SW, Suite 700 Washington, DC 20024	National Fed of Independent Business	3,401.00	200.00
Helen C. Wiederhorn, 1350 I Street, NW, #1000 Washington, DC 20005	Ford Motor Co	1,932.60	3,194.31
Barbara Wierzynski, 2001 Pennsylvania Ave., NW, #600 Washington, DC 20006-1807	Futures Industry Assn, Inc	1,500.00	
Wiggin & Dana, One Century Tower P. O. Box 1832 New Haven, CT 06508-1832	Villa Banfi, U.S.A.		
Terry Wigglesworth, 601 Pennsylvania Ave., NW, #540 Washington, DC 20004	Ashland, Inc	1,000.00	
Robert Wigington, 1775 K Street, NW, #500 Washington, DC 20006	Airports Council International - North America	19,125.00	
W. Scott Wilber, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,975.00	
W. Stephen Wilborn, 305 Ann Street, #403 Frankfort, KY 40601	American Petroleum Institute		
Robert H. Wilbur, 1200 19th Street, NW, #300 Washington, DC 20036-2401	Smith Bucklin & Associates, Inc (For:Society of Thoracic Surgeons)	1,000.00	
Harry G. Wiles II, 1023 15th St., NW, # 400 Washington, DC 20005	Wine & Spirits Wholesalers of America, Inc		1,065.91
Wiley Rein & Fielding, 1776 K Street, NW, 12th Floor Washington, DC 20006	Advanced Integrated Technology, Inc	330.00	2.00
Do	Aeronautical Radio, Inc		
Do	Association of Telemessaging Services, International		
Do	A.H. Belo Corp	1,573.00	
Do	Blade Communications, Inc		
Do	Cable & Wireless, Inc	350.00	
Do	CBS, Inc	4,534.25	16.81
Do	COMSAT Corp		
Do	Discovery Communications, Inc		
Do	Electronic Messaging Assn	3,324.00	27.00
Do	Gannett Company, Inc	3,378.00	74.40
Do	David S. Hess	560.00	7.00
Do	Information Technology Industry Council		
Do	Interactive Service Assn		
Do	League of American Theatres & Producers		
Do	Marine Mammal Coalition		
Do	MassMutual Life Insurance Co	1,237.50	
Do	McGaw, Inc		
Do	Metropolitan Life Insurance Co		
Do	Mobile Telecommunications Technologies Corp		
Do	Motorola Telecommunications	1,837.50	15.00
Do	National City Bank		
Do	National Religious Broadcasaters, Music License Comm	1,711.00	1.00
Do	Newspaper Assn of America (NAA)	2,334.30	172.88
Do	Olan Mills, Inc		
Do	Owens-Corning, Inc	359.00	
Do	Personal Communications Industry Assn		
Do	Prodigy Services Company	7,635.25	40.50
Do	Professional Photographers of America		
Do	Ruddy Institute for Maritime Communications	443.25	37.07
Do	SRA Technologies, Inc	9,242.00	195.54
Do	U.S. Sprint Communications Co		
Do	United Parcel Service	20,327.00	225.79
Do	United Student Aid Group		
Do	UtiliCorp United	3,803.00	23.86
Do	UTAM, Inc		
Do	VIACOM, International		
Do	Washington Citizens for World Trade	50,675.00	1,904.84
Do	Westinghouse Electric Co, Inc		
Do	W.F. Young, Inc		
Guenther O. Wilhelm, 2001 Pennsylvania Ave., NW, #300 Washington, DC 20006-1813	Exxon Corporation		
Julia Bullard Wilkie, 206 E Street, NE Washington, DC 20002	National Roofing Contractors Assn	2,731.25	1,230.75
Charles S. Wilkins, 1225 Eye Street, NW, Suite 601 Washington, DC 20005	National Corp for Housing Partnerships	17,750.00	227.00
Timothy C. Wilkins, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	2,000.00	
Wilkinson Barker Knauer & Quinn, 1735 New York Ave., NW Washington, DC 20006	Aetna Life Insurance		
Do	Allegheny Valley North Council of Governments	2,000.00	15.00
Do	Bank of America		
Do	Bank of Boston		
Do	Barnett Banks, Inc		
Do	First Interstate Bank		
Do	Fleet Financial Group, Inc	15,000.00	2,348.39
Do	Independence County, Arkansas & City of Batesville	325.00	27.99
Do	Maine Cellular Telephone Co	4,921.00	1,533.66
Do	Northwest Hydroelectric Assn	6,500.00	300.00
Do	RECOLL Management Corp		
Do	RMJ Options Trading Corp		
Do	Solano Water Authority		
Do	Summit Energy Storage, Inc	3,800.00	90.00
Do	Suntrust Banks, Inc		
Do	Wachovia Bank and Trust		
Do	Wells Fargo & Company		
Will Cofer Associates, Inc, 4001 Pine Brook Road Alexandria, VA 22310			
Caroleen Williams, P.O. Box 85608 San Diego, CA 92186	General Atomics	640.00	
Jack L. Williams, 451 New Jersey Avenue, SE Washington, DC 20003	Ark-Best Co	1,000.00	425.00
Do	Arkansas Louisiana Gas Co (ARKLA)	1,500.00	400.00
Do	Electro Com Automation, Inc	1,200.00	400.00
Do	Mid-American Dairymen, Inc	1,200.00	350.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	National Marine Manufacturers Assn	1,000.00	450.00
Do	Pacific Telesis Group	1,000.00	300.00
Do	Riceland Foods, Inc	1,250.00	300.00
Do	Tyson Foods, Inc	1,200.00	300.00
Leonard B. Williams, 1615 M Street, NW, #200 Washington, DC 20036	Amoco Corporation	50.00	124.91
Marshall Williams, Box 1000, Building A3 Leavenworth, KS 66048	Lobby Quorum International		
Michael E. Williams, 11250 Waples Mill Road Fairfax, VA 22030	National Rifle Assn of America	1,500.00	693.64
Patricia Williams, 1400 16th Street, NW Washington, DC 20036-2266	National Wildlife Federation	4,513.33	
Percy V. Williams II, 606 North Washington Street Alexandria, VA 22314	Society for Human Resource Management	6,381.00	69.36
Richard T. Williams, 2501 M Street, NW Washington, DC 20037	Chemical Manufacturers Assn	2,000.00	
Robin L. Williams, 1667 K St., NW, #210 Washington, DC 20006	Rohm & Haas Co	500.00	
W. Jackson Williams, 111 Center Street, 22nd Floor Little Rock, AR 72201	Williams & Anderson (For:Education Finance Council)		
Williams & Connolly, 725 12th Street, NW Washington, DC 20005	Hatco Corporation		
Williams Mullen Christian & Dobbins, 1021 East Cary Street, 16th Floor Richmond, VA 23219	Bish Enterprises, et al.	4,598.00	
Fred H. Williamson, 1250 H Street, NW, Suite 800 Washington, DC 20005	Eastman Kodak Company	400.00	28.00
Gene R. Willis, 5535 Hempstead Way Springfield, VA 22151	National Assn for Uniformed Services	950.91	
Roy W. Willis, 1101 16th Street, NW Washington, DC 20036	Independent Petroleum Assn of America		
Willkie Farr & Gallagher, 1155 21st Street, NW, #600 Washington, DC 20036	American Institute of Certified Public Accountants		
Do	Association of Directory Publishers	1,470.00	46.51
Do	Browning-Ferris Industries, Inc		
Do	Chemical Leaman Corp		
Do	Comcast Corporation		
Do	Council of Appraisal & Property Professional Societies		
Do	El Alcalde de la Ciudad Capital	3,240.00	21.62
Do	Hispanic Information & Telecommunications Network	1,415.00	23.50
Do	Katama Yachts, Inc		
Do	Morgan Guaranty Trust Co	2,243.75	
Do	National Assn of Independent Fee Appraisers		
Do	Sony Electronics, Inc		
Do	Standard Commercial Tobacco Co, Ltd		
Do	Tele-Communications, Inc	9,140.00	
Do	Telecommunications Industry Assn		
Do	Time Warner	6,415.00	
Do	Town of Riverhead	355.00	79.31
Do	Town of Riverhead Community Development Agency	355.00	79.32
Do	United Metal Recyclers		
Do	Westinghouse Electric Corp	7,554.00	136.21
Do	Wilcox Drug Co, Inc		
Do	Yamaha Motor Co, Ltd, et al.		
Do	Yamaha Motor Manufacturing Corp of America		
Wilmer Cutler & Pickering, 2445 M Street, NW Washington, DC 20037-1420	Alliance for Reasonable Regulation	17,010.00	
Do	American Alliance for Rights & Responsibilities		15.64
Do	American Iron & Steel Institute		
Do	Amgen, Inc	4,275.00	
Do	Atlantic Gulf Communities	1,224.00	
Do	ARCO Chemical		
Do	Business Roundtable		
Do	Capital Cities/ABC, Inc	4,439.85	
Do	Chemical Manufacturers Assn, Inc		
Do	Clean Air Action Corp		
Do	Computer Systems Policy Project		
Do	Financial Services Group		
Do	Health Industry Manufacturers Assn		
Do	Intellectual Property Committee		
Do	International Metals Reclamation Company, Inc		
Do	Pepsico, Inc		
Do	Tiger Management Corp	3,964.50	88.84
Do	ValueVision International, Inc		
Do	E.M. Warburg Pincus & Co, Inc	5,026.50	
Alexandra M. Wilson, 1320 19th Street, NW, Suite 200 Washington, DC 20036	Cox Enterprises, Inc		
Charles D. Wilson, P.O. Box 19130 1919 South Broadway Green Bay, WI 54307-9130	Fort Howard Corp	431.27	650.79
David I. Wilson, 1801 K Street, NW, Suite 400K Washington, DC 20006	Arter & Hadden (For:Nintendo of America, Inc)		
Robert Dale Wilson, 1133 15th Street, NW, #1200 Washington, DC 20005-2710	Wilson & Wilson (For:Cadmium Council)		
Do	Wilson & Wilson (For:Hecla Mining Company)		
Scott A. Wilson, 1875 Eye Street, NW, #800 Washington, DC 20006	Tobacco Institute	1,600.00	
John P. Winburn, 50 E Street, SE Washington, DC 20003	Winburn & Jenkins (For:American Forest & Paper Assn)	2,250.00	
Do	Winburn & Jenkins (For:BR Services)	750.00	
Do	Winburn & Jenkins (For:Equipment Leasing Assn)	1,125.00	
Do	Winburn & Jenkins (For:Fieldale Farms Corp)	500.00	
Do	Winburn & Jenkins (For:Hartford Insurance Group)	2,250.00	
Do	Winburn & Jenkins (For:Leggett & Platt)	1,050.00	
Do	Winburn & Jenkins (For:Michigan Hospital Assn)	100.00	
Do	Winburn & Jenkins (For:Norfolk Southern Railroad)	1,500.00	
Do	Winburn & Jenkins (For:Pfizer, Inc)	2,250.00	
Do	Winburn & Jenkins (For:Philip Morris)	3,300.00	
Do	Winburn & Jenkins (For:Transitional Hospitals Corp)	1,875.00	
Do	Winburn & Jenkins (For:Viacom)	3,000.00	
Judith A. Winchester, 800 Connecticut Ave., NW, #1200 Washington, DC 20006	Lehman Brothers, Inc	3,200.00	40.00
Stephen H. Wines, 1775 K Street, NW, #200 Washington, DC 20006	Maritime Institute for Research & Industrial Development	4,645.11	
Heather Wingate, 410 First Street, SE, 2nd Floor Washington, DC 20003	National Rifle Assn of America	1,375.00	159.93
Eileen M. Winkelman, 2501 M St., NW Washington, DC 20037	Chemical Manufacturers Assn, Inc	600.00	813.28
David A. Winston, 1922 F Street, NW Washington, DC 20006	National Assn of Life Underwriters	1,537.50	75.00
Winston & Strawn, 1400 L Street, NW Washington, DC 20005-3502	Airport Group International, Inc.	17,003.75	351.31
Do	Alltel Corporation		
Do	American Airlines, Inc	5,067.50	29.50
Do	American Insurance Assn		
Do	American Trucking Assn		
Do	Data Transformation Corp	360.00	
Do	James R. Elliott		
Do	FMC Corporation		54.00
Do	Geomex Minerals, Inc		129.96
Do	Gross Pointes-Harper Woods Study Comm for Detroit City Airpt	273.75	
Do	GNA Corp		
Do	Illinios State Medical Society	1,080.00	8.00
Do	International Tax Free Co		
Do	National Bulk Vendors Assn		
Do	National Marine Manufacturers Assn		
Do	National Organization of Social Security Claimant's Reps	4,074.75	12.00
Do	Newport News Shipbuilding	8,222.00	364.92
Do	Nuclear Energy Institute		81.00
Do	Phillips Colleges, Inc	1,410.00	74.69
Do	Port of Pascagoula (Jackson County, MS)	8,630.00	83.08
Do	Regional Transit Authority	3,870.00	12.00
Do	Robinson Terminal	91.25	
Do	Joseph E. Seagram & Sons, Inc	2,385.00	4.00
Do	Stellar One Corp		
Do	Washington Public Power Supply System		
Do	Westinghouse Electric Corp	2,090.00	8.00
Do	Yellow Corp	7,395.00	66.47
Linda A. Winter, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	221.20	41.85
Linda M. Winters, 412 First Street, SE Washington, DC 20003	National Automobile Dealers Assn	1,000.00	
Elizabeth Wirick, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,000.00	
Melanie Wisniewski, P.O. Box 020783 Miami, FL 33102-0783	Burger King Corp		
Marcia A. Wiss, 1215 17th Street, NW Washington, DC 20036	Canned & Cooked Meat Importers' Assn	67.50	2.72

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Lyn M. Withey, 1101 Pennsylvania Avenue, #200 Washington, DC 20004	International Paper Co	4,875.00	258.44
David A. Withrow, 225 Reinekers Lane, #600 Alexandria, VA 22314	Satellite Broadcasters & Communications Assn	8,000.00	419.08
Cynthia D. Witkin, 1212 New York Avenue, NW, Suite 500 Washington, DC 20005	American Portland Cement Alliance	10,312.50	1,179.07
S.R. Wojdak and Associates, Inc, The Bellevue - Suite 850 200 S. Broad Street Philadelphia, PA 19102	Albert Einstein Medical Center	21,000.00	2,815.47
Do	Allegheny Health Education & Research Foundation		232.07
Do	American Counseling Assn	8,900.00	1,164.60
Do	Belmont Ctr for Comprehensive Treatment		232.07
Do	Braddock Medical Center		232.07
Do	Children's Hospital of Philadelphia		232.07
Do	Children's Hospital of Pittsburgh		232.07
Do	Drexel University		1,006.62
Do	Episcopal Hospital		232.07
Do	Federal Advocacy for California Education	15,000.00	1,487.36
Do	Healtheast	15,000.00	3,075.42
Do	High Medicaid Hospitals Group	67,312.50	10,723.55
Do	Hospital of University of Pennsylvania Medical Center		232.07
Do	Magee-Womens Hospital	19,500.00	1,004.60
Do	Magnet School Coalition, Inc	7,500.00	1,255.22
Do	Mercy Health Corporation	15,000.00	2,048.03
Do	National Assn of Urban Critical Access Hospital	45,000.00	12,885.90
Do	National Education Assn	7,500.00	1,357.90
Do	North Philadelphia Health System		232.07
Do	Northeasatern Hospital of Philadelphia		232.07
Do	Riverside County		
Do	Society for Nutrition Education		
Do	Temple University Hospital		232.07
Do	Thomas Jefferson University Hospital		232.07
Henry C. Wolf, Three Commerical Place Norfolk, VA 23510	Norfolk Southern Corp		
James Wolf, 1725 K St., NW, #914 Washington, DC 20006	Alliance to Save Energy		
James E. Wolf, 2020 14th St., North Arlington, VA 22201	American Standard, Inc		
Marla R. Wolfe, 1801 K Street, NW, #800 Washington, DC 20006	Westinghouse Electric Corp		
Patricia A. Wolff, 600 Maryland Avenue, SW Washington, DC 20024	American Farm Bureau Federation	7,875.00	216.50
Melissa A. Wolford, 1130 Connecticut Ave., NW, #1000 Washington, DC 20036	(For:American Insurance Assn)	412.23	16.00
Jeffry R. Wollitz, P.O. Box 1798 Jacksonville, FL 32231	Blue Cross & Blue Shield of Florida, Inc	3,820.80	14.88
Mei Lin Wong, 800 Connecticut Avenue, NW, #1100 Washington, DC 20006	Baxter		
Burton C. Wood, 1125 15th St., NW Washington, DC 20005	Mortgage Bankers Assn of America	15,750.00	
Joel Wood, 316 Pennsylvania Avenue, SE, #400 Washington, DC 20003	Council of Insurance Agents & Brokers	1,500.00	1,411.11
Jonathan B. Wood, 1275 Pennsylvania Ave., NW, #400 Washington, DC 20004	Pacific Telesis Group	14,360.00	
Mildred Wood, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,983.00	
Robert M. Wood, 325 7th Street, NW Washington, DC 20004	National Retail Federation	1,500.00	
Kimberly Woodard, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn	3,000.00	
Terry R. Woodard, One Suffolk Square, Suite 500 Islandia, NY 11722-1543	Council for Marketing & Opinion Research (CMOR)		
James H.B. Woodroffe III, P.O. Box 111 Tampa, FL 33601	Teco Energy, Inc	21,000.00	8,366.17
Kimberley A. Woodruff, 1155 Connecticut Ave., NW Washington, DC 20036	WMX Technologies, Inc	7,725.00	
Jerry D. Woods, 1000 Wilson Boulevard Arlington, VA 22209	Northrop Grumman	1,400.00	718.00
William H.L. Woodyard III, 1420 New York Avenue, NW, Suite 750 Washington, DC 20005	National Assn of Professional Employer Organizations		
Noel C. Woosley, 4647 Forbes Boulevard Lanham, MD 20706	AMVETS	6,800.00	
Calvin Lynn Wooten, 724 Oneida Street, NW Washington, DC 20007			
Willard A. Workman, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce	131.50	
James Worsham, 100 Indiana Avenue, NW Washington, DC 20001	National Assn of Letter Carriers	8,856.34	
Worthington Associates, 2132 Southbay Lane Reston, VA 22091	HRM		
David L. Wright, Anderson Hill Rd. Purchase, NY 10577	Pepsico, Inc		
Elizabeth L. Wright, 1455 Pennsylvania Ave., NW, #375 Washington, DC 20004	Texas Instruments	2,340.00	130.00
Walter G. Wright Jr., 320 W. Capitol Avenue, #1000 Little Rock, AR 72201-3525	Entergy Corp		
Do	Institute of Scrap Recycling Industries, Inc		
Wright & Talisman, 1200 G Street, NW, #600 Washington, DC 20005	Atlantic County Utilities Authority		
Do	Bristol Resource Recovery Facility Operating Committee		
Do	City of Indianapolis		
Do	Connecticut Resources Recovery Authority		
Do	Delaware County (PA)		
Do	Greater Detroit Resource Recovery Authority		
Do	Housatonic Resources Recovery Authority		
Do	Marion County Solid Waste Management	1,500.00	
Do	Minnesota Resource Recovery Assn	722.09	
Do	Montgomery County (OH) & Montgomery County Solid Waste Dist		
Do	Ohio Prosecuting Attorneys Assn		
Do	Penobscot Valley Refuse Disposal District		
Do	Resource Authority Sumner County	600.00	
Do	Solid Waste Authority of Central Ohio		
Do	Solid Waste Disposal Authority		
Do	Spokane Regional Solid Waste System		
Do	York County Solid Waste & Refuse Authority	1,500.00	
Wunder Diefenderfer Cannon & Thelen, 1615 L St., NW, #650 Washington, DC 20036	Air Transport Assn of America	8,400.00	62.44
Do	Alliance for Competitive Communications	12,377.05	523.27
Do	Alliance of American Insurers		
Do	American Forest & Paper Assn	7,473.20	16.73
Do	AmeriCable	9,750.00	40.12
Do	BellSouth Corp		
Do	Betac Corporation	3,600.00	
Do	Bituminous Coal Operators Assn	24,000.00	290.34
Do	Browning-Ferris Industries	4,167.01	467.84
Do	Circuit City Stores, Inc		
Do	Guam Tax Code Commission		100.00
Do	HDTV 1125/60 Group	3,000.00	
Do	International Anti-Counterfeiting Coaltion	2,000.00	
Do	Local Initiatives Support Corp	6,000.00	90.16
Do	Manville Corporation	695.25	
Do	Martin Marietta		
Do	McDonnell Douglas	1,875.00	34.81
Do	MetraHealth	60,000.00	61.13
Do	Metropolitan Life Insurance Co	9,100.00	327.55
Do	Molten Metal Technology	3,150.00	524.22
Do	National Assn of Beverage Retailers	2,500.00	148.55
Do	Northwestern Mutual Life Insurance Co	4,999.80	94.08
Do	NBC	3,000.00	9.50
Do	NYNEX Corp		
Do	Pacific Seafood Processors Assn		
Do	Prince of Fundy Cruises, Ltd	629.81	13.60
Do	Sony Corp of America		
Do	Sony Electronics, Inc		
Do	Tobacco Industry Labor Management Committee	12,800.00	
Do	TU Service	5,000.00	25.73
Do	U.S. Telephone Assn	18,750.00	20.61
Do	Union Pacific	30,000.00	82.58
Do	Viacom International	3,999.67	19.86
Do	Westinghouse Airship Industries	6,000.00	280.69
James Wyerman, 1101 14th Street, NW, #1400 Washington, DC 20005	Defenders of Wildlife	145.40	
Thomas L. Wylie, 555 13th St., NW, #1010 East Washington, DC 20004-1109	Sun Co, Inc	1,519.00	123.90
H. Montee Wynn, 1400 16th Street, NW Washington, DC 20036-0001	National Wildlife Federation	4,393.33	
Buck J. Wynne, 1315 Nueces Austin, TX 78701	Polan-Ingram Advocacy Group (For:Vermont Yankee Nuclear Power Corp)		
Edward Wytkind, 400 North Capitol Street, NW, #861 Washington, DC 20001	Transportation Trades Department, AFL-CIO	4,400.00	
WMDP Service Station & Automotive Repair Assn, 9420 Annapolis Rd., #307 Lanham, MD 20706		750.00	750.00
Marc D. Yacker, 1111 19th Street, NW, Suite 800 Washington, DC 20036	American Forest & Paper Association	650.00	
Jill Yacone, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	United Technologies	1,800.00	4,407.96

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Daniel V. Yager, 1015 15th Street, NW, #1200 Washington, DC 20005	Labor Policy Assn	6,578.00	
Do	National Court Reporters	12,100.00	10.00
John W. Yago, 1010 Massachusetts Avenue, NW Washington, DC 20001	American Road & Transportation Builders Assn	14,500.00	189.70
T. Albert Yamada, 1000 Connecticut Avenue, NW, Suite 304 Washington, DC 20036	Fresh Produce Assn of the Americas	500.00	
Do	Toyota Motor Sales, USA, Inc	500.00	
Yankee Gas Services Company, Attn: Mr. Steve Piascik 599 Research Parkway P.O. Box 1030 Meriden, CT 06450-1030			1,059.35
Mary J. Yarrington, 2000 K St., NW, 8th Foor Washington, DC 20006	National Comm to Preserve Social Security & Medicare	4,510.00	
Bruce Yarwood, 1201 L Street, NW Washington, DC 20005	American Health Care Assn	25,000.00	910.83
Edward R. Yawn, 701 Pennsylvania Avenue, NW Washington, DC 20004-5475	Edison Electric Institute	2,710.77	239.66
Edward L. Yingling, 1120 Connecticut Ave., NW Washington, DC 20036	American Bankers Assn	20,125.06	1,660.53
Dennis R. Yocom, P.O. Box 590 Tallahassee, FL 32302	Florida Electric Cooperatives Assn, Inc		
D. Scott Yohe, 1629 K St., NW, #501 Washington, DC 20006	Delta Air Lines, Inc	450.00	218.00
Stephen A. Yokich, 1757 N Street, NW Washington, DC 20036	Int'l Union, United Auto Aerospace & Agric Implement Workers	6,617.22	60.00
Andrew Yood, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute	200.00	
Nina M. Young, 1725 DeSales Street, NW, Suite 500 Washington, DC 20036	Center for Marine Conservation	153.46	
Stephen G. Young, 1800 Washington Road Pittsburgh, PA 15241	CONSOL, Inc		
Thomas F. Youngblood, 1201 New York Avenue, NW Washington, DC 20005-3931	American Hotel & Motel Assn	5,096.56	
Betsy Younkins, 1220 L Street, NW, #1200 Washington, DC 20005	American Petroleum Institute	8,000.00	18.45
Michael J. Zabko, 909 N. Washington St., #301 Alexandria, VA 22314	Retired Enlisted Assn	2,459.00	
Janice Zarro, 1726 M Street, NW, Suite 701 Washington, DC 20036	Mallinckrodt Medical, Inc		
Thomas K. Zaucha, 1825 Samuel Morse Drive Reston, VA 22090	National Grocers Assn	500.00	
Richard A. Zavadowski, 1725 DeSales Street, NW, Suite 902 Washington, DC 20036	Nuclear Fuel Services, Inc	4,775.00	30.80
Shirley Zebroski, 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corp	3,000.00	4,180.45
Leo C. Zeferetti, 49 Graham Place Breezy Point, NY 11697	Building & Construction Trades Dept, AFL-CIO		
Do	Cumberland Packing		
Philip F. Zeidman, 1401 New York Ave., NW, #900 Washington, DC 20005	American Business Conference, Inc		
Rita Zeidner, 1225 I Street, NW, #500 Washington, DC 20005	American Payroll Assn		65.00
Steven Zeisel, 1000 Wilson Boulevard, Suite 3012 Arlington, VA 22209	Consumers Bankers Assn		
Eugene J. Zeiszler, 7901 Westpark Drive McLean, VA 22102	AMT - The Assn for Manufacturing Technology	3,687.00	250.00
Ronald L. Ziegler, P.O. Box 1417-D49 Alexandria, VA 22313	National Assn of Chain Drug Stores, Inc	1,000.00	
Kelly Ziglar-Clay, 727 15th Street, NW, 12th Floor Washington, DC 20005	Mortgage Insurance Companies of America	10,000.00	60.75
Stephen A. Ziller Jr., 1010 Wisconsin Ave., NW, Suite 900 Washington, DC 20007	Grocery Manufacturers of America, Inc	534.68	
Fred Everett Zillinger II, 501 Second Street, NE Washington, DC 20002	Fertilizer Insititue	9,000.00	917.81
Mary Beth Zimmerman, 1725 K Street, NW, #914 Washington, DC 20006	Alliance to Save Energy		
Ziontz Chestnut Varnell Berley & Slonim, 2101 Fourth Avenue, #1230 Seattle, WA 98121	Fallon Paiute-Shoshone Tribes		
Do	Makah Indian Tribe		
Do	Mille Lacs Band of Chippewa Indians		
Do	Northern Arapaho Indian Tribe		
Do	Northern Cheyenne Tribe		
Nancy Zirkin, 1111 16th Street, NW Washington, DC 20036	American Assn of University Women	5,000.00	
Amy G. Zirkle, 801 Pennsylvania Avenue, NW, #650 Washington, DC 20004	American Express Co	3,967.00	195.50
Gary M. Zizka, 1100 South Washington Street, Ist floor Alexandria, VA 22314-4494	National Beer Wholesalers Assn	8,104.40	1,210.39
Robert R. Zoglman, 1801 K Street, NW, Suite 800 Washington, DC 20006	Westinghouse Electric Corp	1,200.00	
Charles O. Zuver, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	12,000.00	75.00

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following reports for the fourth calendar quarter of 1993 were received too late to be included in the published reports for that quarter:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective headings. This page (Page 1) is designed to supply identifying data, and Page 2 deals with financial data.)

PLEASE RETURN 1 ORIGINAL TO: THE CLERK OF THE HOUSE OF REPRESENTATIVES, OFFICE OF RECORDS AND REGISTRATION, 1036 LONGWORTH HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515

PLEASE RETURN 1 ORIGINAL TO: THE SECRETARY OF THE SENATE, OFFICE OF PUBLIC RECORDS, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19 . . . . . ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

Is this an Amendment?

IDENTIFICATION NUMBER

☐ YES ☐ NO

NOTE on ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "*Employee*".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "*Employer*".—To file as an "employer", write "None" in answer to Item "B".

(*b*) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

☐ CHECK IF ADDRESS IS DIFFERENT THAN PREVIOUSLY REPORTED

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE on ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER —State name, address, and nature of business. If there is no employer, write "None."

NOTE on ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§ 302(e).

(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have ☐ terminated, place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the specific legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) description, (*b*) quantity distributed, (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed.)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and, if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. *If this is a "Quarterly" Report, disregard this item "C4" and fill out items "D" and "E" on the back of this page.* Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly Report." ◆

STATEMENT OF VERIFICATION

[Omitted in printing]

PAGE 1 ◆

NOTE on ITEM "D."—*(a)* IN GENERAL. The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—§302(a) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In general.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in connection with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multi-purpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(c) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In general.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "NONE" in the space following the number.

Receipts (other than loans)

1. $...............Dues and assessments
2. $...............Gifts of money or anything of value
3. $...............Printed or duplicated matter received as a gift
4. $...............Receipts from sale of printed or duplicated matter
5. $...............Received for services (e.g., salary, fee, etc.)
6. $...............TOTAL for this Quarter (Add "1" through "5")
7. $...............Received during previous Quarters of calendar year
8. $...............TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received—"The term 'contribution' includes a . . . *loan* . . ."—§302(a).

9. $...............TOTAL now owed to others on account of loans
10. $...............Borrowed from others during this Quarter
11. $...............Repaid to others during this Quarter

12. $...............''Expense Money" and Reimbursements received this Quarter.

Contributors of $500 or More (from Jan. 1 through this Quarter)

13. Have there been such contributors?
Please answer "yes" or "no": ....

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last day of this Quarter, total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and Address of Contributor* (*"Period"* from Jan. 1 through............................, 19.......)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE on ITEM "E".—*(a)* IN GENERAL. "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—§302(b) of the Lobbying Act.

(b) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) IN CONNECTION WITH LEGISLATIVE INTERESTS:

Fill in every blank. If the answer to any numbered item is "None," write "NONE" in the spaces following the number.

Expenditures (other than loans)

1. $...............Public relations and advertising services
2. $...............Wages, salaries, fees, commissions (other than Item "1")
3. $...............Gifts or contributions made during Quarter
4. $...............Printed or duplicated matter, including distribution cost
5. $...............Office overhead (rent, supplies, utilities, etc.)
6. $...............Telephone and telegraph
7. $...............Travel, food, lodging, and entertainment
8. $...............All other expenditures
9. $...............TOTAL for this Quarter (Add "1" through "8")
10. $...............Expended during previous Quarters of calendar year
11. $...............TOTAL from Jan. 1 through this Quarter (Add "9" and "10")

Loans Made to Others—"The term 'expenditure' includes a . . . *loan* . . ."—§302(b).

12. $...............TOTAL now owed to person filing
13. $...............Lent to others during this Quarter
14. $...............Repayments received during this Quarter

15. *Recipients of Expenditures of $10 or More*_______________

If there were no single expenditures of $10 or more, please so indicate by using the word "NONE".

In the case of expenditures made during this Quarter by, or on behalf of, the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7–11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7–15, 8–15, 9–15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Richard M. Aborn, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	3,311.00	
James S. Adams, 1717 Massachusetts Ave., NW, #805 Washington, DC 20036	Safe Energy Communication Council	750.00	
Thomas L. Adams, 1776 Massachusetts Avenue, NW Washington, DC 20036	National Parks & Conservation Assn	1,366.15	299.54
Sandra Sue Adams-Choate, 80 F Street, NW Washington, DC 20001	American Fed of Government Employees	17,331.00	
John Aguirre, 727 North Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	4,500.00	
Air Traffic Control Assn, Inc, 2300 Clarendon Boulevard, #711 Arlington, VA 22201		778.77	778.77
Air Transport Assn, 1301 Pennsylvania Avenue, NW, #1100 Washington, DC 20004-1707		171,302.15	171,302.15
Michael A. Aisenberg, 1401 H Street, NW, #950 Washington, DC 20005	Digital Equipment Corp	26,500.00	
Julia L. Akins, 8630 Fenton Street, #400 Silver Spring, MD 20910	International Fed of Professional & Technical Engineers		
Michael J. Aklufi, 444 North Capitol Street Suite 711 Washington, DC 20001	Keefe Company (For:Radiofone, Inc)		
William E. Albers, 11 Dupont Circle, NW, #300 . Washington, DC 20036-1207	Albers & Company (For:May Department Stores Co)	525.00	
Virginia S. Albrecht, 1350 I Street, NW, #700 Washington, DC 20005	Beveridge & Diamond, P.C. (For:Foundation for Environmental & Economic Progress).	24,960.00	
Alcalde & Fay, 2111 Wilson Blvd., #850 Arlington, VA 22201	Alliance for Clean Coal	5,437.50	
Do	Alliance for Responsible Atmospheric Policy	18,000.00	4,590.00
Do	Associated Industries of Florida Property & Casualty Trust	45,000.00	85.00
Do	Carnival Corp	12,000.00	126.00
Do	Center for Applied Engineering	2,875.00	45.00
Do	City of Jacksonville	22,425.00	107.00
Do	City of Las Vegas/Clark County	18,000.00	1,106.00
Do	City of Miami	9,000.00	
Do	City of North Las Vegas	21,000.00	795.00
Do	City of Virginia Beach	31,500.00	836.00
Do	Computer Sciences Corp	6,300.00	241.00
Do	Consolidated Freightways	13,800.00	614.00
Do	Dade County	10,000.00	
Do	Dade County Aviation Department	11,250.00	
Do	Jack Eckerd Corp	3,000.00	113.00
Do	Golden Gate Bridge, Highwau & Transportation District	13,125.00	69.00
Do	Hillsborough County	18,000.00	
Do	Home Shopping Network	27,000.00	682.00
Do	International Climate Change Partnership	4,500.00	651.00
Do	International Council of Cruise Lines	37,000.00	1,862.00
Do	Jacksonville Chamber of Commerce	6,000.00	195.00
Do	Jim Walter Corp	3,750.00	107.00
Do	K & K Merchandising Group	5,600.00	67.00
Do	Keep America Moving	20,000.00	6,822.00
Do	Marin County	15,000.00	173.00
Do	Metropolitan Dade County-Seaport Department	15,000.00	531.00
Do	Montgomery Watson Americas, Inc	8,250.00	
Do	National Refrigerants, Inc	7,500.00	14.00
Do	Palm Beach County	19,500.00	
Do	Paxson Communications Corp	14,000.00	408.00
Do	Port of Jacksonville	13,950.00	163.00
Do	Port of Palm Beach	18,000.00	188.00
Do	Regular Common Carrier Conference	7,500.00	4,344.00
Do	Silver King Communications	14,400.00	786.00
Do	Sonoma County	12,000.00	216.00
Do	Stevens Institute of Technology	5,000.00	
Do	Summa Corp	21,000.00	2,103.00
Do	Tampa Electric Co	15,000.00	229.00
Do	Tampa Port Authority	12,000.00	
Do	U.S. Alcohol Testing Co of America, Inc		
Do	University of Nevada	18,000.00	
Do	Walter Industries	30,818.43	138.00
Do	Washington Workshops	6,000.00	71.00
Claude D. Alexander, 1350 I Street, NW, #840 Washington, DC 20005	Ralston Purina Company	11,000.00	832.81
Fay S. Alexander, 4155 F Sullyfield Circle Chantilly, VA 22021	Taxpayers Education Lobby, Inc	21,000.00	
Mary K. Alexander, 1620 L Street, NW, #1150 Washington, DC 20036	Matsushita Electric Corp of America	100.00	69.31
Joan Christina Alker, 1431 Corcoran Street, NW Washington, DC 20009	Families USA	666.00	126.30
Anne B. Allen, 655 Third Avenue New York, NY 10017	Risk & Insurance Management Society, Inc		
Marjorie D. Allen, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	13,374.30	525.92
Alliance to Save Energy, 1725 K Street, NW, #509 Washington, DC 20006			5,412.95
Ed Allison, Inc, 145 Brinkby Avenue, Suite B Reno, NV 89509	University of Nevada/Las Vegas Research Center	7,500.00	
Do	University of Nevada, Reno	8,000.00	
Paul E. Almeida, 8630 Fenton Street, Suite 400 Silver Spring, MD 20910	International Fed of Professinal & Technical Engineers		
Lisa Alter, 545 Madison Avenue New York, NY 10022	Reuben Weintraub Cera & Alter		543.62
William J. Althaus, 901 N. Washington Street, #400 Alexandria, VA 22314	National Smokers Alliance		
Alvarado & Gerken, 1301 Connecticut Avenue, NW, #700 Washington, DC 20036	Diagnostic Retrieval Systems, Inc	3,000.00	378.80
John O. Ambler, 2000 Westchester Avenue White Plains, NY 10650	Texaco Group, Inc		
American Advertising Federation, 1101 Vermont Ave., NW, #500 Washington, DC 20005			
American Apparel Manufacturers Assn, Inc, 2500 Wilson Blvd., #301 Arlington, VA 22201			6,677.00
American Arts Alliance, 1319 F Street, NW, #500 Washington, DC 20004-1151		65,408.00	47,339.00
American Assn of Blood Banks, 8101 Glenbrook Road Bethesda, MD 20814-2749		2,507.50	2,507.50
American Assn of Museums, 1225 Eye Street, NW, #200 Washington, DC 20005		9,500.00	11,134.65
American Crop Protection Association, 1156 15th St., NW Washington, DC 20005			
American Fed of State County & Municipal Employees, 1625 L St., NW Washington, DC 20036			151,580.28
American Federation of Home Health Agencies, 1320 Fenwick Lane, Suite 100 Silver Spring, MD 20910		92,890.18	7,389.40
American Gas Assn, 1515 Wilson Boulevard Arlington, VA 22209		50,022.00	50,022.00
American Health Information Management Assn, 919 North Michigan Avenue, Suite 1400 Chicago, IL 60611-1683			8,906.28
American Hellenic Institute Public Affairs Committee, Inc, 1220 16th Street NW Washington, DC 20036			65.00
American International Automobile Dealers Assn, 99 Canal Center Plaza, #500 Alexandria, VA 22314		433,585.00	172,704.00
American Managed Care & Review Assn, 1200 19th St., NW, #200 Washington, DC 20037		37,680.00	31,693.00
American Meat Institute, 1700 N. Moore Street Arlington, VA 22209		44,027.00	61,334.00
American Medical Peer Review Assn, 1140 Connecticut Avenue, NW, #1050 Washington, DC 20036			
American Orthotic & Prosthetic Assn, 1650 King Street, #500 Alexandria, VA 22314-1885		250,000.00	53,750.00
American Postal Workers Union, AFL-CIO, 1300 L Street, NW Washington, DC 20005		105,103.96	109,041.31
American Radio Relay League, Inc, 225 Main Street Newington, CT 06111			18,518.00
American Soc of Clinical Oncology, 750 17th Street, NW, #1100 Washington, DC 20006			
American Vintners Assn, 1301 Pennsylvania Ave., NW, #500 Washington, DC 20004			
American Waterways Operators, Inc, 1600 Wilson Boulevard, #1000 Arlington, VA 22209		622,343.25	5,397.83
Jeffrey M. Anders, 1100 15th Street, NW, #900 Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	4,000.00	58.00
Daniel W. Anderson, 1635 Prince Street Alexandria, VA 22314	National Air Access Council	2,475.11	2,829.50
John A. Anderson, 1333 H St., NW, The West Tower, 8th Flr Washington, DC 20005	Electricity Consumers Resource Council (ELCON)	510.00	
John B. Anderson, 418 7th Street, SE Washington, DC 20003	World Federalist Assn	1,416.00	
Richard F. Anderson, 1155 Connecticut Ave., NW, #800 Washington, DC 20036	WMX Technologies Inc	8,624.00	
Michael Andrews, 1455 Pennsylvania Ave., NW, #350 Washington, DC 20004	Salomon Brothers, Inc	4,000.00	
James F. Anton, 1828 L Street, NW, #1202 Washington, DC 20036	Institute of Electrical & Electronic Engineers, Inc	1,500.00	1,650.00
Samuel J. Ard, P.O. Box 1794 Tallahassee, FL 32302	St. Joe Paper Co	1,467.00	2,020.00
Arent Fox Kintner Plotkin & Kahn, 1050 Connecticut Ave., NW Washington, DC 20036-5339	Jean-Bertrand Aristide	42,018.00	6,098.17
Do	Guardian Life Insurance Co of America	507.30	73.59
Armenian Assembly of America, 122 C Street, NW #350 Washington, DC 20001		17,697.95	17,697.95
Arnold & Porter, 555 Twelfth Street, NW Washington, DC 20004-1202	General Conference of Seventh-day Adventists		
Do	Glaxo Wellcome, Inc		
Do	National Coordinating Comm for Multiemployer Plans	4,375.00	37.42
Wayne Arny & Associates, Inc, 2600 Virginia Avenue, NW, #600 Washington, DC 20037	American Logistics Infrastructure Improvement Consortium		
Do	Guam Port Authority		
Do	Technology for Communications, International		
Do	United Defense LP		
Debra B. Arrington, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	17,500.00	
Asbill Junkin Myers & Buffone, 1615 New Hampshire Ave., NW Washington, DC 20009	Coalition on Smoking or Health	4,250.00	4,416.54
James N. Ashmore, 1700 N. Moore Street, 20th Floor Arlington, VA 22209	Boeing Co	2,217.90	205.70
Association of Home Appliance Manufacturers, 701 Pennsylvania Avenue, NW, #900 Washington, DC 20004			3,345.27
Association of Oil Pipe Lines, 1725 K St., NW Washington, DC 20006			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Association of Private Pension & Welfare Plans, Inc, 1212 New York Avenue, NW, #1250 Washington, DC 20005		962.50	86.73
Carol F. Aten, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn		
Deborah Marie Atwood, 122 C Street, NW, #875 Washington, DC 20001	National Pork Producers Council	10,000.00	429.16
Les AuCoin, Bogle & Gates 1299 Pennsylvania Ave., NW, #875 East Washington, DC 20004	Associated Oregon Loggers		
Do	Forest Lieu Selection Comm	202.00	
Azerbaijan Study Foundation, 110 East 59th Street, Suite 3202 New York, NY 10022		30,000.00	30,000.00
AFL-CIO Maritime Committee, 1150 17th Street, NW, #700 Washington, DC 20036		4,500.00	421.97
APCO Associates, Inc, 1615 L St., NW Washington, DC 20036	American Assn of Nurse Anesthetists		
Do	AEC Forest Products	850.00	
Do	Beneficial Corp		
Do	Can Manufacturers Institute, Inc		161.25
Do	City of Duluth		
Do	City Utilities of Springfield	3,866.25	449.51
Do	Colorado River Energy Distributors	12,051.25	1,694.12
Do	Connecticut Municipal Electric Energy Cooperative		
Do	DASAM Corp		228.45
Do	Electronic Filing Coalition		
Do	Gerber Products Company	3,580.00	25.93
Do	Government of Romania	2,280.00	4.00
Do	Heart of America Northwest		
Do	LIN Television Corp		336.46
Do	Missouri Joint Municipal Electric Utility Commission		176.26
Do	Northeast Public Power Assn	13,231.25	447.91
Do	Pennsylvania Power & Light		
Do	Phoenix Home Life Insurance, Inc	10,262.50	401.43
Do	Principal Financial Group	7,631.25	541.76
Do	Queens Borough Public Library	75.00	15.86
Do	Sacramento Municipal Utility District		2,523.75
Do	Source Northwest, Inc		
Do	Southern California Public Power Authority	90.00	9.00
Do	State Farm Mutual Automobile Insurance Co		
Do	Tennessee Valley Public Power Assn	3,615.00	10.10
Craig H. Baab, 122 C Street NW Suite 350 Washington, DC 20001	Armenian Assembly of America	1,681.16	
Baker & Hostetler, 1050 Connecticut Ave., NW, #1100 Washington, DC 20036	Alexander & Alexander Services, Inc	643.33	643.33
Do	American Football Coaches Assn	12,469.19	12,469.19
Do	American Resort Development Assn	2,330.33	2,330.33
Do	Auto Alliance International		
Do	D.H. Blair Investment Banking Corp	6,268.83	6,268.83
Do	Capitol American Financial Corporation		
Do	Coalition of Independent Casualty Companies of America		
Do	Corroon & Black Corp	643.33	643.33
Do	Council of Insurance Agents & Brokers		
Do	Edison Electric Institute	14,685.48	14,685.48
Do	Emmis Broadcasting Corp	5,641.50	5,611.50
Do	Financial Holding Corp		
Do	Fireman's Fund Insurance Co		
Do	Flexi-Van Leasing/Pacific Holding Company	7,317.68	7,317.68
Do	GTE Corp		
Do	Hospital Insurance Forum		
Do	Hyatt Corp		
Do	Independent Insurance Agents of America, Inc		
Do	Invacare Corporation	12,396.06	12,396.06
Do	IM&I, Inc		
Do	IOTA Partners	923.96	923.96
Do	Johnson & Higgins	643.33	643.33
Do	Jordache Enterprises, Inc		
Do	Life Gift Organ Donor Center	2,591.36	2,591.36
Do	Loeb & Loeb (for Joseph Bogdanovich)	1,215.00	1,215.00
Do	Lorain Community Hospital		
Do	Lorain Community/St. Joseph Regional Health Center		
Do	Major League Baseball	1,895.00	1,895.00
Do	Marsh & McLennan Companies	643.33	643.33
Do	Methodist Hospital of Indiana		
Do	Motion Picture Assn of America, Inc	1,384.15	1,384.15
Do	National Assn of Professional Insurance Agents		
Do	Paradigm Health Corp		
Do	Renal Physicians of Texas	1,650.38	1,650.38
Do	Rollins Hudig Hall	643.33	643.33
Do	Schering Berlin, Inc	2,265.16	2,265.16
Do	Sedgwick James, Inc	643.33	643.33
Do	Soap and Detergent Association		
Do	Society of Cardiovascular & Interventional Radiology		
Do	St. Paul Fire & Marine	643.33	643.33
Do	Travelers, Inc	32,176.95	32,176.95
Do	United Fidelity Life Insurance		
Do	Washington Regional Transplant Consortium		
Do	Wireless Communication Council	29,532.95	29,532.95
Baker Donelson Bearman & Caldwell, 801 Pennsylvania Ave., NW, #800 Washington, DC 20004	Allied-Signal, Inc		
Do	American Trucking Assn	7,375.00	
Do	AFG Industries, Inc		
Do	AT&T		
Do	Bridgestone/Firestone, Inc		
Do	Burlington Northern Railroad Co	9,757.50	56.00
Do	Competitive Long Distance Coalition, Inc	96,946.02	140.00
Do	CTI PET Systems, Inc	3,738.50	
Do	Day & Zimmerman, Inc	3,037.50	75.00
Do	Eisenhower Exchange Fellowships, Inc		
Do	Federal Express Corp		
Do	Federal Judges Assn	4,100.50	
Do	Foothill Transit	26,942.50	621.38
Do	Fruit of the Loom		
Do	Los Angeles County Transportation Commission	18,999.00	
Do	Martin Marietta Corp		
Do	Metropolitan Washington Airports Authority	9,894.00	361.00
Do	Motorola General Systems Sector	11,800.00	
Do	National Soft Drink Assn		
Do	North Carolina Air Cargo Airport Authority	2,430.00	81.00
Do	Occidental Petroleum Corp		
Do	Ocean Common Carrier Coalition	4,572.50	
Do	OMI Corporation		
Do	Pennsylvania Turnpike Commission	6,637.50	
Do	Pennzoil Co		
Do	Pillsbury Company	1,917.50	
Do	PPG Industries, Inc	7,402.50	
Do	Salomon Brothers, Inc	1,416.50	
Do	Schering-Plough Corp	11,896.50	30.41
Do	Southern Star Shipping Co		
Do	United Technologies Corp	1,917.50	29.15
Do	UST, Inc		
Do	Ventura Port District	737.50	
Do	WMX Technologies, Inc	7,833.50	30.74
Andrea Ball, 1601 Connecticut Ave., NW, #601 Washington, DC 20009	Alliance for Justice	104.00	
Ball Janik & Novack, 1101 Pennsylvania Avenue, NW, #1035 Washington, DC 20004	City of Bellevue (Washington)	5,316.60	938.40
Do	City of Modesto	6,600.00	849.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	City of Portland, OR	20,989.64	1,564.12
Do	City University	20,863.00	2,745.56
Do	Clackamas County	22,471.00	1,747.30
Do	Clatsop Community College	9,000.00	881.25
Do	Commercial Informations Systems, Inc	680.00	347.44
Do	CPAFB (Committee to Preserve the American Family Business	15,000.00	2,321.43
Do	Greenbrier Leasing, Inc	38,967.50	4,536.65
Do	Northwest Industrial Gas Users		
Do	Northwest Woodland Owners Council	27,000.00	4,198.86
Do	Oregon Community College Assn	9,000.00	759.40
Do	Oregon Department of State Lands		
Do	Oregon Department of Transportation	24,300.00	2,679.23
Do	Oregon Forest Industries Council		
Do	Oregon Graduate Institute of Science & Technology	5,832.50	699.48
Do	Pacific Processors Assn		
Do	Port of Hood River	10,500.00	919.99
Do	Schnitzer Steel Industries	5,627.50	1,113.00
Philip A. Bangert, 2000 L Street, NW #612 Washington, DC 20036	Sher & Blackwell"(For:Global Resort Partners)		
Do	Miami River Marine Group		
Do	Port of Oakland	180.00	61.00
Elizabeth A. Bannigan, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	3,133.20	
Russel Bantham, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers Assn	4,000.00	
Linda W. Banton, 6801 Rockledge Drive Bethesda, MD 20817	Lockheed Martin Corp	2,175.00	
John Paul Barber, 8101 Glenbrook Road Bethesda, MD 20814-2749	American Assn of Blood Banks	2,500.00	7.50
Leslie A. Barhyte, 529 14th Street, NW, #440 Washington, DC 20045	Newspaper Association of America	5,000.00	87.10
Barnes Richardson & Colburn, 1225 Eye Street, NW, #1150 Washington, DC 20005	Bayer, Inc		
Do	Department 56, Inc		
Do	Florida Citrus Mutual		
Do	Marion Merrell Dow, Inc		
Do	Omni USA, Inc		
Do	Polaroid Corp		
Jean M. Baronas, 1401 H Street, NW, #200 Washington, DC 20005	Xerox Corp	1,500.00	
David M. Barrett, 2626 Pennsylvania Avenue, NW Washington, DC 20037	Southeastern Pennsylvania Transportation Authority		
Albert P. Barry, 2011 Crystal Drive, #107 Arlington, VA 22202	AAI Corporation	5,837.00	
Linda L. Bartlett, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	750.00	398.44
Richard A. Barton, 1101 17th St., NW, #705 Washington, DC 20036	Direct Marketing Assn	4,500.00	13,207.86
Bass and Howes, 1601 Connecticut Ave., NW, #801 Washington, DC 20009	Breast Cancer Coalition	16,150.00	124.49
Do	Family Violence Prevention Fund	2,550.00	109.16
Do	National Diabetes Research Coalition	10,200.00	288.50
Do	RESOLVE	1,275.00	85.72
Sandy Bass-Cors, 119 Oronoco Street, Suite 300 Alexandria, VA 22314	Coalition for Automotive Repair Equality	4,045.00	
Richard M. Bates, 1150 17th Street, NW, #400 Washington, DC 20036	Disney Worldwide Services, Inc	12,375.00	591.98
Catharine R. Batky, 801 Pennsylvania Ave., NW, #220 Washington, DC 20004-2604	Burlington Northern Railroad Co	5,000.00	420.84
Russell B. Batson, 1615 H St., NW Washington, DC 20062	American Furniture Manufacturers Assn	500.00	813.61
Wendy Batson, 245 Second Street, NE Washington, DC 20002	Friends Comm on National Legislation	5,634.88	78.58
Jon A. Baumgarten, 1233 20th Street, NW, Suite 800 Washington, DC 20036	Proskauer Rose Goetz & Mendelsohn (For:Association of American Publishers) ..		
Beacon Consulting Group, Inc, 312 Massachuesetts Avenue, NE Washington, DC 20002-5703	Alltel Information Services, Inc	2,950.00	184.39
Do	Big Brothers/Big Sisters of America		214.81
Do	Boston Music Education Collaboratiave	2,250.00	206.11
Do	Cummins-Allison Corp	4,350.00	239.10
Do	Haymarket House	12,000.00	1,050.76
Do	Metropolitan Chicago Healthcare Council		
Do	Museum of Science & Industry	3,700.00	194.36
Do	Mystic Seaport Museum	9,000.00	133.65
Do	National Coalition for Volunteer Protection		
Do	National Crime Prevention Council	14,250.00	1,607.24
Do	National Health Sciences Consortium	7,500.00	488.91
Do	National Institute for Citizen Education & the Law		
Do	New England Conservatory of Music		
Do	One-To-One Partnership, Inc	6,750.00	856.46
Do	Rubber Pavements Assn	19,800.00	4,263.08
Do	SCITREK		
Dorothy A. Beam, 1510 Laburnum Street McLean, VA 22101	Richard J. Sullivan Associates (For:Association of American Railroads)	4,300.00	
Do	Richard J. Sullivan Associates, Inc (For:Design Professionals Coalition)		
Do	Richard J. Sullivan Associates, Inc (For:Northeast Ohio Regional Sewer District)		
Lee Bechtel, 8506 Sundale Drive Silver Spring, MD 20910	Bechtel & Associates	6,000.00	1,300.00
Bechtel & Cole, Chartered, 1901 L Street, Nw, Suite 250 Washington, DC 20036	Press Broadcasting Co, Inc		
Mark Belanger, 12 East 49th Street New York, NY 10017	Major League Baseball Players Assn		
Rebecca Leone Bell, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	7,253.08	
Stephen E. Bell, 1455 Pennsylvania Ave., NW, #350 Washington, DC 20004	Salomon Brothers, Inc	5,000.00	
James P. Bellis, 700 11th Street, NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		
Rebecca J. Berg, 808 17th Street, NW, #200 Washington, DC 20006	Bostrom Corp (For:Passenger Vessel Assn)	2,000.00	
Antoinette C. Berkely, P.O. Box 2972 Washington, DC 20013			
Jason S. Berman, 1020 19th St., NW, #200 Washington, DC 20036	Recording Industry Assn of America, Inc	5,000.00	
Joan Kovalic Bernard, 701 Pennsylvania Avenue, NW, #610 Washington, DC 20004	Tenneco, Inc	63.00	1,655.46
Keith E. Bernard, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	6,300.00	9.00
Nancy T. Bernstine, 122 C Street, NW, Suite 680 Washington, DC 20001	National Housing Law Project	4,370.00	
Beveridge & Diamond, P.C., 1350 Eye Street, NW, #700 Washington, DC 20005	Foundation for Environmental & Economic Progress, Inc	26,460.00	28,182.87
Debbie Billet-Roumell, 901 E Street, NW, #600 Washington, DC 20004	National Treasury Employees Union	13,000.00	112.00
Biotechnology Industry Organization, 1625 K Street, NW Washington, DC 20006		1,49,500.00	21,477.76
Julie A. Birkofer, 1701 Clarendon Blvd. Arlington, VA 22209	American Chiropractic Assn		
Mark E. Bitterman, 21700 Atlantic Boulevard Dulles, VA 22166-6801	Orbital Sciences Corp	67.00	
Cathleen Black, 11600 Sunrise Valley Drive Reston, VA 22091	Newspaper Association of America	6,000.00	24.25
Roger Blacklow, 905 16th Street, NW Washington, DC 20006	Laborers' International Union of NA, AFL-CIO	17,499.99	823.99
Brent Blackwelder, 1025 Vermont Avenue, NW, 3rd Floor Washington, DC 20005	Friends of the Earth	32.83	
Laricke D. Blanchard, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,000.00	
Phillip J. Blando, 1200 19th Street, NW, #200 Washington, DC 20036-2437	American Managed Care & Review Assn	513.00	61.00
Helen Blank, 25 E Street, NW Washington, DC 20001	Children's Defense Fund	5,631.60	116.66
Bliss & Wilkens, P.O. Box 201128 Anchorage, AK 99520-1128	Akhiok-Kaguyak, Inc	40,730.19	
Louis Blumberg, 900 - 17th Street NW Washington, DC 20006	Wilderness Society	1,558.16	481.64
Seth M. Bodner, 386 Park Avenue South New York, NY 10016	National Knitwear & Sportswear Assn		
Bogle and Gates, 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Associated Oregon Loggers		
Do	Forest Lieu Selection Comm	282.00	282.00
Do	Tillamook Creamery Assn	564.00	564.00
John F. Bohm, 526 King Street, #511 Alexandria, VA 22314	National Assisted Housing Management Assn		14,770.00
James B. Boillot, 1005 E Street, SE Washington, DC 20003	National Agricultural Aviation Assn		
James E. Boland, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	5,000.00	660.01
Boland & Madigan, Inc, 700 13th Street, NW, #350 Washington, DC 20005	Accounting Coalition	15,000.00	45.00
Do	Alyeska Pipeline Service Co	8,000.00	21.00
Do	ARCO Chemical Co	1,000.00	
Do	Distilled Spirits Council of the U.S.	12,000.00	
Do	Ford Motor Co	8,000.00	
Do	KPMG Peat Marwick, L.L.P.	3,000.00	
Do	Massachusetts Water Resources Authority	10,000.00	
Do	National Electrical Manufacturers Assn	1,250.00	
Do	Portable Rechargeable Battery Assn, et al.	7,000.00	19.50
Do	Southwest Airlines	6,826.00	
Do	Tele-Communications, Inc		
Do	Vencor, Inc	10,000.00	24.75
Borden Group, Inc, 101 N. Alfred Street, Suite 200 Alexandria, VA 22314	American Fed of Home Health Agencies	4,560.00	2,447.00
Charles G. Botsford, 1730 M St., NW, #911 Washington, DC 20036	Chinese Computer Communications, Inc, et al.	1,000.00	270.00
Elizabeth A. Boussard, 900 17th Street, NW Washington, DC 20006	Wilderness Society	2,940.51	94.87
Diane K. Bowers, P.O. Box 182 Port Jefferson, NY 11777	Council for Marketing & Opinion Research (CMOR)		
Taylor R. Bowlden, 1776 Massachusetts Ave., NW Washington, DC 20036	Highway Users Federation	13,446.00	1,658.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Carolyn A. Boyer, 555 13th Street, NW, #600 Washington, DC 20004	Health Insurance Assn of America, Inc	3,170.17	524.97
Celeste D. Boykin, 1701 Pennsylvania Ave., NW, Suite 900 Washington, DC 20006	E.I. duPont de Nemours & Co, Inc		
J. Patrick Boyle, 1700 N. Moore Street, #1600 Arlington, VA 22209	American Meat Institute	1,887.98	
Paul Boyle, 529 14th Street, NW, #400 Washington, DC 20045	Newspaper Association of America	7,000.00	92.52
Marshall A. Brachman, 2108 West Freeway Fort Worth, TX 76102	City of Nogales, Arizona	15,000.00	361.87
Do	Diamond Management	15,000.00	
Do	Direct Marketing Assn, Inc	10,000.00	
Do	Edmund Scientific Company	2,250.00	
Do	National Wholesale Co, Inc	1,500.00	
Do	TicketMaster Group, Ltd Partnerships	10,000.00	
Nancy L. Bradish, 1310 G Street, NW, 12th Floor Washington, DC 20005	Blue Cross & Blue Shield Assn	6,750.00	1,924.69
Cynthia P. Bradley, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	12,332.52	125.00
Cathleen Brady, 1400 K Street, NW Washington, DC 20005	American Psychiatric Assn	2,434.00	1,355.78
Sarah Brady, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	3,311.00	
Roy Braunstein, 1300 L Street, NW Washington, DC 20005	American Postal Workers Union, AFL-CIO	16,992.59	2,066.00
William O. Bresnick, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc	450.00	
Larry K. Brewer, 1235 Jefferson Davis Highway Arlington, VA 22202	ESCO Electronics Corp		469.90
Robert J. Brinkmann, 11600 Sunrise Valley Drive Reston, VA 22091	Newspaper Association of America	4,000.00	25.00
David A. Brody, 1140 Connecticut Avenue, NW, #803 Washington, DC 20036	American Fiber Manufacturers Assn, Inc		
Do	BASF Corp	5,000.00	
Do	Corning, Inc	3,500.00	
Do	Gordley Associates		
Do	Telecommunications Industry Assn		
Michael J. Brokovich, 1725 Jefferson Davis Highway, Suite 900 Arlington, VA 22202	Unisys Corporation	1,000.00	
Michael D. Bromberg, Law Offices of Deborah Steelman 555 13th Street, MW. #122- East Washington, DC 20004-1109	Humana, Inc	32,775.00	231.57
Do	National Assn of Psychiatric Health Sstems	37,500.00	303.27
Mary E. Brooks, 1730 M Street, NW Washington, DC 20036	League of Women Voters of the U.S.	7,632.30	221.80
Bonnie L. Brown, 555 13th Street East Tower # 600 Washington, DC 20004	Health Insurance Assn of America, Inc		
David C. Brown, 601 Pennsylvania Ave., NW Suite 620-North Building Washington, DC 20004	PECO Energy Company	10,290.00	1,266.41
Michael Brown, 1700 N. Moore Street, #1600 Arlington, VA 22209	American Meat Institute	7,843.75	119.49
Paul S. Brown, 655 Third Avenue New York, NY 10017	Risk & Insurance Management Society, Inc		
S. M. Henry Brown Jr., 1776 Eye Street, NW, #275 Washington, DC 20006	Entergy Services, Inc	8,150.89	1,361.43
Will Rolland Brown, 11 Dupont Circle, NW, #300 Washington, DC 20036-1207	Albers & Company (For:May Department Stores Co)		
R. Stephen Browning, P.O. Box 1697 Helena, MT 59624	Decision Management, Inc	762.00	
Do	Montana Technology Corp		
Brownstein Hyatt Farber & Strickland, P.C., 410 17th Street, 22nd Floor Denver, CO 80202	American Salvage Pool Assn		3,489.65
Do	Apollo Advisors		
Do	Crystal Creek Homeowners Assn		
Do	Liggett Group, Inc	5,562.90	4,032.28
Do	New Valley Corporation	6,000.00	
Do	Pfizer, Inc	12,000.00	160.00
Do	Rose Medical Center	8,064.00	
Do	Tele-Communications, Inc	14,059.57	5,350.01
Do	United Airlines	13,195.50	2,865.24
Do	US West	2,501.00	
Do	Vail Associates, Inc	2,000.00	
Brownstein Zeidman & Lore, 1401 New York Ave., NW, #900 Washington, DC 20005	AFL-CIO Housing Investment Trust	335.00	
Do	New York City Housing Development Corp	595.00	
Do	New York State Mortgage Loan Enforcement & Admin Corp	87.50	
Do	Starrett Housing Corporation		
Wolf Brueckmann, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce		
Michael E. Brunner, 2626 Pennsylvania Avenue, NW Washington, DC 20037	National Telephone Cooperative Assn	2,000.00	36.00
Trudy M. Bryan, 1701 Pennsylvania Avenue, NW, #900 Washington, DC 20006	E.I. du Pont de Nemours & Co, Inc		
Florence Buchanan, 5566 Southwyck Blvd. Toledo, OH 43614	Blade Communications, Inc	269.00	833.00
Martha L. Buddecke, 1299 Pennsylvania Ave., NW, #1175 Washington, DC 20004	Science Applications Int'l Corp	600.00	150.00
Betsy Buffington, 23 North Scott, #27 Sheridan, WY 82801	Sierra Club	1,778.05	
Building Owners & Managers Assn Int'l, 1201 New York Avenue, NW, #300 Washington, DC 20005			25,285.00
Thomas J. Bulger, 1050 17th Street, NW, #510 Washington, DC 20036	Association for Commuter Transportation, Inc	10,615.00	1,969.85
Do	ESL/TRW	9,104.40	345.63
Do	Metropolitan Transportation Commission	31,999.98	2,731.08
Do	Oakland County, Michigan	10,875.00	575.61
Do	Road Commission for Oakland County	18,750.00	1,342.50
David A. Bunn, 1211 Connecticut Avenue, NW, #610 Washington, DC 20036	Hearst Corporation	1,000.00	
Do	Parcel Shippers Assn	2,000.00	
Karen L. Burgett, 1320 19th Street, NW, Suite 200 Washington, DC 20036	Cox Enterprises, Inc		10.00
Diane B. Burke, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	17,057.28	416.00
Gerard P. Burke, 1117 Spotswood Drive Silver Spring, MD 20904	International Air Leases, Inc		
Melinda Burrell, 418 7th Street, SE Washington, DC 20003	World Federalist Assn	5,970.80	
Larry D. Burton, 1776 Eye Street, NW, #1000 Washington, DC 20006	BP America, Inc	6,500.00	2,000.98
James D. Burwell, Governmental Affairs Dept. (051) Columbia, SC 29218	SCANA Corp	9,185.60	5,580.79
Nicholas J. Bush, 1129 20th Street, N.W., #300 Washington, DC 20036	Natural Gas Supply Assn		
Butera & Andrews, 1301 Pennsylvania Ave., NW Washington, DC 20004	ADVANTA Corporation	4,000.00	
Do	Community Bankers Assn of New York State	1,500.00	
Do	Community Preservation Corp	1,500.00	
Do	Consumers Electronics Group	3,000.00	
Do	Dime Savings Bank of New York	1,500.00	
Do	Edison Electric Institute		
Do	Federal Home Loan Bank of Boston	2,000.00	
Do	Federation for American Immigration Reform	5,000.00	
Do	Financial Insurance Management Corp		
Do	General Atomics	5,000.00	
Do	Household International	10,000.00	
Do	Independent Research Agency for life Insurance, Inc	3,000.00	
Do	National Assn of Retail Collection Attorneys	1,000.00	
Do	NAC International	2,000.00	
Do	Peoples Bank	1,500.00	
Do	River Bank America	1,500.00	
Do	Rochester Community Savings Bank	1,500.00	
Do	Savings Banks Life Insurance Fund	2,000.00	
Do	Superior Bank, FSB	1,000.00	
Do	Texas Savings & Loan League	1,000.00	
Do	Towers Perrin		
Patrick J. Cacchione, DCHNS 4600 Edmundson Road St Louis, MO 63134	Daughters of Charity National Health System		
David B. Calabrese, 2500 Wilson Bouldevard Arlington, VA 22201-3834	Electronic Industries Assn	750.00	35.42
Bradley F. Call, 800 Connecticut Ave., NW, Suite 600 Washington, DC 20006	Fluor Corp	5,000.00	55.00
William L. Callaway, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn	3,500.00	1,121.67
John Cameron, 68 E. Wacker Place, 3rd Floor Chicago, IL 60601	Illinois Public Action	1,350.00	1,642.00
Campaign to Save Indian Programs, 1700 Broadway, #1204 Denver, CO 80290		2,800.00	5,000.00
Carroll A. Campbell Jr., 1001 Pennsylvania Ave., NW Washington, DC 20004	American Council of Life Insurance	7,000.00	
William Canary Jr., 430 First Street, SE Washington D.C.	American Trucking Assns, Inc	3,000.00	
Ross Capon, 900 Second Street, NE, #308 Washington, DC 20002-3557	National Assn of Railroad Passengers	17,877.00	
Marie C. Carbone, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc	1,520.40	
Melissa Coggeshall Carey, 2001 Pennsylvania Ave., NW Washington, DC 20006	Electronic Industries Assn		
Norval E. Carey, 4760 40th Street, North Arlington, VA 22207	General Atomics	11,535.00	743.88
Carlyle Consulting, 3000 S. Randolph Street, Suite 317 Arlington, VA 22206	Amdahl Corp	1,662.50	8.92
Do	Levi Strauss International	24,129.50	2,026.45
Carmen Group, Inc, 1225 I St., NW, #300 Washington, DC 20005	Air Transport Assn of America		
William Carney, 523 7th Street, SE Washington, DC 20003	Edison Electric Institute	21,000.00	
Do	Nuclear Energy Institute	21,000.00	
Paul E. Carothers, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	3,000.00	892.05
Jot David Carpenter Jr., 6 East Nelson Avenue, #302 Alexandria, VA 22301-2054	Telecommunications Industry Assn	21,625.00	
Simon P. Carr, 2001 Pennsylvania Ave., NW Washington, DC 20006-1813	Electronic Industries Assn		
Robert J. Carragher, 815 Connecticut Ave., NW, #710 Washington, DC 20006	Steel Service Center Institute		
David Carroll, 1212 New York Avenue, NW, #500 Washington, DC 20005	Cement Kiln Recycling Coalition (For:LaFarge Corporation)		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Susan B. Carver, 1130 17th Street, NW Washington, DC 20036	National Mining Assn	4,150.00	948.74
A. Mario Castillo, 1250 27th Street, NW Washington, DC 20007	Aegis Group, Ltd (For:Dairy Trade Coalition)	3,000.00	1,425.60
Gordon Cavanaugh, 601 Pennsylvania Ave., NW, #800 Washington, DC 20004	Reno & Cavanaugh (For:Council of Large Public Housing Authorities)	22,390.25	696.40
Center for Clean Air Policy, 444 North Capitol Street, #526 Washington, DC 20001		30,000.00	182.40
Center for Rehabilitation Technology, Inc, 490 10th Street, Suite 118 Atlanta, GA 30318			8,360.81
Norman W. Chalmers, P.O. Box 26666 Richmond, VA 23261	Virginia Power/North Carolina Power		7,019.89
Thomas Champion, 601 Pennsylvania Ave., NW, #620 N. Bldg. Washington, DC 20004	Consolidated Edison Company of New York	4,770.00	1,712.77
William J. Chandler, 1776 Massachusetts Avenue, NW, #200 Washington, DC 20036	National Parks & Conservation Association	4,100.00	347.29
Nancy Chapman, 1723 U Street, NW Washington, DC 20009	N. Chapman & Associates, Inc (For:Mycogen Corporation)		
Nancy Chapman & Associates, Inc, 1723 U Street, NW Washington, DC 20009	Apple Processors Assn		
Richard A. Charter, 6947 Cliff Ave. Bodega Bay, CA 94923	County Administrative Office County of Santa Cruz		1,139.90
Chernikoff & Company, 1320 18th Street, NW, #100 Washington, DC 20036	Isabella Stewart Gardner Museum		100.00
Do	Textile Museum	1,896.00	1,257.75
Child Care America, Inc, 14102 Warwick Blvd Newport News, VA 23602			
Marjorie A. Chorlins, 1350 I Street, NW Washington, DC 20005	Motorola	2,500.00	
Christian Action Network, P.O. Box 606 Forest, VA 24551		373,851.54	75,149.05
Paul N. Cicio, 1776 Eye Street, NW, Suite 575 Washington, DC 20006	Dow Chemical Corp		6,467.00
Jane Dunn Cirrincione, 555 13th Street, NW, #900-E Washington, DC 20004	National Hydropower Assn	1,375.00	106.56
Citizens for an Alternative Tax System, 9401 East Street Manassas, VA 22110		805.50	805.50
Citizens Comm for the Right to Keep & Bear Arms, Liberty Park, 12500 NE Tenth Place Bellevue, WA 98005		651,355.00	161,534.00
Rodney D. Clark, 1201 New York Ave., NW, #300 Washington, DC 20005	Building Owners & Managers Assn Int'l	3,393.00	384.00
Sara L. Clarke, 1700 N. Moore Street, #1600 Arlington, VA 22209	American Meat Institute	7,067.30	627.29
Michelle C. Clay, 8601 Georgia Ave., #805 Silver Spring, MD 20910	Brown & Associates (For:Lambert International Airport)	24,000.00	4,724.00
Candace M. Clemons, 8630 Fenton Street, #400 Silver Spring, MD 20910	International Fed of Professional & Technical Engineers		
William A. Clifford, 510-15 Revere Beach Blvd., #806 Revere, MA 02151	American Train Dispatchers	930.00	
Lawrence Clinton, 1401 H Street, NW, #600 Washington, DC 20005	U.S. Telephone Assn	10,000.00	
Guy Clough, 1301 Pennsylvania Avenue, NW, #1100 Washington, DC 20004-1707	Air Transport Assn of America	2,350.30	
Coalition for Automotive Repair Equality, Inc, 119 Oronoco Street, Suite 300 Alexandria, VA 22314		45,503.00	28,928.00
Coalition to Stop Gun Violence, 100 Maryland Ave., NE Washington, DC 20002		261,594.41	234,536.14
George T. Cody, 2213 M Street, NW, 3rd Floor Washington, DC 20037	American Task Force for Lebanon	600.00	20.00
Daniel L. Cohen, 1050 31st Street, NW Washington, DC 20007	Association of Trial Lawyers of America	2,000.00	100.00
Marvin S. Cohen, 2929 N. Central Ave., 14th Floor Phoenix, AZ 85012-2576	Sacks Tierney & Kasen (For:City of Tucson)	2,821.00	454.71
Rita D. Cohen, 1211 Connecticut Ave., NW, #610 Washington, DC 20036	Magazine Publishers of America	5,000.00	
Sharon Cohen, 1400 K Street, NW Washington, DC 20005	American Psychiatric Assn	3,840.00	769.00
Cohen & Woods International, Inc, 1555 Wilson Blvd., #300 Arlington, VA 22209	Republic of Togo		2,560.56
Cordis B. Colburn, 1745 Jefferson Davis Highway, Suite 1000 Arlington, VA 22202	General Dynamics Corp	1,000.00	1,436.90
Randall I. Cole, 7900 Westpark Drive McLean, VA 22102	Wang Federal, Inc	6,000.00	561.81
Cynthia A. Colenda, 1211 Connecticut Ave., NW, #800 Washington, DC 20036	International Council of Cruise Lines	2,500.00	90.00
Kent W. Colton, 15th & M Streets, NW Washington, DC 20005	National Assn of Home Builders of the U.S.	9,061.48	
Jon R. Comola, P.O. Box 1682 Austin, TX 78767	Blue Cross Blue Shield of Texas, Inc	600.00	143.53
Stephen R. Conafay, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	4,000.00	
Conference of State Bank Supervisors, 1015 18th St., NW Washington, DC 20036			3,094.00
Gladys Considine, 2000 K Street, NW, Suite 800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,211.00	
Consortium of Small School Districts, Inc, 1350 EYE Street, NW, Suite 820 Washington, DC 20005		435.00	275.04
Consumer Federation of America, 1424 16th St., NW, #604 Washington, DC 20036		123,319.53	124,987.14
Consumers Union of U.S., Inc, 1666 Connecticut Ave., NW, Suite 310 Washington, DC 20009-1039			18,338.13
Stephen L. Cooney, 701 Pennsylvania Ave., NW, #720 Washington, DC 20004	Siemens Corp		
Josephine S. Cooper, 1111 19th Street, NW, Suite 800 Washington, DC 20036	American Forest & Paper Assn		
Mark N. Cooper, 1424 16th St., NW, #604 Washington, DC 20036	Consumer Federation of America	5,000.00	
Copeland Lowery & Jacquez, 601 13th Street, NW, #710 North Washington, DC 20005	City of San Diego, California	48,000.00	
Do	JAYCOR	13,088.08	
Do	ORINCON Corp	26,340.39	
Do	San Diego State University Foundation	30,057.44	
Do	South West Marine	15,028.73	
Do	State of California	24,000.00	
Christine Corcoran, 1700 N. Moore St., #1600 Arlington, VA 22209	American Meat Institute	25.96	
Maria C. Cordone, 9000 Machinists Place Upper Marlboro, MD 20772	International Assn of Machinists & Aerospace Workers	18,288.01	
Jack Cory, 120 E. Jefferson Street Tallahassee, FL 32301	Florida Lobbying Services, Inc (For:Discovery Cruises)		1,507.09
Gregory Costa, 1701 Clarendon Blvd. Arlington, VA 22209	American Chiropractic Assn		
Patrick J. Costelloe, 1629 K Street, NW, #301 Washington, DC 20006	Evergreen International Aviation, Inc		
Council for Marketing & Opinion Research (CMOR), 170 N. Country Rd. Port Jefferson, NY 11777			
Christopher D. Coursen, 1133 Connecticut Ave., NW, #900 Washington, DC 20036	Mas Tec, Inc		
Thomas J. Cove, 1625 K Street, NW, #900 Washington, DC 20006	Sporting Goods Manufacturers Assn (SGMA)	5,250.00	1,206.05
Covington & Burling, P.O. Box 7566 1201 Pennsylvania Avenue, NW Washington, DC 20044	American PCS, L.P.		
Do	CBS Television Network Affiliates Assn		
Do	Network Affiliated Stations Alliance	12,160.00	
John A. Cox Jr., 9300 Livingston Road Ft. Washington, MD 20744	National Tooling & Machining Assn	20,678.58	370.10
Thomas E. Cox, 1155 Connecticut Ave., NW, 10th Floor Washington, DC 20036	U.S.-Cuba Business Council	240.00	
Harold P. Coxson Jr., Coleman Coxson Penello Fogleman & Cowen 1000 Vermont Ave., NW, #600 Washington, DC 20005	Alliance to Keep Americans Working (AKAW)	10,000.00	
Do	Barrick Gold	4,361.67	
Do	Chamber of Commerce of the U.S.	10,000.00	
Do	Labor Policy Assn	5,328.66	
Do	TEAM Coalition	5,328.66	
Charles T. Crangle, 560 N Street, SW #N-609 Washington, DC 20024	American Maritime Officers, MTD, AFL-CIO		
Robert R. Creamer, 68 E. Wacker Place, 3rd Floor Chicago, IL 60601	Illinois Public Action	5,375.00	3,630.00
Credit Union National Assn, Inc, 805 15th Street, NW, #300 Washington, DC 20005-2207		30,000.00	75.00
James R. Cregan, 1211 Connecticut Ave., NW Washington, DC 20036	Magazine Publishers of America	5,000.00	
Teena Cregan, 8 Herbert Street Alexandria, VA 22305-2600	National Assn of Postmasters of the U.S.	12,003.92	
Crowell & Moring, 1001 Pennsylvania Ave., NW Washington, DC 20004-2595	American Forest & Paper Assn	9,513.75	82.50
Do	American Land Conservancy		
Do	American Tort Reform Assn		
Do	Asarco, Inc	450.00	10.00
Do	Canyon Resources Corp		
Do	City of North Miami		
Do	Cook Inlet Region, Inc		
Do	Eli Lilly & Company	990.00	10.00
Do	Endangered Species Coordinating Council	5,310.00	47.00
Do	Independence Mining Company, Inc	8,333.75	78.00
Do	Intermountain Forest Industry Assn		
Do	Meridian Minerals Co		
Do	Meridian Oil, Inc	1,622.50	16.00
Do	Minnesota Mining & Manufacturing Co		
Do	National Assn of Wholesaler-Distributors		
Do	Northwest Forestry Assn	1,253.75	13.00
Do	Regional Airline Association		
Do	Rocking K Development		
Do	Trust for Public Lands		
Do	Western Governors' Assn		
Crowell & Moring International L.P., 1001 Pennsylvania Ave., NW, #1275 Washington, DC 20004-2505	Avon Products, Inc		
Do	Board of Foreign Trade, Gov't of the Republic of China		
Do	Government of Indonesia, Ministry of Trade		
Courtney Cuff, 1025 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Friends of the Earth	117.22	
Dennis P. Culloton, 233 North Michigan Avenue Chicago, IL 60601	Health Care Service Corp	6,250.00	
R. Lee Culpepper, 1200 17th Street, NW, 8th Floor Washington, DC 20036	National Restaurant Assn	3,000.00	
Jay B. Cutler, 1400 K Street, NW Washington, DC 20005	American Psychiatric Assn	9,581.00	1,197.44
CBI Parity Coalition, 2500 Wilson Blvd., #301 Arlington, VA 22201		3,916.00	105,287.00
CM Services, Inc, 800 Roosevelt Boulevard, Bldg C, #20 Glen Ellyn, IL 60137-5833			1,000.00
D.C. Legislative & Regulatory Services, 1155 21st Street, NW, #310 Washington, DC 20036	Andersons Management Corp	9,000.00	2,580.77
Do	Biotechnology Industry Organization	3,000.00	610.66
Dairy Export Incentive Program (DEIP), 1025 Thomas Jefferson Street, NW, Suite 407 West Washington, DC 20007		112,500.00	28,840.00
Lynnea Bylund Dalton, 733 15th Street NW Washington, DC 20005	U.S. Independent Microwave Television Assn (USIMTA)		
Ed Dauksz, 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Ovid R. Davis, P.O. Drawer 1734 Atlanta, GA 30301	Coca-Cola Company		
Robert W. Davis, Bob Davis & Associates 2361 Jefferson Davis Highway, #506 Arlington, VA 22202	Alaska Ocean Seafood	1,000.00	8.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Frequency Engineering Labortories	1,000.00	
Do	Marinette Marine Corp	2,000.00	
Do	Modernization Forum	2,000.00	12.00
Do	Ocean Common Carriers Coalition	2,000.00	
Davis & Harman, 1455 Pennsylvania Avenue, NW, #1200 Washington, DC 20004	Alcoma Packing Company, Inc	1,176.00	
Do	American General Life Insurance Co	990.00	
Do	American Home Life Insurance Co	3,192.00	348.14
Do	American Horse Council	2,970.00	
Do	American Investors Life Insurance	1,200.00	128.54
Do	Armco Steel Co	2,700.00	22.71
Do	Bethlehem Steel Corp	2,700.00	22.71
Do	Chicago Board of Trade	8,500.20	22.71
Do	Dresser Industries, Inc		
Do	Florida Power & Light	6,360.00	166.42
Do	Florida Sugar Cane League, Inc	1,200.00	
Do	General Aviation Manufacturers Association	4,500.00	193.65
Do	James Graham Brown Foundation		
Do	National Assn of Life Companies	1,500.00	213.12
Do	National Business Aircraft Assn	1,500.00	213.12
Do	National Cattlemen's Assn	900.00	131.85
Do	U.S. Sugar Corp	1,200.00	22.71
Do	Underwriters of Lloyd's London		
Do	Worldspan	142.50	
Davis Wright & Tremaine, 1155 Connecticut Ave., NW, #700 Washington, DC 20036	American Tunaboat Assn	7,129.00	
Do	Association of National Advertisers, Inc		
Do	Max & Heather McCarty		
Do	Gerald D. & Ina Thorne		
Do	West Pac Vessel Owners Assn	8,338.48	
Norbert Dee, 1899 L Street, NW, #1000 Washington, DC 20036	National Petroleum Refiners Assn	1,000.00	
James A. Delaney, 1755 Massachusetts Ave., NW, #418 Washington, DC 20036	American Soc for the Prevention of Cruelty to Animals	2,800.00	3,096.00
William H. Dennerlein, 329 F Street, #208 Anchorage, AK 99501	National Parks & Conservation Assn	1,000.00	415.00
Paul W. Dennett, 1310 G Street, NW, 12 Floor Washington, DC 20005	Blue Cross & Blue Shield Assn	16,089.00	435.55
Department for Professional Employees, AFL-CIO, 815 16th St., NW, #707 Washington, DC 20006		16,003.00	16,003.00
Kyra L. Detmer, 1600 M Street, NW, 5th Floor Washington, DC 20036	National Assn of Professional Insurance Agents	75.00	
Patrick Deville, 5566 Southwyck Boulevard Toledo, OH 43614	Blade Communications, Inc	54.00	624.00
Dewey Ballantine, 1775 Pennsylvania Ave., NW, #500 Washington, DC 20006	American Natural Soda Ash Co		
Do	Beneficial Corporation		
Do	General Reinsurance Corp		
Do	McCown De Leeuw & Company		
Do	Norfolk Southern Corp		
Do	Northwestern Memorial Hospital		
Do	Prudential Insurance Co of America		
Do	Tribune Broadcasting Co		
Do	U S West		
Do	U.S. Coalition for Fair Lumber Imports	7,677.00	
Do	U.S. Telephone Assn		
Do	VIACOM International, Inc		
Mary Dewhirst, 1350 Connecticut Ave., NW, #200 Washington, DC 20036	Association of America's Public Television Stations		
Jennifer S. DeAnna, 601 13th Street, NW, Suite 650 North Washington, DC 20005	Detroit Edison Company	480.00	15.00
Alex J. DeBoissiere, 701 Pennsylvania Avenue, NW, #710 Washington, DC 20004	Tenneco, Inc	400.00	575.29
Randolph L. DeLay, 801 Pennsylvania Ave., NW, 5th Floor Washington, DC 20004	I-69 Mid-Continent Coalition	15,000.00	3,956.67
Vincent DeMarco, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc		
Doris M. DeMay, 701 North Fairfax Street Alexandria, VA 22314	United Way of America		
Judith Martin DeSarno, 122 C Street, NW, #380 Washington, DC 20001-2109	National Family Planning & Reproductive Health Assn, Inc	669.00	12.00
Cheryl DeSiena, 6815 Laurel Street, NW Washington, DC 20012	Environmental Defense Fund	6,531.25	463.15
Caroline Smith DeWaal, 9504 Warren Street Silver Spring, MD 20910	Center for Science in the Public Interest	6,625.00	109.30
William L. Dickinson, 412 First Street, SE, Suite 60 Washington, DC 20003	Azerbaijan Study Foundation	9,000.00	
James C. Dinegar, 1201 New York Ave., NW, #300 Washington, DC 20005	Building Owners & Managers Assn Int'l	3,393.00	384.00
Charles V. Dinges IV, 1015 15th Street, NW, #600 Washington, DC 20005	American Soc of Civil Engineers	13,575.00	13,575.00
Direct Selling Association, 1776 K Street, NW Washington, DC 20006			
Brian E. Dixon, 1400 16th Street, NW Suite 320 Washington, DC 20036	Zero Population Growth	1,012.00	
Rose M. DiNapoli, 1101 Pennsylvania Ave., NW, Suite 950 Washington, DC 20004	Student Loan Marketing Assn	3,380.00	1,373.85
Jeffrey A. Dodson, 1700 North Moore Street, #2000 Arlington, VA 22209	Boeing Company	6,480.90	2,316.39
Christopher J. Doherty, Fox Bennett & Turner 750 17th Street, NW, #1100 Washington, DC 20006	Society of Academic Emergency Medicine		
Robin C. Dole, 1155 21st Street, NW, #321 Washington, DC 20036	Century 21 Real Estate Corp		
Patrick J. Donnelly, 1747 Pennsylvania Ave., NW, Suite 700 Washington, DC 20006	Ciba-Geigy Corp	4,163.00	17.24
Sally S. Donner, 1341 G Street NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	2,196.50	147.38
Nancy R. Dorn, 2000 M Street, NW, #300 Washington, DC 20036	Coastal Corporation	45,000.00	
Do	SEMATECH	24,000.00	
Dow Lohnes & Albertson, 1255 23rd St., NW, Suite 500 Washington, DC 20037	Home Shopping Network, Inc		
Do	Profit Sharing Council of America		
Do	Stelco, Inc		
Michael Draper, c/o Dickstein, Shapiro & Morin 2101 L Street, NW Washington, DC 20037	Forest Products Industry National Labor-Management Committee		
Stephen D. Driesler, 700 11th Street, NW Washington, DC 20001-4507	National Assn of Realtors	8,000.00	
William B. Driggers Jr., 1745 Jefferson Davis Highway, #605 Arlington, VA 22202	Texas Instruments, Inc	245.00	406.68
Drinker Biddle & Reath, 901 15th Street, NW, #900 Washington, DC 20005	General Communication, Inc		
Do	Puerto Rico Bankers Assn		
Do	Puerto Rico Chamber of Commerce		
Do	Puerto Rico Manufacturers Assn	10,100.00	139.00
Do	Puerto Rico Telephone Co	3,850.00	25.00
Do	Tandy Corp	5,018.00	36.45
Theresa Mitchell Dudley, 1730 M Street, NW Washington, DC 20036	League of Women Voters of the US		
John V. Dugan Jr., 1725 Jefferson Davis Highway Crystal Square 2 Arlington, VA 22202	Lockheed Martin Corp	2,400.00	
Francis J. Duggan, 1150 Connecticut Avenue, NW, #700 Washington, DC 20036	Mullenholz & Brimsek (For:American Shooting Sports Council)	600.00	
Brigid M. Dunne, 850 Sligo Avenue, Suite 300 Silver Spring, MD 20910	Fund for Animals	6,875.00	1,555.00
John H. Dunne, 8630 Fenton Street, #400 Silver Spring, MD 20910	International Fed of Professional & Technical Engineers		
Douglas A. Durante, 7315 Wisconsin Avenue, NW, #515 East Bethesda, MD 20814	Clean Fuels Development Coalition	6,000.00	
Ed Durkin, 101 Constitution Ave., NW Washington, DC 20001	United Brotherhood of Carpenters & Joiners of America		
Dutko & Associates, Inc, 412 First St., SE, #100 Washington, DC 20003	American Plastics Council	75,000.00	
Do	Arizona Afiliated Tribes, Inc		
Do	BP America, Inc	4,500.00	
Do	Cable & Wireless, Inc		
Do	Carpet and Rug Institute	30,000.00	
Do	Central Illinois Light Company (CILCO)	28,500.00	
Do	Child Support Council		
Do	Citgo Petroleum Corp	18,750.00	
Do	Communications Satellite Corp	16,000.00	
Do	CompTel	10,000.00	
Do	Creditors Alliance for Freight Undercharge Assets		
Do	DSC Communications Corp	29,500.00	
Do	Earth Observation Satellite Co	30,000.00	
Do	Empire Sanitary Landfill, Inc	40,000.00	
Do	Federal Express	7,500.00	
Do	Haldor-Topsoe, Inc		
Do	Hart-Culp International		
Do	Hercules, Inc	825.00	
Do	Household International	20,000.00	
Do	InfoAccess, Inc	20,000.00	1,038.87
Do	International Arid Lands Consortium		
Do	Jewish National Fund	22,500.00	
Do	JM Family Enterprises	24,000.00	
Do	McCaw/AT&T	45,000.00	
Do	Medallion Knitwear, Inc		
Do	Monarch Wine Co of Georgia/Todhunter Intl, Inc		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	National American Wholesale Grocers Assn	9,000.00	236.47
Do	National Assn of Prepaid Dental Plans	10,000.00	
Do	National Cellular Resellers Assn	25,003.00	912.14
Do	National Center for Manufacturing Sciences	75,000.00	
Do	National Ground Water Assn	33,000.00	
Do	New Balance Athletic Shoe, Inc	35,000.00	
Do	PacifiCare Health Systems	50,000.00	
Do	Pharmacia Diagnostics Division	30,000.00	
Do	Polyisocyanurate Insulation Manufacturers Assn (PIMA)	9,000.00	
Do	Rmax, Inc		
Do	Satellite Broadcasting & Communications Assn	20,000.00	
Do	Southwestern Bell Corp	25,000.00	
Do	Telecommunications Resellers Assn	15,000.00	
Do	Tiregator, Inc		
Do	Todhunter International, Inc	28,000.00	
Do	U.S. West		
Do	Washington Research Group	28,000.00	
Do	Wine Institute	5,137.50	
Pamela Pride Eaton, 900 17th St., NW Washington, DC 20006	Wilderness Society	168.00	
Eaton Peabody Bradford & Veague, P.A., P.O. Box 1210 Bangor, ME 04402-1210	Penobscot Valley Refuse Disposal District	11,347.80	183.05
John D. Echeverria, 666 Pennsylvania Ave., SE Washington, DC 20003	National Audubon Society		
Daniel J. Edelman, Inc, 1420 K Street, NW Washington, DC 20005	Government of Portugal		
D. Kendall Edwards, 1350 New York Ave., NW, Suite 900 Washington, DC 20005	International Franchise Assn		
Paul S. Egan, 2101 Huidekoper Pl., NW Washington, DC 20007	National Marrow Donor Program	13,750.00	
Thomas A. Ehrgood Jr., 1401 H Street, NW, Suite 950 Washington, DC 20005	Digital Equipment Corp	25,000.00	
Timothy L. Elder, 100 N.E. Adams Street Peoria, IL 61629-1430	Caterpillar, Inc		
Electronetics Corp, 555 Commerce Drive Amherst, NY 14228			597.14
Electronic Industries Assn, 2500 Wilson Blvd. Arlington, VA 22201-3834		15,634.16	18,526.56
Scott A. Ellison, 1019 19th Street, NW, Suite 1100 Washington, DC 20036	Personal Communications Industry Assn	831.08	
Eric J. Ellman, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Dorothy A. Ellsworth, 9000 Machinists Place Upper Marlboro, MD 20772	International Assn of Machinists & Aerospace Workers	18,288.01	178.49
Employers Insurance of Wausau, 2000 Westwood Dr. Wausau, WI 54401			41,618.71
Clyde F. Ensslin, 800 Connecticut Avenue, NW, #800 Washington, DC 20006	Tudor Investment Corp		
Joan M. Entmacher, 1875 Connecticut Ave., NW, #710 Washington, DC 20009	Women's Legal Defense Fund	3,010.00	919.00
Envelope Manufacturers Assn of America, 1600 Duke Street, #440 Alexandria, VA 22314-2200			
Ann Eppard Associates, Ltd, 30 Wolfe Street Alexandria, VA 22314	American Road & Transportation Builders Assn	5,000.00	
Do	AMTRAK	7,500.00	
Do	Conrail	15,000.00	
Do	FastShip Atlantic, Inc	15,000.00	
Do	Federal Express Corp	8,333.00	
Do	Los Angeles County Mass Transportation Authority	8,333.00	
Do	Metropolitan Washington Airports Authority	31,250.00	
Do	Natural Disaster Coalition	10,000.00	
Do	Ocean Common Carrier Coalition	6,225.00	
Do	Outdoor Advertising Assn of America, Inc	5,000.00	
Do	OMI Corp	1,666.00	
Do	Pennsylvania Turnpike Commission	8,333.00	
Do	Puerto Rico Dept of Highways and Transportation	8,444.00	
Do	Regulated Common Carrier Commission	4,000.00	
J. Barry Epperson, 201 West 5th Street, #440 Tulsa, OK 74103-4211	Associated Wire Rope Fabricators		2,476.32
Jenny Erickson, 200 Clarendon Street Boston, MA 02117	John Hancock Mutual Life Insurance Co		
Joe L. Ervin, 1331 F Street, NW, 7th Floor Washington, DC 20004	National Council of Senior Citizens	11,643.18	
Billy Lee Evans, 407 1st STreet, SE Washington, DC 20003	B.L. Evans & Associates (For:Great Western Financial Corp)		
Do	Royal Norwegian Government	2,500.00	
Brock Evans, 666 Pennsylvania Avenue, SE Washington, DC 20002	National Audubon Society	4,400.00	230.00
B.L. Evans and Associates, Inc, 407 1st Street, SE Washington, DC 20003	Great Western Financial Corp	10,000.00	
Evans Group, Ltd, 1010 Wisconsin Ave., NW, 8th Floor Washington, DC 20007	Armour Pharmaceutical Co		
Do	Association for Responsible Thermal Treatment	12,000.00	
Do	Matlack Systems, Inc		
Do	Republic of Cyprus	23,100.00	
Do	Riddell Sports, Inc	17,000.00	
ESCO Electronics Corp, 8100 W. Florissant St. Louis, MO 63136			1,271.99
Faegre & Benson, Suite 450 North 601 13th Street, NW Washington, DC 20036-4001	Plaintiffs in Federal Dist Court litigation in Anchorage, AK	5,205.00	1,370.89
Thomas L. Fagan, Jr., 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Darryl H. Fagin, 1625 K Street, NW, #210 Washington, DC 20006	Americans for Democratic Action	5,836.42	
Family Holding Company Advocacy Group, c/o George Helme Wilmington Trust Company Wilmington, DE 19890			
Meghan Farrell, 444 North Capitol Street, #418 Washington, DC 20001	New England Council		
Leila Farzan, 1875 Connecticut Ave., NW, #300 Washington, DC 20009	Center for Science in the Public Interest	4,063.00	113.00
Federal Kemper Life Assurance Co, One Kemper Drive, T-1 Long Grove, IL 60049			1,925.19
Federal Managers Assn, 1000 16th Street, NW Washington, DC 20036		180,000.00	31,828.95
Tara Federici, 1200 G Street, NW, #400 Washington, DC 20005	Health Industry Manufacturers Assn	805.00	11.00
Donald M. Fehr, 12 East 49th Street New York, NY 10017	Major League Baseball Players Assn		2,203.05
Richard J. Feldman, 10 Perimeter Way, Suite B250 Atlanta, GA 30339	American Shooting Sports Council	3,506.25	4,600.52
Kirk Ferrell, 122 C Street, NW, #875 Washington, DC 20001	National Pork Producers Council	10,000.00	429.21
Andrew D. Filicicchia, 1200 18th Street, NW, Suite 200 Washington, DC 20036	National Business Aircraft Assn	795.00	535.91
Linda D. Findlay, 1420 New York Avenue, NW, Suite 210 Washington, DC 20005	Phelps Dodge Corp	2,500.00	
James K. Finley, 12300 Twinbrook Parkway Rockville, MD 20852	National Community Mental Healthcare Council	8,150.00	150.00
Peter J. Finnerty, 1331 Pennsylvania Ave., NW #560 Washington, DC 20004	Sea-Land Service, Inc	3,000.00	
Mary Ellen Fise, 1424 16th St., NW, #604 Washington, DC 20036	Consumer Federation of America	2,281.00	65.00
Julie W. Fishbein, 7102 Plantation Lane Rockville, MD 20852	Fishbein Associates, Inc (For:Mark N. Fish, et al.)		
Do	Fishbein Associates, Inc (For:National Presto Industries, Inc)		
Do	Fishbein Associates, Inc (For:Science Applications Int'l Corp)		
Rand Harrison Fishbein, 7102 Plantation Lane Rockville, MD 20852	Fishbein Associates, Inc (For:Mark N. Fish, et al.)	1,665.00	6.30
Do	Fishbein Associates, Inc (For:National Presto Industries, Inc)	1,769.75	25.00
Fishbein Associates, Inc, 7102 Plantation Lane Rockville, MD 20852	Mark N. Fish, et al.	10,000.00	2,053.88
Do	National Presto Industries, Inc	48,000.00	2,864.05
Do	Science Applications Int'l Corp	68,000.00	8,177.20
Linda G. Fitcheard, 700 11th Street, NW Washington, DC 20001	National Assn of Realtors	2,000.00	
Alan M. Fitzwater, P.O. Box 187 Bentonville, VA 22610	Burlington Northern Railroad Co	15,000.00	
Donald Fix, 2100 Pennsylvania Ave., NW, #560 Washington, DC 20037	Hyjek & Fix, Inc (For:British Aerospace)	1,500.00	1,009.52
Do	Hyjek & Fix, Inc (For:Canadair Challenger, Inc)	1,500.00	978.95
Do	Hyjek & Fix, Inc (For:Learjet, Inc)	300.00	
Do	Hyjek & Fix, Inc (For:Research & Development Labs)	750.00	1,224.89
Do	Hyjek & Fix, Inc (For:Short Brothers (USA), Inc)	750.00	
Do	Hyjek & Fix, Inc (For:Thorn EMI)	2,000.00	
Do	Hyjek & Fix, Inc (For:Vickers Bridging)	2,125.00	1,406.61
Susan G. Flack, 1100 Connecticut Ave, NW, #1200 Washington, DC 20036	Dayton Hudson Corp	100.00	
Do	National Assn of Chain Drug Stores, Inc	100.00	
Do	Flack, Inc (For:Spiegel, Inc)	100.00	
Florida Business Associates, 1620 L Street, NW, #875 Washington, DC 20036	City of Jacksonville, Mayor's Commission on Base Realignment		
Do	Constellation Technology Corp.		
Do	A. Duda & Sons		
Do	Florida Community College at Jacksonville		
Do	Illinois Community College Board		
Do	Sanders		
Karen Florini, 1875 Connecticut Ave. NW, #1016 Washington, DC 20009	Environmental Defense Fund	15,000.00	
Ruth Flower, 245 Second Street, NE Washington, DC 20002	Friends Committee on National Legislation	4,091.55	
Veronica M. Floyd, 3306 Fallen Tree Court Alexandria, VA 22310	Brunswick Marine Group	5,271.00	161.00
M. Todd Foley, 1776 I Street, NW, #1000 Washington, DC 20006	BP America, Inc		
John P. Ford, One Kellogg Square Battle Creek, MI 49016	Kellogg Co	2,000.00	283.00
Forest Products Industry National Labor-Management Comm, c/o Dickstein Shapiro & Morin 2101 L Street, NW Washington, DC 20037.		55,051.16	55,051.16
Larry Forrester, 3601 Vincennes Road P.O. Box 68700 Indianapolis, IN 46268	National Assn of Mutual Insurance Cos		
Alison B. Fortier, 1745 Jefferson Davis Highway, #1200 Arlington, VA 22202	Rockwell International	19,900.00	1,285.73

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Michael Fortier, 555 13th Street, NW, #600 East Washington, DC 20004-1109	American Managed Care & Review Assn	3,569.00	447.00
W. Frank Fountain Jr., 1401 H Street, NW, #700 Washington, DC 20005	Chrysler Corp	5,860.00	330.00
Alissa T. Fox, 311 Massachusetts Avenue, NE Washington, DC 20002	Washington Health Advocates	26,340.00	
Fox Bennett & Turner, 750 17th Street, NW, #1100 Washington, DC 20006	American Soc of Clinical Oncology		
Do	Bristol-Myers Squibb Co		
Do	Cryomedical Sciences, Inc		
Do	Fisons Corp		
Do	Healthcare Management Alternatives, Inc		
Do	Hoffmann-La Roche, Inc		
Do	Immuno U.S., Inc		
Do	Johnson & Johnson	922.80	
Do	Lederle-Praxis Biologicals	220.00	58.75
Do	Leukemia Society of America		
Do	National Coalition for Cancer Survivorship		37.50
Do	New England Biomedical Research Coalition		
Do	Serono Laboratories, Inc		
Phillip L. Fraas, 1025 Thomas Jefferson Street, NW, #407 Washington, DC 20007	McLeod Watkinson & Miller (For:DEIP Coalition)	23,840.00	
Michael Francis, 900 17th Street, NW Washington, DC 20006	Wilderness Society	12,641.01	46.50
George Franklin, 1 Kellogg Square Battle Creek, MI 49016-3599	Kellogg Company	1,500.00	150.00
Kevin Frankovich, 733 15th Street, NW, #700 Washington, DC 20005	CGR Associates, iNc (For:Association of Air Medical Services)	2,306.39	80.62
Do	CGR Associates, Inc (For:Fringe Insurance Benefits, Inc)	1,798.64	25.50
Freer & McGarry, P.C., 1000 Thomas Jefferson St., NW, #600 Washington, DC 20007	Amstar Corp	36,028.47	
Do	Mid-America Dairymen, Inc	10,780.00	553.08
Do	U.S.-Cuba Business Council		
Robert Freimark, 900 17th Street, NW Washington, DC 20006-2596	Wilderness Society	2,067.35	862.85
John Freshman Associates, Inc, 1722 I Street, NW, #500 Washington, DC 20006	Gulf Coast Waste Disposal Authority	6,068.00	415.38
G. William Frick, 1220 L Street, NW Washington, DC 20005	American Petroleum Institute		
Friends Committee on National Legislation, 245 2nd St., NE Washington, DC 20002		140,392.16	113,443.78
Richard L. Fruchterman III, 1120 Connecticut Ave., NW, #400 Washington, DC 20036	WorldCom, Inc	15,000.00	189.18
Jocelyn C. Frye, 1875 Connecticut Ave., NW, Suite 710 Washington, DC 20009	Women's Legal Defense Fund	210.00	121.00
Fuji Photo Film, Inc, 211 Pucketts Ferry Road Greenwood, SC 29649			1,500.00
Colleen Furukawa, 1100 Connecticut Avenue, NW, #910 Washington, DC 20036	Coalition for Employment through Exports	2,500.00	
Mark Gable, 1641 Prince Street Alexandria, VA 22314-2818	Federal Managers Assn	8,100.00	
Vivian Gabor, 1901 L Street, NW, Suite 260 Washington, DC 20036	March of Dimes	7,000.00	
Floyd D. Gaibler, 1155 15th Street, NW, Suite 300 Washington, DC 20005	Agricultural Retailers Assn	7,000.00	4,621.90
Galland Kharasch Morse & Garfinkle, P.C., 1054 31st Street, NW Second Floor Washington, DC 20007	Textile Rental Services Assn of America		
John Paul Galles, 1155 15th St., NW, #710 Washington, DC 20005	National Small Business United	1,000.00	
Curtis B. Gans, 421 New Jersey Avenue, SE Washington, DC 20003	Committee for the Study of the American Electorate	58,954.50	
Norma Garcia, 1535 Mission Street San Francisco, CA 94103	Consumers Union	4,091.63	
David P. Garland, 1629 K Street, NW, #301 Washington, DC 20006	Evergreen International Aviation, Inc		
John C. Gartland, 214 Massachusetts Ave., NE, #210 Washington, DC 20002	Amway Corp	10,000.00	
Garvey Schubert & Barer, 1000 Potomac Street, NW Washington, DC 20007	Foss Maritime	1,533.90	
Gas Appliance Manufacturers Assn, Inc, 1901 North Moore Street Arlington, VA 22209		336,614.97	116,946.89
Bruce A. Gates, 201 Park Washington Court Falls Church, VA 22046	National-American Wholesale Grocers' Assn		
Karl Gawell, 900 17th Street, NW Washington, DC 20006	Wilderness Society	9,471.89	
Barbara L. Gay, 901 E Street, NW, Suite 500 Washington, DC 20004-2037	American Assn of Homes & Services for the Aging		
Craig Gehrke, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
David F. Gencarelli, 1919 Pennsylvania Ave., NW, Suite 300 Washington, DC 20006	Guardian Life Insurance Co of America		
Do	Richard T. Hines Consulting, Inc (For:Northwestern National Life Insurance Co)	2,500.00	361.39
Do	Olympic Health Management Systems, Inc	7,500.00	738.34
Do	Richard T. Hines Consulting, Inc (For:Pan American Life Insurance Co)	5,000.00	390.93
Do	Richard T. Hines Consulting, Inc (For:Washington National Life Insurance)	3,750.00	295.00
Do	Richard T. Hines Consulting, Inc (For:Wausau Insurance Companies)	10,000.00	439.86
John J. Geoghegan, 1728 Leisure Way Crofton, MD 21114	Air Force Sergeants Assn		
Larry George, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	3,000.00	
Joseph G. Gerard, 918 16th St., NW, #402 Washington, DC 20006	American Furniture Manufacturers Assn	1,500.00	1,742.53
David A. Gerken, 1301 Connecticut Avenue, NW, 7th Floor Washington, DC 20036	Alvarado Group (for New Progressive Party)	9,000.00	5.00
Do	Puerto Rico Federal Affairs Administration	25,500.00	30.25
Do	Puerto Rico Senate	4,500.00	
Do	Times Mirror Corp	6,000.00	64.25
Alvin J. Geske, 2100 Pennsylvania Avenue, NW, #400 Washington, DC 20037	Fleishman Hillard, Inc	8,660.50	79.19
Do	Renewable Fuels Assn	918.00	13.00
David Troy Saxton Getty, 2233 Chanaral Ave. Hemet, CA 92545-2535			
Martha A. Gibbons, 655 15th Street, NW, #300 Washington, DC 20005	Laidlaw Transportation Management, Inc	10,000.00	
Richard Gilbert, 1015 15th Street, NW Washington, DC 20005	American Public Health Assn	1,222.00	
Edward J. Gill Jr., 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	Eckert Seamans Cherin & Mellott (For:Redevelopment Authority of Luzerne County).	427.50	
Jana L. Gill, 1575 Eye Street, NW, Suite 370 Washington, DC 20005-1175	Coalition for PUHCA		
Do	Eugene Water & Electric Board	750.00	
Do	Missouri Basin Municipal Power Agency	750.00	
Do	Northern California Power Agency	2,500.00	
Do	OPCO Wholesale Customer Group	2,500.00	
Do	Public Power Council	1,250.00	
Mary Ann Gilleece, 1747 Pennsylvania Ave., NW, #800 Washington, DC 20006	Gadsby & Hannah (For:Colt Manufacturing Co, Inc)	225.00	
Do	Gadsby & Hannah (For:Svendrup Corporation)		
Do	Gadsby & Hannah (For:Veda, Inc)	33.75	
Cynthia D. Gillespie, 250 Williams Street Suite 6000 Atlanta, GA 30301-1996	Atlanta Committee for the Olympic Games	296.86	96.00
Michael B. Gillett, 1001 Forth Avenue Plaza, Suite 3200 Seattle, WA 98154	Atlantic Richfield Company	1,115.61	
Do	Pacific Lumber & Shipping Co	2,312.58	
Ginsburg Feldman & Bress, Chartered, 1250 Connecticut Ave., NW, #800 Washington, DC 20036	United Air Lines, Inc		
Donna Siss Gleason, 2500 Wilson Boulevard Arlington, VA 22201-3834	Electronic Industries Assn	750.00	
Jean C. Godwin, 1010 Duke Street Alexandria, VA 22314	American Assn of Port Authorities	19,050.00	2,000.00
Wilson Golden, 715 Arlington Street Jackson, MS 39202-1617	ICF Kaiser International, Inc	21,237.50	8,706.18
Benson S. Goldstein, 11800 Tifton drive Potomac, MD 20854	National Assn for the Self-Employed		
Jack Golodner, 815 16th St., N.W. Washington, DC 20006	Department for Professional Employees, AFL-CIO	6,234.96	
John A. Gonzalez, 1745 Jefferson Davis Hwy., #1200 Arlington, VA 22202	Rockwell International Corp	5,000.00	3,183.57
Goodwin Procter & Hoar, 901 15th Street, NW, #410 Washington, DC 20005	General Latex & Chemical Co		
Do	GE Capital Mortgage Services, Inc		
Do	Massachusetts Bankers Assn		
John E. Gordon, 1725 Jefferson Davis Highway, Suite 601 Arlington, VA 22202-3585	Litton Industries, Inc	1,000.00	1,195.70
Gordy Associates, Susan K., 1 First National Plaza, #3175 Chicago, IL 60603	First Chicago Corp	6,000.00	1,400.00
Gorlin Group, 2300 M Street, NW, Suite 800 Washington, DC 20037	Intellectual Property Committee	2,760.00	28.00
Faye A. Gorman, 1800 M Street, NW, #325-S Washington, DC 20036	Dow Corning Corp	5,000.00	96.00
Edmund Graber, 6626 Rockleigh Way Alexandria, VA 22310	American Road & Transportation Builders Assn	9,630.00	
Do	Artais Weather Check	7,500.00	
Do	Crown America	14,000.00	300.00
Do	Highway Users Federation	6,000.00	
Do	Metrolink	7,500.00	
Do	RADAR	10,500.00	
Bill Gradison, 1025 Connecticut Ave., NW, Suite 1200 Washington, DC 20036	Health Insurance Assn of America, Inc	8,425.32	314.77
Lawrence T. Graham, 7900 Westpark Drive, #A-320 McLean, VA 22102	Chocolate Manufacturers Assn of the USA		
Do	National Confectioners Association		
Jay Grant, McGuiness & Holch 400 North Capitol St., NW, #585 Washington, DC 20001	National Assn of Health Underwriters		
Stanley J. Grant, 81 Country Village Manhasset Hills, NY 11030	Pharmaceutical Research & Manufacturers of America	13,393.44	
James W. Grau, 32 East 57th Street New York, NY 10022	Trump Organization	24,500.00	16,856.99
Marie Beatrice Grause, 499 South Capitol Stret, SW, #405 Washington, DC 20003	Massachusetts Hospital Assn	18,000.00	100.02
Ruth P. Graves, 600 Maryland Ave., SW, #600 Washington, DC 20560	Reading Is Fundamental, Inc	900.00	128.10
Greater Ecosystem Alliance, P.O. Box 2813 Bellingham, WA 98227		45,256.21	6,175.65
James E. Green, 1250 H Street, NW, Suite 500 Washington, DC 20005	Mobil Corp	2,500.00	703.10
Marlene Y. Green, 3380 Webster Avenue Pittsburgh, PA 15219-3975	Ivan Research Management Corp		
Green Stewart & Farber, P.C., 2600 Virginia Ave., NW, Suite 1111 Washington, DC 20037	Premier Health Alliance, Inc	500.00	500.00
Greenberg Traurig Hoffman Lipoff Rosen & Quentel, 1300 Connecticut Ave., NW, 10th Floor Washington, DC 20005	American Speech-Language-Hearing Assn	6,000.00	637.40
Do	Government of Puerto Rico	6,718.00	28.23
Do	Grocery Manufacturers of America	10,000.00	422.85

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Mission Energy Co	43,838.00	877.10
Do	Puerto Rico Telephone Co	5,036.25	5.27
Janice M. Gregory, 1400 L St., NW, #350 Washington, DC 20005	Erisa Industry Committee	6,875.00	
Edward F. Greissing Jr., 1455 F St., NW, #405 Washington, DC 20005	Upjohn Company	52,850.00	
Ginny Grenham, 1500 K Street, NW, #360 Washington, DC 20005	Healthcare Leadership Council	4,875.00	340.00
Greyhound Lines, Inc, P.O. Box 660362 Dallas, TX 75266-0362			36,000.00
Kathryn Griesinger, 2500 Wilson Bouldevard Arlington, VA 22201	Electronic Industries Assn	750.00	377.09
Robert T. Griffin, 1401 H Street, NW, #700 Washington, DC 20005	Chrysler Corporation	3,000.00	305.00
J. Steven Griles, 203 Roscommon Drive Bristol, TN 37620	Container Corp of Carolina	12,500.00	
Do	National Mining Assn	6,000.00	103.94
Michael E. Grisso, 5115 Doyle Lane Centreville, VA 22020	Blue Cross & Blue Shield Assn	8,400.00	39.25
George Gross, 1211 Connecticut Ave., NW, #610 Washington, DC 20036	Magazine Publishers of America, Inc	10,000.00	
Kenneth A. Guenther, One Thomas Circle, NW, #950 Washington, DC 20005	Independent Bankers Assn of America	62,500.00	
Gene Guerrero, 122 Maryland Ave., NE Washington, DC 20002	American Civil Liberties Union	1,250.00	
GRQ, Inc, 5454 Wisconsin Ave., NW, #1340 Chevy Chase, MD 20815	Manor Healthcare, Inc	4,800.00	
Do	Midwest Organ Bank, Inc		
Do	Puritan Group-Puritan Bennett Corp	4,683.50	
Do	Spectra Laboratories, Inc	5,124.00	
Do	Transtracheal Systems, Inc	3,625.00	
George Hacker, 1875 Connecticut Ave., NW, #300 Washington, DC 20009-5728	Center for Science in the Public Interest		
Hager Sharp, Inc, 1090 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Rollins Environmental Services, Inc, et al.	11,205.00	3,590.00
Veronica A. Haggart, 1350 I Stret, NW, Suite 400 Washington, DC 20005	Motorola	6,500.00	
Donald M. Haines, 122 Maryland Ave., NE Washington, DC 20002	American Civil Liberties Union		
Janet Hale, 1401 H Street, NW, #600 Washington, DC 20005	U.S. Telephone Assn	14,583.00	
Anne Hall, 436 West 5th Avenue Columbus, OH 43201	Banc One Corporation	50,000.00	2,327.36
Jean Halloran, 101 Truman Avenue Yonkers, NY 10703	Consumers Union		
David S. Hamilton, 1725 K Street, NW, #509 Washington, DC 20006	Alliance to Save Energy	3,381.46	541.54
Nolan W. Hancock, 2722 Merrilee Drive, Suite 250 Fairfax, VA 22031	Oil Chemical & Atomic Workers International Union	8,004.38	
Handgun Control, Inc, 1225 Eye Street, NW, #1100 Washington, DC 20005		1,856,902.00	637,647.00
Jake Hansen, 11166 Main Street, #302 Fairfax, VA 22030	Seniors Coalition	9,999.99	2,434.18
Michael K. Hansen, 101 Truman Avenue Yonkers, NY 10703	Consumers Union		
Harkins Cunningham, 1300 19th Street, NW, #600 Washington, DC 20036	Southern Pacific Lines	36,558.00	
Charles Edward Harple, 25 Louisiana Ave., NW Washington, DC 20001	International Brotherhood of Teamsters	13,291.60	
William D. Harris & Associates, 1156 15th Street, NW, #550 Washington, DC 20005	AT&T	40,000.00	12,000.00
Do	Government Development Bank for Puerto Rico	40,000.00	738.55
Barbara S. Haugen, 1401 New York Ave., NW, #720 Washington, DC 20005	National Assn of Insurance Brokers, Inc		
Arnold I. Havens, 1331 Pennsylvania Ave., NW, #560 South Washington, DC 20004	CSX Corporation	7,500.00	591.32
Kathryn Joann Hawes, 8630 Fenton Street, #400 Silver Spring, MD 20910	International Fed of Professional & Technical Engineers		
Hawkins Delafield & Wood, 1015 15th Street NW Suite 930 Washington, DC 20005	City of Antonio	20,100.00	
Do	Mortgage Bankers Assn	9,000.00	
Hawthorn Group, LC, 1300 North 17th Street, Suite 1330 Arlington, VA 22209	Alabama Power Co	1,440.00	
Matt D. Hay, 1235 Jefferson Davis Highway, #305 Arlington, VA 22202	ESCO Electronics Corp		802.09
Heidi Wagner Hayduk, 1500 K Street, NW, #360 Washington, DC 20005	Healthcare Leadership Council	2,200.00	207.70
Steven L. Hayes, 1015 Oneonta Drive Los Angeles, CA 90065	Citizens for an Alternative Tax System		
Hazelden Foundation, 15245 Pleasant Valley Road Center City, MN 55012-0011			43,838.00
Health Insurance Assn of America, Inc, 1025 Connecticut Ave., NW Washington, DC 20036		24,655.68	24,655.68
Healthcare Assn of New York State, 74 N. Pearl St. Albany, NY 12207		27,491.32	27,491.32
Hecht Spencer & Associates, Inc, 499 South Capitol Street, SW, #507 Washington, DC 20003	Mars, Inc		
Paul T. Heilig, 1700 North Moore Street, 20th Floor Arlington, VA 22209	Boeing Co	16,854.48	566.40
Edward A. Helme, 444 N. Capitol Street, #602 Washington, DC 20001	Center for Clean Air Policy	96.42	
Thomas M. Helscher, 700 14th Street, NW, #1100 Washington, DC 20005	Monsanto Co		243.00
Donald E. Henderson, 225 South East Street Indianapolis, IN 46202	Indiana Farm Bureau, Inc	6,000.00	2,182.65
Wallace Henderson, 1250 Connecticut Avenue, NW, 2nd Floor Washington, DC 20036	Cellular Telecommunications Industry Assn		
Dennis A. Henigan, 1225 Eye Street, NW Washington, DC 20005	Handgun Control, Inc	1,053.11	
Hercules, Inc, Hercules Plaza Wilmington, DE 19894			19,471.82
Owen E. Herrnstadt, 9000 Machinists Place Upper Marlboro, MD 20772	International Assn of Machinists & Aerospace Workers	18,288.01	100.32
John Drew Hiatt, 1200 18th Street, NW, #500 Washington, DC 20036	National Business Owners Assn, Inc	14,926.19	6,798.30
J. Thomas Higginbotham, 1455 Pennsylvania Ave., NW Washington, DC 20004	American Institute of Certified Public Accountants		17,152.00
Arthur William Hillman, 4301 N. Fairfax Drive, #360 Arlington, VA 22203-1608	National Utility Contractors Assn	1,000.00	2,473.95
Grace L. Hinchman, 1401 H Street, NW, Suite 950 Washington, DC 20005	Digital Equipment Corp	25,000.00	
Nancy Hirshbein, 1400 16th Street, NW, #320 Washington, DC 20036	Zero Population Growth		
Hobbs Straus Dean & Wilder, 1819 H St., NW, #800 Washington, DC 20006	Alamo Navajo School Board		
Do	Aroostook Band of Micmacs		
Do	Association of Navajo Community-Controlled School Boards		
Do	Black Mesa Community School Board		
Do	Bristol Bay Area Health Corp		
Do	Evergreen Legal Services		
Do	Maniilaq Assn	150.00	
Do	Menominee Indian Tribe	240.00	
Do	Metlakatla Indian Community		
Do	Miccosukee Tribe of Indians of Florida		
Do	Mississippi Band Choctaw Indians	40.00	
Do	Mohegan Tribe of Indians of Connecticut		
Do	National Indian Child Welfare Assn	770.00	
Do	National Indian Education Assn		
Do	National Minority Public Broadcasting Consortia		
Do	Norton Sound Health Corp		
Do	Oglala Sioux Tribal Public Safety Commission		
Do	Pinon Community School Board		
Do	Pueblo de Cochiti		
Do	Ramah Navajo School Board		
Do	Rock Point Community School Board	22.20	
Do	Rough Rock School Board	192.40	
Do	Seminole Tribe of Florida		
Do	Shiprock Alternative Schools, Inc		
Philip M. Hocker, 20 West Chapman Street Alexandria, VA 22301	Mineral Policy Center		9.00
James H. Hodges, 1700 N. Moore St., #1600 Arlington, VA 22209	American Meat Institute	461.54	
A.R. 'Trey' Hodgkins III, 1801 K Street, NW, #900 Washington, DC 20006	American Textile Manufacturers Institute	1,455.75	187.97
J. Stanley Hoffert, P.O. Box 8017 Wausau, WI 54402-8017	Employers Insurance of Wausau	16,956.00	20,762.23
Jerry S. Hoffman, 74 N. Pearl Street Albany, NY 12207	Healthcare Assn of NYS	466.60	556.61
F. Nordy Hoffmann and Assoc, Inc, 400 N. Capitol St., NW, #327 Washington, DC 20001	American Radio Assn		
Do	Archer Daniels Midland Company		
Do	Coca-Cola Company		
Nancy M. Hogan, 516 N. Howard St., #403 Alexandria, VA 22304	National Assisted Housing Management Assn, Inc		875.00
Hogan & Hartson, L.L.P., 555 13th St., NW Washington, DC 20004-1109	AdminaStar		
Do	American Academy of Pediatrics		
Do	American College of Osteopathic Surgeons		
Do	American Peanut Shellers Assn	34,150.00	3,236.00
Do	Centocor, Inc		3,000.00
Do	Charles E. Smith Companies		
Do	Farm Credit Bank of Texas	9,327.00	3,960.00
Do	Farmland Industries, Inc		
Do	General Electric Co		283.18
Do	Genzyme Corp		
Do	Golden Peanut Co		
Do	Infectious Diseases Society of America, Inc	870.00	8.00
Do	PepsiCo, Inc	2,972.00	95.00
Do	Pizza Hut, Inc		
Do	Retail Confectioners International		
Do	Sierra Forest Products		
Do	Soap & Detergent Assn	16,270.00	1,261.00
Do	Society of Critical Care Medicine		
Do	Taco Bell Corp	14,206.00	480.00
Do	U.S. Sugar Corp	6,000.00	1,137.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	XXSYS Technologies,Inc		
Do	Zeigler Coal Sales Co	5,840.00	105.00
Eve A. Holloway, 1600 Wilson Blvd., #1000 Arlington, VA 22209	American Waterways Operators	1,958.25	
Karen A. Hoover, 2111 Jefferson Davis Highway Apt. 407 Arlington, VA 22202	American Maritime Officers Service		1,631.36
Richard M. Hoppe, 900 17th Street, NW Washington, DC 20006	Wilderness Society	1,238.45	
Mern Horan, 1424 16th Street, NW, #604 Washington, DC 20036	Consumer Federation of America	8,769.00	196.41
Robert Jack Horn, 601 13th Street, NW, #650 N Washington, DC 20005-3808	Detroit Edison Company	1,320.00	1,783.51
Douglass C. Horstman, 1310 G Street, NW, #720 Washington, DC 20005	Maytag Co	1,977.50	25.00
Peggy A. Houlihan, 1100 Connecticut Ave., NW Suite 910 Washington, DC 20036	Coalition for Employment through Exports	7,500.00	
Christina Howard, 1200 17th St., NW Washington, DC 20036	National Restaurant Assn	1,500.00	990.00
James Daniel Howard, 8201 Greensboro Drive, Suite 1100 McLean, VA 22102	Loral		
John Howard, 1615 H Street, NW Washington, DC 20062	U.S. Chamber of Commerce		
Robert M. Howard, 1350 I Street, NW, #1000 Washington, DC 20005	Ford Motor Co	3,375.00	2,215.00
Susan Howland, 20 Black Oak Mews Newtown, PA 18940	Susan Howland & Associates		
John P. Hughes, The West Tower, 8th Floor 1333 H Street, NW Washington, DC 20005	Electricity Consumers Resource Council (ELCON)	360.00	
Walter E. Huizenga, 99 Canal Center Plaza, Suite 500 Alexandria, VA 22314	AIADA	15,600.00	
Brett Hulsey, Midwest Office 214 N. Henry St., #203 Madison, WI 53703	Sierra Club	2,116.08	65.70
William Thomas Humber, 901 N. Washington Street, Suite 400 Alexandria, VA 22314	National Smokers Alliance		
Steven E. Humerickhouse, 3454 Vincent Avenue North Minneapolis, MN 55412	Adoption Coalition	3,000.00	4,106.80
Do	National Adoption Center	600.00	341.88
Frances A. Hunt, 900 17th Street, NW Washington, DC 20006	Wilderness Society	664.60	
Angela M. Hunter, 555 13th Street, NW, #600 Washington, DC 20004	Health Insurance of America	2,609.60	602.17
Hunton & Williams, 2000 Pennsylvania Ave., NW, #9000 Washington, DC 20006	Western Fuels Assn		12.69
Mark Hurwitz, 1201 New York Ave., NW, #300 Washington, DC 20005	Building Owners & Managers Assn Int'l	3,393.00	384.00
Joanne L. Hustead, 1875 Connecticut Avenue, NW, Suite 710 Washington, DC 20009	Women's Legal Defense Fund	2,600.00	886.00
Suzanne C. Hutchinson, 727 15th Street, NW, 12th Floor Washington, DC 20005	Mortgage Insurance Companies of America	13,750.00	614.32
Steven M. Hyjek, 2100 Pennsylvania Ave., NW, #560 Washington, DC 20037	British Aerospace	1,500.00	
Do	Hyjek & Fix, Inc (For:Canadair Challenger, Inc)	1,500.00	
Do	Hyjek & Fix, Inc (For:Learjet, Inc)	300.00	936.13
Do	Hyjek & Fix, Inc (For:Pilkington/Thorn)	2,000.00	730.39
Do	Hyjek & Fix, Inc (For:Research & Development Labs)	750.00	
Do	Hyjek & Fix, Inc (For:Short Brothers (USA), Inc)	750.00	1,255.27
Do	Hyjek & Fix, Inc (For:Thompson Defence Projects)	2,125.00	
I-66 Project, Inc, 1021 Kingsway, #6 Cape Girardeau, MO 63701			
Dawn Igler, P.O. Box 16614 Arlington, VA 22215	National Steel & Shipbuilding Co	13,520.00	914.43
Illinois Public Action, 68 E. Wacker Place, 3rd Floor Chicago, IL 60601		17,900.00	16,429.78
Immigration Services Associates, 1212 New York Avenue, NW, #850 Washington, DC 20005	American Council on International Personnel (ACIP)		
Do	Information Technology Assn of America (ITAA)		
Do	Irish Immigration Reform Movement (IIRM)		
Do	IMPAC		
Do	Kennedy Capital Management, Inc		
Industrial Union Department, AFL-CIO, 815 16th St., NW, #301 Washington, DC 20006		19,422.00	19,422.00
Int'l Union, United Auto Aerospace & Agric Implement Workers, of America (UAW) 8000 E. Jefferson Avenue Detroit, MI 48214.		137,183.56	137,183.56
International Assn of Machinists & Aerospace Workers, 9000 Machinists Place Upper Marlboro, MD 20772			48,051.84
International Brotherhood of Teamsters, 25 Louisiana Ave., NW Washington, DC 20001			51,930.98
International Business-Government Counsellors, Inc, 818 Connecticut Ave., NW, #1200 Washington, DC 20006	ANSAC	1,312.50	84.38
Do	Brandy Export Assn	218.75	11.69
Do	CIBA-GEIGY Corp		
Do	Fashion Accessories Shippers Assn		
Do	Hercules, Inc		
Do	Natural Feathers & Textiles, Inc	1,618.75	
Do	Procter & Gamble		
Do	Uniroyal Chemical Company, Inc		
Do	Wine Institute	5,168.75	488.35
Do	Xerox Corp	1,093.75	108.92
Do	3M		
International Hearing Society, 20361 Middlebelt Livonia, MI 48152			
Richard M. Irby III, 701 Pennsylvania Avenue, NW, #610 Washington, DC 20004	Tenneco, Inc	382.00	170.00
Ivins Phillips & Barker, Chtd, 1700 Pennsylvania Ave., NW, #600 Washington, DC 20006	Digital Equipment Corp		
Do	Familv Holding Company Advocacy Group		
Do	Grand Metropolitan, Inc		
Do	Pechiney Corporation		
Do	Rochester Tax Council		
Do	Teledyne, Inc		
Barbara Jackier, 555 13th Street, NW, East Tower, #600 Washington, DC 20004	Health Insurance Assn of America, Inc	898.40	75.00
Beverly Roberson Jackson, 3922 Ingomar Street, NW Washington, DC 20015	National Center for Clinical Infant Programs	419.00	
Glenn Jackson, 1667 K Street, NW, #800 Washington, DC 20006	Williams Companies, Inc	250.00	
Ronald G. Jackson Sr., 750 First Street, NE, #700 Washington, DC 20002-4241	National Assn of Social Workers	3,900.00	200.00
P. Bernard Jacob, 1130 Connecticut Avenue, NW Washington, DC 20036	Mississippi Power Company	21,548.36	10,029.90
Henry Jacobs, P.O. Box 70 Ashland, MS 38603	Trinity Research Center	2,000.00	
Jeff P. Jacobs, 1015 15th Street, NW Washington, DC 20005	American Public Health Assn	1,200.00	
E. A. Jaenke & Associates, Inc, 1100 New York Avenue, NW, #520 East Washington, DC 20005	University of Kansas	3,750.00	2,980.18
Daniel L. Jaffe, 700 11th Street, NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		167.20
Jar-Mon Consultants, Inc, 208 N. Patrick St. Alexandria, VA 22314	American Business Council, Inc	2,000.00	
Do	Christian Voice, Inc	17,350.00	
John T. Jarvis, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	Rollins International	1,350.00	
Michael A. Jawer, 1201 New York Ave., NW, #300 Washington, DC 20005	Building Owners & Managers Assn Int'l	3,393.00	384.00
Edwin S. Jayne Jr., 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	19,703.76	342.05
Jellinek Schwartz & Connolly, Inc, 1525 Wilson Boulevard, #600 Arlington, VA 22209	ASARCO, Inc	76,155.00	1,276.51
Do	MARC		
Timothy Jemal, 122 C Street, NW, #350 Washington, DC 20001	Armenian Assembly of America	9,851.98	
Harry Jenkins Jr., 1650 Tysons Blvd., Suite 1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Jenner & Block, 601 13th Street, NW, 12th Floor Washington, DC 20005	MCI Communications Corp	1,150.00	
Carole P. Jennings, 8904 First Avenue Silver Spring, MD 20910	American Academy of Nurse Practitioners	2,300.00	300.00
Teresa L. Jennings, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Louis Jenny, 1725 K Street, NW, #1212 Washington, DC 2006	National Assn of Water Companies	1,085.00	41.00
Per Ingvar Jessing, Box 53046 S-400 14 Gothenburg Sweden	Swedish Shipowners' Assn		
Ronald P. Johnsen, 700 Thirteenth Street, NW, #900 Washington, DC 20005	Columbia Gas System Service Corp	175.00	279.16
Kay Johnson, 1901 L Street, NW, #260 Washington, DC 20036	March of Dimes Birth Defects Foundation	3,240.00	
Susan E. Johnson, 2000 Pennsylvania Avenue, NW, #5500 Washington, DC 20006	PNC Mortgage Corp	3,000.00	
Do	Real Estate Services Providers Council (RESPRO)	4,800.00	353.20
Gerald C. Jones Jr., 739 8th Street, SE Washington, DC 20003	Citizens Consulting, Inc	6,250.00	384.94
Jones Day Reavis & Pogue, 1450 G Street, NW, #700 Washington, DC 20005-2088	Coal Coalition	153,152.00	15,999.00
Diana Jost, 1129 20th Street, NW, #600 Washington, DC 20036	Group Health Assn of America, Inc	1,000.00	919.30
Gregory J. Junemann, 8630 Fenton Street, Suite 400 Silver Spring, MD 20910	International Fed of Professional & Technical Engineers		
Donald J. Kaniewski, 905 16th St., NW Washington, DC 20006	Laborers' Intl Union of North America, AFL-CIO	21,249.99	694.00
James W. Kanouse, 1700 North Moore Street, 21st Floor Rosslyn, VA 22209	Boeing Company	16,760.00	716.52
Phillip J. Kardis, 1745 Jefferson Davis Highway, #1200 Arlington, VA 22202	Rockwell International	3,000.00	3,075.76
Kaye Scholer Fierman Hays & Handler, 901 15th St., NW, #1100 Washington, DC 20005	Instruments SA, Inc		
Do	Kraft, Inc	3,952.00	4,005.12
Do	Malrite Communication Group, Inc	1,085.00	1,202.22
Do	Morgan Guaranty Trust Co of New York		
Do	Spanish Broadcasting System		
Carolyn Kazdin, 815 16th Street, NW, #507 Washington, DC 20006	Amalgated Clothing & Textile Workers Union	1,000.00	
Keck Mahin & Cate, 1201 New York Avenue, NW, Penthouse Washington, DC 20005	American Public Communications Council	643.47	
Do	Group Health, Inc	13,218.50	
Do	H. P. Bulmer Holdings, P.L.C.	37,444.50	
Marilyn J. Keefe, 122 C Street, NW, #380 Washington, DC 20001-2109	National Family Planning & Reproductive Health Assn, Inc	382.00	19.00
Michael G. Keegan, 2715 M Street, NW, Suite 300 Washington, DC 20007	National Rural Water Assn	70.00	
Jeff Keeler, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	11,625.00	159.05
Jeffrey R. Keeler, 1525 Wilson Blvd., Suite 550 Arlington, VA 22209	National Newspaper Assn		
Rose Kehoe, N. Chapman Associates, Inc 1723 U Street, NW Washington, DC 20009	Mycogen Corporation		
Carter Lee Kelly, 701 Pennsylvania Ave., NW, #710 Washington, DC 20004	Tenneco, Inc	943.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Claire M. Kelly, 1700 N. Moore St., 20th Floor Arlington, VA 22209	Boeing Company	9,095.56	4,834.17
Linda E. Kelly, 1100 New York Ave; NW, #580 Washington, DC 20005	Ryder System, Inc	450.00	30.00
Paul T. Kelly, 1701 Clarendon Boulevard Arlington, VA 22209	American Chiropractic Assn		
Steven B. Kelmar, 555 13th Street, NW, Suite 1260E Washington, DC 20004	Medtronic, Inc		410.64
Jane Kelso, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc		
Mark L. Kemmer, 1660 L Street, NW, #401 Washington, DC 20036	General Motors Corp	3,000.00	3,699.03
Kemper Investors Life Insurance Co, One Kemper Drive, T-1 Long Grove, IL 60049			1,953.04
Jackson Kemper, III, 1215 Jefferson Davis Highway, #1004 Arlington, VA 22202	Diagnostic/Retrieval Systems, Inc		
Art Kennedy, P.O. Box 200576 Anchorage, AK 99520	Koniag, Inc		
John Paul Kennedy, 1385 Yale Avenue Salt Lake City, UT 84105	Edwards McCoy & Kennedy (For:Western Shoshone Judgment Distribution Assn)		337.70
Judith Kennedy, 1050 Thomas Jefferson Street, NW Washington, DC 20007	Student Loan Marketing Assn	475.00	334.77
Dianne Keppler, 99 Canal Center Plaza, #500 Alexandria, VA 22314	AIADA	9,000.00	
Paul C. Kerkhoven, 1776 Massachusetts Ave., NW Washington, DC 20036	Highway Users Federation	4,000.00	261.00
Richard F. Kibben, 3281 Alexandria Drive Toledo, OH 43606			
Michael R. Kidd, 2201 Cooperative Way Herndon, VA 22071	NAIOP - Association for Commercial Real Estate	15,000.00	
John J. Killeen, 1299 Pennsylvania Avenue, NW, #1175 Washington, DC 20004	Science Applications International Corp	600.00	150.00
Kilpatrick & Cody, 700 13th Street, NW, #800 Washington, DC 20005-3960	Can Manufacturers Institute		
Do	DeChiaro Properties	2,835.50	
Do	Forest Farmers Assn		
Do	International Furniture Rental Assn		
Do	Kennecott Corp		
Do	Municipal Electric Authority of Georgia	3,262.50	
Do	Pepsico, Inc		
Do	Software Productivity Consortium		
Do	U.S. Sprint Telecommunications Co	225.00	
Do	University of Georgia	2,600.00	
Do	Upper Duck River Development		
Do	Weather Channel	1,822.50	
Daryl G. Kimball, 1101 14th Street, NW, #700 Washington, DC 20005	Physicians for Social Responsibility	2,864.00	
Roy Caldwell Kime, 515 North Washington Street, #400 Alexandria, VA 22314	International Assn of Chiefs of Police	14,152.40	6,409.02
King & Spalding, 1730 Pennsylvania Ave., NW, #1200 Washington, DC 20006	Animal Drug Alliance	4,032.00	30.00
Do	Atlanta Committee for the Olympic Games	8,863.00	72.00
Do	Banca Nazionale del Lavoro		
Do	Generic Pharmaceutical Industry Assn		
Do	Geowaste, Inc		
Do	Lockheed Martin	898.00	8.00
Do	Pharmaceutical Resources, Inc (PAR)		
Janie Ann Kinney, 1500 K Street, NW, #650 Washington, DC 20005	Glaxo, Inc	4,800.00	200.00
Peter C. Kirby, 1447 Peachtree St., #812 Atlanta, GA 30309	Wilderness Society		
Sean Kirkendall, 515 N. Washington Street, #400 Alexandria, VA 22314	International Assn of Chiefs of Police	8,088.00	2,078.64
Kenneth H. Klein, 490 L'Enfant Plaza East, SW, #4200 Washington, DC 20024	Xerox Corp	2,100.00	
William J. Klinefelter, 815 16th Street, NW, #301 Washington, DC 20006	Industrial Union Department (AFL-CIO)	10,088.00	
Theodore Knappen, 1001 G Street, NW, #400 East Washington, DC 20001	American Managed Care & Review Assn	15,000.00	
Do	Greyhound Lines, Inc	36,000.00	
Do	Mid-Atlantic Medical Services, Inc	15,000.00	
Sharon H. Kneiss, 1800 K Street, NW Washington, DC 20006	Hercules Corp	475.00	250.00
David G. Koenig, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc		
Kirk Koepsel, 23 North Scott Sherican, WY 82801	Sierra Club	3,991.83	
Kogovsek & Associates, Inc, 700 Broadway, #929 Denver, CO 80203-3443	City of Greenwood Village	7,500.00	3,546.29
Do	Dolores Water Conservancy District	4,000.00	3,868.18
Do	Rio Grande Water Conservation District	6,000.00	1,914.46
Do	Rocky Mountain Health Care Corp	12,300.00	5,838.85
Do	San Juan Water Commission	1,915.00	991.67
Do	Southern Ute Indian Tribe	13,750.00	9,433.47
Do	Southwestern Water Conservation District, Durango County		6,984.97
Do	Upper Yampa Water Conservancy	1,500.00	1,412.23
Do	Ute Mountain Ute Tribe	21,667.00	559.75
Do	Water Protection Assn of Central Kansas	2,500.00	588.58
Do	Wolf Springs Ranches, Inc	9,000.00	4,644.34
Gary J. Kohn, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn	8,000.00	
Susan Kohn, 1400 16th Street, NW Washington, DC 20036	Zero Population Growth, Inc	201.00	
Brian Komar, 1629 K Street, NW, #1010 Washington, DC 20006	Leadership Conference on Civil Rights	1,042.00	
Nicholas Kominus, 1730 Rhode Island Avenue, NW Washington, DC 20036	U.S. Cane Sugar Refiners' Assn		71.32
Michel N. Korbey, 12500 Fair Lakes Circle, #125 Fairfax, VA 22033	United Seniors Assn, Inc	19,608.40	1,121.82
Barbara M. Kostuk, 1301 Pennsylvania Ave., NW, #1100 Washington, DC 20004-1707	Air Transport Assn	3,830.38	
Barry Krasner, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	567.12	
Gawain Kripke, 1025 Vermont Ave., NW, Suite 300 Washington, DC 20005	Friends of the Earth	746.93	
Victor Krohn, 9401 East Street Manassas, VA 22110	Citizens for an Alternative Tax System		
Steven Kroll, 1341 G Street, NW, #500 Washington, DC 20057	Healthcare Assn of NYS	1,346.00	1,052.12
Mark Kronenberg, 1735 Jefferson Davis Highway, #1200 Arlington, VA 22202	McDonnell Douglas Corp		
Jake Kuitwaard, 700 11th Street, NW Washington, DC 20001	National Assn of Realtors	2,500.00	900.69
Sheena Kuruvilla, 727 N. Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	570.00	
Marsha H. Kwalwasser, 1840 Century Park East Los Angeles, CA 90067	Northrop Grumman Corp		9,221.89
Peter Kyros, 2445 M Street, NW, #260 Washington, DC 20037	Allsup, Inc		
Do	American Soc for Cell Biology, et al		
Do	Association of Administrative Law Judges, Inc		
Do	Cooperative of American Physicians, Inc		
Laborers' Intl Union of North America, AFL-CIO, 905 16th St., NW Washington, DC 20006			75,990.11
Marc E. Lackritz, 1401 I Street, NW, Suite 1000 Washington, DC 20005	Securities Industry Assn	8,077.00	
Robert Lamb, 1200 G Street, NW, #600 Washington, DC 20005	Wright & Talisman, PC (For:Cabot Energy Corp)		
Do	Wright & Talisman, P.C. (For:Columbia Natural Resources)	6,000.00	
Do	Wright & Talisman, PC (For:Equitable Resources Exploration)	6,000.00	
Do	Wright & Talisman (For:Marisol, Inc)	7,000.00	
Do	Wright & Talisman, PC (For:National Stripper Well Assn)		
Do	Wright & Talisman, PC (For:Potlatch Corp)	7,385.00	
Do	Wright & Talisman, PC (For:Solite Corp)	4,375.00	
Do	Wright & Talisman (For:Sun Company, Inc)		
Do	Wright & Talisman, PC (For:Tenneco, Inc)		
Do	Wright & Talisman (For:Virginia Oil and Gas Assn)		
Anne Lamoureux, 7700 Wisconsin Avenue Bethesda, MD 20814	Discovery Communications, Inc	9,000.00	
Arthur Lampros, 1220 16th Street, NW Washington, DC 20036	American Hellenic Institute		
Ray H. Lancaster, 1667 K Street, NW, #800 Washington, DC 20006	Williams Companies, Inc	6,600.00	44.64
Robert D. Landis, 2201 Cooperative Way Herndon, VA 22071	NAIOP, Assn for Commercial Real Estate	15,000.00	
Bruce Alan Landy, 2601 Virginia Avenue, NW Washington, DC 20037	B.A.L. Co		
Do	Cryogenic Vacuum Technology Co		
Do	FAA-Congress Watch		
Do			
Scott H. Lane, 99 Canal Center Plaza, Suite 500 Alexandria, VA 22314	AIADA	32,400.00	
Ann Langley & Associates, Inc, 444 North Capitol Street, NW, #837 Washington, DC 20001	Planned Parenthood Federation of America		
Mark Lappen, 1000 Connecticut Ave., NW Washington, DC 20036	National Assn of Health Underwriters		
Nicholas Larigakis, 1730 K Street, NW, Suite 1005 Washington, DC 20006	American Hellenic Institute Public Affairs Committee, Inc		
Christopher D. Larsen, 1220 L Street, NW, #510 Washington, DC 20005	American Resort Development Assn	3,437.50	
Rod Larson, 4510 13th Avenue Southwest Fargo, ND 58121-0001	Blue Cross Blue Shield of North Dakota	825.00	1,295.44
Latham & Watkins, 1001 Pennsylvania Ave., NW, #1300 S Washington, DC 20004-2505	Imperial County	7,475.00	
Jonathan Lawniczak, 1331 F Street, NW Washington, DC 20004-1171	National Council of Senior Citizens	6,500.00	
Bob Lawrence & Associates, 424 N. Washington Street Alexandria, VA 22314	Geothermal Energy Association	30,000.00	
Do	Irrigation Association	18,000.00	6,300.00
Do	Valmont Industries, Inc	15,000.00	5,250.00
Elizabeth Lawson, 1730 M Street, NW Washington, DC 20036	League of Women Voters of the U.S.	6,608.13	122.55
Karen McGill Lawson, 1629 K Street, NW, #1010 Washington, DC 20006	Leadership Conference on Civil Rights	3,929.45	
Leadership Conference on Civil Rights, 1629 K Street, N.W., Suite 1010 Washington, DC 20006		210,992.21	63,631.29
League of Women Voters of the U.S., 1730 M St., NW Washington, DC 20036		65,086.55	65,086.55
League to Save Lake Tahoe, 955 Emerald Bay Rd. South Lake Tahoe, CA 96150		1,500.00	7,530.86
Marvin Leath, One Massachusetts Ave, NW, #330 Washington, DC 20001-1431	Lockheed Martin Corp	3,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Mary Nell Lehnhard, 1310 G Street, NW, 12th Floor Washington, DC 20005	Blue Cross & Blue Shield Assn	8,762.00	124.00
Arnold H. Leibowitz, 888 Sixteenth Street, NW # 507 Washington, DC 20006	Cameron & Hornbostel (For:Hebrew Immigrant Aid Society (HIAS))	22,200.00	
Donna Lenhoff, 1875 Connecticut Avenue, NW, #710 Washington, DC 20009	Women's Legal Defense Fund	643.00	191.00
Lloyd Leonard, 1730 M St., NW Washington, DC 20036	League of Women Voters of the U.S.	9,715.75	54.75
Scott Leonard, 900 Second Street, NE, Suite 308 Washington, DC 20002-3557	National Assn of Railroad Passengers	8,464.00	
Lepon McCarthy Jutkowitz & Holzworth, 1225 19th Street, NW, #600 Washington, DC 20036	Chilean Exporters' Assn	1,134.57	3.14
Nancy R. Levenson, 1401 Eye Street, NW, #1220 Washington, DC 20005-2204	Joseph E. Seagram & Sons, Inc	2,750.00	
Morris J. Levin, 1050 17th St., NW Washington, DC 20036	Persis Corporation		
Barbara W. Levine, 1015 15th Street, NW Washington, DC 20005	American Public Health Assn	2,566.00	
James E. Lewin, 1850 M Street, NW, 11th Floor Washington, DC 20036	Sprint	14,000.00	1,426.78
Richard W. Lewis, 6525 Clagett Avenue Fairhaven, MD 20754			
LeBoeuf & Associates, Inc, 768 Walker Road, Suite 266 Great Falls, VA 22066	Babcock & Wilcox (Ebensburg Power, Inc)		
Robert G. Liberatore, 1401 H Street, NW, #700 Washington, DC 20005	Chrysler Corporation	6,252.00	302.00
Bill Libro, 601 Pennsylvania Ave., NW, Suite 600N Washington, DC 20004	Northern States Power Company	4,400.00	
Diane S. Liebman, 1331 Pennsylvania Avenue, NW, #560 S Washington, DC 20004	CSX Corporation	7,000.00	859.88
Linda A. Lipsen, 1050 31st Street, NW Washington, DC 20007-4499	Association of Trial Lawyers of America	5,000.00	100.00
Barbara A. Little, 1155 15th St., NW, #611 Washington, DC 20005	Ethyl Corporation	2,000.00	
Jeanne Marie Little, 9300 Livingston Road Ft. Washington, MD 20744	National Tooling & Machining Assn	11,173.05	1,443.06
Thomas G. Loeffler, 1801 K St., NW, Suite 400K Washington, DC 20006-1301	Arter & Hadden (For:Southwest Florida Enterprises)		
James E. Lokovic, 4514 Governor Pratt Court Upper Marlboro, MD 20772	Air Force Sergeants Assn, Inc		
Laura Loomis, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn	2,790.00	323.95
Charles M. Loveless, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	25,819.02	1,452.78
James Lovell, 20361 Middlebelt Livonia, MI 48152	International Hearing Society		
Mark A. Lowman, 1201 K Street, #800 Sacramento, CA 95814	California Assn of Hospitals and Health Systems	15,000.00	7,802.00
Suellen Lowry, 1531 P Street, NW, #200 Washington, DC 20005	Sierra Club Legal Defense Fund	5,180.35	850.67
William L. Lucas, 1100 15th Street, NW, #900 Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	4,000.00	29.00
Manuel Lujan Jr., 1209 California, NE Albuquerque, NM 87110	Commonwealth of the Northern Mariana Islands	19,500.00	3,000.00
Cody Lusk, 99 Canal Center Plaza, Suite 500 Alexandria, VA 22314	AIADA	9,900.00	
R. J. Lyerly, 5335 Wisconsin Ave. NW Suite 500 Washington, DC 20015	Amdahl Corp		
Marshall L. Lynam, 412 First Street, SE, #60 Washington, DC 20003	Dallas/Ft. Worth International Airport	25,000.00	
Do	Tandy Corp	12,000.00	
Margaret Lyons, 1747 Pennsylvania Ave., NW, #700 Washington, DC 20006	Ciba-Geigy Corp	3,810.00	
William T. Lyons, 1747 Pennsylvania Ave., NW, #700 Washington, DC 20006	Ciba-Geigy Corp	8,813.00	6,860.00
Samuel A. Mabry, 1800 K St., NW Washington, DC 20006	Hercules, Inc	10,125.00	3,003.52
Rodney Macalister, 1701 Pennsylvania Ave., NW Washington, DC 20006	E.I. DuPont deNemours & Co		
Cliff Madison Government Relations, Inc, 1611 Landfall Drive Wilmington, NC 28405	Burbank-Glendale-Pasadena Airport Authority	7,500.00	
Do	Federal Express Corp	12,000.00	
Do	Los Angeles County Metropolitan Transportation Authority	19,089.00	
Do	MarkAir, Inc		
Do	Sarasota-Bradenton Airport	6,999.99	
James J. Magner, 314 Massachusetts Ave, NE Washington, DC 20002	James J. Magner & Associates, Inc. (For:ASARCO, Inc)	390.00	102.38
James J. Magner and Associates, Inc, 314 Massachusetts Ave., NE Washington, DC 20002	Asarco, Inc	697.50	983.37
James E. Mahoney, 2200 Concord Pike Wilmington, DE 19899	John W. Rollins & Associates	14,500.00	647.02
James Timothy Mahoney, 108 Gibbon Street Alexandria, VA 22314	Koniag, Inc	3,937.50	90.13
Major League Baseball Players Assn, 12 East 49th Street New York, NY 10017			500,710.00
Manatt Phelps & Phillips, 1501 M Street, NW, Suite 700 Washington, DC 20005	Alamo Rent A Car, Inc	45,487.50	199.26
Do	ASOCOFLORES		
Do	College Construction Loan Insurance Assn	125.00	
Do	CEMEX, S.A.	5,876.50	
Do	E-Z-EM, Inc	17,666.25	60.98
Do	Navajo Nation		
Do	S-Corporation Reform Project	10,845.00	
Do	Vitro, S.A.	5,837.50	
Donald W. Mann, 60 B Franklin Street Tenafly, NJ 07670	Negative Population Growth, Inc	500.00	
Perry Steven Mansfield, 225 Main Street Newington, CT 06111	American Radio Relay League, Inc	3,177.00	2,764.00
S. William Manteria, 325 7th Street, NW, #1000 Washington, DC 20004	Woolworth Corp		
John V. Maraney, 324 East Capitol St., NE Washington, DC 20003	National Star Route Mail Contractors Assn		
Marc Associates, Inc, 1101 17th Street, NW, #803 Washington, DC 20036-4704	American Assn of Colleges of Osteopathic Medicine	1,666.00	
Do	American Assn of Dental Schools	6,000.00	
Do	American Coll of Nuclear Physicians/Soc of Nuclear Medicine	10,000.00	
Do	American Sleep Disorders Assn	2,000.00	
Do	American Soc for Gastrointestinal Endoscopy	10,000.00	
Do	American Soc of Anesthesiologists	24,000.00	
Do	American Soc of Hematology	1,000.00	
Do	American Urological Assn/Amer Assn of Clinical Urologists	12,000.00	
Do	California Public Employees Retirement System (CALPERS)	4,250.00	
Do	City of Alhambra	4,000.00	
Do	Federation of State Medical Boards of the US	6,000.00	
Do	Health Industry Manufacturers Assn (HME)	21,000.00	
Do	International Soc for Cardiovascular Surg/Soc for Vascular..	4,500.00	
Do	Los Angeles County Office of Education	6,000.00	
Do	Los Angeles County Transportation Commission	3,000.00	
Do	Merck Sharp and Dohm	4,000.00	
Do	National Assn of Epilepsy Centers	2,000.00	
Do	National Hemophilia Foundation	8,000.00	
Do	NI Industries	3,000.00	
Do	Research Society on Alcoholism	2,000.00	
Do	U.S. Facilities Corp	6,000.00	
Nancy Marcus, 1614 10th Street Arlington, VA 22204	National Treasury Employees Union	9,938.53	58.00
Joseph N. Mariano, 1666 K Street, NW, Suite 1010 Washington, DC 20006	Direct Selling Assn		
Gordon G. Martin, 1130 Connecticut Ave., NW, Suite 830 Washington, DC 20036	Alabama Power Co	26,250.00	10,953.75
Anna M. Maschino, 1015 18th Street, NW Washington, DC 20036	Conference of State Bank Supervisors	550.00	169.50
Ned W. Massee, 299 Park Avenue 13th Floor New York, NY 10171	Westvaco Corporation		
Alexander S. Mathews, 1700 North Moore Street, Suite 1600 Arlington, VA 22209	American Meat Institute	6,375.00	4,089.74
Suzette Matthews, Arlington Courthouse Plaza II 2300 Clarendon Boulevard, #711 Arlington, VA 22201	Air Traffic Control Assn, Inc	778.77	
Joseph M. Mattingly, 1901 North Moore Street, #1100 Arlington, VA 22209	Gas Appliance Manufacturers Assn, Inc		
Maureen Maxwell, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
William A. Maxwell, 727 15th Street, NW, #900 Washington, DC 20005-2169	Convex Computer Corp	5,000.00	266.99
Joseph T. Mayer, 1745 Jefferson Davis Hwy., #1200 Arlington, VA 22202	Rockwell International Corp	18,135.00	1,921.12
Michael J. McAdams, 1776 Eye Street, NW, #1000 Washington, DC 20006	BP America, Inc		
Michael McAllister, 3050 K Street, NW, Suite 105 Washington, DC 20007	Behavorial Psychographic Targeting, Inc		
Rebecca McAuliffe, 601 13th Street, NW, Suite 850 South Washington, DC 20005	El Paso Natural Gas Co	1,000.00	
Charlie McBride Associates, Inc, 1730 M Street, NW, #800 Washington, DC 20036	ABB Combustion Engineering, Inc	9,000.00	221.67
Do	Biomedical Research Foundation	4,500.00	1,366.35
Do	Carolina Power & Light Co	900.00	
Do	Edison Chouest Offshore	2,400.00	209.77
Do	General Atomics	2,000.00	140.41
Do	Integrated Resources Group, Inc	3,000.00	608.61
Do	ICON Industrial Controls, Inc	5,937.00	1,359.72
Do	Louisiana Energy Services	1,200.00	
Do	Nuclear Energy Institute	3,000.00	190.63
Do	Science Applications International Corp	5,400.00	
Do	Sealaska Corp	1,800.00	190.63
Do	Tulane University	5,100.00	392.50
Do	Turlock Irrigation District		
Do	Westinghouse Electric Corp	3,180.00	490.66
Do	Yukon Pacific Corp	2,400.00	190.63
John M. McClung, 727 N Washington Street Alexandria, VA 22314	United Fresh Fruit & Vegetable Assn	2,000.00	
Stephen McConnell, 1319 F Street, NW, #710 Washington, DC 20004-1106	Alzheimer's Assn	3,000.00	75.00
Matthew J. McCoy, 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	1,500.00	
Todd McCracken, 1155 15th Street, NW, #710 Washington, DC 20005	National Small Business United	1,000.00	
Daniel J. McDermott, 1155 Connecticut Ave, NW, #500 Washington, DC 20036	Providian Corporation	3,000.00	
McDermott Will & Emery, 1850 K Street, NW, #450 Washington, DC 20006	Marshfield Clinic	2,500.00	
Do	Outpatient Opthalmic Surgery Society		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Bridget McDonald, 1630 Duke Street, 4th Floor Alexandria, VA 22314-3465	National Rural Letter Carriers' Assn	5,996.00	76.00
McGehee & Associates, 11781 Lee Jackson Memorial Highway Suite 360 Fairfax, VA 22033	ELEKTA Radiosurgery, Inc		4,000.00
Do	Institute for Clinical PET		2,000.00
Do	New York University Medical Center		7,500.00
Do	U.S. Savings Bond Foundation		9,000.00
Robert M. McGlotten, McGlotten & Jarvis 1901 L Street, NW, #300 Washington, DC 20036	Rollins International	1,350.00	
Lisa S. McGreevy, 1015 18th Street, NW, #1100 Washington, DC 20036	Conference of State Bank Supervisors	1,375.00	48.34
McGuiness & Williams, 1015 15th Street, NW, #1200 Washington, DC 20005	National Council of Agricultural Employers	39,764.00	1,933.45
Do	Nisei Farmers League	13,780.00	1,404.24
Do	Turfgrass Producers International	497.50	
Robert McIntyre, 1313 L St., NW Washington, DC 20005	Citizens for Tax Justice	16,500.00	
Yvonne McIntyre, 601 13th Street, NW, Suite 650 North Washington, DC 20005	Detroit Edison Co	750.00	45.00
Harrison D. McIver III, 1625 K Street, NW, #725 Washington, DC 20006	Project Advisory Group		
John J. McKechnie III, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,500.00	
William Colm McKeveny, Chadbourne & Park 30 Rockefeller Plaza New York, NY 10112	American Pulpwood Assn		
Michael R. McLeod, 1 Massachusetts Ave., NW, #800 Washington, DC 20001-1431	McLeod Watkinson & Miller (For:American Assn of Crop Insurers)	3,100.00	25.82
Do	McLeod Watkinson & Miller (For:American Mushroom Institute)		
Do	McLeod Watkinson & Miller (For:American Peanut Product Manufacturers, Inc)	54,780.00	1,079.02
Do	McLeod Watkinson & Miller (For:Chicago Board of Trade)	220.00	25.82
Do	McLeod Watkinson & Miller (For:General Mills)	2,882.00	
Do	McLeod Watkinson & Miller (For:United Egg Producers)	190.00	
Fred McLuckie, 25 Louisiana Ave., NW Washington, DC 20001	International Brotherhood of Teamsters	13,192.37	
Allegra P. McManus, 815 16th Street, NW, Suite 301 Washington, DC 20006	Industrial Union Department (AFL-CIO)	8,034.00	
Rachel A. McMillan, 1776 I Street, NW, #750 Washington, DC 20006	BNFL, Inc	5,500.00	535.36
Molly McMorrow, 1350 I Street, NW, #840 Washington, DC 20005	Ralston Purina Company		735.00
McNair Law Firm, P.A., 1155 15th Street, NW, #400 Washington, DC 20005	Coalition for Auto Repair Equality		
Do	Del Webb Corp		
Do	INSLAW, Inc		
Do	Phillips Petroleum Co		
Mike McNally, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	708.90	
William McNary, 68 E. Wacker Place, 3rd Floor Chicago, IL 60601	Illinois Public Action	1,300.00	1,563.00
Stephen R. McSpadden, 1015 18th St., NW, #1100 Washington, DC 20036-5715	Conference of State Bank Supervisors	1,169.00	147.83
Medtronic, Inc, 7000 Central Avenue, NE Minneapolis, MN 55432			468.14
Larry Mehlhaff, 23 N. Scott, #27 Sheridan, WY 82801	Sierra Club	3,175.38	
Stanley Meierfeld, 4 World Trade Center New York, NY 10048	New York Mercantile Exchange		
Nanine Meiklejohn, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	17,057.22	243.00
James R. Meltsner, 1000 Wilson Blvd., #2300 Arlington, VA 22209	Northrop Grumman	1,400.00	
Joseph Mendelson, 1025 Vermont Ave., NW, 3rd Floor Washington, DC 20005	Friends of the Earth	198.60	
Edward A. Merlis, 1301 Pennsylvania Avenue, NW, #1100 Washington, DC 20004-1707	Air Transport Assn	3,005.54	
Edward L. Merrigan, 6000 Connecticut Ave., NW Washington, DC 20015-4238	Central Gulf Lines, Inc	9,750.00	148.39
Nancy Jo Merrill, 1901 L St., NW, #260 Washington, DC 20036	March of Dimes Birth Defects Foundation	1,325.00	
Jean L. Mestres, 1747 Pennsylvania Avenue, NW, #300 Washington, DC 20006	OXY USA, Inc	1,588.44	34.00
Alden M. Meyer, 1616 P Street, NW Washington, DC 20036	Union of Concerned Scientists		10,595.66
Larry D. Meyers, 412 First Street, SE, #100 Washington, DC 20003	Texas A&M Research Foundation	22,920.00	1,675.42
Nicholas Meyers, 1400 K Street, NW Washington, DC 20005	American Psychiatric Assn	3,975.00	1,075.52
Michaels & Wishner, P.C., 1140 Connecticut Avenue, NW, #900 Washington, DC 20036	United HealthCare Corp	2,883.00	80.00
Do	Watts Health Foundation, Inc	241.50	24.00
Richard P. Michalski, 9000 Machinists Place Upper Marlboro, MD 20772	International Assn of Machinists & Aerospace Workers	11,475.82	
Mid-Atlantic Medical Services, Inc, 4 Taft Court Rockville, MD 20850			15,000.00
Migrant Legal Action Program, Inc, 2001 S St., NW, #310 Washington, DC 20009			
Richard Jeffrey Miles, 1530 Wilson Blvd, Suite 250 Arlington, VA 22209	Allison Engine Co	280.00	
G. Daniel Miller, Suite 450 North, Homer Building 601 - 13th Street, NW Washington, DC 20005-3807	Faegre & Benson (For:National Car Rental)		
Do	Faegre & Benson (For:Plaintiffs in Federal Dist Court litigation in Anchorage, AK).		
Grant Miller, 1800 Diagonal Rd., #600 Alexandria, VA 22314	Northrop Grumman Corporation	6,000.00	600.00
Joseph A. Miller, 1130 Connecticut Ave., NW, Suite 830 Washington, DC 20036	Southern Nuclear Operating Company	28,554.87	19,840.12
Pamela A. Miller, 900 17th Street, NW Washington, DC 20006-2596	Wilderness Society	3,987.11	11,587.63
Richard W. Miller, 1701 Clarendon Blvd. Arlington, VA 22209	American Chiropractic Assn		
Scott Miller, 1050 Thomas Jefferson Street Washington, DC 20007	Student Loan Marketing Assn	1,325.00	114.53
Miller & Chevalier, Chtd, 655 15th St., NW, #900 Washington, DC 20005-5701	Davidson Colling Group	1,937.50	
Do	Export Source Rule Coalition		
Do	General Chemical	9,250.00	
Do	Government of British Columbia/Min. of Dev. Trade & Tourism	687.50	
Do	Great Northern Insured Annuity Corp		
Do	Hewlett-Packard Co	21,662.50	
Do	Marine Preservation Assn		
Do	Organization for International Investment	9,187.50	
Do	Service Corporation Int'l	1,050.00	
Mary A. Minette, 666 Pennsylvania Ave., SE, #200 Washington, DC 20003	National Audubon Society		
Mintz Levin Cohn Ferris Glovsky & Popeo, P.C., 701 Pennsylvania Avenue, NW, #900 Washington, DC 20004	AT&T Wireless Services, Inc	5,000.00	181.50
Do	Cellular Telecommunications Industry Assn	5,000.00	58.50
Do	Competitive Long Distance Coalition , Inc	5,000.00	79.60
Do	National Cable Television Assn, Inc	7,500.00	131.14
Do	Newspaper Assn of America		
Do	Sprint	5,000.00	31.00
Karen A. Mogan, 1700 N. Moore Street, NW, #1600 Arlington, VA 22209	American Meat Institute	13,656.25	
David T. Mohler, 1455 F Street, NW, #450 Washington, DC 20004	Upjohn Co	8,000.00	
George F. Mohrmann, 6801 Rockledge Drive Bethesda, MD 20817	Lockheed Martin Corp	2,825.00	
Peter A. Molinaro, 801 Pennsylvania Ave., NW, #230 Washington, DC 20004	Union Carbide Corp	7,258.72	
John H. Montgomery, 2715 M St., NW, #300 Washington, DC 20007	National Rural Water Assn	2,000.00	
Do	Murray Scheer & Montgomery (For:Oklahoma State Medical Assn)	1,000.00	
Do	Underground Injection Practices Council	1,000.00	
Cynthia L. Moore, 2717 North Fillmore Street Arlington, VA 22207	National Council on Teacher Retirement	1,050.00	117.71
Lawrence Moore III, 750 First Street, NE, #700 Washington, DC 20002-4241	National Assn of Social Workers	3,900.00	400.00
Walter K. Moore, 1747 Pennsylvania Avenue, NW, #1223 Washington, DC 20006	Genentech, Inc	3,000.00	126.15
Fred P. Moosally, 1745 Jeff Davis Highway, #1200 Arlington, VA 22202	Rockwell International Corp	20,000.00	2,626.28
Judith Morehouse, 1700 N. Moore Street Rosslyn, VA 22209	Boeing Company		
Peter Denis Morgan, 700 11th Street, NW Washington, DC 20001	National Assn of Realtors	2,000.00	
Kristen Morris, 1200 G Street, NW, Suite 400 Washington, DC 20005	Health Industry Manufacturers Assn	1,360.00	145.88
Mark E. Morrison, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	2,000.00	
Morrison & Foerster, 2000 Pennsylvania Ave., NW Washington, DC 20006	City and County of San Francisco		
Do	City of Los Angeles, Dept of Airports		
Do	Consolidated Freightways	6,833.00	
Do	Mastercard International, Inc, et al.	4,655.00	
Do	National Electrical Manufacturers Assn		
Do	Shea Homes Limited Partnership		
Ann P. Morton, 8219 Leesburg Pike Vienna, VA 22182	Cable & Wireless, Inc	15,752.33	431.70
James C. Morton Jr., P.O. Box 19001 Greenville, SC 29602	Michelin Tire Corp	2,100.00	5,368.60
Kate Moss Company, 1401 Eye Street, NW, #1100 Washington, DC 20005	Dean Witter Discover & Co	750.00	
Do	Nations Bank Corp	625.00	
Do	SBC Communications, Inc	1,375.00	
Do	Trans Union Corp	250.00	
Gerald J. Mossinghoff, 1100 15th Street, NW, #900 Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	1,000.00	
Beth Moten, 80 F Street, NW Washington, DC 20001	American Fed of Government Employees	17,352.50	
Barbara Moulton, 1601 Connecticut Ave., NW, #601 Washington, DC 20009	Alliance for Justice		
Robert J. Mrazek, 301 Constitution Ave., NE Washington, DC 20002	Douglas Elliman Co	5,000.00	
Terry L. Muilenburg, 1701 K Street, NW, Suite 400 Washington, DC 20006	USA Group	5,936.94	479.95
Mullenholz Brimsek & Belair, 1150 Connecticut Ave., NW, #700 Washington, DC 20036	Center for Civic Education	4,472.00	188.65
Do	Constitutional Rights Foundation	4,077.00	178.42
Do	Equifax, Inc	1,329.90	85.13
Do	National Air Cargo	400.00	
Do	National Institute for Citizen Education in the Law	4,077.00	178.42
Do	Search Group, Inc	6,715.75	455.52
Jeanne Marie Murphy, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	8,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Jeremiah L. Murphy, 701 Pennsylvania Ave., NW Washington, DC 20004	Siemens Corp		
Laura W. Murphy, 122 Maryland Avenue, NE Washington, DC 20002	American Civil Liberties Union	16,000.00	100.00
Patrick W. Murphy, 370 L'Enfant Promenade, SW, 10th Floor Washington, DC 20024	American Nuclear Society	104.00	21.70
James V. Murray, 801 Pennsylvania Avenue, NW, #230 Washington, DC 20004	Union Carbide Corp	1,100.00	
Robert Musil, 1101 14th Street, NW, #700 Washington, DC 20005	Physicians for Social Responsibility	4,804.00	
Robert J. Muth, 180 Maiden Lane New York, NY 10038	Asarco, Inc	675.00	210.00
Lawrence D. Muzzy, 2200 W. Salzburg Road, Mail #W281 Midland, MI 48611	Dow Corning Corp		
Deborah B. Myers, 1747 Pennsylvania Ave., NW, Suite 700 Washington, DC 20006	Ciba	5,500.00	
National Air Carrier Assn, 1730 M St., NW, #806 Washington, DC 20036		1,000.00	1,000.00
National Air Traffic Controllers Assn, 1150 17th Street NW #701 Washington, DC 20036		41,744.23	4,922.12
National Assisted Housing Management Assn, Inc, 526 King Street, #511 Alexandria, VA 22314		42,004.00	50,356.00
National Assn for Adult Security, 8560 East 22nd Street Tucson, AZ 85731-7011			
National Assn of Health Underwriters, 1000 Connecticut Ave., NW, #810 Washington, DC 20036		187,455.75	161,361.95
National Assn of Home Builders of the U.S., 15th & M Sts., NW Washington, DC 20005		83,014.58	152,389.35
National Automobile Dealers Assn, 8400 Westpark Drive Mclean, VA 22102			36,775.00
National Business Aircraft Assn, 1200 18th St., NW, #200 Washington, DC 20036-2598			10,900.73
National Coalition for Cancer Survivorship, 1010 Wayne Avenue, 5th Floor Silver Spring, MD 20910			
National Coalition for Marine Conservation, Inc, 5 West Market Street Leesburg, VA 22075		783.00	542.29
National Comm Against Repressive Legislation, 3321 12th Street, NE Washington, DC 20017		450.00	3,215.39
National Council for Languages & Int'l Studies, 300 Eye Street, Suite 211 Washington, DC 20002		14,451.75	21,745.28
National Crop Insurance Services, Inc, 7301 College Blvd., Suite 170 Overland Park, KS 66212			3,359.00
National Family Planning & Reproductive Health Assn, Inc, 122 C St., NW, #380 Washington, DC 20001		108,135.00	1,938.00
National Grain & Feed Assn, 1201 New York Avenue, NW, #830 Washington, DC 20005-3917			11,550.00
National Grass Roots & Communications, Inc, 116 N. Saint Asaph Street Alexandria, VA 22314	Coalition for Auto Repair Equality		
Do	Wal-Mart		
National Knitwear & Sportswear Assn, 386 Park Avenue South New York, NY 10016			
National Leased Housing Assn, 1300 19th Street, NW, #410 Washington, DC 20036		2,000.00	2,000.00
National Motorists Assn, 6678 Pertzborn Road Dane, WI 53529			6,516.00
National Pork Producers Council, 122 C Street, NW, #875 Washington, DC 20001		1,113,606.00	89,875.46
National Prevention Alliance, 2817 St. Paul Street Balitmore, MD 21218		7,000.00	3,420.71
National Quality Health Council, c/o PRS 757 Brooksedge Plaza Dr., P.O. Box 6174 Westerville, OH 43081-6174		2,195.25	2,195.25
National Realty Committee, 1420 New York Ave., NW, Suite 1100 Washington, DC 20005		10,009.50	10,009.50
National Rural Letter Carriers Assn, 1630 Duke St., 4th Floor Alexandria, VA 22314-3465		28,285.00	37,661.00
National Tour Assn, Inc, 546 E. Main Street Lexington, KY 40508		53,735.00	53,735.00
Natural Gas Supply Assn, 1129 20th St., NW, #300 Washington, DC 20036			284,757.76
Ralph G. Neas, 1629 K Street, N.W., Suite 1010 Washington, DC 20006	Leadership Conference on Civil Rights	13,802.72	125.49
Diana Neidle, 1424 16th Street, NW, Suite 604 Washington, DC 20036	Consumer Federation of America	1,517.00	
Neighbor-To-Neighbor Action Fund, 2601 Mission Street, #400 San Francisco, CA 94110		117,653.00	137,955.00
Christine V. Nelson, 1 Massachusetts Ave., NW, #800 Washington, DC 20001-1431	McLeod Watkinson & Miller (For:United Egg Assn)	200.00	
Do	McLeod Watkinson & Miller (For:United Egg Producers)	880.00	
Gaylord Nelson, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
Mark E. Nelson, 1341 G Street, NW, #620 Washington, DC 20005	GTT Communications, Inc	3,000.00	1,500.00
David M. Nemtzow, 1725 K Street, NW, #509 Washington, DC 20006	Alliance to Save Energy	692.95	797.00
Lynda L. Nersesian, 1100 15th St., NW, #900 Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	4,000.00	102.00
Alexander Netchvolodoff, 1320 19th Street, NW, #200 Washington, DC 20036	Cox Enterprises, Inc		216.80
Charlene Neu A., 901 E Street, NW, Suite 601 Washington, DC 20004	National Treasury Employees Union (NTEU)		
E. John Neumann, 701 Pennsylvania Ave., NW Washington, DC 20004	Southern Company Services, Inc		
Barry New, 11911 Freedom Drive, 6th Floor Reston, VA 22090-5602	Rolls-Royce, Inc	666.21	41.75
James Newell, 1050 Thomas Jefferson Street Washington, DC 20007	Student Loan Marketing Assn	700.00	636.25
Newspaper Association of America, 11600 Sunrise Valley Drive Reston, VA 22091		67,460.12	67,460.12
Julie L. Nichols, 1101 17th Street, NW, Suite 600 Washington, DC 20036	American Airlines, Inc	662.55	
Bob Nicklas, 25 Louisiana Avenue, NW Washington, DC 20001	International Brotherhood of Teamsters	1,691.92	
David P. Nicoli, 1341 G Street, NW, 9th Floor Washington, DC 20005	Philip Morris Management Corp	1,500.00	485.87
Michael E. Nix, 231 W. Michigan Street, #P437 Milwaukee, WI 53203	Wisconsin Electric Power Co	101.78	
Gregory T. Nojeim, 122 Maryland Ave., NE Washington, DC 20002	American Civil Liberties Union		
J. Hallock Northcott, 1620 L Street, NW, #1150 Washington, DC 20036	Matsushita Electric Corp of America	500.00	69.31
Helen L. Norton, 1875 Connecticut Avenue, NW, #710 Washington, DC 20009	Women's Legal Defense Fund	2,444.00	700.00
Nutritional Health Alliance, P.O. Box 25317 Washington, DC 20007		20,365.00	51,923.43
Christina Groszer Nyquist, 1310 G Stret, NW, 12th Floor Washington, DC 20005	Blue Cross & Blue Shield Assn	2,566.00	1,271.86
Scott Nystrom, 601 13th Street, NW, #410 South Washington, DC 20004	R. Duffy Wall & Associates, Inc	1,250.00	
NAIOP, Association for Commercial Real Estate, Woodland Park, 2201 Cooperative Way Herndon, VA 22071		189,312.75	33,183.43
O'Brien Calio, 1350 Eye Street, NW, Suite 690 Washington, DC 20005	American Insurance Assn	50.00	
Do	Anheuser-Busch, Inc	62.50	
Do	ARCO	76.50	
Do	AT&T	2,100.00	
Do	Blue Cross Blue Shield Assn	125.00	
Do	Federal Express Corp	60.00	
Do	Federal National Mortgage Assn	607.50	
Do	Global Technology Systems		
Do	Intellectual Property Owners	60.00	
Do	Intermedia Partners		
Do	Massachusetts Mutual Life Insurance Co	60.00	
Do	National Wholesale Druggists' Assn		
Do	Product Liability Coordinating Committee	300.00	
Do	Sears Roebuck & Co	450.00	
Do	Securities Industry Assn	240.00	
Do	Teachers Insurance & Annuity Assn		
Do	Tenneco	1,125.00	
David S. O'Bryon, 5223 Wisconsin Avenue, NW, #306 Washington, DC 20015	American Assn of Limited Partners		
Carolyn O'Connor, 444 North Capitol Street, #418 Washington, DC 20001	New England Council, Inc		
Maribeth O'Connor, 521 Wall Street Seattle, WA 98121	Group Health Cooperative	11,737.96	7,554.73
Michael J. O'Connor, 11 Dupont Circle, NW, Suite 300 Washington, DC 20036	Albers & Company (For:May Department Stores Co)		
O'Connor & Hannan, 1919 Pennsylvania Ave., NW, #800 Washington, DC 20006	Adams Cohen & Associates, Inc		
Do	Allergan, Inc	4,716.00	
Do	Associated Credit Bureaus, Inc	7,960.00	
Do	Bear Stearns & Company, Inc	9,790.00	
Do	Citizens Savings Bank		
Do	Coca-Cola Company	4,912.50	
Do	Colt's Manufacturing Company, Inc		
Do	FMC Corp	6,100.00	
Do	Glass Packaging Institute		
Do	Government of Netherlands Antilles	10,861.00	
Do	Government of Peru		
Do	GAF Corporation		
Do	Healthcare Financing Study Group	9,750.00	
Do	J.C. Penney Company, Inc		
Do	Little Six, Inc		
Do	M.A. Mortenson Co		
Do	MasterCard International, Inc	900.00	
Do	Mercedes-Benz of North America, Inc		
Do	Mortgage Bankers Assn of America	10,350.00	
Do	MWW/Strategic Communications, Inc	1,250.00	
Do	Pacific Telesis Group	5,975.00	
Do	Securities Industry Assn	7,875.00	
Do	Soka University Los Angeles		
Do	St Croix Tribe	7,875.00	
Do	Standard Chartered PLC		
Do	State Street Bank & Trust Company	9,450.00	
Do	Student Loan Funding Corp	4,102.00	
Do	UST Public Affairs, Inc	7,500.00	
Do	VISA, USA, Inc	900.00	
Bradley O'Leary, 3050 K Street, NW, Suite 105 Washington, DC 20007	Behavorial Psychographic Targeting, Inc		
Obadal & McLeod, P.C., 121 North Henry Street Alexandria, VA 22314	Associated Equipment Distributors		
Neil H. Offen, 1666 K Street, NW, #1010 Washington, DC 20006	Direct Selling Association		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
John W. Olcott, 1200 18th Street, NW, #200 Washington, DC 20036	National Business Aircraft Assn	337.50	
Sally G. Oldham, 21 Dupont Circle, NW Washington, DC 20036-1109	Scenic America		
Richard Oleck, 1181 South Rogers Circle, #6 Boca Raton, FL 33487-2724	Building Trades Assn, Inc		
Daniel Oliver, 3105 Woodley Road, NW Washington, DC 20008	Major League Baseball Players Assn		
Janice Oliver, 25 Louisiana Ave., NW Washington, DC 20001	International Brotherhood of Teamsters	13,192.97	
Franz M. Oppenheimer, 3000 K Street, NW, #300 Washington, DC 20007-5116	Association Francaise des Banques		
Ronald S. Oppenheimer, 4 World Trade Center New York, NY 10048	New York Mercantile Exchange	6,000.00	
Organ. for Protection & Advancement of Small Telephone Cos, 21 Dupont Circle, NW, Suite 700 Washington, DC 20036		4,455.00	4,455.00
Marty Orwig, P.O. Box 1799 Sun Valley, ID 83353	Quincy Group	4,572.00	2,140.00
David S. Osterhout, 1725 Jefferson Davis Highway Crystal Square 2, Suite 300 Arlington, VA 22202	Lockheed Martin Corp	6,000.00	
Jack C. Overstreet, 1725 Jefferson Davis Highway Suite 300 Arlington, VA 22202	Lockheed Martin Corp	4,000.00	
Harriet Parcells, 900 Second Street, NE, #308 Washington, DC 20002-3557	National Assn of Railroad Passengers	4,766.00	
David L. Parde, 119 Oronoco Street, #300 Alexandria, VA 22314	Coalition for Automotive Repair Equality, Inc	4,658.00	
Ken Parmelee, 1630 Duke Street, 4th Floor Alexandria, VA 22314-3465	National Rural Letter Carriers Assn	24,581.00	2,984.00
Parry and Romani Associates, Inc, 233 Constitution Avenue, NE Washington, DC 20002	Newspaper Assn of America	2,000.00	
Richard Pasco, 1 Massachusetts Ave., NW, #800 Washington, DC 20001	McLeod Watkinson & Miller (For:American Peanut Product Manufacturers, Inc)	52,968.50	463.79
Do	McLeod Watkinson & Miller (For:General Mills)	4,575.00	106.96
John Patrick, 211 Pucketts Ferry Road Greenwood, SC 29649	Fuji Photo Film, Inc		1,500.00
Patton Boggs, L.L.P., 250 West Pratt St., #1100 Baltimore, MD 21201	George Mason University Foundation, Inc	140.00	20.00
Joann Payne, 622 North Tazewell Street Arlington, VA 22203	Women First National Legislative Comm	16,000.00	8,390.00
Peabody & Brown, 1255 23rd Street, NW, #800 Washington, DC 20037	National Leased Housing Assn	2,000.00	
Pearson and Pipkin, Inc, 104 North Carolina, SE Washington, DC 20003	Embassy of South Africa	750.00	102.61
Joe P. Peck Jr., 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	750.00	315.81
Lee Peckarsky, 11408 Stonewood Lane Rockville, MD 20853	Kirkpatrick & Lockhart (For:Glendale Federal Bank, FSB)	28,000.00	
Karen W. Penafiel, 1201 New York Avenue, NW, Suite 300 Washington, DC 20005	Building Owners and Managers Assn International	3,393.00	384.00
Jeffry L. Perlman, 1101 Vermont Avenue, NW, #500 Washington, DC 20005	American Advertising Federation	6,000.00	292.21
Robert Perschel, 900 17th Street, NW Washington, DC 20006-2596	Wilderness Society	58.67	
Gary S. Persinger, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers of America	4,000.00	
Gayle Petersen, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
Dan A. Peterson, 1507 Lincoln Way, #304 McLean, VA 22102	Lockheed Martin Corporation	8,500.00	
Joseph P. Petito, 1800 M Street, NW, #400 Washington, DC 20036	Coopers & Lybrand	2,200.00	20.00
Margaret L. Petito, 3906 Huntington Street, NW Washington, DC 20015	Government of Ecuador	18,000.00	32,092.94
Pharmaceutical Research and Manufacturers of America, 1100 15th Street, NW, #900 Washington, DC 20005		57,119.00	57,119.00
Laura Phelps, 1 Massachusetts Ave., NW, #800 Washington, DC 20001-1431	McLeod Watkinson & Miller (For:American Assn of Crop Insurers)	500.00	
Do	McLeod Watkinson & Miller (For:American Mushroom Institute)		
Do	McLeod Watkinson & Miller (For:American Peanut Product Manufacturers, Inc)	9,753.75	96.48
Do	McLeod Watkinson & Miller (For:General Mills)		
Physicians for Social Responsibility, 1101 14th Street, NW, #700 Washington, DC 20005		16,263.00	14,610.00
Joann Piccolo, 1350 I Street, NW, #400 Washington, DC 20005	Motorola, Inc	4,500.00	
Paul E. Pike, 1301 Pennsylvania Ave., NW, #1100 Washington, DC 20004-1707	Air Transport Assn	2,318.14	
Piliero Mazza & Pargament, Farragut Square 888 17th Street, NW, #1100 Washington, DC 20006	Latin American Management Assn		
Do	Villa Banfi, U.S.A		
Piper & Marbury, 1200 19th Street, NW, #700 Washington, DC 20036	AT&T	7,170.00	152.03
Do	Direct Marketing Assn	1,021.25	42.60
Do	Information Industry Assn	68.75	120.44
Do	Interactive Services Assn	15,433.75	271.55
Do	Journal of Commerce, Inc		
Do	LEXIS-NEXIS		
Do	MCI Communications Corp	15,000.00	1,443.64
Do	Omnipoint Communications, Inc	15,691.25	179.00
William H. Pitsenberger, 1133 Topeka Boulevard Topeka, KS 66629-0001	Blue Cross & Blue Shield of Kansas		
Podesta Associates, Inc, 1001 G Street, NW Suite 900 East Washington, DC 20001	National Assn of Broadcasters	23,068.50	2,577.85
Susan L. Polan, 316 Pennsylvania Ave., NW, #200 Washington, DC 20003	American Cancer Society	4,500.00	500.00
Anne L. Polansky, 777 North Capitol St., NE, Suite 805 Washington, DC 20002	Solar Energy Industries Assn	9,466.29	
Policy Directions, Inc, 818 Connecticut Ave., NW, #325 Washington, DC 20006	Bausch & Lomb	1,200.00	874.00
Mark D. Polston, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	572.22	
Harry L. Ponder, 815 16th Street, NW, #707 Washington, DC 20006	Department for Professional Employees AFL-CIO	9,038.31	
John F. Pontius, 130 North Carolina Avenue, SE Washington, DC 20003	Executive Interventions		
Port of Seattle, P.O. Box 1209 Seattle, WA 98111			1,406.13
Potomac Research Group, 1747 Pennsylvania Ave., NW, Suite 1000 Washington, DC 20006	National Venture Capital Assn	10,000.00	298.34
J. Craig Potter, 2121 K Street, NW, #700 Washington, DC 20037	Vedder Price Kaufman Kammholz & Day		
John Pottridge, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	5,000.00	6.00
Powell Goldstein Frazer & Murphy, 1001 Pennsylvania Ave., NW, 6th Floor Washington, DC 20004	National Assn of Public Hospitals	4,253.00	
Do	U.S. Assn of Importers of Textiles & Apparel	5,000.00	
Charles H. Powers, Porter/Navelli 1120 Connecticut Ave., NW Washington, DC 20036	MasterCard International	5,830.00	191.16
S. Patrick Presley, 1776 I Street, NW, #1000 Washinton, DC 20006	BP America, Inc	2,000.00	
Woodruff M. Price, 1331 Pennsylvania Ave., NW, #560-South Washington, DC 20004	CSX Corporation	8,500.00	359.92
Paul Clement Pritchard, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Association	950.00	447.89
George W. Pritts Jr., 1745 Jefferson Davis Hwy., #1200 Arlington, VA 22202	Rockwell International Corp	1,875.00	284.27
Private Practice Section, Amer Physical Therapy Assn, 1101 17th Street, NW, #1000 Washington, DC 20036			44,270.76
Profit Sharing Council of America, 10 South Riverside Plaza, Suite 1460 Chicago, IL 60606			
Project Advisory Group, 1625 K Street, NW, #725 Washington, DC 20006			
Project Relief, 818 Connecucut Ave. NW Suite 1100 Washington, DC 20006		17,100.00	32,034.75
Alan C. Ptak, 916 Harriman Street Great Falls, VA 22066	Martin Marietta Corp	2,875.00	
Public Strategies, 98 San Jacinto, Suite 900 Austin, TX 78701	Southwest Airlines Co		
Patricia A. Quealy, 1133 21st Street, NW, #450 Washington, DC 20036	HealthCare COMPARE Corp	3,000.00	3,600.02
Jeffrey L. Quyle, 720 N. High School Rd. Indianapolis, IN 46214	Indiana Statewide Assn of Rural Electric Cooperatives, Inc	2,000.00	1,408.12
George Gregory Raab, 1200 G Street, NW, Suite 400 Washington, DC 20005-0000	Health Industry Manufacturers Assn	945.00	
Eugene M. Rackley, 1350 New York Ave., NW, Suite 900 Washington, DC 20005	International Franchise Assn		
Raffaelli Spees Springer & Smith, 1341 G Street, NW, #200 Washington, DC 20005	AT&T	15,000.00	617.55
Do	Embassy of the Government of India	172,500.00	68,830.27
Do	Gardner Carton & Douglas		
Do	Korea Foreign Trade Assn	45,000.00	177.48
Do	National Cable Television Assn	18,750.00	31.46
Do	Telecommunications Industry Assn	10,500.00	40.00
Timothy L. Raftis, 6410 Rockledge Drive, Suite 412 Bethesda, MD 20817	American Soc of Hematology	500.00	300.00
Do	Association of American Cancer Institutes	350.00	300.00
Robert A. Rapoza Associates, Inc, 601 Pennsylvania Avenue, NW, #850 Washington, DC 20004	Alaska Village Initiatives	131.25	
Do	Arkansas Enterprise Group	76.83	
Do	Association for Enterprise Opportunity	456.00	
Do	Association for Health Services Research	1,232.00	
Do	Bedford Stuyvesant Restoration Corp	76.83	
Do	Bethel New Life	76.83	
Do	Center for Community Self-Help	54.42	
Do	Chicanos Por la Causa	76.83	
Do	Coastal Enterprises, Inc	131.25	
Do	Community Development Venture Capital Assn	479.00	5.00
Do	Community Reinvestment Fund	114.00	
Do	Community Resource Group	12.83	
Do	Community Transportation Assn of America	154.00	
Do	Corporation for Enterprise Development/AEO	154.00	
Do	Delta Foundation	76.83	
Do	Eastside Community Investments, Inc	76.83	
Do	Great Lakes Rural Network/WSOS	12.83	
Do	Impact Services	76.83	
Do	Impact Seven, Inc	131.25	
Do	Kentucky Highlands Investment Corp	131.25	
Do	Local Initiatives Support Corp	231.00	
Do	Massachusetts Housing Partnership Fund	456.00	
Do	Midwest Assistance Program	12.83	
Do	Montana Women's Economic Development Group	57.00	
Do	National Congress for Community Economic Development	499.00	
Do	National Cooperative Bank	76.83	
Do	National Council of La Raza	54.42	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	National Rural Housing Coalition	1,346.00	50.26
Do	New Community Corp	76.83	
Do	Northeast Entrepreneur Fund	342.00	
Do	Northeast Ventures Corp		
Do	Northern Community Investment Corp	131.25	
Do	Northern Economic Initiatives Corp	131.25	
Do	Ridgecrest Enterprises	131.25	
Do	Rural Community Assistance Corp	67.25	
Do	Rural Housing Improvement	12.83	
Do	Rural Opportunities, Inc	131.25	
Do	Southern Development Bancorporation	54.42	
Do	TELACU	76.83	
Do	Virginia Water Project/SE RCAP	12.83	
Do	YouthBuild, USA	365.00	18.00
Daniel Rappaport, Four World Trade Center New York, NY 10048	New York Mercantile Exchange	1,000.00	
Eiler C. Ravnholt, 3566 Raymoor Road Kensington, MD 20895	Hawaiian Sugar Planters' Assn	10,500.00	770.00
Reading Is Fundamental, Inc, 600 Maryland Ave., SW, #600 Washington, DC 20560			1,122.60
Edgar L. Ready, 1800 Concord Pike Wilmington, DE 19897	Zeneca, Inc	6,200.00	3,218.00
Recording Industry Assn of America, Inc, 1020 19th St., NW #200 Washington, DC 20036		43,488.90	43,488.90
Clark E. Rector Jr., 1101 Vermont Ave., NW, Suite 500 Washington, DC 20005	American Advertising Federation	500.00	
Bill Redding, 214 N. Henry Street, #203 Madison, WI 53703	Sierra Club	5,383.00	211.00
Reed Smith Shaw & McClay, 1301 K Street, NW East Tower Washington, DC 20005	High Speed Rail Maglev Assn		193.55
Do	Owens-Illinois, Inc	4,395.00	3,176.38
Robert S. Reese Jr., 1341 G Street, NW, #900 Washington, DC 20005	Philip Morris Management Corp	3,000.00	806.86
Reid & Priest, 701 Pennsylvania Avenue, NW Washington, DC 20004	Denver International Airport	19,578.00	487.97
Do	Metro Machine Corporation	12,266.25	423.29
Do	Parsons Brinckerhoff Quade & Douglas, Inc	20,657.75	465.65
Do	SPD Technologies	34,072.50	825.32
Andrew Reinsdorf, 1133 Connecticut Ave., NW, #310 Washington, DC 20036	Nestle USA, Inc		4,025.00
Reserve Officers Assn of the US, 1 Constitution Ave., NE Washington, DC 20002		4,122.00	16,143.00
Paul C. Rettig, 50 F Street, NW, #1100 Washington, DC 20001	American Osteopathic Healthcare Assn	5,000.00	
Jeffrey Ricchetti, 1310 G Street, NW, 12th Floor Washington, DC 20005	Blue Cross & Blue Shield Assn	5,626.00	1,644.56
Alan K. Richards, 1025 Connecticut Ave., NW, #1200 Washington, DC 20036	Health Insurance Assn of America, Inc	595.18	72.00
Kevin C. Richardson, 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	3,000.00	392.02
Lisa A. Rickard, 1200 19th Street, NW, Suite 603 Washington, DC 20036	Ryder System, Inc	1,350.00	121.00
E. George Riedel, 1650 Tysons Blvd., #1700 McLean, VA 22102	ITT Defense & Electronics	1,000.00	50.00
Norbert J. Riedy Jr., 900 17th Street, NW Washington, DC 20006	Wilderness Society	1,096.15	
Francis J. Rienzo, 1455 F Street, NW, Suite 450 Washington, DC 20005	Upjohn Company	10,000.00	
Gina J. Rigby-LeDonne, 1901 North Moore Street, Suite 1100 Arlington, VA 22209	Gas Appliance Manufacturers Assn	4,255.08	7,241.80
Judith Assmus Riggs, 1319 F Street, NW #710 Washington, DC 20004	Alzheimer's Assn	7,665.00	84.75
Ricardo Robelin, FCI Greenville Med Unit H-2a P.O. Box 5000 Register Number 11741-039 Greenville, IL 62246			
Arch W. Roberts Jr., 1615 L Street, NW, Suite 1150 Washington, DC 20036	Capitoline/MS&L (For:Loral Corporation)	10,000.00	
Do	Capitoline/MS&L (For:Psychemedics Corp)	2,500.00	
Do	Capitoline/MS&L (For:Republic of Turkey)	5,000.00	
Do	Capitoline/MS&L (For:Sprint)	500.00	
Lara E. Robillard, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers Assn	1,000.00	
Gail Robinson, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	185.44	
Rock & Associates, 818 Connecticut Ave., NW, Suite 1100 Washington, DC 20006	Kinetic Concepts, Inc	3,000.00	
Kathleen Rogers, 666 Pennsylvania Avenue, SE Washington, DC 20003	National Audobon Society		
Barbara J. Rohde & Associates, 1701 K Street, NW, #400 Washington, DC 20006	City of Grand Forks	9,000.00	284.00
Do	City of Moorehead	12,000.00	250.00
M. Guy Rohling, 11 Dupont Circle, NW, Suite 300 Washington, DC 20036	Albers & Co (For:May Department Stores)		
George L. Rolofson, P.O. Box 18300 Greensboro, NC 27419	CIBA-GEIGY Corp	324.00	780.11
Rooney Group International, Inc, 2000 North 14th Street, #250 Arlington, VA 22201	Bofors AB	3,000.00	1,208.38
Do	Bofors Carl Gustaf	2,400.00	1,166.38
Do	Celsius Tech Electronics	5,700.00	1,186.37
Do	Chemring, Ltd	3,900.00	1,185.33
Do	Intermarine, USA	4,800.00	1,332.27
Do	Kollmorgen Corporation	6,000.00	1,400.61
Do	Olin Ordnance	3,000.00	1,215.77
Do	Raufoss A/S	1,200.00	1,275.42
Do	Recon/Optical, Inc	1,000.00	488.13
Do	Tracor, International	1,500.00	1,139.97
Do	Wayne Arny & Associates, Inc	3,000.00	1,181.74
Ropes & Gray, 1001 Pennsylvania Ave., NW, #1200 Washington, DC 20004	Cabot Corp		
Roger C. Rosenthal, 2001 S St., NW, #310 Washington, DC 20009	Migrant Legal Action Program, Inc		
Ross & Green, 1010 Vermont Avenue, #811 Washington, DC 20005	Citizens Comm for Right to Keep & Bear Arms	6,000.00	8,056.40
Do	Democracy Unlimited	2,362.00	2,137.24
Do	Manute Bol		
Hazel Ross-Robinson, 1133 15th Street,NW, #1200 Washington, DC 20005	Ross-Robinson & Associates	37,500.00	8,395.52
Jeffrey S. Rothstein, 2722 Merrilee Drive, #360 Fairfax, VA 22031	International Brotherhood of Boilermakers...	250.00	
G. Jon Roush, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
Thomas Rugg, 1616 H Street, NW Washington, DC 20006	National Grange	3,375.00	
Diann Rust-Tierney, 122 Maryland Avenue, NE Washington, DC 20002	American Civil Liberties Union	1,000.00	
J. T. Rutherford & Associates, Inc, 1001 N. Highland Street, #502 Arlington, VA 22201	American College of Radiology	1,500.00	704.30
Do	American Optometric Assn	1,200.00	411.10
Do	American Soc for Clinical Lab Science	900.00	89.40
Frank Ryan, 4545 Connecticut Ave., NW, Apt. 229 Washington, DC 20008	WMDP Service Station & Automotive Repair Assn	500.00	
Ryan-McGinn, Inc, 2300 Clarendon Blvd., #610 Arlington, VA 22201	Cathedral Healthcare System	900.00	
Do	West Virginia Hospital Assn	600.00	
Kathryn Sabo, 1025 Connecticut Ave., NW Washington, DC 20036	Health Insurance Assn of America, Inc	53.64	300.00
Dean Sackett, 400 North Washington Street Alexandria, VA 22314	National Assn of Professional Insurance Agents	16,250.00	1,764.40
Craig S. Sadick, 1725 K Street, NW Washington, DC 20006	National Assn of Wholesaler-Distributors		
Sagamore Associates, Inc, 1701 K Street, NW #400 Washington, DC 20006	Chemical Bank	20,000.00	759.17
Do	City of Columbus	8,000.00	125.93
Do	Flash Technology Corporation of America	1,560.00	16.46
Do	Indiana State University	12,780.00	91.09
Do	Rose Acre Farms		
Do	VASA Brougher, Inc	12,000.00	632.46
Do	WaterFurnace International, Inc		73.97
Do	1996 Atlanta Paralympic Games	56,250.00	2,607.02
Babette P. Salus, Schwing & Salus, P.C. 600 S. Second Street, #100 Springfield, IL 62704	Central Midwest Interstate Low-Level Radioactive Waste Comm	562.50	3.44
Petronella C. Sanders, 1200 18th Street, NW, #200 Washington, DC 20036	National Business Aircraft Assn		
Walt A. Sanders, 5008 Dodson Dr. Annandale, VA 22003	BASF Corporation		
Eric Sapirstein, 1130 Connecticut Avenue, NW, #300 Washington, DC 20036	Alameda County Water District		
Do	California Assn of Sanitation Agencies		
Do	ENS Resources, Inc (For:East Bay MUD)		
Do	Las Virgenes Municipal Water District		
Do	Union Sanitary District		
Do	Western Research Institute	1,400.00	2,673.96
Margot Freeman Saunders, 1875 Connecticut Avenue, NW, #510 Washington, DC 20009	National Consumer Law Center	9,012.00	
Keith Scarborough, 700 11th St., NW, #650 Washington, DC 20004	Association of National Advertisers, Inc		
Scenic America, 21 Dupont Circle Washington, DC 20036			265.32
Schagrin Associates, 1140 - 19th Street, NW, Suite 600 Washington, DC 20036	Armco, Inc		
Do	Committee on Pipe & Tube Imports	5,362.50	47.50
Do	Tyco International		
Do	Weirton Steel Corporation	528.75	15.50
Thomas A. Schatz, 1301 Connecticut Ave., NW, #400 Washington, DC 20036	Council for Citizens Against Government Waste	3,000.00	31.25
Schatz Paquin Lockridge Grindal & Holstein P.L.L.P., 1225 Eye Street, NW, #1025 Washington, DC 20005	Association of Minnesota Counties	331.00	
Do	Business Technology Centers Management, Inc	1,200.00	
Do	Hennepin County, MN	4,548.75	
Do	Mille Lacs Band of Ojibwe Indians	2,238.00	
Do	U.S. Satellite Broadcasting/Hubbard Broadcasting Co	2,881.00	11.00
Do	West Publishing Company	3,553.75	2,065.49

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Walter G. Schiller, 1050 17th Street, NW, #500 Washington, DC 20036	Texaco, Inc		
Irene S. Schindler, 555 13th Street, NW, East Tower, #600 Washington, DC 20004	Health Insurance Association of America	4,143.65	600.00
Ella M. Schiralli, 2500 Wilson Blvd. Arlington, VA 22201-3834	Electronic Industries Assn	700.00	
Paul Schomburg, 1620 L Street, NW, Suite 1150 Washington, DC 20036	Matsushita Electric Corp of America	100.00	69.31
Shannon J. Schriefer, 1250 H Street, NW, #700 Washington, DC 20005	Citizens for a Sound Economy	10,002.48	
John G. Schroeder, 1401 Eye Street, NW, Suite 600 Washington, DC 20005	Sikorsky Aircraft/United Technologies	2,852.00	738.09
Kimberly Schuld, 11166 Main Street, Suite 302 Fairfax, VA 22030	Seniors Coalition, Inc	5,737.50	710.11
Schwabe Williamson & Wyatt, 1299 Pennsylvania Ave., NW, #985 Washington, DC 20004	Grand Rapids Area Transit Authority	2,476.80	330.20
Do	Solid Waste Assn of North America	7,090.62	141.99
Do	Tri-Met	7,317.54	4,661.21
Elinor Schwartz, 318 S. Abingdon Street Arlington, VA 22204	Lobel Novins Lamont & Flug (For:California State Lands Commission)	14,220.00	220.22
Elizabeth Nash Schwartz, 1700 N. Moore St., #2120 Rosslyn, VA 22209	Boeing Company	8,991.50	2,037.45
Joseph Schwartz, 1101 14th Street, NW, Suite 700 Washington, DC 20005	Physician for Social Responsibility	2,459.00	
Eric M. Schwing, Illinois Department of Nuclear Safety 1035 Outer Park Drive Springfield, IL 62704	Central Midwest Interstate Low-Level Radioactive Waste Comm	1,962.50	9.07
Gregory R. Scott, 1341 G Street, NW, #900 Washington, DC 20005	Philip Morris Management Corp	1,672.50	29.52
Michael Scott, 1101 Vermont Avenue, NW, #606 Washington, DC 20005	American Society of Anesthesiologists	19,789.00	
Michael D. Scott, 900 17th Street, NW Washington, DC 20006	Wilderness Society	598.98	7.00
Anne K. Scully, 1250 Eye Street, NW, #804 Washington, DC 20005	Zeneca, Inc	6,450.00	1,585.49
Timothy Scully, 1341 G Street, NW Washington, DC 20005	Philip Morris Management Corp		
Murray S. Scureman, 5305 Wisconsin Avenue, NW, #500 Washington, DC 20015	Amdahl Corp	1,000.00	
Mark Seetin, 919 18th Street, NW Washington, DC 20006	New York Mercantile Exchange	6,000.00	700.00
Emily Marie Segar-Johnson, 7380 Highway 53 Britt, MN 55710-8008	Mille Lacs Band of Ojibwe Indians		
Carol Seifert, 1601 Connecticut Ave., NW, #601 Washington, DC 20009	Alliance for Justice	715.44	
Tom Sellers, 1701 Pennsylvania Ave., NW Washington, DC 20006	E. I. du Pont de Nemours & Co		
Seniors Coalition, 11166 Main Street, #302 Fairfax, VA 22030		2,868,963.00	891,146.04
Andrew L. Sernovitz, 1030 15th St., NW, #1053 Washington, DC 20005	Interactive Television Assn	110,000.00	
Seward & Kissel, 1200 G Street, NW, #350 Washington, DC 20005	Dean Witter, Discover & Co	1,000.00	
Do	Merrill Lynch & Co, Inc	1,000.00	
James M. Shamberger, 1301 Pennsylvania Ave., NW #900 Washington, DC 20004	Reinsurance Assn of America		
John Hunter Sharp, 1129 20th St., NW, #300 Washington, DC 20036	Natural Gas Supply Assn	27,606.00	2,871.71
Mark J. Sharp, 1620 L Street, NW, #1150 Washington, DC 20036	Matsushita Electric Corp of America	100.00	69.31
Susan Shaw, 2728 S. Arlington Ridge Rd. Arlington, VA 22202	National Treasury Employees Union	19,095.00	180.22
Shaw Pittman Potts & Trowbridge, 2300 N Street, NW, #5121 Washington, DC 20037	Atlas Corp		
Do	ESCO Electronics Corp		
Matthew R. Shay, 1350 New York Avenue, NW, #900 Washington, DC 20005	International Franchise Assn		163.00
Ellyn M. Shea, 444 North Capitol St., #418 Washington, DC 20001	New England Council, Inc		
Shaun M. Sheehan, 1722 Eye Street, NW, Washington, DC 20006	Tribune Broadcasting Co	3,900.00	1,059.71
John E. Sheeley, 1 Massachusetts Ave., NW, Suite 800 Washington, DC 20001	McLeod Watkinson & Miller (For:American Assn of Crop Insurers)	8,081.35	150.85
Zack H. Shelley Jr., 1212 Falster Road Alexandria, VA 22308	Lockheed Martin Corp	4,600.00	
Sher & Blackwell, 2000 L Street, NW, #612 Washington, DC 20036	A.P. Moller-Maersk	1,976.00	20.25
Do	Central Analysis Bureau, Inc	2,618.00	10.00
Do	Council of European & Japanese Nat'l Shipowners Assn	1,510.00	38.00
Do	International Brotherhood of Teamsters Chauffers ...	1,649.00	32.00
Do	Joint Conferences	1,865.00	101.00
Do	Lykes Bros Steamship Co, Inc	2,425.00	6.00
Julie Shroyer, 1400 K Street, NW Washington, DC 20005	American Psychiatric Assn	2,462.00	1,436.94
Sidley & Austin, 1722 Eye Street, NW Washington, DC 20006	W. K. Kellogg Foundation		
Sierra Club, 730 Polk Street San Francisco, CA 94109		205,380.08	205,380.08
Gerry Sikorski, 1225 I Street, NW, #1025 Washington, DC 20005	Save America's Forests		
Bruce A. Silverglade, 1875 Connecticut Avenue, NW, #300 Washington, DC 20009	Center for Science in the Public Interest	9,375.00	431.75
David J. Simon, 823 Gold Ave., SW Albuquerque, NM 87102	National Parks & Conservation Association	250.00	26.00
Simon & Company, Inc, 1001 Connecticut Ave., NW, #435 Washington, DC 20036	Elkhart, IN	5,456.51	1,969.18
Do	Gary, Indiana	8,324.59	2,109.61
Do	Madison, WI	5,191.58	1,970.85
Do	National Easter Seal Society	7,524.03	1,303.30
Do	Newark, CA	5,335.87	2,010.04
Do	Pierce Transit Authority	6,859.64	1,529.91
Do	Portland, OR	12,273.78	3,428.23
Do	Salt Lake City, UT	8,832.82	1,178.44
Do	San Bernardino, CA	5,769.96	2,122.65
Do	San Leandro, CA	5,092.48	2,123.75
Do	Tacoma Public Utilities	1,734.98	1,514.25
Do	Tacoma, WA	6,194.12	1,825.34
Talmage E. Simpkins, 1150 17th Street, N.W., #700 Washington, DC 20036	AFL-CIO Maritime Committee	300.00	18.72
George Sinner, 101 North Third Street Moorhead, MN 56560-1990	American Crystal Sugar	6,000.00	3,380.31
Scott Sklar, 122 C Street, NW Washington, DC 20001	Solar Energy Industries Assn	9,622.79	9,702.47
Sklar Associates, 100 West Linden Street Alexandria, VA 22301	Institute for International Sport		
Jonathan Slade, 1101 17th Street, NW, #202 Washington, DC 20036	MWW Strategic Communications (For:Berna Products Corp)	4,633.15	102.00
Do	MWW Strategic Communications (For:Cuban American Foundation, Inc)	8,304.83	156.17
Do	MWW Strategic Communications (For:Farmland Dairies)	2,000.00	
Do	MWW Strategic Communications (For:GAF Corp)	7,322.13	120.00
Do	MWW Strategic Communications (For:Hadassah Medical Organization)	10,234.91	125.00
Do	MWW Strategic Communications (For:Hill International)	27,921.28	150.00
Do	MWW Strategic Communications (For:Puerto Ricans for Civic Action)	45,000.00	166.75
Do	MWW Strategic Communications (For:Ross University)	13,123.46	188.00
Alice Slater, 2902 Upton St., NW Washington, DC 20008	National Assisted Housing Management Assn, Inc		1,615.00
Lawrence E. Smarr, 1130 Connecticut Ave., NW, Suite 800 Washington, DC 20036	Physician Insurers Assn of America		
Allen Smith, 900 17th St., NW Washington, DC 20006	Wilderness Society		
David F. Smith, 10 Lafayette Square Buffalo, NY 14203	National Fuel Gas Distribution Corp, et al.		
Edward Del Smith, 1130 Connecticut Ave., NW, #650 Washington, DC 20036	E. Del Smith & Co (For:City of Anaheim Public Utilities)	7,500.00	
Peter N. Smith, 700 13th Street, NW, Suite 950 Washington, DC 20005	Raychem Corp	16,750.00	28,650.00
W. Lamar Smith, 2121 K Street, NW, Suite 700 Washington, DC 20037	VISA USA, Inc	36,750.00	389.63
Smith Dawson & Andrews, Inc, 1000 Connecticut Ave., NW, #302 Washington, DC 20036	Children's Hospital & Medical Center	1,500.00	
Do	Cities of Crainville & Carterville, Illinois	8,250.00	
Do	City of Eugene, Oregon	10,500.00	
Do	City of Gillespie, IL	6,750.00	
Do	City of Macon	15,000.00	
Do	City of Ontario, California	19,500.00	
Do	City of Sacramento	11,250.00	
Do	City of San Francisco		
Do	City of Springfield, Oregon	4,500.00	
Do	CRASH	7,500.00	
Do	Haarmann & Reimer Corp	6,000.00	
Do	Kansas City Transit Authority	9,000.00	
Do	Lane Community College	3,000.00	
Do	Lane County, Oregon	4,500.00	
Do	Metropolitan Water Reclamation District of Greater Chicago	14,000.00	
Do	National Assn of Foreign Trade Zones	4,500.00	
Do	New York Metropolitan Transportation Authority	21,000.00	
Do	Port of San Francisco	7,500.00	
Do	San Francisco Public Utilities Commission		
Do	Union Switch & Signal, Inc	15,000.00	
Do	USAir	6,000.00	
Do	WOCN	6,000.00	
Smith-Free Group, 1500 K Street, NW, #325 Washington, DC 20005	NEDA/RCRA Project		
Randall D. Snodgrass, 666 Pennsylvania Ave., SE Washington, DC 20003	National Audubon Society	2,950.00	1,100.00
Snyder Ball Kriser & Assoc, Inc, 499 S. Capitol St., SW, #520 Washington, DC 20003	Allison Engine Co	122.50	237.10
Do	Puget Sound Naval Bases Assn, Inc (PSNBA)	117.65	
Sonosky Chambers Sachse & Endreson, 1250 Eye Street, NW #1000 Washington, DC 20005	American Assn of Acupuncture and Oriental Medicine		
Do	Assiniboine and Sioux Tribes	5,848.00	
Do	Bad River Band of Lake Superior Chippewa	877.00	
Do	Class of Native Alaskan Plaintiffs		
Do	Colville Business Council	219.00	
Do	Cook Inlet Regional Citizen Advisory Council		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Fond du Lac Bank of Chippewa Indians	189.00	
Do	Ho-Chunk Nation	2,443.00	
Do	Hopi Tribe	1,565.00	
Do	Houlton Band of Maliseet Indians of Maine		
Do	Lac Du Flambeau Band of Lake Superior Chippewa Indians	423.00	
Do	Mole Lake Band of the Sokaogon Chippewa Community	1,216.00	
Do	Multi-Housing Laundry Assn, Inc		
Do	Pueblo of Jemez	100.00	
Do	Sault Ste. Marie	227.00	
Do	St. Croix Chippewa Indians of Wisconsin	127.00	
Do	Standing Rock Sioux Tribe	3,175.00	
Do	Yukon-Kuskokwim Health Corp	614.00	
Space Industries International, Inc, 800 Connecticut Avenue, NW, #1111 Washington, DC 20006			
James M. Sparling Jr., 1733 King Street Alexandria, VA 22314	Capitol Counsel, Inc	15,000.00	15,409.51
Specialized Carriers & Rigging Assn, Inc, 2759 Prosperity Avenue, #620 Fairfax, VA 22314			
Rachel E. Speltz, 1050 17th Street, NW, Suite 500 Washington, DC 20036	Texaco, Inc		
Andrew Sperling, 12300 Twinbrook Parkway Rockville, MD 20815	National Community Mental Healthcare Council	1,795.29	
Squire Sanders & Dempsey, 1201 Pennsylvania Ave., NW P.O. Box 407 Washington, DC 20044	Public Securities Assn		
Karen A. St. John, 1615 M Street, NW, #200 Washington, DC 20036	Amoco Corporation	1,200.00	682.33
Jane Sutter Starke, 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	Eckert Seamans Cherin & Mellott (For:Central Arkansas Transit Authority)	416.25	6.70
Do	Eckert Seamans Cherin & Mellot (For:City Utilities of Springfield)		
Do	Eckert Seamans Cherin & Mellott (For:Foothill Transit Zone)	416.25	6.70
Do	Eckert Seamans Cherin & Mellott (For:Los Angeles County Metropolitan Transportation Authority).	416.25	6.70
Do	Eckert Seamans Cherin & Mellott (For:Ormet Corp)		
Do	Eckert Seamans Cherin & Mellott (For:Redevelopment Authority of Luzerne County).	332.50	7.75
Do	Eckert Seamans Cherin & Mellott (For:Regional Transportation Commission)	2,081.25	164.31
Do	Eckert Seamans Cherin & Mellott (For:Utah Transit Authority)	416.25	6.70
James D. Staton, 320 Timberbrook Drive Waldorf, MD 20601	Air Force Sergeants Assn, Inc		
Randolph J. Stayin, 1401 Eye Street, Nw, #500 Washington, DC 20005	Barnes & Thornburg (For:Indiana Glass Company)		
Do	Barnes & Thornburg (For:Special Comm for Workplace Product Liability Reform)	7,590.50	641.60
Steel Tank Institute, 570 Oakwood Road Lake Zurich, IL 60047		2,665.00	2,665.00
Law Offices of Deborah Steelman, Columbia Square 555 13th Street, NW, #1220 East Washington, DC 20004-1109	Aetna Life & Casualty	59,400.00	515.28
Do	American Dental Assn	13,312.50	123.43
Do	CIGNA Corporation	15,660.00	312.95
Do	Eli Lilly & Co	22,560.00	122.99
Do	General Mills, Inc		
Do	Healthcare Leadership Council	46,860.00	635.27
Do	Johnson & Johnson	21,540.00	151.59
Do	MetraHealth	15,660.00	312.13
Do	National Health Labs, Inc		
Do	Pfizer, Inc	30,120.00	188.90
Do	Pharmaceutical Research & Manufacturers of America	21,150.00	396.04
Do	Prudential Insurance Co of America	15,660.00	312.13
Charles W. Stellar, 1200 19th Street, NW, #200 Washington, DC 20036-2437	American Managed Care & Review Assn		
Steptoe & Johnson, 1330 Connecticut Ave., NW Washington, DC 20036	Association of Private Pension & Welfare Plans, Inc	962.50	86.73
Do	Hillman Company	6,678.80	6,678.80
Bradley Stillman, 1424 16th Street, NW, Suite 604 Washington, DC 20036	Consumer Federation of America	10,722.00	122.00
Steven F. Stockmeyer, 801 North Fairfax Street, #215 Alexandria, VA 22314	Manville Corporation		
Do	Money Store	6,687.50	
Do	National Assn of Business PACs	750.00	
Do	Springs Industries, Inc	2,312.50	
Mark R. Stover, 1525 Wilson Blvd., #550 Arlington, VA 22209	National Newspaper Assn		
Andrea Strader, 1625 L St., NW Washington, DC 20036	American Fed of State County & Municipal Employees	17,654.52	123.50
Richard H. Streeter, Barnes & Thornburg 1401 Eye Street, NW, #500 Washington, DC 20005	Cast North America, Inc		
Stuntz & Davis, P.C., 1201 Pennsylvania Ave., NW, #819 Washington, DC 20004	Culp Guterson & Grader	130.00	5.00
John N. Sturdivant, 80 F Street, NW Washington, DC 20001	American Fed of Government Employees	32,117.50	
John F. Sturm, 529 14th Street, NW, #440 Washington, DC 20045	Newspaper Association of America	15,000.00	104.00
Joseph P. Sudbay, 1225 Eye Street, NW, #1100 Washington, DC 20005	Handgun Control, Inc		
Catherine Sullivan, 1730 M Street, NW Washington, DC 20036	League of Women Voters of the U.S.	5,405.56	885.66
Francis J. Sullivan, 16 W. Walnut Street Alexandria, VA 22301	Frank Sullivan Associates (For:Ingalls Shipbuilding)	281.00	
Do	Frank Sullivan Associates (For:ITT Corporation)	196.00	
Do	Frank Sullivan Associates (For:Northrop Grumman Corporation)	280.00	
Do	Frank Sullivan Associates (For:Textron, Inc)	169.00	
Jay R. Sullivan, Jamison & Sullivan, Inc 1212 New York Ave., NW, #1200 Washington, DC 20005	Association of O&C Counties	6,000.00	
Do	D.R. Johnson Lumber	2,000.00	
Do	Douglas County Oregon	3,000.00	
Do	Malheur Timber Operations	7,500.00	750.00
Do	Native Operating Co		
Do	Umatilla Water Users		
Pauline Sullivan, P.O. Box 2310 Washington, DC 20013-2310	Citizens United for Rehabilitation of Errants	900.00	
Richard J. Sullivan, 1507 Laburnum Street McLean, VA 22101	Richard J. Sullivan Associates, Inc (For:Association of American Railroads)	4,630.00	
Do	Richard Sullivan Associates, Inc (For:Design Professionals Coalition)	6,000.00	
Do	Richard J. Sullivan Associates, Inc (For:Northeast Ohio Regional Sewer District)	2,400.00	
Sullivan & Cromwell, 1701 Pennsylvania Ave., NW, #800 Washington, DC 20006	Goldman Sachs & Co		1,973.37
Do	Morgan Guaranty Trust Co		1,973.37
Sullivan & Worcester, 1025 Connecticut Ave., NW, #806 Washington, DC 20036	Marion Merrell Dow, Inc	7,500.00	
Richard J. Sullivan Associates, Inc, 1507 Laburnum Street McLean, VA 22101	Association of American Railroads	12,499.98	10,627.16
Do	Design Professionals Coalition	6,000.00	7,697.16
Do	Northeast Ohio Regional Sewer District	2,600.00	4,097.16
Sutherland Asbill & Brennan, 1275 Pennsylvania Avenue, NW Washington, DC 20004	Federation for American Immigration Reform		
Swidler & Berlin, Chtd, 3000 K Street, NW, #300 Washington, DC 20007	Business Software Alliance	3,121.25	25.00
Do	Lotus Development Corp	7,046.25	74.00
Do	Merrill Lynch & Co, Inc	22,803.25	281.50
Do	Metropolitan Fiber Systems Communications Co, Inc	28,878.75	751.68
Do	National Asphalt Pavement Assn	757.50	12.00
Do	New England Power		
Do	Philip Morris Management Corp	6,378.75	126.00
Elizabeth Symonds, 122 Maryland Avenue, NE Washington, DC 20002	American Civil Liberties Union		
Nkechi Taifa, 122 Maryland Avenue, NE Washington, DC 20002	American Civil Liberties Union		3,317.90
Mariko Takayasu, 1535 Mission Street San Francisco, CA 94103	Consumers Union	88.96	
Alan Tank, 122 C Street, NW, Suite 875 Washington, DC 20001	National Pork Producers Council	10,000.00	736.09
Eula M. Tate, 1757 N Street, NW Washington, DC 20036	United Auto. Aerospace & Agricultural Implement Wks of Amer.	20,486.48	217.45
Graca Da Silva Tavares, 17 Perkins Street West Newton, MA 02165			52.00
Taxpayers Education Lobby, Inc, 14155-F Sullyfield Circle Chantilly, VA 22021			21,402.00
Technical Group, Inc, 1300 Eye Street, NW, #1000 West Washington, DC 20005	NEDA/RCRA Project	500.00	
James M. Temenak, P.O. Box 16614 Arlington, VA 22215	National Steel & Shipbuilding Co	7,200.36	761.96
Laura I. Thevenot, 1025 Connecticut Ave., NW, Suite 1200 Washington, DC 20036	Health Insurance Assn of America, Inc	644.94	110.14
Gregory A. Thies, 1100 New York Avenue, NW, #340 West Washington, DC 20005	BASF Corporation	693.02	68.70
Brian D. Thomas, 1155 Connecticut Ave., NW, #1200 Washington, DC 20036	Pacific Telecom, Inc		
R. Patrick Thompson, 4 World Trade Center New York, NY 10048	New York Mercantile Exchange	5,000.00	
John Thornton, 1150 17th Street, NW, #701 Washington, DC 20036	National Air Traffic Controllers Assn	1,835.20	
John Threlkeld, 80 F Street, NW Washington, DC 20001	American Federation of Government Employees	13,876.50	
William J. Tobin, 3612 Bent Branch Ct. Falls Church, VA 22041	Access Technology Assn		
Do	Child Care America, Inc		
Do	National Assn for Adult Security		
Michelle Totah, 1620 L Street, NW, #1150 Washington, DC 20036	Matsushita Electric Corp of America	100.00	69.31
Bronwyn B. Towle, 499 South Capitol Street, SW #507 Washington, DC 20003	Hecht Spencer & Associates (For:Boy Scouts of America)		
Troutman Sanders, 601 Pennsylvania Ave., NW, Suite 640 North Building Washington, DC 20004	Central & South West Corp	7,033.13	100.27
Do	Edison Electric Institute	9,240.00	211.36
Do	Southern Company	7,033.13	100.28
John F. Troy, 555 13th Street, NW East Tower Suite 600 Washington, DC 20004	Health Insurance Assn of America	546.85	68.00
Chris Tuffli, Bogle & Gates 1299 Pennsylvania Avenue, NW, #875 East Washington, DC 20004	Harsch Investment Co		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Tuttle Taylor & Heron, 1025 Thomas Jefferson Street, NW, #407 Washington, DC 20007	Sunkist Growers, Inc	24,812.00	620.25
U.S. Cane Sugar Refiners' Assn, 1730 Rhode Island Avenue, NW Washington, DC 20036			71.32
Ronald Ungvarsky, 2001 S Street, NW, #310 Washington, DC 20009	Migrant Legal Action Program, Inc		
United Fresh Fruit & Vegetable Assn, 727 N. Washington St. Alexandria, VA 22314			8,262.12
Upjohn Co, 1455 F Street, NW, Suite 450 Washington, DC 20005			475,913.00
B. Wayne Vance, 1203 Essex Manor Alexandria, VA 22308	Discovery Cruise Line		
Lisa A. Vanston, 1200 19th Street, NW, #200 Washington, DC 20036-2437	American Management Care & Review Assn	2,495.00	107.00
Margaret VanAmringe, 700 13th Street, NW, Suite 950 Washington, DC 20005	Joint Commission on Accreditation of Healthcare Orgs	4,800.00	6,050.00
Ross P. Vartian, 122 C Street, NW #350 Washington, DC 20001	Armenian Assembly of America	3,283.98	
Patricia C. Vaughan, 655 Third Avenue New York, NY 10017	Risk & Insurance Management Society, Inc		
Audrey S. Vaughn, 1130 Connecticut Ave., NW, #830 Washington, DC 20036	Alabama Power Co	19,500.00	3,723.69
Philip M. Vaughn, 800 Connecticut., NW, #600 Washington, DC 20006	Fluor Corp	5,000.00	
Verner Liipfert Bernhard McPherson & Hand, Chtd, 901 15th Street, NW, #700 Washington, DC 20005-2301	Alabama Municipal Electric Authority		
Do	Ameritech	7,249.00	
Do	Association of American Railroads	3,870.00	
Do	Bombardier Corp	4,725.00	
Do	Burlington Northern, Inc	720.00	
Do	Centro Industrial de Laboratorios Farmaceuticos Argentinos	3,182.50	
Do	City of New Orleans	18,093.00	
Do	Commonwealth of Puerto Rico	43,431.50	
Do	David Sarnoff Research Center	2,940.00	
Do	GenCorp	8,810.00	
Do	George Washington University		
Do	Hague International	1,531.00	
Do	Harmon Industries	780.00	
Do	Hughes Communications, Inc	26,078.50	
Do	Hughes Network Systems, Inc		
Do	Investment Company Institute	13,457.00	
Do	Kellogg	585.00	
Do	Lower Colorado River Authority		
Do	Manville Corp		
Do	Mars, Inc	3,278.00	
Do	Martin Marietta Corp		
Do	McDonnell Douglas Corp	15,573.00	
Do	Merrill Lynch & Co, Inc	29,912.50	
Do	MetraHealth Companies, Inc	29,767.00	
Do	Michelin North America		
Do	Motion Picture Assn of America		
Do	National Assn of Government Guaranteed Lenders, Inc	1,582.00	
Do	National Corp for Housing Partnerships		
Do	Northwest Airlines		
Do	NBC	6,634.00	
Do	Philips Electronics North America Corp		
Do	Port of Portland	612.50	
Do	Shell Oil Co	279.00	
Do	Southeast Federal Power Customers, Inc	2,020.00	
Do	StarSight Telecast, Inc	9,515.50	
Do	State of Hawaii	6,030.00	
Do	Tenneco	29,732.00	
Do	Travelers Companies	13,117.50	
Do	Uniroyal Chemical Company, Inc		
Do	Western Michigan University	195.00	
Francis Vespe, 21 Dupont Circle Washington, DC 20036	Scenic America	153.22	
Candace C. Vessella, 1725 Jefferson Davis Highway, #300 Arlington, VA 22201-4127	Lockheed Martin Corp	2,325.00	
Earl J. Volk, 245 Second Street, NE Washington, DC 20002	Friends Committee on National Legislation	10,529.32	
John M. Volpe, 1825 Eye Street, NW, Suite 400 Washington, DC 20006	Heublein, Inc	6,562.50	300.00
Philip H. Voorhees, 1776 Massachusetts Ave., NW Washington, DC 20036	National Parks & Conservation Assn	2,435.00	465.25
Vorys Sater Seymour & Pease, 1828 L Street, NW, #1111 Washington, DC 20036	Snow Aviation International, Inc		
Jay J. Vroom, 1155 15th Street, NW, #900 Washington, DC 20005	American Crop Protection Assn		
Sadami Wada, 711 Fifth Avenue New York, NY 10022-3109	Sony Corp of America		
James Frederick Wagenlander, 1700 Broadway, #1202 Denver, CO 80290-1201	Campaign to Save Indian Programs	5,000.00	5,000.00
Daniel Waldmann, 555 13th Street, NW, #1050E Washington, DC 20004	Medtronic, Inc		57.50
Doug Walgren, 8312 Hunting Hill Lane McLean, VA 22102	Institute of Scrap Recycling Industries, Inc	18,500.00	
Do	Nynex	10,000.00	
Robert J. Walker, 1225 Eye Street, NW, Suite 1100 Washington, DC 20005	Handgun Control, Inc	3,240.22	
Nancy Wallace, 408 C Street, NE Washington, DC 20002	New York Mercantile Exchange	6,000.00	700.00
Richard Wallace, 1000 Wilson Boulevard, Floor 30 Arlington, VA 22209	ITT Defense & Electronics	1,000.00	50.00
Thomas D. Wallace, 1000 Kiewit Plaza Omaha, NE 68131	Peter Kiewit Sons', Inc		1,333.00
R. Douglas Wallin Jr., 1001 Pennsylvania Avenue, NW, #700 Washington, DC 20004	Allied-Signal Aerospace Co		
Sarah J. Walsh, 1500 K Street, NW, #650 Washington, DC 20005	Glaxo Wellcome, Inc	1,000.00	100.00
Alan S. Ward, 1050 Connecticut Ave., NW, #1100 Washington, DC 20036	Baker & Hostetler (For:Soap & Detergent Assn)		
Robert A. Warden, 1331 F Street, NW, #400 Washington, DC 20004	Public Employees Retirement Assn of Colorado		
Warner & Hultin, 655 15th Street, NW 300 Metropolitan Square Washington, DC 20005	National Quality Health Council	1,793.75	2,195.25
Barbara Warren, 101 Truman Avenue Yonkers, NY 10703-1057	Consumers Union		
Gregory J. Washington, 1050 17th Street, NW, Suite 500 Washington, DC 20036	Texaco, Inc		
Washington & Christian, 805 15th Street, NW, #1000 Washington, DC 20005	National Fertilizer Co of Nigeria	13,000.00	10,079.14
Watchdog Publications, Inc, 8182 Maryland Avenue, Suite 313 St. Louis, MO 63105			50.00
Ronald D. Waterman, 900 2nd Street, NE, #109 Washington, DC 20002	Milwaukee County-Intergovernmental Relations	15,812.25	230.04
Do	Wisconsin Counties Assn	13,793.82	75.80
Waterman & Associates, 900 2nd Street, NE, #109 Washington, DC 20002	American Foundrymen's Society, Inc	81,249.99	5,674.33
Do	American Metalcasting Consortium (AMC)	4,375.00	231.59
Do	Cast Metals Coalition	4,749.99	562.39
Do	North American Die Casting Assn (NADCA)	27,000.00	1,576.83
Do	Television Music License Committee	6,000.00	300.48
Do	United Property Owners of Washington	14,000.00	590.15
Jerry B. Waters, 1100 New York Ave., NW, #520 East Washington, DC 20005	Farmland Industries, Inc	10,000.00	154.63
Lucy R. Watkins, 1875 Connecticut Avenue, NW, #510 Washington, DC 20009	Center for Law and Education, Inc		
Jay Watson, 900 17th Street, NW Washington, DC 20006	Wilderness Society		
Melyssa L. Watson, 122 C Street, NW, #380 Washington, DC 20001-2109	National Family Planning & Reproductive Health Assn, Inc	332.00	14.00
Bruce H. Watzman, 1130 17th Street, NW Washington, DC 20036	National Mining Assn	6,250.00	367.91
Judith G. Waxman, 2913 Cathedral Ave., NW Washington, DC 20008	Families USA Foundation	3,584.50	110.50
James D. Webb, 900 17th Street, NW Washington, DC 20006-2596	Wilderness Society	647.18	146.65
R. Clifton Webb, 1701 Pennsylvania Ave, NW Washington, DC 20006	E.I. duPont de Nemours & Co, Inc		
Susan Weber, 1400 16th Street, NW, #320 Washington, DC 20036	Zero Population Growth, Inc		
Webster Chamberlain & Bean, 1747 Pennsylvania Ave., NW, #1000 Washington, DC 20006	Commercial Law League of America		
Jennifer R. Weeks, 1616 P Street, NW, #310 Washington, DC 20036	Union of Concerned Scientists	10,375.00	
Weil Gotshal & Manges, 1615 L Street, NW, #700 Washington, DC 20036	Circle K Corp	1,025.00	
Do	General Reinsurance Corp		
Do	Muzak, L.P.		
Do	Pinnacle West Capital Corp	620.00	
Annette Wencl, 1050 31st Street, NW Washington, DC 20007	Association of Trial Lawyers of America	2,000.00	100.00
James K. Wessel, 1800 M Street, NW, #325 South Washington, DC 20036	Dow Corning Corp		
Barbara West, 5018 Sangamore Road Bethesda, MD 20816	National Assn of Veterans' Research & Education Foundations (For:Washington Health Advocates).	1,325.00	16.00
William Preston West Jr., 1200 18th Street, NW, #200 Washington, DC 20036	National Business Aircraft Assn		3,424.04
Joseph J. Westwater, 1025 Thomas Jefferson Street, NW, #407 Washington, DC 20007	McLeod Watkinson & Miller (For:DEIP Coalition)	5,000.00	
Wexler Group, 1317 F Street, NW, #600 Washington, DC 20004	Advanced Navigation & Positioning Corp	325.00	
Do	American Airlines, Inc	5,716.25	48.38
Do	American Dietetic Assn	15,564.25	17.00
Do	Anheuser-Busch Companies, Inc	2,843.75	
Do	ARCO	12,742.50	
Do	Cease Fire Action Fund, Inc	522.50	52.55
Do	Century Council	1,911.25	47.64
Do	Coalition to Eliminate Securities Suits	257.50	9,381.59

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Comcast Corporation	10,682.50	100.36
Do	Crow Tribal Council		
Do	CINPAC, Inc	1,868.75	30.00
Do	Eastman Kodak Co	16,260.50	
Do	Fox Bennett & Turner	1,372.50	
Do	FHP	2,102.50	
Do	Guardian Industries Corp	9,020.00	
Do	Johnson & Johnson		
Do	Kaiser Resources, Inc	1,168.75	
Do	Kamehameha Schools/The Bishop Estate	4,132.50	240.31
Do	Lamont-Doherty Geological Observatory	162.50	
Do	Oceanic Institute		
Do	OIS Optical Imaging Systems, Inc	715.00	
Do	Safe Building Alliance	3,006.25	
Do	Science Applications International Corp	2,602.50	51.57
Do	Straight & Narrow, Inc		
Curtis E. Whalen, 1600 Wilson Blvd., #1000 Arlington, VA 22209	American Waterways Operators, Inc	13,000.00	5,397.83
Jean A. Whalen, 1200 19th Street, NW, #300 Washington, DC 20036	Leukemia Society of America, Inc	2,812.50	3,050.00
Larry Wheeler, 1100 Wilson Blvd. Arlington, VA 22209	Hughes Aircraft Comp		
George E. White Jr., 706 Lowerline St New Orleans, LA 70118	Avondale Industries, Inc	25,344.00	12,904.00
Steven C. White, 10801 Rockville Pike Rockville, MD 20852	American Speech-Language-Hearing Assn		
Toni D. White, 1745 Jefferson Davis Highway, #605 Arlington, VA 22202	Texas Instruments, Inc	1,070.55	
Robert L. Whitmire, 1745 Jefferson Davis Highway, #1000 Arlington, VA 22202	General Dynamics Corp	1,000.00	214.38
Steven C. Whitney, 900 17th Street, NW Washington, DC 20006	Wilderness Society	2,637.33	4,254.82
Whitten & Diamond, 1725 DeSales St., NW, #800 Washington, DC 20036	City of Philadelphia	22,500.00	280.00
Do	Health Trust, Inc		
Do	McDonald's Corp	4,000.00	30.53
Do	Mormac Marine Group		
Do	National Rural Letter Carriers Assn		
Do	Philadelphia International Airport	5,000.00	387.10
Do	Pioneer Seed Co, Inc	2,000.00	181.57
James K. Wholey, 1301 K Street, NW, Suite 900 East Tower Washington, DC 20005	Gardner Carton & Douglas (For:Association of Progressive Retail Organization)		
Do	Gardner Carton & Douglas (For:BCF Telecom International, Inc)	26,875.00	77.00
Do	Gardner Carton & Douglas (For:Jones Intercable)	45,000.00	5,887.75
Do	Gardner Carton & Douglas (For:Rhone-Poulenc Rorer Pharmaceuticals)	6,783.75	221.03
Do	Garder Carton & Douglas (For:Rocky Mountain Health Maint Org)		
Do	Gardner Carton & Douglas (For:Ukiah Valley Medical Center)		
Do	Garder Carton & Douglas (For:Voluntary Hospitals of America Inc)		
Jeff Whorley, 1701 K Street, NW, #400 Washington, DC 20006	USA Group, Inc	4,264.00	211.00
Anne Marie Wiedemer, 1350 I Street, NW, #840 Washington, DC 20005	Ralston Purina Company	5,250.00	735.00
Helen C. Wiederhorn, 1350 I Street, NW, #1000 Washington, DC 20005	Ford Motor Co	1,932.60	3,196.16
W. Scott Wilber, 1101 Vermont Avenue, NW Washington, DC 20005	American Medical Assn	3,975.00	
Wiley Rein & Fielding, 1776 K Street, NW, 12th Floor Washington, DC 20006	A.H. Belo Corp	470.00	
Do	Cable & Wireless, Inc	1,276.00	62.98
Do	Chaparral Steel Co		
Do	Club Car, Inc		
Do	Eastman Kodak Co		
Do	Georgetown Industries		
Do	Information Technology Industry Council	182.50	
Do	Mobile Telecommunications Technologies Corp		
Do	Motorola Telecommunications	2,105.00	
Do	Personal Communications Industry Assn		
Do	Raritan River Steel Co		
Do	Ruddy Institute for Maritime Communications	2,555.00	9.81
Do	UtiliCorp United	307.00	
Do	UTAM, Inc		
Do	Westinghouse Electric Co, Inc		
E. John Wilkinson, 1899 L Street, NW, #500 Washington, DC 20036	Vulcan Materials Co	1,700.00	540.00
Wilkinson Barker Knauer & Quinn, 1735 New York Ave., NW Washington, DC 20006	Maine Cellular Telephone Co	43,592.50	940.92
Faith Williams, 1025 Connecticut Avenue, NW, #1200 Washington, DC 20036	Health Insurance Assn of America, Inc	561.88	339.00
Karen Williams, 1100 15th Street, NW Washington, DC 20005	Pharmaceutical Research & Manufacturers of America		
Williams & Connolly, 725 12th Street, NW Washington, DC 20005	Hatco Corporation		
Williams & Jensen, P.C., 1155 21st Street, NW, #300 Washington, DC 20036	American Home Products	5,582.50	65.69
Do	American Physical Therapy Assn, Pediatrics Section		
Do	Association for the Cure of Cancer of the Prostate		
Do	Robert M. Bass Group	264.00	
Do	Boots Pharmaceuticals		
Do	British Petroleum, plc		
Do	BP Chemicals	725.00	
Do	California Recycling Co		
Do	Century 21 Real Estate Corp		
Do	Coalition for Global Investors (CGI)		
Do	Coalition for Responsible Packaging		
Do	College Board	540.00	
Do	Colonial Pipeline Company	2,700.00	
Do	Continental Airlines Holding, Inc.	3,800.00	38.29
Do	Credit Suisse Financial Products USA		
Do	CIGNA Corp	11,648.75	10.13
Do	CS First Boston (First Boston Corp)	7,598.75	6.03
Do	DuPont Merck		
Do	Estee Lauder, Inc	468.75	1.61
Do	First Federal Savings & Loan Assn of Rochester		
Do	First Union Corp		
Do	Genentech	6,507.50	
Do	Genzyme Corporation	3,112.50	1.27
Do	Kelly Appleman Hart & Hallman		
Do	Keystone Provident Life Insurance Co		
Do	King Farm Partnership		
Do	National Assn of Rehabilitation Agencies	535.00	
Do	National Board for Professional Teaching Standards		
Do	National Soft Drink Assn	1,742.50	
Do	Norfolk Southern Corp	468.75	4.26
Do	Normandy Foundation		
Do	Oklahoma Gas & Electric Co	3,660.00	103.63
Do	Owens-Illinois, Inc	1,650.00	12.76
Do	Pharmaceutical Manufacturers Assn	3,600.00	8.45
Do	Physician Corp of America		
Do	Pittston Co	4,881.25	72.32
Do	Recording Industry Assn of America, Inc	3,485.00	30.19
Do	Responsible Agricultural Programs, Inc	6,300.00	
Do	Sega of America, Inc		
Do	Southern Pacific Transportation Co	12,223.00	116.59
Do	Southwest Airlines	1,732.50	33.99
Do	Student Loan Marketing Assn (Sallie Mae)	2,610.00	
Do	Texaco, Inc	330.00	
Do	Turner Broadcasting System, Inc	6,070.00	62.03
Do	TTX Company		
Do	Universal Foods, Inc		
Do	USAA Financial Service Co	990.00	12.96
Do	Zeneca Pharmaceuticals Group		
Wilmer Cutler & Pickering, 2445 M Street, NW Washington, DC 20037-1420	Business Roundtable		
Do	Computer Systems Policy Project		
Do	Financial Services Group		
Do	Intellectual Property Committee		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	Swiss Bankers Assn	858.00	
David W. Wilmot, 1010 Vermont Avenue, NW, #810 Washington, DC 20005	Anheuser-Busch Companies, Inc		
Alexandra M. Wilson, 1320 19th Street, NW, Suite 200 Washington, DC 20036	Cox Enterprises, Inc		
Chapin E. Wilson Jr., 80 F Street, NW Washington, DC 20001	American Fed of Government Employees, et al.	13,000.00	
Kerrie Bunting Wilson, 316 Pennsylvania Avenue, SE, #200 Washington, DC 20003	American Cancer Society	7,500.00	
Michael M. Wilson, 801 Pennsylvania Ave., NW, #640 Washington, DC 20004-2604	Florida Power & Light Co	3,000.00	4,280.61
Chriss Winston, The Tierney Group 900 Second Street, NE Washington, DC 20002	Federal Home Loan Bank of Pittsburgh	3,000.00	
Winston & Strawn, 1400 L Street, NW Washington, DC 20005-3502	Alltel Corporation	155.00	
Do	American Honey Producers Assn	260.00	
Do	American Insurance Assn		
Do	Atlantic County Utilities Authority	260.04	4.00
Do	Barr Laboratories, Inc	4,080.00	307.20
Do	Bristol Resource Recovery Facility Operating Committee	260.04	4.00
Do	BP America, Inc		
Do	City of Huntsville	260.04	4.00
Do	City of Indianapolis	260.04	4.00
Do	City of Jackson, Mississippi	2,056.25	2.00
Do	Compaq Computer Corporation		
Do	Connecticut Resources Recovery Authority	260.04	4.00
Do	Cooper Tire & Rubber Company	10,461.25	274.81
Do	Culligan International Co	3,496.25	50.76
Do	CSR, Ltd	2,648.00	68.00
Do	Data Transformation Corp		
Do	Delaware County (PA), Solid Waste Authority	260.04	4.00
Do	Digital Equipment Corp		
Do	DHL Corporation		
Do	General Motors Corp	912.50	42.88
Do	Greater Detroit Resource Recovery Authority	260.04	4.00
Do	GNA Corp	1,365.00	40.12
Do	Hill International, Inc		
Do	Illinios State Medical Society	810.00	
Do	Interbank Anonim Sirketi		
Do	Marion County Solid Waste Management	260.04	4.00
Do	McClure Gerard & Neuenschwander, Inc		
Do	Minnesota Resource Recovery Assn	260.04	4.00
Do	Montgomery County, Ohio & Montgomery County Solid Waste Dist	260.04	4.00
Do	Montgomery Watson	6,231.25	111.82
Do	National Bulk Vendors Assn		
Do	National Organization of Social Security Claimant's Reps	312.50	
Do	New Jersey Assn of Environmental Authorities		
Do	Newport News Shipbuilding	65,982.50	1,421.82
Do	Oceaneering Space Systems		
Do	Penobscot Valley Refuse Disposal District	260.04	4.00
Do	Phillips Colleges, Inc	2,173.75	68.64
Do	Port of Pascagoula (Jackson County, MS)	6,227.50	15.00
Do	Regional Transit Authority	7,425.00	37.00
Do	Resource Authority Sumner County	260.04	4.00
Do	Solid Waste Authority of Central Ohio	260.04	4.00
Do	Spokane Regional Solid Waste System	260.04	4.00
Do	Town of Babylon	260.04	4.00
Do	Town of North Hempstead	260.04	4.00
Do	USA Rice Federation	9,803.00	54.00
Do	Waggoner Engineering, Inc	2,820.00	43.33
Do	Walt Disney Co		
Do	Water Environment Federation	3,748.75	
Do	Water Environment Research Foundation	7,420.00	162.73
Do	Western Peanut Growers Assn	2,843.00	29.00
Do	Westinghouse Electric Corp		
Do	York County Solid Waste & Refuse Authority	260.04	4.00
Winthrop Stimson Putnam & Roberts, 1133 Connecticut Ave., NW, 1200 Washington, DC 20036	Caribbean Banana Exporters Assn	5,562.50	
Do	Corporate Health Care Coalition	9,540.00	174.07
Do	Goldman Sachs & Co		
Do	Harris Chemical Group, Inc		
Do	Monsanto Co		
Do	Schering-Plough Corp	2,340.00	9.00
Do	Singer Co	1,350.00	
WinCapitol, Inc, 1207 Potomac Street NW Washington, DC 20007	California Energy Company, Inc	1,120.00	
Do	Calpine Corp	333.00	
Do	Constellation Energy, Inc		
Do	Dow Chemical Co		
Do	Geothermal Resources Assn		
Do	Premark International	2,550.00	
Do	Unocal Corp	333.00	
Elizabeth Wirick, 805 15th Street, NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	2,000.00	
James E. Wolf, 2020 14th St., North Arlington, VA 22201	American Standard, Inc		
Mildred Wood, 2000 K Street, NW, #800 Washington, DC 20006	National Comm to Preserve Social Security & Medicare	3,414.00	
Terry R. Woodard, One Suffolk Square, Suite 500 Islandia, NY 11722-1543	Council for Marketing & Opinion Research (CMOR)		
Robert W. Woodbury Jr., 13 Plumbley Road Upton, MA 01568	Kollmorgen Corp		
G. Kent Woodman, 2100 Pennsylvania Ave., NW, #600 Washington, DC 20037	Eckert Seamans Cherin & Mellott (For:Central Arkansas Transit Authority)	504.00	3.00
Do	Eckert Seamans Cherin & Mellott (For:Foothill Transit Zone)	504.00	3.00
Do	Eckert Seamans Cherin & Mellott (For:Los Angeles County Metropolitan Transportation Authority).	504.00	3.00
Do	Eckert Seamans Cherin & Mellott (For:Regional Transportation Commission)	504.00	3.00
Do	Eckert Seamans Cherin & Mellott (For:Utah Transit Authority)	504.00	3.00
Woolworth Corp, 233 Broadway New York, NY 10279			
World Federalist Association, 418 7th Street, SE Washington, DC 20003		10,700.00	10,610.11
James Worsham, 100 Indiana Avenue, NW Washington, DC 20001	National Assn of Letter Carriers	11,447.66	
David L. Wray, 10 South Riverside Plaza, Suite 1460 Chicago, IL 60606	Profit Sharing Council of America		
Leo Wright Associates, Inc, 815 Connecticut Avenue, NW, #1200 Washington, DC 20006	Dynamet, Inc	3,000.00	5,282.00
Wunder Diefenderfer Cannon & Thelen, 1615 L St., NW, #650 Washington, DC 20036	Adventist Health System Sunbelt	9,000.00	427.57
Do	American International Group, Inc	1,724.00	100.21
Do	Belz Enterprises		
Do	Bermuda, Government of	2,088.00	102.37
Do	Kohlberg Kravis Roberts & Co	3,940.00	169.97
Do	Mutual Risk Management Ltd	570.00	5.21
Do	National Assn of Small Business Investment Companies	2,548.00	17.24
Do	RJR Nabisco	1,800.00	86.69
Do	Siemens Transportation Systems	6,888.49	5,136.27
Sandi Wurtz, 12300 Twinbrook Parkway, Suite 320 Rockville, MD 20852	National Community Mental Healthcare Council	570.00	
John W. Yago, 1010 Massachusetts Avenue, NW Washington, DC 20001	American Road & Transportation Builders Assn	14,500.00	105.85
Dennis R. Yocom, P.O. Box 590 Tallahassee, FL 32302	Florida Electric Cooperatives Assn, Inc		
Caryl Yontz, 1625 L Street, NW Washington, DC 20036	American Fed of State County & Municipal Employees	13,374.30	411.50
Zero Population Growth, Inc, 1400 16th St., NW, #320 Washington, DC 20036		2,607.00	3,238.00
Carl A. Zichella, 214 N. Henry St., #203 Madison, WI 53703	Sierra Club	7,306.66	427.93
Elaine Ziemba, 601 Pennsylvania Avenue N.W. #600 North Building Washington, DC 20004	Northern States Power Company	6,000.00	1,981.18
Kelly Ziglar-Clay, 727 15th Street, NW, 12th Floor Washington, DC 20005	Mortgage Insurance Companies of America	9,100.00	84.54
Zionist Organization of America, 4 East 34th Street New York, NY 10016			
Charles O. Zuver, 805 15th St., NW, #300 Washington, DC 20005	Credit Union National Assn, Inc	12,000.00	75.00
965, Inc, 734 9th Street, SE Washington, DC 20003	General Electric Co	100.00	
Do	Kaman Diversified Technologies	100.00	
Do	Newport News Shipbuilding	100.00	
Do	Tenneco, Inc		
Do	Woods Hole Oceanographic Institution	100.00	

EXTENSIONS OF REMARKS

THE SENIOR CITIZEN'S RIGHT TO WORK ACT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. HASTERT. Mr. Speaker, I rise today to support the introduction of the Senior Citizen's Right to Work Act of 1995. This bill provides long-awaited relief for America's working seniors. By passing this bill, Congress fulfills the pledge we made just 3 short weeks ago to lift the Social Security earnings limit by the end of 1995.

That pledge was:

Whereas the House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the Social Security earnings limit three times, in 1989, 1992, and 1995;

Whereas such legislation is a key provision of the Contract With America;

Whereas the President in his 1992 campaign document, "Putting People First" pledged to lift the Social Security earnings limit; and

Whereas the Social Security earnings limit is a depression-era relic that unfairly punishes working seniors: Now, Therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the intent of Congress that legislation will be passed before the end of 1995 to raise the Social Security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the Social Security Trust Funds and will be consistent with the goal of achieving a balanced budget in seven years.

The unfair earnings limit penalizes low- and middle-income seniors who need to work. The earnings limit takes away $1 of every $3 a senior earns over the limit. In 1995, this limit is a mere $11,280. This bill will lift the level to $14,000 in 1996 and up to $30,000 by 2002. If current law remains in effect, the $14,000 threshold won't be hit until 2002.

Working seniors don't have pension income or stocks and bonds tucked away. They never had the chance to save and invest. And yet, they get hit with a marginal tax rate of 56 percent when they exceed the limit—nearly twice the rate millionaires pay. But those seniors who do live off investment income are not impacted by the earnings limit.

Folks, this is just not right. America's working seniors should not be punished just because they never had money to tuck away and must now keep working to make ends meet. It is time to remove the penalty on seniors who need to keep working.

I want to commend my friend, Representative BUNNING, who has done yeoman's work to bring this issue to the fore. Even though we know working seniors will pay more into our economy and more than offset the costs associated with lifting the earnings limit, the Congressional Budget Office will not allow this "dynamic" method of scoring. Thus, Mr. BUNNING has put together a proposal that meets the CBO's budget rules.

The House Ways and Means Committee will be considering this legislation tomorrow. And soon after, the Congress will consider this bill on the floor.

We promised working seniors that we would provide relief before the end of the year, and we're going to keep that promise. Working seniors across America can trust Congress to deliver relief when they need it most. I urge my colleagues to cosponsor this bill today.

THE NATIONAL PARKS AND NATIONAL WILDLIFE REFUGE SYSTEMS FREEDOM ACT OF 1995

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce today, along with a number of my distinguished colleagues, including JIM HANSEN, JIM SAXTON, KEN CALVERT, and J.D. HAYWORTH, the National Parks and National Wildlife Refuge Systems Freedom Act of 1995.

The purpose of this legislation is to ensure that our national parks and wildlife refuges are not closed in the future because of a lack of Federal funding to operate them.

During this past weekend, we witnessed the sad spectacle of the Department of the Interior closing our Nation's 369 parks and 504 national wildlife refuge units.

These lands, which comprise about 181 million acres, were acquired through the hard work of millions of American taxpayers, who paid for them with entrance fees, excise taxes, duck stamps, and income tax payments.

It is terribly wrong to close these facilities and to deny the American people the right to enjoy their beauty, splendor, and various recreational opportunities.

In the State of Arizona, Governor Fife Symington offered to operate and keep the Grand Canyon open by using the State National Guard personnel. Regrettably, the Governor's request was denied because the Department of the Interior currently lacks the legal authority to allow the States to manage these lands.

The National Parks and National Wildlife Refuge Systems Freedom Act will require the Secretary of the Interior to accept the services of State employees to operate any parks or refuge units when the Federal Government is in a period of a budgetary shutdown.

Under the terms of my bill, a State would not be forced to operate any park or refuge within its geographic boundaries, but would simply be given the opportunity to offer their services, like Governor Symington.

Furthermore, the term "government budgetary shutdown" has been narrowly defined to only cover those circumstances when there is a failure to enact a timely appropriations bill for the Department of the Interior and there is a lack of temporary or continuing appropriation funds.

Mr. Speaker, our national parks and wildlife refuge systems must never be closed again in the future. This legislation will ensure that if there is ever another budgetary meltdown, the American people will not be denied the chance to visit the Kenai National Wildlife Refuge, the Edwin B. Forsythe National Wildlife Refuge, Yellowstone National Park, or the Washington Monument.

I urge my colleagues to join with me in support of the National Parks and National Wildlife Refuge Systems Freedom Act of 1995.

THE DAMAGE TO FEDERAL WORKERS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mrs. MORELLA. Mr. Speaker, there have been articles written and statements made suggesting that since furloughed Federal workers are being paid that somehow they came out ahead in this shutdown ordeal.

I find this kind of rhetoric highly offensive and an affront to the hundreds of thousands of hard-working, dedicated Federal workers who were furloughed through no fault of their own.

How do individuals come out ahead after being demoralized with the label of "non-essential?" How do individuals come out ahead after their lives were put on hold because of political posturing? How do individuals come out ahead after they have witnessed actions that could have jeopardized their jobs and their future?

Mr. Speaker, the truth is that they cannot. No Federal worker, and I want to say this again, no Federal worker in my district or anywhere in this country said, "Please, please furlough me." In fact, I know that a number of furloughed Federal workers continued to work at home, realizing the importance of their work and their commitment to this country, even if others had forgotten.

Mr. Speaker, I hope we learned a valuable lesson from this experience, and I hope that we begin serious consideration of a long-term plan to prevent this from ever happening again. Then, and only then, can we say America and Federal workers came out ahead.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SECRETARY HAZEL O'LEARY, DEPARTMENT OF ENERGY

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. WARD. Mr. Speaker, I rise today to commend Secretary Hazel O'Leary and the job she has performed at the Department of Energy. Under her leadership, the Department has undergone a major organizational transformation that has already saved money and enhanced Government performance.

One step toward these goals was taken by developing a first-ever strategic plan, which created a framework and shared vision for the Department's missions in national security, energy resources, weapons site cleanup, and science and technology.

A major overhaul was initiated of the Department's contracting practices, which will yield billions of dollars in savings through increased competition and performance-based contract management.

Under Secretary O'Leary's leadership, the first independent post-cold war review of the Department's 10 national laboratories was commissioned and now the Department is aggressively implementing recommendations that will reduce the costs and help sustain their long record of scientific discovery and technological innovation. This action will help to ensure long-term economic growth.

These actions and others are helping Secretary O'Leary and the Department of Energy to meet the goal of reducing the Department's budget by $14.1 billion over 5 years. This is just the kind of leadership that the Department of Energy, as well as all of Government needs to ensure efficient and productive expenditure of our tax dollars.

MILITARY-CIVILIAN COLA INEQUITY

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. COOLEY. Mr. Speaker—as a veteran of the Korean war and a member of the Veterans Committee—I rise today to address the issue of COLA inequity between military and civilian retirees. In 1993, Congress voted to delay COLA payments for veterans.

By delaying the inflation index for veterans, President Clinton was able to give more money to other programs. This is wrong. When an employer breaks a contract, penalties are paid. Our Government made a contract with our veterans—and our veterans have fulfilled their part of the contract.

We must pay them for their service. Given the sacrifices that veterans make to preserve our freedoms, it is simply wrong for politicians to raid their pensions. Mr. Speaker, this Congress did not create COLA inequity—but we have a moral duty to fix the problem.

TRIBUTE TO JESSE A. BREWER

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to my friend Jesse A. Brewer, a trailblazer who valiantly served his country as a decorated military officer, police officer with the Chicago and Los Angeles Police Departments, and as a member of Los Angeles Police Commission. Commissioner Brewer died on November 19, 1995.

A native of Dallas, TX, Jess Brewer was born on October 21, 1921. He began his undergraduate work at Tuskegee Institute, where he met his wife, the former Odessa Amond, also a student at the university. Brewer was required to temporarily discontinue his education when he was called to serve in the U.S. Army during World War II. In 1943 Jess attended Officer Candidate School at Fort Benning, GA, and was commissioned as a 2d lieutenant upon graduation. He would later complete his undergraduate work at Shaw University. His distinguished military career spanned 33 years of active and reserve duty. During World War II he attained the rank of Army captain. After the war he became a reserve officer, retiring in January 1976 at the rank of colonel. Brewer's decorations include the Legion of Merit, the Bronze Star, the Purple Heart, the Combat Infantry badge and two Campaign Ribbons. In 1977 Jess Brewer earned a master's degree in public administration from the University of Southern California.

Brewer began his career as a police officer with the Chicago Police Department in 1947. Brewer left the department in 1952, discouraged by discriminatory hiring and promotion practices. He joined the Los Angeles Police Department in 1952 after applying to the LAPD twice. His first application was rejected on a technicality, an event Brewer attributes to racism. Brewer acquired a great deal of experience through his assignments at the LAPD, which included patrol, vice, traffic, homicide, and burglary investigation. He was promoted to sergeant in 1958, but could only act as a undercover investigator at that time because department rules did not permit African-Americans to supervise white. Later, as barriers to supervisory provisions were removed, Brewer held several command assignments at the rank of Commander.

In 1981 he was promoted to deputy chief and served as commanding officer for the area encompassing south-central Los Angeles from 1981 to 1987. As deputy chief, Brewer garnered praise for pioneering law enforcement innovations such as new officer deployments, which placed more officers in minority neighborhoods as the gang crisis intensified. November 19, 1987, he was promoted to the rank of assistant chief by then-Chief Daryl Gates, where he directed the activities of the Office of Administrative Services and was responsible for all support functions of the LAPD. Chief Brewer's accomplishments were recognized throughout the country, as demonstrated by his selection as technical adviser to the Emmy Award-winning television series "Hill Street Blues"—a series widely praised for its realism and technical accuracy. He also was widely regarded as an ideal candidate to succeed Chief Daryl Gates as the LAPD's top officer. Assistant Chief Brewer retired in 1991 as the highest ranking African-American in the history of the department.

Four decades as a LAPD officer gave Brewer a firsthand look at the problems of the department, whose name over the years had become synonymous with the harsh treatment of Los Angeles residents. It was this intimate knowledge of the LAPD that led to his July 1991 appointment to the Los Angeles Police Commission, where he was praised for bringing stability and credibility to the commission. In August 1991 he was elected vice-president of the commission and a year later was elected President of the Commission. While a commissioner, Brewer served on the Budget, Deployment, and Riot Investigation Subcommittees and chaired the intelligence subcommittee.

Commissioner Brewer's wealth of experience and compassion also prompted the Christopher Commission to request his testimony during that commission's investigation of brutality and racism at the LAPD. Although it was Gates who promoted Brewer to the rank of assistant chief, that fact did not prevent Commissioner Brewer from giving a frank assessment of the problems within the LAPD. In testimony before the Christopher Commission, Brewer revealed the excessive force, rudeness, and disrespect had been "out of control" for years. He ultimately recommended that Chief Gates resign, and strongly pushed for the appointment of Willie L. Williams, Los Angeles' first African-American police chief. Commissioner Brewer left the Los Angeles Police Commission in 1993.

Throughout his career, Brewer served as a board member of several prestigious public and private organizations, including the President Commission on Organized Crime and the National Advisory Committee Task Force on Disorder and Terrorism. He also served as a Governor-appointed member of the board of directors of the California Museum of Science and Industry, and the Los Angeles Coliseum Commission. Commissioner Brewer's many honors include the 1988 NAACP Judge Thomas L. Griffith Legal Award and the Ricky Bell Humanitarian Award. In 1990 he was an honoree at the National Association of the Black Military Officers' dinner and was a lifetime member of the NAACP.

Mr. Speaker, Los Angeles mourns the loss of a great public servant. His commitment, dedication, and gentlemanly demeanor will be sorely missed by us all. I ask you to join me, Mr. Speaker, in paying tribute to a fine officer, a true gentleman, and a good friend, and in expressing our heartfelt condolences to his wife Odessa, his sons, Jesse, Jonathan, and Kenneth, and their families.

CORPORATE AMERICA BENEFITS FROM AFFIRMATIVE ACTION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. STOKES. Mr. Speaker, on October 26, 1995, the Executive Leadership Council and

Foundation held its seventh annual recognition dinner in Washington, DC. The Leadership Council is comprised of African-American executives of Fortune 500 companies. I had the privilege of joining Council president, Ann M. Fudge, and a host of distinguished guests for a very enjoyable as well as enlightening meeting.

One of the highlights of the Leadership Council's dinner was an excellent speech on the issue of affirmative action. The speech was delivered by John H. Bryan, chairman and chief executive officer of the Sara Lee Corp. He is well qualified to address this topic, having spent the past 35 years in top management positions in the world of business, and 21 years at the helm of Sara Lee.

During his remarks to the Leadership Council, Mr. Bryan looked at the issue of affirmative action from a business standpoint. He cited the movement of minorities and women over the years into business positions that previously were held only by white males. He stated:

> This opening up of business opportunities is enormously significant. For it is a reversal of the course of all history, a history during which minorities and women have been largely excluded from leadership roles in the world of business.

Despite the success of affirmative action initiatives, however, Mr. Bryan expressed his concern that the greatest challenges lie ahead. He warned the audience that in light of the current climate on the business and political front, affirmative action must be vigorously defended. Mr. Bryan concluded his speech before the Executive Leadership Council by saying,

> The economic opportunities for people of generations to come in America—and, yes, even around the world, depend on the continuing success of the United States in advancing diversity throughout its business and corporate sector.

Mr. Speaker, those of us who are staunch defenders of affirmative action recognize the sober truth of Mr. Bryan's remarks. His speech is also very timely. I am pleased to share John Bryan's remarks with my colleagues. He has provided us with keen insight on a very important topic.

Executive Leadership Council Remarks

(By John H. Bryan)

Thank you very much. It is a great honor for me to serve as a co-chairman of this Executive Leadership Council dinner tonight. And, I am especially pleased to be joined in this chairmanship by Vernon Jordan, someone who is a contemporary of mine, a fellow-southerner, a great friend, and one of my bosses as a result of his being on Sara Lee's Board of Directors for many years.

It is my privilege to serve as a warm-up act for Vernon this evening! To do that, I shall be brief, but I do want to offer a few thoughts on the current times. These are thoughts that come from the perspective of someone who has spent the past 35 years in top management positions in the world of business, and the past 21 years as the chief officer of a sizable firm and a board member of several other large firms.

During that time, there have been remarkable social changes in our country, one of the most significant being the movement of minorities and women into business positions that previously were held only by whites. This opening up of business opportunities is enormously significant. For it is a reversal of the course of all history, a history during which minorities and women have been largely excluded from leadership roles in the world of business.

And, tonight, we are all here only because of the advancements which so many have made in the business world. It is that advancement which allows us, tonight, to celebrate the accomplishments of individuals in business and give recognition to exceptional corporate achievement. But, today, there are serious threats to maintaining and continuing such progress—threats to accomplish the aims of an organization like the Executive Leadership Council.

The political winds are shifting. Affirmative action, the tool which has been the key to effective change, is today subjected to rhetoric which condemns it or at least questions its usefulness. Thus, today, affirmative action is a fragile concept and, for that reason, future progress is fragile.

My point of view is that affirmative action must be vigorously defended. Twenty-five years is not long enough to change a nature in people, a nature which for centuries has caused people to discriminate and abuse one another based on differences of race, religion, gender or whatever. And, in twenty-five years, surely not enough has been accomplished to put to rest the best tool which has been used to make the progress thus far.

I wish that I could tell you that corporate America does not need affirmative action to do what is right, but that is not the case. Corporate America is busy—busy merging, globalizing, reengineering, and, most of all, just trying to satisfy shareholders in the most competitive environment the world has ever seen.

The advancement of minorities and women is not the highest priority for most of corporate America today. And so without affirmative action, without an outside spotlight on this issue, without the strongest possible effort by organizations such as ELC, to measure and recognize progress in this area, there is serious risk to the future of gains and opportunities for minorities and women in business.

We must keep in mind that affirmative action actually works. It, in fact, is how we manage our businesses, making choices and telling one another what to do. In my experience in the corporate world, people do change their thinking rather quickly when faced with directives from above. We, in business, use affirmative action to change attitudes all the time—setting objectives, deciding what course to take, telling people to just "do it".

And I expect this is precisely the approach used when the management team of President Clinton was selected a few years ago. You will recall that President Clinton openly and consciously chose his management team with the specification that his appointees had to "look like America." By doing that, Bill Clinton defined inclusion and praised diversity as no other president before him. And, with a little help from Vernon Jordon, he named the most diverse cabinet in our history, 29% of his management group were African American, 14% Hispanic, and nearly one-half women. Regardless of one's political persuasion, this dramatic example of affirmative action by a president was a notable happening in America.

The balanced cabinet of President Clinton demonstrated to us so clearly that the problem never has been one of finding capable minorities, women or people from diverse groups, the problem has been creating the right environment—an environment in which such individuals have an equal opportunity to contribute.

It is organizations like you, the ELC, who must support that environment. You must keep measuring performance, recognizing the success of people and corporations, and you must work to keep our government engaged and our political leadership supportive.

The economic opportunities for people of generations to come in America—and, yes even around the world, depend on the continuing success of the United States in advancing diversity throughout its business and corporate sector.

Thus, it is imperative that we, in this time, defend the concept of affirmative action.

I compliment the Executive Leadership Council tonight, and let me offer the strongest possible encouragement for you to continue your good works.

NIXON LIBRARY REMAINS OPEN—A MODEL FOR OTHERS

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. KIM. Mr. Speaker, following the expiration of the short-term continuing appropriations resolution on November 13, all but one of the Presidential libraries were forced to close. Only the Richard Nixon Library and Birthplace in Yorba Linda, CA, continued full operations during the budget crisis. In fact, the library offered free admission and gift shop discounts to those Federal employees who were furloughed. This was possible because, unlike all the other Presidential libraries, the Nixon Library is the first and only Presidential museum to be operated without Federal funding. The museum is supported through admissions, gift shop revenue and private donations.

I recognize and appreciate the important educational value of Presidential libraries. Each year, over a million Americans re-live or experience for the first time their own history by visiting a Presidential museum. The libraries also serve as an archive of information and other historical resources for scholars.

But, there is a price to pay for this. The operation of these nine Presidential libraries costs the taxpayer $24.5 million per year. In order to achieve the goal of a balanced budget within 7 years, Government spending will have to be cut. The recent budget crisis, as highlighted by the closure of the Federal Government for a week, underscores the difficult choices that need to be made in the process. Every federally funded program must be carefully evaluated and prioritized, including the Presidential libraries. While the percentage of funding these libraries receive may be relatively small in comparison to the overall $1 trillion-plus Federal budget, every dollar still counts nonetheless.

The Richard Nixon Library and Birthplace does not cost the taxpayer a penny to operate. Yet, it provides the same historical experience and other services as the federally-funded libraries. It was planned this way deliberately by the fiscally conservative late President. I am proud to represent Yorba Linda and the Nixon Library in Congress and I have personally visited the library on a number of occasions. Without prejudice, I must say that its displays rank as some of the best of any Presidential library. In part, I believe that is because the library understands that to attract the public and obtain private financial support, it must present quality, dynamic programming. It must compete for the public's attention and business because it does not rely on a continuous Federal subsidy like the other libraries do. I invite my colleagues to come to Yorba Linda and see the success of the Nixon Library for themselves.

Thus, as part of the ongoing effort to trim the size and cost of Government, the National Archives, which oversees the Presidential libraries, and the Congress ought to carefully analyze the highly successful Nixon Library and determine whether the other Presidential libraries could follow this model and be privatized. I think this is an idea that's long overdue.

PROHIBITION OF FUNDS FOR DEPLOYMENT OF TROOPS TO BOSNIA

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. LARGENT. Mr. Speaker, I rise today to applaud the passage of H.R. 2606, to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment of United States ground troops in the Republic of Bosnia and Herzegovina unless funds for such deployment are specifically appropriated by law. The act passed this body 243 to 171 and I regret that I was absent and unable to add my vote in favor of this bill.

This legislation promotes a balanced, serious approach to the complicated situation in the former Yugoslavia. It is balanced because it provides for a deliberative process. It is serious because American lives and the sovereignty of people are at stake.

There is no question that the United States assumes a great deal of responsibility as the de-facto world military power. However, without a clear military objective and mission, American leadership efforts may lead to little positive results. H.R. 2606 maintains the kind of thoughtful, deliberative legislative process upon which this country was founded. Again, I am encouraged by the passage of this act.

A TRIBUTE TO MIRI MARGOLIN, SCULPTRESS OF THE WALLENBERG BUST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending an outstanding artist from Israel, Ms. Miri Margolin. Ms. Margolin is the creator of a bronze bust of Raoul Wallenberg, the Swedish diplomat whose courageous efforts in Budapest in 1944 saved the lives of as many as 100,000 Jews. The bust now stands for all time in the U.S. Capitol following an historic dedication ceremony in the rotunda on November 2, 1995.

In 1920, Ms. Margolin immigrated with her family to Israel from Poland. She descends from a family of committed Zionists, all of whom have made remarkable contributions to the foundation and endurance of the State of Israel. Her father was famed for his international travels to raise support among diaspora Jewry for the Zionist dream. She and her eight brothers distinguished the family legacy through their own careers of dedication to the Jewish people and its young state. In war and peace, politics, business, and academia, the Netanyahu, Milo, Milikowsky, and Margolin families are known and respected throughout Israel.

These families, and many more, traveled across America and across the globe to Washington to honor Ms. Margolin and celebrate her success on November 2. Those family members attending included Mrs. Ceila Netanyahu, Iddo and Daphna Netanyahu, Nathan and Sinai Netanyahu, Zach and Claire Milo, Amos and Anna Milo, Dr. Gil Mileikowsky, Ron and Glynnis Mileikowsky, Hovav and Alice Milikowsky, Mrs. Esther Copelon, Nathan and Rebecca Milikowsky, Daniel and Sharon Milikowsky, Ezra and Ruth Mileikowsky, Nathan Margolin, Shai Margolin, Luzi and Edna Margolin, and Richard and Michelle Harmon.

Ms. Margolin's personal story as a sculptor in bronze began late in life. The defining moment came from the tragic death of her heroic nephew, Jonathan Netanyahu, who died commanding the historic rescue of Jewish hostages held in Entebbe, Uganda. Seeking a way to express her grief and feeling for Jonathan, she began to sculpt a bust of the young officer.

A ceramic artist all of her life, Ms. Margolin's bust of "Yoni" was her first work in bronze. She then began a career immortalizing other heroes of the Jewish people. Her busts of David Ben-Gurion, Yitzhak Shamir, Shimon Peres, and Moshe Dayan have earned her the highest critical acclaim—as have her busts of peacemakers past—Menachem Begin, Anwar Sadat, and President Jimmy Carter. Her bust of Ben-Gurion is on display at the David Ben-Gurion Library at the Kibbutz, Sde Boker. Her bust of Wallenberg, and its placement in the U.S. Capitol, is a crowning achievement.

Commenting on Ms. Margolin's work in 1988, then Foreign Minister Shimon Peres wrote to her on the subject of his own bust: "* * * I deeply admire your creative talent, certainly more than your sculpture's subject. I can tell that you truly know how to infuse stubborn, solid matter with power and content. Your watchful and confident personality gives this item, like many of your other creative works, a dominance bearing vitality, standards which create a new resonance. * * *"

On November 2, 1995, one of Ms. Margolin's most magnificent works, her bust of Raoul Wallenberg, was dedicated for permanent placement in the U.S. Capitol. In a ceremony that included speeches from Speaker NEWT GINGRICH of the U.S. House of Representatives, Senate Minority Leader TOM DASCHLE, Supreme Court Justice Ruth Bader Ginsburg, Speaker Birgitta Dahl of the Swedish Parliament, Speaker Zoltan Gál of the Hungarian Parliament, and Speaker Shevach Weiss of the Israeli Knesset, the life and deeds of Raoul Wallenberg were praised and honored. Ms. Margolin was recognized for her unique contribution to Wallenberg's legacy, and she warmly thanked the Congress for accepting her work.

Mr. Speaker, I ask my colleagues to join me in extending our eternal gratitude to Miri Margolin, the creator of the U.S. Capitol's bust of Raoul Wallenberg.

TRIBUTE TO JACK BAKER

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. UPTON. Mr. Speaker, I rise today to pay tribute and give sincere thanks to a long time member of my congressional staff who has been an unflappable administrator, devoted public servant, and loyal friend. Jack Baker, my 6th District Congressional District Director, is embarking on the well-deserved retirement he had originally planned for nearly 10 years ago.

As Jack leaves, he departs from a district operation that is strong and swift in response because of the rock solid foundation he laid nearly a decade ago when I tapped him as my one and only choice to build a top notch constituent service operation, second to none.

As we know all too well, public service can be a very demanding occupation. Throughout the many legislative battles we have experienced out in Washington over the last 9 years, it was a great comfort to me to know that Jack was back home dutifully at the helm of our district operation.

As captain of our constituent service ship, Jack has kept us on a steady course, never underestimating the value of the views of ordinary citizens; never failing to give it his all to respond to their needs. For Jack, no problem was too big or too small.

Jack leaves, I am quite sure, with many good memories and outlandish stories of his life in our congressional office: yes, truth sometimes is stranger than fiction as Jack could tell you.

Despite the many challenges of being a district director, and the curve balls frequently thrown, Jack always maintained a common sense approach, easy going manner, and a much welcomed and finely honed sense of humor. It is for those qualities that he is known and loved by the numerous people he has come in contact with over the course of his career in our office.

It is very rare to find an individual who can so effectively yet humbly perform his or her duties, day in and day out, without demanding anything more than the enjoyment that comes from serving others. Jack Baker, through thick and thin has always treated people with respect, dignity and decency. He leaves a tremendous void and will be sorely missed by the many who have enjoyed working with him as he oversaw and actively participated in the vast myriad of services provided by a congressional district office.

Jack, for many years you have enthusiastically and effectively served the people of the 6th District; you have warmed many hearts and made a difference to many people. I wish you and Teri many years of good health and happiness as you open a new chapter in your life together.

ST. LOUIS GATEWAY CLASSIC FOUNDATION SCORES WIN FOR BLACK ORGANIZATIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. STOKES. Mr. Speaker, I rise today to salute an organization which is doing an outstanding job of assisting black organizations in the St. Louis area. Our colleague, the gentleman from Missouri, BILL CLAY, brought to my attention the efforts of an organization known as the St. Louis Gateway Classic Foundation. The organization recently hosted a fund raising football game. The game, which featured Howard University and the Arkansas A&M University, attracted more than 35,000 spectators. More importantly, the event garnered nearly $200,000 which was donated to local black organizations.

Mr. Speaker, I want to salute the executive director of the St. Louis Gateway Classic Foundation, Mr. Earl Wilson. I commend him for his strong commitment to giving back to the community. I want to share with my colleagues an article which appeared in the St. Louis Sentinel Newspapers concerning the foundation. It is certainly worthwhile reading.

[From the St. Louis Sentinel, Nov. 2, 1995]

ST. LOUIS GATEWAY CLASSIC FOUNDATION

Mr. Earl Wilson, executive director of the St. Louis Gateway Classic Foundation aka Budweiser Gateway Classic Football Game, deserves a loud round of applause, for a job well done.

The recent college football game by two major Black institutions, Howard University and Arkansas A&M held in St. Louis, show that Black colleges and universities are still striving, despite some major cuts in financial aid to these Black centers of higher learning.

What is unique about the St. Louis Gateway Classic Foundation which sponsors the game, it [foundation] gives something back to the community. It is a Black run organization that raises funds through an event that is supported by the corporate community, and the bottom line is that it is profitable and local Black not-for-profit organizations benefit from it. This is the type of event hat more Blacks and whites need to support, both by attending and contributing financially.

This year's football game attracted over 35,000 spectators, about a 15% increase over last year, which means the event is growing every year.

This local sports program is certainly an uplift in terms of an economic stimulus to the Black community. In the past, major sports events have been held in this city, based on the backs of Blacks and not a cent has filtered into the Black community or businesses. However, with the classic it is a much different story.

Not long ago, Wilson was associated with a major white sports event that looked good on paper, and promised to make sure that everyone in the city would benefit from it. But, this sports event was literally a sham, and Wilson and several other prominent Blacks resigned from the board and a Black economic boycott almost sunk the event.

The event was the Summer Olympic Games that were held in St. Louis. The sponsors and organizers raised millions of dollars, but no Black businesses or organizations benefited from it. And, this is the normal pattern and practice of sports events that are void of Black involvement. In other words, when high profile sports events occur in major cities, the only persons that really benefit are the athletes that participate, and the economic benefits or money that is derived from the event, always finds a convenient avenue to skirt the Black community.

After all was said and done with the Gateway Classic, almost $200,000 went to local Black organizations, who otherwise would not have benefited.

In closing, we wish Earl Wilson and his organization the best of luck, and hope that next year's game draws more people and gives him the ability to give away more money to Black groups, this is really the ideal concept of Blacks helping Blacks! Maybe Wilson needs to share his secrets of success with other Black groups throughout the city and country.

TRIBUTE TO KEN HEITZKE

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. SHAYS. Mr. Speaker, I would like to call your attention to a constituent of mine, Ken Heitzke, who has served the State of Connecticut and the town of Monroe for almost two decades as an elected official. He is retiring this year from first selectman of Monroe after three terms.

Ken was awarded a bachelor of science degree from the U.S. Military Academy at West Point in 1953, a master of science degree from the University of Illinois in 1958, and a master of military arts and science degree from the U.S. Army Command and General Staff College in 1965.

He served our country for 24 years in the U.S. Army and retired with the rank of colonel. A decorated military and combat leader, Ken served in Korea, Vietnam, and with the Joint Chiefs of Staff. He has received the Distinguished Flying Cross, Legion of Merit with oak leaf cluster, Bronze Star with oak leaf cluster and five air medals.

For the town of Monroe, Ken served as chief elected official and chairman of the Monroe Town Council for 8 years. In 1989, Ken was elected first selectman under Monroes' new form of government. He was reelected in 1991 and 1993. He also served as president of the Connecticut Conference of Municipalities.

Ken's tireless dedication and support of Monroe have made this town such a wonderful place to live and work. He has unselfishly given his time and energy to the community and to our country.

Ken Heitzke is a special man to Monroe and its citizens and he will always be a valued member of the community. I am proud to know him, have him as a constituent, and call him a friend. I would like to salute Ken on his good work and I wish him the best for future success.

RESTORING EQUITY BETWEEN MILITARY AND CIVIL SERVICE RETIREES

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. YOUNG of Florida. Mr. Speaker, this morning I introduced H.R. 2664 to honor our commitment to our Nation's military retirees by restoring equity between their pensions and those of Federal civil service retirees.

One of the many reasons that I strongly opposed President Clinton's 1993 budget was that it violated our contract with military and civil service retirees by delaying the payment of their annual cost of living adjustments. Further, this legislation treated both groups differently by providing for a 3 month delay in the payment of benefits for civil service retirees but a 9 month delay in the payment of benefits for military retirees.

There is no doubt in my mind that those men and women who risked their lives in the defense of our great Nation are willing to do their part to help get our fiscal house in order. What they expect and deserve, though, is fairness. This legislation restores fairness and equity so that military retirees are treated the same as other Federal retirees.

Last year, the Appropriations Subcommittee on National Defense was successful in providing the funds necessary to eliminate the disparity between the effective dates for military and civilian retiree COLA's for 1995. While we were successful in eliminating the COLA disparity for this year, President Clinton's 1996 budget request still left a disparity in the adjustment dates for the next 3 years.

To resolve this issue and restore pension equity, the House included an important provision in the Balanced Budget Act we approved on October 26 which eliminates this disparity by placing military retiree COLA's on the same schedule as those for Federal retirees. We recognize in the House that asking military personnel, their families, and retirees to accept a substantial reduction in retirement benefits is an affront to those who serve, and those who have served. This is an issue of fairness to the more than 1.5 million military retirees across our Nation.

Unfortunately, the Senate insisted on dropping this provision from the conference report on the Balanced Budget Act which we considered in the House yesterday. Because I believe this issue is so important and should be dealt with immediately, I have introduced H.R. 2664 with 130 cosponsors to restore COLA equity for military and civil service retirees.

While some may propose changing our Nation's military retirement benefits to achieve further budget savings, as the chairman of the National Security Appropriations Subcommittee my priority is to ensure that promises made to our Nation's military personnel are kept. I have steadfastly opposed any changes which break this pact and treat veterans and military retirees unfairly and would urge the House leadership to expedite the consideration of H.R. 2664.

A SALUTE TO THE CFL CHAMPION BALTIMORE STALLIONS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. CARDIN. Mr. Speaker, I rise today to honor the accomplishments of my hometown Baltimore Stallions, 1995's Grey Cup CFL Champions. This class organization, in just its second year of existence, has become the first American team to win the Grey Cup, Canadian football's version of the Super Bowl.

Led by CFL most valuable player Mike Pringle, along with the quarterback Tracy Ham and an excellent supporting cast, the Stallions victory in their second consecutive Grey Cup appearance is proof that football has, indeed, been alive and well in Baltimore for quite some time now. In winning the Grey Cup, the Stallions have capped off a remarkable season this year by finishing 18–3, a new CFL record.

This victory also completes a football trifecta for Baltimore as we become the first city to have won an NFL title, a USFL title, and now our latest, a CFL crown for our Stallions. I am proud to be a Baltimorean today Mr. Speaker, as I congratulate the 1995 CFL Champion Baltimore Stallions.

THE GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. HOYER. Mr. Speaker, I rise today to honor and draw attention to an effective program worthy of commendation and support. The Gang Resistance Education and Training program, [G.R.E.A.T.]. The program, developed in 1991, is sponsored by the Bureau of Alcohol, Tobacco and Firearms. Currently, the program is taught in 45 States by over 1,300 officers representing 548 agencies. During the 1995–96 school year, over 21,000 students will receive the G.R.E.A.T. curriculum in Prince George's County, MD.

The G.R.E.A.T. program is a prevention program designed to help seventh graders become more responsible members of their communities. It establishes a joint enterprise between the police, the school system, and parents and provides a unique educational program which helps students set goals for themselves, resist hostile or illegal peer pressure, learn how to resolve conflicts without violence, and understand how gangs could ruin their lives.

Not a day goes by without negative stories about our Nation's young people and their increasing involvement in criminal activity. This builds a strong case for involving our young people in programs that compensate for the crime and violence, drugs and alcohol abuse, and negative activity that is all too prevalent in our society. Timely and well-managed programs such as G.R.E.A.T. and strong support can make the difference between a wasted and a productive life.

The future of America's children remains precarious. In our society, young people are confronted with the difficult task of overcoming many obstacles which threaten their maturation. As we look towards the future of this great Nation, this is a loss our country cannot afford. Fostering development of programs that promote successful passage from adolescence to adulthood is the right thing to do because we help prevent youth from adopting antisocial and irresponsible lifestyles.

As gangs and gang related violence rise in our country, preventive programs will be on the forefront of the fight in reducing crime and substance abuse. I will continue to support the G.R.E.A.T. program and others which enable our youth to realize they have positive options for their future.

Today I was joined at a press conference by Brett Sturgill, an eighth grader at Benjamin Tasker Middle School in Bowie, MD. His statements clearly illustrate the success of the G.R.E.A.T. program and the necessity of continuing to expand the program in order to reach more of our children. I respectfully submit that his remarks be entered into the RECORD.

G.R.E.A.T. PRESS CONFERENCE

During my seventh grade year here at Tasker, I took part in the G.R.E.A.T. program. G.R.E.A.T. is Gang Resistance Education and Training. We learned that we all have basic needs. Three physical needs are food, water, and shelter. But just as important are three emotional needs of love, caring, and understanding. These three emotional needs should be met by your family and friends. But sometimes when there are problems in families, kids turn to gangs. We learned that this is not good because gangs are groups of people out to do harm. Gang activities often lead to crime and with every crime there is always a victim. We role-played various gang situations and discussed victim's rights.

We learned the importance of the extended family which includes not only immediate family but other relatives and friends who are supportive of us. Each family has traditions and rituals which are part of their culture. These traditions can be anything from opening gifts on Christmas Eve to having pizza on Friday nights to special celebrations for birthdays. These traditions and rituals are important because they make us feel like we are a part of the family. We also learned that it is important to respect other people's cultures.

Conflict resolution was another important part of G.R.E.A.T. We learned that when there is a conflict we should first identify the problem. Then we need to think about our possible choices and the consequences of each choice. After that we should decide which action would be best and then do it. The last thing is to think about our action and the consequences of it. Did the problem work out okay? Did we make a good choice?

We also learned that we have responsibilities at home, at school, and in the neighborhood. These might be taking out the trash, feeding the dog, doing the dishes, shoveling the driveway for a neighbor, or doing our best in school.

Goal setting is another important part of G.R.E.A.T. A goal is something you want to do in the future. They can be short term goals like getting an A on an Algebra test or long term goals like going to college.

Set goals, be responsible, be a part of an extended family of relatives and friends who support each other, and avoid groups of people who are out to do harm. That is the message of G.R.E.A.T.

VETERANS EMPLOYMENT AWARD

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. STUMP. Mr. Speaker, recently my very good friend SONNY MONTGOMERY was honored for his service to our Nation's veterans. I would like to insert the following statement in the CONGRESSIONAL RECORD, so that all Members may share in this tribute:

VETERANS EMPLOYMENT AWARD

On November 9, 1995, Assistant Secretary of Labor for Veterans' Employment and Training Preston M. Taylor Jr. presented Congressman G.V. (Sonny) Montgomery, "Mister Veteran," with the Veterans Employment Award at the Department of Labor's 15th Annual Salute to All American Veterans, in Washington, DC.

The award, created by the Veterans' Employment and Training Service, will be presented annually in Congressman Montgomery's honor to a veterans' advocate as part of future Salute ceremonies. The agency will use the high standard of advocacy set by "Mr. Veteran" himself to judge those who follow in receipt of this commemorative award.

In recognizing Congressman Montgomery, Secretary Taylor noted that since next year the 104th Congress would have adjourned before Veterans's Day, the Department of Labor's Veterans' Employment and Training Service wanted to recognize at this Salute ceremony the contributions Mr. Montgomery has made to veterans in general and to the agency in particular.

The Salute ceremony program of events included a brief sketch of the honoree's biographical highlights and a letter from President Clinton expressing his deep appreciation to Sonny Montgomery for all he has done on behalf of America's veterans.

Secretary Taylor observed that Mr. Montgomery regards the men and women of the armed forces almost as family members whose interests he had tried to protect and advance from his strategic committee positions. Also, as a lawmaking guardian, Mr. Montgomery is known to be caring but stern, and will invest all his energies to protect and expand benefits he believes veterans have coming to them. Taylor said that his special presence for all veterans, reservists, and National Guard members will be missed.

STATEMENT OF REPRESENTATIVE JOSEPH P. KENNEDY II, NOVEMBER 20, 1995

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, today I am introducing the Mom and Pop Protection Act. The Mom and Pop Protection Act provides low-cost loans for the installation of security-related features in a convenience store. Under this act, MAPPA money would be made available for small businesses to make crime-fighting improvements that may have been unaffordable in the past.

This bill is aimed at helping mom and pop convenience stores create a safer workplace for clerks and employees who have all too often been the victims of armed robbery and violence.

We have seen crime against convenience stores rise by 38 percent nationally. Too many clerks in our neighborhood convenience stores have faced criminals who have threatened their lives at gunpoint. These criminals often prey on stores that lack the means to install the security devices this legislation makes affordable.

The act makes the installation of video-surveillance cameras and cash lockboxes possible for small businesses who could not otherwise afford such equipment.

This legislation offers the small business owner an opportunity to install equipment that has been proven to reduce crime against convenience stores. Installation of these features has been shown to reduce crime against convenience stores by 20 percent.

Mr. Speaker, the Mom and Pop Protection Act is a probusiness approach to fighting crime. It offers small business owners the opportunity to take advantage of crime prevention methods that larger, better financed convenience stores already have in place.

INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1995

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. HYDE. Mr. Speaker, today I am introducing the Intellectual Property Antitrust Protection Act of 1995. I am pleased to be joined by my colleagues on the Judiciary Committee, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. GEKAS, Mr. COBLE, Mr. SMITH of Texas, Mr. CANADY, Mr. BONO, Mr. BRYANT of Tennessee, and Ms. LOFGREN who are original sponsors of this legislation.

Because of increasing competition and a burgeoning trade deficit, our policies and laws must enhance the position of American businesses in the global marketplace. This concern should be a top priority for this Congress. A logical place to start is to change rules that discourage the use and dissemination of existing technology and prevent the pursuit of promising avenues of research and development. Some of these rules arise from judicial decisions that erroneously create a tension between the antitrust laws and the intellectual property laws.

Our bill would eliminate a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the protected product, an intellectual property right does not automatically confer the power to determine the overall market price of a product or the power to exclude competitors from the marketplace.

The recent antitrust guidelines on the licensing of intellectual property—issued jointly by the antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission—acknowledge that the court-created presumption is wrong. The guidelines state that the enforcement agencies "will not presume that a patent, copyright, or trade secret necessarily confers market power upon its owner. Although the intellectual property right confers the power to exclude with respect to the *specific* product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power." Antitrust Guidelines for the Licensing of Intellectual Property dated April 6, 1995 at 4 (emphasis in original).

For too long, Mr. Speaker, court decisions have applied the erroneous presumption of market power thereby creating an unintended conflict between the antitrust laws and the intellectual property laws. Economists and legal scholars have criticized these decisions, and more importantly, these decisions have discouraged innovation to the detriment of the American economy.

The basic problem stems from Supreme Court and lower Federal court decisions that construe patents and copyrights as automatically giving the intellectual property owner market power. *Jefferson Parish Hospital District No. 2* v. *Hyde,* 466 U.S. 2, 16 (1984); *United States* v. *Loews, Inc.,* 371 U.S. 38, 45 (1962); *Digidyne Corp.* v. *Data General Corp.,* 734 F.2d 1336, 1341–42 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1984). To be sure, some courts have also refused to apply the presumption despite the Supreme Court's rulings. *Abbott Laboratories* v. *Brennan,* 952 F.2d 1346, 1354–55 (Fed. Cir. 1991), cert. denied, 505 U.S. 1205 (1992): *A.I. Root Co.* v. *Computer/Dynamics, Inc.,* 806 F.2d 673, 676 (6th Cir. 1986). As the guidelines note, the law is unclear on this issue. Antitrust Guidelines for the Licensing of Intellectual Property dated April 6, 1995 at 4 n. 10. This lack of clarity causes uncertainty about the law which, in turn stifles innovation and discourages the dissemination of technology.

For example, under Supreme Court precedent, tying is subject to per se treatment under the antitrust laws only if the defendant has market power in the tying product. However, the presumption automatically confers market power on any patented or copyrighted product. Thus, when a patented or copyrighted product is sold with any other product, it is automatically reviewed under a harsh per se standard even though the patented or copyrighted product may not have any market power. As a result, innovative computer manufacturers may be unwilling to sell copyrighted software with unprotected hardware—a package that many consumers desire—because of the fear that this bundling will be judged as a per se violation of the prohibition against tying. The disagreement among the courts only heightens the problem for corporate counsel advising their clients as to how to proceed. Moreover, it encourages forum shopping as competitors seek a court that will apply the presumption. Clearly, intellectual property owners need a uniform national rule enacted by Congress.

Very similar legislation, S. 270, passed the Senate four times during the 101st Congress with broad, bipartisan support. During the debate over that legislation, opponents of this procompetitive measure made various erroneous claims about this legislation—let me dispel these false notions at the outset. First, this bill does not create an antitrust exemption. To the contrary, it eliminates an antitrust plaintiff's ability to rely on a demonstrably false presumption without providing proof of market power. Second, this bill does not in any way affect the remedies, including treble damages, that are available to an antitrust plaintiff when it does prove its case. Third, this bill does not change the law that tying arrangements are deemed to be per se illegal when the defendant has market power in the tying product. Rather, it simply requires the plaintiff to prove that the claimed market power does, in fact, exist before subjecting the defendant to the per se standard. Fourth, this bill does not legalize any conduct that is currently illegal.

Instead, this bill ensures that intellectual property owners are treated the same as all other companies under the antitrust laws, including those relating to tying violations. The bill does not give them any special treatment, but restores to them the same treatment that all others receive.

In short, the time has come to reverse the misdirected judicial presumption. We must remove the threat of unwarranted liability from those who seek to market new technologies more efficiently. The intellectual property and antitrust laws should be structured so as to be complementary, not conflicting. This legislation will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity, and improve America's ability to compete in foreign markets.

I urge my colleagues in the House to join us in cosponsoring this important legislation.

LIES, LIES, AND MORE LIES

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Miss COLLINS of Michigan. Mr. Speaker, let's stop the lies. Every time a Member gets up on this floor and says that Democrats don't want a balanced budget, that's a lie. We all want a balanced budget, it's just a question of who's burdened with the cuts required to balance that budget. Stop the lies.

Every time a Member gets up on this floor and says that Medicare is not being cut. That's a lie. The rate of growth in Medicare spending is being reduced. That's a cut. Stop the lies.

Anytime you want to balance a budget, you don't increase spending on defense, you don't give certain people in our society a tax break, you don't continue corporate welfare that costs the taxpayers more money than all of the social welfare put together. That doesn't really sound like somebody who is serious about balancing a budget. That sounds more like someone who is using the budget debate to make a wholesale shift in this Nation's spending priorities, no matter who it hurts.

Stop the lies.

JIM PRESBREY'S BLADE ACROSS AMERICA

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. EHRLICH. Mr. Speaker, today I rise to commend a man who has made a long and hard journey across the country to give disadvantaged children an opportunity to participate in sports. Jim Presbrey—whose family has long ties to my district—spent the past several months in-line skating across the country to raise money for the National Youth Sports Program, an organization which provides economically under-privileged children with sports training, free medical care, and proper nutrition education.

Jim decided to blade across America while working as a National Youth Sports Program summer camp counselor and drug and alcohol educator. As a counselor, Jim instilled in his campers the importance of achieving goals, striving for your dreams, and believing in yourself. At the same time, Jim, recovering from major knee surgery, began riding his stationary bike for 10 minutes a day, slowly increasing his workout throughout the summer. He told his campers that his ultimate goal was to skate across America. Each day, he informed his campers of his continuing progress. At the end of the summer, Jim knew he had to blade across America to show his campers the importance of achieving their aspirations.

On September 9, 1995, Jim began his long journey across the country, hoping to raise awareness and increase funding for the kids he worked with during the summer. After raising thousands of dollars for the National Youth Sports Program, Jim's blade across the Nation will come to an end in San Diego, CA, on November 27, 1995. He will be the first person to in-line skate across the United States.

I urge all my colleagues to join with me and the citizens of Maryland in commending Jim Presbrey in his achievement. The example set by and money raised by his physical endurance and dedication will give thousands of disadvantaged children across the Nation the opportunity to participate in sports.

GBS AWARENESS: IN MEMORY OF COOPER HENNING ARMSTRONG

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. BONIOR. Mr. Speaker, I rise today to discuss a health care issue that is devastating to many American families. Group B Streptococcus, known as GBS, is a bacteria that is the No. 1 cause of life-threatening infections in newborn babies. A good friend's sister and her husband tragically lost their 2-day-old baby, Cooper Henning Armstrong, to GBS this past summer.

Pregnant women are routinely screened for illnesses such as rubella and spina bifida; however, GBS infections are far more common. Despite being generally unknown to the public, an estimated 15 percent to 35 percent of all healthy, adult women carry the GBS bacteria. Babies usually acquire GBS infections during childbirth when they come in direct contact with bacteria carried by the mother. Limited public knowledge and the lack of standardized testing procedures lead to the deaths of 2,000 babies a year. Some 12,000 infants will contract infections, many of whom will suffer permanent handicaps such as loss of sight and hearing, lung damage, learning disabilities, and mental retardation.

Despite America's wealth, at least 26 nations have lower infant mortality rates than the United States. As the richest country in the world spending more on health care than any other nation, GBS illnesses and deaths are largely an unnecessary tragedy. In fact, the Centers for Disease Control [CDC] state that it is cost effective to routinely screen pregnant women for GBS. The American Academy of Pediatrics recommends that all pregnant women should be screened.

GBS is preventable. However, since the incidence of GBS infections may vary widely and because of differing opinions in the medical community, there is virtually no education offered to prenatal patients. The CDC recommends that "state or local health departments or groups of affiliated hospitals should consider establishing surveillance systems for neonatal GBS disease or reviewing data from existing systems to identify the current magnitude of disease and provide further information for evaluating the effectiveness of prevention measures."

I ask that my colleagues join with me in helping educate the public about this serious disease. We must encourage open communication between all health care providers and help coordinate the needed consensus to prevent GBS.

Cooper Henning Armstrong's short life need not be in vain. His parents, Laura and Brad Lee Armstrong, have turned their grief into action so that others need not endure the pain they suffer. I admire their courage and I am inspired by their concern for all who wish to become parents. May their efforts, in memory of their son Cooper, be completed.

EUROPEAN UNION SHOULD APPROVE A CUSTOMS UNION WITH TURKEY

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. HOUGHTON. Mr. Speaker, my interest in the Republic of Turkey has increased since my visit there in August, so I would like to bring some attention to the debate in the European Parliament about the approval of a customs union with Turkey. This decision will have a major impact on western strategic and economic interests.

The key question is whether or not the European Parliament will accept or reject this promising nation of over 60 million people, thus making the future of the EU's southern flank uncertain.

As you know, the Republic of Turkey, established in 1923, is a western-style, secular democracy. It has distanced itself from the religious extremism of the Ottoman Empire, and emerged as a strong pillar of hope for secularism in the Moslem world. Over the past 72 years, Turkey has developed into a mature democracy with steadfast institutions and an independent judiciary. The Turkish Government and population are committed to furthering and enhancing Turkey's democracy. This is demonstrated by recent reforms passed by the Turkish Parliament. These ongoing reforms coupled with increasing economic potential, enable the country to play a larger, more significant role in Europe's economic and political growth.

Today, Turkey is a model for the New Independent States of the former Soviet Union—namely Azerbaijan, Kyrgyzstan, Uzbekistan, Turkmenistan, and Kazakhstan. I think you'd agree that it is in our interest that these countries, which have rich, natural resources and educated population, choose to follow Turkey's example rather than those of its other neighbors.

In addition, Turkey's code of laws has been aligned with those of other European countries, as the Parliament has passed significant pieces of legislation including laws on copyrights, decentralization, and human rights. Some of our European colleagues suggest that such initiatives are insufficient, and that the customs union decision should be delayed until the Turkish Parliament satisfies their concerns.

I would like to ask our European colleagues to keep in mind the difficulties of a democratic system—the mechanics of the democratic process which require extensive debate and parliamentary approval in order to bring about legislative changes. If Turkey were a dictatorial regime, the government would dictate changes which would be readily approved.

Although reform in a democratic system is tough, there have been dramatic changes to Turkey's laws. On the human rights front are amendments to article 8 of the antiterrorism law. These changes promote the freedom of expression, and have permitted the release of prisoners detained under this article. In fact, a week after these changes, the courts released 82 people—an impressive response by any standard. Last July, Turkey's Parliament passed 16 amendments to the constitution, expanding and strengthening its democracy.

Turkey is clearly situated in a volatile area, as they share borders with Iraq, Iran, Syria, and former Soviet States. Those that support the advancement of democracy and human rights should ask themselves how these principles would better be served—by bringing Turkey into the European fold, anchoring it to the West, or leaving Turkey to languish outside of Europe.

Mr. Speaker, I think that many of my colleagues would agree that a "yes" vote on EU customs union for Turkey is the right move—right for Europe, right for Turkey, right for democracy and human rights. I hope you'll join me in urging the European Parliament to vote in favor of the customs union with Turkey on December 14.

50TH ANNIVERSARY OF EBONY MAGAZINE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today in recognition of the historic symbols and witness-participants that have chronicled the hopes and aspirations of the African-American community for 50 years—Ebony magazine and its founder and guiding spirit, John H. Johnson.

In November 1945, Ebony magazine was born. This was a time of new beginnings for both black and white Americans. It was a period that has been remembered as the beginning of the Jackie Robinson revolution in athletics and the Thurgood Marshall revolution in the legal and judicial arenas, and it signaled the beginning of the browning of American culture—in music, fashion, and beauty.

Ebony magazine and its founder, John H. Johnson, are so closely identified with the major changes of this period that it would be virtually impossible to acknowledge these changes without acknowledging the contributions of these of two icons.

The perceptions and images of black America during his period underwent a revolutionary shift which has affected every American, both white and black, and its is clear that John H. Johnson and his Ebony magazine truly became both the architects and chroniclers of this new African-American spirit.

For me, Ebony magazine and its founder are especially powerful images. It was through Ebony that we first witnessed the successes and contributions of African-Americans throughout all realms of society. Ebony heralded our achievements in the performing arts, in the business community, and in the professions of law and medicine—all the while celebrating the spirit and unity of the African-American community. It was through Ebony that I, like millions of other Americans, first learned of the living richness of our unique culture.

For 50 years, Ebony magazine has truly embodied our Nations' diverse heritage. Through its pages, millions around the world have been exposed to African-American stories of struggle and triumph. Ebony has been successful in empowering and infusing the African-American people with the pride and determination to overcome the hurdles imposed by our Nation's cultural divisions and racial barriers.

Mr. Speaker, I ask you and my colleagues to join me in paying tribute to these two great pioneers of black communications who have triumphantly broken through all the barriers that so limited their predecessors. Ebony magazine has laid the foundation for all contemporary black publications, and every black personality working in the communications industry today owes them a great debt.

Ebony and John H. Johnson have helped change what white Americans think about blacks and what black Americans think about themselves. Ebony was founded to give both blacks and whites an increased awareness of the possibilities of a new and different world.

In the words of Ebony's founder: "We wanted to give hope. In a world of negative black images, we wanted to provide positive black images. In a world that said blacks could do few things, we wanted to say the could do any thing."

Mr. Speaker, I am proud to say the Ebony magazine, headquartered in my Seventh Congressional District of Illinois, has fulfilled that mission and it is my sincere belief that it will remain the vanguard, continuing to capture the beauty and proud spirit of the African-American people.

HONORING KENNETH R. KORNHAUSER, FRED MILSTEIN, AND LEONARD COOPER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of the Suffolk Association for Jewish Educational Services [SAJES] and my constituents in the Fifth Congressional District as they gather to honor Kenneth R. Kornhauser, Fred Milstein, and Leonard Cooper for distinguished service in advancing the cause of Jewish education in Suffolk County, NY.

Through innovative and creative leadership, Kenneth R. Kornhauser has provided a solid basis of support to the advancement of quality Jewish education. A member of Temple Beth Torah, Kenneth is an involved board member of an array of Jewish organizations that include the Suffolk Y Jewish Community Center, the Gurwin Jewish Geriatric Center, the United Jewish Community Center of Long Island, and SAJES.

Honoree Fred Milstein also is being recognized for his endless dedication to the Suffolk Jewish Community. He has exemplified himself and enhanced the community through his active and effective participation as a member of the Suffolk Jewish Center, and as a board member of SAJES, the Solomon Schechter Day School of Suffolk County, B'nai B'rith, the World Jewish Congress, and the Suffolk Jewish Communal Planning Council.

Extraordinary is a word that befits SAJE's third honoree, Leonard Cooper. Because of his extraordinary talents for enhancing the Suffolk Jewish community, SAJES confers upon him an award of special recognition. Leonard has served with great distinction and effectiveness as the first president of the Suffolk Y Jewish Community Center, and he is also a board member of the Gurwin Jewish Geriatric Center. In addition, he has served as campaign chairman for the United Jewish Appeal on eastern Long Island.

Without compensation or demand for recognition, these men have given of their great skills and talents to the uplifting and betterment of our community. It is with great pride that I call upon all my colleagues in the House of Representatives to join me in paying tribute to Kenneth R. Kornhauser, Fred Milstein and Leonard Cooper. May their good works and selfless deeds serve as an example for all Americans to follow.

PERSONAL EXPLANATION

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. McDERMOTT. Mr. Speaker, due to a family emergency, I was not able to attend the House legislative sessions on November 17 and 18, 1995. If I had been here, I would have voted in the following manner: rollcall vote No. 810, "nay;" rollcall vote No. 812, "nay;" rollcall vote No. 813, "nay;" rollcall vote No. 814, "nay;" rollcall vote No. 815, "nay;" rollcall vote No. 816, "nay;" rollcall vote No. 817, "nay;" rollcall vote No. 818, "yea;" and rollcall vote No. 819, "nay."

HAPPY 35TH WEDDING ANNIVERSARY TO KATHRYN AND RAPHAEL FALLON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. DORNAN. Mr. Speaker, it is my honor to rise today to congratulate Kathryn and Raphael Fallon of Wenona, IL, on the occasion of their 35th wedding anniversary. I am submitting for the RECORD a copy of a news article describing their wedding ceremony on November 19, 1960. I also am including a copy of an award winning essay by then-Kathryn Brunski as well as a news article describing how Raphael was able to complete his college degree while operating a 240-acre grain farm. Congratulations, Kaye and Ray, on your 35th wedding anniversary.

KATHRYN BRUNSKI, RAPHAEL FALLON VOWS EXCHANGED

Simplicity was the keynote of the wedding which united the lives of Miss Kathryn Brunski, daughter of Mrs. Edgar Brunski and the late Edgar Brunski of Wenona and Raphael Fallon, son of Mrs. Kerrie Fallon and the late Kerrie Fallon of Rutland at St. Mary's church, Wenona, at 9:30 a.m. on November 19th.

The nuptial Mass and single ring service was celebrated by the Rev. Paul Reddy before the altar adorned with white and gold mums. Sister Adele, OSB presided at the organ assisted by the children's choir.

The bride wore a silk brocade costume in candlelight with a matching velvet petite hat with a blusher veil and carried an arrangement of white roses on a white pearl prayerbook, a gift of the groom.

The maid of honor was Angela Goropesek, a close friend of the bride, who wore a silk gold brocade outfit with matching hat and carried a cascade arrangement of white fujii mums.

Andrew Fallon of Beloit, Wisconsin, was his brother's best man.

The mother of the bride wore a blue suit dress with matching accessories and the bridegroom's mother wore a green knit dress with matching accessories. Both had white carnation corsages.

A dinner for the immediate family was held at Ryan's Corner House in Tonica following the ceremony.

WINNING ESSAYS IN RURAL LIFE CONTEST PUBLISHED

The essay written by Kathryn Brunski, winner in the junior division, is as follows:

WHY RURAL BOYS AND GIRLS THINK OFTEN OF GOD

Rural boys and girls think often of God because they have a wonderful opportunity to observe nature. Consequently they are able to realize how great God is.

In the beautiful days of spring the boys and girls on the farm can learn the wonderful miracles of life. They can watch their fathers plant the seed and see the beautiful green plants begin to grow.

When they play in the nearby woods and watch the flowers and trees bud and blossom into bloom, as they watch everything becoming alive, they can think of God who gives life to all things, and who makes the world beautiful for the men whom He has made.

In the summer with the sun shining, the crops at the height of their growth, when everywhere nature can be seen at the height of her glory, grateful thoughts turn to God.

As winter draws near, when rural boys and girls see everything dying, the leaves of the trees falling, all the beautiful green becoming brown and dry, they will realize that they too must die some day, and that they should have their souls in readiness for that day.

Everything in nature tells them of God's care for men. God sends the essential rain and sunshine for the crops. He provides trees from which man can obtain food, wood, and even shelter. He provides plants for food, clothing, and other purposes; the rivers for transportation are His creation. To what other boys and girls does God's care seem so necessary and so protecting and loving? When they look around and see the great wonders of nature, they will turn their thoughts to Almighty God who has made all things possible.

Country children can realize just how all things depend on God. If God doesn't send the necessary rain and sunshine for crops, the long hours that their fathers spend in doing the hard work that is necessary on the farm will be in vain. They learn how little man can do without God.

Wherever the country boy or girl turns he sees some evidence of God's great love, kindness, and power, and thinks more often of the Creator and Lord of all things.

RUTLAND FARMER TRAVELS 40,000 MILES FOR DEGREE

RUTLAND.—When candidates for Bradley degrees don their academic robes and start the last five-minute, two-block procession to the Robertson Fieldhouse Sunday evening, one among them will view the last walk as a "Snap."

Twelve years and 40,000 miles lie behind his search for a college degree.

Raphael Fallon, who operates a 240-acre grain farm about two and a half miles northeast of Rutland, will be reaching the culmination of a dream that started several years ago and was achieved only through a dogged determination.

MAJORED IN ACCOUNTING

Fallon will receive a degree in business administration with a major in accounting.

"Many people think that you can't use this kind of an education in farming," he says, "but you sure can—especially cost accounting."

Fallon transferred about two years of previous college work, started at LaSalle-Peru Junior College and University of Illinois Extension Service, to Bradley in 1956.

In the last four years, he has commuted regularly to Bradley's evening college, covering about 100 miles each night, in order to complete work for his degree.

He never missed a class session and maintained a "B" average.

OPERATED ON SCHEDULE

How can you run a farm and still manage to travel and study?

"It's important to schedule yourself," says Fallon. "I managed to work out an organized program at home for study and work. I don't think that you can do it without a schedule."

"I owe an awful lot to the instructors at Bradley and to my parents," says the dark-haired farmer. "It was their encouragement and help that made it possible. I have a younger brother and sister, each of whom has a master's degree, and this was an inducement to keep up with them."

Fallon made the trip alone except for one semester when he had a student from Minonk as a rider. Fortunately, he had no car trouble in the four years that he drove to Peoria, but weather made some of his trips difficult. During last winter's heavy snows, it was sometimes sleety and sometimes foggy. Ordinarily, he was home before midnight.

ANYONE CAN DO IT

"Lots of young fellows up my way have talked about coming down," says Fallon. "It's one way to get an education when you can't go full time during the day. If an ordinary individual like me can do it, anyone can."

Fallon only came close to missing a class on one occasion. This was two weeks ago when his father died. The funeral was on a Monday and Fallon considered missing class that night, but decided to make the drive after the rites and thus maintain his record.

What next for the farmer accountant?

"I think I'll work for my master's degree in business administration. I already have three hours toward the degree and I figure that another 15,000 or 16,000 miles and I can get it."

IT'S ELEMENTARY, DEAR HOLMES

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. BARCIA. Mr. Speaker, there are people that we meet during our lives that leave an indelible mark. I have had the good fortune to have been acquainted with one such individual who leaves an indelible mark of accomplishment, amazement, and style. On November 29, many of us in the Saginaw community will be joining with his colleagues at General Motor's Delphi Saginaw Steering Systems to honor Mr. Gerald E. Holmes, who will be leaving Saginaw to being his new position as Director of North America Operations Issues Management and Media Relations.

Gerry Holmes has worked for General Motors since February 1964, and in public relations since 1968. He became the public relations/advertising supervisor at the former Saginaw Steering Gear Division in 1975. He then held various positions within GM, including with Detroit Diesel Allison, GM Truck and Bus Group, and then returned to the Saginaw area when he became Director of Public Relations at the Central Foundry Division in 1985. He served as Director of Public Affairs for both the Central Foundry Division and Saginaw Division from 1988 until 1992, when the foundries became part of the GM Powertrain Group.

Success is elementary to Gerry Holmes, as elementary as it was to Sir Arthur Conan Doyle's legendary sleuth, Sherlock Holmes. Some of us may remember the passage from The Adventures of Sherlock Holmes, A Case of Identity, when Doyle's Holmes observed "It has long been an axiom of mine that the little things are infinitely the most important." It has long been my experience that Gerry Homes definitely knows how to take care of the "little things"—the need for information, the explanation of a particular activity at any of the facilities with which he has been affiliated.

His devotion to public service, for example his time with the Saginaw Community Foundation, the Saginaw Community Affairs Committee, his board membership with a host of organizations ranging from the Saginaw Art Museum to St. Mary's Medical Center, to the Boys and Girls Club of America, show his devotion to the "little things" that so many of us fail to recognize as infinitely the most important.

And as Doyle also noted in the Sign of Four, "Some facts should be suppressed, or at least, a just sense of proportion should be observed in treating them." Gerry Holmes has always had a marvelous sense of proportion. He has worked to be appropriately promotional with his portrayal of General Motors. The fact that he has throughout his career been given greater responsibility is evidence of this point. And the fact that so many of us haven't been fully aware of Gerry's other community service is a demonstration of his humility in doing what is right without having to seek praise—praise which he does deserve.

Mr. Speaker, with the support of his wife Joy and his family over the years, with the support of his colleagues throughout General Motors, and with his many friends in Saginaw.

Gerry Holmes has become a vital member of the community. He may want to deny it, but he will be sorely missed here. I remind our colleagues and him of another Holmes' observation in The Sign of Four: "When you have eliminated the impossible, whatever remains, however improbable, must be the truth." The truth is that Gerry Holmes will be missed. We want him to do well at all that he does, but his absence will leave a hole that will be hard to fill.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing Gerald E. Holmes every success in the days to come.

100TH ANNIVERSARY OF U.S. BATTLESHIPS

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 20, 1995

Mr. BILBRAY. Mr. Speaker, I come to the floor today to honor and commemorate the hundredth anniversary of the U.S. battleship, and the men who served on-board.

The battleship has played a vital role as a symbol of U.S. power. President Theodore Roosevelt sent 16 battleships, known as the "Great White Fleet," to sail around the world from 1906–1909 to demonstrate to European powers American strength and a willingness to use it to support our national interests. The *U.S.S. Missouri* (BB–63) epitomized the symbology of the battleship by serving as the platform for Japanese surrender at the conclusion of World War II. The battleship has served in every major conflict this century, including our most recent in the Persian Gulf.

The first battleship, the *U.S.S. Indiana* (BB–1), was commissioned on November 20, 1895 and set sail under the command of Capt. Robley D. Evans. At the beginning of the Spanish-American War, the *Indiana* helped define the United States as a great power, when she formed up with Admiral Sampson to intercept Spanish Admiral Cervera's squadron, which was positioning itself to defend Spain's colony on Cuba. The two forces clashed outside of Santiago, Cuba where the *Indiana* quickly sunk two Spanish destroyers, leading to the freedom of Cuba from Spain's dominion, and ushering in an era of the supremacy of the battleship.

During World War II, the battleship played an important role in the defeat of the Axis powers. The *South Dakota* (BB–57), the *North Carolina* (BB–55), and the *Washington* (BB–56) helped to protect the first United States ground offensive of the Pacific at Guadalcanal. When General MacArthur made good his promise to return to the Philippines at Leyte Island in 1944, he came with battleships. The *Maryland* (BB–46), *Pennsylvania* (BB–38), *Tennessee* (BB–43), *West Virginia* (BB–48), and the *California* (BB–44), all resurrected from the disaster at Pearl Harbor, participated in the liberation of the Philippine Islands, seeing their most important action at the battle of Surigao Strait. In that battle, the battleships were tantamount in the effort to repulse the Japanese Navy, and saved the very vital supply ships. At Okinawa, one of the war's most difficult engagements, the battleships were able to repel Japaneses Kamikaze attacks while protecting the landing of the Marines.

In the European theater, battleships played an important support role during the D-day landing of allied forces at Omaha and Utah beaches. The *U.S.S. Nevada* (BB–36), *Texas* (BB–35), and the *Arkansas* (BB–33) were primary in this effort.

Throughout the cold war, the Pentagon saw fit to recommission battleships for a variety of important roles. During the Korean war, the *Iowa* (BB–61), *New Jersey* (BB–62), *Missouri* (BB–63), and *Wisconsin* (BB–64) were dusted off and called on to support U.N. troops. They also served important missions to destroy enemy railroads and coastal artillery batteries. In Vietnam, the battleship returned to service to provide long range artillery support to ground troops. The *New Jersey* (BB–62) was praised for its ability to create a 200-yard-wide helicopter landing zone out of a triple canopy jungle in record time. The battleship also saw active duty during Desert Shield and Desert Storm. Outfitted with sophisticated Tomahawk cruise missiles, Harpoon surface-to-surface missiles, and the Phalanx close-in weapons system, American battleships participated in the initial missile strikes against Baghdad, and in gunfire support of United States Marines during the ground offensive.

Today, the battleships again lay idle, and their names have been stricken from the Naval register. Thankfully, they will be preserved as a symbol of U.S. strength, and in memorial to those who served and died in the service of their country.

Mr. Chairman, the battleship is a proud testament to American Maritime power. I would like to submit for the RECORD a list of names of the surviving battleship commanders. These men should be respected for the service they have provided to their country, and envied for their place in history. Congratulations to these survivors and to all who serve on this occasion, the hundredth anniversary of the American battleship.

ROSTER OF SURVIVING FORMER COMMANDING OFFICERS WHO COMMANDED A UNITED STATES BATTLESHIP

USS IOWA (BB–61)

RADM. Fred J. Becton, USN (ret)
RADM. J.W. Cooper, USN (ret)
RADM. G.E. Gneckow, USN (ret)
Capt. Fred P. Moosally, USN (ret)
Capt. John P. Morse, U.S. Navy
Capt. Larry P. Seaquist, USN (ret)

USS NEW JERSEY (BB–62)

RADM. W.M. Fogarty, USN (ret)
RADM. W. Lewis Glenn, USN (ret)
VADM. Douglas Katz, U.S. Navy
RADM. Richard D. Milligan, USN (ret)
Capt. Robert C. Peniston, USN (ret)
RADM. J. Edward Synder, USN (ret)
RADM. Ronald D. Tucker, U.S. Navy

USS MISSOURI (BB–63)

Capt. James A. Carney, USN (ret)
Capt. John Chernesky, USN (ret)
Capt. A.L. Kaiss, USN (ret)

USS WISCONSIN (BB–64)

RADM. David S. Bill, U.S. Navy
Capt. Jerry M. Blesch, USN (ret)
RADM. G. Serpell Patrick, USN (ret)
Capt. Coenraad van der Schroeff, USN (ret)

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 21, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 29

10:00 a.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings on issues relating to franchise relocation in professional sports.
SD–226

NOVEMBER 30

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD–226

DECEMBER 5

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD–226

DECEMBER 6

9:30 a.m.
Indian Affairs
To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101–601).
SR–485

SENATE—*Monday, November 27, 1995*

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we return to our work today after the Thanksgiving holiday with a glow of gratitude. Thanksgiving is the memory of the heart. It gives us an opportunity to count our manifold blessings as individuals and as a nation and humbly thank You for all You have done for us. As we have looked back over the past with gratitude, and then looked up to You with praise, now we are ready to look forward with hope.

We press on with renewed hope for the debate over crucial issues before us. We know that if we trust You and proceed with honest exchange and civility, You will help us succeed together.

Make us so secure in Your love that our egos will not get in the way; grant us Your power so we will not need to manipulate in a power struggle; free us from secondary loyalties so we can focus as our primary concern the future of our Nation. Thank You for the strength and vitality that surges within us when we reaffirm that living each day as if it were our only day makes for a total life lived at full potential. In the name of our Lord. Amen.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 3 p.m., with Senators permitted to speak therein for not to exceed 10 minutes each.

Mr. FRIST addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

THE FARM BILL

Mr. DORGAN. Mr. President, I wanted to visit today about the subject of NAFTA, the North American Free-Trade Agreement, and some legislation introduced in the Senate on that subject. Before I do that, I would like to make a quick point about the so-called farm bill.

It is my hope that in the week ahead and in the next several weeks, as the Congress deals with the reconciliation bill, the leaders of both sides and the President will insist that the farm bill be taken out of the reconciliation bill. It is, in my judgment, unfair to farmers to have thrown the farm bill into the reconciliation bill. It needs to be considered on its own, its own merits, with hearings, and in a thoughtful way. The decision about what kind of a long-term farm program this country has is not a decision that ought to be made on the spur of the moment by throwing something into the reconciliation bill.

I do hope in the next week or so, as we negotiate through a reconciliation bill, that all sides will agree that if they have to get budget savings from the agricultural side, that is fine, but the farm bill ought to be separated out, debated separately, and considered on its own merits.

NORTH AMERICAN FREE-TRADE AGREEMENT [NAFTA]

Mr. DORGAN. Mr. President, a week ago Friday, just prior to the recess, I introduced in the Senate, along with the cosponsors, Senator BYRD from West Virginia, Senator CAMPBELL from Colorado, and Senator HEFLIN from Alabama, a piece of legislation called the NAFTA Accountability Act. I want to talk briefly about that this morning. I understand that the Senator from West Virginia, Senator BYRD, will come to the floor and also provide some discussion about it.

Not many people know what NAFTA is. It is an acronym that describes the North American Free-Trade Agreement. Not many people know much about it or much about how it affects them, their lives, or their jobs. But it is a significant piece of trade legislation that had its 2-year anniversary, or second birthday, about a week or so ago.

It is time for the Congress, when you pass legislation like NAFTA, to stop and assess its impact and decide whether it did what it was advertised to do.

A week ago today I drove to the Canadian border, a border town named Portal, ND, between North Dakota and Canada, along with some farmers. One of the farmers, Earl Jensen and his wife, brought along a 1984 orange International grain truck with 240 bushels of hard red spring wheat, and we drove to the Canadian border last Monday.

A number of other farmers came along and they brought some durable goods, dry goods, clothes, a clothes washer, several cases of beer, and some other products to try to understand what you could get into Canada under this North American Free-Trade Agreement.

All the way to the border that morning we were meeting these semitrucks, double tandem semitrucks, filled with Canadian grain, coming south. We knew they were filled with grain because as they came south—and there was a pretty good wind—the grain came up against the windshield as these huge semitrucks came whipping on by us going south.

We arrived at the Canadian border and Earl drove up with his orange truck filled with 240 bushels of hard red spring wheat and told the Canadian Customs that he was going to take the truckload of United States wheat to Canada to sell at a country elevator.

We know that millions and millions of bushels of Canadian wheat are coming across our border, coming south, truckloads, every single day. But Earl was stopped at the border and told, "You cannot take that wheat into Canada. You must have an end use certificate."

Well, Earl Jensen and his wife sat in his little orange truck. They did not have an end use certificate. It turns out you have to get one from Canada. If you apply, you cannot get one because you cannot sell grain at a country elevator in Canada because you are hauling United States grain.

The fact is millions of bushels of wheat pour south from Canada into the United States, and Earl Jensen and his wife cannot drive north to Canada with 240 bushels of hard red spring wheat.

Why is that important? It demonstrates the problem of unfair trade on the border. A fellow who brought three cases of beer felt, because there was a flood of barley coming south, you can turn barley into beer and take the beer back in cases. He learned you cannot take three cases, you can take one, and if you stay more than 24 hours you have to pay duty, $12.50 duty, on a case. Another fellow discovered the combined duty was over 20 percent for his products.

Why do I take time to describe this? We have problems on the border. We have a free-trade agreement with Mexico and Canada that is fundamentally unfair to our country. It is called NAFTA.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I want to describe what has happened in our own country with the trade deficits. I know you might think this chart is upside down, but it is not. The red represents trade deficits. You can see in this country we had trade surpluses through a series of trade acts, and then we had the Trade Reform Act in 1974, Tokyo round, the Uruguay round, NAFTA, and now GATT.

Look what has happened. We will have a larger merchandise trade deficit in this country than a fiscal policy deficit. There is a lot of nail biting and wrist wringing about the fiscal policies deficit, and there should be. The budget deficit is a serious problem. But the trade deficit is larger and a more serious problem for this country.

What has happened with respect to Canada and Mexico? Well, we have a trade deficit with Mexico now as a result of NAFTA, or at least partly as a result of NAFTA. Prior to negotiating a trade agreement with Mexico and with Canada, we had decent trade numbers with Mexico. We had nearly a $2 billion surplus.

Now, 2 years later, after 2 years of the trade agreement with Mexico, we will probably have—this says $15 billion; it is probably a $16 to $18 billion deficit. Let me say that again: We will have gone from a $2 billion surplus to a $16 to $18 billion deficit after 2 years of a new trade agreement with Mexico.

The situation is similar with Canada. There we started with a deficit. Now that deficit is nearly going to double. Some of us believe that this country ought not continue to get taken advantage of and get the short end of the stick on trade issues.

I mentioned the Canadian problems. At least from the standpoint of someone who represents a rural State, the major problems are agricultural. A flood of grain is coming into our country, undercutting price, undercutting our family farmers. Yet, you cannot get one little orange truck across the border going north with 240 bushels of grain. That is the fundamental unfairness of the situation at our border up north with respect to grain.

What is the circumstance at the border down south? What we have down south, as one Presidential aspirant described it a couple years ago, is a giant sucking sound of American jobs heading south. There is no disagreement about the impact of the deficit that we now have with Mexico. It means wholesale movement of American jobs to Mexico.

We have introduced legislation in the Congress called the NAFTA Accountability Act. It was introduced in the House and the Senate as of a week and a half ago. It has, I believe, 32 original cosponsors in the House. We have four in the Senate and we intend to add to that.

We say we want a couple of things to happen. We want to set a date for withdrawal from NAFTA unless certain conditions are met. If NAFTA is fixed and the conditions are met, that is fine. If it is not, we should withdraw from this trade agreement.

We do not need a trade agreement that someone calls free that is not fair to our country. That is the circumstance we have now.

At least we should require some balance in trade. Should we have a $30 to $35 billion trade deficit with our two neighbors? Of course not. We also have big problems with Japan and China and others. I understand that. But a trade agreement as a result of the Canadian Free-Trade Agreement and the North American Free-Trade Agreement that leaves us with $30 to $35 billion combined deficit, is that in our country's interest? Of course not. We ought to change it.

Our Accountability Act also deals with trade deficits. There ought to be some balance. When that balance is thwarted, then you ought to decide to kick in some measures, tariffs if necessary, to come to some sort of balance in trade between our countries.

We ought to deal with currency exchange rates. When you negotiate away a 10-percent tariff with Mexico and then you have a 40-percent change in the value of the peso, what have you done? What you have done is injured the interests of the United States.

We would provide for some remedy to the agricultural trade distortions. We would also require the certification of progress in a range of other areas. There are eight conditions all told.

Let me describe why a number of us have decided to offer this legislation. When NAFTA was debated in the Congress, here was the promise: The promise was more than 220,000 new American jobs.

Well, we had economist after economist around this country doing work for the business groups, the Clinton administration and others, who wanted this to be passed in the Congress. They all made these wild-eyed promises about all these new jobs in our country.

Well, take a look at what has happened. It is projected this year not that we will have 220,000 more jobs in our country but that, in fact, we will have lost about 220,000 jobs as a result of NAFTA.

Let me show you one of the promises. One of the leading studies that was done was a study called the Hufbauer-Schotts study, and everyone used it in the House of Representatives and Senate in debate. Mr. Hufbauer, the study's economist, said there would be 130,000 new additional jobs in 5 years in the United States. That was the promise.

Here is the reality. The same fellow who made that promise of 130,000 new jobs in the United States, now says in April of this year, 1½ years later, "The best figure for the jobs effect of NAFTA is approximately zero. The lesson for me is to stay away from job forecasting." Gary Hufbauer, Wall Street Journal, April 17.

There is an update, October 26: "The surging trade deficit with Mexico has cost the United States 225,000 jobs."

I ask unanimous consent for 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. The same fellow who predicted massive quantities of new American jobs with this trade agreement is now saying not only has that not happened, but the trade deficit with Mexico has cost us 225,000 jobs.

You have seen some of the press stories in this country about what is happening. Fruit of the Loom is closing six plants, laying off 3,200 workers. Where are many of the jobs going? To low-wage countries, including Mexico. That is what NAFTA has been—an opportunity, a magnet, for jobs that used to be here but now go there.

Tri-Con Industries is moving its car seatcover plant, 200 jobs, to Mexico. Ditto Apparel, Colfax, LA, lays off 215 workers. Says the fellow from Ditto Apparel, "I'm telling you, NAFTA and GATT are the nails that are going to be in the coffin of the apparel industry in this country." They are laying off 215 workers.

I wanted to show my colleagues, in the RECORD today, what has happened just with automobiles, because we were told that any jobs that would go to Mexico as a result of the agreement would be low-skilled low-wage jobs. The fact is different. Take a look at automobiles. Our deficit with Mexico is from automobile parts, electronics, electronic parts. This is the result of high-skilled jobs that used to be in this country. Take a look at automobiles. This is an example of what you read in the papers that leads people to the wrong conclusion.

In 1993, just before NAFTA, we exported nearly 3,000 cars from the United States to Mexico. Now we export nearly 18,000 cars from the United States to Mexico. If you simply read that figure, people would say look, we have gone from 3,000 automobiles manufactured in the United States, exported to Mexico, to 18,000. That is a sixfold increase. How on earth can you describe that as anything but progress?

Let me show you the rest of the story. The imports of automobiles made in Mexico to the United States, sent to the United States, has gone from 237,000 to 405,000. So, what you see is a nearly 180,000 increase in automobiles manufactured in Mexico, sent into our market to displace automobiles that used to be made here. That is the rest of the story. The story on automobiles is a dismal story of failure, of jobs leaving America, going to Mexico.

We have introduced legislation in the Congress, not because we do not value our relationship with our neighbors, not because we believe there should never be free trade agreements, but because many us believe our trade agreements have undermined the American economy, have actually created conditions that attract American jobs to go elsewhere, have set up circumstances to weaken the American manufacturing job base. We do not think that is in this country's interests.

One can hardly look at the graphs that I have shown today, especially this chart, the chart of what has happened in American trade, that shows an alarming trend of ever-increasing deficits, sufficient so that in this year the merchandise trade deficit in this country will exceed the budget deficit in fiscal policy. We are going to talk a lot about the deficit, and we should. But we also want to talk a lot about this red ink. This is red ink that can only be repaid by a lower standard of living in this country.

You can make a case—not a very good one, in my judgment—that the fiscal policy budget deficit is money we owe to ourselves. Because the debt is so unequally distributed that is probably an unfair comparison. But, you cannot make the case with the trade deficit that is money we owe to ourselves. It is not. It is money we owe to others, others who live outside of our country, and which will be repaid, inevitably, through a lower standard of living in our country.

That is why this is a crisis. There are many other areas of trade we must deal with—China, Japan—to mention a few. But NAFTA, the most recent trade agreement has now resulted in a circumstance where we are being smothered with a combined trade deficit with our two closest neighbors. It does not make any sense. Our country ought to insist on trade policies with other countries that are fair.

When I speak of this and when others on the floor of the Senate speak of this, immediately the editorial writers and others call us xenophobes and isolationists and folks who want to build walls of protection around our country. Not at all.

I want our country to be able to compete. I want our businesses to be lean and able to compete all around the world. But I want the competition to be fair. I do not want someone who starts a factory in South Carolina or North Dakota or Colorado or New York to have to compete against someone else who has a factory in Malaysia or Indonesia that is hiring 14-year-olds, paying them 14 cents an hour, working them 14 hours a day. That is not fair competition and it is not competition we should aspire to be involved in.

The same is true with respect to Mexico. I do not expect our producers and our workers in our country to be able to compete against a country that devalues its currency by 40 percent, that has substantially different enforcement on air and water pollution, substantially different enforcement on the hiring of children, a substantially different wage base than ours, where the minimum wage is so much below that in the United States. I do not expect that is fair competition for any producer in our country.

I want our trade agreements to stand up for the economic interests of our country. I just do not want trade agreements any longer to be negotiated with other countries in which we do not require that the rules of trade, the rules of exchange between our countries be fair. When we fail to require that circumstance, then in my judgment we weaken our country.

When Earl Jensen and his wife, in a little orange truck, drove to the Canadian border a week ago today, I watched the Canadians at the Canadian customs say to Earl and his wife, "You cannot bring 240 bushels of hard red spring wheat into Canada," despite the fact I have seen truckload after truckload of Canadian wheat come into our country, Earl and his wife have every right to be upset about a trade agreement that is unfair.

When you go to the southern border of our country and you see a company that can hardly afford not to move its manufacturing plant to Mexico because of lower wages, because of less strenuous enforcement of pollution standards and child labor standards, you understand what has happened on the southern border is unfair as well—unfair to the American workers and unfair to the American manufacturers who stay here.

We must, it seems to me, ask Republican and Democratic administrations, each of them, when they negotiate trade agreements, to stand up, finally, for the economic interests and the economic well-being of our country; not to protect us against real competition, but neither should they subject us to unfair competition that we cannot possibly expect to win.

That is the reason a number of us have introduced legislation, hoping it will lead to a thoughtful debate about the values of the North American Free-Trade Agreement. We think it needs to be changed because we think it does not at this point represent the best interests of our country.

Changing it does not mean we do not believe in freer trade or we do not believe in expanded or open trade. It simply means we believe there ought to be required fair trade rules between countries with which we are engaged in day-to-day commerce and exchange.

As I indicated, Senator BYRD from West Virginia will, I believe, today be making some comments about this legislation. We will be, now, circulating among the Members of the Senate, a "Dear Colleague," seeking cosponsors. There are four of us, Republicans and Democrats, who have introduced this legislation and we hope for bipartisan support of this legislation so we can have a thoughtful trade debate in the months and the years ahead.

I would like to make one additional comment. I introduced an amendment a couple of weeks ago, that was defeated on the floor of the Senate. I am going to introduce it again at some point, I feel so strongly about it. We not only have trade rules that are so unfair, we have a tax law, a tiny little thing, that says to companies: If you close your manufacturing plant in America and move that plant and its jobs to a tax haven country and then make the same product and ship it back to America, we will give you a tax break. It is called deferral.

The company that stays here and makes a profit, pays income taxes. The company that leaves here, makes the same product and makes a profit and ships it back here, pays no taxes unless they repatriate the profit. As long as they keep the profit in that foreign plant, they never pay taxes in the United States. That is a loophole that ought to go, a loophole that says if you move jobs outside the country we will give you a tax break. If we cannot close that tax break, we cannot ever close a tax break in the Internal Revenue Service Code.

Although I was unsuccessful in an amendment to close that loophole, I intend to offer it again in coming Congresses, during this Congress and the next Congress, in the hope that one day we can begin to change the laws, both taxes laws and trade laws, that I think augur against the interests of those who invest here, those who build manufacturing plants here, and, yes, those who work in those plants who expect us to have at least the rules of trade and the rules of the Tax Code be fair to American interests.

Mr. President, I thank the Senator from South Carolina for his indulgence, and I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Are we in morning business, Mr. President?

The PRESIDING OFFICER. We are in morning business.

Mr. GREGG. I ask unanimous consent to proceed then as in morning business for a period of up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENDING AMERICAN SOLDIERS TO BOSNIA

Mr. GREGG. Mr. President, as the President tonight begins the process of trying to convince America that we should put American soldiers' lives at risk on the ground in Bosnia, I think it is appropriate to take a look at some of the other foreign policy activities of this administration in the terms of what they represented as being when they originally proposed it and what has occurred in reality.

Probably the most significant example of this administration presenting a policy in one form and having it executed in another form is today being seen in Haiti. When the President decided to go into Haiti—and he did this on a unilateral action, as much as his policies in Bosnia so far have been unilateral—he stated to us that the purpose of this was to restore democracy, to put back in place the elected leader of a government that had been replaced by a military coup of sorts, and to allow the nation of Haiti to reestablish economic strength and have the capacity to pursue a peaceful and democratic and economically prosperous future.

He told us that our troops would be there briefly and that the cost would not be excessive. I think we need, however, now to take a look at what has actually happened in Haiti, whether or not the policies of the administration as represented have actually come to pass.

First, let us look at the issue of who they have put back in power in Haiti, Mr. Aristide. Has Mr. Aristide turned out to be a democratic individual? I think it would be hard to put that identification on him. He has been an individual who has had a history of being violently anti-American, of being a proponent of Marxist philosophy, of being an individual who has historically proposed the use of violence against his political enemies.

Did he change his way when he was put in as President by us as a nation, using our military? It does not appear he has. In a meeting which took place—it was not a meeting, it was a ceremony of mourning for a person who had been unfortunately killed by violence in Haiti—about a week and half ago, Mr. Aristide called on his supporters to use violence. This is the President of the country, someone who has been put in place by American forces, someone who is protected by American soldiers, calling for the use of violence against the citizens of his country, mob violence against the citizens of his country.

As might be expected, the people of Haiti responded to this call from their President for mob violence with mob violence. It is estimated that many people died, maybe as many as 11; homes were burned, looting occurred, and the streets were on fire. The words that he used to counsel this violence were reported as being, "Go to the neighborhoods where there are big houses and heavy weapons, and retaliate against the big men," inciting the mob to violence. That is the leadership of the individual who we have put the American imprimatur of authority on, who this White House has chosen as their leader in Haiti.

Has he also accepted the fact that elections should occur in December? We are not sure of that. In another recent meeting just a few days ago, there was a nonbinding resolution put forward by his supporters which called on him to remain in office beyond the election for another 3 years. Such action would be inconsistent with, should he undertake it, the constitution, which he is allegedly functioning under in Haiti, which says he cannot succeed himself, and his term is up in February.

What was his response to that nonbinding resolution which was put forward by his own people and which you have to presume he laid a hand in authoring, at least his people did, with his countenance? He said to the delegates, "If you want me for 3 years, I will walk with you. I think what you think," a pretty clear statement that he has no great interest in the elective process or in his own Constitution, which he is allegedly sworn to support.

In addition, of course, the election, which is coming up on December 17, is a fraud and has been made so by President Aristide's party. Four of the five opposition parties have decided not to participate. We know that it is going to essentially be a nonelection election, the purpose of which will be simply a ballot-box-stuffing event for the confirmation of the Aristide party.

The opposition parties have been crushed both through mob violence and through use of a controlled press, and there is very little in the form of what anyone would arguably call democracy occurring in Haiti today. And at what price has this occurred to the American taxpayers and American military?

First off, as I said, we have used our military to basically prop up a dictator in Mr. Aristide. In doing that, we have undermined, in my own estimation, the credibility of American military force, which is not supposed to be used for the purposes of promoting dictatorships but clearly is.

In addition, it is costing us, the taxpayers of this country, approximately $2.2 billion, or at least that is the best number we can estimate. I think personally that is low, but that is still a lot of money. And $2.2 billion is all the taxes that are paid by the folks that I represent in New Hampshire in any given year. Somehow I think those folks would have preferred to have their money go to better schools or better environment or better roads somewhere in our country, than to go into the coffers of Mr. Aristide in Haiti.

What has that $2 billion purchased the people of Haiti? It has purchased them Mr. Aristide back in power, that is correct, but not a great deal more. In fact, as a result of the policies of this administration, we put in place sanctions, which was a mistake to begin with, as I said earlier, when they were put in place, sanctions which ended up terminating essentially the private sector in Haiti. The loss of jobs was dramatic; tens of thousands of jobs which were in the private sector which existed in Haiti were lost as a result of the sanctions.

Have we seen those jobs restored? Has there been a return to democracy, to a market economy in Haiti? Has there been any expansion of the private sector in Haiti? Marginal at best. In fact, Mr. Aristide, who prior to being put back in power as a celeb in residence of this administration when he was here in Georgetown, stated rather aggressively his views that he believed in a socialist approach to government and since being the President has refused to privatize a number of the state-controlled activities which it was understood he was going to privatize as part of getting the economy going again. And so not only were the jobs lost, and they have not been re-created, as a result of the sanctions, we are seeing an administration in Haiti which has accomplished very little in the effort to create a market force in Haiti. So all in all, it is not a great success story.

But what is really of significant concern—even I think should be of concern for the American people as we go down the road toward the Bosnian debate—is the gap between what was represented was going to happen and what was represented would be and what has occurred, the gap between how Mr. Aristide was defined by this administration and who he really is, which is dramatic, the gap between what then was told to us was going to cost us and what it eventually has cost us, the fact that we may have American soldiers on the ground there well past February when we are supposed to have them out, another example.

And so, as we move down the road on the decision on Bosnia, I think the American people have the right to ask the serious and difficult questions of this administration and to be a little suspicious of the answers and presentations as to what this administration's views and decisions are in Bosnia.

We just recently read—I did not read it, but we heard synopses of a book published by Robert McNamara, who was the Secretary of Defense under John Kennedy and under Lyndon Johnson, and who now states rather openly that he knew the war in Vietnam was wrong, that it was a mistake from a public policy standpoint, but that because of the need to protect, basically, the political position and ego of the Presidency, they continued to pursue the war in Vietnam—truly one of the more disconcerting revelations to come forward from a leader of this country, certainly in this half century, but I suspect a very accurate one.

Maybe we should put a new term in the American language called "McNamaranism." That is when you pursue a policy which you know is substantively wrong but you pursue it because of the political need or the need of the ego or the need of the presentation of the Presidency to the people. You pursue it not because you know it is right substantively, not because you know it is going to correct a problem which you think is there, but because you know, as a member of the policymaker at the highest level in Government, that if you do not pursue it, you are going to put at risk the President's imprimatur of authority, his personal leadership role or his reelection efforts.

McNamaranism—I think that is a term that we should start with and we should identify. Clearly, McNamaranism occurred in the early sixties. I think a form of McNamaranism has occurred in Haiti. We pursued a policy in Haiti not because we knew we were going to correct that country. We knew that country was going to continue to have serious economic problems and serious political problems no matter what we did, because it has had those problems a long time and we do not have the wherewithal to change that culture unless we are willing to essentially take that country over and dominate it for years, something we tried to do from 1919 to 1935 and failed to do during that period. So we know it will take longer than that length of time, which is when we last occupied that country.

But we went into Haiti because this administration had a political need to go into Haiti, to be quite blunt. There were certain forces within the constituency which support this Presidency who demanded unequivocally that we go into Haiti, and they were effective in making their case. So it was a political decision to go into Haiti, even though substantively we knew we were not going to correct the situation, and we are now seeing the result of that.

McNamaranism struck us in Haiti. Let us hope that McNamaranism does not strike us in Bosnia.

Mr. President, I yield back my time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

PEACE IN BOSNIA AND DEPLOYMENT OF UNITED STATES MILITARY FORCES TO IMPLEMENT THE PEACE

Mr. THURMOND. Mr. President, on Tuesday, November 21, the Presidents of Bosnia, Croatia, and Serbia initialed a peace plan to end the fighting in Bosnia. The peace plan, if implemented and enforced by the parties would result in Bosnia being governed by two entities, the Moslem-Croat Federation, which would have jurisdiction over 51 percent of the territory, and the Serb Republic, which would have jurisdiction over 49 percent of the territory. Sarajevo will remain a united capital, which would fall within the territory of the Moslem-Croat Federation, along with its Serbian-held suburbs.

On Wednesday, the U.N. Security Council voted to lift economic sanctions against Serbia and Montenegro, and also to lift the arms embargo against Bosnia and the other Yugoslavian Republics. The lifting of sanctions will only take place after the peace agreement is signed in Paris and Bosnian Serb military forces are redeployed behind a zone of separation.

The Presidents of Bosnia, Croatia, and Serbia followed up the initialing of the peace plan in Dayton by forwarding identical letters to President Clinton vowing the support of their governments to the implementation and enforcement of the peace agreement and guaranteeing the security of NATO peacekeeping troops.

However, not less than a week after Balkan leaders initialed this peace agreement, the Bosnian Serbs, led by Radovan Karadzic have demanded the renegotiation of the provisions regarding the future of Sarajevo. While in Sarajevo, Serb residents are protesting the peace agreement that would place their neighborhoods under the control of the Moslem-Croat Federation. Along the Dalmation Coast, Croats are protesting the turnover of land in exchange for land along a Posavina corridor that would provide better security. Moslem-led Bosnian army soldiers entered a United Nations base in the Bihac enclave, manned by Bangladeshi peacekeepers and took equipment, including vehicles. There were also reports that Croat forces were burning and looting homes in northwestern Bosnia that is scheduled to be turned over to the Serb Republic.

Mr. President, on November 8, the House and Senate leadership met with President Clinton to discuss the situation in Bosnia and the status of the negotiations in Dayton. At that time, I advised the President that I felt he had not convinced the American public, nor the Congress, that it was in the national interests of the United States to deploy United States military forces to implement or enforce the Bosnia peace agreement. I also advised the President that convincing the American public and Congress rested on his shoulders—the President needs to come before the American public and make his case.

The President has not yet convinced the American public, nor the Congress, that the United States has an interest in securing, or ensuring, the implementation or enforcement of a peace agreement in Bosnia. He has not convinced the American public or Congress that European nations in the region where the fighting has taken place, and who would be directly affected if the fighting were to cross the borders of Yugoslavia, need the support of United States military forces.

As a world leader, the United States should exercise its leadership by asking the European Community why it does not view it to be their responsibility to secure, or ensure a lasting peace in Bosnia; if necessary, why they do not employ the necessary military forces, as President Clinton has pledged to do, to implement the peace agreement.

I respect the constitutional prerogatives of the President, as Commander in Chief, to exercise his authority to deploy U.S. military forces. However, the Congress has a constitutional responsibility to balance his check. As a Senator and the chairman of the Senate Armed Services Committee, I have a responsibility to ensure that a thorough and public national debate takes place.

I support the North Atlantic Alliance and believe that the United States should remain engaged in, and show leadership in NATO. I believe that the United States has obligations under the North Atlantic Treaty. I also believe that the American public and Congress are willing to use U.S. military forces to defend U.S. national security interests.

In an effort to convince the American public and the Congress, President Clinton will address the Nation this evening to defend the United States-brokered Bosnia peace agreement and describe America's national or vital security interests which warrant the need to deploy United States military forces to Bosnia. In short, he needs to convince the public and Congress that it is the proper course of action for the United States to deploy troops to Bosnia.

Mr. President, it is imperative that President Clinton make the case for United States involvement in Bosnia to the American public and gain their support before any United States military forces are deployed to Bosnia. The President must be clear about United States objectives in Bosnia and the risks involved. The decision to deploy U.S. military forces and the length of time spent in the operation should not be based on Presidential politics. The decision to send U.S. military forces has to be based on clear and achievable objectives and goals, and a developed exit strategy.

ADDRESS OF PRESIDENT FIDEL V. RAMOS OF THE PHILIPPINES AT THE EAST WEST CENTER IN HONOLULU

Mr. HATCH. Mr. President, I wish to submit for the RECORD the statement of the distinguished President of the Philippines, Fidel V. Ramos, on the topic of "Regional Cooperation and Economic Development in the Philippines." President Ramos delivered the statement last month as part of the First Hawaiian Lecture Series at the East West Center in Honolulu. The presentation was part of the ongoing efforts of the East West Center to provide a badly needed platform for prominent government and business leaders to comment on relations in the Asia-Pacific region. In this endeavor, the East West Center, Mr. President, has no equals. For the past 25 years it has been the nerve center for bringing together opinion leaders, as is evident from President Ramos' presence.

Mr. President, I offer President Ramos' speech as a matter of great interest to the Members of this body. We need to know what our best friends think of our foreign policy. Clearly, the Philippines, and President Ramos especially, are good friends, good partners, and strong allies of the United States.

In his statement, President Ramos makes an observation regarding the direction of U.S. foreign policy that should not be ignored. In a few words, he tells us not to trust old conventions or concepts that are out of place in the post-cold-war environment. Instead, he says, and I quote:

> The United States must redefine its concept of national security in economic and cultural terms. Like the rest of us, America's place in the future world will be determined just as much by the creativity of its workpeople and the daring of its entrepreneurs as by the devastating power of its weapons.
>
> Since virtually all of its trade deficit comes from its East Asian commerce, the United States is looking for a new sense of fairness in its economic relationships with the Asia-Pacific region. Over the past 30 years, the U.S. security umbrella—and the rich U.S. market—have enabled East Asia to prosper. Now American leaders argue that Americans must see their country as sharing in this prosperity—if American taxpayers are to continue supporting their country's continued security engagement in the region.
>
> We of the Philippines have no problem at all with this proposition—particularly since we do not regard economic competition as a winner-take-all or zero-sum contest. In the economic competition, everybody wins—and even the relative "loser" ends up richer than when he started.

I have selected this passage from the text of the speech because it characterizes what I perceive to be the attitude of our Asian-Pacific partners toward expanded trade.

I agree with President Ramos: There is a new post-cold-war competition. We, the United States, cannot afford to distance ourselves from regional and global participation any more than we had assumed the heavy burden of regional and global security during the cold war. Economic competition, like trade, tightens relationships, fosters cultural understanding, and generally produces all winners, even though there may be short-term losses.

President Ramos knows what he's talking about. The trade ties between our countries are strong, with the Philippines ranking as our 26th largest export market. In addition, the U.S. stock of foreign investment in that country stands at nearly $2 billion. Although this investment has been in manufacturing and banking in the past, the restoration of such former United States military installations as Subic Bay to the Philippines has opened still newer, mutual trade opportunities. Today, U.S. cargo shippers are developing major staging and warehousing facilities there, contributing to our increased trade position in the region.

The Philippines is emerging as a reliable place for Americans to do business. In July 1991, the Government set in motion a major program for the reduction, restructuring, and simplification of tariffs. Its government procurement program does not discriminate against foreign bidders. The Philippines has excised from its books preferential rates for export financing for domestic companies and is a signatory to the GATT Subsidies Code. After some disagreements with the United States on intellectual property protection, the Philippines is drafting new legislation on trademarks, copyrights, and patents that promise to be world class. The importance of the Philippines intellectual property changes should not be underestimated. The country is largely dependent on imported technology. Today, much of that comes in the form of computer disks, tapes, and other media with embedded software. This software provides computer-based routines for manufacturing, education, medical, and other applications of technology essential to national growth. Indeed, much of this software comes from my own State of Utah. Without appropriate protection of their property, exporters of technology would be very reluctant to market it abroad.

While there are some deficiencies remaining in the country's trade statutes, we should commend the Philippines for their rate of progress in the past 5 years alone.

Clearly, the pace at which the Philippines is entering the world trade arena will establish it as a competitive and worthy partner of which all fair trade countries will want to take notice. For these and the reasons stated earlier, I commend the balance of President Ramos' remarks to the RECORD and ask unanimous consent that the entire speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AMERICA'S ROLE IN EAST ASIA

(Address of H.E. President Fidel V. Ramos, before the East-West Center, October 16, 1995)

INTRODUCTION AND THEME STATEMENT

From your vantage point here on these lovely islands, even to doubt whether the United States will remain an Asia-Pacific power seems no less than ridiculous.

But perspectives shift with longitude—and I must tell you that concerns about America's staying power—specifically, concerns about the strength of the U.S. commitment to intervene in future regional crises—are beginning to preoccupy most countries in East Asia.

Over this past generation, the regional stability underwritten by the United States has given our countries the leisure to cultivate economic growth. Now the fear is widespread among them that the United States is turning inward—that it will revert to the isolationism which has characterized its foreign policy throughout much of its history.

I must add that we of the Philippines believe the United States will remain in the Asia-Pacific—and not out of altruism, but in its own interest.

You more than any others realize how the tilt of U.S. population away from its Atlantic Coast, the influx of Asian migrants, and the attraction of East Asian trade and investments have made your country a true Asia-Pacific power.

And so it cannot afford to leave the Asian Continent in the hands of a single dominant power—any more than it could tolerate Western Europe's being in the same situation.

America's role in East Asia is my topic here this afternoon. Let me summarize the four points I wish to make before I elaborate on them:

First—over the foreseeable future, the United States must continue to be the fulcrum of East Asia's balance of power.

Second—economic competition between the United States and East Asia is not "winner-take-all" but a game both sides can win. A vigorous American economy is just as good for East Asia as it is for Americans themselves.

Third—now that political values have become just as important as traditional security concerns and economic interests in the relations between countries, I ask you not to underestimate the power of America's democratic ideals to help shape East Asian political systems.

Fourth—America's military hegemony in the post-cold war period gives it the historic opportunity to bring political morality to international relationships—to shape a moral world order. And this is a chance America must grasp—before it slips away.

Now let me take up these four points one by one.

FULCRUM OF THE EAST ASIAN BALANCE OF POWER

Over these last 50 years, the sustained United States presence in East Asia—and its willingness to mediate East Asia's conflicts—have ensured there would be no repetition of the Korean war—and that the Vietnam war "dominoes" would fall the other way.

By interposing itself between the Chinese civil war protagonists across the Taiwan

Straits, the United States presence enabled Beijing and Taipei to cool off their enmities—and in fact to cooperate in the South China growth triangle with Hong Kong. The United States has also acted as a buffer between Japan and China—and between them separately and the Soviet Union.

The cold war's end has not ended the usefulness of the American presence. Over the foreseeable future, the United States must continue to be the main prop of the East Asian balance of power—if only to preserve the bubble of stability that keeps East Asia's "economic miracle" going.

In this role, the United States has no competitor. Its military presence is—uniquely—acceptable to all the powers with legitimate interests in the region.

Over the future we contemplate, Russia's energies will be directed inward—to problems at home—and to relationships with its commonwealth neighbors in the former Soviet Union.

Meanwhile, fifty years after the Pacific war, Japan has neither completely reconciled with East Asia nor decided on its new role in the region.

CHINA WILL BE EAST ASIA'S MOST SERIOUS CONCERN

China—over these next 25 years—by the World Bank's estimate—will become the world's largest economy. Over this next quarter-century, China will unavoidably press—politically and militarily—on East Asia, even if Beijing made no effort to build up its capability to project power beyond its strategic borders.

How China exercises its political and military clout must concern us all. (The opposite possibility—of China's economic collapse and its reversion to "Warlordism"—is, if anything, even more alarming.)

The allies in Western Europe solved a roughly similar problem by integrating postwar Germany into the European Union. So must we endeavor to integrate China into the Asia-Pacific Community—economically through the Asia-Pacific Economic Cooperation [APEC] and politically through the Asean Regional Forum [ARF]—if we are to have lasting regional stability.

Only with America's help—only with America's leadership—can this be carried out successfully.

China and the United States—the "Elephant" and the "Whale," Walter Lippmann once called them—one a land—and the other a maritime-power, so that their interests were not antagonistic but complementary.

But, today, the elephant is learning to swim: China is building itself a blue-water navy. Since the collapse of the Soviet Union, America's political and military dominance has been unchallenged. Is China gearing up to become the only counterforce to United States hegemony in the post-cold war world?

Over these past 15 years or so, China has set aside its historical grievances, its ideological mission and its geopolitical ambitions in its pursuit of economic growth. Will it return to these causes once its economic growth is assured?

China's encroachment into mischief reef—part of our Kalayaan (Freedom) group of islets in the Spratlys—should warn us that China claims nearly two million square miles of land in adjacent countries; and that it also has unresolved territorial or maritime disputes with Russia, India, North Korea, Tajikistan, Japan, Vietnam, Malaysia, Brunei, and Indonesia—any one of which could spark off a local conflict.

CONTAINMENT OR ENGAGEMENT?

How are we—its neighbors—to deal with China?

The debate rages between those who urge "containment"—after the way the west restrained an expansionist U.S.S.R. in the early years of the cold war—and those who believe China's "engagement" into our peaceful network of economic and political institutions to be the better course.

We in the Philippines believe we must apply one or the other response as the emerging situation demands.

We must discourage any Chinese aggressiveness—yes—but we must also encourage every trend that ties the Chinese economy more tightly to those of its neighbors in the Asia-Pacific.

Obviously, we cannot approach today's China with preconceived notions when this huge and complex country—a civilization in itself—is in the middle of such an epochal transition.

This is why the Asean states refuse to commit themselves prematurely to the proposal for "prepositioning" United States materiel.

This caution is partly a lesson remembered from the colonial period—when the weak were wise to stay away from the quarrels of the strong. But it also results from an appreciation of the chance that the dismantling of the American naval and air bases removes a potential provocation to Asean's giant neighbor—and invites China to live-and-let-live with Southeast Asia.

Meanwhile, even the reduced United States deployments close to the Asean region are a counterweight enough in the region's security balance.

Some say that, if Beijing should continue encroaching on the South China Sea, then this aggressiveness will accelerate security cooperation among the Southeast Asian countries—and between them and the United States.

But, for the moment, the Asean states are betting that interdependence and intensified cooperation will preempt the rise of longstanding political antagonisms.

Economic interdependence may not by itself prevent conflicts. But it does raise the cost—and the threshold—for using force, especially among the great powers.

JAPAN, OUR OTHER MAIN CONCERN

About Japan, we of the Philippines have two basic concerns. The first is that the alliance between Japan and the United States must be preserved; and the second is that Japan must find a political role in the world proportionate to its economic power.

Like all the other Southeast Asian countries, we want Japan's alliance with the United States to continue—although we now accept the alliance must be redefined into something closer to a genuine partnership.

There is an inherent anomaly—similar to the original West European effort to keep apart the two Germanys—in today's Japan remaining a strategic client of the United States. This can only fan an unhealthy kind of nationalism in a country acutely aware of both its economic strength and its cultural uniqueness—increasing the danger that the trade disputes of the United States and Japan would spill over into their security relationship.

The Philippines supports—within the context of United Nations reforms—Japan's bid for a permanent seat in the Security Council.

We see this as enhancing Japan's integration into the world community. And we are reasonably confident Japan's political role will be exercised on the side of peace—if only because the Japanese people have suffered so much of war.

To sum up this section—we of the Philippines believe any dilution of the American commitment to East Asian stability will severely undermine regional confidence—put an end to the region's economic miracle—and perhaps set off an arms race that could have incalculable, tragic consequences for all of us.

Let me now turn to the economic ties between the United States and East Asia.

ECONOMIC TIES BETWEEN U.S. AND EAST ASIA

Economic interdependence among the Asia-Pacific countries has largely been market-driven: Only now are the APEC governments trying to manage it. And the key to the region's tremendous growth has been the shift to free-market economies among its democratic and authoritarian states alike.

Already the United States exports more to East Asia than it does to its traditional markets in Europe and Latin America. And East Asia's market is becoming even more attractive.

By the year 2000, the World Bank estimates that half the growth in the global economy will come from East Asia alone. In five years' time, one billion East Asians will have significant consumer spending power; and of these, 400 million will have average disposable income as high as their European or American counterparts, if not higher.

This means the economic dimension to Asia-Pacific relationships will be stronger than it is already.

Like the rest of us, the United States must redefine its concept of national security in economic and cultural terms.

Like the rest of us, America's place in the future world will be determined just as much by the creativity of its workpeople and the daring of its entrepreneurs as by the devastating power of its weapons.

Since virtually all of its trade deficit comes from its East Asian commerce, the United States is looking for a new sense of fairness in its economic relationships with the Asia-Pacific region.

Over the past 30 years, the United States security umbrella—and the rich United States market—have enabled East Asia to prosper. now American leaders argue that Americans must see their country as sharing in this prosperity—if American taxpayers are to continue supporting their country's continued security engagement in the region.

We of the Philippines have no problem at all with this proposition—particulary since we do not regard economic rivalry as a winner-take all or zero-sum contest. In economic competition, everybody wins—and even the relative "loser" ends up richer than when he started.

Since it takes two to trade, a strong American economy is as good for us in East Asia as it is for you in America.

In sum—we do not want an underperforming, undersaving, under-investing American economy any more than you do—if only because a weakened American economy will trigger off strong protectionist tendencies in the United States.

THE U.S. AS AN INFLUENCE ON EAST ASIAN DEMOCRATIZATION

Ladies and gentlemen:

Over the past half-century, a spacious sense of its self-interest has impelled the United States to help shape East Asian development—in fact, to make East Asian development happen.

And this enlightened self-interest derives from the very idea that is America. Its Founding Fathers saw their country as a venture greater than just another national enterprise. They saw their country as bringing a message of revolutionary enlightenment to all humankind.

That revolutionary message has not lost its relevance-particularly for East Asian people who—as they become richer and more secure—are demanding respect from their rulers—and a say in how they are governed.

Authoritian regimes may seek their legitimacy by sponsoring capitalist growth. But economic development cannot—forever—substitute for democracy. And it is to the idea of America that East Asia looks—in its groping for freedom. Look at how the Chinese student-militants of 1989 dared to raise a 30-foot plaster model of the Statue of Liberty on Tiananmen Square.

During the cold war, America was sometimes accused of a cynical willingness to sacrifice democracy abroad to preserve democracy at home. Now, at last, America can reconcile power and morality in its foreign relations.

Despite a decline in its relative wealth, capacity and influence, the United States today is the world's only superpower. And it is at the cutting edge of a revolution in both military technology and doctrine which promises to preserve its military preeminence in the world for at least another generation.

Because of its hegemonic power, America "can afford the luxury of attending to principle."

America can be to the world what its founders meant it to be—the ultimate refuge of all those "yearning to breathe free."

WORTHWHILE CAUSES FOR AMERICAN IDEALISM

And—although the ideological challenge from messianic communism has collapsed—there is no lack of worthwhile causes for American idealism.

We are as far away from a stable—and moral—international order as we were at the end of World War II. Far too many regions of the world are still subject to regimes of varying barbarism; while other national societies are disintegrating in anarchy.

If only America can gather its resolve, it can also lead the global community to begin dealing with the tremendous income disparities among nations—and alleviating the mass-poverty of regions like South Asia and sub-Saharan Africa.

Then there is the care and protection of the global environment—a task so susceptible to the free-rider axiom that it needs exceptional leadership to organize effectively and equitably.

In these vital missions of reawakening America to its historical role—and of propagating in the Asia-Pacific the ideals and values America stands for—this center of intellect and scholarship will continue to play an ever-increasing role.

Throughout its time on Earth, humankind has been striving for the ideal society. Unless we of the Asia-Pacific and America embark on a win-win Direction, that ideal may forever remain beyond our grasp.

But, if America remains true to its original sense of revolutionary enlightenment, perhaps it can lead the world to approximate that ideal: To banish pain and fear and hunger—to bring a measure of peace and prosperity to every region—to enable every nation to discover the extraordinary possibilities of ordinary people.

Thank you and good day.

PROTECTING PROPERTY RIGHTS

Mr. HATCH. Mr. President, as my colleagues are aware, I have introduced legislation to reform the way property owners are treated by the Government. My legislation would encourage, support, and promote the private ownership of property by clarifying existing laws and creating a more uniform and efficient process by which these rights are protected. In short, it seeks to protect the rights of citizens as envisioned by the framers of the Constitution.

Recently, however, critics have misinterpreted some of the bill's provisions. For example, some have stated that this bill would cost the taxpayers billions of dollars to implement or that it would force the Government to pay polluters to clean up their act. These fears are not warranted.

I was encouraged by an editorial in Salt Lake City's Deseret News headlined "Enough with half-truths about property rights bill." This editorial dispels the myths and misconceptions about property rights legislation. I commend it to my colleagues. Mr. President, I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the text of the editorial was ordered to be printed in the RECORD, as follows:

[From the Salt Lake City Deseret News, Nov. 20, 1995]

ENOUGH WITH HALF-TRUTHS ABOUT PROPERTY RIGHTS BILL

Politicians and activists must think they are terribly clever when they toss around inaccuracies and inflated half-truths in order to win public sentiment.

Take, for instance, the attacks on Sen. Orrin Hatch's omnibus Property Rights Act, which is set to break out of the Judiciary Committee before Thanksgiving. In recent days, critics, including President Clinton, have ranted about the Utah's senator's attempts, through the bill, to force the government to "pay polluters" to clean up their operations. They have carried on about the bill's enormous costs to government (some have placed the figure in the tens of billions of dollars).

These are arguments certain to strike fear in the heart of every sober-minded American concerned with the environment and taxes—just in time for Halloween. Trouble is, they are as hollow as jack-o'-lanterns.

Critics are conveniently overlooking this sentence in the bill: "The government is not required to pay compensation in cases when the property is a nuisance." Whoops.

Polluters, by anyone's definition, are nuisances. If the government can prove the item in question—say, a belching smoke stack or a toxic waste dump—is a nuisance, it won't have to pay compensation. No one will be paying polluters, after all.

Critics also are overlooking, or perhaps ignoring, a study recently released by the Congressional Budget Office showing the bill would cost only up to $40 million annually, and then only for the first few years. After that, costs would drop because agencies would avoid actions that could lead to protests by property owners. Whoops, again.

The bill is a reasonable attempt to clarify and solve a conundrum as old as the republic. While the Fifth Amendment prevents the taking of private property for public use without compensation, government must retain the right to pass regulations for the greater good of society.

Justice Oliver Wendell Holmes set the current standard for this balancing act in a 1922 Supreme Court ruling when he said, ". . . if regulation goes too far, it will be recognized as a taking."

Hatch's bill merely attempts to define "too far," and it would make the burden of protesting such takings less onerous for the average citizen.

Horror stories abound of small-property owners who find they can't build on their land because of wetlands or endangered species regulations. Critics have tried to diminish the impact of these stories, but they can't explain away the witnesses who have testified of them at congressional hearings. Environmental laws are indeed important and necessary, but so are property rights.

So far, 18 states have passed similar compensation laws. The House recently passed a bill that in some ways goes farther than Hatch's version. It would compensate anyone whose property was diminished in value by 20 percent, while the Hatch version requires owners to prove a 33 percent loss.

No doubt, Congress eventually will pass a compromise version of the two bills. When it does, the planet will not spin off its axis.

The Hatch bill is not above reproach. For example, it would prohibit agencies from entering private property without the consent of the owner—a prohibition that could keep the government from ever gathering facts about a nuisance.

Critics of the Property Rights Act should read it sometime, rather than amusing themselves with strange fictions.

HE PUT OUR RIGHT TO LIVE OVER OUR RIGHT TO KNOW

Mr. HELMS. Mr. President, in early October John Scali died, the obituaries stated, of heart failure—which is interesting because John Scali was a gentleman known by his friends as being "good-hearted." I had known John for many years in many ways and I never heard him boast, even once.

John Scali had a quiet greatness that carried him to a distinguished career as an honorable and objective journalist for ABC television, later as an adviser to President Nixon, and then as successor to George Bush as U.S. Ambassador to the United Nations.

I first met John Scali during his and my television days; he with ABC–TV in Washington and I with WRAL–TV in Raleigh. When I was elected to the Senate in 1972 John was one of the first to call. When I arrived in the Senate in January 1973 as a new boy on the block, I saw John Scali more often. He stopped by many times, seldom for an interview but mostly as a friend.

There were a few lines in a few obituaries about John that deserved more attention than they got concerning John Scali's remarkable involvement in pulling back the Soviet Union and the United States from what may have been the brink of war in 1962.

Mr. President, John Scali kept this episode a secret, and at this point, I shall bring to the Senate's attention a column by my longtime friend, Max Freedman, himself an erudite gentleman whose very credible thoughts appear regularly in the Jewish Journal published in New York City. At this point, Mr. President, let Max take over.

I therefore ask unanimous consent that the Max Freedman column of November 24 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Jewish Herald, Nov. 24, 1995]

He Put Our Right To Live Over Our Right To Know

(By C.H. Freedman)

The greatest tribute to John A Scali in his recent obituary was that most readers had not been that familiar with him.

Such relative non-celebrity status was what made the former ABC correspondent one of the noblest Americans ever.

Scali could have been a "superstar" journalist had he so chosen. Next to him, such names as Cronkite, Donaldson, Woodward and Bernstein would now be comparative bush leaguers had he embraced the same "journalistic ethic" many of them do.

Scali had what was arguably the greatest scoop of all time during the Cuban missile crisis in October 1962—and forwent it for the sake of America and civilization.

I recall the time all too vividly. With city-obliterating Soviet missiles pointed at us and ours at them, and our next day's very existence predicated on national egos and on two posturing leaders' flashpoints, most of us were shaking in our pre-L.L. Bean boots.

In the midst of this national trauma, the Washington-based Scali unexpectedly received a call from one Aleksandr Fomin, counselor of the Soviet Embassy. Fomin, whom Scali knew to be the head of Soviet intelligence in this country, invited him to lunch.

"I'd already had lunch," recalled Scali, "but his voice was so urgent and insistent that I decided to go immediately."

At the Occidental Restaurant, almost in the shadow of the White House, Fomin made an astonishing proposal.

"After the waiter had taken our order," Scali recounted, Fomin "came right to the point and said, 'War seems about to break out; something must be done.'"

Scali recalled answering, "Well, you should have thought of that before you introduced the missiles" in Cuba.

"There might be a way out" of the impending conflict, said Fomin. Suppose that "we would promise to remove our missiles under United Nations inspection and promise never to introduce such offensive missiles into Cuba again? Would President Kennedy be willing to promise publicly not to invade Cuba?"

Scali judiciously replied that he didn't know, but was "willing to try and find out."

To Scali's eternal credit, he forsook his journalism "ethic"—which, to many, demands such story be propagated forthwith—and instead assumed the role of patriot. In the days that followed, he became an unnoticed, unheralded courier shuttling between the White House and the Soviets until the crisis was peacefully resolved.

Not until 1964, when the lines in the sand were long since washed away, did Scali go public with the story.

He received no great tributes then—or at any time since—for the noble career sacrifice he had made two years earlier.

Imagine, especially if you're a devotee of what-if fiction, what the scenario might have been if, say, Fomin had gotten a steady busy signal on Scali's line and in his urgency called one of the dozens of other such correspondents in Washington.

Not necessarily someone like Lyle Denniston of the Baltimore Sun—who once told an interviewer that if he'd been old enough for World War II he would have reported the atom-bomb secret or the time and place of the upcoming D-Day invasion; indeed, he boasted, he would have even stolen such war-forfeiting information. "They would have made good stories," he explained.

No, Fomin needn't have reached a Lyle Denniston to risk turning us into radioactive cinders; a much more moderate practitioner of the craft would have done just fine—say, one of the thousands of Denniston's colleagues who would never publicly proclaim what he did, but who condone, if not heartily approve of, his stance.

Such reporter would have solemnly agreed to Fomin's request, finished lunch, smiled reassuringly as he or she waved poh-kah (friendly, informal Russian "goodbye") to Fomin, then established a world's record dash—not to the White House, but to his or her newsroom.

There, a pious morality play would be staged by reporter and editors: national security versus that pompously invoked "public's right to know!"

And don't you dare even think that we idealistic journalists, in making such solemn decision, would consider such crass things as instant personal fame, skyrocketing circulation and the like.

But, blessedly, Fomin did not get that busy signal. And thus did not turn to someone who would have broken the story that, given the lost "face-saving" element, could well have led to this city and others becoming Hiroshima II.

It's sad enough to note here that John Scali was never given a fraction of the tribute he would have received had he sold out his soul and America by breaking that story. But besides being denied his moral due, he was treated shabbily in a more direct way.

Based on Scali's expertise in international matters, in 1971 President Nixon appointed him special consultant for foreign affairs and communications; two years later, Nixon named him to replace George Bush as our representative to the United Nations.

But when Gerald Ford assumed the presidency, he unceremoniously dumped this man who had performed so admirably at the post.

To be charitable toward Ford, such action demonstrated that playing football without a helmet does indeed diminish one's reasoning ability.

To be less charitable, it provided further insight into the character of a president who owed his career and prominence to conservatives—and showed his gratitude by choosing as his vice president, the original "Rockefeller-liberal Republican," Nelson.

Had Scali, 33 years ago, embraced the "ethic" of many journalists, there's an excellent chance Ford wouldn't even have been around to take over the Oval Office in 1974; indeed, there might not have even been an Oval Office. Or much of a citizenry left to care about one.

That concept is probably beyond the capacity of Gerald Ford. But maybe some less-dense influential Americans might show belated appreciation to a newsman, John A. Scali, to whom this scared-silly-in-'62 American, for one, feels eternally grateful.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt is now slightly in excess of $13 billion shy of $5 trillion.

As of the close of business Friday, November 24, the Federal debt—down to the penny—stood at exactly $4,989,260,237,257.80 or $18,939.32 on a per capita basis for every man, woman, and child.

PRESENTATION OF THE CROIX DE GUERRE WITH SILVER STAR TO GOV. HUGH L. CAREY

Mr. MOYNIHAN. Mr. President, of the many commemorative ceremonies held on Veterans Day, November 11, one event had particular significance for the Honorable Hugh L. Carey, the former Governor of the State of New York, and for his family and many friends.

More than 50 years ago, Hugh Carey, then a young officer with the "Timberwolves" of the 104th Infantry Division, United States Army, led a patrol near the Elbe River in Germany. The patrol encountered an encampment of German soldiers who, unaware that Germany had surrendered several days earlier, were holding a large number of French prisoners. A fight broke out, and the Germans were overtaken by the American patrol. This capture by the American soldiers led to the discovery of some 35,000 French prisoners, who were then freed by the Allies.

For his extraordinary valor in this mission, Hugh Carey was awarded the Croix de Guerre with Silver Star, one of France's most esteemed military decorations. Yet, owing to the unpredictabilities of war, he was unable to attend the presentation ceremony for the Croix de Guerre.

Time passed, and Hugh L. Carey continued his service to his country. He was ultimately discharged from active duty with the rank of colonel, and went on to serve as a Member of the House of Representatives and as Governor of New York, raising 14 children with his late wife Helen along the way.

Last Saturday, in a special ceremony at Dacor Bacon House here in Washington, Governor Carey finally got that medal. He was presented the Croix de Guerre with Silver Star by Brig. Gen. Gerard de Bastier on behalf of the Republic of France. The decoration was given in recognition of Governor Carey's "outstanding services during the operations of the liberation of France."

Earlier that day, Governor Carey joined President Clinton at the dedication of the site for the World War II Memorial at The Rainbow Pool on The Mall. As vice chairman of the American Battle Monuments Commission, Governor Carey pursued the establishment of this memorial with his usual vigor and unbounded enthusiasm. His commitment to the project has been such that at one point he even telephoned this Senator about it from his bed at Lenox Hill Hospital in New York, where he was recuperating from back surgery. He later remarked to the New York Times that his back condition was due to carrying an infantryman's rifle during World War II and the weight of the State budget on his back for two terms as Governor.

So it was fitting indeed that on the same day that Governor Carey's efforts to honor veterans of the Second World War reached fruition, a grateful ally took the occasion to honor him.

Mr. President, I salute my gallant friend Gov. Hugh Carey on this great and richly deserved honor, and I ask unanimous consent that the tribute by Brig. Gen. Gerard de Bastier and other material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PRESENTATION OF THE CROIX DE GUERRE WITH SILVER STAR TO GOVERNOR HUGH L. CAREY

On this Veterans Day, November 11, 1995, Governor Hugh L. Carey receives one of France's most esteemed military medals. Brigadier General Gérard de Bastier, Defense and Air Attaché to the French Embassy, presents Governor Carey with the medal he earned more than fifty years ago for his valor in World War II. Governor Carey is cited for this distinguished military decoration for his efforts in leading a patrol to free French citizens, imprisoned near the Elbe River by German SS Guards, who were unaware that Germany had officially surrendered days before, in May of 1945. Governor Carey's patrol came upon the German soldiers and their prisoners unexpectedly, and a fight broke out. After Governor Carey's patrol overtook the group, they discovered many other prisoners who had been held by Germany since the beginning of the war. Encampments totaling thirty-five thousand French prisoners, both military and civilians, were eventually found by the Allies.

In 1939, Governor Carey enlisted in the New York National Guard as a Private in the 101st Cavalry, Squadron C. As a Major in the 104th Infantry Division, known as the "Timberwolves," he served as the S-3 in the Regimental command of the 415th Infantry Regiment. The 104th Infantry Division was the first American Division to land directly on the European continent in Normandy without first going to England. The 415th Infantry Regiment's debarkation at Utah Beach began on September 7, 1944, while the other units of the Division debarked at the Cherbourg harbor. Some of the first duties of the Division included supplementing the Red Ball Express to expedite the supplies to the front and to guard the supply lines from Cherbourg to Paris.

Governor Carey served with the Timberwolf Division in its hard fought, ten-month campaign across Northern France and Holland, leading some of the first American troops across the Rhine, and effected the liberation of the Nordhausen concentration camp. A recipient of the Combat Infantryman's Award and the Bronze Star with Oak Leaf Clusters, as well as the Croix de Guerre with Silver Star, he left active duty with the rank of Colonel.

After his distinguished service in World War II, Governor Carey further served his country as a Member of the U.S. House of Representatives and as Governor of the State of New York.

Earlier today, President Clinton dedicated the site for the World War II Memorial to be built on the Mall in Washington, D.C. Governor Carey is a Commissioner of the American Battle Monuments Commission, and he has been an ardent supporter of the memorial, recently approved by Congress. Governor Carey has represented the United States at events commemorating the 50th anniversary of the end of World War II. His family, friends, and colleagues salute Governor Hugh L. Carey for the honor he receives today from the Republic of France and for his exceptional contributions to the United States of America.

REMARKS OF BRIG. GEN. GÉRARD DE BASTIER

Governor Carey, Governors, Commissioners, ladies and gentleman:

Today is the date of a very important anniversary in the memories of our nations, which gives a special meaning to this ceremony taking place right after the dedication of the World War II memorial site.

It is a great honor and privilege to be with you today to honor Governor Carey in recognition of his outstanding service during World War II.

I would like to start by saying a few words about Governor Carey's career.

You were born in Brooklyn, maybe just a few years before me! And were graduated from St. Johns' University Law School with the degree of juris doctor.

In 1939, you enlisted as a private in the 101st Cavalry of the New York National Guard. You were later sent to Europe with the 104th Infantry Division known as the Timber Wolves. This division was the first American division to land on the European Continent without first going through England.

After your exceptional campaign in France, you had an outstanding career in civilian and political areas, and you served on various boards.

Finally, in 1993, President Clinton appointed you to the American Battle Monuments Commission, and I should also mention that you represented the United States at various ceremonies commemorating the end of World War II.

The ties between our two countries have always been strong despite our differences, and we have been together, along the road since your revolutionary war. Last month, we celebrated together the battle of Yorktown with the names of General Rochambeau and Admiral De Grasse engraved in our memories.

I was born in 1945, and did not witness the war, but my childhood was filled with stories from my parents recounting the time when the U.S. military headquarters were set up near their house in Marseilles, after the U.S. landing on the Riviera (the "Côte d'Azur").

Governor Carey, you were in Europe in 1944, fighting for the freedom of our nations.

The Timberwolf division fought during a ten-month campaign across Northern France and Holland, leading some of the first American troops across the Rhine, and liberated the Nordhausen concentration camp.

You earned this esteemed military decoration for leading a patrol to free French citizens imprisoned near the Elbe River by German SS guards, who were unaware that Germany had officially surrendered days before, in May of 1945. Your patrol came upon the German soldiers and their prisoners unexpectedly, and a fight broke out.

After your patrol overtook the group, you discovered many other prisoners who had been held by Germany since the beginning of the war. Encampments totaling thirty-five thousand French prisoners, both military and civilians were eventually found by the allies.

For these actions, you received the combat infantryman's award and the Bronze Star with Oak Leaf Cluster.

For some unknown reasons, you never received officially the citation awarding you the Croix de Guerre with Silver Star.

This ceremony is a testimony to the long friendship between our two countries, and it is a great honor for me to present now this award to you.

Today, Colonel Hugh Carey, on behalf of the French defense minister, I am presenting to you the medal of the Croix de Guerre with Silver Star, in recognition of your outstanding services during the operations of the liberation of France. (Paris, le 1er Avril 1946).

THE CROIX DE GUERRE 1939–1945

The War Cross 1939–1945 (Croix de Guerre 1939–1945) was instituted on September 26, 1939 as a decoration for the Second World War. The decoration was conferrable on officers, noncommissioned officers and men of the Armed Forces, citizens of France and foreigners, who had been mentioned in dispatches for acts of exceptional bravery, and in special cases, also on military units, towns and civilians.

The Cross is a Maltese Cross in bronze with crossed swords between the arms of the cross. The obverse medallion bears the symbolic female head of the Republic with the legend "Republique Française" (The French Republic), and the reverse medallion bears the date "1939" or sometimes "1939–1945". The Cross is worn on a red chest riband with four green stripes, which according to the nature of the dispatch, is provided with a palm in bronze or a star in bronze or silver.

CONCERNING LONG-TERM DEFICIT IMPLICATIONS OF REPUBLICAN TAX CUTS

Mr. MOYNIHAN. Mr. President, just prior to the Thanksgiving recess, the Republican conferees for the budget reconciliation bill agreed to a 7-year deficit reduction plan that included a tax cut purporting to cost $245 billion. The Democratic conferees were excluded from all deliberations of the conference.

I have previously expressed my concern about tax cuts of this magnitude in the face of annual deficits and the accumulated national debt. The conference agreement falls far short of paying for these cuts—the tax cuts will cause the cumulative deficit to increase over the next 7 years by $200 billion more than it would without them. We will be forced to borrow to pay for them. When one considers the fact that elsewhere in the Republican budget agreement taxes are being raised on families making $30,000 or less, we see that there is very curious social policy being advanced as well.

Today, however, I would like to focus on another troubling aspect of these tax cuts. The true cost of the cuts explodes once you get beyond the initial 7 years that are counted for estimation purposes. The cost of several of the tax cuts doubles or triples when you include the 8th, 9th, and 10th years, as compared to the first 7. This is no accident. The tax cut provisions are deliberately crafted so that their true costs do not begin to show up until after the initial 7 years. That way, they do not show up in the 7-year plan to balance the budget.

The magnitude of the out-year costs can be found in figures provided to me by the Joint Committee on Taxation, dated November 16, 1995. When the majority released their conference agreement on the deficit reduction bill, they provided revenue tables that covered only the first 7 years. I asked the Joint Tax Committee staff to provide figures showing the revenue effect of the tax cuts for an additional 3 years beyond what had previously been disclosed. That is, for the first 10 years after enactment.

What is shown on these 10-year revenue estimates is astonishing.

The analysis provided by the Joint Tax Committee shows that the total cost of the tax cuts starts out at $245 billion over the first 7 years, but then in the short span of the next 3 years another $171 billion is added. The average annual revenue loss is about $35 billion over the first 7 years, but rises to an average of $57 billion per year for the 3 years after 2002.

Three provisions, in particular, stand out. First, the cost of the capital gains cuts for individuals more than doubles over 10 years, as compared to the cost for the first 7 years—from $28.8 billion to $70 billion. Second, the expansion of individual retirement accounts [IRA's] in the bill costs $11.8 billion over 7 years, but nearly triples to $32.5 billion when you include the 3 years after 2002. Third, the cost of reductions in the estate tax more than doubles from $12.3 billion over 7 years to $25.5 billion over 10 years. Other provisions that show rapid out year growth include the reduction in the marriage penalty on couples filing joint returns and the expansion of the self-employed health insurance deduction.

In part, the explosion in the long-term revenue costs of these tax cuts results from the attempt to hide their true impact, by drafting them so that they do not take full effect until after the 7-year budget window is closed. Possibly the most egregious example is the provision that permits indexing of capital assets. Under this provision, taxpayers can exclude from their taxable income capital gains on qualifying assets resulting from inflation after calendar year 2000. To qualify, an asset generally must be purchased after 2000 and be held for over 3 years. Thus, the revenue cost of indexing does not show up until 2004 and thereafter, that is, conveniently outside the 7-year budget window.

The indexing provision, however, would permit taxpayers to treat assets purchased prior to 2000 as newly purchased assets eligible for indexing if they elect to pay taxes on the appreciation in the assets at the time of the election. This results in a speedup of tax revenues, allowing the Republicans to score about $10 billion of accelerated tax revenues inside the last 2 years of the budget window.

The 10-year revenue numbers evince an effort by the right to starve the beast—that is, to cut off funding for the Federal Government. The extreme growth in revenue loss outside the budget window is ominous because the spending reductions in the bill are far from certain to occur. A recent Washington Post editorial entitled "Time Bomb in the Budget" states:

> . . . the deeper the ultimate tax cuts in the plan, the deeper the spending cuts must also be to keep up. And some of these spending cuts are too deep to sustain. The focus in the fight thus far has almost all been on what would happen in the first 7 years of this plan. That's fine, but it makes no sense to solve a problem in that period only to begin to create it all over again immediately thereafter.
>
> Mr. Moynihan's 10-year chart is a useful warning. The government shouldn't be mortgaging its future by cutting taxes that in the long run it will need to fulfill its basic responsibilities.

Mr. President, I ask unanimous consent that the entire text of this editorial be printed in the RECORD, along with another article on this topic from the Washington Post, dated November 23, 1995.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 22, 1995]

TIME BOMB IN THE BUDGET

The tax cuts and some of the spending cuts in the Republicans' seven-year package would ultimately be much larger than the official estimates suggest. That's because as they were written their full effect would not be felt until after or near the end of the seven-year period for which the estimates were made.

These delayed-action mechanisms should be an issue in the talks about to begin between the President and Congress. You cannot achieve a better balance between the resources and responsibilities of the government with these slow-developing tax cuts whose long-term effect would be to create a new imbalance. It was known all along that some of the tax cuts in the plan were backloaded. In the House-Senate conference they became much more so. Sen. Daniel Patrick Moynihan asked the staff of the Joint Tax Committee for long-term estimates of how the bill would affect revenue, not just for seven years but for 10. In the 10th year the diminution of revenue caused by these tax cuts would be 75 percent greater than in the seventh year; that's how much of the full cost the tax-writing committees postponed.

Most of the postponement would come in capital gains. The conferees agreed not just to cut the capital gains tax but to begin adjusting gains for inflation, so that when an asset was sold the government would tax only the increase in value in excess of the inflation rate. The inflation adjustments wouldn't begin until the year 2001, however. That and other steps conceal their cost. The tax cut to end the so-called marriage penalty on two-earner couples filing joint returns was also largely delayed until the period 2003 to 2005, and there are other examples.

A lot of the spending cuts in the plan have been backloaded all along as well. Medicaid may be the best example. The cut in projected spending for the full seven years—all seven combined—would be 17 percent; that is the figure most often cited. But it is misleading, because the cuts in the early years would be small and grow progressively larger. By the seventh year the cut on an annual basis would amount to 28 percent.

Nor does even that do justice to what might happen to the program, it turns out. That's because the conferees also eased the rules governing how much states would have to spend to qualify for their federal funds. If hard-pressed states were to spend the least they could and still qualify for their full federal grants, the federal and state governments together by the seventh year would be spending 35 percent less than under current law.

That would be a devastating cut—but the deeper the ultimate tax cuts in the plan, the deeper the spending cuts must also be to keep up. And some of these spending cuts are too deep to sustain. The focus in the fight thus far has almost all been on what would happen in the first seven years of this plan. That's fine, but it makes no sense to solve a problem in that period only to begin to create it all over again immediately thereafter.

Mr. Moynihan's 10-year chart is a useful warning. The government shouldn't be mortgaging its future by cutting taxes that in the long run it will need to fulfill its basic responsibilities.

[From the Washington Post, Nov. 23, 1995]

GOP TAX PLAN COSTS SOAR AFTER BUDGET-BALANCING YEAR

(By Clay Chandler)

A handful of tax provisions in the Republican budget plan explode into huge revenue losers after the 2002—Congress's target year for a balanced budget—threatening prospects for maintaining zero deficits without further spending cuts.

According to projections by the Joint Committee on Taxation, Congress's nonpartisan tax analysis group, the GOP plan would lower federal revenue by an average of about $35 billion annually between 1996 and 2002. But the average annual revenue loss would jump to $57 billion in the three subsequent years, according to the agency.

The plan provides $245 billion in tax breaks over the next seven years and would cost a total of $416 billion in lost revenue over 10 years, the committee said.

Clinton administration officials and some private budget analysts have seized upon the estimates—which were provided by the Joint Committee on Taxation at the request of the Senate Finance Committee's ranking Democrat, Daniel Patrick Moynihan (N.Y.)—as evidence that the GOP tax proposals were crafted to hide their true cost.

To maintain a balanced budget after 2002, deeper cuts in projected federal spending would be required beyond those outlined in other parts of the reconciliation bill.

A budget plan with a tax cut that would "explode in the last three years of a 10-year period has got to be viewed as an unwise policy decision," Treasury Secretary Robert E. Rubin said at a breakfast meeting with reporters yesterday. He denounced the Republican tax proposals as "enormously outsized."

President Clinton is expected to veto the legislation.

The GOP plan is riddled with "gimmicks—the sole purpose of which is to mask the true cost of tax breaks in the seven-year period," said the liberal Center for Budget and Policy Priorities in an analysis released Tuesday.

In unveiling their reconciliation package last week, congressional Republicans stressed that the single largest item in their package of tax cuts is a proposal to grant parents a $500 tax credit for each child.

With the addition of several other proposals—including a reduction in the "marriage penalty" on couples filing joint returns, a credit for parents who adopt, and a deduction for long-term health care—the "pro-family" provisions in the tax package accounted for 73 percent of the total cuts, the Republicans said.

But critics claim the Joint Committee on Taxation's projections show the pro-family component is a much smaller part of the GOP tax cut over the longer term.

And opponents of the GOP plan claim much of the extra revenue loss would come from two items that primarily benefit upper-income families: a proposed cut in the tax rate for capital gains, or income from the sale of stocks, property and other assets; and new incentives for savers using individual retirement accounts (IRAs).

To understand why the cost of the GOP tax cut would rise in the years following 2002, consider the structure of the proposed capital gains tax cut. The reconciliation plan includes an "indexing" provision that would allow investors to subtract from their taxable income capital gains resulting directly from inflation beginning in 2001.

But in its first year, the indexing provision includes what analysts at the Center on Budget and Policy Priorities decry as a "gimmick." It would allow taxpayers to consider assets they already hold as "new" assets eligible for indexing the following year if they pay taxes on their capital gains earned until that point.

The change would yield a one-time-only revenue increase of about $10 billion in fiscal 2002, the year the budget is supposed to reach balance. But that revenue only represents taxes the Treasury would have claimed the following year. Over the long term, indexing is a big revenue loser, the liberal analysts said.

The Joint Committee's figures suggest revenue loss from all the capital gains tax cuts advocated by Republicans could cut Treasury revenue more than $100 billion in the seven years after 2005, the liberal analysts said.

Similarly, revenue loss from GOP tax provisions aimed at widening participation in tax-favored IRAs would average about $1.7 billion between 1996 and 2002, under the GOP reconciliation bill. But in the three years thereafter, revenue loss would snowball, averaging $6.9 billion each year, the committee estimates.

One reason the IRA provisions might lose revenue at a faster rate after the seven-year budget period is that the GOP bill establishes "back-loaded" IRAs. People who open the new accounts would be taxed on initial contributions, but not on accumulated interest or withdrawals for retirement, new home purchases, education expenses and other uses. In traditional IRAs, the initial contribution is tax-deductible, but withdrawals are taxed.

Analysts expect the withdrawal rate for the new IRAs to increase after 2002, as cash builds up in the accounts and participants tap their tax-free gains for a multitude of uses, including retirement. The tax-free withdrawals cost the Treasury revenue it would have otherwise received if the IRAs were structured the traditional way.

Moreover, the bill gradually allows people with higher incomes to establish the accounts, with the top income level not allowed in until 2007, thus masking the total cost of the new IRAs in the long run.

The GOP plan also includes a four-year "rollover" provision that would allow money in traditional IRAs to be shifted into the new, backloaded accounts, provided the holder pays taxes immediately on current gains. That funnels extra income that would have been collected in the future into Treasury's coffers during the next seven years, thus lowering the apparent cost of the tax benefit.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

SENDING TROOPS TO BOSNIA

Mr. THOMAS. I rise, Mr. President, to talk about Bosnia, to talk about the thing that, I guess, is before all of us as American citizens—decisions, some of which, unfortunately, have apparently already been made, but the major decisions are still to be made.

I have thought a lot about this tragedy, as most of us have. Certainly, it has been before us almost nightly on TV, a great deal of discussion about it: some 43 months of war, over 200,000 people killed, a real human tragedy, of course. All of us feel badly about that. I have also had the opportunity to travel there recently. About a month ago, seven of us from the Senate had a chance to go there. I must tell you, I came back no more convinced that we have a role there with ground troops than I did before I left.

I think the idea of inserting 20,000 ground troops is a mistake. There are a number of questions that, I think, the answers to which lead to that conclusion. The basic one, of course, is: What is the national interest? I think that question needs to be asked in each of the kinds of commitments we make—major commitments, particularly of Armed Forces. What is our role throughout the world? There are many places in which there is unrest and tragedy, and there are a number of places in which there is civil war. Is it in our national interest to intercede in each of those, to send 10,000 troops, 20,000 troops? I do not know the answer. But I think not. I do not think it is in our national interest to be the policeman of the world in civil uprisings such as this.

I guess we have to ask ourselves, are we to police regional peace throughout the world wherever it is threatened? Do we have an obligation to secure regional peace throughout the world by sending our troops into these kinds of situations? What is the national interest? What kind of national interest does deserve military attention? I think this is the basic issue. All of the other things we talk about are pretty secondary to that. The President, of course, has not been able to lay out convincingly that interdiction and involvement of 20,000 or 25,000 U.S. troops is indeed in our national interest.

Let us examine some of the administration's concerns and arguments. They have been here in our Committee of Foreign Relations. We had a hearing with the Secretary of Defense and the Secretary of State, as well as the Joint Chiefs of Staff. One of the arguments is that killing is morally wrong. Of course, we all agree with that. But then should we send troops wherever that occurs? Should we be involved each time killing occurs? I think we would be overwhelmed by the number of times that we would saddle up and go to Somalia, Haiti, Rwanda, and endless other places, if killing is in fact the issue of national interest that promotes the sending of 25,000 troops.

We hear that the conflict will expand. Frankly, I have to tell you that I do not believe that is nearly as imperative as it was 43 months ago. My impression, frankly, from being there—and I was only there 4 days, so I am not an expert by any means—as you would imagine, these people are very tired of fighting. They are looking for solutions themselves, as you would imagine they would be. The notion that this is going to expand now if we do not move 25,000 troops in I do not believe is a basis in fact.

We were there going down the street of Sarajevo, and they point out, almost with pride, that there is the bridge where the Grand Duke was shot before the start of World War I. Really, that adds very little to today's expansion of another war. But if you want to look at historic things, in that country, the guerrillas, during World War II, were never chased down. They never surrendered. In that country, in the mountains, these kinds of troops will go on forever, if they choose to. Another is that if we do not intercede at this level, we will then be isolationists in the world and we would be withdrawing from our role of leadership. I cannot imagine that argument, as involved as we are around the world, both in troops, commerce, and trade, and we are involved in all of the organizations that have to do with security, trade, and with the development of international relations. We are isolationists? Give me a break. That is hardly what our activities can be called.

It seems to me that the principal reason the President is pushing as hard as he is, is that 2 years ago, he indicated we would send 25,000 troops. Now it is 20,000. Why not 10,000? Why not 15,000? We spent 4 days there. The first day was with the Unified European Command. I must tell you, I was very proud, as always, of the American troops, who are training to be part of this undertaking. But at that time, they were talking about 25,000 American troops, talking about a total of

90,000 NATO troops, with another 15,000 already there—over 110,000 troops in this area. The Senator from South Carolina just spoke about the agreement. I guess I have to say that if the agreement is one that is agreed to by the warring parties—genuinely agreed to—then you could say, why do you need 90,000 troops to enforce it? If it is not agreed to, then the Secretary of Defense, and others, said we should not be there. You have to fight your way in. If you have to fight to make peace, then that is not our mission. That has been made clear that we will not be there. So there has to be an agreement that has genuine accord. We will see. I hope there is. I think the United States and the State Department have done a great job in bringing together these people to some kind of a peace agreement.

Why is it so important that we have to define the national interest? You hear a lot about being concerned, as we should be, with putting troops in harm's way. Frankly, often troops are in harm's way. That is what troops are for. The issue is not harm's way; the issue is why they are there. If the troops are there with a bona fide national interest, then we try to avoid harm's way. But that is not the criteria. The cost. When you talk about $1 billion, $2 billion, I think we spent that much in Haiti. Can you imagine that this will cost less than Haiti? I do not believe so. Is it in the national interest to spend $3 billion, $4 billion? That is a question.

Maybe more important than anything was the lack of specific goals. In the hearing that I mentioned with the Joint Chiefs, the general said we will get the job done. I believe that. I believe our Armed Forces will get the job done. I ask, how will you know? What is the job that is to be done? Frankly, I do not think anyone knows precisely.

Pull out in 1 year? I have a hunch that is a little bit political, that the notion is that we know you cannot leave troops there very long.

What if you are not through in a year? How do you know you are through? What is it that signifies having the job done? We were very concerned when we talked to the command. What do you do in this zone? Do you have check points with half a dozen soldiers—I do not know—that are subject to raids by small bands? Do you put them in large groups and patrol? The notion was, if you are fired on, you get to fire back. That is right, the way it ought to be. It was also, if there is an attack, we should withdraw because we are not there to fight but to keep peace. If there is no peace we would not be there. Sort of a conundrum.

So, Mr. President, it seems to me that it is an almost unsolvable situation. I think we can be involved. I think people want us to be involved. I think we indeed have been involved. The question of 20,000 troops is quite a different matter. I have to say, in the time I was in Wyoming, I really did not find anyone who supported that idea.

So we have a situation of 43 months of war in the former Yugoslavia, more than 250,000 people killed, an ethnic war, a continuation of something that has gone on a very long time. The question is, do we place ourselves in the middle of this, between the Serbs?

One of the things that has happened, I believe, partly as a result of this body's taking action on lifting the arms embargo, is that we did tend to equalize the forces. Croatians and Moslems got together in the federation which sort of leveled the playing field of the Serbs, and then NATO's airstrikes completed that job. You noticed a great change in what was happening.

So we are faced with an ancient ethnic and religious conflict. Frankly, it is hard to know who is on what side.

Another obstacle is to overcome how you handle the United States and Russia being there at the same time. Russians will not be under the control of the NATO but still want to be in a segment. The winter is certainly a worry. I know we can handle it, but nevertheless it is tough.

Mr. President, I do not believe there has been demonstrated—and quite frankly I do not believe there will be demonstrated—an indication that placement of these troops in the former Yugoslavia is in the international interests. I think that ought to be the criterion. That ought to be the measurement. In the next few weeks we will need to make that measurement.

All of us need to be involved whether we are in the Senate, whether we are citizens, whether we vote. This is a U.S. decision, and it will have to be made by all.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBATE ABOUT BOSNIA

Mr. BURNS. Mr. President, as we go into this very busy week, coming on the heels of the Thanksgiving break, I do not know of a time that we have had so many issues at the forefront that are so important to this country—not only the debate on the budget, how do we balance it, how do we stay on track to balance the budget in 2002 and how important that is to our children and grandchildren, the business of reforming welfare to make it work for people rather than lock them into certain circumstances, and now the situation as it is developing and unfolding in Bosnia.

There are a lot of folks, including some who are running for public office, by the way, who do not even know where Bosnia is. But the debate, I am sure, this week will boil down to be a three-pronged debate: Is it in our national interest to deploy troops as peacekeepers or peacemakers, and there is a difference; will there be a clear and concise mission with hardly any opening for mission creep, and that is kind of tough to define, and it is kind of tough to stop—we learned that in Somalia; and is there at some time certain a withdrawal plan or some avoidance to deal with maybe an endless mission.

One has to read the history of that part of the world to really understand it. I have been there, spent quite a lot of time on the Dalmation coast in Croatia, and I will tell you that the passion and the love for their land runs as deep as their hatred of their trespassers.

In Bosnia, is it a holy war? One would like to think not. But I think it is part of the equation. An ethnic war? Of course it is because of the ethnic cleansing that has been carried out. The carnage that has been thrust upon this country is almost unspeakable and unheard of.

Is it a civil war? Yes, it is a civil war. Is it a war that goes across borders? It is that, too. But it has been waged for generations. And just since our history or our recollection or our generation, 250,000 people have perished at the hands of those who would be in the business of ethnic cleansing. The atrocities are unspeakable, and they are there.

So we have to look at that situation as we try to define our responsibility in that equation. I give high marks to this President, my President—we only have one at a time—in bringing the warring parties together at Wright-Patterson Air Force Base in Ohio, and the amount of resolve that was placed on this to come out of there with some kind of an agreement that would be good for everybody.

We have seen cease-fires, and we have seen agreements that were drawn up and concluded within Serbia and Croatia and in Bosnia, but they did not last very long. I am wondering how long this will last. Does everyone who is a party to that accord or that agreement that was signed at Wright-Patterson Air Force Base in Ohio really, really agree on peace? Are their leaders really 100 percent dedicated to it? Is everyone ready to stop the fighting?

It would seem to me that after a while you would just get tired of killing one another. That has not been the case in this particular corner of the world. I would also ask, after the accord was signed in Ohio, what has been the part for the rest of the international community? Have they stepped forward? And how much pressure have they put on the parties, the three main parties in that part of the world to work out some sort of a peace? How heavy has the international pressure been? Has it been as intense as it has from this country? Because I happen to believe in the American way. I have always said our greatest trait as a people is most times our undoing because we are a caring people. No catastrophe happens around the world that we do not react in a very positive way to help people. We care. And also when we see the atrocities on our television screens every night during the nightly news, it moves our conscience. And we are a nation with a conscience. No person can stand to one side and not feel for those people who have been victims of unspeakable atrocities.

But those folks who have pledged troops into NATO as a peacekeeping force, how many of those people have really stepped up and said this is wrong, and how much pressure have they put on their folks that this must stop? If the Bosnian Moslems and the Serbians and the Croatians do not think this peace agreement is in their best interests, then we would question, is it in our best interests? Would our troops be placed in harm's way? Would they be placed there as peacemakers or peacekeepers? And I would say as this debate drones on, peacemakers become a lot more dangerous. It is hard to keep the peace where there is no peace.

I am also sympathetic with the President on wanting to do the right thing. I am also sympathetic in that he has the right if he thinks it is right to deploy troops in a peacekeeping mission. But it would be a lot easier if he would come to this Congress and consult with this Congress before he did so and have the support of the American people. It is terrible to order young men and women into harm's way without the complete support of their nation. I will not do that.

There seems to be another situation here, too—the provision of this accord to lift the arms embargo and to arm and train the Bosnians. That does not seem like a peacekeeping mission to me. And I will have to know more about the wording on that and our goal or the ultimate end.

It seems hard to say that if we flood the country with arms and in the next breath we say, "No more war," that seems sort of an oxymoron to me.

In conclusion, it is, like I said, like no other part of the world where you will find people that have a love so deep and a passion so deep for their land but also a hate so deep for their trespassers. And that is the situation we have to deal with. So despite my expressed doubts on the merits of this decision to deploy—we will listen to the debate—but I have no intention of withdrawing my support for our young men and women who will be placed in harm's way in this mission of peace.

I can remember when President Bush came to this body and asked for permission to deploy in the Middle East. We did have a national interest there. How much do we have in this circumstance? We will weigh that decision. And it will probably be, if the President chooses to do so, and I think he will, that he will come to this Congress asking for our support. It will be a very, very tough decision. It could be one of those votes that one never likes to cast either up or down. But the debate must be held, and we must talk about it openly because there are young men and women's lives at stake, and the interest of the most powerful and free Nation in the world.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I would ask, is there an order for the day relative to taking up other legislation at 3 o'clock?

The PRESIDING OFFICER. There has been an order entered to that effect, that is correct.

Mr. MURKOWSKI. In view of the fact that I do not see any other of my colleagues calling up anything, I ask unanimous consent that morning business be extended for approximately 15 minutes so that I may make a statement and enter a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair, and wish the President a good afternoon.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1425 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

OIL RESERVES IN ANWR

Mr. MURKOWSKI. Mr. President, seeing no one wishing to speak, I would like to address very briefly the matter that I have spoken of on a number of occasions. That is the opening up of the arctic oil reserve known as ANWR. And I would like to submit some particular documentation that has come into my office in the last few days, but I will be specific in my reference.

As the President and my colleagues are aware, the idea of opening up the Arctic oil reserve, or ANWR, is not a new idea. It was left in 1980 to the Congress to make a determination as to the appropriateness of opening up an area in the coastal plain, approximately 1.5 million acres out of the 19 million acres which make up ANWR. Approximately 8.5 million acres of that has already been set aside in a permanent wilderness by the 1980 legislation. Another 9.5 million acres has been set aside in refuge, leaving approximately 1.5 million acres in the so-called 1002 area for the disposition of Congress.

At this time, we are faced with a dilemma as to whether or not, indeed, this is in the national interest. It is a similar argument to that which prevailed in the seventies when there was question as to whether or not the Prudhoe Bay area would be open for exploration and development.

That was over 20 years ago, Mr. President. Prudhoe Bay has been producing approximately 25 percent of the total domestic crude oil produced in the United States over the last 18 years. Today, Prudhoe Bay has declined. The production from that field has dropped from approximately 2 million barrels a day to 1.5 million barrels a day. But the arguments over whether or not we should open up the Arctic oil reserves of ANWR and the arguments that prevailed 20 years ago are basically the same: Can we do it safely? What will be the effect on the caribou? What will be the effect on the moose and the other animals that frequent the area, the bird life and so forth?

We have seen over the last 18 years of operating the Prudhoe Bay field an extraordinary set of events relative to the wildlife. We have seen the caribou herds grow from 3,000 to 4,000 animals to the current level of approximately 24,000 animals. It has been recognized in the oil fields, as in other areas where the caribou frequent that there are approximately three detractors and a number of animals that can sustain themselves, and those are individually related to the number of wolves in an individual area or other predators such as bear, the winter—the heavy snows take a toll on the caribou—and, of course, overgrazing is also a difficulty. In any event, we have seen the growth of these herds, which suggest, indeed, we have the capability to safely manage with a reasonable amount of development in an area given time.

My point is, again, we are reflecting the same arguments that were before us in the seventies, applicable today, but we have the proof, we have the scientific evidence and we have the redundancy, if you will, of recognizing that this population has increased and, with proper management, there can be little effect on the animal population associated with development in the high Arctic.

Further, there has always been a question as to the safety relative to the advanced technology. We have proven that we can limit the footprint dramatically. We have seen an extensive field in Prudhoe Bay reduced as new fields have been found, as stepouts of Prudhoe Bay, approximately 7 years ago, brought in a field known as Endicott which only took in 56 acres of surface land, yet it was the 10th largest producing field in North America. Today, it is the 7th largest producing field.

There was another question as to what effect this activity would have on the residents, the Eskimo people themselves. I quote from a statement, a news release from the North Slope Bureau and the Arctic Slope Regional Corporation:

> The Eskimo people are working their way out of Federal dependency. Because of their success, they state they are being opposed at every turn by the Assistant Secretary for Indian Affairs—

And they named Ada Deer in that regard and suggest she opposes successful Native American corporations and organizations. She, in their opinion, wants them to be dependent on the Bureau of Indian Affairs. But they indicate that they are well aware of what dependency brings: a state that kills self-initiative, that breeds a welfare society. They further conclude that they want to follow the American way, the old way of independent self-help and individual responsibility, family values and sense of community.

In other words, Mr. President, they want to have the same opportunities that other Americans enjoy: jobs for their children, tax bases for their communities, running water that other Americans enjoy.

So as a consequence, as we debate the merits of whether ANWR should stay in the reconciliation package, as has been deemed by action taken by both the House and the Senate, we are faced with this question of national security interests as well.

Currently, we are importing about 51 percent of our total crude oil. Back in 1973, we were importing 34 percent. Obviously, we are sending our jobs and dollars overseas and the justification of that, in my mind, is very questionable. If the oil is there, and volumes would have to be, it is estimated it would create 257,000 jobs associated with the life of the field. This would be the largest single jobs producer that we can identify in North America today.

So, as a consequence, if we add up the attitude of the Eskimo people who see this as an opportunity for stimulating their own economic livelihood, the national energy security interests of our Nation, the tremendous number of jobs, the realization that we have been able to develop safely oil and gas in the Arctic, as evidenced at Prudhoe Bay, there is no good reason why this administration should not support opening up ANWR to drilling.

It is anticipated that the lease sale would bring in approximately $2.6 billion. That would be split 50 percent to the Federal Government and 50 percent to the State of Alaska. As a consequence of that, it would give our engineers, our scientists, our technical people a great challenge to address new technology to make the footprint even smaller.

It has been estimated that if the oil is there, the development scenario can be accomplished in an area of less than 3,000 acres. The first estimate of this given a couple years ago was approximately 12,500 acres. Sometimes it is difficult to generate a comparison, but if one looks at the Dulles International Airport complex, that is about 12,500 acres, and a comparison would be if the State of Virginia was a wilderness. That is, I think, the picture that we can best use as an analogy to try to describe the vast distances associated with the Arctic and the realization that the footprint would be very, very insignificant.

Finally, Mr. President, I refer to an editorial in Nation's Business in November 1995. It is entitled "How Energy Policy and the Budget Intertwine." It reads:

> Consider a situation in which the central government holds direct ownership of properties containing most of the resources critical to economic growth. It also controls access to vast additional areas holding still more of those resources.
>
> This central government has adopted policies that in effect block the country's citizens from using such materials even as their availability from other sources declines.
>
> The nation fitting this description is the United States. The federal government owns one-third of the lands that hold most of the remaining reserves of oil, natural gas, timber, low-sulfur coal, gold, silver, other minerals, and timber. In addition, our government controls the outer continental shelf (OCS), the undersea area extending from three to 100 miles off the East, Gulf, and West coasts.
>
> Federal lands, notably the Arctic National Wildlife Refuge (ANWR), and areas under federal jurisdiction, notably the OCS, contain vast reserves of oil and natural gas. But national policy has been to keep those resources locked up, and the nation's dependence on imports continues to grow as domestic production declines.
>
> The United States now relies on imports for more than half of the crude oil it consumes, and much of that comes from countries with long records of political instability. Within 20 years, imports will represent 60 percent of domestic consumption. Given such dependence, even a slight drop in the supply from overseas could inflict severe economic harm.
>
> The consequences of excessive reliance on imports were starkly demonstrated in the 1970s, when foreign manipulation of supplies and prices caused economic disruptions that continued into the next decade.
>
> There are, however, grounds for optimism that the nation will not be held hostage to political events in the oil-exporting nations. Congress is considering legislation to permit exploration for oil and natural gas in the Arctic National Wildlife Refuge and development of sites deemed productive. With a membership far more attuned to economic realities than its predecessors, this Congress might be the one that adopts the rational energy policies the country has long needed.
>
> Environmentalists are predictably sounding alarms that ANWR development would destroy vast areas of pristine natural beauty. The facts show otherwise. The refuge consists of 19 million acres, and the development "footprint"—the visible results of development—would affect 15,000 acres, one-twelfth of 1 percent.
>
> Oil exploration and production activity would be limited to the coastal plain area, which is by no means a pristine sanctuary but contains, among other things, abandoned military bases. Even then, the footprint would affect only 1 percent of the designated coastal area.
>
> Advances in oil-production technology, such as horizontal drilling, would further minimize the environmental impact. Horizontal drilling, with pipes stemming underground from a single pad, sharply reduces the number of traditional oil rigs needed to produce from a wide area.
>
> Given the economic necessity of developing the nation's oil reserves and the negligible environmental consequences, the proposal to open a relatively tiny portion of the ANWR should command broad support in Congress—broad enough to override the veto that has been threatened by President Clinton because of pressure from environmentalists.
>
> There is an additional benefit from opening that small portion of the ANWR: The federal government would realize $1.3 billion in oil royalties over seven years, money that would help achieve the goal of a balanced federal budget.
>
> The revenue potential of resource development on other government-owned and/or government-controlled lands in one that should be taken into consideration as Congress seeks ways to achieve its goal of a balanced budget by 2002. Such land use not only could help meet crucial resource needs but also could help achieve a fiscal policy that would provide a tremendous boost to the economy generally.
>
> Although the federal government holds the legal title to one-third of U.S. lands the key to offshore resources, the officials who make up that government have failed in the past to recognize that they were actually trustees and that ultimate ownership and control was held by the American people.
>
> Those people want wise use of their properties. Such use includes preservation where warranted and economic utilization where that is warranted.
>
> A Congress under new management appears to be aware of that distinction. The president should also grasp it.

Mr. MURKOWSKI. Mr. President, the last item I want to submit for the RECORD is a letter dated November 10, 1995, to the President of the United States from Mr. George Duff, president of the Greater Seattle Chamber of Commerce. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GREATER SEATTLE
CHAMBER OF COMMERCE,
November 10, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The Greater Seattle Chamber of Commerce continues its support to open the Arctic National Wildlife Refuge's (ANWR) Coastal Plain to environmentally responsible oil and gas exploration, development and production. The Advanced technologies of the oil companies have proven that opening ANWR would be environmentally safe and wouldn't endanger wildlife habitat. In 1987 after extensive examination of this issue the Chamber adopted a formal position supporting the opening of ANWR.

The Chamber believes that national security and economic stability depend on sufficient ongoing quantities of domestic oil production. Increased domestic oil production minimizes the possibility of economic disruption due to dependence on foreign oil and decreases the nation's trade deficit.

The Greater Seattle Chamber of Commerce urges you to approve the federal budget bill containing a provision to open ANWR's Coastal Plain to oil and gas exploration and development.

Respectfully,

GEORGE DUFF,
President.

Mr. MURKOWSKI. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President I ask unanimous consent to speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 10 minutes.

TIME TO EVALUATE NAFTA

Mr. BYRD. Mr. President, on last Thursday, Senator DORGAN, my friend from North Dakota, introduced a bill to assess the impact of the NAFTA to require further negotiation of certain provisions of the NAFTA and to provide for the withdrawal from the NAFTA unless certain conditions are met.

That bill is S. 1417. I am pleased to cosponsor the bill introduced last Thursday by my friend from North Dakota, Senator DORGAN. This bill calls for an evaluation of the effects of the North American Free-Trade Agreement, known as NAFTA, on the U.S. economy and work force. It is very timely, given the precipitous calls to expand NAFTA further. I share Senator DORGAN's suspicions, supported by the initial data, that U.S. participation in NAFTA may not have benefited the United States and, in fact, may have harmed the economy of the United States.

I did not vote for NAFTA. I do not regret having voted against it.

The U.S. trade deficit with our NAFTA partners, Canada and Mexico, reached $16.7 billion in just the first 6 months of 1995. In 1993, before NAFTA, the United States had a small trade surplus with Mexico. Given the rule of thumb that each net export of $1 billion in goods creates 16,500 jobs, a trade deficit of $16.7 billion therefore translates roughly into 275,500 U.S. jobs lost as a result of NAFTA.

To be sure, the Mexican peso crisis earlier this year is partly to blame for the sudden shifts in trade with Mexico. With the devaluation of the peso, Mexican exports to the United States are cheaper than ever, while Mexican citizens can no longer afford to purchase U.S.-made products.

The Treasury Secretary's report to Congress for August 1995 indicates that consumer good imports in Mexico fell 29 percent in the first quarter of 1995 and 49 percent in the second quarter of 1995, compared to 1994. Unemployment and underemployment in Mexico grew from 4.5 million in the first half of 1994 to 7 million in the first half of 1995; only employment rates in the low-wage, export-oriented maquiladora sector increased—only in that one sector. Additionally, the number of workers in Mexico who earned less than the Mexican minimum wage rose to almost 11 percent of the work force in May 1995. Decreasing already low wages only encourages further job flight from the United States to Mexico.

Passage of NAFTA was supposed to be in recognition of Mexico's strong economic performance over the last decade. But the economic crisis this year suggests that Mexico was not ready to participate in a "predictable commercial framework for business planning and investment," as NAFTA purported. The Mexican crisis has also pointed out some flaws in the NAFTA that Senator DORGAN's bill attempts to correct. NAFTA must be renegotiated in order to correct for large trade deficits; it must be corrected to adjust for currency distortions; and it must be adjusted to prevent unfair displacement of agricultural products. These changes will help to make this flawed agreement less disadvantageous to the United States.

Additionally, Mr. President, Senator DORGAN's bill requires a number of certifications from the President and members of his Cabinet regarding a number of issues. These certifications provide a review of NAFTA and its effects on the U.S. economy and its effect on U.S. workers. They include issues like job losses and gains, U.S. purchasing power, trade flows, environmental and safety standards, the drug trade, and democratic reforms in Mexico. These are reasonable standards by which to measure the costs and benefits of continued U.S. participation in NAFTA. If NAFTA is not providing all the benefits that its sponsors promised, we should know that and we should act accordingly, even to the extent of withdrawing from an agreement that does not meet our needs. We certainly should not consider expanding this agreement until we have concluded that it provides more good than harm.

Mr. President, I congratulate my colleague, Mr. DORGAN, on his foresight in introducing this legislation. I am glad to be a cosponsor of it. I hope that it will receive the careful consideration of the Senate and that the Senate will act accordingly in view of the needs for action.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leaders' time reserved?

The PRESIDING OFFICER. The Senator is correct.

THE MONEY TRAIN

Mr. DOLE. Mr. President, thousands of concerned citizens all across America are now joining the chorus of voices speaking out against an entertainment industry that too often glorifies mindless violence, and peddles its harmful wares relentlessly to our children. These citizens understand, as I do, that images of senseless violence—repeated over and over again and showing murder in ever more graphic detail—debase our culture and affect people's attitudes and conduct, especially the attitudes and conduct of our impressionable young.

Regrettably, a shocking incident reported in today's New York Daily News, New York Post, and New York Times seems to confirm the accuracy of this observation.

This past Sunday, two men squirted a bottle of flammable liquid into a token booth at a subway station in Brooklyn's Bedford-Stuyvesant neighborhood. They then lit a match, igniting an inferno that blew the token booth apart and sprayed broken glass and splintered wood throughout the subway station. Trapped inside the token booth at the time of the explosion was its operator, 50-year-old Harry Kaufman, who miraculously survived with his life but who nonetheless suffered second- and third-degree burns over nearly 80 percent of his body. Mr. Kaufman normally works only weeknights, but made the fateful decision to work the overtime shift on Sunday because he was trying to save money to send his son to college.

This incident—committed by two men whose depravity is beyond description—is remarkably similar to incidents depicted in a new movie called "The Money Train," produced by Columbia Pictures. Although I have not personally seen "The Money Train"—and after Sunday's subway attack I have no intention of patronizing it—the movie apparently contains two scenes that occurred nearly identical to the one that occurred in Brooklyn on Sunday. In the movie, a pyromaniac named "Torch" squirts flammable liquid through the slot in the token booth and then ignites the booth. Unlike Mr. Kaufman, the fictional token-booth operator escapes unscathed from the ensuing explosion.

Are "The Money Train" scenes and the real-life tragedy in Brooklyn just a coincidence? Perhaps. But, apparently, this is not the view of New York City Police Commissioner William Bratton, who says, "There seems to be some connection between the movie and the explosions." Or as Alan Kiepper, the head of New York's Transit Authority, points out: "We know from experience that when you get movie and television depictions of criminal activity, it is often copycatted."

Copycat or no copycat, the individuals who committed this unspeakable act must be held accountable for their crimes. We are all responsible for own actions. To say that a movie caused this senseless act in Brooklyn gives it a logic and dignity it does not deserve and cannot have. There can be no excuses for criminal behavior, whatever the motivation may or may not be.

But, at the same time, those who work in Hollywood's corporate suites must also be willing to accept their share of the blame. For those in the entertainment industry, who too often engage in pornography or violence as a way to sell movie tickets, it is time for some serious soul-searching. Is this how they want to make their livelihoods? Is this their contribution to society?

Those who continue to deny that cultural messages can and do bore deep into the hearts and minds of our young people are deceiving themselves and ignoring reality. They are ignoring what happened this past June when a group of teenagers killed a Massachusetts man claiming they were natural born killers. And, yes, they are ignoring the senseless act that occurred this past Sunday morning in Brooklyn.

In fact, news reports indicate that transit authority officials had reviewed "The Money Train" script before the movie was filmed and had objected to the token-booth arson scenes. The film's producers decided to create the scenes anyway—on Los Angeles soundstages. We may never know the true impact of this decision.

Mr. President, I want to take this opportunity to convey my thoughts and prayers to Mr. Kaufman and his family. We wish him a speedy recovery. And we wish the New York City Police Department every success in their efforts to track down the vicious thugs who have committed this cowardly act.

The American people have a right to voice their outrage, and they can do so not through calls for government censorship, but by derailing "The Money Train" at the box office.

Just so you get a better picture of what happened, this is the Daily News, the front page of the Daily News. It is just entitled "Torched." So, when you put a flammable liquid into that little token booth and light a match to it, with no real way to escape, this is what happens. The front page says, "Attack mimics the hit movie 'Money Train,' Token clerk firebombed in booth, Family and (transit authority) assail film thriller."

Then in the New York Post pretty much the same. "Torched! Gun-toting firebombers steal scene from movie to blow up token booth." I know, if there is any—maybe the paper is wrong. Maybe I am wrong. Maybe most Americans are wrong. But if someone out there is watching a movie and is taken by it and excited by it and says, "I would like to try it," and then goes out to try it in real life, this is the result—burns over 80 percent of his body. Keep in mind he was working the overtime shift so he could earn a little extra money to send his son to college.

The same coverage is in part B of the New York Times, same kind of coverage, same broad coverage. But on the inside page here it says, "TA Worker Hurt In Booth Inferno." "Two are sought in 'movie' stunt." "Train film's on fast track."

It is all about what happens when people are mad and depraved or whatever. This is what happens. So I would just say to my colleagues, outrage is a powerful weapon. It is covered by the first amendment. The movie industry will tell you and the TV industry and all the others, "Oh, this is the first amendment, right of free speech."

We have also a right under the first amendment called "outrage." And if the American people express their outrage, in my view, good things will happen. We do not need to pass legislation. We do not need censorship. We just need to alert the American people and to ask some of those—in this case Columbia Pictures—to accept some corporate responsibility, to be a good corporate citizen.

I noted that Time Warner—we recently talked about that—has decided to sell off and has sold off Interscope, which is producing some of the CD's that you could not repeat anywhere, privately or in public or anywhere else. They were available to young people 10, 11, 12 years of age or younger, walking into any of these stores and buying the CD's.

Those are the things that, in my view, I think make you wonder, where do you draw the line on profit? When does profit become greed? When does it stop, if it is harmful to society, particularly young people in America?

BOSNIA

Mr. DOLE. Mr. President, just quickly on another matter, I will just say that tonight the President of the United States is going to deliver a very important message to the American people. He will attempt to persuade the American people that the United States, as a member of NATO, has a responsibility to commit 20,000 Americans to keep the peace or to enforce the peace—I think there is some confusion of exactly what it might be at this point—in that part of the world.

The President talked to me, called me yesterday from Camp David. We had a good discussion. I said, "Mr. President, you need to persuade the American people if you are to persuade Congress." I must say that it is difficult, particularly when this administration virtually sat on its hands the past 30 months while many of us talked about lifting the arms embargo. I still believe had we done that—and we had the debate on the Senate floor a number of times. We had strong bipartisan votes, Democrats joining Republicans, Republicans joining Democrats. The President indicated his opposition to that legislation. He said he would veto it.

Now, it is always easy to second-guess. I am not trying to second-guess the President of the United States. But it seems to me, and many who are experts, that had we lifted the arms embargo 6 months, a year ago, we would not be talking about sending American forces to that part of the world, to Bosnia, to Tuzla, wherever the Americans will be stationed.

Now, in my view the President has the authority and the power under the Constitution to do what he feels should be done regardless of what Congress does. But we also have a responsibility to our constituents and, I think, to the President of the United States to give him our best advice. So, I would guess that after the President makes his remarks and after the American people respond and after we finally have a signing of the peace agreement on December 15, is my understanding, that then the Congress will take some action. I am not certain what action that would be, because I think we need to consult with one another.

I remember when President Bush asked a previous Congress to authorize the use of offensive force in the gulf crisis, not a single Member of the Democratic leadership in either the House or the Senate would support the President of the United States. But, fortunately, in the Senate there were 11 Democrats who stood with President Bush, and by a narrow margin, after the President rolled the dice, we prevailed.

One thing I recall from that debate and the positive response after the vote was that the American people, once the Congress had given their—I do not say their stamp of approval, but at least authorized or backed up the President of the United States—as I recall, public approval for the operation rose rather significantly.

So, I will just say to the President, I wish you well tonight. I think you have a difficult job. I think the rest of us should keep an open mind—not an empty mind, an open mind—an open mind, assuming we had the same responsibility, keeping in mind that those in the armed services are now volunteers. They are volunteers. And I assume when they volunteer they know that the good and the bad can happen. But they are still young and still Americans and they still have a right, perfectly understandably, as do their families, to know what risks will be taken, how long they may be there, what the costs may be, is there a vital national security interest and American national security interest, do we have an exit strategy, how long will they stay, how many, and many other questions on which I think we should focus.

I will just say, it seems to me if I pick out one thing where I think the President can make a case, it is all these people came to America and they went to Dayton, OH, and they stayed there for a couple of weeks or longer, and they finally hammered out a fragile peace agreement and initialed it—it has not been signed yet—and initialed it, all under the auspices of American leadership—the President, the Secretary, the Assistant Secretary of State, Mr. Holbrook, and others—and all this was premised on the fact that there would be 20,000 Americans there.

So it seems to me the President may have at least laid some foundation, and there may be some obligation—some obligation—obviously that we follow through on that agreement. But the agreement has not been signed finally. We have not heard from the American people. We have not heard from Congress. We have heard from the House where they, by a pretty good margin, indicate they want to cut off all funds. That bill has not yet been taken up in the Senate and it may not be taken up this week.

I only hope that all of our colleagues will understand this is a very important decision all of us must make, and it must not be made just for today, but for next year and the next year and the next year. It is a question of Presidential authority, Presidential power, constitutional responsibility, and the responsibility of the Congress of the United States.

So I look forward to listening carefully to the President tonight and wish him success.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to associate myself with the remarks made by our able majority leader on both subjects. He has shown leadership here, just as he has shown in so many other instances.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1426 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 21, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, without amendment:

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 32. Concurrent resolution providing for a conditional recess or adjournment of the Senate on Monday, November 20, 1995, until Monday, November 27, 1995, and a conditional adjournment of the House on the legislative day of Monday, November 20, 1995, or Tuesday, November 21, 1995, until Tuesday, November 28, 1995.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The message further announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 122) making further continuing appropriations for the fiscal year 1996, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

H.J. Res. 122. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills and joint resolution were signed on November 21, 1995, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

MEASURE PLACED ON THE CALENDAR

The following measure was placed on the calendar:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 24, 1995 he had presented to the President of the United States, the following enrolled bills:

S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1620. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-07; to the Committee on Appropriations.

EC-1621. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated November 1, 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, Committee on the Budget, Committee on Finance, Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-471. A resolution adopted by the Council of the City of Toledo, Ohio relative to the "Contract With America"; ordered to lie on the table.

POM-472. A resolution adopted by the Captive Nations Committee of New York, New York relative to Chechenia; to the Committee on Foreign Relations.

POM-473. A resolution adopted by the Board of Directors of the Seattle Education Association of Seattle, Washington relative to Federal spending on education; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Pursuant to the order of the Senate of November 20, 1995, the following report was submitted on November 21, 1995, during the adjournment of the Senate:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany the bill (S. 1396) to amend title 49, United States Code, to provide for the regulation of surface transportation (Rept. No. 104-176).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI (for himself, Mr. HATCH, Mr. STEVENS, and Mr. BENNETT):

S. 1425. A bill to recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself and Mr. CRAIG):

S. 1426. A bill to eliminate the requirement for unanimous verdicts in Federal court; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (for himself, Mr. HATCH, Mr. STEVENS, and Mr. BENNETT):

S. 1425. A bill to recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes; to the Committee on Energy and Natural Resources.

THE REVISED STATUTES 2477 RIGHTS-OF-WAY SETTLEMENT ACT

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation cosponsored both by myself, Senator HATCH, Senator STEVENS and Senator BENNETT. The purpose of this legislation is to allow State law to continue to determine revised statute covering 2477 rights-of-way, as it is known in the West.

Mr. President, for almost 130 years State law has applied to the validation of R.S. 2477 rights-of-way. Simply stated, that is the "rights-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

Originally, the grant was section 8 of the Mining Act of 1866. The provision then became section 2477 of the revised statute, R.S. 2477, until its repeal by the Federal Land Policy Management Act of 1976, known as FLPMA.

Section 706 of FLPMA repealed R.S. 2477. However, section 701 states—and I quote—"Nothing in this act terminates any valid right-of-way existing on the date of approval of the act." Similarly, Section 509 of FLPMA states that nothing in title V on rights-of-way—and I quote—"shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted."

Under the authority of R.S. 2477, highways were established to achieve access through the public domain. It was a primary authority under which many existing State and country highways were constructed and operated over Federal lands in the Western United States.

Mr. President, in my State of Alaska many of these access routes were nothing more than perhaps a dogsled trail or footpath, but nevertheless provided essential routes from village to village for Alaska's Native people and other residents of the State. At that time it was a territory.

The original grant was viewed as an open-ended offer that only required acceptance to fully vest. Once a rights-of-way is fully vested, significant property rights would be attached to it.

Historically, the Department of the Interior looked to the State highway laws as the standard for acceptance of the grant. The Federal Government did little to keep track of the number or location of these rights-of-way for more than a century.

However, the Department of the Interior proposed regulations in August 1994 to make it extremely difficult to establish rights-of-way claims across Federal lands established under this law. The Department of the Interior claims the reason they are doing the regulations is to make a logical process to get R.S. 2477 rights-of-way recognized.

Mr. President, the regulations would actually do the following: They would override State law with restrictive new definitions of "highway" and "construction." They would put a cloud in the title of R.S. 2477 roads, treating them as invalid until proven valid. They would prevent any further expansion of scope of an R.S. 2477 rights-of-way. And it would prevent making the rights-of-way any wider. It set a sunset of administrative and court action on validity of R.S. 2477 by extinguishing claims not filed within 2 years, and 30 days after final ruling.

Further, construction and maintenance would not be permitted without approval of DOI with 3 days' notice, preventing the fixing of washed-out roads until the Department of Interior gave approval. The draft Department of the Interior regulations are nothing more than an attempt to prevent legal access across our public lands. It would impose an almost impossible task on State and local governments to make all claims for rights-of-way on Federal lands, and then have to validate each and every one of those claims.

Nowhere would this be more burdensome than in my State, Alaska, twice the size of Texas, and less roads than the State of Vermont.

This is clearly an effort to make sure Alaska and other Western States, Utah and others, would not have access across Federal lands for valid rights-of-way egress and access.

It is really an effort to take away the rights of the States to validate and use their rights-of-way.

This legislation which I have introduced today will define those who can file a claim, will put a time line on the filing of these claims. It will ensure there are validated claims according to State law at the time of the assertion of those claims. Further, it would put the burden of proof on the Secretary of the Interior if he wants to challenge their validity.

Additionally, legislation introduced herein will not, first, create any new rights-of-way. If they were nonvalid in 1976, they will not be valid today.

Further, we will not supersede existing environmental protections. We will not trample on private lands or Native lands.

And, finally, Mr. President, the Federal Government has better things to do, in my opinion, than put unnecessary burdens on the Western States. I urge all of my colleagues to support this legislation.

I would also add, Mr. President, that the State of Alaska has only been a State for 36 years. We are still very much involved in making claims based on the use across public lands for access. And so it is very much a real part of developing our State today. And I would urge my colleagues to recognize it. In most of the other States this process was done 100 years ago.

Mr. HATCH. Mr. President, I rise to express my strong support for this legislation being introduced today by my good friend from Alaska, Senator MURKOWSKI, regarding rights-of-way granted under revised statute [R.S.] 2477. This issue is of extreme and critical importance to my State, and this legislation is necessary to resolve, once and for all, the current situation that has clouded these rights since 1976.

I want to congratulate Senator MURKOWSKI for his leadership to bring the matter of claims made pursuant to R.S. 2477 to a close. I have worked closely with him to draft this proposal that meets the needs of all claimants in the various States, especially Alaska and Utah, where the overwhelming majority of R.S. 2477 claims are located.

Mr. President, since 1976, when R.S. 2477 was repealed with passage of the Federal Land Policy and Management Act [FLPMA], State and local governments have had to wage constant battle with the Federal Government as to what constitutes a valid R.S. 2477 claim as well as what the scope of that claim is once it is determined valid under this statute.

In Utah, this battle has been raging for quite some time. And, this firestorm is quickly spreading throughout the West. The controversial and highly publicized Burr Trail case in Garfield County, Utah, which has been litigated during the past decade, has brought this issue to the forefront. Nearly every county in UT, as well as many others in the West, has identified numerous R.S. 2477 rights-of-way claims. These local governments are justifiably concerned that the validation process of each claim may require enduring the same financial and legal burdens as the Burr Trail case, especially considering that more than 10,000 claims have been identified in Utah alone.

There has to be a better solution than the current system, which is what my colleagues from Alaska, Senators MURKOWSKI and STEVENS, and my colleague from Utah, Senator BENNETT, and I have been fighting for during the past few years.

At issue here is what constitutes a rights-of-way as authorized by Congress in 1866. R.S. 2477 rights-of-way are thoroughfares, cart paths, one lane dirt roads, small log bridges over streams or ravines, and other roads that time and necessity have created in our western States. These rights-of-way, which traverse Federal lands—and we are obviously not using the term highway in the modern sense—have been an integral part of the rural American landscape for over 100 years.

These rights-of-ways constitute an important part of the infrastructure of the Western States. I would ask my colleagues to think of this issue this way: suppose your front yard belonged to someone else—the Federal Government, for example—and the gravel driveway through the front yard was the only way to get to your house from the street. If you do not have complete authorization to maintain, improve, and keep open this driveway, then access to your home and possessions is eliminated. You would have to haul your groceries to your front door from the street. A simple illustration, perhaps, but one that shows the importance of these R.S. 2477 rights-of-way to the people in the West. These rights-of-way were accepted before 1976 and, like your driveway, have been used continuously for decades as an integral part of the West's transportation systems. The Senate should take appropriate action to protect the well-being of western and Utah communities.

Our legislation proposes to resolve the current controversies surrounding R.S. 2477 rights-of-way in several ways. It would provide a method of relief that many of us in the West have been pursuing for several years, namely that the designation of rights-of-way claims made pursuant to this authority should be determined under State law. The validity of these rights-of-way should be determined at the local level, and not by Congress, the U.S. Department of Interior, or the U.S. Department of Transportation.

At the same time, the process for submitting claims under R.S. 2477 should be as simple as possible consistent with legal requirements. A system for determining the validity of such claims should be designed to promptly resolve outstanding R.S. 2477 claims. Our bill creates such a process and places the burden of proof of each claim squarely on the shoulders of the Federal Government. Without this process, I envision a Federal system under which resolutions of such claims will become tremendously bogged down with no substantial resolution to this issue.

My colleagues may ask that if these rights-of-way have existed for 100 years, why is this legislation necessary?

Last August, the Clinton administration and Secretary Babbitt proposed regulations to settle this issue. These regulations would require a complete abandonment by State and local governments of R.S. 2477 rights-of-way claims and a total rejection of any evidence that documents the existence and historic use of these rights-of-way from 1866 up to 1976. They would allow the Secretary to determine whether or not a rights-of-way existed prior to 1976 which, in my opinion, is nothing more than asking State and local governments to abrogate their responsibilities as the owners of these rights-of-way. We, in the West, are unwilling to do that. The Secretary's regulations are evidence that the task of achieving a solution that protects the intent and scope of the original statute while preserving the infrastructure of rural communities must involve Congress. As far as I am concerned, we are beyond a regulatory fix on this subject, particularly in light of the regulatory proposal put forward by the Clinton administration.

Fortunately, Congress has included language in next year's Interior appropriations bill that prohibits the implementation of these misguided regulations.

Basically, our legislation will ensure that: First, the intent and scope behind the original statute are consistent with the intent and scope underlying congressional passage of FLPMA; second, the congressional intent regarding the interpretation of R.S. 2477 in accordance with State law is preserved; third, the large body of settled, well-established, and well-documented Federal and State case law and agency regulatory determinations is adhered to; and fourth, the trust and respect for State and local governments, which hold these rights and are entitled to exercise their powers within the sphere of their authority without Federal intervention are restored.

Mr. President, this matter is critical to communities and citizens in the rural West. In many cases, these roads are the only routes to farms and ranches; they provide necessary access for schoolbuses, emergency vehicles, and mail delivery. The Interior Department regulations would significantly confound transportation in the Western States, jeopardizing the livelihoods of many citizens and possibly their health and safety as well.

Some claim that R.S. 2477 rights-of-way are nothing more than dirt tracks in the wilderness with no meaningful history, whose only value to rural counties arises from the hope of stopping the creation of wilderness areas. Nothing could be further from the truth. No one is suggesting that we turn these rights-of-way into six-lane lighted highways with filling stations, billboards, and fast food restaurants.

Although, I am confident in saying today that I expect those opposed to this legislation to initiate a campaign of misinformation, dishonest facts, and outright untruths about the impact of our bill. They will paint a picture of our bill as authorizing the construction of paved roads through wilderness areas, native American trust lands, and national parks. They will employ these scare tactics, like they have on other public land measures now before Congress, to mislead the public and the media into believing an array of bulldozers, graders, and other roadbuilding vehicles are ready to begin an assault on the Nation's most pristine areas. Again, nothing could be further from the truth. If the rights-of-way exists, then the scope and the attributes of that right must be protected from the local entity with jurisdiction. We are not—I repeat, not—authorizing the construction of roads over public lands where no rights-of-way exists. Our bill provides the Secretary of Interior considerable latitude to express his position on each and every claim that is submitted and why these claims may or may not be valid.

I do not like to be so forthcoming in this way, but after witnessing the misinformation campaign being waged against our Utah wilderness bill, I want to prepare my colleagues for what is coming. I would ask that they carefully confer with those of us who have thousands of these claims in our States so as to fully recognize the importance of this matter to our citizens.

There is no pressing environmental reason to change the R.S. 2477 rules other than to make Federal land more pristine than it has been since the pioneers settled in the West. I urge the Senate to support adoption of this legislation during this Congress.

Mr. BENNETT. Mr. President, I am pleased to join my colleagues today in introducing this important legislation and I congratulate Chairman MURKOWSKI for his tremendous leadership, as well as Congressman JIM HANSEN, who has led the debate in the House of Representatives. While the issue of R.S. 2477 rights-of-way may not be of concern to many of our colleagues east of the Rocky Mountains, it is certainly an issue of importance to States in the West. The bill which we are introducing today will take great strides in putting an end to a controversy which has nearly paralyzed many rural counties in the State of Utah.

As my colleagues have eloquently described the history of this issue, I will not go into great detail. However, I would like to make a few very important points.

The R.S. 2477 statute is the authority under which many of the existing State and county highways in my State were constructed and operated. For example, in Garfield County, UT, portions of Highway 12, one of the most scenic and most heavily traveled routes in southern Utah, have no other written authorization besides the R.S. 2477 authorization. Another example is the

Hole-in-the-Rock road, historically one of the most significant routes in Utah history.

This legislation seeks to address the problems that developed by the failure of R.S. 2477 to define what a highway was. By modern definition, highways are generally considered to be paved two or four lane roads, suitable for all types of traffic. However, southern Utah is crisscrossed with literally thousands of improved and unimproved roads which, regardless of the condition of the roads, are the lifelines to many native American communities, rural communities, public recreation areas, mining, oil and gas, and grazing claims.

Currently, the only way a State or county can confirm the legality of a rights-of-way is to file a lawsuit in a Federal court. This has placed an onerous financial burden on county governments which sincerely want to resolve the issue. Indeed, many of the smaller counties in Utah cannot afford to file claims even though R.S. 2477 rights-of-way is critical to their current and future economic survival. Mr. President, Utah has asserted more claims for R.S. 2477 than any other State. Nearly 5,000 claims have been asserted at one time or another. You can imagine the tremendous financial burden that result both for the county and the Federal Government.

This legislation preserves the important role of State law in determining what is, and is not, a valid rights-of-way. R.S. 2477 was originally an offer made by Congress to State and local governments to create highways across the vast stretches of western desert and to help settle the West. The original act recognized State law and relied on State law to provide many of the details of its implementation. In years past, the Department of the Interior has generally acquiesced to State law. Since the passage of FLPMA, and even up until the recent administration took office, the Department of the Interior's policy has generally looked to State law to determine what constitutes a public highway.

Mr. President, this is a good bill. It restores the role of the State in determining what is, and is not, a valid rights-of-way. It forces both the claimant and the Federal Government to come to the table. It narrows the time frame in which claims might be filed to 5 years. It grants the Secretary 2 years to object in writing to the claim and to provide a factual and legal basis for each objection. The proposed regulations would put the burden of proof on the claimant. It places responsibility on the holders of the claims to define, file, and defend them in court.

This legislation will prevent roads from deteriorating which have been locked up. Most important, the legislation will preserve the ability of citizens to access public lands, and, in many cases private lands, to mine, hunt, fish, camp, hike, view wildlife, and enjoy our fabulous natural beauty.

The bill is not without its critics. The administration has already claimed that the bill will make it too easy to file new claims, and too burdensome for the Government to reject ones that do not meet the statutory criteria. Mr. President, I believe that we can take steps that will permit us to work through a large portion of the outstanding claims and I intend to work closely with my colleagues to do so. I encourage my colleagues to support this legislation and I look forward to assisting the chairman in any way possible to move this bill quickly through the Senate.

By Mr. THURMOND (for himself and Mr. CRAIG):

S. 1426. A bill to eliminate the requirement for unanimous verdicts in Federal court; to the Committee on the Judiciary.

FEDERAL COURT LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce legislation on behalf of myself and Senator LARRY CRAIG of Idaho to amend the Federal rules of criminal and civil procedure to allow convictions on a 10 to 2 jury vote.

It is my belief that this change to the Federal rules will bring about increased efficiency in our Nation's court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity in jury verdicts, specifically in *Apodaca* v. *Oregon*, 406 U.S. 404. In that case, the Supreme Court ruled that the sixth amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon Court of Appeals decision which upheld a guilty verdict under an Oregon law that allowed a 10 to 2 conviction in criminal prosecutions.

Mr. President, clearly there is not a constitutional mandate for the current requirement under the Federal rules of criminal and civil procedure of a jury verdict by a unanimous vote. The origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted toward the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

Although majority verdicts were permitted during 17th century America in South Carolina, North Carolina, Connecticut, and Pennsylvania, unanimous verdicts became an accepted part of common-law juries by the 18th century.

Mr. President, I found it interesting that the proposed language for the sixth amendment, as introduced by James Madison in the House of Representatives, provided for trial by jury as well as requisite of unanimity for conviction. While this particular proposal was passed by the House with little change, it met a significant challenge in the Senate and was returned to the House in a different form. Later, a conference committee was appointed and reported the language adopted by the Congress and the States which reflects the current sixth amendment.

The earlier House proposal requiring a unanimous jury verdict for conviction was considered and not made a part of the sixth amendment. For purposes of discussion of this legislation, I will quote the pertinent part of the sixth amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The sixth amendment includes some features of common-law juries. However, the Supreme Court has admonished reliance on the easy assumption that if a given feature existed in a jury at common law in 1789, then it was necessarily preserved in the Constitution. So here we see the Supreme Court has noted specifically that all features of the common-law jury are not mandated by the Constitution.

Mr. President, there may be a number of inferences to be drawn from the deletion of the unanimity for conviction requirement in the proposed sixth amendment. One point we cannot escape is the fact that a unanimity requirement was considered by our Founding Fathers and determined that it should not be constitutionally mandated.

In *Duncan* v. *Louisiana*, 391 U.S. at 156, the Supreme Court stated that the purpose of the right to a trial by jury is to prevent oppression by the Government by providing a "safeguard against the corrupt or overzealous prosecutor and against the biased or eccentric judge." Carrying this view further in the subsequent case of *Williams* v. *Florida*, 399 U.S. 78 (1970), the Supreme Court stated, "The essential feature of a jury obviously lies in the interposition between the accused and his accuser of the commonsense judgment of a group of laymen" Williams, supra, at 100.

Juries are representative of the community and their solemn duty is to hear the evidence, deliberate, and decide the case after careful review of the facts and the law. Of course, this should be done free of intimidation from outside and within the jury. The Supreme Court has noted that a jury can responsibly perform its function whether they are required to act unanimously or allowed to decide the case on a vote of 10 to 2.

There are cases where a requirement of unanimity produced a hung jury where had there been a nonunanimous allowance the jury would have voted to convict or acquit. Yet, in both instances, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

The American people, I believe, will strongly support change in the Federal rules of criminal and civil procedure to allow a jury conviction by a vote of 10 to 2. This change for jury verdicts in the Federal courts will also reduce the likelihood of a single juror corrupting an otherwise thoughtful and reasonable deliberation of the evidence.

Mr. President, I hope the Congress will give careful and favorable consideration to this proposal and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.

Rule 31(a) of the Federal Rules of Criminal Procedure is amended by striking "unanimous" and inserting "by five-sixths of the jury".

SEC. 2. AMENDMENT OF FEDERAL RULES OF CIVIL PROCEDURE.

Rule 48 of the Federal Rules of Civil Procedure is amended—

(1) by inserting after the first sentence the following: "The verdict shall be by five-sixths of the jury."; and

(2) in the last sentence, by striking "(1) the verdict shall be unanimous and (2)".

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 969

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1137

At the request of Mr. THOMAS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1137, a bill to amend title 17, United States Code, with respect to the licensing of music, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1253

At the request of Mr. ABRAHAM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1253, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 1375

At the request of Mr. BURNS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1375, a bill to preserve and strengthen the foreign market development cooperator program of the Department of Agriculture, and for other purposes.

NOTICE OF HEARING

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, November 29, 1995, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on S. 1224, the Administrative Dispute Resolution Act of 1995.

ADDITIONAL STATEMENTS

IRANIAN HUMAN RIGHTS ABUSES

• Mr. D'AMATO. Mr. President, I rise today to deplore Iran's abominable human rights practices, and to remind my colleagues that Iran's continued abuse of the fundamental rights of its own citizens is one of the reasons why I have offered legislation intended to increase economic pressure on this outlaw regime in Tehran.

Human rights organizations all over the world have been deploring the Islamic Republic of Iran's human rights abuses against women, religious and ethnic minorities for years.

This is a country that sentences women to death for adultery, and then carries out the death penalty by bundling them into a postal sack and throwing them from the roof of a 10-story building.

This is a country that still carries out public stonings, and even has a strict legal code to govern the size stones citizens are to use to stone their fellow citizens. Stones too large are not to be used, because death will be inflicted too quickly. Stones too small are to be avoided, because death doesn't come at all. The stones have to be just the right size to allow the victim to suffer for a very long time, and to ensure that they will die of their wounds.

This is a country that continues to use paramilitary security forces to harass and intimidate people in the street, and that closes newspapers because of a political cartoon comparing the supreme leader to a comic strip figure.

This is a country where to be a candidate in an election you must first be deemed to be a supporter of the sitting government. And this is a country, Mr. President, that continues to be cited, year after year, by the Special Representative of the U.N. Subcommission on Human Rights for its systematic use of torture, arbitrary arrests, and summary executions.

These practices were described in an article appearing in a Paris-based newsletter nearly 5 years ago, which I ask to have printed in the RECORD at the conclusion of my remarks, along with more recent material supplied to my office by the Foundation for Democracy in Iran, a human rights advocacy group.

Mr. President, I would like to call your attention to a few of the lesser known human rights abuses of the clerical regime in Tehran: its repression of religious and ethnic minorities.

As cited by the 1995 report of Middle East Watch, and the February 1994 report of U.N. Special Representative on Human Rights for Iran, the Iranian security forces conduct arbitrary arrests of Kurdish, Balouch, Turkomen, and other ethnic minorities, and to subject these minorities to cruel and degrading punishments in Iranian jails, including torture and summary execution.

Similarly, as the State Department's February 1995 Report on Human Rights points out, the clerical regime discriminates against citizens of other religious persuasions than the dominant Shiite Moslem faith. Baha'is, Jews, and Sunni Moslems have been arrested over the past year for no other reason than their faith, and some of these individuals have been executed.

In fact, the Islamic Republic has engaged in a deliberate policy to suppress the rights of its Sunni minority, and in particular members of the Balouchi tribes in eastern Iran. On February 1, 1994, riots broke out in Zahedan, Mashed, and Khaf after 500 municipal workers demolished a Sunni mosque in the Zahedan district. On January 10, 1993, Iranian Revolutionary Guards troops attacked Balouchi residents in the village of Robat, when the homes of an estimated 50 families were set on fire in an attempt to secure a single individual, Haji Pirdad. The U.N. Special

Representative for Human Rights reported on February 2, 1994 that 20 Balouchis were executed in December 1992 and February 1993 in Zahedan prison, while Amnesty International reported that 42 Balouchis including minors were executed between November 1991 and March 1992.

I believe, Mr. President, that this behavior by the Islamic Republic just goes to show that we are dealing with an outlaw regime that cares little about its own people. If it cares so little about its own people, how will it act toward others?

Iran is isolated and universally viewed as a pariah state. Its actions are abhorrent to the civilized world. As long as this warped, terroristic regime continues to punish the Iranian people with its misrule, this condition will continue. The tyrants in Tehran must understand their aggression and abuse of the good people of Iran will not last, and one day they will be brought to task for their actions.

While the tyrants continue to rule in Tehran, sanctions are a clear way to keep up the pressure on Iran and to deny them the ability to carry out their aggression on the outside world as well as against their own people. We do not take these issues lightly. It is a pity that the regime cannot act like a civilized country and not be so abusive. If only Iran would not conduct these brutal actions, we would not have to place sanctions on it.

The article follows:

[From Mednews, No. 4.4, Dec. 3, 1990]

HUMAN RIGHTS ABUSES IN IRAN

The "moderate" regime in Tehran so dear to Washington policymakers has failed the test again—the test of human rights. Three recent reports on human rights abuses in Iran show beyond a doubt that extreme caution is still needed in dealings with the current regime in Iran.

The reports were prepared independently by Amnesty International, the United Nations, a Paris-based Iranian exile group, the Foundation for the Independence of Iran. All three conclude unequivocally that human rights abuses have increased markedly since the end of the Gulf war, despite Iranian government claims to the contrary.

In his second report in thirteen months, which was released in late November, the UN's Reynaldo Galindo Pohl confirms that at least 113 Iranians have been executed since March 21, the start of the Iranian New Year.

In fact, Pohl's figures fall far short of the mark—once again. Accounts published in the official Iranian media alone show more than 600 deaths by execution since March 21. Last year, that figure reached 2,500. When he questioned the Iranian authorities about the executions during his first visit to Tehran during the fall of 1989, Mr. Pohl was told that the victims were "ordinary criminals," not political prisoners, and that all had been "treated in confirmity with the Ta'zirat and the standards of Islamic law." Allegations of torture and summary execution were groundless, Pohl explained, since Iran did not maintain that its laws adhered to the universal declaration of human rights.

Amnesty International recently quoted Iran's "Islamic" law on lapidation and concluded: "In Iran, stoning someone to death isn't against the law. Using the wrong stone is." Yet another Amnesty report on Human Rights abuses in Iran is scheduled for release on December 5.

The Foundation for the Independence of Iran has chosen to stick to accounts published in the Iranian press, and recently presented a detailed report to the French government on human rights abuses in Iran.

Here are just a few of the more startling examples the Foundation discovered:

July 26: Keyhan announces that forty women have recently been stoned to death. "Whippings, sectioning of fingers and hands are common punishments" in Iranian prisons.

August 17: The Iranian Press Agency (Irna), quoted by Nimrooz, acknowledges that 14,000 persons have been arrested during the past two months, mostly for drug trafficking. On the personal orders of President Rafsanjani and Intelligence Minister Fallayian, they were deported to work camps on the Island of Endourabi.

August 24: Nimrooz reported that a woman accused by her husband of infidelity was sentenced to an unusual death in Tehran. She was sewn into a burlap bag and thrown off the roof of the Ministry of Justice.

August 30: Keyhan reports that 45-year old Ebaolollah Kiani was condemned to death by stoning in the central square of the town of Nahavandi, for having had intercourse with a woman.

August 31: Nimrooz reports that anti-government slogans chanted during a football match in Tehran led to mass arrests. Two thousand persons received prison terms ranging from 5 years to life, while many others were executed, [Opposition sources believe as many as 400 were sentenced to death].

September 7: Nimrooz reports that a fight between two men in the town of Rey ended in blows and the death of one of the men, Hassan Ahmadi. As punishment, the mollahs of the town ordered that his assailant, Nader Zandi, be taken to the town square and beaten to death by the crowd, under the principle "an eye for an eye . . ."

September 13: Keyhan lists the names of 51 persons who were hanged in a single day in the cities of Mashad and Khach, on charges of drug-trafficking and illegal possession of weapons.

October 4: Keyhan lists the names of 65 persons executed by hanging in the towns of Mashad, Zahedan, Malayer, Busheir, Ardebil, and Sabzevar. In Kermanshah two petty criminals had fingers chopped off as punishment for theft.

Meeting with members of the French government's Human Rights Commission on November 22, the Foundation's President, Colonel Hassan Aghilipour, noted that the new European Charter just signed by 34 heads of State in Paris "devoted 45 lines to human rights," while in Iran executions and deportations were occurring daily. "There are 150,000 Iranians now condemned to Islamic gulags in the southeast of Iran and on the Persian Gulf islands," Aghilipour said.

OCTOBER 20, 1995.

Subject: Execution and arrest of Kurds in Iran.

FOUNDATION FOR DEMOCRACY IN IRAN

The Foundation for Democracy in Iran is concerned over recent reports from Iranian Kurdistan regarding the execution of 10 Kurds and the arrest of at least 26 others.

According to the opposition Democratic Party of Iranian Kurdistan (DPIK). 10 Kurdish political prisoners accused by the regime of being DPIK supporters were executed or died under torture in late September.

Six of the prisoners, Kurdish villagers from northwestern Iran, were executed by firing squad after a year of detention in Orumiyeh prison, the group said. Three others died under torture. The tenth, a Kurdish villager identified as Rashid Abubakri, was hanged on Sept. 21, also in Orumiyeh prison. All were detained and executed on the grounds they were supporters of a banned political opposition group.

In early October, the Iranian press reported that 345 persons had been arrested in Orumiyeh district at the same time as the alleged DPIK sympathizers were executed. On October 7, 1995, the DPIK released the names of 26 Kurdish civilians it claims have been arrested over the past two months in the Orumiyeh and Salmas regions in northwestern Iran, on charges of cooperating with a banned political opposition group. Those arrested were identified as follows:

1. Asgar Darbazi, son of Omar, native of the village of Barazi.
2. Aziz Hayavani, son of Shino, native of the village of Barazi.
3. Pros Azizi, son of Hussein, native of the village of Barazi.
4. Dino Ibrahimi, son of Saleh, native of the village of Barazi.
5. Salahaddin Faghapur, son of Saleh, native of the village of Barazi.
6. Ghamar Mirazai, son of Timur, native of the village of Dostan.
7. Saleh Amini, son of Khaled, native of the village of Gozek.
8. Yunes Amini, his son, born in the same village.
9. Naji Mohammadi, son of Mohammad, native of the village of Gozek.
10. Omar Mohammadi, son of Timur, native of the village of Gozek.
11. Doctor Shirvan, son of Mostafa, native of the village of Haraklan.
12. Sadigh Alizadeh, son of Abubakr, native of the village of Haraklan.
13. Afshar Laal, son of Abdul Rahman, native of the village of Kalarash-Sofla.
14. Shafigh Hakkari, son of Reza, native of the village of Kalarash-Sofla.
15. Bakra Hakkari, son of Sultan, native of the village of Kalarash-Sofla.
16. Taghsim Mirzai, son of Mirza, native of the village of Tarikan.
17. Nuraddeen Taheri, son of Jahanghir, native of the village of Tarikan.
18. Farhad Zareh, son of Sayda, native of the village of Sharvani.
19. Tajaddeen Faghazadeh, son of Sadigh, native of the village of Sharvani.
20. Nasser Zarch, son of Mullah Sultan, native of the village of Sharvani.
21. Majid Husseini, son of Mullah Sayed, native of the village of Sharvani.
22. Nosrat Hassanzadeh, son of Khaled, native of the village of Sharvani.
23. Faysal Zareh, son of Tamo, native of the village of Sharvani.
24. Sadigh Majidi, son of Mamo, native of the village of Hamamlar.
25. Zaher Ahmadi, native of the village of Koran.
26. Ahmad Sultani, son of Smeh, native of the village of Islamabad.

The Foundation condemns the execution of individuals for their political beliefs, and calls on the UN Rapporteur for Human Rights to investigate these reports. The Foundation further condemns the recent round-ups of Kurdish civilians by the Iranian authorities as a clear attempt to intimidate citizens from the legitimate non-violent expression of their political beliefs.

OCTOBER 22, 1995.

Subject: New Security Violates Human Rights.

FOUNDATION FOR DEMOCRACY IN IRAN

The Foundation for Democracy in Iran is concerned that a sweeping new security law voted by the Iranian Parliament (Majlis) on October 17 adds a new threat to the human rights of ordinary Iranian citizens. The new law criminalizes a wide variety of non-violent political activity, and creates broad categories of "seditious" behavior that are punishable by law. It also creates a sweeping new "national security" provision, which can be used against political opponents both inside and outside Iran. This new law goes far beyond existing statutes in the Islamic Republic and suggests that recent riots in South Tehran and labor strikes in major factories may have destabilized the regime much more than previously thought.

The law imposes a penalty of two to ten years in prison for anyone, regardless of ideology, who forms or leads a group of more than two members, in Iran or abroad, with the aim of threatening the country's security, Tehran radio reported. For defendants who are found by an Islamic court to be "mohareb"—infidels—the penalty is death.

Under this provision, the Islamic Republic could claim legal justification in kidnapping political opponents living outside of Iran. A first instance of this appears to have occurred on September 27, when Ali Tavassoli, a former central committee of the Fedayeen (Majority) Organization, was reportedly kidnapped by Iranian government agents in Baku. Mr. Tavassoli had traveled to Azerbaijan from Britain for a business meeting. According to the Fedayeen he had retired from their active leadership in 1989.

Other provisions of the new law raise the intimidation level against ordinary Iranians for any contact with foreigners or fellow citizens suspect of contact with foreigners.

The new law:

imposes a maximum ten year jail sentence on anyone convicted of passing "confidential" information on Iran's domestic or foreign policies to unauthorized persons;

imposes a maximum ten year jail sentence on "attempts to demoralize the armed forces and the police," including appeals to soldiers to desert.

a maximum five year jail sentence for foreign nationals caught spying in Iran on behalf of a foreign state;

This sweeping new security law is a clear violation of the fundamental human rights of Iranian citizens. The Foundation vigorously condemns these efforts by the Iranian regime, and calls on Iran's Majlis to rescind the law before it goes into effect.•

THE DEATH OF HENRY J. KNOTT, SR.

• Ms. MIKULSKI. Mr. President, with great sadness, I rise today to pay tribute to an extraordinary man. Henry J. Knott, Sr., died yesterday at the age of 89. For many decades, we knew him in Baltimore and throughout Maryland as a talented businessman and a philanthropist whose generosity knew no bounds.

I first want to express my deepest condolences to his wife of 67 years, Marion Burk Knott, his 12 children, his 51 grandchildren, and his 55 great-grandchildren.

People in positions of power and responsibility should serve as role models for our young people and give something back to their communities. I have great admiration for people who have a sense of civic responsibility, for people who try to make their community a better place to live.

Mr. Knott epitomized these qualities. Throughout his career, he sought to help those less fortunate than himself get a better education and lead better lives. He donated millions of dollars to Catholic educational institutions like his alma mater, Loyola College; Mount St. Mary's College, Emmitsburg; the College of Notre Dame in Maryland; and the University of Notre Dame in Indiana.

His legendary generosity extended well beyond education. He provided enormous help to health and cultural institutions as well. He donated essential funds to the Baltimore Symphony Orchestra, the Johns Hopkins Oncology Center, and several Baltimore hospitals to help them establish an income fund to provide medical care for the poor.

His many business activities earned him a reputation as a highly disciplined and hard-working person. But his civic and charitable activities showed us that he was also an extremely modest person who had very deep feelings for the Catholic Church, his community, and the people around him.

In a 1987 Baltimore Magazine article, he was asked about his prodigious philanthropy. He replied that making money was "like catching fish. You get up early. You fill the boat up with fish. And then you give them all away before they start to rot." This quote says a great deal about Henry Knott. He saw his wealth as a way to make life better for others. He never lost sight of this goal.

I mourn Henry Knott's death along with his family and the rest of Maryland. We will miss him greatly. However, I am very grateful that he was with us for 89 years, and I rejoice that he left Maryland and our Nation a better place than he found it.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. MCCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Kari Austin, a member of the staff of Senator KASSEBAUM, to participate in a program in Germany sponsored by the Konrad Adenauer Foundation from November 11–18, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Austin in this program.

The select committee received notification under rule 35 for Kevin Wilson, a member of the staff of Senator PELL, to participate in a program in Germany sponsored by the Konrad Adenauer Foundation from November 11–18, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Wilson in this program.

The select committee received notification under rule 35 for Eric Burgeson, a member of the staff of Senator DOLE, to participate in a program in Korea sponsored by the Korean Economic Institute from November 18–26, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Burgeson in this program.•

DOMESTIC SUGAR POLICY

• Mr. CRAIG. Mr. President, I find it necessary today to set the record straight on the issue of domestic sugar policy. My remarks are in reference to comments made on November 17, 1995, by my good friend from Nevada, Senator REID, and on November 18, 1995, by my colleague from New Hampshire, Senator GREGG.

EVERYONE BENEFITS FROM FAMILY FARMERS

First, let me tell you about the significant importance of sugar to my State of Idaho; 1,800 family farms raise sugar beets on an annual basis. These farms combine to grow over 200,000 acres and produce over 5 million tons of sugar beets. Sugar beets are the third largest crop in Idaho after potatoes and wheat.

Sugar-beets are also important to the communities where these family farmers live. Farmers generate sales at local businesses for their vehicles, fuel, farm implements, irrigation materials, fertilizer, and other inputs.

These sugar-beet farmers are also efficient. Of the 31 countries around the world that produce beet sugar, the U.S. beet-sugar industry is the second lowest cost producer. While these farmers are efficient, they need the stability of U.S. sugar policy to compete against unfair subsidies and trade practices used by foreign countries.

Sugar beets provide direct employment opportunities in Idaho communities. There are three processing facilities in Idaho—plus one in nearby Nyssa, OR—owned by the Amalgamated Sugar Co. that combine to pay in excess of $45 million in salary and wages to their employees. There are 1,200 people employed year round and at the seasonal peak total employment approaches 4,000 people.

The Amalgamated Sugar Co., also pays $50 million annually to the truck and rail transporters of raw beet sugar and the finished products.

ERRONEOUS GAO REPORT

My colleagues cited an erroneous figure of $1.4 billion in annual consumer costs. This figure is based on an April 1993 General Accounting Office report. The U.S. Department of Agriculture recently admonished the GAO report for its flawed estimates, omitted data, and ambiguous results.

In an October 24, 1995, letter, Under Secretary Gene Moos wrote that

> Some data were used incorrectly and important data and sugar market issues were not considered . . . Based on this world price estimate and an average U.S. sweetener price over 1992–1994, a more normal price period, it can be shown using GAO's methodology, that there are no costs to domestic users and consumers.

Mr. Moos continues:

> The estimated effects of the U.S. sugar program are highly sensitive to expected world prices if global sugar trade is liberalized. GAO's analysis, in my judgement, does not adequately consider the complexities and dynamics of the U.S. and global sugar markets.

The erroneous GAO results have been misinterpreted by my colleagues. First, the mistaken $1.4 billion cost is not a payment to beet or cane producers. Sugar is not like the wheat or corn program; sugar farmers do not receive a Government payment. Rather, sugar growers pay a marketing assessment on their sugar that goes directly toward deficit reduction. Over the course of the Balanced Budget Act of 1995, the sugar assessment will provide $287 million in deficit reduction.

Mr. President, at the conclusion of my remarks, I ask that the text of the letter from Mr. Moos of USDA to Representative PATSY MINK regarding the erroneous GAO report be printed in its entirety.

WORLD AND U.S. SUGAR PRICES

To fully understand the selling price of sugar here and abroad, my colleagues need additional insight and information.

It is important to realize that the world sugar market is very volatile due to the small quantities traded and large number of countries with protectionist policies. According to USDA, all 110 countries producing sugar subsidize their sugar production, consumption, and/or trade in some way.

The world price of sugar has ranged from more than 60 cents per pound in 1974 and more than 40 cents per pound in 1980 to less than 3 cents per pound in 1985.

This world price does not correspond with the world cost of production. In fact, a 1994 Landell Mills study showed that the world price average of 8.4 cents per pound between 1982–92 and the average cost of production was estimated at 17.5 cents per pound during the same period.

This obvious presence of a world dump market does not and would not allow foreign needs to meet domestic demands at the suggested lower price. U.S. consumers use about 9 million tons of sugar each year, which is equal to more than a third of the total sugar traded on the world market each year.

PROGRAM EXTENSION

The gentleman from New Hampshire also took issue with the fact that the sugar program was extended for 7 years. Mr. President, for the record I would like to note that all agricultural commodities were extended for 7 years. Yes, every single commodity in the ag title of the Balanced Budget Act. This includes not only sugar, but wheat, cotton, rice, peanuts, corn, and barley.

I would point out that the Balanced Budget Act of 1995 was designed to achieve a fiscal balance by 2002 and thus most, if not all, of the bill's provisions were approved in 7-year timeframes.

RECORD OF COMMITTEE REVIEW

For the record, I would also like to review the process of hearings and committee markups that the sugar section of the bill underwent prior to final inclusion. To suggest that the sugar program slipped into the bill is an insult to the members of the Senate Agriculture Committee.

Last December, the Agriculture Committee chairman, Senator LUGAR, asked 53 questions about domestic agriculture and rural policy that began an extremely comprehensive schedule of committee hearings. Eight full committee hearings were held between March and June to form the foundation of the 1995 agricultural legislation. Four subcommittee hearings were also held in May and June. In addition, I personally chaired a field hearing in Pocatello, ID, on August 15 to thoroughly review farm policy, including sugar. In addition, the full committee participated in 2 days of lengthy debate in late September prior to final approval of the bill.

SUGAR PROGRAM PASSES THE REFORM TEST

In closing let me briefly review the significant reform submitted as a result of the thorough committee process and recently approved by the Congress in section 1107 of the Balanced Budget Act.

The sugar program of the future is definitely not the sugar program of the past. Consistent with the other ag policy changes, the sugar program contributed to deficit reduction and was rewritten to more closely respond to market signals.

Sugar program reform included the removal of marketing allotments, a shift to recourse loans, an increased assessment, and a penalty that effectively lowers the loan rate by a penny.

In past years, sugar production was controlled by a system of marketing allotments. This bill removes those production controls. The Government will no longer tell farmers where and in what quantity they can raise sugar. This major reform signifies the end of sugar-supply management.

A recourse loan provision will now apply to the sugar program. Other commodities, and previously sugar, utilized a nonrecourse loan program. This meant the Government had no means of recovering a defaulted loan except collection of the commodity used as collateral. The new sugar program will not allow that risk to the Federal Government. This is significant to farmers, because it eliminates any guarantee of previous minimum payments.

The most significant reform provision is a new penalty on any sugar that is forfeited to the Government. This 1-cent penalty effectively lowers the loan rate by a penny. That occurs because the loan holders will lower the sales price of their sugar to avoid paying the newly instated penalty.

There are significant real life effects of a 1-cent decrease in the sugar loan rate. The average Idaho farmer raises 128 acres of sugar beets according to the latest data. The USDA says they will average 25 tons of sugar beets per acre this year and, given the national average extraction rate, this means they will produce 6,924 pounds of refined sugar on each acre they harvest in Idaho.

In Idaho, like most of the rest of the areas where sugar beets are grown, the farmer has a contract with the company that processes the sugar beets and it provides that the farmer will get 60 percent of the value of the sugar he produces.

Thus, the farmer's share of 1-cent reduction is 60 percent, Six-tenths of a cent a pound times 6,924 pounds per acre equals $41.55; $41.55 loss per acre times the average Idaho farmer's 128 acres equals $5,318.40.

Let me repeat, a 1-cent reduction in the value of sugar per pound will cost the average Idaho farmer $5,318.40.

That $5,318.40 is very often the difference between profit and loss for many farmers even during prosperous, let alone difficult, economic times in rural America.

Unfortunately, there is no guarantee that the loss to producers would be passed on as savings to consumers.

A 1-cent reduction might seem minimal to those not familiar with the program, but it is not.

Mr. President, in closing, I ask that my colleagues consider my words carefully and come to appreciate the reforms that have been made to the domestic sugar program. I also want to commend the other members of the Senate Agriculture Committee that combined to craft sugar policy that this Congress can be proud to point to as an example of market driven reform. Most importantly, I offer my gratitude to the farmers and ranchers from across this country that continue to produce a bountiful, safe, and reasonably priced food supply.

The text of the letter follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, October 24, 1995.

Hon. PATSY T. MINK,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN MINK: Thank you for your letter of July 26, 1995, concerning the General Accounting Office (GAO) report that stated that the U.S. sugar program costs domestic users and consumers an average of $1.4 billion annually and GAO's July 1995 analysis that the sugar program cost the Government an additional $90 million in 1994 for its food purchase and food assistance programs.

In my opinion, GAO's April 1993 report was flawed in its estimates. Some data were used incorrectly and important data and sugar market issues were not considered. Based on GAO's methodology, but by selecting prices in different time periods, the results are more ambiguous. Depending on the timeframe, one may contend that the domestic sugar program either costs or benefits U.S. users and consumers.

GAO's estimate of $1.4 billion annually was based on an assumption of a long-run equilibrium world price of 15.0 cents per pound of raw sugar if all countries liberalized sugar trade. GAO added a transportation cost of 1.5 cents per pound of raw sugar to derive a landed U.S. price (elsewhere in the report GAO stated that the transportation cost adjustment should be 2.0 cents per pound.) To derive a world price of refined sugar of 20.5 cents per pound, GAO added a refining spread of 4.0 cents per pound.

GAO compared its constructed U.S. sweetener price with its derived world price. However, GAO constructed the U.S. price for the 1989–1991 period during which 1989 and 1990 were unusually high price years for U.S. refined sugar. This exaggerated the difference between the so-called world derived price and the U.S. sweetener price. By selecting a period of world price spikes, such as 1973–1975, GAO's analysis would show an annual savings to domestic users and consumers of $350 to $400 million.

Clearly, the expected world price of raw sugar with global liberalization is critical to any analyses of the effects of the U.S. sugar program. In 1993, the Australian Bureau of Agricultural and Resource Economics (ABARE) estimated that sugar trade liberalization in the United States, European Union, and Japan alone would result in an average world price of 17.6 cents per pound of raw sugar—2.6 cents per pound higher than GAO's derived world price.

Based on the ABARE analysis and using a transportation cost of 1.75 cents per pound, which more accurately reflects global transportation costs to the United States, plus a refining spread of 4.27 cents per pound (Landell Mills Commodities Studies, Incorporated), a world price of refined sugar is estimated at 23.6 cents per pound. Based on this world price estimate and an average U.S. sweetener price over 1992–1994, a more normal price period, it can be shown using GAO's methodology, that there are no costs to domestic users and consumers.

The estimated effects of the U.S. sugar program are highly sensitive to expected world prices if global sugar trade is liberalized. GAO's analysis, in my judgment, does not adequately consider the complexities and dynamics of the U.S. and global sugar markets.

With respect to the effects of the U.S. sugar program on Government costs of its food purchase and assistance programs, an independent analysis by the Economic Research Service (ERS) estimates the cost at $84 million based on the difference between U.S. and world refined sugar prices in 1994. However, just as for the GAO analysis, different effects could be estimated by using other time periods when the price gap between U.S. and world prices was smaller. Moreover, with global liberalization, the price gap would narrow because of the dynamics of adjustment which were not considered in the ERS analysis.

Sincerely,

EUGENE MOOS,
Under Secretary for Farm and Foreign Agricultural Services.●

TRIBUTE TO ISRAEL COHEN

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to a great man and a great friend. Late last Wednesday, Israel Cohen, the chairman of Giant Food, passed away at 83.

Izzy Cohen was more than simply a successful businessman. He was a leader. He understood the complicated relationship between labor and management as well as, if not better than, anyone I can remember. He knew that the success of his business was directly related to the health and well-being of his employees. He was a man who always had time to visit with his employees, no matter how busy he may have been. He worked as hard for them as they did for him.

Mr. President, the Washington Post ran a story about Izzy on Friday, November 24. The story tells of employees waiting around after putting in a full shift to meet and shake hands with him. It tells how he created a family atmosphere with his employees, refusing to be called Mr. Cohen, but insisting on Izzy. It stresses his most fundamental philosophy: to recognize the value and importance of every single worker at his stores, from the President of the company to the highschooler who bags groceries on Saturday afternoons.

It tells of his dedication to providing the best service possible—even if that meant he had to jump in behind a cash register and bag a customer's groceries himself. This is a lesson from which every American should learn.

But Izzy Cohen was more than just a businessman. He was a good friend. He never hesitated to share his feelings and insights with me, to help me get a better perspective on whatever issue was foremost on my mind.

There is a lesson for all of us in Izzy Cohen's life: The most successful businesses are the ones in which workers and management act as a team. He proved that when management takes care of its workers, the workers will take care of management.

Mr. President, the two groups are inextricably linked. Each relies on the other to succeed. And when the workers feel that they are getting a fair shake, that the boss is looking out for them, they will do everything they can to ensure the vitality of the business.

It is my hope and belief that those who take over for Izzy Cohen will continue his work. I would also like to see workers and managers all across America learn from Izzy's example so that both groups, working together, achieve the success he and his employees have realized over the past 60 years.●

THE AFTERMATH OF THE ASSASSINATION OF YITZHAK RABIN

● Mr. D'AMATO. Mr. President, I rise today to comment briefly on the aftermath of the assassination of Israeli Prime Minister Yitzhak Rabin.

Following this tragedy, there was a great hue and cry as to who was responsible for the assassination. I would like to state that this is not a time for finger pointing, it is a time for investigating all those responsible for this murder and then, and only then can we accurately ascribe blame. At any rate, we must concur on one point: reasonable people can disagree, but murder is not a recourse or solution to a problem.

In light of this, I would ask that the text of a message of thanks from the Conference of Presidents of Major American Jewish Organizations to all those who offered their condolences be printed in the RECORD at the conclusion of my remarks.

The text of the message follows:

[From the New York Times Nov. 21, 1995]

THANK YOU TO ALL WHO JOINED IN SAYING "SHALOM CHAVER"

(By the Conference of Presidents of Major American Jewish Organizations, Leon Levy, Chairman, Malcolm Hoenien, Exec. Vice Chairman)

We deeply appreciate the outpouring of condolences and solidarity from the bipartisan leadership of our country led by the President and our fellow Americans of all faiths, races and walks of life following the tragic assassination of Israel's Prime Minister Yizhak Rabin.

This was a remarkable demonstration of the American spirit and the bonds of humanity that link us all. It also reflects the special relationship with the state and people of Israel and support for the peace process.

The countless expressions of concern and caring will be a lasting remembrance and an inspiration for the future.

This ad made possible by a grateful Jewish American.●

ORDERS FOR TUESDAY, NOVEMBER 28, 1995

Mr. THURMOND. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. on Tuesday, November 28; that following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator DORGAN or designee, 45 minutes; Senator THOMAS or designee, 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly party conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THURMOND. Mr. President, for the information of all Senators, at 2:15 on Tuesday, it will be the leader's intention to begin consideration of S. 1396, the ICC sunset bill. Rollcall votes can therefore be expected during tomorrow's session.

ORDER FOR RECESS

Mr. THURMOND. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

THE SITUATION IN BOSNIA

Mr. GLENN. Mr. President, I followed with great interest the comments made on the floor today, and on previous days, regarding the President's speech this evening on the situation in Bosnia and our potential participation in that effort.

I have said all along that I thought the odds were stacked against a peace agreement that we could work on and that had sufficient detail to enhance the likelihood of doing some good in that troubled area of the world.

We do, however, have an agreement that has been hammered out in Dayton. We should look at several things with regard to the agreement and what happens after the agreement. I said all along—and I say again today—the agreement must be specific in its detail. You cannot draw a line that is not exact. We cannot go over there and put our people in harm's way and find out later that something was not agreed to or that a line was not agreed to, or was not marked out closely enough. We must know precisely what we are protecting and who we are keeping apart. That kind of detail appears to have been worked out in Dayton.

Today we got a copy of the Proximity Peace Talks. In this, they specify that we will use 1,000 to 50,000 scale maps and charts. This will define the lines down to within 50 meters. Local commanders enforcing the truce within those areas will get together with the local people to define it even down below that 155 or 160 feet that would be the 50 meters. That is a pretty good definition of road intersections and road routes, and all are listed here; they are well defined. We want to see this carried out. It appears that we are well along the way toward defining the agreement in its initial phases.

The final agreement that will be signed in Paris—not just initialed—will even go into more detail, as I understand it. So the first requirement of a peace over there, and for our participation in it, or even considering American participation in it, is to see that we do have that agreement signed with as much detail as possible.

Now, a second requirement is a tough one. That is, a cease-fire has to have taken place and be in effect. That sounds great. Some may think that the military commander puts out word and the cease-fire occurs and that is it. That is not the way it works in that Balkan area. We were briefed on our trip there several weeks ago. One of the big problems over there is that 20 to 50 percent of the people in combat over there are not the regular troops that receive commands down the military chain of command. They are what are called the "irregulars," those who have a village they have been used to defending. They may have a rifle, and one man may be mowing hay one day and he decides it is his turn to protect whatever they are protecting. He then relieves another fellow and maybe takes the same rifle. That other man then goes back and cuts hay for a while. They take turns.

Those irregulars that have interests in particular local areas have been the primary reason why the more than 30 cease-fire agreements have failed in the last couple of years. Over 30 agreements have failed because the irregulars are not really taking their orders from anyone. Once they start firing, other firing starts, and the whole thing breaks down again.

So these two things must be in place before we can even consider sending Americans in there. One, the agreement must be worked out defining very, very specifically the borders of what belongs in one jurisdiction and what belongs in another. The second is that the cease-fire has to have actually occurred, and that includes the irregulars.

The Proximity Peace Talk agreement document says: "The parties also commit themselves to disarm and disband all armed civilian groups, except for authorized police forces, within 30 days after the Transfer of Authority."

The definition of the lines is in another section. It says the lines will be "accurate to within approximately 50 meters. During the period in which the IFOR is deployed, the IFOR commander shall have the right to determine, after consultation with the parties, the exact delineation of such lines and zones, provided that with respect to Sarajevo the IFOR commander shall have the right to adjust the Zone of Separation as necessary."

They were able to hammer this out and get all parties to initial this agreement, and we hope to have the signing in Paris before too long.

Why is it necessary that we go in at all? If they are willing to go to this length and say we agree we are all tired of war and that is the reason they have come as far as they have—we are tired of war and do not want to fight anymore. We are tired of the killing, tired of seeing people killed, and over 250,000 people have been killed. We are tired of seeing 2 million refugees floating from one place to another. They want peace.

You may ask if they want peace that badly, why can they not just stop fighting? Well, they have a long history, going back several hundred years, of not trusting each other and not fully trusting the people in Europe either. But they trust the United States. To our credit, they trust us, and so we can be a party for good in that part of the world, if we want to be. And if the agreement is signed and if a cease-fire has taken place, then we can keep these irregulars, which I defined a moment ago, from breaking the peace within the 2- to 4-kilometer-wide area between the previously warring parties.

They want peace. If we can help implement it, it seems to me that we can do a great service by doing that.

Secretary Perry described yesterday, once again, the fact that we would not fight our way in. I heard comments on the floor today about whether we are to create peace or not. We are not there to create peace. We are not there to take one side or the other or carry anybody's battle for them. We are there to maintain a peace that will have been established before we move in, with the agreement signed by all parties and with a cease-fire actually having occurred—or we do not go in.

We can help them achieve this peace because the parties trust us as long as we are involved. We did not fight our way in. We establish our separation zones, and we move into those separation zones.

Local violations of the agreement will be met with a preponderance, an overpreponderance of force, as we were briefed by our military commanders in

Europe while on our trip just weeks ago.

This is not the U.N. rules of engagement. This is not debating and asking for permission to retaliate if fired upon. As it was described to us, if anyone fires on the forces in there, the implementation forces, they will be met with return fire of overwhelming support.

Now, say someone changes their mind about this, which has been in the paper the last couple of days. Say any of the participants that initialed the agreement change their mind and say they now believe it is a bum deal, and "we will not go on with what we initialed in Dayton." In that case, our participation is not going to occur.

It is that simple. We are not there to go in and fight somebody's war for them. We are there only to help implement a peace that they have said they, themselves, want and that they have initialed in Dayton, and we would only go in after the final signing in Paris.

Any general attempt at breaking the agreement would mean that we would not stay. We are not there to fight anybody's battle or establish peace throughout the Balkans by military action. We are there only to help separate the combatants for this 1-year period while they can see the benefits of peace more than the war that has gone on there for far too long.

Let me put our involvement in a little bit different light. I believe a little risk now—and there is a little risk—may enhance our long-term leadership toward freedom and peace around the world, and in the long run, perhaps, even save lives.

I think those who question American participation could well ask, why did we keep our troops in Korea at the end of the Korean war? Because we have been able to maintain peace in that area. How about the Middle East? We are very much involved in the Mideast. I know we have a good percentage of our population of Jewish heritage, and they are particularly interested in that part of the world, but I think our interest goes well beyond that and we have tried to get a Mideast peace because we care.

We are a nation that wants to see peace. We do not like to see one nation fighting another. We are interested in the Mideast and the peace process there. We have pursued it for years and years and years. We accept that as part of the American way of doing good around the world, of putting into real terms our Christian-Judeo heritage of which we are so proud.

Mr. President, Americans want to alleviate suffering. We never want to see people being killed or hurt or one nation pitted against another. Granted, we cannot take on all the world's problems, nor should we try. Any time we move outside the confines of our own country, whatever the purpose is, we do take some risk.

There would be some risk in this situation, of course. I do not want to minimize this, but we take a little risk when we get up in the morning and get out of bed, I guess every time we take an airplane out of a hangar and fly it. Yet, we are willing to take that risk for the good that may come from it.

Have we taken any risks in the past? I imagine if we had a vote here in the Senate today as to whether we would want to keep the Peace Corps in operation, we would find that the Peace Corps would be rather popular. There would probably be no votes against ending the Peace Corps because it has done a lot of good around the world. But how many lives have been lost in the Peace Corps by people overseas killed in accidents or shot or catching some disease? They were put at risk because they went overseas. Do you know how many there are? We have lost 224 people that have died overseas in the Peace Corps. Yet we do not say, pull the Peace Corps out because we have lost people overseas. We would not do that.

Another issue that has repeatedly been raised is the fact that our leadership in NATO is very important. It is. As important as that is, I personally do not think we would go into Bosnia-Herzegovina just because our NATO allies say we should go in. "So, America, you lead our way into that area."

If they were going in some other area we thought was not right, I doubt we would want to rush in and be their leader just to show we are part of NATO. Too many American people, I think, do not have appreciation of NATO, though. Too many people in our country see NATO as a remnant of the cold war and not of the good things that NATO has done. It has been the most successful peacekeeping operation in the history of this world.

At the present time, it is adapting under their own impetus with the Organization for Security and Cooperation in Europe, cooperating with the European Union, with the Partnership for Peace, which is in its fledgling status right now, and the North Atlantic Cooperation Council, which came into being in 1991. NATO has taken part in all of these things and is a tremendous benefit for peace in the world.

We could even say that we have had economic benefits. Europe is an economic entity and is now one of three major economic centers in the world: Europe, Japan, and our own country.

The main point here is the tragedy and suffering in Bosnia. All parties are war weary. There is now a framework for peace with a detailed agreement. If a cease-fire can come into place, we can move in and help stop what has been a tinderbox over the years and that helped trigger World War I. We do not want to see that ever happen again.

Old enmities die hard. It is very complicated. There are ethnic, religious, patriotic feelings in that area where they do not trust each other. They trust us to come in and try and help implement peace in that area.

This is one of the first times in history I think we have ever seen a superpower—and we are the world's superpower—that had no ulterior motive, that had no territorial designs, and would help to spread the benefits of democracy and freedom around the world. This is a place where, with perhaps little risk, we may enhance the long-term benefits toward freedom and peace that will literally save lives.

I do not think we can withdraw from the world. We cannot withdraw to our own shores and take an isolationist stance. We can work for peace in that part of the world. I am thankful that we have not withdrawn from the rest of the world. We can be involved for good.

To those who say we are off on another do-gooder mission around the world, I think we should take pride that we have a heritage of trying to do good, of trying to alleviate suffering, of trying to stop conflicts such as this one. We are a powerful nation that cares—truly cares about other people and what happens around the world. We care when 250,000 people have been killed. We care on a personal basis. We have empathy for the people there who have lost children, husbands, fathers, mothers, wives. Two million refugees. So we care.

If we are to have leadership for the future, this is an opportunity for us to do what we have done historically, to care for other people. Obviously, we cannot take on everything in the world. But, here we can help to maintain the peace.

We stayed active around the world after World War I. We stayed active after World War II and helped form the United Nations. We stayed active in Europe in partnership in NATO. Because of that alignment of the United States along with other nations, we have a world, now, which looks much more peaceful into the future than it did just a few years ago.

I would say thank God we have a nation like the United States, a superpower, that truly does care about the suffering and about the tragedy of what is going on in a place like the Balkans. Thank God we have a nation like the United States, that wants the benefits of peace and cooperation for everyone. And thank God, if the conditions are right, if the agreement holds, and if the fighting has stopped, we are willing to take the risk that will have to be taken if we are to do much good in that part of the world.

I look forward to President Clinton's speech this evening and his assessment of the situation. I believe that we want true, long-term peace in the world. I

think we are a force for peace and freedom and taking the small amount of risk to enforce the peace will be worth it.

I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m., Tuesday morning.

Thereupon, the Senate, at 4:53 p.m., adjourned until Tuesday, November 28, 1995, at 10:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 28, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 29

9:30 a.m.

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold joint oversight hearings with the House Resources Committee on the Administration's implementation of section 2001 of the Funding Rescissions Act of 1995.
SD-366

Governmental Affairs
Oversight of Government Management and the District of Columbia Subcommittee
To hold hearings on S. 1224, to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process.
SD-342

Judiciary
Immigration Subcommittee
Business meeting, to mark up S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SR-385

Labor and Human Resources
To hold hearings on S. 1423, to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions.
SD-430

Joint Library
To hold oversight hearings on the Library of Congress.
SR-301

10:00 a.m.

Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings on issues relating to franchise relocation in professional sports.
SD-226

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation.
SH-216

4:30 p.m.

Select on Intelligence
To hold a closed briefing on intelligence matters.
SH-219

NOVEMBER 30

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation.
SH-216

2:00 p.m.

Judiciary
To hold hearings on pending nominations.
SD-226

Judiciary
Immigration Subcommittee
Business meeting, to continue to mark up S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SR-385

DECEMBER 1

10:00 a.m.

Special Committee To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation.
SH-216

DECEMBER 5

10:00 a.m.

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD-226

DECEMBER 6

9:30 a.m.

Indian Affairs
To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101-601).
SR-485

DECEMBER 14

9:30 a.m.

Energy and Natural Resources
To hold hearings on S. 1271, to amend the Nuclear Waste Policy Act of 1982.
SD-366

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Tuesday, November 28, 1995*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

We praise You, dear God. You are the same yesterday, today, and forever. Your love is constant and never changes. You have promised never to leave or forsake us. Our confidence is in You and not ourselves. We waver, fall, and need Your help. We come to You in prayer not trusting in our goodness, but solely in Your grace. You are our joy when we get down, our strength when we are weak, our courage when we vacillate. You are our security in a world of change and turmoil. Even when we forget You in the rush of life, You never forget us. When we feel distant from You, it was we who moved, not You. Thank You for Your faithfulness.

Filled with wonder, love, and gratitude, we commit this day to live for You and by the indwelling power of Your spirit. Control our minds and give us Your discernment. Fill us with Your sensitivity to people and their needs and give us empathy in caring for the people who are troubled. Give us boldness to take a stand for what You have revealed is the application of Your righteousness and justice for our Nation.

Thank You for the privilege of living this day to the fullest. In the all powerful name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Idaho, Senator CRAIG, is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, today there will be a period of morning business until the hour of 12:30 with Senators permitted to speak for up to 5 minutes each. The following exceptions would be Senator DORGAN, or designee, for 45 minutes; and Senator THOMPSON, or designee, for 45 minutes.

Following morning business the Senate will recess from 12:30 to 2:15 for the weekly policy conferences to meet. At 2:15 today the majority leader has stated that the Senate will begin consideration of calendar No. 247, which is S. 1396, the Interstate Commerce Commission Sunset Act of 1995. Rollcall votes are, therefore, possible during today's session of the Senate.

Mr. President, seeing no person here wishing to speak in morning business, I note the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. KYL. I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I thank the Chair.

SENDING UNITED STATES TROOPS TO BOSNIA

Mr. KYL. Mr. President, I wanted to speak this morning in response to President Clinton's address to the Nation last night regarding the sending of American troops to Bosnia. I think the President made a strong case for support for his position, but I do not think that he made a strong enough case to justify sending American ground troops to Bosnia. I would like to address that point this morning because, obviously, in the Senate and in the House we are going to begin a debate which could last a couple of weeks here. After there are hearings, after there are briefings, presumably we will be voting on the issue, and I think it is important for us to begin to lay out the various issues, to get response from the American people, to discuss the matter among ourselves, and then be able to make an informed judgment.

I would note that in checking this morning I found that since we began keeping track of it in my office, we have received 400 calls against sending American troops to Bosnia and 6 calls in favor. And I spent a fair amount of time during the Thanksgiving recess speaking with groups in Arizona and appearing on various radio programs. In each case, the response was similar to the one which I just indicated. That is not dispositive, but I think it is an important indicator of the fact that the American people do not sense there is a sufficient degree of interest here for the United States to participate.

It seems to me there are two basic criteria which need to be satisfied in order to justify the sending of a large number of American ground troops into a situation where, as the President and the Secretary of Defense have both acknowledged, there is certainly a danger of some casualties.

The first criterion which has traditionally been applied is that there is a national security interest of the United States at stake. Sometimes it has been expressed as a vital national security interest.

The second is more operational. It generally divides into about three subcategories: that there is a very clear and important mission; that the rules of engagement are clear and agreed to; and that there is a clear exit strategy.

Let us talk about both of those in the context of the President's remarks last night.

I did not really hear a justification for the first point, that is to say, that there is a vital U.S. national security interest involved here. I heard some talk about the fact that it was important for the United States as a key participant in NATO to be involved in NATO operations, and I also heard that we wanted to prevent conflict from spreading throughout Europe. Both of those have a national security element to them, but neither goes directly to the question of vital U.S. national security interests. If, for example, someone could make the case that war in Europe was about to break out, while American lives may not be directly in jeopardy, I think few of us would deny that vital interests of the United States would be at stake sufficient for us to commit to not only ground troops but other kinds of military operations to try to prevent that. But that case is not made here.

The possibility that there will be some additional civil strife in Bosnia does not suggest the conflict is going to engulf Europe. The situation is very different than it was before World War I. The Austro-Hungarian Empire no longer exists. The conditions are simply not the same. So it seems to me a real stretch to say there may be some additional conflict break out, that that would necessarily engulf Europe in war and therefore at this point the United States needs to send these troops in order to conclude that. That is just not a credible argument.

As to the argument about NATO, it seems to me that either NATO is a strong alliance or it is not. I believe it is a strong alliance. If the President is suggesting that the difference between NATO continuing to exist as a strong alliance and its complete failure is whether or not 20,000 of the 60,000 ground troops in this operation are U.S. troops, if that is the difference between NATO existing and not existing, then NATO is in much worse shape than I thought it was, and I think, frankly, it just is not true.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

NATO is strong. And since we are providing a great deal of the support for the existing NATO operation, and will continue to do so under this peace process which has been negotiated, in terms of the seapower that we have projected, the airpower, the reconnaissance, the intelligence, obviously, monetary support that we will be providing and material support and a lot of other things, since we have been doing those things and will continue to do them as part of the NATO operation, it does not seem to me that we are subject to criticism that we are not supporting the NATO operation. It is just a question of whether some of the ground troops are going to be U.S. troops or not.

My understanding is that the British and French and perhaps others in NATO insisted that part of the ground contingent be United States troops. That is not a justification for saying that therefore we must go. I would have to ask our allies, why? Why is it that you insist that not only do we pay for most of the operation and that we send our ships and our cargo planes and our jet fighters and reconnaissance planes, and all of the other equipment and personnel that we have in the region, in addition to all of that, a necessary component of this is that 20,000 of the 60,000 ground troops be U.S. troops? Why is that so essential? Is it because the Europeans do not have another 20,000 troops? No. That is not it. It is because they want us to be in the operation on the ground. And my question there is, why? Why is it that that is so essential? If this matter is so important to the Europeans, then it seems to me that they would pull out all of the stops to enforce this peace settlement including providing the necessary ground troops to make it work. And surely among all of the NATO countries there are 60,000 ground troops available.

So one has to answer the question I think, why do our Europeans allies insist on this? I cannot think of a satisfactory answer.

So back to the first criterion. Is there a vital U.S. national security interest? The answer is no, and the President has not made the case for it.

Let me contrast this with the Persian Gulf war because a lot of people have tried to say that, like the Persian Gulf war, we need to follow the lead of the President and accede to his request for ground troops. The Persian Gulf war and this situation, it seems to me, are relatively close cases, both of them, but one falls on the side of supporting the operation and the other falls on the side of not supporting it. And here is why. Let us say on a scale of 1 to 10, vital national security interest being 10, Pearl Harbor created a vital national security interest for the United States to be involved in World War II. No question. That is a 10.

The Persian Gulf war was a situation in which most of our oil, a majority of our oil, came from the Persian Gulf. Its supplies were threatened. A foreign country had invaded another country, was occupying it and was threatening to invade other countries. At that point, it was important for the world community to come together and say to this aggressor, "No. Aggression will not pay. We will remove you from Kuwait, take you back to where you came from. You have got to stop threatening all the people whose oil supplies come from that region."

That is not the same as Pearl Harbor, but clearly vital U.S. interests were involved. And, in fact, worldwide, countries came together, even other Arab countries came together, in an effort to stop that aggression. And I guess on a scale of 1 to 10, I would say that is a 6 or 7. As I said, that is a much closer call than a Pearl Harbor, but still justified our action. And a majority of our people and the Congress supported President Bush's decision to engage in military operations against Iraq.

This case in Bosnia, I submit, falls on the other side of the line, if you want to say five is the middle ground. It seems to me there is only one reason why it rises to the level of maybe a three or four. That is the moral imperative.

Now, a moral imperative is not the same thing as a vital national security interest of the United States, but in certain instances it may call upon the United States to do something. That is why the United States has been involved in various humanitarian missions. It is why we went into Somalia with a humanitarian mission to begin with. It is why we were not justified in changing that mission as it later was changed.

The United States has done lots of things for a lot of people around the world in a humanitarian way for moral reasons. In addition to the humanitarian support that we provided, we also have supported some military operations in support of the humanitarian effort. But that is different from saying that in addition to air operations and sea operations and humanitarian operations and peacekeeping operations, in addition to all those things the United States must send 20,000 ground troops to keep the peace that has been negotiated at Wright-Patterson Air Force Base.

So, yes, there is a moral imperative. That is what makes this a relatively hard case. But it does not rise to the level of a vital national security interest. It says that we ought to be doing something. And we are doing something, and we will continue to do more.

I submit that the one thing that we should have been doing a long time ago is still missing from this peace agreement, and that is ensuring that Bosnia can defend itself. For a long time many of us in this body have argued for arming the Bosnians, the Bosnian Moslems, so they can defend themselves. We always believed that a rough parity would eventually be created sufficient to cause the Serbs to come to the bargaining table.

What happened when Croatia, after about 3 years, was able to build up its military forces sufficient to retake some of the territory that the Serbs had taken from them? At that point, the Serbs became defensive rather than offensive in their military operations. They also came to the bargaining table because they understood that it was a losing game for them, that the longer they persisted, the more territory likely would be taken from them.

So a military balance of forces of some sort was, in fact, created. That is what we have sought when we said we needed to lift the arms embargo and support rearming the Bosnian Moslems so they could defend themselves. And yet that commitment is not part of this particular peace agreement. So it seems to me that the one thing that we could do in this situation we have not done in this particular peace agreement.

Turning for a moment from the vital national security interest, let us go to the other part of the equation, the second part. The mission has not been clearly defined. The rules of engagement have not yet been established. And, third, there is no exit strategy. Tony Lake, the National Security Adviser, was quoted in the newspapers yesterday—I think he made the statement Sunday—that our first mission is self-defense.

Mr. President, the way you fulfill that mission is by not sending the people in the first place. That is not a mission. That is very muddled thinking to suggest that our first mission there is self-defense.

The mission has to be stated much more clearly, and it has not been, nor have the various contingencies been defined. What happens if various kinds of military conflicts break out? We have not decided how we are going to handle those things. And that has to do also with the rules of engagement. They have been only very generally stated up to this point. As my colleague, Senator McCAIN, has pointed out, what is really glaringly missing is any kind of an exit strategy. A 1-year timetable is not an exit strategy.

What is to prevent mission creep, and what is to define success of the mission? Most observers have said for this peacekeeping mission to really succeed, it is going to have to be a commitment of years, perhaps decades. And that gets to the next point, Mr. President.

Perhaps the primary justification that the President has given for sending American ground troops to Bosnia is that if we do not do so, the war will reignite and there will be additional suffering. In other words, if you believe in war, you vote no; if you believe in peace, you vote yes. That is a false choice, Mr. President. That is a false choice.

If this peace that has been negotiated is so fragile, if it is so fragile that the only thing between peace and war is that of the 60,000 ground troops, and 20,000 have to be Americans, then this is a peace which is bound to fail. It is not a peace of the heart. It is not a peace that has been committed to by the belligerents, but rather a convenience that has probably been forced upon the parties and is probably doomed to, if not failure, at least a very rocky road, which means a lot of casualties on the part of the peacekeepers. And that is a situation we need to take into account before we support the President's decision to send the troops.

What is it that makes the 20,000 American ground force contingent sine qua non, to use that Latin phrase, that without which this peace agreement cannot succeed? We are already providing sea power and air power and reconnaissance and intelligence and humanitarian assistance, diplomatic assistance, monetary assistance. The President has committed to some additional monetary assistance. We are already providing a lot of things to promote peace in the region.

Our European allies have said we need a ground contingent of 60,000. They are willing to support that with 40,000. What is it that makes the additional 20,000 required to be American troops? Why cannot they be European? Is the President saying that if all 60,000 are European, the agreement will fail? That is what he said in effect. What is the magic of 20,000 of those being American? "Well, America has prestige, and American prestige is necessary to enforce this agreement."

American prestige will be demonstrated every time a U.S. fighter jet passes overhead. It will be demonstrated every time you look out to sea and see one of our carriers or destroyers cruising in the Adriatic. It will be present with the diplomatic presence of the United States, the power of the U.S. Presidency and our support for NATO, and demonstrated in 100 ways.

What is it that is so magical about one-third of the ground troops being American? Sure, that will demonstrate an additional presence, but is it absolutely essential?

It is the difference between war and peace, the President says. If it is—and I doubt that it is—but if it is, then this peace is too fragile, in the first place. We already have signs that that is true with some of the Serb leaders saying in effect, no, never, that blood will be spilled, that they are not going to go along with this.

So, if the basic criterion, as the President laid out, was that there would be peace, and we would simply be implementing the peace, one questions whether that condition will even exist when our troops hit the ground over there, if they do.

There has been another justification, and I think that this is perhaps one of the most difficult for us to deal with because all of us support, not only the President, but the office of the Presidency. We generally try to defer to the President and the executive branch in foreign policy matters to a large extent, anyway. But the Senate has certain constitutional prerogatives. We have the advice-and-consent prerogative. We have the ability to ratify treaties, and so on.

The President, in effect, has invited the Congress to decide whether or not to support his action or not. So I do not think there is any question that we need to make an independent judgment here of whether or not the sending of these troops is a good idea. But the argument of the President in this regard goes something as follows. Up until the time that the agreement in Dayton was initialed, we were not supposed to debate the issue because, after all, there was not anything to debate. We had not decided what to do.

Well, the reality was the President had already committed to send the 20,000 troops, but we were not supposed to debate that because the agreement was not clear yet. So we did not. We basically deferred. There were many of us here, myself included, who wanted to speak much more specifically about it, to ask a lot of questions, and perhaps to lay down some conditions for the peace agreement, but we did not do that out of deference to the President.

But now the argument goes, once the agreement was initialed, "You would be pulling the rug out from under the Presidency, indeed from under U.S. foreign policy, if you did not approve my commitment to send 20,000 American troops."

That is a catch-22, Mr. President. You cannot argue about it before the treaty is initialed and as soon as it is initialed, it is too late to argue about it. So when are we going to have the debate as to whether or not this is good policy?

It is true, if the Congress turned its back on the President at this point, there would be some embarrassment to the United States. The question we have to ask ourselves is: Is the risk of casualties and is the precedent which is being set to send these troops outweighed by some temporary embarrassment to the United States?

I submit at this point, at least I have concluded that the answer to that is no, that the Congress has to make it clear to the President that he cannot simply go around making premature commitments without the advice and consent of the Congress, commitments which some of us believe not to be wise, and then justifying the support for that on the basis that the commitment was made and, therefore, cannot be questioned anymore.

Either you consult with the Congress in advance and have some sense that you have the support of the Congress and the American people and then argue, once the commitment is made, that it is too late to argue about it, or at least I think you have been estopped, to use a legal phrase, to argue there should not be a robust debate about it after the decision has been made. My point is, there is no argument to say, "I made the commitment to send the troops and now it would be embarrassing to the United States, it would diminish the leadership role of our country if I were not backed up in that commitment," to use the President's argument.

My point is very simple. The President should have thought of that before he made the commitment. He made a commitment, and I think at this point we have to debate it.

The bottom line is this: The President has not demonstrated a vital national security interest of the United States involved, nor has there been a clear delineation of the operational aspects, its mission, the rules of engagement, and the exit strategy.

Until those cases are made, I think the President is asking too much of us to commit U.S. ground troops to this operation. Therefore, Mr. President, it would be my hope that after we have had a full debate, after there have been hearings, after there have been briefings by the administration, and after we have had an opportunity to consider within this body and the House has had an opportunity to consider it, that we would have a vote on the matter; that we be able to express ourselves either to support the President's request or to reject it.

At this point, my own view is that we reject it. I invite any debate and any rationale that can be expressed in support of the President's position. As I said, at this point, I think it is far too serious a matter for the United States Congress to support the President's request that 20,000 ground troops be sent to Bosnia, in addition to all the other things which we have already done and which we continue to do.

I close with this point. Nobody wants this tragedy to continue. Everybody wants peace to succeed. We all commend the President and those who negotiated on his behalf for this peace agreement, and I would want to do everything we could to support that agreement, short of the commitment of these ground troops. They are not the necessary ingredient to make it work. If they were, it would be destined to fail.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Vermont.

AMERICAN TROOPS IN BOSNIA

Mr. LEAHY. Mr. President, the debate over whether the United States should contribute its troops to a NATO peacekeeping force in Bosnia will be the focus of many speeches on this floor in the coming days. It is a subject all of us have anticipated and pondered and wrestled with for some months now, and it is one of those decisions that no one likes to make. It is fraught with uncertainties and the undeniable likelihood that Americans will be injured or killed.

There will be many chances to speak on this, but having thought about it for some time and discussed it with the President and Secretary of Defense and others over the past weeks, and after listening to the President's speech last night and the responses of some of those who oppose sending troops, I want to say a few words as the debate begins.

Mr. President, even before the peace agreement was signed at Dayton, the House of Representatives passed legislation to prevent the President from deploying U.S. troops to enforce a peace agreement without the consent of Congress. I believe the President should seek the approval of Congress before sending troops to Bosnia, although I do not believe the Constitution requires it in this instance where the parties have signed a peace agreement. I felt it was both unhelpful and unnecessary for the House to pass legislation in the midst of the negotiations and before a peace agreement was signed.

But just as President Bush sought congressional approval for sending U.S. troops to the Persian Gulf—although half a million were there before approval was given—President Clinton has sought congressional approval, and there will be ample time to debate it before the formal signing of the agreement.

The decision to send Americans into harms way is the most difficult and dangerous that any President has to make. It should be done only when a compelling national interest is at stake, and when there is no other alternative.

Like many or perhaps even most Senators, the majority of my constituents, at least of those Vermonters who have contacted me, do not believe that it is in our national interest to send Americans to Bosnia. They genuinely fear another costly, drawn out quagmire like Vietnam. Some of them fought in that war, or had family members who died there. Others fear a debacle like Somalia, where in a matter of days a well-intentioned humanitarian mission became a poorly thought-out, ill-prepared peacemaking mission that ended in tragedy.

It is the President's job to convince the American people that Bosnia is not Vietnam, it is not Somalia, and that our national interests compel us to take part. He made a good start last night. There are still important questions that need answers—the President said as much himself—but I am convinced that the case for sending Americans to Bosnia can be made, and I intend to help the President make it.

Mr. President, in the past 4 years, a quarter of a million people, the vast majority defenseless civilians, have lost their lives in the former Yugoslavia. We have all read the blood curdling reports of hundreds and even thousands of people being rounded up at gunpoint and systematically executed or even buried alive.

Countless others have had their throats cut after being horribly tortured. Some have been made to eat the flesh and drink the blood of their countrymen. Thousands of women have been raped. Men have been forced to watch their wives and daughters raped and killed before their eyes. All simply because of their ethnicity, or because they lived on land others wanted for themselves.

The war has produced 2 million refugees, victims of ethnic cleansing. Hundreds of thousands more have lived in squalor for years in the rubble of what remains of their homes, without electricity, heat, or running water.

There are many, including myself, who believe that NATO should have acted much earlier and with far greater force to stop the genocide in Bosnia. I opposed the use of American ground troops to try to win the war, but we gave too much deference to those who said that airpower would never compel the Serbs to negotiate peace. NATO should have been given the authority to use unrelenting force when U.N. resolutions were violated time and again with impunity.

Our greatest collective failure was to put the United Nations in charge of a peacekeeping mission where there was no peace to keep, and when it was unwilling or unable to back up its own threats. These failures, which caused grievous damage to NATO's credibility, will haunt us for years to come.

But the situation has changed dramatically since then. Sustained NATO bombing, coupled with gains by the Moslem and Croat forces on the battlefield, have shown the Serbs that they cannot win what they set out to achieve. The exhaustion of the warring factions, coupled with a period of extraordinarily forceful American diplomacy, has created an unprecedented opportunity to end one of the most brutal wars the world has seen in half a century.

There should be no mistake. The credibility of the U.S. Government is deeply invested in the success of the peace agreement, and success of the agreement depends absolutely on NATO's enforcement of it. The parties signed with that understanding. At the same time, NATO's own credibility and effectiveness depend on U.S. leadership. Indeed, without U.S. participation, there will be no NATO force, and the peace agreement will almost certainly collapse.

Mr. President, since the breakup of the Soviet Union and the end of the cold war, NATO's future has been uncertain. Some have suggested that NATO has outlived its usefulness. Others say that since the rationale for NATO—deterring a Soviet invasion of Europe—is gone, NATO should become a political alliance. Still others want to quickly expand NATO to include all or most of Eastern Europe, and perhaps even some of the former Soviet republics.

I mention this because NATO's future is one of the most compelling reasons why it is essential for the United States to participate in a NATO peacekeeping force in Bosnia.

I have been among the strongest supporters of assistance to Russia and the other former Soviet States. A democratic Russia is obviously a major foreign policy priority for the United States. Despite many setbacks, there has been remarkable progress in Russia, Ukraine, and elsewhere in the former Soviet Union. But who can predict the next decade? Who can say that the fervent nationalism that remains strong there will not increase to a point when it becomes threatening? It is simply too soon to say what lies beyond this transitional period.

I have been reluctant to support the rapid expansion of NATO without a thorough discussion of the implications, for fear that it could fuel the very nationalism in Russia that we seek to discourage.

But neither am I among those who see no role for NATO today. On the contrary, the United States has an enormous stake in preserving NATO's strength. While NATO's focus will undoubtedly shift over time, the future holds too many uncertainties, and there are too many areas of potential conflict around the world where important interests of the United States and our allies are at stake, to allow NATO's strength to erode.

There is no other alliance that comes close to NATO, in power, in readiness, and in importance to the United States. NATO may not have sought the role of peacekeeper in Bosnia, but neither can it avoid it.

Mr. President, I cannot say whether this peace agreement will survive the test of time. Perhaps no one can. There is ample reason to be pessimistic, given the history of broken promises and ethnic hatred in the former Yugoslavia. Since the agreement was signed, it has become clear that no party is completely satisfied, and some have expressed grave misgivings with some aspects of it. If the agreement unravels, NATO forces may be forced to withdraw, rather than be drawn into the fighting. Even withdrawal would be risky.

But virtually everyone knowledgeable about the situation there agrees that this is by far the best chance for peace since the war began 4 years ago. We and our European allies have an immense interest in preventing the continuation of a destabilizing war in Europe, and I believe we must take this chance.

The President has taken a courageous step, a step that reflects the best of this country. Every American should consider the alternative. More mass murder. More towns shelled and burned. More starving children. More orphans. More horrifying atrocities that are reminiscent of the dark ages. If this does not compel us to help enforce an agreement we brokered to end this calamity, what further amount of inhuman brutality would it take? Should we wait for the slaughter of another 100,000, or 200,000?

The President is right. We have a moral responsibility to take part. The Europeans were unable to end the war themselves. United States leadership was not the only factor, but without it there would be no peace agreement, and the war would go on indefinitely. We should be proud of it, and stand behind it.

Some have suggested that we can lead without sending troops. I disagree. We cannot maintain our credibility as the leader of NATO if we are not prepared to assume some of the risk. We should remember that two-thirds of the NATO force will be troops from our NATO allies and others.

Mr. President, our troops are the best trained in the world, but we cannot eliminate the risks. There are 2 million landmines in Bosnia alone, hidden under mud and snow. Each one cost only a few dollars, but one false step could mean the loss of any American soldier's legs or life. The Pentagon says that landmines are among the most serious threats our troops will face there.

This is ironic, since the Pentagon has been actively lobbying against my efforts to show leadership by halting the use of antipersonnel landmines, which claim hundreds of innocent lives each week. Two-thirds of the Senate voted for it, but the Pentagon refuses. In the past few months, several of our European allies have stopped their use and production of these indiscriminate weapons, but the Pentagon refuses.

A quarter of the Americans killed in the Persian Gulf died from landmines. A quarter of American casualties in Vietnam were from mines. I can only wonder how many more Americans will needlessly lose their legs or their lives from landmines before the Pentagon gets the message.

We cannot eliminate the risks, but President Clinton has established the right conditions before US troops can be deployed. If the mission is limited in time, clear in scope, and achievable, as the President has insisted, we should support it. Our troops must be backed by broad rules of engagement that enable them to defend themselves with whatever amount of preemptive force is needed in any circumstance. That does not mean waiting to shoot until they are shot at.

Mr. President, I expect to speak again as the debate on this unfolds. I intend to support the President, and I expect there will be Senators I deeply respect who are on the other side. But at the end of the day, if Americans are sent to Bosnia as I believe they will be, I have no doubt that we all will support them, and we will all be proud of them.

The PRESIDING OFFICER. The Senator from Arkansas.

TRIBUTE TO MAURICE "FOOTSIE" BRITT, AN AMERICAN HERO

Mr. BUMPERS. Madam President, I rise today to pay tribute to one of America's greatest heroes, and certainly one of Arkansas' greatest, if not the greatest, hero in the history of our State. He is Maurice "Footsie" Britt, born in the small town of Carlisle, AR, and raised in the small town of Lonoke, AR. He was a football star at the University of Arkansas and Honorable Mention, All American.

I first met Footsie in the barbershop of my hometown of Charleston, population 1,200. He had his campaign literature under his right arm—or his right stub. He did not have a right arm. He was running for Lieutenant Governor on the Republican ticket with Winthrop Rockefeller. He had all his literature under his stub and would use his left hand to pull it out and hand it to you.

As I got out of the barber's chair and paid the barber 50 cents for the haircut, this was 1966, Footsie Britt walked in. He had been a real hero to me, and I was honored to meet him. Winthrop Rockefeller became the first Republican Governor since Reconstruction in my State. In my opinion, he would have never been elected if he had not had Footsie Britt as his running mate.

But to go back, he was the first American to ever receive the three highest awards the American military can grant for valor and bravery in one war. He held the Congressional Medal of Honor, the Distinguished Service Cross, and the Silver Star. I do not know whether anybody has ever equaled that since then or not.

What happened to the right arm? It lay on the battlefield near Anzio, Italy, where he had been a lieutenant in World War II. As I walked around the battlefield at Anzio last year, as the President and numerous Members of Congress went to Normandy and Anzio, I thought "Where did Footsie lose his arm?"

Madam President, he not only received the three highest honors that our military can bestow, he received the highest honor that Britain bestows on any non-Englishman, the Military Cross, and the highest award that can be bestowed by Italy on any non-Italian, the Cross of Valor.

He was in charge of a platoon and leading a group of men near the beach at Anzio. He saw that some of his men were getting out in front of the others. He knew that the Germans were ahead of them and on either side of them. And as he had feared, the others got so far ahead of the rest of the group that the Germans had them surrounded. They knew it, and they surrendered.

The Germans took the American soldiers as shields, as hostages, and began to march them toward the other Americans that Footsie commanded. The Americans held their fire, obviously. And just as they got close enough, Footsie shouted, "Now hear this order by me. Hit the mud!" And every one of the American hostages immediately fell down and lay in a prone position. The Germans, not speaking English and being dumbfounded by the order, were confused just long enough for Footsie and his men to mow all the Germans down, saving all the hostages.

If Footsie Britt had an enemy in this country, I am not aware of it. He was a beloved public servant, not a strident partisan, just an all-around good guy. He saw his duty and did it. He was later appointed head of the Arkansas Small Business Administration where he served for 14 years. His wife, Pat, preceded him in death several years ago.

Two weeks ago I went to the John L. McClellan Veterans Hospital in Little Rock, as I do every Veterans Day. The first room I went to was Footsie Britt's. He had lost a piece of a foot as well as his arm at Anzio, and being an acute diabetic, 48 hours before had had one of his feet amputated. I walked into the room, and I could hardly believe that Footsie had had that foot operated on and removed just 2 days before.

He said, "Senator, I just want you to know I think Betty Bumpers was the most gracious First Lady the State ever had. She was always unfailingly polite and friendly to me. And I hope you will tell her that." Shortly thereafter, they had to amputate more of the leg, and his heart just gave out.

To youngsters I speak to in high schools and colleges, I always remind them of how lucky they are to live in this country, how many sacrifices so many brave men and women have made to provide them with the freedom, the rights they enjoy, all the protections of our sacred Constitution. They do not understand what I am saying. They cannot possibly understand what I am saying. But I say it again today, Madam President. They, you, I, and every American have lost one of our greatest heroes with the death of Maurice "Footsie" Britt, a true immortal.

TRIBUTE TO DON PEOPLES

Mr. BAUCUS. Mr. President, in Montana, we call Butte the Can-Do City. And there is nobody who personifies Butte's can-do spirit more than its former chief executive, my friend, Don Peoples.

Butte's paper, the Montana Standard, recently ran an article about Don's career in Butte. Don is a modest person; a man of few words. And I suspect he is a little bit uncomfortable with all this attention. But it is attention he richly deserves.

Mr. President, I ask unanimous consent that the Montana Standard article be printed in the RECORD. And I ask my colleagues to take a moment to read about how a remarkable man has made such a difference for his community and home State.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Montana Standard, Nov. 27, 1995]

PERSEVERANCE THAT TWARTED HARD TIMES

(By Erin P. Billings)

Don Peoples still remembers the day in 1983 that shocked Butte and sent its economy spinning downward without warning.

The former Butte-Silver Bow County chief executive was driving back from Seattle, and made a phone call to his office—word was the Anaconda Co. was shutting down its Butte mines and laying off nearly 1,000 workers. Peoples was devastated.

"Nobody thought it was going to happen," the 56-year-old Butte native remembers, shaking his head in disbelief. "That was a devastating day for a lot of people."

"I saw so many people hurting," he says.

Many long-time Butte residents were struggling to find work and flocking elsewhere for jobs. And Peoples, who was sitting at the helm of Butte's government knew it was up to him to restore citizens faith and turn the economy around.

In 1985, ARCO sold the Continental Pit mine to Missoula multimillionaire Dennis Washington—restoring the copper mining legacy and some 325 good-paying jobs to the area. Peoples, many say, was key in bringing that sale to fruition.

"The tax base was eroding, people were leaving—the major element of an economic decline," says Evan Barrett, executive director of the Butte Local Development Corp. "He kind of carried this city by its boot straps in a time that was really bad."

For example, Peoples successfully lobbied to exclude the mine from the boundaries of the active Superfund site; pushed for lower power and freight rates; and helped provide the company with a three-year tax break granted by the state.

In addition to helping resurrect the mining industry in the 1980s, Peoples was instrumental in creating Butte's small business incubator, the U.S. High Altitude Sports Center and the Urban Revitalization Agency, which provides grants to help renovate Butte Uptown buildings.

By 1988, nine years after Peoples took office, Butte's economy had begun to forge forward and the city received national recognition as a National Civic League "All-American City." More than 900 cities nationwide competed for the designation, which 10 cities received that year.

"Don has a dogged preservance to get things done," says Jack Lynch, who has served as chief executive since 1990. "He's not someone who can sit and watch."

That and Peoples' positive attitude are characteristics Lynch says he tries to emulate as the county's current leader.

Peoples chose to trade his life in the public eye in 1989 for the private sector and a financially attractive opportunity to serve as head of a major Butte research and development firm—MSE Inc.

A decision, he says, he's never regretted.

"You had to be places, when you didn't want to be there," the slender, 6-foot-2-inch Peoples says of being county chief executive. "Now, I have a choice."

Although Peoples no longer governs 34,000 residents in Silver Bow County, he is still active in the community and plays the role as a leader to some 200 employees.

And many of his associates say Peoples' dedication is as impressive as his resume. As a community leader, he holds positions with organizations such as the Deaconess Research Institute in Billings, St. James Community Hospital and the Montana Tech and Butte Central Education foundations. He also is active on the Butte-Silver Bow Chamber of Commerce board and an appointee to the Montana Commission on Higher Education for the '90s.

Each day, Peoples serves as chief executive officer and president of MSE, where he has successfully put the technologies firm on the map.

The company, which once boasted only one research and development contract and had a revenue base of about $12 million, today has tripled its revenue base and has more than 20 contracts.

Agencies including the U.S. Energy and Defense departments and NASA count on the firm for developments in areas such as mine waste reclamation, thermal technology and advanced aerospace technology.

But turning Butte's economy around, and helping to develop one of the county's largest businesses hasn't been easy.

Those who know Peoples quickly point to his tenacity, aggressiveness and work ethic—qualities which allow him to get things done.

Part of what drives him, people remark, is his tireless devotion to Butte and the people that live there.

The lifelong Butte resident was born in 1939 to Jim and Marie Peoples, and was educated in local schools. His father went on to become Butte's public works director, a position that Don Peoples later held.

"He will do all that he can to fight for (Butte)," says Gov. Marc Racicot, who has known Peoples for about 15 years.

The two served on the board of trustees together at Carroll College in Helena, a position Peoples still holds. There, Racicot says, Peoples has fought to raise money and promote a code of ethics at the small private school.

"He's got a way of convincing people that anything is possible," says Alec Hansen, executive director of the Montana League of Cities and Towns. "You just keep pushing them and pushing them until something happens."

When Peoples served as president of the League in 1982, Hansen says, he fought hard in the state Legislature—pushing for workers compensation insurance programs for Montana cities.

"The guy doesn't scare easy," Hansen says. "Nothing is too big—you can do it."

Peoples says he welcomes a challenge, enjoys taking on big projects and likes to win. But with that, he and others admit, comes Peoples' biggest weakness—impatience.

"I have a fairly good temper," be concedes. "I find the older I get, the easier it is to spout off."

For example, Peoples says his patience has been tried over the proposed greenway project, which would turn the Silver Bow Creek Superfund site into a green corridor.

The state and ARCO, the company responsible for the cleanup, have battled over whether the mine waste should be removed and treated elsewhere or whether a less costly plan should be implemented that would treat mine waste in place—leaving enough money to develop a public greenway along the 25-mile site.

But Peoples' tendency to occasionally lose his patience hasn't hindered his ability to convince others to get things done, some say.

Barrett says Peoples has an ability to inspire those who work with him, as if he were a coach of a team.

"With Don there's no question that there's a coach and there's a team; he's always a team leader," he says. "He allows people on the team to get their best in."

"Leaders are far and few between" and Don Peoples is one of them, says Jim Kambich, director of corporate development and planning at MSE.

A modest Peoples quickly brushes off his success as a leader and credits those that have worked along with him. He attributes his achievements to an ability to find competent, hard-working and loyal players.

"He empowers the people under him to look at new ways to do things," Kambich says. "He doesn't ask anything more of you than he would ask of himself."

Peoples' team-oriented attitude shouldn't come as a surprise, as he is an avid sports fan, former athlete and 30-years-plus football referee.

On top of that—without missing a day in five years—he runs twice daily as part of a regimen that he says simply keeps him "feeling right."

And while Peoples will likely continue to jog daily, he says running for public office again is out of the picture.

"I become less political all the time," he says. Besides, "I think you have to have that fire in your belly."

RETIREMENT OF SENATOR NANCY KASSEBAUM

Ms. MIKULSKI. Mr. President, I rise to offer my best wishes to our colleague, Senator NANCY KASSEBAUM. Although we will work together for one more year—and I am pleased about that—I want to take this time to express my gratitude to Senator KASSEBAUM for what she has meant to me, to the Labor and Human Resources Committee, and to the Foreign Relations Committee.

First, to me, Senator KASSEBAUM is a real class act. When I came to the U.S. Senate in 1986, Senator KASSEBAUM was the only other woman here. Together we served for 6 years as the only two women in this institution that represents the entire Nation. We were both elected to the U.S. Senate in our own right.

I have tremendous respect for Senator KASSEBAUM and her views on many issues. Senator KASSEBAUM thinks independently in her political and policy decisions. She understands the issues and is not afraid to stand up for what she believes in.

While we may not agree on every issue—no one around here does—we do agree on some pretty important ones. Senator KASSEBAUM favors the legal right to an abortion; she has voted for gun control measures; and she has supported many measures to improve American education. She has demonstrated great courage and conviction.

Second, I salute Senator KASSEBAUM for chairing the full Labor Committee. She is the only female chair of a U.S. Senate committee and she does the job well. I serve on the Labor Committee, and I know first-hand how effective Senator KASSEBAUM can be.

The Labor Committee controls some of the most comprehensive and controversial issues to come before this body. I am talking about welfare reform, health, education, job training and occupational safety—just to name a few. It is not easy. But Senator KASSEBAUM can really rally the troops—Democrat or Republican to make sure that work gets done.

When Senator KASSEBAUM brings a bill to the Senate floor, it is sure to pass. She has a thorough, prudent and reasoned approach to crafting legislation. She gives a great deal of thought to the issues, and she knows how to build consensus.

Together we have fought for the right of women to choice in reproductive health matters. We have fought to keep America healthy, and we have fought for education for this Nation's students.

Finally, as chair of the African Affairs Subcommittee, Senator KASSEBAUM fights for policy that represents our values and respect for human rights.

Senator KASSEBAUM fought apartheid in South Africa. She urged President Reagan to take action against the white-minority government. When he did not, she courageously endorsed sanctions against South Africa.

I want to thank Senator KASSEBAUM for what she has meant to foreign policy and for her commitment to Africa, to the Nation, and to the people of this country.

Senator KASSEBAUM says "the time has come to pursue other challenges." I want to wish her the best in that pursuit, and I know that she will set new standards wherever she goes.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about "another go," as the British put it, with our quiz.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $12 billion shy of $5 trillion.

To be exact, as of the close of business yesterday, November 27, the total Federal debt—down to the penny—stood at $4,988,885,320,472.65. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes $18,937.89.

Mr. President, back to our quiz—how many million in a trillion? There are a million million in a trillion, which means that the Federal Government will shortly owe $5 million million.

Now, who is in favor of balancing the Federal budget?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LANDMINES

Mr. LEAHY. Mr. President, I will just speak very briefly. I have spoken many, many times about the dangers of landmines, especially indiscriminate antipersonnel landmines. I was very proud when the Senate went on record by a two-thirds vote supporting my moratorium on our own use of landmines. That is something designed to give the United States the moral leadership in arguing with other nations around the world to eventually ban the use of indiscriminate antipersonnel landmines.

It was, in my 21 years here, one of those rare occasions when people across the ideological spectrum joined together on one major issue, in this case one of the biggest humanitarian issues possible, but also something that could affect defense policies of nations well into the next century.

Earlier today I spoke of the dangers of landmines in the former Yugoslavia.

Mr. President, I ask unanimous consent an article regarding the debate in Congress on landmines, written by Bob Kemper of the Washington Bureau of the Chicago Tribune, dated yesterday, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 27, 1995]

CONGRESS DEBATES LAND MINE BAN—110 MILLION MINES PLANTED IN 60 NATIONS SPARK OUTCRY

(By Bob Kemper)

They are trash, the debris of war, like burned-out tanks and bombed-out buildings. But long after peace treaties are signed and soldiers go home, land mines go on killing.

Bosnia may provide the latest example. There are an estimated 6 million anti-armor and anti-personnel mines there, only 1 million of which are mapped, according to the United Nations. UN peacekeepers already have suffered 100 casualties from mines in Bosnia.

Killing or maiming 70 people a day worldwide—26,000 each year—land mines are especially devastating to some of the world's poorest countries, according to the State Department and humanitarian groups. And with 110 million mines still buried in more than 60 countries, an international outcry has risen and is echoing in the halls of Congress.

Led by Rep. Lane Evans (D-Ill.), Congress is taking the extraordinary step of ordering the Pentagon to unilaterally disarm itself of anti-personnel mines, devices that in one form or another have been in the U.S. arsenal since the Civil War.

The House and Senate approved a provision in a foreign operations bill that would give the Pentagon three years to learn to fight without anti-personnel mines.

A one-year moratorium, which later could be extended, then would be placed on the use of anti-personnel mines by American forces, except along international borders or in clearly marked fields.

"The U.S. government ought to set a moral example, to lead the world to see the menace of land mines in a clear light," said Evans, who pushed the proposal in the House while Sen. Patrick J. Leahy (D-Vt.) worked the Senate.

No one is blaming the U.S. military for what the State Department dubbed "the global land mine crisis." American forces routinely use "smart mines" that self-destruct or turn themselves off after a month or so in the ground. When they do use long-life mines in the field, such as the claymore, the mines are typically removed as the soldiers withdraw.

However, Evans and Leahy say that by disarming its military, America sets an example and can prod other countries to follow suit.

Evans and Leahy used a similar strategy three years ago when they pushed for a moratorium on the U.S. export of mines. Two dozen nations have since followed the U.S. lead in banning or restricting land mine exports. The most recent, France, went further this fall when it announced that it also would stop making mines and destroy those already stockpiled.

Though launched by liberal Democrats, the ban gained new authority on Capitol Hill when pro-defense Democrats, like Virginia Sen. Charles S. Robb, and 25 Republicans, including Senate Majority Leader Bob Dole (R-Kan.), backed it.

"In Vietnam I had a number of my men killed or wounded by various types of mines or booby traps," said Robb, who had led a Marine platoon. "I have visited around the world, in combat areas, literally tens of thousands of amputees who were victims of mines and lots of those folks are just children, children who were playing."

Ban proponents say they are singling out the anti-personnel mine because, unlike other implements of war, it keeps killing long after the fighting ends. In Denmark, some areas are still unusable because of mines planted there during World War II.

Many of the 200-plus types of anti-personnel mines manufactured around the world are designed to maim rather than kill because a severely wounded soldier is a bigger drain on enemy logistics and medical resources than a dead soldier. Those same mines, ban proponents argue, are transforming farmers in developing countries into financial and emotional drains on their families and communities.

Still, the Pentagon is fighting to keep the mines.

The Army does not want to give up a weapon on which its field commanders have long relied. Anti-personnel mines are the perfect weapon for defending battlefield positions, protecting economic assets such as power plants, slowing enemy advances or detouring enemy troops into "killing zones."

Worried about the effect on the Army, Senate Armed Services Chairman Strom Thurmond (R–S.C.) and Sen. John Warner (R–Va.), a senior member of that panel, plotted with House Republicans to kill the ban. They intended to place a provision in the defense authorization bill giving the Pentagon veto power over the moratorium. However, Warner said, he dropped that plan after being lobbied by Leahy.

"Let him have his shot at it," Warner said.

One remaining obstacle is the difficulty congressional leaders have had getting the foreign operations bill to the White House. The House and Senate approved the bill in early November, but remain divided over a separate abortion amendment, preventing the bill from moving forward.

Momentum toward a land mine ban has been building since a year ago, when President Clinton called for the eventual elimination of land mines. Three months later, the United Nations approved a U.S. resolution urging action. Last summer, 280 members of the National Conference of Catholic Bishops meeting in Chicago issued a statement singling out land mines as an indiscriminate killer whose production should cease.

Meanwhile, hundreds of humanitarian groups have spent months—and in some cases years—cataloging land mine atrocities and lobbying for a worldwide ban on the manufacture and use of land mines.

But this fall, the push for a ban fizzled when 42 nations at a UN-sponsored conference on conventional weapons failed to reach agreement.

"I don't think there were two minutes of serious discussion * * * on a total ban on land mines," said Stephen Goose, program director of Human Rights Watch's Arms Project and a delegate to the Vienna meeting.

Contrary to Clinton's call for the elimination of mines, many anti-mine groups say, the administration is actually perpetuating the use of mines by pushing for expanded use of "smart mines" rather than backing a total ban.

"There is no technological solution" to the mine problem, Goose said. "A self-destructing or self-deactivating mine is still an indiscriminate mine. It will still deny the fields to the farmer."

Evans said he hopes Congress's action will redirect the administration.

"The President is far too cautious," Evans said. "We're encouraging them to be bolder, to demonstrate leadership in encouraging other countries" to give up mines altogether.

But Robert Sherman, of the U.S. Arms Control and Disarmament Agency, defended the administration's push for advanced mines and other measures short of a ban, including requiring manufacturers to put at least eight grams of metal into each plastic mine so that they can be more easily detected. Such steps are a much more realistic way to protect civilians, he said.

"We know there will not be a total ban in 1996 or 1997 or whenever," Sherman said. "If mines are your concern, you say this is bad. If people are your concern, you say this is good."

Anti-mine advocates argue that "smart mines" often fail to self-destruct, compounding—rather than solving—what is already a daunting problem globally: detection and removal of mines.

Some anti-personnel mines sell for as little as $2 to $3 and hundreds of them can be planted in seconds by special artillery or trucks. In contrast, it takes 100 times longer to remove a mine at a cost of up to $1,000 per mine. And that's if the mine can be found.

Many modern mines are as small as a can of shoe polish and made of plastic. Their only metal part is the size of a thumbtack, making detection by the 1940s-style minesweepers, still in use today, nearly impossible.

Also, for every mine removed, 20 more are planted. In 1993, the UN estimated that 100,000 land mines were found and removed at a cost of $70 million. During that time, 2 million more mines were laid. Even if no more mines were planted after today, experts said, it would take decades and at least $33 billion to clear those still in the ground.

The State Department and the Vietnam Veterans of America, in separate studies, found that mines left behind after wars have taken a devastating toll on civilians. Once fertile fields are now too dangerous to plow. Cattle are killed or maimed. Roads and major utilities hampered by mines make producing and shipping goods difficult.

"Without a clear statement by the U.S. that demonstrates that we are opposed to their use, other nations will continue to sell and deploy them," Evans said. "This legislation, like the moratorium on exports, calls a 'time out' and puts us in the leadership position to challenge other nations to work with us and solve this global crisis."

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. Yes, sir, we are.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 1427 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE RECONCILIATION BILL

Mr. DORGAN. Mr. President, the current Presiding Officer has spent substantial amounts of time on the floor talking about reconciliation, and he feels passionately and strongly, I believe, that we ought to balance the Federal budget. I share that with him. There is not disagreement in this Chamber about the goal.

I said back home last week—and I have said here—that in my judgment the Republicans deserve some praise for pushing and pushing for a balanced budget. I commend them for that. I do not commend them for the priorities on how they would get there. But, frankly, all of us ought to have more inertia to try to put this country's books in order. And the question is not whether. The question is, How are we going to balance the budget in 7 years?

Negotiations will begin today or tomorrow between the Republicans in the Congress and the Democrats in the White House on how to do that in 7 years. I would simply ask the American people, and my colleagues in the Senate, to think through these priorities some because it is not just let us do it in 7 years and never mind the consequences. It is, let us do it in 7 years. Let us do it the right way, and the smart way for this country. Let us make the right choices for this country's future. It is not the only job in front of us. We should balance the budget. We must, and we will balance the budget. But we also must make sure that those who are disadvantaged in this country are not ignored. We must make sure that our education system works, and we must make sure that our air is clean and our water is clean. Those are other priorities as well.

But in the terms of choosing priorities by which we balance the budget, I would like to once again demonstrate that there is substantial difference and a legitimate difference in what we think will enhance our country's long-term interests. I happen to think that there is nothing more important in this country than investing in building the best education system in the world. I want, when all of this is said and done, for us to be able to say our generation, this group of Americans, made a commitment that we want to have the finest schools in the world. We want our kids to be the best they can be because they went to the best schools in the world. There is a little provision in the reconciliation bill, and the continuing resolution that was passed a week and a half ago, a tiny little issue called Star Schools.

It is a tiny little program, but it is designed to try to lift and enhance those schools that are focusing on math and sciences to bring our children up to international levels in math and sciences, to be competitive. This little Star Schools Program was cut 40 percent—40 percent.

Now, there is a bigger program, a kind of a giant tumor over in the Defense Department called star wars or national missile defense or SDI, depending on what name you want to call it. Because this proposal has a space-based component, I have heard it called star wars, but nonetheless it is a program that, in its infancy, costs hundreds of millions of dollars a year, and it is going to grow to billions of dollars a year and eventually cost $48 billion. The star wars program was increased in this process this year by 100 percent.

Now, the point is Star Schools you cut by 40 percent, star wars you increase by 100 percent. The question is, What do you think is worthy of a star here, schools or corporations that want to build a $48 billion star wars program, because that is what this is. This is about special interests that want to build a weapons system the Secretary of Defense did not order, did not ask for, and says he does not need. The priority is clear: Star Schools or star wars. Cut Star Schools 40 percent, increase star wars 100 percent. If you think that enhances America's future, then that is what you do. I do not think it enhances America's future. I think it is exactly the wrong choice.

I use that example as I have before simply to say the question is not whether, but how, do we balance the budget.

Two other tiny little issues. I offered an amendment, and it was defeated on a party line vote, regrettably. It is an issue that I think also describes the how in terms of what we believe in. We have in the Tax Code in this country a perverse, insidious, little tax incentive that says, move your plant overseas. Close your plant in America, move it overseas to a tax haven country, and we will give you a tax break. I offered an amendment that said let us reduce the deficit by getting rid of this insidious little tax break that says move your plant and jobs overseas and we will give you a break. I lost on a party line vote.

In terms of priorities, the priority, it seems to me, in balancing the budget is to do what works to help create jobs and opportunities in our country. How better to help create jobs and opportunities than to shut off the faucet on a tax break that encourages plants to shut down in America and relocate overseas and take the jobs that used to be U.S. jobs and turn them into jobs in a tax haven country.

That is a priority we ought to pursue. Again, it is not whether, it is how do you balance the budget. Let us balance the budget by getting rid of this little tax break that is wrong for our country, that weakens our country, that says let us move jobs out of our country. That does not make any sense to me.

The smart choice is, yes, Star Schools, education, investment in the future. It is, yes, jobs, shutting off tax breaks that persuade people to move out of the country, and it also is, yes, choosing between a tax cut for the very wealthiest of Americans and a cut in Medicare reimbursement for some of the poorest of Americans.

That amendment also was offered, and I hope that will be reconsidered in a reconciliation conference in the next week or two. What we said was very simple. Those of the upper income strata in this country have done very, very well. They have garnered a substantial portion of the income, regrettably, at the expense of the bottom portion of the income earners in our country. What we said with the amendment was very simple. We said, let us at least limit the tax break to incomes of a quarter of a million dollars or less, and then let us use the savings from that limitation to see if we cannot reduce the cut in Medicare that is going to affect some low-income elderly folks.

Once again, we lost, but again it is choices—what is important and what is not. Is it important to give the wealthiest people in our country a significant tax cut? Gee, I do not think so. It seems to me, if you look at the statistics, you will find that they have done very, very well, much better, with income growth that is substantial.

In fact, the top percent in our country have seen income growths on a real basis of something like 70 percent real income growth in a period of a decade, and the bottom 60 percent now sit down for supper at night at the family table and talk about their lot in life. What they discover is that they are working harder and earning less than 20 years ago when you adjust for inflation.

Our point is that we do not think it makes any sense to give big tax cuts to those at the upper one-half of 1 percent of the income earners at the same time that we are saying we cannot afford Medicare for some of the poorest of the elderly. And, again, it is a question of priorities.

I think that we are now on a track in the next week or two with respect to the reconciliation bill that will be constructive for this country.

I mentioned these three areas only because I think there are differences in priorities that are legitimate differences. On the other hand, it seems to me if Republicans and Democrats can sit down together in the next couple of weeks and if the President can sit down with Congress, out of the glare of the spotlights, a lot of agreement can result, and we can in fact balance this country's budget and put this country on solid financial footing for the years ahead.

This country, it seems to me, will be advantaged in a world in which we see increasingly competitive, shrewd, tough trade allies and others if we find some way to work more together, and I do not think that is an impossible circumstance. I know there is a lot of controversy floating around, and I get involved in it from time to time. I hear what the Speaker of the House says, and I may respond. But the fact is that with all of the controversy which circulates, we are still all on the same team. Our interest is the American economy. Our interest is American jobs and opportunities in the future.

It seems to me, even though we may belong to different political parties, our country will be advantaged if we can find a thoughtful, sober, reflective way of choosing the right priorities that all of us think will move this country ahead and build a better economy and a better future.

My hope and my expectation is that maybe, just maybe, as we approach the Christmas season, more of a spirit of cooperativeness will exist. We put this question behind us of whether, and the question now is how to balance the budget. And although these are not easy questions to answer, I think people of good will can get together and do what is right for this country.

Mr. President, I see no other speakers waiting. I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. THOMAS. I ask unanimous consent that I may speak for a few minutes in morning business.

The PRESIDING OFFICER. The Senator from Wyoming.

BALANCING THE BUDGET

Mr. THOMAS. Mr. President, the Senator from North Dakota spoke just a few minutes ago about balancing the budget. And I was interested and pleased with his remarks. Certainly I agree with him that probably one of the most important issues that we have before us, and have had for this entire year, is the notion of becoming financially and fiscally responsible in this body and in this country, and doing so by balancing the budget.

It seems to me that there is a great deal involved with balancing the budget. It is more than a function of arithmetic; it is a function of determining the direction we take in this Government.

It is a function of dealing with spending. There are a number of ways to balance the budget. One of them, which President Clinton choose last year, was to raise taxes and continue to spend, and I suppose you could do that. You could balance the budget by continuing to spend and increasing taxes.

I think that is not what the American people said in 1994. They said we have too much Government, the Government is too large, it costs too much, and we need to balance the budget, but we need to balance the budget by reducing the growth in spending. Therein lies one of the differences.

The Senator said we ought to balance the budget. I agree with that. We have not done it in 30 years. It is fairly easy to say we ought to balance the budget. The evidence is that it is very easy to say that and more difficult to do it.

He said we ought to balance the budget in the right way. I agree. I have the right way; he does not have the right way. That is the problem. The right way hardly gets to it. But I do agree we need to get together. There are differences—there are significant differences—in how we do it, and I think it is our responsibility, as trustees for this Government, to find a way to get the kind of agreement that is necessary to balance the budget. We should do that, and we should do it soon.

I think we made great advances the week before last by getting an agreement with the White House, getting an agreement in this Congress that we will balance the budget in 7 years, using real figures, CBO figures.

There are some other words there: We are going to protect the environment, protect Medicare, protect education. I do not know quite what that means. We may have a different view of what "protect" means. None of us wants to do away with those things.

It seems to me one of the real challenges we have, as we move forward with this idea of balancing the budget, which we must do, is we need to start dealing with some facts. It is too easy to roll over into scare tactics in the political response by saying, "Yes, I'm going to protect Medicare." The fact is, you have to make some changes in Medicare if you want it to continue. If you want to have a health program for the elderly over time, you cannot continue to do what we have been doing. So you have to change it. But it is too easy to go to the country and say, "Those Republicans want to do away with Medicare." It is not true. It is just not true.

"We are going to do away with education." Do you know how much the Federal Government contributes to elementary and secondary education? About 5 percent of the total spending. The Senator from New Mexico, who is more knowledgeable than anyone else about the budget, indicated that this budget would have reduced in his State Federal aid by six-tenths of 1 percent, and yet here we are going to gut education.

I was pleased to hear that the Senator wants to balance the budget. The unfortunate part is we hear that all the time and then we go on for another 30 minutes indicating why we cannot do it. The time has come. We have come to the snubbing post. It is time to make the decisions, and I think we will.

I wish we would have passed a balanced budget amendment to the Constitution. The principal sponsor and advocate is right here on the floor, the Senator from Illinois. I wish we had done that for the discipline that is involved in doing it. It would have said, "Yes, you can argue about how it is done, but you are going to balance the budget because that is the Constitution." It is in the Constitution in my State of Wyoming, and we do it. We do it. We do not talk about it, we do it.

So, Mr. President, I look forward to that. I hope we get with the program in the next 3 weeks. We need to do that. We need to pass the appropriations bills. We need to get this balanced budget bill out. We do not need another delay of Government on the 15th of December. We need to get at the task, and I hope that we do it very soon.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I confess I just got in on the tail end of Senator THOMAS' remarks. From what I heard, I agree. I hope we can move quickly, and it illustrates why Senator THOMAS is going to be an asset to the Senate. I was told by a House Member from Illinois, Congressman DICK DURBIN, he said, "You are really going to like the new Senator from Wyoming." I hope I do not get him in trouble in Wyoming saying this now, but I have found that to be the case.

BOSNIA

Mr. SIMON. Mr. President, we have been discussing the Bosnian situation. I was critical of President Bush for not responding right away. I was critical of Bill Clinton when he became President for not responding. I joined those who voted for lifting the arms blockade. But I believe the President is acting in the national interest now, and we have to recognize the great threat to the future of our country in terms of security is no longer nuclear weapons, I am happy to say, it is instability. We are not going to get stability in Bosnia without United States leadership and involvement.

To the credit of the President, Warren Christopher and others, there is a peace agreement, which evolved in Dayton, OH, the Midwest of the United States, and I think it is imperative that we move ahead.

Last night, I was reading the Weekly Standard, Irving Crystal's new magazine. I try to get a diverse readership, and I hope it will not shock him that I am reading his publication. I ask unanimous consent to have printed in the RECORD the lead editorial.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Weekly Standard, Dec. 4, 1995]

BOSNIA: SUPPORT THE PRESIDENT

Bosnian peace diplomacy, brokered by the United States, has passed a significant checkpoint in Dayton, Ohio. Now what? Administration advocates of the new accord oversell its merits. Secretary of State Christopher proclaims the agreement "a victory for all those who believe in a multiethnic democracy in Bosnia-Herzegovina." Another U.S. official calls it a "fantastic deal" for the Bosnian Muslims.

That's saying too much. U.S. policy has never been devoted to reversing all Serbian military encroachments on Bosnian government-held territory. The pact signed in Dayton ratifies most of those Serbian landgrabs—and, in effect, the demonically ethnicized regional politics that impelled them. The country is to be divided along ethnic lines. Its new central government begins life enfeebled. The agreement's free-movement and resettlement promises appear fanciful.

But what the peace plan can possibly accomplish—a pacification of Balkan brutality sufficiently complete and lengthy to take root—is good enough. And better than much of the surprisingly strident, even cavalier, Republican opposition to the plan allows.

Bob Dole and Newt Gingrich expect the White House to request a non-binding resolution of congressional endorsement for the U.S. peacekeeping deployment required by the Dayton accord. Both men have their legitimate questions about that operation's details and contingencies, and about Balkan diplomacy's ultimate prospects. But they are holding open their options, and seem seriously concerned to maintain, as best they can, a bipartisan and muscular American foreign policy under presidential leadership.

Not so some of their vocal Republican colleagues. Phil Gramm, revealing previously undetected powers of international prognostication, somehow just knows that an American troop presence in Bosnia can only bring total disaster. He has "no confidence" in the president, whom he bitterly mocks with quotes reprinted in every American newspaper. Aside from Dick Lugar, measured and diplomatic as always, the rest of the GOP's presidential contenders are quick to agree. All firmly oppose Bosnian troop deployment. The Republican House of Representatives has already twice voted to defund the troops if it is not first granted the power to block them outright.

If cooler heads are to prevail, they had better open their mouths fast. It is obviously true, as Alan Keyes pointed out in the Florida presidential campaign debate a couple of weeks back, that for Bosnia and the rest of the world "there is a God" and U.S. military forces "are not Him." It is also true that there is a serious case against the troop deployment. Charles Krauthammer makes that case elsewhere in these pages.

But he does so while candidly conceding the damage such a last-minute withdrawal would do—first to American international credibility generally, and also to the NATO-led European security arrangements in which our national interest is inextricably intertwined. We may not be God, but where global security arrangements are concerned, we are the closest thing there is. And the United States would be a niggardly superpower indeed were we to withhold our mastery and muscle when they are asked for and widely expected to help halt horrifying bloodshed in Europe.

We are in Bosnia already. A high-profile regional peace accord, husbanded by American

> diplomacy, concluded on American soil, and announced in the Rose Garden of the White House, calls for us to go in deeper. To prevent it, at this point, Republicans would be forced to provoke a presidential foreign policy humiliation the likes of which probably have not been seen since the failure of Woodrow Wilson's League of Nations. And they would inescapably signal, in the process, that America is badly confused about its global status. And that an American president can no longer reliably serve as representative of his nation before the world.
>
> Such a drastic diminution of presidential authority is dangerous. The Bosnia operation is a judgment call. The strongest case made by Bosnia doves still can't make it anything more than a judgment call. And in foreign policy judgment calls, prudence dictates a prejudice for presidential prerogative. Mr. Clinton cannot make that argument all by himself. He can and should, as George Bush did before him during the Kuwait crisis, make a strong appeal to the American people that U.S. national interests are at stake—and that he has a reasonable strategy to fulfill them.
>
> Congress, for its part, should hold its hearings and delineate whatever conditions on deployment it believes appropriate. But while they're at it, Republicans should remember why it is they have spent the past 15 years defending presidential leadership in foreign affairs. At the end of the day, the Republican Congress should support the president on Bosnia.

Mr. SIMON. The lead editorial, Mr. President, says: "Bosnia: Support the President." This is a magazine, as the Presiding Officer knows, that is primarily oriented to people of conservative view and primarily to Republicans. The final paragraph says:

> Congress, for its part, should hold its hearings and delineate whatever conditions on deployment it believes appropriate. But while they're at it, Republicans should remember why it is they have spent the past 15 years defending Presidential leadership in foreign affairs. At the end of the day, the Republican Congress should support the President on Bosnia.

I was pleased last night, Mr. President, when I heard the interview on CBS, Dan Rather's interview with Senator DOLE. Senator DOLE, obviously, could benefit politically right now by denouncing President Clinton and the move that was made. Senator DOLE, to his credit, did not take that posture. It was a statesmanlike response.

I think insofar as possible—obviously, we all have to make judgments on these things, and I respect those whose judgments differ from me on this—but insofar as possible, we should have bipartisan foreign policy. That does require the President to work with Congress and, frankly, I think more than has been done up to this point by this administration.

But the lessons from Woodrow Wilson are that the executive branch has to work with Congress, but the other lesson is a lesson from right after World War II when we had a Democratic President and a Republican Congress, and President Truman, through General Marshall at the Harvard commencement, suggested the Marshall plan, which we look back upon with great pride.

After that was announced, the first Gallup Poll showed 14 percent of the American public supporting the Marshall plan, a plan that ultimately saved western Europe from communism and helped to bring about the demise of communism in Europe.

In the U.S. Senate there was a Republican Senator by the name of Arthur Vandenberg. The Presiding Officer is nodding as though he remembers that. He is too young to remember when Arthur Vandenberg was a member of this body, but I remember it well. Arthur Vandenberg did not take advantage of the situation but worked with the President for the best interests of this Nation and the best interests of the world.

I think that is what we have to do at this point, Mr. President. I hope we will. We are going to differ and differ strongly on this thing. That is the way it should be. I hope it will not be on a partisan basis.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:29 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. SNOWE).

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

INTERSTATE COMMERCE COMMISSION SUNSET ACT

Mr. PRESSLER. Madam President, I ask unanimous consent that the Senate now turn to the consideration of S. 1396, the Interstate Commerce Commission Sunset Act of 1995.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 1396) to amend title 49, United States Code, to provide for the regulation of surface transportation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Commerce Commission Sunset Act of 1995".

SEC. 2. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF SECTIONS.

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TITLE I—TERMINATION OF THE INTERSTATE COMMERCE COMMISSION AND FEDERAL MARITIME COMMISSION; REPEAL OF OBSOLETE AND UNNECESSARY PROVISIONS OF LAW

Subtitle A—Terminations

SEC. 101. AGENCY TERMINATIONS.

(a) INTERSTATE COMMERCE COMMISSION.—Upon the transfer of functions under this Act to the Intermodal Surface Transportation Board and to the Secretary of Transportation, the Interstate Commerce Commission shall terminate.

(b) FEDERAL MARITIME COMMISSION.—Effective January 1, 1997, the Federal Maritime Commission shall terminate.

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this Act takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this Act, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Transportation Board (to the extent they involve the functions transferred to the Intermodal Surface Transportation Board under this Act) or by the Secretary (to the extent they involve functions transferred to the Secretary under this Act), or by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS; APPLICATIONS.—

(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect, insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Transportation Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

(c) ACTIONS IN LAW COMMENCED BEFORE ENACTMENT.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

(e) SUBSTITUTION OF TRANSPORTATION BOARD AS PARTY.—Any suit by or against the Interstate Commerce Commission begun before enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Board (to the extent the suit involves functions transferred to the Transportation Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.

(a) FUNCTIONS.—With respect to any functions transferred by this Act and exercised after the effective date of the Interstate Commerce Commission Sunset Act of 1995, reference in any other Federal law to the Interstate Commerce Commission shall be deemed to refer to—

(1) the Intermodal Surface Transportation Board, insofar as it involves functions transferred to the Transportation Board by this Act; and

(2) the Secretary of Transportation, insofar as it involves functions transferred to the Secretary by this Act.

(b) OTHER REFERENCES.—Any other reference in any law, regulation, official publication, or other document to the Interstate Commerce Commission as an agency of the United States Government shall be treated as a reference to the Transportation Board.

SEC. 104. TRANSFER OF FUNCTIONS.

(a) TO TRANSPORTATION BOARD.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Board by this Act shall be transferred to the Transportation Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Transportation Board.

(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

SEC. 105. REFERENCES TO THE FMC IN OTHER LAWS.

Effective January 1, 1997, reference in any other Federal law to the Federal Maritime Commission shall be deemed to refer to the Transportation Board.

Subtitle B—Repeal of Obsolete, Etc., Provisions

SEC. 121. REPEAL OF PROVISIONS.

The following provisions are repealed:

(1) Section 10101 (relating to transportation policy) and the item relating thereto in the table of sections of chapter 101 are repealed.

(2) Section 10322 (relating to Commission action and appellate procedure in nonrail proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(3) Section 10326 (relating to limitations in rulemaking proceedings related to rail carriers) and the item relating thereto in the table of sections of chapter 103 are repealed.

(4) Section 10327 (relating to Commission action and appellate procedure in rail carrier proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(5) Section 10328 (relating to intervention) and the item relating thereto in the table of sections of chapter 103 are repealed.

(6) Subchapter III of chapter 103 (relating to joint boards) and the items relating thereto in the table of sections of such chapter are repealed.

(7)(A) Subchapter IV of chapter 103 (relating to Rail Services Planning Office) and the items relating thereto in the table of sections of such chapter are repealed.

(B) Section 24505(b) of title 49, United States Code, is amended to read as follows:

"(b) OFFER REQUIREMENTS.—A commuter authority making an offer under subsection (a)(2) of this section shall show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation.".

(8) Subchapter V of chapter 103 (relating to Office of Rail Public Counsel) and the items relating thereto in the table of sections of such chapter are repealed.

(9) Section 10502 (relating to express carrier transportation) and the item relating thereto in the table of sections of chapter 105 are repealed.

(10) Section 10504 (relating to exempt rail mass transportation) and the item relating thereto in the table of sections of such chapter are repealed.

(11) Subchapter II, III, and IV of chapter 105 (relating to freight forwarder service) and the items relating thereto in the table of sections of such chapter are repealed.

(12) Section 10705a (relating to joint rate surcharges and cancellations) and the item relating thereto in the table of sections of chapter 107 are repealed.

(13) Section 10710 (relating to elimination of discrimination against recyclable materials) and the item relating thereto in the table of sections of chapter 107 are repealed.

(14) Section 10711 (relating to effect of certain sections on rail rates and practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(15) Section 10712 (relating to inflation-based rate increases) and the item relating thereto in the table of sections of chapter 107 are repealed.

(16) Subchapter II (relating to special circumstances) of chapter 107 (except for sections 10721 and 10730) and the items relating thereto in the table of sections of chapter 107 (except for the subchapter caption and the items relating to sections 10721 and 10730) are repealed.

(17) Section 10743 (relating to payment of rates) and the item relating thereto in the table of sections of chapter 107 are repealed.

(18) Section 10746 (relating to transportation of commodities manufactured or produced by a rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(19) Section 10748 (relating to transportation of livestock by rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(20) Section 10749 (relating to exchange of services and limitation on use of common carriers by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 107 are repealed.

(21) Section 10751 (relating to business entertainment expenses) and the item relating thereto in the table of sections of chapter 107 are repealed.

(22) Section 10764 (relating to arrangements between carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(23) Section 10765 (relating to water transportation under arrangements with certain other carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(24) Section 10766 (relating to freight forwarder traffic agreements) and the item relating thereto in the table of sections of chapter 107 are repealed.

(25) Section 10767 (relating to billing and collecting practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(26) Subchapter V of chapter 107 (relating to valuation of property) and the items relating thereto in the table of sections of chapter 107 are repealed.

(27)(A) Section 10908 (relating to discontinuing or changing interstate train or ferry transportation) and the item relating thereto in the table of sections of chapter 109 are repealed.

(B) Subsection (d) of section 24705 of title 49, United States Code, is repealed.

(28) Section 10909 (relating to discontinuing or changing train or ferry transportation in one State) and the item relating thereto in the table of sections of chapter 109 are repealed.

(29) Subchapter II (relating to other carriers and motor carrier brokers) of chapter 109 and the items relating thereto in the table of sections of chapter 109 are repealed.

(30) Section 11102 (relating to classification of carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(31) Section 11105 (relating to protective services) and the item relating thereto in the table of sections of chapter 111 are repealed.

(32) Section 11106 (relating to identification of motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(33) Section 11107 (relating to leased motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(34) Section 11108 (relating to water carriers subject to unreasonable discrimination in foreign transportation) and the item relating thereto in the table of sections of chapter 111 are repealed.

(35) Section 11109 (relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(36) Section 11110 (relating to household goods carrier operations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(37) Section 11111 (relating to use of citizen band radios on buses) and the item relating thereto in the table of sections of chapter 111 are repealed.

(38) Section 11126 (distribution of coal cars) and the item relating thereto in the table of sections of chapter 111 are repealed.

(39) Section 11127 (relating to service of household freight forwarders) and the item relating thereto in the table of sections of chapter 111 are repealed.

(40) Section 11142 (relating to uniform accounting system for motor carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(41) Section 11161 (relating to railroad accounting principles board) and the item relating thereto in the table of sections of chapter 111 are repealed.

(42) Section 11162 (relating to cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(43) Section 11163 (relating to implementation of cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(44) Section 11164 (relating to certification of rail carrier cost accounting systems) and the item relating thereto in the table of sections of chapter 111 are repealed.

(45) Section 11167 (relating to report) and the item relating thereto in the table of sections of chapter 111 are repealed.

(46) Section 11168 (relating to authorization of appropriations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(47) Section 11304 (relating to security interest in certain motor vehicles) and the item relating thereto in the table of sections of chapter 113 are repealed.

(48) Section 11321 (relating to limitation on ownership of certain water carriers) and the item relating thereto in the table of sections for chapter 113 are repealed.

(49) Section 11323 (relating to limitation on ownership of other carriers by household goods freight forwarders) and the item relating thereto in the table of sections for chapter 113 are repealed.

(50) Section 11345a (relating to motor carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(51) Section 11346 (relating to expedited rail carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(52) Section 11349 (relating to temporary operating approval for transactions involving motor and water carriers) and the item relating thereto in the table of sections of chapter 113 are repealed.

(53) Section 11350 (relating to responsibility of the Secretary of Transportation in certain

transactions) and the item relating thereto in the table of sections of chapter 113 are repealed.

(54) Subchapter IV of chapter 113 (relating to financial structure) and the items relating thereto in the table of sections of chapter 113 are repealed.

(55) Section 11502 (relating to conferences and joint hearings with State authorities) and the item relating thereto in the table of sections of chapter 115 are repealed.

(56) Section 11503a (tax discrimination against motor carrier transportation property) and the item relating thereto in the table of sections of chapter 115 are repealed.

(57) Section 11505 (relating to State action to enjoin carriers from certain actions) and the item relating thereto in the table of sections of chapter 115 are repealed.

(58) Section 11506 (relating to registration of motor carriers by a State) and the item relating thereto in the table of sections of chapter 115 are repealed.

(59) Section 11507 (relating to prison-made property governed by State law) and the item relating thereto in the table of sections of chapter 115 are repealed.

(60) Section 11704 (relating to action by a private person to enjoin abandonment of service) and the item relating thereto in the table of sections of chapter 117 are repealed.

(61) Section 11708 (relating to private enforcement) and the item relating thereto in the table of sections of chapter 117 are repealed.

(62) Section 11709 (relating to liability for issuance of securities by certain carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(63) Section 11711 (relating to dispute settlement program for household goods carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(64) Section 11712 (relating to tariff reconciliation rules for motor common carriers of property) and the item relating thereto in the table of sections of chapter 117 are repealed.

(65) Section 11902a (relating to penalties for violations of rules relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 119 are repealed.

(66) Section 11905 (relating to transportation of passengers without charge) and the item relating thereto in the table of sections of chapter 119 are repealed.

(67) Section 11906 (relating to evasion of regulation of motor carriers and brokers) and the item relating thereto in the table of sections of chapter 119 are repealed.

(68) Section 11908 (relating to abandonment of service by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 119 are repealed.

(69) Section 11911 (relating to issuance of securities, etc.) and the item relating thereto in the table of sections of chapter 119 are repealed.

(70) Section 11913a (relating to accounting principles violations) and the item relating thereto in the table of sections of chapter 119 are repealed.

(71) Section 11917 (relating to weight-bumping in household goods transportation) and the item relating thereto in the table of sections of chapter 119 are repealed.

SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER, UNRELATED ACTS NOT AFFECTED.

Notwithstanding any provision of this Act, an entity that is, or is treated as, an employer under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, or the Railroad Retirement Tax Act under subtitle IV of title 49, United States Code, as in effect on the day before the date of enactment of this Act, shall continue to be covered as employers under those Acts.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

Subtitle A—Organization

SEC. 201. AMENDMENT TO SUBCHAPTER I.

(a) AMENDMENT.—Subchapter I of chapter 103 is amended to read as follows:

"SUBCHAPTER I—ESTABLISHMENT

"§10301. Establishment of Transportation Board

"(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Intermodal Surface Transportation Board.

"(b) MEMBERSHIP.—(1) Members of the Transportation Board shall be appointed by the President, by and with the advice and consent of the Senate. The Transportation Board shall consist of 3 members until January 1, 1997, not more than 2 of whom shall be members of the same political party. Beginning on January 1, 1997, the Transportation Board shall consist of 5 members, no more than 3 of whom shall be members of the same political party.

"(2) At any given time, at least 2 members of the Transportation Board shall be individuals with professional standing and demonstrated knowledge in the fields of rail or motor transportation or transportation regulation or agriculture, and at least 1 member shall be an individual with professional or business experience in the private sector. Effective January 1, 1997, at least 2 members shall be individuals with professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation.

"(3) The term of each member of the Transportation Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year. The President may remove a member for neglect of duty or malfeasance in office.

"(4)(A) On the effective date of this section, the members of the Interstate Commerce Commission shall become members of the Transportation Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

"(B) Effective January 1, 1997, two Federal Maritime Commission commissioners shall become members of the Board to serve terms expiring December 31, 1997, and December 31, 2000. The two members shall be selected in order of the expiration date of their Commission term, beginning with the term having the latest expiration date; provided, however, that the two members added under this subsection may not be from the same political party. The longer Board term shall be filled by the member having the later Federal Maritime Commission term expiration date. Effective January 1, 1997, the rights of any Federal Maritime Commission commissioner other than those designated under this paragraph to remain in office is terminated.

"(5) No individual may serve as a member of the Transportation Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than 1 additional term.

"(6) A member of the Transportation Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

"(7) A vacancy in the membership of the Transportation Board does not impair the right of the remaining members to exercise all of the powers of the Transportation Board. The Transportation Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

"(c) CHAIRMAN.—(1) There shall be at the head of the Transportation Board a Chairman, who shall be designated by the President from among the members of the Transportation Board. The Transportation Board shall be administered under the supervision and direction of the Chairman. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

"(2) Subject to the general policies, decisions, findings, and determinations of the Transportation Board the Chairman shall be responsible for administering the Transportation Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Transportation Board. The Chairman shall—

"(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Transportation Board, including attorneys to provide legal aid and service to the Transportation Board and its members, and to represent the Transportation Board in any case in court;

"(B) appoint the heads of major offices with the approval of the Transportation Board;

"(C) distribute Transportation Board business among officers and employees and offices of the Transportation Board;

"(D) prepare requests for appropriations for the Transportation Board and submit those requests to the President and Congress with the prior approval of the Transportation Board; and

"(E) supervise the expenditure of funds allocated by the Transportation Board for major programs and purposes.

"§10302. Functions

"(a) INTERSTATE COMMERCE COMMISSION FUNCTIONS.—Except as otherwise provided in the Interstate Commerce Commission Sunset Act of 1995, or the amendments made thereby, the Transportation Board shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

"(b) FEDERAL MARITIME COMMISSION FUNCTIONS.—On January 1, 1997, the Transportation Board shall perform all functions that, on that date, were functions of the Federal Maritime Commission or were performed by any officer or employee of the Federal Maritime Commission in the capacity as such officer or employee.

"§10303. Administrative provisions

"(a) EXECUTIVE REORGANIZATION.—For purposes of chapter 9 of title 5, United States Code, the Transportation Board shall be deemed to be an independent regulatory agency and an establishment of the United States Government.

"(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Transportation Board shall be deemed to be an agency.

"(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Transportation Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

"(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Chairman of the Transportation Board may appear for, and represent

the Transportation Board in, any civil action brought in connection with any function carried out by the Transportation Board pursuant to this subtitle or as otherwise authorized by law.

"(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Transportation Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

"(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Transportation Board and include a statement by the Transportation Board—

"(1) showing the amount requested by the Transportation Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

"(2) an assessment of the budgetary needs of the Transportation Board.

"(g) DIRECT TRANSMITTAL TO CONGRESS.—The Transportation Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Transportation Board with Congress, or a committee or member of Congress, about the information.

"§10304. Annual report

"The Transportation Board shall annually transmit to the Congress a report on its activities.".

(b) CONFORMING AMENDMENT.—The items relating to subchapter I of chapter 103 in the table of sections of such chapter are amended to read as follows:

"SUBCHAPTER I—ESTABLISHMENT

"Sec.
"10301. Establishment of Transportation Board.
"10302. Functions.
"10303. Administrative provisions.
"10304. Annual report.".

SEC. 202. ADMINISTRATIVE SUPPORT.

The Secretary of Transportation shall provide administrative support for the Transportation Board.

SEC. 203. REORGANIZATION.

The Chairman of the Transportation Board may allocate or reallocate any function of the Transportation Board, consistent with this title and subchapter I of chapter 103, as amended by section 201 of this title, among the members or employees of the Transportation Board, and may establish, consolidate, alter, or discontinue in the Transportation Board any organizational entities that were entities of the Interstate Commerce Commission or the Federal Maritime Commission, as the Chairman considers necessary or appropriate.

SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COMMISSION FUNCTIONS.

The Chairman of the Intermodal Surface Transportation Board and the Chairman of the Federal Maritime Commission shall meet within 90 days of enactment of this Act to develop a plan for the orderly transition of the functions of the Federal Maritime Commission to the Transportation Board, including appropriate funding levels for the operations associated with the functions of the Federal Maritime Commission transferred to the Transportation Board, and shall submit such a plan to the Director of the Office of Management and Budget and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after the enactment of this Act.

Subtitle B—Administrative

SEC. 211. POWERS.

Section 10321 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(2) striking subsection (b) and inserting the following:

"(b) The Transportation Board may obtain from carriers providing transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of those carriers, information the Transportation Board decides is necessary to carry out this part.";

(3) in subsection (c)(1), by striking "Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title" and inserting in lieu thereof "Transportation Board";

(4) by striking paragraph (2) of subsection (c);

(5) by redesignating paragraph (3) of subsection (c) as paragraph (2); and

(6) by striking "Commission" each place it appears and inserting in lieu thereof "Transportation Board".

SEC. 212. COMMISSION ACTION.

(a) AMENDMENTS.—Section 10324 is amended—

(1) in the section heading, by striking "**Commission**" and inserting in lieu thereof "**Transportation Board**";

(2) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(3) by striking "Commission" each place it appears in subsection (b) and inserting in lieu thereof "Transportation Board";

(4) by striking subsection (c); and

(5) by adding at the end the following new subsections:

"(c) The Transportation Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(1) reopen a proceeding;

"(2) grant rehearing, reargument, or reconsideration of an action of the Transportation Board; or

"(3) change an action of the Transportation Board.

An interested party may petition to reopen and reconsider an action of the Transportation Board under this subsection under regulations of the Transportation Board.

"(d) Notwithstanding this subtitle, an action of the Transportation Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.".

(b) CONFORMING AMENDMENT.—The item relating to section 10324 in the table of sections of chapter 103 is amended by striking "Commission" and inserting in lieu thereof "Transportation Board".

SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEEDINGS.

(a) AMENDMENTS.—Section 10329 is amended—

(1) by striking "**Commission**" in the section heading;

(2) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(3) striking "(1)" in subsection (a) and by striking paragraph (2) of subsection (a);

(4) striking "subchapter I of" in subsection (a);

(5) striking the second sentence in subsection (b);

(6) striking "(1) in subsection (c) and by striking paragraphs (2) and (3);

(7) striking "notices of the Commission shall be served as follows: (1) A" in subsection (c) and inserting "a";

(8) by striking ", express, sleeping car," in subsection (c)(1);

(9) by striking "Secretary of the" in subsection (c);

(10) in subsection (d)—

(A) by striking ", express, sleeping car,"; and

(B) by striking "who filed the tariff";

(11) by striking subsection (e); and

(12) by striking "Commission" each place it appears and inserting in lieu thereof "Transportation Board".

(b) CONFORMING AMENDMENT.—The item relating to section 10329 in the table of sections of chapter 103 is amended by striking "Commission".

SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.

Section 10330 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(2) by striking "subchapter I of" in the first sentence of subsection (a);

(3) by striking "Secretary of the Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(4) by striking subsection (b); and

(5) by redesignating subsection (c) as subsection (b).

SEC. 215. STUDY ON THE AUTHORITY TO COLLECT CHARGES.

In addition to other user fees that the Transportation Board may impose, the Transportation Board shall complete, within 6 months after the date of enactment of this Act, a study on the authority necessary to assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Transportation Board in that fiscal year.

SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULEMAKING.

(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within one year after the advance notice described in subsection (a) is published, and shall issue a final rule dealing with those issues within 2 years after that date.

TITLE III—RAIL AND PIPELINE TRANSPORTATION

SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMISSION, ETC.

Subtitle IV is amended—

(1) by striking "Interstate Commerce Commission" each place it appears (including chapter and section headings) and inserting "Intermodal Surface Transportation Board";

(2) by striking "Commission" each place it appears in reference to the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board";

(3) by striking "Commissioner" each place it appears in reference to a member of the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board member";

(4) by striking "Commissioners" each place it appears in reference to members of the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board members";

(5) by striking "this subtitle" each place it appears and inserting "this part";

(6) by inserting "PART A—RAIL AND PIPELINE CARRIERS" after "SUBTITLE IV—INTERSTATE COMMERCE";

(7) by inserting before section 10101 the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"Chapter	"Sec.
"131. General provisions	13101
"133. Administrative provisions ...	13301
"135. Jurisdiction	13501
"137. Rates	13701
"139. Registration	13901
"141. Operations of carriers	14101
"143. Finance	14301
"145. Federal-State relations	14501
"147. Enforcement; investigations; rights; remedies	14701
"149. Civil and criminal penalties	14901

"PART A—RAIL AND PIPELINE CARRIERS".

SEC. 302. RAIL TRANSPORTATION POLICY.

Section 10101a is amended by—

(1) striking "and" after the semicolon in paragraph (14);

(2) striking the period at the end of paragraph (15) and inserting a semicolon and "and"; and

(3) adding at the end the following:

"(16) to provide expeditious remedies for traffic and facilities lacking effective transportation competition.".

SEC. 303. DEFINITIONS.

Section 10102 is amended by—

(1) striking paragraphs (1), (2), (5), (6) (8) through (18), (19), (25), (27), and (30) through (33);

(2) redesignating the remaining paragraphs as paragraphs (1) through (11), respectively;

(3) striking paragraph (2) (as redesignated) and inserting:

"(2) 'common carrier' means a pipeline carrier and a rail carrier;";

(4) inserting "common carrier" after "railroad" in paragraph (6) (as redesignated);

(5) striking ", fare," in paragraph (8) (as redesignated);

(6) striking "of passengers or property, or both," in paragraph (10)(A) (as redesignated) and inserting "of property,"; and

(7) striking "passengers and" in paragraph (10)(B) (as redesignated).

SEC. 304. GENERAL JURISDICTION.

Section 10501 is amended by—

(1) striking "Subject to this chapter and other law, the" in subsection (a), and inserting "The";

(2) inserting "of property" after "transportation" in subsection (a);

(3) striking "express carrier, sleeping car carrier," in subsection (a)(1);

(4) striking "passengers or" in subsection (b)(1);

(5) striking "subchapter" in subsection (c) and inserting "chapter" and by striking "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" in subsection (c); and

(6) striking "(b)" after "section 11501" in subsection (d).

SEC. 305. RAILROAD AND WATER TRANSPORTATION CONNECTIONS AND RATES.

Section 10503 is amended by—

(1) striking "passengers or" each place it appears in subsection (a)(2); and

(2) striking "passengers," in subsection (a)(2)(B).

SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND MOTOR CARRIER TRANSPORTATION.

Section 10505 is amended by—

(1) striking "rail carrier and motor carrier" from the section heading;

(2) striking subsection (a) and inserting the following:

"(a) In a matter subject to the jurisdiction of the Intermodal Surface Transportation Board under this chapter, the Transportation Board shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title in whole or in part within 180 days after the filing of an application for an exemption, when the Transportation Board finds that the application of that provision in whole or in part—

"(1) is not necessary to carry out the transportation policy of section 10101 or section 10101a of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.";

(3) striking subsection (d) and inserting the following:

"(d) The Transportation Board shall revoke an exemption in whole or in part, to the extent that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title. The Transportation Board shall conclude a proceeding under this subsection within 180 days. In acting upon a request for revocation, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other factors it deems relevant. If a request for revocation under this subsection is accompanied by a complaint seeking monetary damages for a violation of a provision of this title by a railroad, and the Transportation Board does not render a final decision on such request within 180 days after the filing of the revocation request and complaint, then any monetary damages which the Transportation Board may award at the conclusion of the proceeding shall be calculated from no later than the 181st day following the filing of the revocation request and complaint if the Transportation Board finds that such failure to render a final decision within 180 days is due in substantial part to dilatory practices of the railroad.";

(4) striking subsection (f) and inserting the following:

"(f) The Transportation Board may exercise its authority under this section to exempt transportation that is provided by a carrier as a part of a continuous intermodal movement."; and

(5) striking subsection (g) and inserting the following:

"(g) The Transportation Board may not exercise its authority under this section to relieve a carrier of its obligation to protect the interests of employees as required by this part.".

SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.

Section 10701 is amended by—

(1) redesignating subsection (c) as subsection (b);

(2) striking "subchapter I or III of chapter 105" in subsection (b) as so redesignated and inserting "chapter 105";

(3) striking "the jurisdiction of the Commission under either of those subchapters" in subsection (b) as so redesignated and inserting "jurisdiction either under chapter 105 of this part or under part B of this subtitle"; and

(4) striking subsections (d) through (f).

SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.

Section 10701a is amended by—

(1) striking "subchapter I of" in subsection (a);

(2) striking "lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title" in subparagraphs (2)(A)(i) and (2)(B)(i) of subsection (b), and inserting "percentage described in section 10707a(d)(1)"; and

(3) adding at the end of subsection (b) the following:

"(4)(A) Within 1 year after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Transportation Board shall complete the Interstate Commerce Commission non-coal rate guidelines proceeding pending on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a stand-alone cost presentation is impractical.

"(B) Within 6 months after that date of enactment, the Transportation Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and for ensuring prompt disposition of motions and interlocutory administrative appeals.

"(C) In a proceeding to challenge the reasonableness of a railroad rate, other than a proceeding arising under section 10707 of this title, the Transportation Board shall make its determination as to the reasonableness of the challenged rate—

"(i) within 6 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation, or

"(ii) within 3 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to paragraph (4)(A).".

SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, ETC.

Section 10702 is amended by—

(1) beginning with "service," in paragraph (2) of subsection (a) striking all that follows and inserting "service."; and

(2) striking subsections (b) and (c).

SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH THROUGH ROUTES.

Section 10703 is amended by—

(1) striking ", express, sleeping car," in paragraph (1) of subsection (a);

(2) striking paragraphs (3) and (4) of subsection (a); and

(3) replacing "Commission under subchapter I, II (insofar as motor carriers of property are concerned), or III of" in subsection (b) with "Transportation Board under".

SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED RATES, CLASSIFICATIONS, ETC.

Section 10704 is amended by—

(1) striking "subchapter I of" and "(including a maximum or minimum rate, or both)" in the first sentence of subsection (a)(1);

(2) striking "subchapter" in the first sentence of subsection (a)(2) and inserting "chapter";

(3) striking the third sentence of subsection (a)(2);

(4) striking paragraph (3) of subsection (a) and redesignating paragraph (4) as (3);

(5) striking "within 180 days after the effective date of the Staggers Rail Act of 1980 and" and "thereafter" in subsection (a)(3), as redesignated;

(6) striking subsections (b), (c), (d) and (e);

(7) redesignating subsection (f) as subsection (b);

(8) striking "on its own initiative or" in subsection (b) as redesignated; and

(9) striking the last sentence of subsection (b), as redesignated.

SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES, JOINT CLASSIFICATIONS, ETC.

Section 10705 is amended by—

(1) striking "subchapter I, II (except a motor common carrier of property), or III of", and "(including maximum or minimum rates or both)" in paragraph (1) of subsection (a);

(2) striking paragraph (3) of subsection (a);

(3) striking subsections (b) and (h) and redesignating subsections (c) through (g) as subsections (b) through (f);

(4) striking "or (b)" and ", water carrier, or motor common carrier of property" in subsection (b), as redesignated;

(5) striking "tariff" in subsection (d), as redesignated, and inserting "proposed rate change";

(6) striking ", water common carrier, or motor common carrier of property" in subsection (d), as redesignated;

(7) striking "or (b)" and "on its own initiative or" in the first sentence of subsection (e)(1) as redesignated;

(8) striking "if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission" in the second sentence of subsection (e)(1), as redesignated; and

(9) striking "subsection (f)" in subsection (f), as redesignated, and inserting "subsection (e)".

SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.

Section 10706 is amended by—

(1) striking subsection (a)(3)(B);

(2) redesignating paragraphs (3)(C) and (D) of subsection (a) as paragraphs (3)(B) and (C);

(3) striking "consider" in subsection (a)(3)(B)(ii)(II), as redesignated, and inserting "considered";

(4) striking "subchapter I of" in subsection (a)(5)(A);

(5) striking "the effective date of the Staggers Rail Act of 1980" in subsection (a)(5)(C), and inserting "October 1, 1980,";

(6) striking subsections (b), (c), and (d) and redesignating subsections (e) through (g) as subsections (b) through (d);

(7) striking the first sentence of subsection (c), as redesignated, and inserting "The Transportation Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest.";

(8) striking "subsection (a), (b), or (c) of this section." in subsection (d), as redesignated and inserting "subsection (a)."; and

(9) striking subsections (h) and (i).

SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL RATES, ETC.

Section 10707 is amended by—

(1) striking the first sentence of subsection (a) and inserting "When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is proposed by a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title, the Transportation Board may begin a proceeding, on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this part.";

(2) striking subsection (d)(3) and redesignating subsection (d)(4) as (d)(3);

(3) striking "or section 10761" in subsection (d)(3), as redesignated; and

(4) striking "the Commission shall, by rule, establish standards and procedures permitting a rail carrier to " in subsection (d)(3), as redesignated, and inserting "a rail carrier may".

SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.

Section 10707a is amended by—

(1) striking "Commencing with the fourth quarter of 1980, the" in subsection (a)(2)(B) and inserting "The";

(2) striking "subchapter I of chapter 105 of this title may" in subsection (b)(1) and inserting "chapter 105 of this title is authorized to";

(3) inserting a period after "involved" in paragraph (1) of subsection (b) and striking the remainder of the paragraph;

(4) striking "may not" in subsection (b)(3) and inserting "is not authorized to";

(5) striking "(A)" and "or (B) inflation based rate increases under section 10712 of this title applicable to that rate" in subsection (b)(3);

(6) striking subsections (c), (d) and (e), redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), and inserting after subsection (b) the following:

"(c) In determining whether a rate is reasonable, the Transportation Board shall consider, among other factors, evidence of the following:

"(1) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(2) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(3) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues."; and

(7) by striking subsection (d), as redesignated, and inserting the following:

"(d)(1) A finding by the Board that a rate increase exceeds the increase authorized under this section does not establish a presumption that (A) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title, the Transportation Board may on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the percentage described in subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Transportation Board shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.".

SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPELINE CARRIER RATES, ETC.

Section 10708 is amended by—

(1) striking subsection (a)(1) and inserting the following:

"(a)(1) The Intermodal Surface Transportation Board may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice on application of an interested party when a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is proposed by a pipeline carrier subject to the Transportation Board's jurisdiction under chapter 105 of this part.";

(2) striking "an express, sleeping car, or" in the third sentence of subsection (b) and inserting "a"; and

(3) striking subsections (d) through (g).

SEC. 317. DETERMINATION OF MARKET DOMINANCE.

Section 10709 is amended by—

(1) adding at the end of subsection (a) the following: "In making a determination under this section, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other factors it deems relevant."

(2) striking "subchapter I of" in the first sentence of subsection (b); and

(3) striking subsection (d) and inserting the following:

"(d) DETERMINATIONS OF RATE CHALLENGES.—

"(1) 180 PERCENT SAFE HARBOR.—In making a determination under this section, the Transportation Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

"(2) METHODOLOGY.—For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined by using the carrier's costs, calculated using the Uniform Railroad Costing System (or an alternative cost finding methodology adopted by the Transportation Board in lieu thereof), with use of the current cost of capital for calculating the return on investment, and indexed quarterly to account for current wage and price levels in the region in which the carrier operates.

"(3) BURDEN OF PROOF; REBUTTAL.—A rail carrier may meet its burden of proof under this subsection by so establishing its variable costs, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Transportation Board may prescribe.

"(4) NO PRESUMPTIONS CREATED.—A finding by the Transportation Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

"(A) such rail carrier has or does not have market dominance over such transportation, or

"(B) the proposed rate exceeds or does not exceed a reasonable maximum.".

SEC. 318. CONTRACTS.

Section 10713 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) striking subsection (b)(1) and inserting the following:

"(b)(1) A summary of each contract for the transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, entered into under this section shall be filed with the Transportation Board, containing such nonconfidential information as the Transportation Board prescribes. The Transportation Board shall publish special rules

for such contracts in order to assure that the essential terms of the contract are available to the general public. The parties to any such contract shall supply a copy of the full contract to the Transportation Board upon request.'';

(3) striking ''in tariff format'' in subparagraphs (A) and (C) of subsection (b)(2);

(4) striking subsection (b)(2)(D);

(5) striking ''other than a contract for the transportation of agricultural commodities (including forest products and paper),'' in subsection (d)(2)(A) and inserting ''for the transportation of agricultural commodities,'';

(6) strike ''only'' in (d)(2)(A)(i);

(7) striking ''the case of a contract for the transportation of agricultural commodities (including forest products and paper), in'' in subsection (d)(2)(B);

(8) inserting ''of agricultural commodities'' after ''filed by a shipper'' in subsection (d)(2)(B);

(9) striking the last sentence of subsection (d)(2)(B);

(10) striking ''A contract that is approved by the Commission'' in subsection (i)(1) and inserting ''In any contract entered into after the effective date of the Interstate Commerce Commission Sunset Act of 1995, if the shipper in writing expressly waives all rights and remedies under this part for the transportation covered by the contract, a contract entered into'';

(11) striking subsections (l) and (m); and

(12) striking ''(including forest products but not including wood pulp, wood chips, pulpwood or paper)'' in subsection (i)(1).

SEC. 319. GOVERNMENT TRAFFIC.

The text of section 10721 is amended to read as follows:

''A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.''.

SEC. 320. RATES AND LIABILITY BASED ON VALUE.

Section 10730 is amended by—

(1) striking subsections (a) and (b);

(2) striking ''(c)'';

(3) striking ''rail carrier'' and inserting ''carrier''; and

(4) striking ''subchapter I of''.

SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY COMMON CARRIERS.

Section 10741 is amended by—

(1) striking ''subchapter I of'' in subsection (a);

(2) striking subsection (c) and inserting the following:

''(c) A carrier providing transportation subject to the jurisdiction of the Transportation Board under chapter 105 of this title may not subject a freight forwarder providing service subject to jurisdiction under part B of this subtitle to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.'';

(3) striking ''subchapter I of'' in subsection (e);

(4) striking subsection (f)(1) and inserting the following: ''(1) contracts under section 10713 of this title;'';

(5) striking paragraphs (2), (3), and (5) of subsection (f) and redesignating paragraph (4) as paragraph (2); and

(6) striking ''paragraphs (2), (3), and (4)'' in subsection (f) and inserting ''paragraph (2)''.

SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.

Section 10742 is amended by—

(1) striking ''subchapter I or III of'' and ''passengers and''; and

(2) striking ''either of those subchapters.'' and inserting ''Part A or B of this subtitle.''.

SEC. 323. LIABILITY FOR PAYMENT OF RATES.

Section 10744 is amended by—

(1) striking '', motor, or water common'' in the first sentence of subsection (a)(1);

(2) striking ''or express'' in the first sentence of subsection (b);

(3) striking ''subtitle'' in the first sentence of subsections (a)(1) and (b) and inserting ''part'';

(4) striking paragraph (2) of subsection (c) and renumbering paragraph (3) as paragraph (2); and

(5) striking ''or express'' in subsection (c)(2), as redesignated.

SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.

Section 10745 is amended by striking ''subchapter I of''.

SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FURNISHED BY SHIPPER.

Section 10747 is amended by—

(1) striking the first and second sentences and inserting the following: ''A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Transportation Board may prescribe the maximum reasonable charge or allowance paid for such service or instrumentality furnished.''; and

(2) striking ''on its own initiative or'' in the last sentence.

SEC. 326. DEMURRAGE CHARGES.

Section 10750 is amended by striking ''subchapter I of''.

SEC. 327. TRANSPORTATION PROHIBITED WITHOUT TARIFF.

Section 10761 is amended to read as follows:

''§10761. Transportation of agricultural products prohibited without tariff

''Except when providing transportation by contract as provided in this subtitle, a carrier providing transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide that transportation only if the rate for the transportation is contained in a tariff that is in effect under this subchapter. A carrier subject to this subsection may not charge or receive a different compensation for that transportation than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation, or another device.''.

SEC. 328. GENERAL ELIMINATION OF TARIFF FILING REQUIREMENTS.

Section 10762 is amended to read as follows:

''§10762. General elimination of tariff filing requirements

''(a) Except as provided in section 10713 of this title, a carrier providing transportation of agricultural products including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall publish, keep open and retain for public inspection, and immediately furnish to an entity requesting the same, tariffs containing its rates for the transportation of such commodities and its classifications, rules, and practices related to such rates. Tariffs are not required for any other commodity.

''(b)(1) Within 180 days after the enactment of the Interstate Commerce Commission Sunset Act of 1995, the Intermodal Surface Transportation Board shall prescribe the form and manner of publishing, keeping open, furnishing to the public, and retaining for public inspection tariffs under this section. The Transportation Board may prescribe specific charges to be identified in a tariff required under this section to be published, kept open, furnished to the public, or retained for public inspection, but those tariffs must identify plainly—

''(A) the places between which property will be transported;

''(B) privileges given and facilities allowed; and

''(C) any rules that change, affect, or determine any part of the published rate.

''(2) A joint tariff published by a carrier under this section shall identify the carriers that are parties to it.

''(c)(1) When a carrier proposes to change a rate for transportation subject to this section, or a classification, rule, or practice related to such rate, the carrier shall publish, transmit, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

''(2) A notice published under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 1 day after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.

''(d) The Transportation Board may reduce the notice period of subsection (c) of this section if cause exists. The Transportation Board may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

''(e) Acting in response to a complaint or on its own motion, the Transportation Board may reject a tariff published under this section if that tariff violates this section or a regulation of the Transportation Board carrying out this section.''.

SEC. 329. DESIGNATION OF CERTAIN ROUTES.

Section 10763 is amended by striking ''subchapter I of'' in subsection (a)(1).

SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION OF RAILROAD LINES.

Section 10901 is amended by—

(1) striking ''subchapter I of'' in subsection (a); and

(2) adding at the end the following new subsection:

''(f) SPECIAL RULE FOR NON-CLASS I TRANSACTIONS.—For all transactions involving Class II freight rail carriers, Class III freight rail carriers and non-carriers, that are not owned or controlled by a Class I rail carrier and that are not a commuter, switching or terminal railroad, which propose to acquire, construct, operate, or provide transportation over a railroad line pursuant to this section, the Transportation Board may, consistent with the public interest, require an arrangement for the protection of the interest of railroad employees who are adversely affected by the transaction not to exceed one year's salary per adversely affected employee and protection no less than required by sections 2 through 5 of the Worker Adjustment and Retraining Act, unless the adversely affected employees or their representatives and the parties to the transaction agree otherwise.''.

SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.

Section 10902 is amended by striking ''subchapter I of'' in the first sentence.

SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINUANCE.

Section 10903 is amended by striking "subchapter I of" in subsection (a).

SEC. 333. FILING AND PROCEDURE FOR APPLICATIONS TO ABANDON OR DISCONTINUE.

Section 10904 is amended by—

(1) striking "subchapter I of" in subsection (a)(2);

(2) striking subsection (d)(2);

(3) striking "(1)" in subsection (d); and

(4) striking "the application was approved by the Secretary of Transportation as part of a plan or proposal under section 333(a)–(d) of this title, or" in subsection (e)(3).

SEC. 334. EXCEPTIONS.

Section 10907 is amended by striking "subchapter I of" in subsection (a).

SEC. 335. RAILROAD DEVELOPMENT.

Section 10910 is amended by—

(1) striking paragraph (2) of subsection (a) and inserting the following:

"(2) 'railroad line' means any line of railroad.";

(2) striking "the effective date of the Staggers Rail Act of 1980" in subsection (g)(2), and inserting "October 1, 1980,"; and

(3) striking subsection (k) and inserting the following:

"(k) The Transportation Board shall maintain such regulations and procedures as may be necessary to carry out the provisions of this section.".

SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND RATES.

Section 11101 is amended to read as follows:

"§11101. Providing transportation, service, and rates

"(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide the transportation or service on reasonable request.

"(b) Notwithstanding any other provision of this title, a rail carrier providing transportation service subject to the jurisdiction of the Transportation Board under chapter 105 of this title shall provide, on reasonable written request, common carrier rates and other common carrier service terms of the type requested for specified services between specified points. The response by a rail carrier to a request for such rates or other service terms shall be in writing, or shall be available electronically, and forwarded to the requesting person no later than 30 days after receipt of the request. A rail carrier shall not refuse to respond to a request under this subsection on grounds that the movement at issue is subject at the time a request is made to a contract entered into under section 10713 of this title.

"(c) Common carrier rates and service terms provided pursuant to subsection (b) of this section shall be subject to the provisions of this title.

"(d) A rail carrier may not increase any common carrier rates, or change any common carrier service terms, provided pursuant to subsection (b) unless at least 20 days' written or electronic notice is first provided to the person that, within the previous 12 months, made a written or electronic request for the issue rate or service. Any such increases or changes shall be subject to provisions of this subtitle.".

SEC. 337. USE OF TERMINAL FACILITIES.

Section 11103 is amended by striking "subchapter I of" in subsection (a).

SEC. 338. SWITCH CONNECTIONS AND TRACKS.

Section 11104 is amended by striking "subchapter I of" in subsection (a).

SEC. 339. CRITERIA.

Section 11121 is amended by—

(1) striking "subchapter I of" in subsection (a)(1);

(2) striking subsection (a)(2) and inserting the following:

"(2) The Transportation Board may require a rail carrier to file its car service rules with the Transportation Board.";

(3) striking ", 11127," in subsection (b); and

(4) adding at the end the following:

"(c) The Transportation Board shall consult, as it deems necessary, with the National Grain Car Council on matters within the charter of that body.".

SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CARRIER TO SERVE PUBLIC.

Section 11124 is amended by striking "subchapter I of" in subsection (a).

SEC. 341. DIRECTED RAIL TRANSPORTATION.

Section 11125 is amended by striking "subchapter I of" in subsection (a).

SEC. 342. WAR EMERGENCIES; EMBARGOES.

Section 11128 is amended by—

(1) striking "sections 11123(a)(4) and 11127(a)(1)(C)" and inserting "section 11123(a)" in subsection (a)(1); and

(2) striking "subchapter I of" in subsection (a)(2).

SEC. 343. DEFINITIONS FOR SUBCHAPTER III.

Section 11141 is amended to read as follows:

"§11141. Definitions

"In this subchapter—

"(1) 'carrier' and 'lessor' include a receiver or trustee of a carrier and lessor respectively.

"(2) 'lessor' means a person owning a railroad or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title.

"(3) 'association' means an organization maintained by or in the interest of a group of carriers providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board that performs a service, or engages in activities, related to transportation under this part.".

SEC. 344. DEPRECIATION CHARGES.

Section 11143 is amended by—

(1) striking "subchapter I or III of"; and

(2) striking "and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter,".

SEC. 345. RECORDS, ETC.

Section 11144 is amended by—

(1) striking ", brokers," in subsection (a)(1);

(2) striking "or express" and "subchapter I of" in subsection (a)(2);

(3) striking ", broker," in subsection (b)(1);

(4) striking "broker," in subsection (b)(2)(A);

(5) striking "or express" in subsection (b)(2)(C);

(6) redesignating subsection (d) as subsection (c); and

(7) striking "brokers," in subsection (c), as redesignated.

SEC. 346. REPORTS BY CARRIERS, LESSORS, AND ASSOCIATIONS.

Section 11145 is amended by—

(1) striking "brokers," in subsection (a)(1);

(2) striking "or express," in subsection (a)(2);

(3) striking "broker," in the first sentence of subsection (b)(1);

(4) striking the second sentence of subsection (b)(1); and

(5) striking subsection (c).

SEC. 347. ACCOUNTING AND COST REPORTING.

Section 11166 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) striking the third sentence of subsection (a); and

(3) striking "the cost accounting principles established by the Transportation Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission" in subsection (b) and inserting "the appropriate cost accounting principles".

SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.

Section 11301(a)(1) is amended by—

(1) striking "or sleeping car"; and

(2) striking "subchapter I of".

SEC. 349. EQUIPMENT TRUSTS.

Section 11303 is amended by adding at the end thereof the following:

"(c) The Transportation Board shall collect, maintain and keep open for public inspection a railway equipment register consistent with the manner and format maintained at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

"(1) is duly constituted under the laws of a country other than the United States; and

"(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

"(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.".

SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.

Section 11322 is amended by—

(1) redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) inserting before subsection (b), as redesignated, the following:

"(a) In this section "carrier" means a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that chapter.";

(3) striking "as defined in section 11301(a)(1) of this title" in subsection (b) as redesignated; and

(4) striking "subsection (a)" and inserting "subsection (b)" in subsection (c), as redesignated.

SEC. 351. LIMITATION ON POOLING AND DIVISION OF TRANSPORTATION OR EARNINGS.

Section 11342 is amended by—

(1) striking "subchapter I, II, or III of" in the first sentence of subsection (a);

(2) striking "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the" in the second sentence of subsection (a) and inserting "The"; and

(3) striking subsections (b) and (d) and redesignating subsections (c) and (e) as subsections (b) and (c), respectively.

SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11343 is amended by—

(1) inserting "(except a pipeline carrier)" after "involving carriers" in subsection (a);

(2) striking "subchapter I (except a pipeline carrier), II, or III of" in subsection (a);

(3) striking paragraph (1) of subsection (d) and striking "(2)" in paragraph (2); and

(4) striking subsection (e).

SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF APPROVAL FOR CONSOLIDATION, ETC.

Section 11344 is amended by—

(1) striking the third sentence in subsection (a);

(2) striking "subchapter I of that chapter" in the last sentence of subsection (a) and inserting "chapter 105";

(3) striking paragraph (2) of subsection (b) and striking "(1)" in the first paragraph of subsection (b);

(4) striking the fourth sentence of subsection (c);

(5) striking "When a rail carrier is involved in the transaction, the" in the last sentence of subsection (c) and inserting "The";

(6) striking the last two sentences of subsection (d); and

(7) striking subsection (e).

SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION, ETC.

Section 11345 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) inserting ", including comments by the Secretary of Transportation and the Attorney General," before "may be filed" in the first sentence of subsection (c)(1);

(3) striking the last two sentences of subsection (c)(1);

(4) inserting ", including comments by the Secretary of Transportation and the Attorney General," before "may be filed" in the first sentence of subsection (d)(1); and

(5) striking the last two sentences of subsection (d)(1).

SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 11347 is amended by striking "or section 11346" in the first sentence.

SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.

Section 11348(a) is amended by striking all after the colon and inserting "sections 504(f) and 10764, subchapter III of chapter 111, and sections 11301, 11901(e), and 11909.".

SEC. 357. AUTHORITY OVER INTRASTATE TRANSPORTATION.

Section 11501 is amended by—

(1) striking subsections (a), (e), (g) and (h) and redesignating subsections (b), (c), (d), and (f) as subsections (a), (b), (c) and (d), respectively;

(2) striking paragraphs (2) through (6) of subsection (a), as redesignated;

(3) striking "(1)" and "subchapter I of" in subsection (a), as redesignated;

(4) striking "subchapter I of" in subsection (b), as redesignated;

(5) striking "subchapter I of" in subsection (c)(1), as redesignated;

(6) striking "subsection (a) of this section and" in subsection (c)(2), as redesignated; and

(7) striking the first sentence of subsection (d), as redesignated, and inserting the following: "The Transportation Board may take action under this section only after a full hearing.".

SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPORTATION PROPERTY.

Section 11503 is amended by—

(1) striking "subchapter I of" in subsection (a)(3); and

(2) striking "subchapter I of" in subsection (b)(4).

SEC. 359. WITHHOLDING STATE AND LOCAL INCOME TAX BY CERTAIN CARRIERS.

Section 11504 is amended by—

(1) striking "subchapter I of" in subsection (a);

(2) striking subsections (b) and (c) and redesignating subsection (d) as subsection (b); and

(3) striking ", motor, and motor private" and "subsection (a) or (b) of" in subsection (b), as redesignated.

SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, INVESTIGATIONS, ETC.

Section 11701 is amended by—

(1) striking ", broker or freight forwarder" in the second and fourth sentences of subsection (a);

(2) striking the third sentence of subsection (a);

(3) striking the first 2 sentences of subsection (b) and inserting the following: "A person, including a governmental authority, may file with the Transportation Board a complaint about a violation of this part by a carrier providing transportation or service subject to the jurisdiction of the Transportation Board under this part. The complaint must state the facts that are the subject of the violation."; and

(4) striking "subchapter I of" in the last sentence of subsection (b).

SEC. 361. ENFORCEMENT.

Section 11702 is amended by—

(1) striking "(a)" in subsection (a);

(2) striking paragraphs (4) through (6) of subsection (a);

(3) striking "or 10933" in paragraph (1);

(4) striking paragraph (2) and inserting the following:

"(2) to enforce subchapter III of chapter 113 of this title and to compel compliance with an order of the Transportation Board under that subchapter; and"

(5) striking "subchapter I of" in paragraph (3);

(6) striking the semicolon at the end of paragraph (3) and inserting a period; and

(7) striking subsection (b).

SEC. 362. ATTORNEY GENERAL ENFORCEMENT.

Section 11703 is amended by striking "or permit" wherever it appears in subsection (a).

SEC. 363. RIGHTS AND REMEDIES.

Section 11705 is amended by—

(1) striking "or a freight forwarder" in subsection (a);

(2) striking subsection (b)(1) and inserting the following:

"(b)(1) A carrier providing transportation or service subject to the jurisdiction of the Transportation Board under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for the transportation or service.";

(3) striking "subparagraph I or III of" in subsection ((b)(2);

(4) striking subsection (b)(3);

(5) striking "subchapter I or III of" in the first sentence of subsection (c)(1);

(6) striking the second sentence of subsection (c)(1);

(7) striking "subchapter I or III of" in the second sentence of subsection (c)(2);

(8) striking "subchapter I or III of" in the first sentence of subsection (d)(1); and

(9) striking ", or (D) if a water carrier, in which a port of call on a route operated by that carrier is located" and inserting "or" before "(C)" in the fourth sentence of subsection (d)(1).

SEC. 364. LIMITATION ON ACTIONS.

Section 11706 is amended by—

(1) striking subsection (a) and inserting the following:

"(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title must begin a civil action to recover charges for the transportation or service provided by the carrier within 3 years after the claim accrues.";

(2) striking the first sentence of subsection (b) and inserting "A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues.";

(3) striking "subchapter I or III of" in the last sentence of subsection (b);

(4) striking "(1)" in subsection (c);

(5) striking paragraph (2) of subsection (c); and

(6) striking "(c)(1)" in the second sentence of subsection (d) and inserting "(c)".

SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

(a) Section 11707 is amended by—

(1) striking "(a)(1)" in subsection (a) and inserting "(a)";

(2) striking paragraph (2) of subsection (a);

(3) striking "subchapter I, II, or IV of" and "and a freight forwarder" in the first sentence of subsection (a), as amended;

(4) striking "or freight forwarder" in the second sentence of subsection (a), as amended;

(5) striking "subchapter I, II, or IV" in the second sentence of subsection (a), as amended, and inserting "chapter 105 or subject to jurisdiction under part B of this subtitle";

(6) striking ", except in the case of a freight forwarder," in the third sentence of subsection (a), as amended;

(7) striking "diverted under a tariff filed under subchapter IV of chapter 107 of this title." in the third sentence of subsection (a), as amended, and inserting "diverted.";

(8) striking "or freight forwarder" in the fourth sentence of subsection (a);

(9) striking "and freight forwarder" in subsection (c)(1), and striking "filed with the Commission";

(10) striking paragraph (3) of subsection (c) and redesignating paragraph (4) as paragraph (3);

(11) striking "or freight forwarder" wherever it appears in subsection (e); and

(12) striking "or freight forwarder's" in subsection (e)(2).

(b) The index for chapter 117 is amended by striking out the item relating to section 11707 and inserting in lieu thereof the following:

"Sec. 11707. Liability of Carriers under receipts and bills of lading.".

SEC. 366. LIABILITY WHEN PROPERTY IS DELIVERED IN VIOLATION OF ROUTING INSTRUCTIONS.

Section 11710 is amended by striking "subchapter I of" in subsection (a)(1).

SEC. 367. GENERAL CIVIL PENALTIES.

Section 11901 is amended by:

(1) striking "subchapter I of" in subsection (a) and subsection (b);

(2) striking subsection (c) and subsections (g) through (l), and redesignating subsections (d) through (f) as (c) through (e), respectively, and subsection (m) as (f);

(3) striking "11127" in subsection (d), as redesignated;

(4) striking "(1)" in subsection (d), as redesignated, and striking paragraph (2) of that subsection;

(5) striking "subchapter I of" each place it appears in subsection (e), as redesignated;

(6) striking "(1)" in subsection (f), as redesignated, and striking paragraph (2) of that subsection; and

(7) striking "subsections (a)-(f) of" in subsection (f), as redesignated.

SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM COMMON CARRIER.

Section 11902 is amended by striking "contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title".

SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLATIONS.

Section 11903 is amended by striking "under chapter 107 of this title" in subsection (a).

SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLATIONS.

Section 11904 is amended by—

(1) striking subsections (b) through (d);

(2) striking "(a)(1)" in subsection (a) and inserting "(a)";

(3) redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c), respectively;

(4) striking "(A)" and "(B)" in subsection (b), as redesignated, and inserting "(1)" and "(2)", respectively;

(5) striking "subchapter I of" in subsections (b) and (c), as redesignated; and

(6) striking 'under chapter 107 of this title" in subsection (b), as redesignated.

SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.

Section 11907 is amended by striking "subchapter I of" in subsections (a) and (b).

SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.

Section 11909 is amended by—

(1) striking subsections (b) through (d);

(2) striking "subchapter I of" in subsection (a); and

(3) striking "(a)" in subsection (a).

SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.

Section 11910 is amended by—

(1) striking paragraphs (2) through (4) of subsection (a);

(2) striking "(a)(1)" in subsection (a) and inserting "(a)";

(3) striking "(A)" and "(B)" in subsection (a) and inserting "(1) and "(2)", respectively;

(4) striking "subchapter I of" in subsections (a) and (d); and

(5) striking "or broker" in subsection (b).

SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11912 is amended by striking out "11346,".

SEC. 375. GENERAL CRIMINAL PENALTY.

Section 11914 is amended by—

(1) striking subsections (b) through (d);

(2) striking "(a)" in subsection (a);

(3) striking "subchapter I of" in the first sentence; and

(4) striking "11321(a) or" in the last sentence.

SEC. 376. FINANCIAL ASSISTANCE FOR STATE PROJECTS.

Section 22101 is amended by striking "subchapter I of" in the first sentence of subsection (a).

SEC. 377. STATUS OF AMTRAK AND APPLICABLE LAWS.

Section 24301 is amended by striking "subchapter I of" in subsections (c)(2)(B) and (d).

SEC. 378. RAIL-SHIPPER TRANSPORTATION ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Chapter 103 is amended by adding at the end thereof the following:

"SUBCHAPTER VI. RAIL—SHIPPER TRANSPORTATION ADVISORY COUNCIL

"§10391. Rail—Shipper Transportation Advisory Council

"(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Rail-Shipper Transportation Advisory Council (hereinafter in this section referred to as the "Council") to be composed of 15 members appointed by the Chairman of the Transportation Board, after recommendation from carriers and shippers, within 60 days after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995. The members of the Council shall be appointed as follows:

"(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the rail and rail shipper industry.

"(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industry, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members or by a majority vote of a quorum thereof. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

"(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

"(B) at least 4 shall be representative of small railroads (Class II or III).

"(3) The remaining 6 members of the Council shall serve in a non-voting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

"(A) 3 shall be from Class I railroads; and

"(B) 3 shall be from large shipper organizations (as determined by the Chairman).

"(4) The Secretary of Transportation and the members of the Transportation Board shall serve as ex officio members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

"(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

"(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of three years, except that of the members first appointed—

"(1) 5 members shall be appointed for terms of 1 year, and

"(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

"(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

"(d) EXPENSES.—The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman may provide reasonable and necessary travel expenses for such individual Council members from Department or Transportation Board funding sources in order to foster balanced representation on the Council. Upon request by the Council Chairman, the Secretary or Chairman may but is not required to pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this Act. However, prior to making any funding requests the Council Chairman shall undertake best efforts to fund such activities privately unless he or she reasonably feels such private funding would create irreconcilable conflicts or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any federal agency unless he or she provides written justification as to why private funding would create such conflict or appearance, or is otherwise impractical. To enable the Council to carry out its functions—

"(1) the Council Chairman may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he or she determines necessary to carry out the functions of the Council;

"(2) each Federal department or agency may, in their discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

"(3) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

"(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold such other meetings as deemed prudent by and at the call of the Council Chairman. Appropriate federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council.

"(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—The Council shall advise the Secretary, Chairman, and relevant Congressional transportation policy oversight committees with respect to rail transportation policy issues it deems significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims. To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the Grain Car Council. The Secretary and Chairman shall work in cooperation with the Council to provide research, technical and other reasonable support in developing any documents provided for hereby. The Council shall endeavor to develop within the private sector mechanisms to prevent or identify and effectively address obstacles to the most effective and efficient transportation system practicable. The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues within the Council structure in lieu of seeking regulatory or legislative relief, and propose whatever regulatory or legislative relief it deems appropriate in the event such efforts are unsuccessful. The Council shall include therein such recommendations as it deems appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the

Council's efforts, and such other information as it deems appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to the accuracy of information therein, Council efforts and reasonableness of Council positions and actions and any other aspects of the Council's work as they may deem appropriate. The Council may prepare other reports or develop policy statements as the Council deems appropriate. Each annual report shall cover a fiscal year and shall be submitted to the Secretary and Chairman on or before the thirty-first day of December following the close of the fiscal year. Other such reports and statements may be communicated as the Council deems appropriate.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 103 is amended by adding at the end thereof the following:

"SUBCHAPTER VI. RAIL AND SHIPPER
TRANSPORTATION ADVISORY COUNCIL

"10391. Rail and shipper advisory council.".

TITLE IV—MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER TRANSPORTATION

Subtitle A—Addition of Part B

SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49, UNITED STATES CODE.

Subtitle IV is amended by inserting after chapter 119 the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER 131—GENERAL PROVISIONS

"§13101. Transportation policy

"(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation, and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required; (C) meet the needs of shippers, receivers, passengers, and consumers; (D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (E) allow the most productive use of equipment and energy resources; (F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (G) provide and maintain service to small communities and small shippers and intrastate bus services; (H) provide and maintain commuter bus operations; (I) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (J) promote greater participation by minorities in the motor carrier system; and (K) promote intermodal transportation; and

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and (C) to ensure that Federal reform initiatives enacted by section 31138 of this title and the Bus Regulatory Reform Act of 1995 of 1982 are not nullified by State regulatory actions.

"(b) This part shall be administered and enforced to carry out the policy of this section.

"§13102. Definitions

"In this part—

"(1) 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

"(2) 'carrier' means a motor carrier, a water carrier, and a freight forwarder, and, for purposes of sections 13902, 13905, and 13906, the term includes foreign motor private carriers;

"(3) 'contract carriage' means—

"(A) for transportation provided before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, service provided pursuant to a permit issued under former section 10923 of this subtitle; and

"(B) for transportation provided on or after that date, service provided under an agreement entered into under section 14101(b) of this part;

"(4) 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

"(5) 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor carrier of property, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A));

"(6) 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor private carrier, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A));

"(7) 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

"(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

"(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

"(C) uses for any part of the transportation a carrier subject to jurisdiction under part A or part B of this subtitle; but the term does not include a person using transportation of an air carrier subject to part A of subtitle VII of this title;

"(8) 'highway' means a road, highway, street, and way in a State;

"(9) 'household goods' means—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and similar property, whether the transportation is—

"(i) requested and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling; or

"(ii) arranged and paid for by another party;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and similar property; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and similar articles; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

"(10) 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles;

"(11) 'motor carrier' means a person providing motor vehicle transportation for compensation, including foreign motor carriers;

"(12) 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

"(A) the transportation is as provided in section 13501 of this title;

"(B) the person is the owner, lessee, or bailee of the property being transported; and

"(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise;

"(13) 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service;

"(14) 'non-contiguous domestic trade' means motor-water transportation subject to jurisdiction under chapter 135 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States;

"(15) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

"(16) 'State' means a State of the United States and the District of Columbia;

"(17) 'transportation' includes—

"(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, packing, and interchange of passengers and property;

"(18) 'United States' means the States of the United States and the District of Columbia;

"(19) 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water; and

"(20) 'water carrier' means a person providing water transportation for compensation.

"§13103. Remedies are cumulative

"Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or at common law.

"CHAPTER 133—ADMINISTRATIVE PROVISIONS

"§13301. Powers

"(a) Except as otherwise specified, the Secretary of Transportation shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

"(b) The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

"(c)(1) The Secretary may subpena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpena.

"(2) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

"(d)(1) In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

"(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

"(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

"(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

"(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

"(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

"(e) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

"(f) For those provisions of this part that are specified to be carried out by the Intermodal Surface Transportation Board, the Transportation Board shall have the same powers as the Secretary has under this section.

"§13302. Intervention

"Under regulations of the Secretary of Transportation, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 of this title shall be given to interested persons.

"§13303. Service of notice in proceedings under this part

"(a) A motor carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 of this title shall designate in writing an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

"(b) A notice to a motor carrier, broker, or freight forwarder is served personally or by mail on the motor carrier, broker, or freight forwarder or on its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, broker, or freight forwarder does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

"§13304. Service of process in court proceedings

"(a) A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

"(b) A designation under this section may be changed at any time in the same manner as originally made.

"CHAPTER 135—JURISDICTION

"SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

"§13501. General jurisdiction

"The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

"(1) between a place in—

"(A) a State and a place in another State;

"(B) a State and another place in the same State through another State;

"(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

"(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

"(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

"(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

"§13502. Exempt transportation between Alaska and other States

"To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 of this title is provided in a foreign country—

"(1) neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

"(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§13503. Exempt motor vehicle transportation in terminal areas

"(a)(1) Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery;

"(B) is provided by—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

"(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

"(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 of this title when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

"(b)(1) Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery; and

"(B) is provided by a person as an agent or under other arrangement for—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a motor carrier subject to jurisdiction under this subchapter;

"(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

"(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§13504. Exempt motor carrier transportation entirely in one State

"Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

"SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"§13521. General jurisdiction

"The Transportation Board has jurisdiction over transportation insofar as water carriers are concerned—

"(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) by water carrier and motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

"(A) by motor carrier that is in the United States; and

"(B) by water carrier that is from a place in the United States to another place in the United States; and

"(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

"(A) when the transportation is by motor carrier, the transportation is provided in the United States;

"(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

"(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

"SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§13531. General jurisdiction

"(a) The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

"(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) a place in a State and another place in the same State through a place outside the State; or

"(3) a place in the United States and a place outside the United States.

"(b) Neither the Secretary nor the Transportation Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"§13541. Authority to exempt transportation or services

"(a) In any matter subject to jurisdiction under this chapter, the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title, or use this exemption authority to modify a provision of this title, when the Secretary or Transportation Board finds that the application of that provision in whole or in part—

"(1) is not necessary to carry out the transportation policy of section 13101 of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.

In a proceeding that affects the transportation of household goods described in section 13102(9)(A), the Secretary or the Transportation Board shall also consider whether the exemption will be consistent with the transportation policy set forth in section 13101 of this title and will not be detrimental to the interests of individual shippers.

"(b) The Secretary or Transportation Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Transportation Board's own initiative or on application by an interested party.

"(c) The Secretary or Transportation Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

"(d) The Secretary or Transportation Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 13101 of this title.

"(e) This exemption authority may not be used to relieve a person (except a person that would have been covered by a statutory exemption under subchapter II or IV of chapter 105 of this title that was repealed by the Interstate Commerce Commission Sunset Act of 1995) from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; or safety fitness.

"CHAPTER 137—RATES AND THROUGH ROUTES

"§13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

"(a)(1) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title for transportation or service involving—

"(i) a movement of household goods described in section 13102(9)(A) of this title, or

"(ii) a joint rate for a through movement with a water carrier in non-contiguous domestic trade,

must be reasonable.

"(2) Through routes and divisions of joint rates for such transportation or service as described in paragraph (1) (i) or (ii) must be reasonable.

"(b) When the Intermodal Surface Transportation Board finds it necessary to stop or prevent a violation of subsection (a), the Transportation Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

"§13702. Tariff requirement for certain transportation

"(a) A carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title may provide transportation or service that is—

"(1) under a joint rate for a through movement in non-contiguous domestic trade, or

"(2) for movement of household goods described in section 13102(9)(A) of this title,

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. A rate contained in a tariff shall be stated in money of the United States. The carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

"(b)(1) A carrier providing transportation or service described in paragraph (1) of subsection (a) shall publish and file with the Intermodal Surface Transportation Board tariffs containing the rates established for such transportation or service. The Transportation Board may prescribe other information that carriers shall include in such tariffs.

"(2) Carriers that publish tariffs under this subsection shall keep them open for public inspection.

"(c) The Transportation Board shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under subsection (b). The Transportation Board may prescribe specific charges to be identified in a tariff published by a carrier, but those tariffs must identify plainly—

"(1) the carriers that are parties to it;

"(2) the places between which property will be transported;

"(3) terminal charges if a carrier providing transportation or service subject to jurisdiction under subchapter III of chapter 135 of this title;

"(4) privileges given and facilities allowed; and

"(5) any rules that change, affect, or determine any part of the published rate.

"(d) The Transportation Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Transportation Board finds that action to be consistent with the public interest. Those carriers may either—

"(1) publish new tariffs that incorporate changes, or

"(2) plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection.

"(e) The Transportation Board may reject a tariff submitted to it by a carrier under subsection (b) if that tariff violates this section or regulation of the Transportation Board carrying out this section.

"(f)(1) A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published

tariff. The tariff must be available for inspection by the Transportation Board and by shippers, upon reasonable request, at the offices of the carrier and of each tariff publishing agent of the carrier.

‘‘(2) A carrier that maintains a tariff and makes it available for inspection as provided in paragraph (1) may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

‘‘(3) A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this subtitle. A carrier that does not maintain a tariff as provided in this subsection may not enforce the tariff against any individual shipper except as otherwise provided in this subtitle, and shall not transport household goods described in section 13102(9)(A).

‘‘(4) A carrier may incorporate by reference the rates, terms, and other conditions in a tariff in agreements covering the transportation of household goods (except those household goods described in section 13102(9)(A)(i)), if the tariff is maintained as provided in this subsection and the agreement gives notice of the incorporation and of the availability of the tariff for inspection by the commercial shipper.

‘‘(5) A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be filed with the Transportation Board.

‘‘§13703. Certain collective activities; exemption from antitrust laws

‘‘(a) AGREEMENTS.—

‘‘(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

‘‘(A) through routes and joint rates;

‘‘(B) rates for the transportation of household goods described in section 13102(9)(A);

‘‘(C) classifications;

‘‘(D) mileage guides;

‘‘(E) rules;

‘‘(F) divisions;

‘‘(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

‘‘(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

‘‘(2) SUBMISSION OF AGREEMENT TO TRANSPORTATION BOARD; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Transportation Board for approval and may be approved by the Transportation Board only if it finds that such agreement is in the public interest.

‘‘(3) CONDITIONS.—The Transportation Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

‘‘(4) INVESTIGATIONS.—The Transportation Board may suspend and investigate the reasonableness of any classification or rate adjustment of general application made pursuant to an agreement under this section.

‘‘(5) EFFECT OF APPROVAL.—If the Transportation Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Transportation Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

‘‘(b) RECORDS.—The Transportation Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Transportation Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

‘‘(c) REVIEW.—The Transportation Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Transportation Board under this section—

‘‘(1) approving an agreement,

‘‘(2) denying, ending, or changing approval,

‘‘(3) prescribing the conditions on which approval is granted, or

‘‘(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

‘‘(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Transportation Board, the agreement is unchanged, and the Transportation Board approves such renewal. The Transportation Board shall approve the renewal unless it finds that the renewal is not in the public interest.

‘‘(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Transportation Board under this section beginning on such effective date.

‘‘(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

‘‘(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

‘‘(2) OBLIGATION OF SHIPPER.—Nothing in this title, the Interstate Commerce Commission Sunset Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.

‘‘(g) MILEAGE RATE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 of this title may enforce collection of its mileage rates or classifications unless such carrier or forwarder maintains its own independent publication of mileage or classification which can be examined by any interested person upon reasonable request or is a participant in a publication of mileages or classifications formulated under an agreement approved under this section.

‘‘(h) SINGLE LINE RATE DEFINED.—In this section, the term ‘single line rate’ means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

‘‘§13704. Household goods rates—estimates; guarantees of service

‘‘(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

‘‘(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

‘‘(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

‘‘(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary of Transportation may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

‘‘§13705. Requirements for through routes among motor carriers of passengers

‘‘(a) A motor carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.

‘‘(b) A through route between motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 must be reasonable.

‘‘(c) When the Intermodal Surface Transportation Board finds it necessary to enforce the requirements of this section, the Transportation Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

‘‘§13706. Liability for payment of rates

‘‘(a) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

‘‘(1) of the agency and absence of beneficial title; and

‘‘(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

‘‘(b) When the consignee is liable only for rates billed at the time of delivery under subsection (a) of this section, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

“§13707. Billing and collecting practices

“(a) A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service. No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

“(b) The Transportation Board shall promulgate regulations that prohibit a motor carrier subject to jurisdiction under subchapter II of chapter 105 of this title from providing a reduction in a rate for the provision of transportation of property to any person other than—

“(1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract; or

“(2) an agent of the person paying for the transportation.

“§13708. Procedures for resolving claims involving unfiled, negotiated transportation rates

“(a) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 of this title (as in effect on the day before the effective date of this section) or subchapter I of chapter 135 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

“(1) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

“(2) with respect to the claim—

“(A) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Transportation Board or with the former Interstate Commerce Commission, as required, for the transportation service;

“(B) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

“(C) the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the former Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

“(D) such transportation rate was billed and collected by the carrier or freight forwarder; and

“(E) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under paragraph (1), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (2), such dispute shall be resolved by the Intermodal Surface Transportation Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 149 of this title or chapter 119 of this title, as such chapter was in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

“(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board .

“(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

“(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

“(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

“(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in subsection (a) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Transportation Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

“(g) NOTIFICATION OF ELECTION.—

“(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

“(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

“(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

“(B) March 5, 1994.

“(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

“(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

“(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

“(B) March 5, 1994.

“(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

“(1) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

“(2) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

“(3) if the cargo involved in the claim is recyclable materials. In this provision, ‘recyclable materials’ means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

“§13709. Additional motor carrier undercharge provisions

“(a)(1) A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based.

“(2) In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Transportation Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

“(3) If a shipper seeks to contest the charges originally billed, the shipper may request that the Transportation Board determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180

days in order to have the right to contest such charges.

"(4) Any tariff on file with the Interstate Commerce Commission on August 26, 1994, not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of the Interstate Commerce Commission Sunset Act of 1995 not required to be filed after that date is null and void beginning on that date.

"(b) If a motor carrier (other than a motor carrier providing transportation of household goods) subject to jurisdiction under subchapter I of chapter 135 of this title had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995 was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Transportation Board shall resolve the dispute.

"§13710. Alternative Procedure for Resolving Undercharge Disputes

"(a) General Rule.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation that is subject to jurisdiction of subchapter I of chapter 135 of this title or was subject to jurisdiction under subchapter II of chapter 105 of this title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between—

"(1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter, or with respect to transportation provided before the effective date of this section in accordance with chapter 107 of this title as in effect on the date the transportation service was provided by the carrier or freight forwarder applicable to such transportation service; and

"(2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) of this title or is transporting property between places described in section 13501(1) of this title for the purpose of avoiding the application of this section.

"(b) Jurisdiction of Transportation Board.—The Intermodal Surface Transportation Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Transportation Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Transportation Board shall consider—

"(1) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Transportation Board or with the Interstate Commerce Commission, as required, at the time of the movement for the transportation service;

"(2) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(3) whether the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(4) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

"(5) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

"(c) Stay of Additional Compensation.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Transportation Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

"(d) Treatment.—Subsection (a) is an exception to the requirements of section 13702, and for transportation prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995, to the requirements of sections 10761(a) and 10762 of this title as in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, relating to a filed tariff rate and other general tariff requirements.

"(e) Nonapplicability of Negotiated Rate Dispute Resolution Procedure.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13708 of this part shall not apply to such rate.

"(f) Definitions.—For purposes of this section, the term 'negotiated rate' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

"§13711. Government traffic

"A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§13712. Food and grocery transportation

"(a) Certain Compensation Prohibited.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

"(b) Sense of Congress.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"§13901. Requirement for registration

"A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is currently registered under this chapter to provide the transportation or service.

"§13902. Registration of motor carriers

"(a)(1) Except as provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

"(A) this part, the applicable regulations of the Secretary and the Intermodal Surface Transportation Board, and any safety requirements imposed by the Secretary,

"(B) the safety fitness requirements established by the Secretary under section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31128 of this title.

"(2) The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

"(3) The Secretary shall find any registrant as a motor carrier under this section to be unfit if the registrant does not meet the fitness requirements under paragraph (1) of this subsection and shall withhold registration.

"(4) The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Transportation Board, the safety requirements of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

"(b) Motor Carriers of Passengers.—

"(1) Registration of private recipients of government assistance.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(2) Registration of public recipients of governmental assistance.—

"(A) Charter transportation.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

"(i) the recipient meets the requirements of subsection (a)(1); and

"(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

"(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

"(B) Regular-route transportation.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person

objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

"(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

"(4) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Any intrastate transportation authorized under this subsection, except as provided in section 14501, shall be deemed to be transportation subject to jurisdiction under subchapter I of chapter 135 of this title until such time, not later than 30 days after the date on which a motor carrier of passengers first begins providing transportation entirely in one State pursuant to this paragraph, as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

"(5) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(6) REVOCATION OF AUTHORITY FOR INTRASTATE TRANSPORTATION.—Notwithstanding paragraph (3) of this subsection, intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

"(7) PREEMPTION OF STATE REGULATION.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135 of this title.

"(8) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

"(i) any State,

"(ii) any municipality or other political subdivision of a State,

"(iii) any public agency or instrumentality of one or more states and municipalities and political subdivisions of a State,

"(iv) any Indian tribe,

"(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which, before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

"(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

"(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

"(1) If the President of the United States, or his or her delegate, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation of property or passengers to, from, or within such foreign country, the President, or his or her delegate, may—

"(A) seek elimination of such practices through consultations; or

"(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

"(2) Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

"(3) The President, or his or her delegate, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President, or his or her delegate, determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

"(4) Unless and until the President or his or her delegate makes a determination under paragraphs (1) or (3) above, nothing in this subsection shall affect—

"(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the U.S.-Mexico border as defined at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995; or

"(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

"(5) Unless the President, or his or her delegate, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraphs (1) or (3) together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraphs (1)(B) or (3) and provide an opportunity for public comments.

"(6) The President may delegate any or all authority under this subsection to the Secretary of Transportation, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary of Transportation may issue regulations to enforce this subsection.

"(7) Either the Secretary of Transportation or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(8) This subsection shall not affect the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to fully comply with all applicable laws and regulations pertaining to fitness; safety of operations; financial responsibility; and taxes imposed by section 4481 of the Internal Revenue Code of 1994.

"§13903. Registration of freight forwarders

"(a) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder, if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Intermodal Surface Transportation Board.

"(b) The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has been registered to provide transportation as a carrier under this chapter.

"§13904. Registration of motor carrier brokers

"(a) The Secretary of Transportation shall register, subject to section 13906(b) of this title, a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135 of this title, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

"(b)(1) The broker may provide the transportation itself only if the broker also has been registered to provide the transportation under this chapter.

"(2) This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

"(c) Regulations of the Secretary shall provide for the protection of shippers by motor vehicle, to be observed by brokers.

"(d) The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

"§13905. Effective periods of registration

"(a) Each registration under section 13902, 13903, or 13904 of this title is effective from the date specified by the Secretary of Transportation and remains in effect for a period of 5 years except as otherwise provided in this section or in section 13906. The Secretary may require any carrier or registrant to provide periodic updating of carrier information.

"(b) On application of the holder, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Intermodal Surface Transportation Board, or a condition of its registration.

"(c)(1) Except on application of the holder, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after the Secretary has issued an order to the holder under section 14701 of this title requiring compliance with this part, a regulation of the Secretary, or a condition of the registration of the holder, and the holder willfully does not comply with the order.

"(2) The Secretary may act under paragraph (1) of this subsection only after giving the holder of the registration at least 30 days to comply with the order.

"(d)(1) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with

safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

‘‘(2) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier is conducting unsafe operations which are an imminent hazard to public health or property.

‘‘(3) The Secretary may suspend the registration only after giving notice of the suspension to the holder. The suspension remains in effect until the holder complies with those applicable sections or, in the case of a suspension under paragraph (2) of this subsection, until the Secretary revokes such suspension.

“§13906. Security of motor carriers, brokers, and freight forwarders

‘‘(a)(1) The Secretary of Transportation may register a motor carrier under section 13902 only if the registering carrier (including a foreign motor carrier, and a foreign motor private carrier) files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139 of this title, and the laws of the State or States in which the carrier is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the carrier continues to satisfy the security requirements of this paragraph.

‘‘(2) A motor carrier and a foreign motor private carrier and foreign motor carrier operating in the United States (when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country) shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

‘‘(3) The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

‘‘(b) The Secretary may register a person as a broker under section 13904 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

‘‘(c)(1) The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

‘‘(2) The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

‘‘(3) The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

‘‘(d) The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

‘‘(e) The Secretary shall promulgate regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation. The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

“§13907. Household goods agents

‘‘(a) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to jurisdiction under subchapter I of chapter 135 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

‘‘(b) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

‘‘(c)(1) Whenever the Secretary of Transportation has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

‘‘(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

‘‘(3) If such person does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

‘‘(4) Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

‘‘(5) Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

‘‘(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title by an agent or membership on the board of directors of any such motor carrier by an agent.

“§13908. Registration and other reforms

‘‘(a) IN GENERAL.—Within 18 months after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary, in cooperation with the States, industry groups, and other interested parties shall conduct a study to determine whether, and to what extent, the current Department of Transportation identification number system, the single State registration system under section 14505, the registration system contained in this chapter, and the financial responsibility information system under section 13906, should be modified or replaced with a single, on-line Federal system.

‘‘(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

‘‘(1) Funding for State enforcement of motor carrier safety regulations.

‘‘(2) Whether the existing single State registration system is duplicative and burdensome.

‘‘(3) The justification and need for collecting the statutory fee for such system under section 145-5(c)(2)(B)(iv).

"(4) The public safety.

"(5) The efficient delivery of transportation services.

"(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

"(c) FEE SYSTEM.—The Secretary may consider whether to establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a).

"(d) DEADLINE.—The Secretary shall conclude the study under this section within 18 months and report to Congress on the findings, together with recommendations for any appropriate legislative changes that may be needed.

"CHAPTER 141—OPERATIONS OF CARRIERS

"SUBCHAPTER I—GENERAL REQUIREMENTS

"§14101. Providing transportation and service

"(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

"(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title may enter into a contract with a shipper, other than a shipper of household goods described in section 13102(9)(A), to provide specified services under specified rates and conditions. If the shipper and carrier in writing expressly waives any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under that contract shall not be subject to those provisions of this part, and may not be subsequently challenged on the ground that it violates such provision. The parties may not waive the provisions governing registration, insurance, or safety fitness. The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"§14102. Leased motor vehicles

"(a) The Secretary of Transportation may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

"(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

"(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

"(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

"(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

"(b) The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

"§14103. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

"§14104. Household goods carrier operations

"(a)(1) The Secretary of Transportation may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title. In establishing performance standards under this paragraph, the Secretary shall take into account at least the following:

"(A) The level of performance that can be achieved by a well-managed motor carrier transporting household goods.

"(B) The degree of harm to individual shippers which could result from a violation of the regulation.

"(C) The need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations.

"(D) Service requirements of the carriers.

"(E) The cost of compliance in relation to the consumer benefits to be achieved from such compliance.

"(F) The need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(3) Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b)(1) Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

"(2) Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

"SUBCHAPTER II—REPORTS AND RECORDS

"§14121. Definitions

"In this subchapter—

"(1) 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

"(2) 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 of this title that performs a service, or engages in activities, related to transportation under this part.

"§14122. Records: form; inspection; preservation

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

"(b) The Secretary or Transportation Board, or an employee designated by the Secretary or Transportation Board, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

"(2) inspect and copy any record of—

"(A) a carrier, broker, or association; and

"(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Transportation Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

"(c) The Secretary or Transportation Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers.

"§14123. Reports by carriers, brokers, and associations

"(a) The Secretary—

"(1) shall require class I and class II motor carriers (as defined by the Secretary) to file annual reports with the Secretary, including a detailed balance sheet and income statement, information related to the ownership or lease of equipment operated by the motor carrier, and data related to the movement of traffic and safety performance, the form and substance of which shall be prescribed by the Secretary and may vary for different classes of motor carriers;

"(2) may require carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations; and

"(3) shall have the authority upon good cause shown to exempt any party from the financial reporting requirements prescribed by subsection (a)(1) or (a)(2).

"(b) Any request for exemption under paragraph (3) of subsection (a) must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise

publicly available. Exemptions shall only be granted for one-year periods.".

"(c) The Intermodal Surface Transportation Board may require carriers to file special reports containing information needed by the Transportation Board.

"CHAPTER 143—FINANCE

"§14301. Security interests in certain motor vehicles

"(a) In this section—

"(1) 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

"(2) 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

"(3) 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

"(4) 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

"(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

"(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

"(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

"(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

"§14302. Pooling and division of transportation or earnings

"(a) A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Intermodal Surface Transportation Board under this section.

"(b) The Transportation Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers, if the carriers involved assent to the pooling or division and the Transportation Board finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(c)(1) Any motor carrier of property may apply to the Transportation Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Transportation Board not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Transportation Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Transportation Board determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable. If the Transportation Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Transportation Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Transportation Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable.

"(2) In the case of an application for Transportation Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"(3) The Transportation Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

"(d) The Transportation Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

"(e) The Transportation Board may begin a proceeding under this section on its own initiative or on application.

"(f) A carrier may participate in an arrangement approved by or exempted by the Transportation Board under this section without the approval of any other federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

"(g) Any agreements in operation under the provisions of this title on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 that are succeeded by this section shall remain in effect until further order of the Transportation Board.

"§14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

"(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 of this title may be carried out only with the approval of the Intermodal Surface Transportation Board:

"(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

"(3) Acquisition of control of a carrier by any number of carriers.

"(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

"(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

"(b) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

"(1) The effect of the proposed transaction on the adequacy of transportation to the public.

"(2) The total fixed charges that result from the proposed transaction.

"(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

"(c) Within 30 days after an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or (2) reject the application if it is incomplete.

"(d) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (c).

"(e) The Board shall conclude evidentiary proceedings by the 240th day after notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(f) A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the

transaction without the approval of a State authority. A carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(g) This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

"CHAPTER 145—FEDERAL-STATE RELATIONS

"§14501. Federal authority over intrastate transportation

"(a) Motor Carriers of Passengers.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provisions having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

"(b) Freight Forwarders and Transportation Brokers.—

"(1) General rule.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or transportation broker.

"(2) Continuation of Hawaii's authority.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

"(c) Motor Carriers of Property.—

"(1) General rule.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4) of this title) or any motor private carrier or any transportation intermediary (as defined in sections 13102(1) and 13102(7) of this subtitle) with respect to the transportation of property.

"(2) Matters not covered.—Paragraph (1)—

"(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

"(B) does not apply to the transportation of household goods; and

"(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price and related conditions of for-hire motor vehicle transportation by a tow truck, if such transportation is performed—

"(i) at the request of a law enforcement agency; or

"(ii) without the prior consent or authorization of the owner or operator of the motor vehicle.

"(3) State standard transportation practices.—

"(A) Continuation.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

"(i) uniform cargo liability rules,

"(ii) uniform bills of lading or receipts for property being transported,

"(iii) uniform cargo credit rules, or

"(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

"(B) Requirements.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

"(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary of Transportation or the Intermodal Surface Transportation Board under this part; and

"(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

"(C) Election.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

"(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

"§14502. Tax discrimination against motor carrier transportation property

"(a) In this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Secretary of Transportation, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title; and

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

"(3) Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§14503. Withholding State and local income tax by certain carriers

"(a)(1) No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) In this subsection 'employee' has the meaning given such term in section 31132 of this title.

"(b)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

"(2) A water carrier providing transportation subject to the jurisdiction of the Secretary of Transportation under subchapter II of chapter 135 of this title shall file income tax information returns and other reports only with—

"(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

"(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

"(3) This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

"(c) A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"§14504. State tax

"A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

"(1) a passenger traveling in interstate commerce by motor carrier;

"(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

"(3) the sale of passenger transportation in interstate commerce by motor carrier; or

"(4) the gross receipts derived from such transportation.

"§14505. Single State registration system

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

"(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this part—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

"(i) shall require that the registration State issue a receipt, in a form, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this subsection and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this paragraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this subsection that—

"(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates,

"(II) minimizes the costs of complying with the registration system, and

"(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

"§14701. General authority

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may begin an investigation under this part on the Secretary's or the Transportation Board's own initiative or on complaint. If the Secretary or Transportation Board, as applicable finds that a carrier or broker is violating this part, the Secretary or Transportation Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139 of this title, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Transportation Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

"(b) A person, including a governmental authority, may file with the Secretary or Transportation Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Transportation Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

"(c) A formal investigative proceeding begun by the Secretary or Transportation Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the third year after the date on which it was begun.

"§14702. Enforcement by the regulatory authority

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may bring a civil action—

"(1) to enforce section 14103 of this title; or

"(2) to enforce this part, or a regulation or order of the Secretary or Transportation Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

"(b) In a civil action under subsection (a)(2) of this section—

"(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

"(c) The Transportation Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

"§14703. Enforcement by the Attorney General

"The Attorney General may, and on request of either the Secretary of Transportation or Intermodal Surface Transportation Board shall, bring court proceedings (1) to enforce this part or a regulation or order of the Secretary or Transportation Board or terms of registration under this part and (2) to prosecute a person violating this part or a regulation or order of the Secretary or Transportation Board or term of registration under this part.

"§14704. Rights and remedies of persons injured by carriers or brokers

"(a) A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title does not obey an order of the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

"(b)(1) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under section 13702 of this title.

"(2) A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

"(c)(1) A person may file a complaint with the Transportation Board or the Secretary, as applicable, under section 14701(b) of this title or bring a civil action under subsection (b) (1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title.

"(2) When the Transportation Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Transportation Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Transportation Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Transportation Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not

pay the amount awarded by the date payment was ordered to be made.

"(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Transportation Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Transportation Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Transportation Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier or broker is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§14705. Limitation on actions by and against carriers

"(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

"(b) A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 of this title and an election to file a complaint with the Intermodal Surface Transportation Board or Secretary of Transportation, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

"(c) A person must file a complaint with the Transportation Board or Secretary, as applicable, to recover damages under section 14704(b)(2) of this title within 2 years after the claim accrues.

"(d) The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) of this section and the 2-year period under subsection (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) A person must begin a civil action to enforce an order of the Transportation Board or Secretary against a carrier for the payment of money within one year after the date the order required the money to be paid.

"(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for overpayment of that rate, or (3) deduction made under section 3726 of title 31, whichever is later.

"(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§14706. Liability of carriers under receipts and bills of lading

"(a)(1) A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 of this title are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

"(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

"(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

"(c)(1) A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shippper or by a mutual written agreement between the carrier and shipper.

"(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

"(d)(1) A civil action under this section may be brought against a delivering carrier (other than a rail carrier) in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

"(2)(A) A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) A civil action under this section may be brought in a United States district court or in a State court.

"(C) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

"(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"(f) A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 of this title may petition the Transportation Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

"(g) Within one year after enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary shall deliver to the appropriate Congressional authorizing committees a report on the benefit of revising or modifying the terms or applicability of this section, together with any proposed legislation to implement the study's recommendations, if any.

"§14707. Private enforcement of registration requirement

"(a) If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

"(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Secretary of Transportation and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a) of this section. The Secretary may notify the district court in which the action is pending

that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

"(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

"§14708. Dispute settlement program for household goods carriers

"(a)(1) As a condition of registration under section 13902 or 13903 of this title, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title must agree to offer to shippers neutral arbitration as a means of settling disputes between such carriers and shippers of household goods concerning the transportation of household goods.

"(b)(1) The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

"(4) Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary of Transportation may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

"(5) No fee for instituting an arbitration proceeding may be charged the shipper; except that, if the arbitration is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting an arbitration proceeding. In any case in which a shipper is charged a fee under this paragraph for instituting an arbitration proceeding and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

"(6) The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises.

"(7) The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905 of this title.

"(d) In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

"(e) In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute through arbitration under this section; or

"(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered.

"(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 13102(9)(A) of this title.

"§14709. Tariff reconciliation rules for motor carriers of property

"Subject to review and approval by the Intermodal Surface Transportation Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 of this part or sections 10761 and 10762 of this title prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a filed tariff.

"CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

"§14901. General civil penalties

"(a) A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title or transportation by a foreign carrier registered under section 13902 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed, (4) does not comply with section 13901 of this title, or (5) does not comply with section 13902(c) of this title is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who does not have authority under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

"(b) A person subject to jurisdiction under subchapter I of chapter 135 of this title, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

"(c) In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(d) If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Transportation Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

"(e) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

"(f) A person, or an officer, employee, or agent of that person, that knowingly pays accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 13707 of this title is liable to the injured party or the United States for a civil penalty of not less

than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation.

"(g) Trial in a civil action under subsections (a) through (f) of this section is in the judicial district in which (1) the carrier or broker has its principal office, (2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred, (3) the violation occurred, or (4) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"§14902. Civil penalty for accepting rebates from carrier

"A person—

"(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

"(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702 of this title,

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

"§14903. Tariff violations

"(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 of this title at less than the rate in effect under section 13702 of this title shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702 of this title, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

"(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

"§14904. Additional rate violations

"(a) A person, or an officer, employee, or agent of that person, that—

"(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135 of this title; or

"(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702 of this title,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"(b)(1) A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 of this title at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"§14905. Penalties for violations of rules relating to loading and unloading motor vehicles

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(b) Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"§14906. Evasion of regulation of carriers and brokers

"A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"§14907. Record keeping and reporting violations

"A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Transportation Board, as applicable, requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Transportation Board shall be fined not more than $5,000.

"§14908. Unlawful disclosure of information

"(a)(1) A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

"(2) A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

"(b) This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title from giving information—

"(1) in response to legal process issued under authority of a court of the United States or a State;

"(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

"(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"§14909. Disobedience to subpenas

"A person not obeying a subpena or requirement of the Secretary of Transportation or the Intermodal Surface Transportation Board to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than one year, or both.

"§14910. General criminal penalty when specific penalty not provided

"When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 of this title or a condition of a registration under section 13902 of this title, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

"§14911. Punishment of corporation for violations committed by certain individuals

"An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

"§14912. Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135 of this title.

"(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

"§14913. Conclusiveness of rates in certain prosecutions

"When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903 of this title. A departure, or offer to depart, from that published or filed rate is a violation of those sections.".

Subtitle B—Motor Carrier Registration and Insurance Requirements

SEC. 451. AMENDMENT OF SECTION 31102.

Section 31102(b)(1) is amended by—

(1) striking "and" at the end of subparagraph (O);

(2) striking the period at the end of subparagraph (P) and inserting a semicolon and "and"; and

(3) adding at the end thereof the following:

"(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146 of this title, or regulations issued thereunder."

SEC. 452. AMENDMENT OF SECTION 31138.

(a) Section 31138(c) is amended by adding at the end thereof the following new paragraph:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(b) Section 31138(e) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following:

"(4) providing mass transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; Provided That, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.".

(c) Section 31139(e) is amended by adding at the end thereof the following:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

SEC. 453. SELF-INSURANCE RULES.

The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.

Section 31144 is amended by—

(1) striking "In cooperation with the Interstate Commerce Commission, the" in the first sentence of subsection (a) and inserting "The";

(2) by striking "sections 10922 and 10923" in that sentence and inserting "section 13902";

(3) striking "and the Commission" in subsection (a)(1)(C); and

(4) striking subsection (b) and inserting the following:

"(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall—

"(1) find a registrant as a motor carrier unfit if the registrant does not meet the safety fitness requirements established under subsection (a) of this section; and

"(2) withhold registration.".

TITLE V—AMENDMENTS TO OTHER LAWS

SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by—

(1) striking "Interstate Commerce Commission," and inserting "Intermodal Surface Transportation Board,"; and

(2) striking "promulgate, within ninety days after the date of enactment of this Act," and inserting "maintain".

SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board" each place it appears;

(2) striking "Commission", wherever it appears and inserting "Transportation Board"; and

(3) striking "Commission's" in subsection (b) and inserting "Transportation Board's".

SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.

Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking "Interstate Commerce Commission," and inserting "Intermodal Surface Transportation Board,".

SEC. 504. ANIMAL WELFARE ACT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board".

SEC. 505. TITLE 11, UNITED STATES CODE.

(a) Section 1164 of title 11, United States Code, is amended by striking "Commission" and inserting "Intermodal Surface Transportation Board".

(b) Section 1170 of title 11, United States Code, is amended by—

(1) striking "Commission" the first time it appears in subsection (b) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears and inserting "Transportation Board".

(c) Section 1172 of title 11, United States Code, is amended by—

(1) striking "Commission" the first time it appears in subsection (b) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears and inserting "Transportation Board".

SEC. 506. CLAYTON ACT.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in the last sentence of section 7 (15 U.S.C. 18) and inserting "Intermodal Surface Transportation Board";

(2) inserting a comma and "Transportation Board," after "such Commission" in the last sentence of that section;

(3) striking "Interstate Commerce Commission" in the first sentence of section 11(a) (15 U.S.C. 21) and inserting "Intermodal Surface Transportation Board"; and

(4) striking "Interstate Commerce Commission" in section 16 (15 U.S.C. 26) and inserting "Intermodal Surface Transportation Board".

SEC. 507. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in section 621(b)(4) (15 U.S.C. 1681s) and inserting "Intermodal Surface Transportation Board";

(2) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part;" in section 621(b)(4) (15 U.S.C. 1681s) after "those Acts";

(3) striking "Interstate Commerce Commission" in section 704(a)(4) (15 U.S.C. 1691c) and inserting "Intermodal Surface Transportation Board";

(4) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part" in section 704(a)(4) (15 U.S.C. 1691c) after "those Acts";

(5) striking "Interstate Commerce Commission" in section 814(b)(4) (15 U.S.C. 1692l) and inserting "Intermodal Surface Transportation Board"; and

(6) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part" in section 814(b)(4) (15 U.S.C. 1692l) after "those Acts".

SEC. 508. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in the first sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting "Intermodal Surface Transportation Board";

(2) striking "Commission" in the last sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting "Intermodal Surface Transportation Board"; and

(3) striking "Interstate Commerce Commission" in section 9(b) (16 U.S.C. 1248(d)) and inserting "Intermodal Surface Transportation Board".

SEC. 509. TITLE 18, UNITED STATES CODE.

Section 6001 of title 18, United States Code, is amended by striking "Interstate Commerce Commission" in subsection (1) and inserting "Intermodal Surface Transportation Board".

SEC. 510. INTERNAL REVENUE CODE OF 1986.

(a) Section 3231 of the Internal Revenue Code of 1986 (26 U.S.C. 3231) is amended by—

(1) striking "Interstate Commerce Commission" in subsection (a) and inserting "Intermodal Surface Transportation Board"; and

(2) striking subsection (g) and inserting the following:

"(g) CARRIER.—For purposes of this chapter, the term 'carrier' means a rail carrier providing transportation subject to chapter 105 of title 49, United States Code.".

(b) Section 7701(a) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)) is amended by—

(1) striking "Federal Power Commission" in paragraph (33)(B) and inserting "Federal Energy Regulatory Commission";

(2) striking "Interstate Commerce Commission" in paragraph (33)(C)(i) and inserting "Intermodal Surface Transportation Board";

(3) striking "Interstate Commerce Commission" in paragraph (33)(C)(ii) with "Federal Energy Regulatory Commission";

(4) striking "Interstate Commerce Commission under subchapter III of chapter 105" in paragraph (33)(F) and inserting "Secretary of Transportation under subchapter II of chapter 135";

(5) striking "subchapter I of" in paragraph (33)(G); and

(6) striking "subchapter I of" in the first sentence of paragraph (33)(H).

SEC. 511. TITLE 28, UNITED STATES CODE.

(a) The heading of chapter 157 of part VI of title 28, United States Code, is amended by striking "INTERSTATE COMMERCE COMMISSION" and inserting "INTERMODAL SURFACE TRANSPORTATION BOARD".

(b) Section 2321 of title 28, United States Code, is amended by—

(1) striking "Commission's" in the section caption and inserting "Intermodal Surface Transportation Board's"; and

(2) striking "Interstate Commerce Commission" in subsections (a) and (b) and inserting "Intermodal Surface Transportation Board".

(c) Section 2323 of title 28, United States Code, is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission", wherever it appears, and inserting "Transportation Board".

(d) Section 2341 of title 28, United States Code, is amended by—

(1) striking "Interstate Commerce Commission" in paragraph (3)(A);

(2) striking "and" in paragraph (3)(C);

(3) striking "Act." in paragraph (3)(D) and inserting "Act; and"; and

(4) inserting after paragraph (3)(D) the following:

"(E) the Transportation Board, when the order was entered by the Intermodal Surface Transportation Board.".

(e) Section 2342 of title 28, United States Code, is amended by—

(1) inserting "or pursuant to part B of subtitle IV of title 49, United States Code" at the end of paragraph (3)(A); and

(2) striking paragraph (5) and inserting the following:

"(5) all rules, regulations, or final orders of the Intermodal Surface Transportation Board made reviewable by section 2321 of this title; and".

SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of" in paragraph (2)(C) and inserting "part B of"; and

(2) striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of" in paragraph (3) and inserting "part B of".

SEC. 513. TITLE 39, UNITED STATES CODE.

(a) Section 5005 of title 39, United States Code, is amended by striking "Interstate Commerce Commission" in subsection (b)(3) and inserting "Intermodal Surface Transportation Board".

(b) Section 5203 of title 39, United States Code, is amended by—

(1) striking subsection (f) and redesignating subsection (g) as subsection (f); and

(2) striking "Commission" in subsection (f), as redesignated, and inserting "Intermodal Surface Transportation Board".

(c) Section 5207 of title 39, United States Code, is amended by—

(1) striking "Interstate Commerce Commission", in both the section caption and subsection (a), and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever it appears and inserting "Transportation Board".

(d) Section 5208 of title 39, United States Code, is amended by—

(1) striking "Commission's" in subsection (a) and inserting "Transportation Board's"; and

(2) striking "Commission" wherever it appears and inserting "Transportation Board".

(e) The index for chapter 52 of title 39, United States Code, is amended by striking out the items relating to section 5207 and inserting in lieu thereof the following:

"5207. Intermodal Surface Transportation Board to fix rates." ...

SEC. 514. ENERGY POLICY ACT OF 1992.

Section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369) is amended by striking "Interstate Commerce Commission" in subsections (a) and (d) and inserting "Intermodal Surface Transportation Board".

SEC. 515. RAILWAY LABOR ACT.

Section 151 of the Railway Labor Act (45 U.S.C. 151) is amended by—

(1) striking "any express company, sleeping-car company, carrier by railroad, subject to" in the first paragraph and inserting "any railroad subject to";

(2) striking "Interstate Commerce Commission" in the first and fifth paragraphs and inserting "Intermodal Surface Transportation Board"; and

(3) striking "Commission", wherever it appears in the fifth paragraph and inserting "Intermodal Surface Transportation Board".

SEC. 516. RAILROAD RETIREMENT ACT OF 1974.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by—

(1) striking subsection (a)(1)(i) and inserting: "(i) any carrier by railroad subject to chapter 105 of title 49, United States Code;";

(2) striking "Interstate Commerce Commission" in subsection (a)(2)(ii) and inserting "Intermodal Surface Transportation Board";

(3) striking "Board," in subsection (a)(2)(ii) and inserting "Railroad Retirement Board,"; and

(4) inserting "Intermodal Surface Transportation Board," after Interstate Commerce Commission," in the first sentence of subsection (o).

SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by—

(1) striking "Interstate Commerce Commission" in the second sentence of paragraph (a) and inserting "Intermodal Surface Transportation Board";

(2) striking "Board," in the second sentence of paragraph (a) and inserting "Railroad Retirement Board,"; and

(3) striking paragraph (b) and inserting the following:

"(b) The term 'carrier' means a carrier by railroad subject to chapter 105 of title 49, United States Code.".

(b) Section 2(h)(3) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Board," and inserting "Railroad Retirement Board,".

SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.

Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by striking "Commission", wherever it appears in subsections (a) and (b), and inserting "Intermodal Surface Transportation Board".

SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.

Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by—

(1) striking "Commission" in subsection (d)(1)(A) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears in paragraph (1) or (3) of subsection (d), and in subsections (f) and (g), and inserting "Transportation Board".

SEC. 520. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.

Section 510 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 830) is amended by striking "section 20a of the Interstate Commerce Act (49 U.S.C. 20a)" and inserting "section 11301 of title 49, United States Code".

SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended by striking "Interstate Commerce Commission" wherever it appears in subsections (a) and (c) and inserting "Intermodal Surface Transportation Board".

SEC. 522. MERCHANT MARINE ACT, 1920.

(a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C. App. 867) is amended by—

(1) striking "Interstate Commerce Commission" in both places that it appears and inserting "Intermodal Surface Transportation Board"; and

(2) striking "commission" and inserting "board".

(b) Section 28 of the Merchant Marine Act, 1920 (46 U.S.C. App. 884) is amended by—

(1) striking "Interstate Commerce Commission" where it first appears and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Interstate Commerce Commission" wherever else it appears and inserting "Transportation Board".

SEC. 523. SERVICE CONTRACT ACT OF 1965.

Section 356(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)), is amended by striking "where published tariff rates are in effect".

SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Pub. L. 103–305) is amended by striking all after "subsection (c)" and inserting "shall not take effect as long as section 11501(g)(2) of title 49, United States Code, applies to that State.".

TITLE VI—AUTHORIZATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated—

(1) for the closedown of the Interstate Commerce Commission and severance costs for Interstate Commerce Commission personnel, regardless of whether those severance costs are incurred by the Commission or by the Intermodal Surface Transportation Board, the balance of the $13,379,000 appropriated to the Commission for fiscal year 1996, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996;

(2) for the operations of the Intermodal Surface Transportation Board for fiscal year 1996, $8,421,000, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board; and

(3) for the operations associated with functions transferred from the Interstate Commerce Commission to the Intermodal Surface Transportation Board under this Act, $12,000,000 for each of the fiscal years 1997 and 1998, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board.

TITLE VII—EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on January 1, 1996.

PRIVILEGE OF THE FLOOR

Mr. PRESSLER. Madam President, I ask unanimous consent that Ellen D. Hanson, a detailee from the Interstate Commerce Commission to the Committee on Commerce, Science, and Transportation, be granted floor privileges during consideration of S. 1396.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, I rise to begin the full Senate's consideration of S. 1396, the Interstate Commerce Commission Sunset Act of 1995. I am very pleased to be joined in this effort by the bill's coauthor and comanager, Senator EXON. This legislation is also cosponsored by Senator BURNS, HOLLINGS, INOUYE, HUTCHINSON, and KASSEBAUM. It is a bipartisan bill and I urge my colleagues' bipartisan support in its swift passage.

LEGISLATIVE HISTORY

Introduced on November 3, 1995, this legislation is in direct response to the fiscal year 1996 budget resolution which assumes the elimination of the Interstate Commerce Commission [ICC] and the fiscal year 1996 Department of Transportation appropriations bill, H.R. 2002, which provides no funding for the ICC effective December 31, 1995—Public Law 104-50. It is the product of nearly a year's worth of bipartisan study, discussion, and work.

S. 1396 addresses what is fast approaching an emergency situation, the imminent, congressionally mandated shutdown of the ICC, in just over a month. However, it does so in a manner that embodies a reasonable oversight structure for our Nation's surface transportation industries. The bill would eliminate scores of unnecessary regulatory provisions in a balanced manner, yet preserve necessary core regulations and allow for continued protection of shippers and the consuming public.

This legislation would sunset two Federal agencies, the Interstate Commerce Commission [ICC] and the Federal Maritime Commission [FMC]. The ICC would terminate effective January 1, 1996, and the FMC would terminate 1 year later, January 1, 1997. The bill would repeal over 70 obsolete ICC regulatory functions and transfer residual functions partly to a newly established independent Intermodal Surface Transportation Board [Board] within DOT and partly to the Secretary of Transportation. When the FMC sunsets in 1997, its remaining functions would be transferred to the new Board.

S. 1396 reflects a board consensus, as demonstrated by the Commerce Committee's unanimous vote reporting it during its November 9 executive session. That consensus is likewise reflected by the overwhelming 417 to 8 vote approving a similar House bill on November 14. These votes are the expression of the underlying agreement on fundamental substance that has emerged on both sides of the Hill and both sides of the aisle during the past year.

Madam President, it is imperative that this bill be approved promptly if we are to authorize an orderly ICC sunset and identify which functions should be continued and by what agency or agencies, within the constraints of the funding approved. Once authorized, the timely shutdown of our Nation's oldest regulatory agency will be ensured. It is likewise imperative that the bill's careful consensus structure not be undone by ill-considered amendments.

BACKGROUND

I do want to briefly explain some of the underlying philosophy that went into the drafting of S. 1396.

Throughout the process, Senator EXON and I have worked together very closely. In fact, much of this legislation initially was written by my good friend. Over the months, much compromise and cooperation have produced what I feel is a balanced bill, addressing the immediate and compelling needs driving this legislation.

Our staff members and those of other committee members have collaborated throughout the process. Many long hours have been spent in joint meetings with various interest groups and constituents who have raised concerns or urged revisions to the bill. We have worked very hard to address legitimate concerns, and have made numerous changes and revisions throughout the process in an effort to address those concerns. However, as hard as we have worked to please all parties, our policy decisions ultimately were driven by the need to produce a bill which could be passed and signed into law as soon as possible.

Madam President, this is historic legislation. The ICC is our oldest independent regulatory agency. Established in 1887—108 years ago—it was originally created to protect shippers from the monopoly power of the railroad industry. Throughout subsequent years, the ICC's regulatory responsibilities were broadened and strengthened, and expanded to other modes. However, in more recent years, particularly in the 1980's, a series of regulatory reform bills significantly deregulated the surface transportation industries, reducing the ICC's authority.

Even with the considerable deregulation of the surface transportation industries, the ICC continues to maintain a formidable regulatory presence. The ICC determines policy through its rulemaking and adjudicative proceedings to ensure the effective administration of the Interstate Commerce Act [ICA], related statutes, and regulations. The ICC maintains jurisdiction over the rail industry, certain pipelines, barge operators, bus lines, freight forwarders, household goods movers, and approximately 60,000 for-hire motor carriers. Yet its remaining functions can and should continue to be reduced. The same could be said about every Government agency. Less Government regulation would be better. S. 1396 moves us significantly in that direction.

In my view, the positive and necessary adjudicatory role of the ICC should not simply cease to exist at the end of this year. Indeed, the ICC has performed and continues to perform important functions. For example, my home State of South Dakota would today have hundreds of miles less rail service than we presently enjoy if it were not for the abandonment public interest review authority of the ICC. Indeed, rail service to many smaller communities throughout the country might not exist without the work of the ICC.

As I stated when I introduced this bill, budget constraints and appropriations legislation which terminate the agency's functions at the end of this year render moot any debate over whether or not we should keep the ICC. Given the realities of the budget situation, the issue is not whether the ICC should be terminated, but how it will be dismantled.

Therefore, we are tasked with determining what ICC functions can continue to be effectively performed by a successor with a very limited budget. S. 1396 provides a reasoned approach designed to ensure continued protections against industry abuse while at the same time assure the economic efficiencies of our Nation's surface transportation system can continue.

Specifically, this legislation would sunset the ICC and transfer its necessary residual functions to an independent Board within the DOT. The Board would administer the residual regulations over rail carriers and pipelines and provide limited adjudicatory oversight over the motor carrier industry. The Secretary of Transportation would inherit the residual nonadjudicatory functions governing the motor carrier industry.

The overall approach taken in this legislation was to limit its scope to the most efficient and simplest sunset and transfer bill, as opposed to a wholesale rewrite of transportation policy. Numerous unnecessary functions were eliminated. In transferring the essential functions that remain, some changes to these functions also had to be made due to the budget constraints which will confront the successor agency. While some also advocated a number of changes I considered to be far more regulatory in nature than I could support, I also recognize those concerns remain.

For example, I am particularly concerned about the concerns of small rail shippers and operators in light of continuing industry trends toward overwhelming industry concentration. Some have urged us to reregulate the rail industry to remedy these concerns. They argue that since the Staggers Act greatly deregulated the rail industry, shippers have been faced with difficult if not impossible relief mechanisms. They point out that the potential for shipper abuse increases with industry concentration. Their argument merit our consideration. However, I am not convinced a return to a pre-Staggers approach is the answer.

Even though I voted against the Staggers Act 15 years ago, I must say it has proved to be extraordinarily successful in reviving a failing rail industry. It generally has had a positive impact on shippers and industry alike. Therefore, at this point, it would be unsound policy to attempt to reregulate, without a clearer identification of the problems and reasonable belief the proposed regulations would remedy those problems.

At the same time, we have attempted to address a few very critical shipper concerns in those areas in which the ICC's current administrative procedures do not enable a shipper to even bring a legitimate grievance and receive an effective remedy. For example, S. 1396 would instruct the new Board to complete the ICC's pending noncoal rate guidelines proceeding so that smaller shippers have a practical procedure available in which to bring a rate case.

Some in the rail industry say this is reregulatory. I strongly disagree. If the mechanisms available under the Interstate Commerce Act are so cumbersome and cost prohibitive that a shipper cannot afford to seek a remedy—and in fact, the ICC has recognized this for the 10 years in which it has attempted to provide an alternative procedure—isn't it our duty to direct the new Board to ensure the ICA is administered effectively? Yes, it is.

SUMMARY OF LEGISLATION

Let me now turn to an overview of the bill's main provisions:

As a general principle, S. 1396 continues the deregulation theme of the past 15 years by providing further regulatory reductions in the surface transportation industries. Overall, the bill is designed to repeal unnecessary regulations and authorize the transfer of residual functions to DOT. As I previously mentioned, many broader transportation policy proposals viewed by the committee to be reregulatory were not included in this bill. The committee intentionally limited the bill to matters related to sunsetting the ICC and FMC and transferring essential functions to a successor.

1. GOVERNMENTAL EFFICIENCY AND SAVINGS

In response to the increasing emphasis on intermodalism and providing seamless transportation via rail, motor, and water modes in the transportation industry, the bill proposes to house the remaining Federal Government oversight of these transportation modes within a single agency with the expertise and perspective to view the transportation industry as increasingly intermodal. Consolidating remaining ICC and FMC functions within the Board accomplishes this goal. Further, by placing the Board within DOT, the Board would be relieved of separate administrative costs currently borne by both the ICC and the FMC.

2. RAIL TRANSPORTATION

Beyond weeding out outdated and unnecessary provisions, the bill generally does not attempt to substantively redesign rail regulation. Rather, it would preserve the careful balance put in place by the Railroad Revitalization and Regulatory Reform Act of 1976 and the Staggers Act of 1980 that have led to a dramatic revitalization of the rail industry while protecting significant shipper and national interests.

The bill would eliminate many outdated, unnecessary, and burdensome regulatory requirements and restrictions on the rail industry. These include, for example, the elimination of all regulation of rail passenger transportation, all tariff filings, tariffs for nonagricultural commodities, special provisions favoring recyclable commodities, and restrictions against carriers transporting their own commodities.

S. 1396 would retain those provisions needed to preserve an efficient national rail network comprised of numerous individual carriers. These include Federal regulatory oversight of line constructions, line abandonments, line sales, leases, and trackage rights, mergers, and other consolidations—under a broad public interest standard and with ongoing regulatory oversight—car supply and interchange, antitrust immunity for certain collective activities—including pooling of equipment and services—competitive access, financial assistance, feeder line development, emergency service orders, and recordation of equipment liens.

The bill would also retain provisions that are necessary to protect rail shippers. These include the common carrier obligation, regulatory oversight of the reasonableness of rail practices, maximum rate regulation for captive traffic, advance notice of rate increases, and rate tariffs for agricultural commodities and fertilizer.

3. MOTOR CARRIER TRANSPORTATION

With regard to motor carrier transportation, S. 1396 would eliminate all vestiges of restrictive entry barriers, based either on a gauging of public demand or need for the service or on protecting existing carriers in a market. However, the bill would retain needed safety oversight and insurance requirements, by converting the existing ICC licensing program into a DOT-administered registration program based solely on a carrier's fitness to operate.

The bill would eliminate the regulatorily created distinction between common and contract motor carriers. Such categorizations have lost their meaning, because most carriers now operate in a dual capacity. Under the bill, all motor carriers would have a common carrier obligation, but would be free to contract for individual shipments.

The bill would eliminate tariffs and rate regulation for general trucking. Such regulation, introduced in the 1930's when trucking was a new and struggling industry, has outlived all usefulness. The trucking industry today is a mature, highly competitive industry in which competition disciplines rates far better than tariff filing and regulatory intervention. Only two specialized categories of trucking operations would still require tariffs and be subject to potential rate regulation. These are residential household goods movements and certain joint motor-water shipments involving Alaska, Hawaii, or U.S. territories—where the water portion of the movement is generally not as competitive and where advance notice and certainty of rates is particularly needed.

S. 1396 would retain the collective activity provisions that allow trucking companies to pool and coordinate their services. It would also retain the existing useful background commercial rules for the trucking industry, involving such matters as owner-operator leasing, lumping, and cargo liability.

While the Federal Government would establish the background rules applicable to trucking operations, the ICC's traditional function of informally resolving disputes in these areas would not be continued. The bill enables aggrieved parties to take such disputes directly to the courts.

4. HOUSEHOLD GOODS TRANSPORTATION

The bill would retain special regulatory provisions for residential household goods movements in view of the special consumer impacts associated with them. Because the individual householder moves infrequently, usually has little market information about such moves, and generally lacks bargaining power, the householder has little self-help ability in a transaction with a large personal impact. To prevent unfair rate advantages and abuses against this least-sophisticated class of shippers, the bill would retain tariff and rate-reasonableness requirements for residential household goods moves. It would prohibit carriers from circumventing fair and uniform rates for residential moves by offering contract rates when dealing directly with the householder. The bill would retain the highly successful binding-estimate provisions applicable to household goods moves.

Because the ICC's informal dispute-resolution services would no longer be available, the bill would require household goods carriers to offer impartial arbitration of disputes arising out of individual residential moves. This would provide an inexpensive and effective means of dealing with the typical household goods loss or damage claim, which is often so small that any litigation requirement becomes unduly expensive and burdensome.

5. INTERCITY BUS TRANSPORTATION

The bill would remove most remaining regulatory requirements and restrictions from the intercity bus industry. The safety-oriented carrier registration and insurance requirements would be applied to the bus industry, and certain limited restrictions against subsidized carriers competing with unsubsidized carriers would be retained. Also, the bill would retain the special public-interest merger standards and advance approval procedures for the intercity bus industry.

6. TRANSPORTATION INTERMEDIARIES

S. 1396 would continue the licensing and bond requirements for transportation brokers, which are needed to protect the public from unscrupulous brokers. The bill would also apply the same requirements to all freight forwarders. Currently freight forwarders of shipments other than household goods are not required to obtain a license from the ICC, but they are required to maintain a minimum level of cargo liability insurance. The insurance requirement has been difficult to monitor and enforce without a Federal licensing requirement. By extending the registration requirement to all freight forwarders, the bill would fill an inappropriate regulatory gap.

7. PIPELINE TRANSPORTATION

The bill would retain regulation of pipeline transportation insofar as it involves commodities other than oil and gas—which are regulated by the Federal Energy Regulatory Commission—or water—which is not now regulated. Because the pipeline industry has the same monopolistic characteristics as the rail industry, such regulatory oversight must be retained to protect against abuses.

8. DOMESTIC WATER CARRIAGE

The bill would effectively deregulate domestic water carriage in the contiguous-States markets, where there is ample competition to render such regulation unnecessary. However, the bill would retain residual authority over such water carriage for preemptive purposes, to prevent this transportation from being subjected to regulation under other laws.

The extent of maritime regulation that would be transferred to the Board is as yet undetermined. We plan to produce intervening legislation within the next year paring back the FMC's functions before they are transferred to the Board. In fact, the bill requires the Chairman of the new Board to meet with the Chairman of the FMC to develop a plan for the orderly transition of FMC functions to the Board. The Chairman of the Board would then submit the plan to the Director of the Office of Management and Budget, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after enactment of this bill. We expect this plan would address any changes in FMC functions that may be legislated after enactment of this bill, the effect of this transfer on Board funding requirements, personnel matters, and other matters relevant to the transfer of remaining FMC functions on January 1, 1997.

9. TOW TRUCK OPERATIONS

This bill also would correct a serious problem that has been an unintended consequence of legislation last year preempting State and local motor carrier regulation. Specifically, the bill would enable State and local governments to regulate the price and related conditions of nonconsensual tows by tow truck operators, so as to preclude exorbitant prices and unreasonable conditions from being imposed on unwilling parties.

10. INTERMODAL TRANSPORTATION

This bill would remove all existing restrictions that specifically limit or preclude intermodal ownership and intermodal operations. Moreover, by combining the remaining functions of the existing transportation regulatory bodies, the bill should further foster intermodalism.

11. TRANSPORTATION OF FOREIGN CARRIERS UNDER NAFTA

The bill would retain the registration and insurance requirements for foreign motor carriers operating in the United States pursuant to the North American Free-Trade Agreement. The bill would transfer the ICC's existing oversight and enforcement responsibilities in this area to DOT.

Madam President, I have just given a rather lengthy overview of this very detailed legislation. Obviously, the very nature of this bill—sunsetting an agency—requires study and review of the entire Interstate Commerce Act. We have done just that over the past year. We have worked to craft a sound legislative proposal. It may not be a perfect bill. Not all parties support every single provision. However, Senator EXON and I and others have worked and compromised to address concerns throughout this entire process. The time has come to move forward. The clock is running.

This authorization legislation must be enacted if we are to ensure an orderly sunset of the ICC. I urge my colleagues to support the bill.

Madam President, I will yield to the distinguished Senator from Nebraska, who introduced the original legislation and has worked as part of a team in getting this worked out. I thank him very much.

I will say this to the Members of the Senate who have amendments or speeches on this bill. This is a piece of legislation we must pass. We are participating in the closing of a governmental agency, the ICC, and we hear all about closing agencies, and so forth. This is actually happening. We are eliminating many of its duties and putting other functions into the Department of Transportation. Some say, well, you are just taking the functions from one place and putting them into another. But they have been streamlined, and they will have the efficiencies of scale, being in the Department of Transportation. And we have worked this out in response to the budget and appropriations legislation that has been passed zeroing out the ICC. So we must act on this piece of legislation.

I should like to yield to the distinguished Senator from Nebraska for his remarks. And let me commend him for his outstanding leadership on this bill.

Mr. EXON. Madam President, I thank my friend and colleague from South Dakota, the chairman of the Commerce Committee, for his kind remarks. He has outlined very adequately and completely the bill before us that we have worked very, very hard on in the Commerce Committee.

I have long been associated with the Commerce Committee, especially surface transportation, all during my years of service in the U.S. Senate. Certainly with the end of the Interstate Commerce Commission, it is very important that we transfer the duties that have been performed by that agency to a division of Government that can accurately carry them out without the expense that we had with the Interstate Commerce Commission during their days of reining over a whole series of very complicated issues, which I think they accomplished very accurately, very intelligently, and made the right decision for the public at large.

But, Madam President, I rise to support the landmark legislation to eliminate the Interstate Commerce Commission, ICC, and the Federal Maritime Commission, the FMC, and to transfer their responsibilities to a new independent Intermodal Surface Transportation Board, which we call ISTB for short. This will be recognized under and reorganized under the Department of Transportation under this act.

Madam President, this legislation builds upon legislation that I introduced earlier this year known as the Transportation Streamlining Act. Following the introduction of the act, Senator PRESSLER, the chairman of the committee, and I worked with our staffs long and hard to find broad areas of agreement and compromise.

The work product of that negotiation is S. 1396, which is before us, which the chairman of the committee explained very adequately. This legislation represents the latest chapter in a thoughtful and deliberate effort to reform and deregulate America's great transportation sector. The more we can deregulate it, the better it will be and the more service it will provide.

In recent years, the Congress has worked very hard to bring fairness, efficiency, and productivity to all modes of transportation, many of them cited by Chairman PRESSLER. The Negotiated Rates Act approved in 1993 has already saved American businesses billions of dollars in so-called undercharge claims and litigation, ending the undercharge crisis and providing for a fair and expeditious settlement of all undercharge claims.

The Trucking Regulatory Reform Act of 1994, which Chairman PRESSLER alluded to, enacted dramatic and revolutionary Federal regulatory reform in truck and bus transportation. These measures, combined with the intrastate truck rate and route deregulation provision contained in the 1994 airport improvement program reauthorization bill, represent a body of law which compromises one of the most important, dramatic, productive and meaningful regulatory reform in modern times. S. 1396, now before us, known as the Pressler-Exon bill, continues that tradition.

Some areas of compromise were difficult to come by. On labor issues, I believe we have found a fair middle ground. A fair middle ground is the best we could do in this area, but it does protect the public interest in continued rail service while recognizing the sacrifices and the hardships of those hard-working men and women in the rail industry. The House of Representatives took a similar approach, and in conference we will need to carefully reconcile the two bills. As a longtime defender and supporter of an independent Interstate Commerce Commission, I support this legislation with enthusiasm, although I see the end of the Interstate Commerce Commission with some sadness.

As one of the few Members of Congress with regular contact with America's oldest independent regulatory agency, I know well the dedication, the commitment, the hard work of the Commission and all of its employees. A grateful Nation should thank those dedicated public servants for over a century of hard work. In a different time, with different fiscal realities, it might have been possible to maintain a strong independent regulatory agency, but that decision has now been made, and we must move on.

That being said, I support S. 1396 with a great deal of pride and enthusiasm. This legislation opens a new chapter in Federal transportation policy. This legislative effort can also serve as a model for other agencies to achieve the efficiencies that people demand, but also do the work that the people expect.

One might ask why there is a need for a successor to the Interstate Commerce Commission and the FMC. Simply put, if there were no forum to resolve disputes, oversee standard contract terms, establish national standards, and assure fair treatment for shippers and communities, the great, efficient, and productive transportation sector would simply spin into chaos, and all members of that transportation system of the United States understand that.

Each State would develop its own rules, and transportation companies would become entangled in needless complicated litigation. The Intermodal Surface Transportation Board, ISTB, will assure that there is continuity and efficiency in transportation policy.

The new ISTB within the Department of Transportation will continue to be the fair referee among shippers, carriers, and communities. It will provide interested parties with one-stop shopping and administer a significantly streamlined body of law which assures that the public interest is protected in transportation policy.

This transfer of responsibility and streamlining of authority will reduce costs both to taxpayers and the private sector and, at the same time, assure the key transportation safety responsibilities do not fall between the cracks.

This legislation represents only a first step to even greater consolidation and efficiency of transportation regulation and dispute resolution. I am delighted that the Senate Commerce Committee adopted an amendment which Senators LOTT, BREAUX, PRESSLER, and I offered to sunset the Federal Maritime Commission and transfer their responsibilities to the new board next year. If enacted, this legislation will bring to reality my vision that the new ISTB become a true one-stop shop for all modes of transportation. That is efficiency. By having a staggered sunset of the ICC and the FMC, the Congress has time to thoughtfully review the Nation's maritime laws and to consider reforms in this body of law before the final transfer of responsibility to the ISTB.

Madam President, our Nation takes for granted the blessings of America's great transportation system. Every part of the Nation has accessible transportation service. As Congress continues its efforts to keep regulation to the minimum necessary to protect the public interest, let us not forget what a valuable asset we have and how critically important it is that Congress carefully choose the correct course. We have done that in this instance.

I urge my colleagues to vote today to modernize America's transportation policy and pass S. 1396 as it was reported out of the Commerce Committee under the dedicated leadership of the chairman, Senator PRESSLER from South Dakota.

Madam President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3063

(Purpose: To make minor and technical changes in the bill as reported)

Mr. PRESSLER. Madam President, I have a unanimous-consent request that has been cleared on both sides. It regards the committee amendments to be considered and agreed to en bloc.

I send these committee amendments, which are sponsored by myself and Senator EXON, to the desk to make minor and technical changes in the bill as reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself and Mr. EXON, proposes an amendment numbered 3063.

Mr. PRESSLER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 256, between lines 4 and 5, insert the following:

(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

On page 281, between lines 18 and 19, insert the following:

SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.

Section 31111(b)(1) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.".

On page 283, strike lines 9 through 11 and insert the following:

"(16) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle.".

On page 284, between lines 18 and 19, insert the following:

(5) by striking "or" at the end of subsection (b)(1);

(6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and "or";

(7) by adding at the end of subsection (b) the following:

"(3) transportation by a commuter authority, as defined in section 24102 of this title, except for sections 11103, 11104, and 11503.";

On page 284, line 19, strike "(5)" and insert "(8)".

On page 284, line 24, strike "(6)" and insert "(9)".

On page 286, line 16, insert "competitive" after "other".

On page 288, line 22, insert "full" after "a".

On page 288, line 23, strike "impractical." and insert "too costly given the value of the case.".

On page 298, line 14, insert "competitive" after "other".

On page 319, between lines 2 and 3, insert the following:

(4) striking "transaction." at the end of the second sentence of subsection (c) and inserting "transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated.";

On page 319, line 3, strike "(4)" and insert "(5)".

On page 319, line 4, strike "(5)" and insert "(6)".

On page 319, line 7, strike "(6)" and insert "(7)".

On page 319, line 9, strike "(7)" and insert "(8)".

On page 339, line 20, strike "and".

On page 340, line 6, strike "actions." and insert "actions; and".

On page 340, between lines 6 and 7, insert the following:

"(4) in regulating transportation by water carrier, to encourage and promote service and price competition in the non-contiguous domestic trade.

On page 346, line 21, insert "arranging for," after "including".

On page 346, line 23, insert "unpacking," after "packing,".

On page 356, line 10, before "The" insert "(a) GENERAL RULES.—".

On page 357, between lines 21 and 22, insert the following:

"(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories, commonwealths, and possessions of the United States.

On page 360, between lines 10 and 11, insert the following:

"(f) The Secretary or Transportation Board, as applicable, is prohibited from regulating or exercising jurisdiction over the transportation by water carrier in the noncontiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under federal law in effect on November 1, 1995.

"(g) The Secretary or Transportation Board, as applicable, may not exempt a water carrier from the application of, or compliance with, sections 13801 and 13702 for transportation in the non-contiguous domestic trade.

On page 361, between lines 9 and 10, insert the following:

"(c) A complaint that a rate, classification, rule or practice in the non-contiguous domestic trade violates subsection (a) of this section may be filed with the Transportation Board.

"(d)(1) For purposes of this section, a rate or division of a carrier for service in noncontiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

"(2) The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

"(3) The Transportation Board shall determine whether any rate or division of a carrier or service in the non-contiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) of this section or section 13702(f)(5).

"(4) The Transportation Board, upon a finding of violation of subsection (a) or this section, shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure or tariff. The Transportation Board, upon complaint from any governmental agency or authority, shall, upon a finding or violation of subsection (a) of this section, make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all sums, plus interest, which the Board finds to have been assessed and collected in violation of such subsections.

"(e) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation or service that was pending before the Federal Maritime Commission shall continue to be heard until completion of issuance of a final order thereon under all applicable laws in effect as of that date.

On page 360, line 22, insert ", or a rate for a movement by a water carrier," after "carrier".

On page 408, line 7, strike "13102(9)(A)," and insert "13102(9)(A)(1),".

On page 485, between lines 7 and 8, insert the following:

SEC. 525. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as such Act was in effect before October 1, 1991;

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation; and

(3) the packaging will not be used in the transportation of hazardous materials from a point in the United States to a point outside the United States, or from a point outside the United States to a point inside the United States.

(b) HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994.—Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. 5101 note) is repealed.

SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 U.S.C. App. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or removal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED PROJECTS AND ACTIVITIES.

Notwithstanding any other provision of law, the State of Vermont may use any unobligated funds apportioned to the State under section 104 of title 23, United States Code, to fund projects and activities related to the provision of rail passenger service on Amtrak within that State.

SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 is amended by adding at the end thereof the following:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorized, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) is amended by adding at the end thereof the following:

"(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

Amend the table of sections by inserting the following after the item relating to section 216 of the bill:

Sec. 217. Transport vehicles for off-road, competition vehicles ....

Amend the table of sections by inserting the following after the item relating to section 524 of the bill:

Sec. 525. Fiber drum packaging ....
Sec. 526. Termination of certain maritime authority ....
Sec. 527. Certain commercial space launch activities ....
Sec. 528. Use of highway funds for Amtrak-related projects and activities ....
Sec. 529. Violation of grade-crossing laws and regulations. ....

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

So the amendment (No. 3063) was agreed to.

Mr. PRESSLER. And considered as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, it is my strongest desire or request, if Senators have amendments, that they bring them to the floor or give us notification. I would like to make a motion, if the Senator from Nebraska agrees, that this bill pass. As far as I know, on this side of the aisle, I do not believe we have been notified of any amendments, but I am ready to go. Of course, I want to preserve the rights of all Senators.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I thank the chairman of the committee. I will simply say to him that I believe this bill can be moved rather promptly. If there are any Senators wishing to offer amendments, I suggest this be the final notice to them to appear now or forever hold your peace, and by that, I mean I will certainly suggest the absence of a quorum in just a moment and then possibly the chairman and myself could confer. If we have no appearance of anyone or advised by anyone wishing to offer an amendment, we might check with the majority leader and minority leader and consider going to third reading.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Madam President, I understand the Senator from Washington wishes to ask unanimous consent to go into morning business for a short period of time. Neither the manager nor myself have any objections to that.

I will say that this is the last appeal that this Senator is going to make for anyone that has an amendment on this bill, please come to the Senate now, or I suggest the Senate may set a model for doing things in the future. If we would go quickly, maybe after the remarks by the Senator from Washington, to final reading, if no one is here to offer an amendment.

Mr. PRESSLER. Madam President, I do not want to hold anyone up, but I join my friend in that effort. I know at my party caucus today—if I may admit that we have caucuses—I did announce we were starting this bill at 2:15 and asked anyone who had amendments to please be here.

We do not know of any amendments. We are ready to pass this bill. If any Senator or anybody listening within the reach of my voice knows of any amendment, please call the hotline now or we will pass this bill in a few minutes.

Mr. EXON. May I add, Madam President, please come forward now or forever hold your peace. Thank you.

Mr. GORTON. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

BOSNIA

Mr. GORTON. Mr. President, last night the President of the United States spoke to the people of the United States in justification of his dispatch of some 20,000 American troops to Bosnia to enforce the agreement entered into last week in Dayton, OH, ending for the time being, at least, the war in Bosnia.

President Clinton, I believe, made the best possible case for keeping a commitment which he made some months ago. I believe that commitment was both unwise and improvident. Nonetheless, it was made by the President.

For me, and I think for most other Members of Congress, the American national security interest in Bosnia is difficult to discern. We will be there in the hopes that we can settle a civil war which has gone on in its present form for some 4 years, but in a more profound fashion for at least 600 years.

The temporary peace which we will be in Bosnia to enforce is not a just peace. In fact, it ratifies almost all of the gains made as a result of the aggression of the Bosnian Serbs, leaves essentially unchallenged the ethnic cleansing, the displacement of people, and the killing of tens of thousands of innocent civilians.

We will be in Bosnia to support a peace of exhaustion, not a peace of justice.

Having said all that, Mr. President, and having spoken on this floor on numerous occasions in favor of an American policy that would have repudiated the arms embargo and allowed the citizens of Bosnia the effective means to fight for their own freedom and independence, we as Americans, we as United States Senators, are now faced with a fait accompli.

The President of the United States has the constitutional authority, in my view, to send troops to Bosnia and has announced that he is going to do so. As a consequence, however unwise we may consider that decision to have been, we are essentially faced with the proposition that to oppose it, to try to put roadblocks in its path, is likely to increase the already considerable danger in which our troops will find themselves on the front lines in Bosnia.

This reaction is one that I think is fairly common among Members of this body. It was expressed by three former National Security Advisers and Secretaries of Defense before the Armed Services Committee this morning, and by many outside commentators who have felt this administration's position with respect to Bosnia has been wrongheaded almost from the start.

So, sometime in the next week or 2 weeks, we will be presented here on the floor with some sort of resolution with respect to Bosnia. I do not believe any Member, at this point, can say that he or she will vote in favor of it sight unseen or, for that matter, will vote against it sight unseen. I hope we will be able to come up with a resolution which will have at least a wide degree of support here in this body, a broader and less partisan degree of support than was the case a few years ago with respect to the war in the gulf. Such a resolution, I believe, will concentrate on the situation as it exists on the ground today, given the President's decision, rather than with the process that led the President to this decision, one which gives unequivocal support to our troops, to the men and women whose lives will be at risk, to the maximum possible extent without saying we necessarily agree with the policy that brought them there in the first place.

We can all hope that in a period of 1 year the civil passions which have been so brutally expressed during the last 4 years will be extinguished. We can be pardoned for believing that is a very considerable long shot and that our troops, a year from now, are likely to come home leaving behind them exactly the situation they found when they arrived.

Nevertheless, this is the point we have reached. The President has done his best to explain it to the people of the United States, and I am certain that most of them, while they may not like the decision, will certainly provide support for those troops themselves.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE COMMERCE COMMISSION SUNSET ACT

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, the Senator from North Dakota is about to offer an amendment, as I understand it, that he has shown me, and I am opposed to it. But, to accommodate this Senator and the time constraints that I have this afternoon, I wish to make a few appropriate remarks about why, in my opinion, we should not adopt the amendment that is going to be offered by the Senator from North Dakota.

Mr. President, this amendment seeks to change the way mergers are handled by curtailing the current ICC rail merger review process.

Under the current process, and the process in the bill before us—the bill by the chairman of the committee and this Senator from Nebraska—the so-called Intermodal Surface Transportation Board will approve, disapprove, or condition rail mergers based on the public interest standard currently used by the ICC, not a narrow, Department of Justice-type of antitrust analysis. The public interest standard—which is part of the bill offered by the chairman of the committee and myself—allows the board to weigh the public benefits of a merger against its competitive harms. This standard allows the board to condition and approve mergers that are in the public interest even though they might violate some of the existing antitrust laws. This review has served my farmers, the farmers of South Dakota, and other farmers as well. This concept must be kept as part of our overall transportation network if we want it to run efficiently, especially with regard to rural areas.

The current process provides for the input of the Department of Justice. Let me repeat that. The bill before us, the Pressler-Exon bill, provides for the input of the Department of Justice. This amendment goes beyond that and gives the Department of Justice the final say—or the veto, if you will—on rail mergers.

Even though a merger might be approved by the Board because it is in the public interest, is protection of captive shippers, and is in the best interest of the transportation system, the Department of Justice with all of the lawyers, or some other third party, could still bring suit and force divestiture based on antitrust laws under the Dorgan amendment that is going to be proposed.

Mr. President, this amendment erodes the jurisdiction of the Commerce Committee, and the new ISTB board because it invests too much authority in the Department of Justice.

Lawyers are a very important part of our society, depending on your point of view. It seems to me, Mr. President, that, if we are going to turn the Department of Justice into a veto authority which they did not have under the Interstate Commerce Commission and take away the independent functioning of the board that we are setting up with the Pressler-Exon measure in the Department of Transportation, we are taking a significant step backward. I see nothing whatsoever wrong with the Department of Justice being the lawyer-adviser to the new board that is created. They should be consulted as to whether or not there is a serious violation of antitrust laws. But customarily in business, in my experience in business, and my experience as an individual, I have never let my lawyer make decisions for me. I consult with my lawyer, if I need one. I listen to his counsel and advice as to what is right and what is wrong. But I think the decision has to rest with me. Likewise, for the newly independent board that is created under the Pressler-Exon bill, which vests in a new department under the Department of Transportation, we do not need to hamstring that board and their efforts with regard to what should and should not be done with regard to mergers.

So I hope if the amendment offered by the Senator from North Dakota comes to a vote the Senate will overwhelmingly oppose it.

The Senator from North Dakota was involved in a similar effort with regard to the FCC legislation wherein he and some others felt that the Department of Justice should have the final say so in matters before the Federal Communications Commission. That measure was turned down overwhelmingly by the U.S. Senate because, if we have supposedly independent operating boards, such as the Federal Communications Commission, they should not be hamstrung or dictated to by the Department of Justice. It seems logical as to why we should not accept the amendment being offered by the Senator from North Dakota because it would essentially do the same thing that the Senate voted down with regard to the Federal Communications Commission.

Therefore, I hope that we will give these new independent boards the authority that they obviously need to make decisions based upon the public interest. If turned over to the Justice Department, I believe that too much of the decisions would be made on legal technicality rather than that it is in the best interest of the public, in this case transportation, especially with regard to small States.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 3064

(Purpose: To establish certain competition standards with respect to mergers by railroad carriers)

Mr. DORGAN. Mr. President, I send an amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself and Mr. BOND, proposes an amendment numbered 3064.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 319, strike lines 1 through 9 and insert in lieu thereof the following—

(3) striking subparagraph (E) of subsection (b)(1) and inserting in lieu thereof the following—

"(E) whether the proposed transaction will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country.";

(4) striking paragraph (2) of subsection (b) and striking "(1)" in the first paragraph of subsection (b);

(5) striking subsection (c) and inserting in lieu thereof the following—

"(c) The Commission shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. In making the findings under subsection (b)(1)(E), the Transportation Board—

"(1) shall request an analysis by the Attorney General of the United States and shall accord substantial deference to the recommendations of the Attorney General and shall approve the transaction only if it finds that transaction does not violate the standards set forth in subsection (b)(1)(E). The transaction may not be consummated before the thirtieth calendar day after the date of approval by the Transportation Board. Action under the antitrust laws arising out of the merger transaction may be brought only by the Attorney General, and any action brought shall be commenced prior to the earliest time under this subsection at which a merger transaction approved under this subsection may be consummated. The commencement of such an action shall stay the effectiveness of the Transportation Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. Upon consummation of a merger transaction in compliance with this subsection and after termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of Title 15, but nothing in this subsection shall exempt any rail carrier resulting from a merger transaction approved under this subsection from complying with the antitrust laws after the consummation of such transaction;

"(2) may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights. Any trackage rights conditions imposed to alleviate anticompetitive effects of the transaction shall provide for compensation levels to ensure that such effects are alleviated;

"(3) may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest, when the transaction contemplates a guaranty or assumption of payment dividends or of fixed charges or will result in an increase of total fixed charges; and

"(4) may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Transportation Board finds their inclusion to be consistent with the public interest.";

(6) striking the last two sentences of subsection (d);

(7) striking subsection (e); and

(8) notwithstanding any other provisions of this Act, amendments under this section shall apply to all applications pending before the Transportation Board.

Mr. DORGAN. Mr. President, I listened with interest to the statement of the Senator from Nebraska [Mr. EXON]. He is always persuasive and never in doubt. He makes an interesting case on this amendment. He pointed out that I offered a similar amendment on the telecommunications bill, and he is correct about that. I would offer a similar amendment if I had the opportunity dealing with airlines. I wish to explain that because it is the reason I offer this amendment today dealing with railroads.

Let me go to the subject of airline mergers just for a moment. Since deregulation of the airline industry, we have had more and more mergers. We now have five or six very large airlines in America controlling most of the air transportation in our country.

Prior to 1989, when two airlines wanted to merge, the Department of Transportation determined whether they are able to merge or not. They gave the approval. The Justice Department was allowed to comment on it in terms of the antitrust effects: whether the merger would be good for the country and whether it would be good for competitiveness. But the Department of Justice is only allowed to comment. Then the Department of Transportation makes the judgment. And so often the judgment is made on issues other than whether this is good for the country in terms of competition.

In fact, I would make the case that a number of the airline mergers that have occurred have not been good for this country. And if you established an antitrust standard that was worthy, you probably would not have had a couple of these mergers and would not have a couple that will occur in the future. But we have a circumstance where those mergers were approved by the Department of Transportation and Justice is only asked to give its opinion.

With respect to the previous bill that came before the Senate on telecommunications, the Federal Communications Commission will determine when there is competition in the local exchange with the regional Bell systems. I and several of my colleagues said, well, what we would like to do is have the people who know about competition and who know about these standards establish the Clayton Act test over in the Department of Justice about whether or when there is competition.

That is why we have antitrust lawyers in this country. We have, incidentally, about 1,000 antitrust attorneys working for the Federal Government, or we used to have. There have been some cutbacks. One thousand of them. I used to at least threaten to put their pictures on the sides of milk cartons because I swore that despite the fact there were 1,000 antitrust lawyers, you could see no evidence that they lived. You could see no evidence they did anything. You could see no evidence that they cared at all whether there was antitrust activities in this country. In fact, the fewer companies competing, the better, according to some in our Government. I happen to think the more companies that are competing, the better for our free-market system.

Some speak of a regulating mechanism that is good in a free market economy. Well, I have felt this way about airline mergers. I felt this way about the competition issues with the telecommunications bill, and I feel this way about the legislation before the Senate today.

Let me begin by saying I support the legislation brought to the floor of the Senate by the Senator from Nebraska and the Senator from South Dakota. I commend the two of them as well as Senator HOLLINGS for writing a piece of legislation that I think has great merit and that I support.

I would like to make a change, which is the reason I am offering this amendment. I would like to make an addition to it, but that does not diminish the fact I think all three have done a good job and I compliment them for their work.

This piece of legislation in its larger form abolishes the Interstate Commerce Commission and creates a board over in the Department of Transportation that assumes many of the functions that the old ICC used to have. It does it in a thoughtful way, and it does it in the right way, and I support most of what the Senators have brought to the floor.

I said during the Commerce Committee consideration of the legislation that I have made the case for some years the Interstate Commerce Commission had died from the neck up, and then I found myself mourning its passage. When people said, "Let's kill it," I worried that if you do not put something in its place, all you have are larger and larger railroads, and then a bunch of shippers out here trying to deal with something that is closer to a monopoly than it is to pure competition. It seems to me that we need a regulatory mechanism in between, and that is the purpose for which this board is created in this legislation.

For that I commend Senator PRESSLER, Senator EXON, and Senator HOLLINGS and fully support them. I come to the floor with this amendment to say I think this bill would be improved with one addition, and the addition is offered in my amendment which provides that the Justice Department would have an opportunity using the Clayton Act standard on defining competition to review mergers of railroads.

I recognize that the Interstate Commerce Commission has had the sole purview for reviewing mergers for some 70 years. I understand that. In my judgment, that does not make it right. I would prefer to see the authority given to the Justice Department and the antitrust folks in the Justice Department to evaluate: Is this merger something that makes sense for our country, or, with the Clayton standard, will the proposed merger substantially lessen competition, or would it tend to create a monopoly in any line of commerce in any section of the country? That is the Clayton 7 standard which I would like the Justice Department to be able to apply.

My amendment provides that the Justice Department would make that judgment and offer its assessment using that standard to the Department of Transportation. And that the Board in the Transportation Department would give substantial deference to the Justice Department antitrust analysis. The amendment also provides that if the Justice Department antitrust lawyers who evaluate this determine, using the Clayton standard, that it would lessen competition substantially, it would tend to create a monopoly, et cetera, and it is not in the public interest to proceed and the board would proceed anyway. This establishes a provision by which the Justice Department or the Attorney General would be able to bring an action for a stay.

That is essentially what this amendment does and what it is.

The amendment says that notwithstanding any other provision of this act, amendments under this section shall apply to all applications pending before the transportation board.

I would like to just talk for a moment about the consequences of this. There are some who are concerned because there is a very large proposed merger that has been filed or will be filed that deals with two very large railroad companies. I have no interest in that question at all. I do not have any of those companies in North Dakota. In fact, if the larger railroad company that serves our State were involved in a merger right now, I would still be in the chamber offering it, and I would not care what the larger railroad company that serves our State thinks about it. My interest is making sure that we have a seabed of competition that is enforced by evaluating a standard that is reasonable for ensuring competition. Because only in that manner will consumers, shippers and others reliant on a competitive system, only in that manner will they be able to see that this market system works to their advantage as well.

I wish to say that I was approached by a representative of one of the railroads today asking why I was doing this, and I explained it had nothing to do with their company. In fact, it is interesting in that one of the companies—and I shall not name the companies—involved in this that is very concerned about it is a company that I have great fondness for because when I was a State tax commissioner many years ago and we put together, through an interstate compact, joint auditing around the country of companies, which made a lot of sense from the taxpayers' standpoint but which angered a lot of big companies. That particular rail company which I shall not name was almost alone in standing up in this country saying what the tax administrators around the country are doing on behalf of many States makes good sense and we support it.

This company exhibited some strength and courage in doing that, so I have some fondness for this company because they stood up and said this was the right thing to do when almost all other corporations in the country were squealing and were angry because finally the States were getting from them the taxes that they had legitimately owed for many, many years.

I say that only to demonstrate that I do not offer this because there is any merger pending or because there is any railroad that has an interest in one thing or the other. I offer this because I offered the amendment on the telecommunications bill, and I would offer the same amendment on a piece of legislation dealing with airline mergers.

It seems to me that we ought not continue a circumstance where the regulatory body, that is the old ICC and now the transportation board, will make decisions about whether a merger is in the public interest based on a range of factors that is spelled out in current law, which include, for example, the effect of the transaction on the adequacy of transportation, the effect on the public interest of including or failing to include other rail carriers, the total fixed chargers that result from the proposed transaction, the interest of carrier employees affected by the proposed transaction, and whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.

These are the criteria that the Board itself will use. But the Board might decide to give substantial weight to two or three of the top criteria when, in fact, you might have a Clayton 7 standard here which clearly on its face is demonstrated not to be in the public interest with respect to this merger. I am not talking about this particular merger that I referred to earlier. I am talking about any merger. The Justice Department might evaluate that and say, "This is not in the public interest if you use the Clayton standard." And yet the regulatory Board might say, "Well, we view the top three areas here, top three factors, as having sufficient weight, so that we think this makes sense for our country."

My point is that I want those who are experts in our Government in the area of antitrust enforcement to have a valid and legitimate role in measuring whether a proposed merger in the railroad industry meets the test, meets the test for all Americans and for consumers. Is this in the public interest? Will it substantially lessen competition and tend to create a monopoly in any line of business in any section of this country? If so, in my judgment, it should not happen. It might be good for a couple companies now or in the future. But if that is the case, if it does not meet that test, then it should not happen.

I want the Justice Department to be able to take that measure and provide that information to the transportation board, and to have substantial weight and deference given to the Justice Department's recommendation. That is all this does. It does not do any more than that. I hope that, as we talk through this here in the next half-hour or hour, colleagues will see fit to support it.

The Senator from Nebraska is correct, I offered a similar amendment to the telecommunications bill on essentially this same kind of issue. He is correct about that. But it is, in my judgment, the right thing to do for our country, the right thing to do to ensure vibrant competition in a free market system. I hope people will look at this amendment and think it has merit and decide today to support it.

Mr. President, I would be happy to yield the floor at this point. I see my colleague, Senator BOND from Missouri, is seeking the floor. Let me yield the floor to him.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I am very pleased to rise in support of the amendment by my friend and colleague from North Dakota. I have a very clear-cut philosophy on economic issues. Government regulation is the least desirable and the least effective way to make sure that the customers—you and I as customers; we may be customers down the line—but as customers of businesses which are buying from other businesses or seeking services from them, we are all best served if the free market, rather than Government regulation, tells us how the service or products are delivered, what cost they are, and how readily available they are.

Now, to achieve this, it requires there be competition. You cannot rely on the marketplace to regulate provision of services or goods or their cost if there is no competition. We have in law the Clayton Act, section 7 of the Clayton Act, which requires mergers in almost any other industry to be judged, and they cannot go forward if the proposed transaction would substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country. That is basic American philosophy going back almost 100 years. We need in this country to have the marketplace work. And the marketplace works when there is competition.

Right now we have a situation in rail mergers under the Interstate Commerce Act that competition is not necessarily a criteria. The role of competition in rail mergers, in my view, should be the same as its role in any other mergers. If it does not leave a marketplace which can work, then we should not permit it. That is why we have laws against monopolization in section 2 of the Sherman Act and section 7 of the Clayton Act. That is why we have the FTC. That is why we have the Department of Justice. That is why we have access to the Federal courts.

The amendment proposed by the Senator from North Dakota would just say that we have to apply this same test when it comes to rail mergers. It seems to me to make a lot of sense.

Mr. President, I really got involved in this when shippers in my State expressed concern about their ability to both ship grain out in small lots of several cars, not unit trains, and purchasers who purchase inputs coming in by rail said, "Hey, we need to have competition so we can get the best service at the best price."

We had our second joint hearing of the Senate and House Small Business Committees on November 8 in the House Office Building. I thought I would just share with my colleagues a couple of the points made by the witnesses. Obviously, we did not have jurisdiction over this, but as a matter affecting small business, we advised the distinguished chairman and my predecessor in the Republican slot on the Small Business Committee that we wanted to hear from the shippers and others affected. We tried the get a good cross-section. But several of the points made by those witnesses I think should be called to the attention of my colleagues.

Prof. Curtis Grimm, who is professor and chair of the Transportation, Business, and Public Policy, College of Business and Management at the University of Maryland, College Park, said:

> Under current standards, the ICC could approve a significantly anticompetitive merger, based on claims of speculative efficiency gains which would outweigh competitive harms.

Mr. President, just because two companies want to merge and they say they can be more efficient, it does not necessarily mean that competition and the people they serve are going to benefit if we wind up with a monopoly situation. Sure, a lot of people would merge if they could take care of all their competition and be the only supplier in the marketplace. We have seen that before.

We have seen that in transportation. Did you ever try to buy a ticket on an airline flight between two cities where there is only one carrier? Wow. It is usually cheaper to go around the world, no matter how close those two cities are. There was a time when only one carrier served Kansas City and St. Louis. You had to mortgage the home to fly back and forth. When competition comes in, you are going to find the best price and the best service. The same thing ought to be true, I believe, in other forms of transportation and, in this instance, in rail mergers.

One of the witnesses testifying before us, Ed Emmett, is the president of the National Industrial Transportation League, the trade association representing over 1,000 shippers. He said:

> We are at a critical juncture in U.S. rail transportation policy. It is essential that the Congress act now to change the standards for judging rail mergers to focus more on competition.

A fellow who relies on rail transportation for his inputs and his products, James F. Jundzilo, transportation manager, Tetra Chemicals in Texas, testified:

> We must put more focus on competition, involve anti-trust laws, competition in the public interest will then be maintained and protected.

A manager of Lange Co. of Conway Springs, KS, William F. York, said:

> The current merger standards should be revised to focus more on the loss of competition and less upon so-called "efficiency gains" or allow the Department of Justice to review rail mergers as they do for other modes, including airlines.

Finally, one other private sector witness, Fredrick D. Palmer, General Manager and CEO of Western Fuels Association, said:

> I submit that a virtually deregulated railroad system in serving a virtually deregulated electric utility industry cries out for the sorts of antitrust regulation to which both the electric utility and telecommunication industries are subjected.

Finally, we were pleased to have testify before us the Secretary of Agriculture, the Honorable Dan Glickman, who said:

> If this latest railroad consolidation is approved, there will only be two major rail carriers west of the Mississippi. This could have serious implications for the rates and availability of rail transportation for the agriculture industry because of the reduced level of competition.

It is for that reason that we should provide the Clayton Act section 7 standards to judge rail standards. I am advised the groups supporting this amendment include the National Industrial Transportation League, the Society of Plastics, the American Farm Bureau, Western Fuels Association, AFL–CIO, Railway Labor, Western Shipper's Coalition, the Chemical Manufacturer's Association, and I believe that the administration also supports this amendment.

Mr. President, I think as we move toward a leaner and more efficient, more streamlined Federal Government, many functions of the Federal Government are excess, we do not need them. And there is one real area where we can get rid of a lot of regulation. It is where the marketplace forces competing suppliers of services or goods to compete on the quality of the service and the price.

You do not need Government bureaucracies. You do not need rate setting. You do not need the whole plethora of rules and regulations for Government to run it if to make a buck they have to provide better service or better products at a better price than their competitors.

That is the way we get the best deal. That is where our country has been most successful in making progress. I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I rise in opposition to the DORGAN amendment. Let me make some general remarks on the issues surrounding antitrust and some of the standards that are used.

First, let me point out that this amendment is an attempt to change the way the ICC looks at the competition among rail carriers.

Changing the standards by which rail mergers are judged is very complicated. The current public interest standard is well established and has been in place for 75 years. Changing them now, particularly while two class one railroads are in a merger proceeding, without fully understanding how these changes affect railroads, shippers, States, and even the financial markets, is not the approach we should take without fully understanding what we are doing. Unintended consequences could easily result.

We have one of the most efficient, if not the most efficient, transportation system in the world. A large part of the system is the level of competition that exists between the transportation modes and within the modes. Merely trying to guarantee competition in the rail industry by changing how the ICC looks at competition could easily backfire.

In the last 15 years, there have been roughly a dozen rail mergers, a tremendous increase in concentration when just measured by the number of railroads. However, at the same time, real rates have fallen up to 50 percent with the decreases occurring every year across all major commodity groups and in all major geographic areas.

This cannot just be attributed to deregulation, because without ongoing effective competition, the productivity gains that deregulation made possible for the railroads would not have been passed through to the shippers.

Without fully understanding what we are doing in this area, we could easily turn back this trend, even though we have the best intentions. As a result, I urge that this amendment be defeated. I urge my colleagues to vote against it as well.

Now specifically, the ICC does not apply or follow antitrust law, though it pays very close attention to competitive issues. The rail system is the underpinning of our entire economy, and many rail efficiencies can be achieved only through mergers. The ICC applies a public interest standard, under which the public benefits, competitive or otherwise, of a merger, are balanced against any detriments, again competitive or otherwise, of a merger. This process allows the Commission to approve consolidations, even if they otherwise would violate antitrust laws.

Rather than applying a narrow DOJ-type antitrust analysis, the Commission has consistently looked at all factors in deciding the competitive impact of rail mergers and has found pure concentration measures, such as the number of railroads serving a point, to be too simplistic a standard.

The UP/MKT merger is a good example. In that case, a number of markets went from three railroads to two. Various parties, including the Justice Department, argued that there would be a reduction in competition in those markets and that conditions should be imposed to introduce additional rail competition in them. The Commission rejected these arguments, finding that the continued competition from a strong second railroad, the increase in competition from the merged system's introductions of new single-line routes and other service improvements and other competitive constraints, such as modal and source competition, would keep competition vigorous.

In fact, the Commission was right. Union Pacific, at the request of an agency in California, had studied the rates in these 3-to-2 markets before and after the UP/MKT merger which was consummated in 1988.

What they found was that in all cases, rates had decreased significantly, confirming the Commission's conclusion that competition would be intensified by moving from three railroads, one of which, MKT, was a weak third, to two strong rail competitors.

The evidence is overwhelming that a mere reduction in the number of railroads does not stifle competition and, in fact, can enhance it where the effect is to add to the efficiency of the merged carriers and to their ability to offer new services.

Furthermore, there is ample proof all across the country that where markets are served by two railroads with broad, equivalent networks, rail competition is intense. Perhaps the best example is a precipitous drop in Powder River Basin, WY, coal rates following the entry of CNW into the basin as a competitor, in partnership with UP against Burlington Northern.

This experience of huge declines in the rates for the transportation of Powder River Basin coal is flatly incompatible with any theory that two railroads in a market will collude to keep prices at or near the level where other constraints, such as truck or product competition would cause a loss of traffic. Other examples are the intense two-railroad competition throughout the Southeast, between Norfolk Southern and CSX, and for Seattle/Tacoma and other Washington and Idaho traffic between BN and UP.

The number of railroads alone is not what matters, it is the effect of the merger on competition. Absent some compelling reason for change, which has yet to appear, the current process should stand.

Mr. President, let me make a few more remarks, and if other Senators come to the floor, I will certainly yield to them, but I want to continue to state my opposition to the Dorgan amendment.

Since 1920, due to the unique place railroads hold in our economy, Congress has consistently found that applying a pure antitrust standard to rail mergers is inappropriate.

Railroads carry roughly 40 percent of the freight in this country. These include 67 percent of new autos, 60 percent of coal, 68 percent of pulp and paper, 55 percent of household appliances, 53 percent of lumber, and 45 percent of all food products. Much of this material is delivered on a just-in-time basis.

What is impressive about these numbers is that, unlike the trucking, ship, barge, and aviation industries, which operate over national systems and which are built and/or maintained by Government and open to all operators, the goods that move by rail are transported over fixed, regional systems. Due to the regional nature of railroads, much more interchange occurs than in other modes of transportation. That is, railroads hand off cargo to one another while other modes of transportation have very little of this type of interchange—truck to truck, barge to barge.

As a consequence, there are natural efficiencies in these other modes that do not readily occur in the rail industry. To achieve these types of efficiencies in the rail industry, there must be consolidations. Mergers and consolidations allow the rail industry to maximize the use of its tracks, cut down on interchange points, get the most out of switching yards, consolidate terminals and, in short, provide better service to its customers at the lower cost.

In the past, Congress has recognized that rail consolidations cannot occur if rails are subject to the normal antitrust tests imposed on other businesses. What makes the ICC test different? There are three major components.

The first is the use of the public interest standard. When looking at a merger, the Department of Justice focuses almost exclusively on possible reductions in competition. Under a pure antitrust review, the Justice Department could deny all rail mergers, which is what happened before the public interest standard was adopted. The ICC, on the other hand, takes into account both the public benefits of a merger, in terms of increased efficiencies, better service and enhanced competition, and any harms, in terms of reduced competition and loss of service.

The ICC also has the power to condition mergers to take care of anticompetitive concerns. While the Department of Justice could try to negotiate conditions, it does not have the same power and discretion as the ICC. As a result, the ICC can condition and approve mergers that are in the public interest but might normally fail a review by the Department of Justice.

The second is the open and well-developed process the ICC has for reviewing rail mergers. The process includes discovery, the development of a detailed record and a full and fair opportunity for all affected parties, including Federal agencies, States, localities, shippers, and labor to be heard.

The DOJ process, on the other hand, is a closed informal ex parte process in which DOJ speaks with only those persons it chooses to and hears only the evidence it chooses to. There is no opportunity for discovery and no opportunity to learn and to respond to what others are saying.

Taken together, these first two points are extremely important. Railroads cannot be duplicated. The lines that exist today are essentially it. While spur lines and short lines may be built, there will be no more railroads built from Chicago to LA or New York to St. Louis, not in the near future at least.

A fair, impartial system bound by rules and precedent where all parties can be heard is important in deciding how these systems are rationalized. A DOJ review is far more subjective. All parties may not be heard and DOJ can decide which types of traffic patterns to look at, thereby making the process unpredictable from one case to another, from one administration to another.

So I think, in looking at this, we have to look at what we are dealing with in the uniqueness of railroads. We will not have more railroad lines built in this country in terms of major routes from Chicago to LA or New York to St. Louis. We will have those remaining. But the question as a public interest standard allows some flexibility on the part of the rulemaking body which will now be in the Department of Transportation.

The third component is the actual approval. The Department of Justice does not approve mergers, it merely indicates whether or not the Government will bring suit to stop it. I think now under the Hart-Scott-Rodino standard, companies can get an opinion before they actually go to the expense of getting together.

The ICC process brings with it a formal approval and preemption of other laws. This is important for a number of reasons. Without formal approval, abandonments or line sales contemplated by a merger will have to be approved by another agency. State laws designed to prevent or hinder mergers will not be preempted. This is particularly important to the free flow of interstate commerce. Further, private parties would not be prohibited from bringing suit to seek conditions or block the transaction.

Finally, the Rail Labor Act would not be preempted. This is critical. Most railroads have 13 different unions with hundreds of different contracts. Absent the preemption of the Rail Labor Act and the imposition of labor protection conditions, the merging carriers would be forced to negotiate implementation agreements with each union under the Rail Labor Act. Because rail transportation is so vital to the economy, this act was created "to avoid any interruption to commerce." The act achieves this goal by obligating management and labor to negotiate using a long, drawn-out process. Using this act to negotiate the implementation of a merger would take years. As a result, without a formal approval, even if a merger were approved by the Department of Justice it would more than likely be years, if ever, before it could be implemented.

At the heart of this debate is, What is best for transportation policy? The more than 500 railroads that are in existence today are an integral part of our country's transportation system and are a linchpin in our economy. We have the best rail system in the world. The long-established national railroad merger policy has served our country well. Absent some compelling reason, there is no basis for gambling with the future of an industry that is so important to our Nation.

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Because rail transportation is so vital to the economy, this act is created to avoid any interruption to commerce. This act achieves the goal by obligating management and labor to negotiate using a long, drawn-out process. Using this act to negotiate the implementation of a merger would take years. As a result, without a formal approval, even if a merger were approved by the Department of Justice, it would more than likely be years, if ever, before it would be implemented.

So, Mr. President, at the heart of our debate is, What is best for transportation policy? The more than 500 railroads that are in existence today are an integral part of our country's transportation system and are a linchpin in our economy.

We have the best rail system in the world, although it certainly needs improvements, and the real rail rates are 50 percent lower than when the Staggers Rail Act was passed in 1980, despite a reduction of about two-thirds in the number of major railroads. The long-established national railroad merger policy has served our country well.

Absent some compelling reason, there is no basis for gambling with the future of an industry that is so important to our Nation.

So let me say that I very much admire the intentions of my friend from North Dakota with this amendment. This piece of legislation has been many months in the negotiating stages. My friend from Nebraska first introduced the piece of legislation, and we decided to work as a team. We had in various shippers, railroads, the public, and consulted with State public commissions. We consulted with Governors. We consulted with experts. We developed this piece of legislation that is here on the floor. It is not perfect, but it has been crafted on a bipartisan basis. We also have the support of Senator HOLLINGS, the ranking member, and several of the Republican Senators.

We feel strongly that the public interest test that the ICC has said will go with it to the Department of Transportation, we feel it would be an additional layer of regulation to add to the Department of Justice and to add the antitrust standards which we feel exists anyway, but it would be an unnecessary additional regulatory burden. We are trying to deregulate as much as possible. This amendment would put us not only into a pre-Staggers position, but we never had this much regulation.

Mr. President, we had a similar debate here. I stood in this very place during the consideration of the telecommunications bill, which is now in conference. We debated between the public interest, convenience, and necessity standard used by the Federal Communications Commission regarding administrative law cases as opposed to adding an additional Department of Justice review of certain telecommunications, and it was the decision of this body on a rollcall vote not to have the Department of Justice review because it is another layer of regulation.

We are trying to deregulate wherever possible. We are trying in this bill to have a review but not a lot of bureaucracy.

With all due respect, I must strongly oppose the Dorgan amendment. I urge my colleagues to defeat it.

Mr. DORGAN. Mr. President, I greatly respect the opinions of the Senator from South Dakota. I said before, and let me say it again, I think he and Senator EXON and Senator HOLLINGS have done a great job of putting together a bill, and with the exception of my interest in improving it with this amendment, I think that the legislation that they have crafted has great merit.

I want to just respond to two points the Senator from South Dakota made. First of all, my amendment does not actually take the authority for approval and move it from the Board and DOT over to the Justice Department. That is not what the amendment does.

The amendment, rather, gives the Justice Department the opportunity to apply the Clayton standard and then advise the Board at DOT of its conclusion with respect to whether this meets the Clayton standard, and requires the Board to give substantial deference to it. The decision will still be made by the Board. That is an important point.

The second point is, the Senator from South Dakota spoke of deregulation. I am probably much less a fan of deregulation than he or some others in this Chamber. There are certain areas in our country where regulation, I think, is critical, where, without regulation, you get price gouging, you get pricing outside of a free market that disadvantages consumers. I will give some examples of that.

While I say this, I am not opposed to all deregulation. Some of it has been just fine. But the Senator from South Dakota and I come from States that are sparsely populated, and we often, especially in the area of transportation, suffer the consequences of a deregulated environment in which, without competition, they extract prices that are unreasonable.

I used an example of the airline industry in the Commerce Committee that the Senator from South Dakota will recall. I held up a picture of a big Holstein milk cow, called Salem Sue. It is the world's largest cow. It happens to be metal, but it is the largest cow. It sits on a hill about 25 or 30 miles from the airport in Bismarck, ND, if you drive down Interstate 94. I pointed out, if you get on a plane here in Washington, DC—and I admit, there are probably not a lot of folks who have an urgent desire to go see the world's largest cow just for the sake of going to see the largest cow—but if your desire is to go from Washington, DC, to see the world's largest Holstein cow, 30 miles from the Bismarck airport, you will pay more money for that trip than if you get on an airplane in Washington, DC, and fly to London to see Big Ben.

Or, let us decide you want to see Mickey Mouse and decide to fly to Disneyland in Los Angeles. You fly twice as far and pay half as much as getting on an airplane here and flying to Bismarck. Question: Why would that be? Answer: Because we do not have substantial competition. We do not have the kind of competition in the airline industry that you have if you are in Chicago or Los Angeles. There, if you show up at the airport you have dozens of choices, all competing against each other, and the result is attractive choices at lower prices. But, with deregulation in the airline industry, we have fewer carriers, fewer choices, and higher prices.

Now, deregulation is not always a boon to areas of the country that are sparsely populated. When you talk about deregulation with respect to railroad carriers, you must find a way, it seems to me, to provide protections for consumers. My concern about all of this is that the consumers be afforded an opportunity to have a price in the open market system or the free market system that is a fair price. We can foresee circumstances, and we have already seen some in this country, where the prices charged in areas where there is not substantial competition are prices far above those that should be charged.

I mentioned earlier that my amendment is not directed at any carrier or any company or any merger. I mentioned I was interested in the telecommunications legislation, and I rose to offer an amendment including the Department of Justice there. I also have been involved in similar issues.

About 3 weeks ago, I asked the Banking Committee in the Senate to hold hearings on bank mergers. This is not a newfound interest of mine. I was on a program awhile back and they asked me about my interests in having hearings on bank mergers. We were talking about a specific merger where two very large banks were combining and merging to be a much, much larger bank. They said, "Does that not make sense? Two banks become one and you are able to get rid of a lot of overhead and lay off 6,000 or 8,000 people. Does it not make sense to be more efficient?"

I said, "Following that logic, it makes sense to have only one bank in America, just one. That way you do not have any duplication. Of course, you do not have any competition either."

Following this to its extreme, this notion of efficiency without caring much about what it does to the free marketplace and without caring much about what violation occurs to the issue of competition, I suppose you could make a case that in every industry the fewer companies the better, because the fewer companies the more efficient you are going to become. You can lay off people. Of course, it would not be very efficient for consumers, because you can then engage in predatory pricing and no one can do very much about it.

The point I am making is, I am not here because of a railroad or a merger. I have been involved in the issue of bank mergers, calling for hearings at the Senate Banking Committee in recent weeks on that. I have been on the floor on several other merger issues. I hope that the Senate will take a look at this and decide this makes sense. If it does not, at the next opportunity I will again raise this issue.

Frankly, there are not many people in the Senate, or the House, for that matter, who care to talk much about antitrust issues. First of all, it puts most people to sleep. You know, it is better than medicine to put people to sleep. Nobody cares much about it. Nobody understands it much. It is, to some people, just plain theory. But, if you are a shipper and you are somewhere along the line someplace and the company that has captured the competition and is now the only opportunity for you to ship says to you, "By the way, here is my price; if you do not like it, tough luck," all of a sudden, this has more meaning than theory.

If you are a traveler on an airline and you have no competition when you used to, but now the only remaining carrier that bought its competition and became one says to you, "By the way, here is my price; if you do not like it, do not travel," then this is more than theory.

That is what persuades me to believe that in a free market system, if you preach competition but do not care very much about whether meaningful competition exists, or whether we have adequate enforcement of antitrust standards, then in my judgment you do no favor to the free market economy.

I hope people will consider this on its merits and consider that it would be wise for our country and for public policy to ask that this legislation be amended with the amendment I have offered, along with Senator BOND.

Mr. President, I yield the floor. I make the point of order a quorum is not present.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise to speak against the Dorgan amendment.

I do very much appreciate the chairman of the committee putting forward this legislation. Our budget resolution envisions that the ICC will go out of existence. I think it is important that we pass this legislation. But I do not think it was the intent of the committee to change all the rules under which we have been operating as it concerns mergers in this area. I think turning over the power to the Department of Justice and changing the criteria that are being used for antitrust purposes would not be a very good thing for us to do, and there is no reason to do it. We are talking about saving money here. We are talking about doing away with the duplication of administration. I do not think we have to also change all of the rules and the precedents that have been set for the last 70 years in railroad mergers.

There are many people who have legitimate concerns about some of the railroad mergers that are being considered right now. But these were brought into play before we brought this bill to the floor. And I think to change the rules is not necessary, nor desirable. I think we have the capabilities to judge any mergers. We have the ability to judge the issues under the standards that we have had before in transferring that to the Department of Transportation.

The second reason I think it is important to keep the standards we have is that the Department of Transportation and the new Board that will be created will have the transportation background. They will specialize in this area. That will be their area of expertise and concern. I do not think it does us any good to go to the Department of Justice, which has so many other areas of interest, and I do not think that having this transfer does anything for the merits of the issue, and it could hurt by changing precedent that has been in place.

One of the things that is so important in our judicial system is the value of precedent. We place a great deal of emphasis on being able to determine from what has happened in the past what will be allowed in the future. That is one of the ways that businesses make their decisions. They would look at a merger, they would look at a precedent, and they would make a business decision if this is something that would go through and what the concerns would be.

I think it is important we keep that value of precedent so that we will have an orderly business climate that allows people to make good business decisions without disrupting 70 years of precedent in this area.

So I hope that we can defeat the Dorgan amendment and stick with the committee bill. I think it is a good bill. It has many merits. It is certainly going to save money.

We are on the road to eliminating the ICC because it is not necessary. Let us not throw out the value of what has gone on in the past just because we are putting it into a more efficient system. I think it could cost us much more in the long run and certainly cost competitiveness and cost to customers if we increase the regulatory environment and therefore cause people to have to raise prices. So I hope we can defeat this amendment, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENDING AMERICAN TROOPS TO BOSNIA

Mr. INHOFE. Mr. President, I feel compelled today to make a couple of statements about the President's message last night.

I am very disturbed at what is happening, and I think all of America needs to know what is going on. I commend the President on giving a beautiful, persuasive speech, as he is very good at doing. However, I suggest, Mr. President, that as we are speaking now and as time is creeping by, our troops are on their way to Bosnia.

It is my understanding that the distinguished Senator from Colorado, who will be here in just a moment, made a trip over Thanksgiving, which is essentially the same trip I made the week before, into the northeast sector of Bosnia, which is the area where our troops are going to be. A number of people have gone over to Bosnia but have not gone beyond Sarajevo and do not really have a feel for the environment in which our President has this obsession of sending our American troops.

Mr. President, last night he talked about morality and about what our moral obligation is in Bosnia, and the fact that we have a moral obligation to see how many people we are going to be able to save from the brutality that could be taking place there.

He talked about our commitment to NATO. And I would like to throw out a couple of ideas, a couple of thoughts. Mr. President, when I went to Sarajevo it was the middle of a blizzard, a snowstorm. We had a hard time getting up there. There were not any Americans up there. There were not any Americans going to the northeast sector, that area around the Posavina corridor and Tuzla, and south of Hungary, which is an area where our troops are going to be deployed from the 1st Armored Division where they are being trained for this kind of deployment. And that may be happening and is happening, I suggest, as we speak.

I heard several people say that we need to wait until we have hearings and let some time go by. But each hour that goes by, the American people need to know the President has a strategy to get our troops over there, to put us in a position where we are going to have to, by denying the authorization of sending troops into Bosnia on the ground, we are turning our backs on troops who are already there. And this is a position that we are now getting into. And each hour that goes by we are getting in deeper and deeper.

I can recall not being able to get up there until General Rupert Smith, who is the successor of Michael Rose as the commander there of the U.N. forces in Bosnia, he agreed to take me up. And as we went up we went over almost every square mile of that area that is called the northeast sector, where our troops are going to be deployed, not more than 100 feet off the ground—because I have a background in aviation, I know we were not anywhere higher than that—we were in the middle of a blizzard.

Mr. President, this is not the Rocky Mountains we are talking about. This is an area of cliffs and caves. For the first time I could see why during the Second World War that they were able to withstand the very best that Hitler had to offer on a ratio of 1 to 8 because of the very unique geography we are dealing with.

As I looked down I thought, there are not any roads down there, there are not any valleys, not the traditional valleys that you would have in the terrain that we think of as being mountainous terrain. And so all these tanks and all these armored vehicles would not really have any way to maneuver in that area.

And, Mr. President, I think the President of the United States is putting us in a position where it is going to be too late. You know, we could come back and talk about whether or not we should send troops over, whether or not there are strategic interests as far as our Nation's security is concerned. And by that time, we are going to have our troops over there.

I think the President is looking at—he has been talking about 20,000 or 25,000 troops for so long now, for 2 years, I think it is an obsession with him. He is no longer thinking of them as being faces of real human beings. I think it is a faceless gesture when he says, we want to send 20,000 American troops into Bosnia.

But I went up to where the 1st Armored Division was training these young men and women who will be the first to go, who I suggest—I had breakfast with many of them in the mess hall. And they are on their way to Bosnia right now as we speak. And those individuals all asked me, "What is our mission? We don't understand what our mission is." Of course, I tried to be as optimistic as possible. I said, "We're always behind our troops. Whatever happens, we're going to be supporting our troops." But as far as the mission is concerned, I do not know what the mission is.

In the speech last night the President kept using the term over and over again—he said, "The mission is clear and limited." But he never said what the mission was. It is a humanitarian mission. And I think we have about half the world that is covered with problems, with ethnic cleansing, with human rights violations. I am not sure whether we feel that we—or the President feels that we—have the resources and the military assets to go out and take care of all these problems. Obviously, we do not. We are operating on a defense budget now that is down comparable to what it was in 1980 when it could not afford spare parts. Yet we are taking on all these humanitarian problems around the world.

I had occasion to talk to James Tayrien. James Tayrien is from Poteau, OK. He would be one of the first ones to go. I came home and talked to his mother, Estella, down in Poteau. She asked me the same question. I cannot answer it. It is very easy to get engaged in these things and send troops in, but it is hard to bring them out.

Look at Vietnam. It was very easy to send them in. Look at the other cases that we have. Mission creep. If there was ever a classical environment for mission creep, that is it over in Bosnia. In fact, we have already crept. The mission was to be peacekeeping. Now it is peace implementation. There is a big difference, Mr. President, between peacekeeping and peace implementation. Peace implementation is the recognition there is no peace to keep right now.

The President last night said, of course, the war is over. The war is not over. We went up there. We were in Tuzla. We could hear the firing, the firepower that was going on. It has not stopped. And we are dealing with three major factions over there. And I suggest to you that one of the factions was not in Dayton, OH. Milosevic does not speak for the Bosnian Serbs.

It was my experience—and I see the distinguished Senator from Colorado is here. He is the only other Senator or House Member, to my knowledge, who has been in the northeast sector, in the Tuzla area. The point I am trying to get across here is that those people who are around that peace table are not speaking for the factions that were firing guns as we were up there just a couple weeks ago.

I mean, they are up there. They could be Croats. They could be Serbs. They could be Bosnian Serbs. They could be Moslems. We do not know who they are. They could be any of these rogue factions. We hear a lot about the major factions that are over there. We know that three major factions have fired on their own troops just to blame the other side for sympathy. Anyone with that mentality is going to be firing on American troops. But we do not say anything about the other rogue factions, such as the Black Swans, the Arkan Tigers. We have Iranians. We have all kinds of factions up there, more than just three major factions.

I would like to ask the Senator from Colorado, if that is the same environment as I have just explained that he experienced just this past week? I am sure he would have rather been doing something else on Thanksgiving. But it is my understanding he was up in that northeast sector during Thanksgiving. Is that correct?

Mr. BROWN. I did. We had taken a plane, U.N. plane into Sarajevo and got a U.N. crew, a Norwegian helicopter crew, to take us in that region. And we did a flyover over much of that area. I must say the Senator's description is right on.

What I found was in that area that is absolutely ideal in terms of guerrilla warfare. What I was surprised to find, and I think Members may be surprised to find, is that the plan is not to set up a border and patrol of that border. In other words, in fact, they indicated many of these areas where the line has been drawn, it simply does not even correspond to things on the ground. It is not the peak of a hill or the depth of a valley or the flow of a river. It is a line on the map that has not been translated on the ground.

And their plan is not to erect a fence or even to check people coming across. There would be free flow of people across it. But I found very rugged terrain, and I found the roads that were there were very narrow, and very heavy timber cover so that it would be very difficult to spot things from the air. And it would be almost impossible to get our armored personnel carriers and our armored vehicles, tanks, into full play in that region. It is as difficult a situation from a terrain point of view as I have seen almost anywhere.

Mr. INHOFE. Let me ask the Senator from Colorado, since this was about a 10-day period between the time I was in the northeast sector of Bosnia, south of the Posavina pass and south of Hungary and north of Tuzla, if he did have occasion to speak to any of those who were in command up in Tuzla, such as General Haukland?

Mr. BROWN. I did talk to the Norwegian general. He said he would be relieved when the U.S. troops came in. I also talked to Gen. Rupert Smith in charge of the U.N. forces there, as well as a discussion at the Embassy with all the U.S. forces. As the Senator knows, there is a number of U.S. military personnel who are stationed in Sarajevo. They indicated a couple of things. One, none of them expected this to be wound up within a year.

Mr. INHOFE. This is the question I was going to ask the Senator. Even last night we talked about 12 months.

When the Senator and I sat next to each other at the Senate Armed Services Committee, when we had Secretary Perry and General Shalikashvili, and we asked the question that they had written up, "Are you going to commit yourself to 12 months, to a time period after which we withdraw and we come back?" they said, "Yes, we are absolutely committed to that."

Did you find anyone, who were the military people, either with NATO, the United Nations, with any of our NATO partners, or anyone up there in the Tuzla area who felt there is even a remote idea or notion we could be out of there in a 12-month period as far as achieving peace?

Mr. BROWN. I talked to Norwegian personnel, military personnel from Iceland.

There were doctors there from Sweden. I talked to a general from Great Britain. I talked to U.S. military personnel. I talked to Embassy personnel. I talked to Bosnian officials. Nobody, not anyone, none of them thought this mission could be achieved or completed within a year.

Mr. INHOFE. That is exactly what they thought 10 days prior to that time. I have these horrible visions of what happened with Somalia. I can remember when we were trying to bring our troops back from Somalia, and we sent resolutions to President Clinton month after month to bring our troops back from there.

It was not until 18 of our Rangers were murdered and the mutilated corpses were dragged through the streets of Mogadishu that the American people finally woke up and said, "We want them back. We don't have strategic interests there that are worth this kind of a sacrifice." I see similar things like this are happening over there.

When you talk about the morality of the issue and the fact that we are, in a sense, rewarding those individuals who are guilty of the most serious war crimes, because we are now saying we are on their side and we are doing this, this is something that I think we need to talk about before a decision is made that we are going to go along with this, because I see that happening.

I see discussions taking place in this Chamber and outside the Chamber, "Well, let's wait until we have some hearings. Let's wait until this," and as this is happening, our troops are being deployed over there.

Mr. BROWN. Let me say to the Senator, if I can, in response, I think it is very analogous to what happened in Somalia in this respect: There is not a clear military plan. There is not a clear plan as to what we are going to do once we are there.

For example, one of the things you could do is put up a fence and man a border. That is not what they plan to do. One of the things you can do is you can stop people from moving from one side of a border to another, stemming terrorism, guns, ammunition. That is not what they plan to do. When I asked what they do plan to do with the troops there, there was no clear answer by anyone.

The reality is, the President is committing troops to that area for show. There is no clear military plan, and there is no clear, effective way to defend or protect those troops.

I might say, it is cold as can be right now in Bosnia. There is no structure there for our troops to stay in. There is no structure there for our troops to stay in. There is no supply of clean, healthful water. There are no normal sanitary conditions. There is no established supply line at this point. I suspect there will be at some point in the future. But this is a catastrophe in the making, and I believe it shows a reckless disregard for those who serve our country.

I think we have an obligation to people who put on the uniform of this Nation. You can agree or disagree with the mission, you can agree or disagree with the personalities, but we have an obligation when someone comes and puts on the uniform of the United States to make sure that we do not endanger their life without a real purpose.

Some will say we should not endanger their life. If you are not willing to put your life on the line, you should not be in the military. I understand how these men and women would risk their lives, and our freedom is important enough to do that. But, Mr. President, and I say to the Senator from Oklahoma, keeping our prestige high or avoiding an embarrassment because someone made a commitment they should not have is not a reason to commit American troops to a situation where they cannot defend themselves or cost American lives.

We have an obligation to people who put on that uniform to stand beside them and do all we can to protect them, and it is very clear—it is very clear—that we are not able to do that in this circumstance, and, moreover, we have not even supplied them with a purpose or a reason for them to sacrifice their lives.

If they were there to defend freedom, I think the Senator from Oklahoma and I would be right there with them to stand behind them and support them and to encourage this action to stand up for freedom. But this is not that effort. This is an effort to save face in the world community, and I think it is much more important to stand behind our troops.

Mr. INHOFE. Let me ask the Senator from Colorado——

Mr. PRESSLER. If my friends will yield for a split moment, we are trying to get a vote ordered at 5:15, and I have to make a unanimous consent request. If I can do that, then you can go back into your mode, because they are going to hotline this.

Mr. INHOFE. I yield to the Senator.

INTERSTATE COMMERCE COMMISSION SUNSET

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. PRESSLER. Mr. President, I ask unanimous consent that a vote occur on or in relation to the Dorgan amendment at 5:15 this evening and that the time between 5 p.m. and 5:15 be divided: 5 minutes under the control of Senator PRESSLER; 5 minutes under the control of Senator EXON; and 5 minutes under the control of Senator DORGAN.

Mrs. BOXER. Reserving the right to object, Mr. President, I would like to add to that that I have an opportunity to lay aside the Dorgan amendment and offer an amendment. I will only need 5 minutes to speak on it, and it, too, can be laid aside. If I have that opportunity, then I will not object.

Mr. PRESSLER. Can the Senator offer her amendment at 5 to 5? Would that be OK? I am trying to get to the first vote here. I want everybody to speak as much as they wish.

Mrs. BOXER. As soon as this consent request is agreed to, can I offer it right then and lay it down?

Mr. PRESSLER. My friends will finish their dialog probably by 5 to 5, I guess.

Mr. INHOFE. Yes.

Mr. PRESSLER. Why do you not offer it at 5 to 5?

Mrs. BOXER. So I will get it before the vote on the Dorgan amendment?

Mr. PRESSLER. Yes. I amend that by saying at the hour of 4:55 p.m., the Senator from California will offer her amendment, and then at 5 o'clock we divide up the time.

I want everybody to speak as much as they wish.

Mrs. BOXER. I will not object to that.

Mr. DORGAN. Reserving the right to object, and I will not object, I just observe that the 5 minutes allotted for myself and the 10 minutes allotted for Senator PRESSLER and Senator EXON make it 5 minutes for and 10 minutes opposed. I do not object, but I wish if Senator BOND wishes to come over for support, we could get a minute or two.

Mr. PRESSLER. I will give him half my time.

Mr. DORGAN. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Did the Senator from South Dakota have a further unanimous-consent request?

Mr. PRESSLER. I further ask unanimous consent no amendment be in order to the Dorgan amendment and the amendment be laid aside at 5 p.m.

Mrs. BOXER. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. INHOFE. Mr. President, just a couple of other things I wanted to ask the Senator from Colorado.

In that there is a 10-day timeframe from the time he came back and the time I was over in that area, a concern was expressed to me at that time—and keeping in mind that the lines we have now seen on the map near Tuzla, which I am sure the Senator has had a chance to discuss, there is a problem that there are approximately 3 million refugees, if you count them from all throughout that area that those lines on the map are going to preclude at that time, they said more than 50 percent of them would not be able to return to their homelands.

Their concern was that this is going to increase the number of rogue elements that were there, that anyone who thinks there is a peace accord, first thing a refugee wants to do is go home. The fact that they would not be able to return home would increase the number of rogue elements that are around or that join other elements.

The second thing is their concern over what we refer to, and the administration refers to, has never really been defined as systematic violations. There are two ways we can get out of this. One is, 12 months goes by; and the other is if there is a systematic violation, meaning one of the major factions is violating the peace accord or whatever accord it is they have initialed and they are proposing to sign.

The fact that there is no way for the military, the soldier in the field, to know if there is an uprising of some type or a conflict, whether that is a systematic violation or maybe just some rogue element that is firing upon troops—did they express that concern when you were there?

Mr. BROWN. Those concerns were expressed, and added to this is the fact that the border will be free flowing. You will not have an interdiction at the border. It will be very difficult to tell if the people coming across the border are refugees and allowed to go back to an area that has changed hands, or if they are terrorists, or if they are a military element.

They also expressed great concern about a couple of other aspects. One was a conviction on the part of the military personnel that I talked to—U.S. military personnel—that none of the parties would abide. When I asked, they said, "Look, the normal pattern here is people sign agreements and then when spring comes, they go ahead and proceed with their plans afoot." Frankly, our people who are on the ground were very skeptical that you would see any of the three parties follow these agreements.

The problem, of course, is that you have U.S. military personnel in a position that is very difficult to defend in between them at a point they have wholesale violations of the peace agreements.

At this point, it is very difficult for me to see what it is U.S. personnel accomplish in that area, other than being targets.

Mr. INHOFE. Certainly in a 12-month period, if we are, in fact, committed to a timeframe—and I do not know from my reading and, of course, my experience in the military, of any time we have gone into hostile conflict with a time-oriented departure—it is always a function or an action, something that has taken place.

It was General Huptmann, I believe, who used this analogy, and maybe he used it with you. He said, "Twelve months is like putting your hand in water for 12 months and you take it out and look down and nothing has changed." Twelve months in the Balkans does not mean anything. If we are going to be out in 12 months, those individuals that would be warring factions would be in a position to start up again.

Mr. BROWN. One thing I might say, it will mean the expenditure of $1.5 billion to perhaps $3 billion. I say to the Senator, I suspect this body will face supplemental appropriation requests from the administration that exceed those numbers.

There simply is no way to put down the 20,000 people they are talking about in that region, or perhaps 25,000 they have talked about—my guess is it may be the higher figure—without the expenditures of huge amounts of money in roads, in clearing areas, in some sort of quarters for the personnel that will be there, and the whole infrastructure they are talking about as a backup.

What will be different 12 months from now is an enormous expenditure of U.S. Treasury in taxpayers' money on an enterprise that does not have a defined function or a defined date of accomplishment.

Mr. INHOFE. I think the Senator from Colorado is being very conservative when he quotes the figures of the administration of $1.5 to $2 billion. I have seen figures up to $4.5 to $6 billion.

I recall not too many weeks ago the administration came to this body for a $1.4 billion supplemental appropriation to take care of some of the past humanitarian gestures that were forecast to cost a third or a fourth of that amount. It is hard to talk about dollars when we are talking about human lives.

My concern is if we are concerned, as the President indicated he was last night, about NATO and the integrity of NATO, where is NATO going to be if we go in there and start this thing, the body bags start coming back to America and people start getting concerned as they were as the incidents of Mogadishu? Then we cut and run, which surely we would do at that time. Then, where is NATO and the integrity of NATO?

Mr. BROWN. I think the Senator has put his finger on the entire problem. Before we commit U.S. troops to a role where they are in danger, the Weinberger rules of engagement, I think, provide a good basis.

It seems to me for every American, just simple and basic understanding, before you send troops into combat, you ought to have a clearly defined military mission that is accomplishable, and without that, they should not go.

What we are literally seeing is the use of U.S. troops as international social workers. The fact is, U.S. armed services personnel ought to be used as soldiers to accomplish a military mission. That is what they are trained for. That is what they are accomplished at. That is what they are good at.

For U.S. troops to be used in this function without a clear mission, at least in this Senator's view, is an invitation to a tragedy of the first order.

Mr. INHOFE. I am very much concerned about it, and I know we are using up more time than we should.

Let me just conclude and speak only for myself. I have listened to the President. I thought the President would come out with something new that has not already been part of the debate. There was not one new argument or element introduced into the debate in the President's statement last night.

In the absence of that, knowing that each hour that goes by the President is deploying more Americans into that hostile area, I have to get on record right here in this body, Mr. President, as saying I will fight with every fiber of my being to stop the President from sending troops in on the ground into Bosnia.

INTERSTATE COMMERCE COMMITTEE SUNSET ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

AMENDMENT NO. 3065

(Purpose: To provide for the comparable treatment of federal employees and members of Congress and the President during a fiscal hiatus)

Mrs. BOXER. Mr. President, I send an amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. HARKIN, Mr. BRYAN, Mr. BUMPERS, and Mr. FEINGOLD, proposes an amendment numbered 3065.

Mrs. BOXER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) COMPARABLE PAY TREATMENT.—The pay of members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected federal employees who are not compensated for any period in which appropriations lapse.

(b) This section shall take effect December 15, 1995.

Mrs. BOXER. Mr. President, the purpose of the amendment I have sent to the desk which is sponsored by myself, Mr. HARKIN, Mr. BRYAN, Mr. BUMPERS, and Mr. FEINGOLD, simply says that Members of Congress and the President should be treated the same way as other Federal employees during a shutdown, a partial shutdown, during any period where there is a lapse in appropriations.

Now, Mr. President, the Senate has passed it a couple of times, but I hope it was not a sham when everyone said, "Yes, we are for it," take it by voice vote. We put it on the D.C. appropriations bill. It seems to be stuck there. The other times we passed it, it has not seen the light of day.

I have been around here long enough to know when I am getting conned. This is not happening. Everyone says they are for it, it passes here, and it has not really gone to the President's desk. He supports it.

The reputation of this Congress is at a very low point. The approval rating of this Congress is in the 20's. I submit that one of the reasons, first of all, was the fact that there was a Government shutdown, that we could not get our job done. We failed.

This Congress did not get the appropriation bills out to the President. This Congress could not even pass a clean debt extension. Chaos is the name of the game around here.

During the Government shutdown, we know there was a lot of angst, anxiety, for Federal workers, for people who needed the Federal Government, for people who want to go to the parks, for veterans who could not get help, for new Social Security applicants who wanted to file their papers, but no sacrifice around here. Our own staff was not getting paid, but we were getting paid. No problem.

Yes, some Members of Congress felt bad about it and gave some money to charity. Some did not take their checks. Some gave their money back to the Treasury. But this was an institutional failure, Mr. President.

There was a poll done in San Francisco, a place that believes there is a very important need for a national Government, and 89 percent of the people responding to the poll of the San Francisco Examiner said Congress should not get paid unless they do their work.

What could be more fundamental than making sure that appropriation bills move forward or, in lieu thereof, a continuing resolution that keeps this Government running?

Now, Mr. President, we have deep divisions in this body on Federal priorities. The Republicans have laid out their budget. It is clear. Mr. President, $270 billion cuts in Medicare, huge cuts in Medicaid, education, the environment. The President says, "No way." We will balance the budget in 7 years, we all agreed, but we need to take a better look at priorities.

Well, that is all well and good, but the fact is we should not be playing games with people's lives, and if we do, we should get penalized just as other Federal employees would.

So we have our disagreements on the level of spending, but we should still get to work, get some compromises going, and move forward as a Nation.

So we have not passed the Boxer-Durbin bill. It is stuck in all sorts of committees. I intend to offer it every single chance I get, on every single bill that I can. I intend to get a vote on it. I will be persistent, and I know around here persistence is looked at in two ways: Some people love it, other people hate it. They especially like it if they agree with you; and if they do not, they hate it. But I am going to be persistent on this. I have been persistent on other things around here. And I will say this. This bill makes eminent sense. Let me read it to you. As an amendment it says:

The pay of members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected federal employees who are not compensated for any period in which appropriations lapse.

This section shall take effect December 15, 1995.

The PRESIDING OFFICER. Under the previous order, the Boxer amendment will be set aside.

Mrs. BOXER. Thank you very much, Mr. President, for your patience.

AMENDMENT NO. 3064

The PRESIDING OFFICER. The Senate will resume deliberation of the Dorgan amendment.

Who yields time?

Mr. PRESSLER. Mr. President, I yield myself 2 minutes to say I urge all Senators to vote against the Dorgan amendment. We have taken care of the problems which the Senator from North Dakota raised in this bill. This is a carefully crafted bill which Senator EXON and I and others have worked out over months of negotiation and this is unnecessary additional regulation. I rise in strong opposition to the Dorgan amendment. I urge all Senators to vote against it.

I reserve the remainder of my time and, Mr. President, I suggest the absence of a quorum and I ask unanimous consent that time be charged equally.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order for me to offer an amendment at this time and to have it voted on immediately following the vote on the amendment by Mr. DORGAN.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Mr. President, reserving the right to object—and I do not want to object—some of the Members may want to have a chance to speak on the amendment. I am trying to find a way here to cooperate quickly. But we do not know what the amendment is.

Mr. BYRD. Very well. The Senator makes a good point.

Mr. President, I ask unanimous consent that it may be in order for me to offer my amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3066

(Purpose: To provide for a minimum penalty of 30 years of imprisonment and a maximum penalty of life imprisonment for the destruction of a motor vehicle or motor vehicle facility if a motor vehicle carrying high level nuclear waste or spent nuclear fuel is involved, or for wrecking or sabotaging a train that carries high level nuclear waste or spent nuclear fuel)

Mr. BYRD. Mr. President, today we are considering S. 1396, the Interstate Commerce Commission Sunset Act of 1995. For over a century, the ICC has protected shippers from unfair competition and monopolistic pricing by the railroad and trucking industries. The bill before us reflects the deregulation of the transportation industry, and the declining need for many of the functions of the ICC. But, even as we consider the changing nature of transportation, we must also consider that new threats have emerged against shippers and the Nation's rail and trucking industries. Those threats are not in the indirect form of predatory price gouging, but rather manifest themselves as direct acts of violence and terrorism that threaten innocent bystanders.

We are considering this bill in the wake of the sabotage of the Sunset Limited in the Arizona desert on October 10. That derailment is the latest act of terrorism against the American people, following on the bombings of the World Trade Center in New York City and the Federal building in Oklahoma City. When the ICC was first created, such acts of violence were unknown.

Today, we must act to deter terrorism, and in so doing, must think the unthinkable—namely, that a terrorist could target a shipment of the most lethal of all possible cargoes, high level nuclear waste. This is the most toxic substance known to mankind. Exposure to even the smallest amount—amounts so small that you could not see it—would result in death. High level nuclear waste is not simply lethal, but also long lasting. It can take up to a quarter of a million years for this waste to fully decay, and lose its lethal radioactive character.

My amendment would increase the penalties for an act of sabotage against a train or motor vehicle carrying spent nuclear fuel or high level nuclear waste. Current Federal law stipulates that the penalty for an act of sabotage against a train or motor vehicle is a maximum of 20 years—which means they could be given 5 years, or 10 years, or 2 years—or in the event of a fatality, a minimum of life imprisonment or the death penalty. Therefore, a terrorist who targets a train or truck carrying high level nuclear waste, but who fails in his mission to spread this poisonous radioactive contamination, might receive considerably less than 20 years in prison.

Under my amendment, any individual who commits a "willful" or deliberate act of sabotage against a train or motor vehicle used in interstate commerce transporting high level nuclear waste or spent nuclear fuel would receive a minimum penalty of 30 years to life. The current provision of law regarding a fatality would remain in effect.

My amendment is necessary because shipments of nuclear waste and spent fuel are already occurring. Furthermore, there is the possibility of a significant increase in the number of such shipments within the next few years. If that should occur, there would be increased public attention focused on these shipments. The public would be aware that, under my amendment, any act of sabotage would receive the certain and minimum penalty of 30 years imprisonment.

Past shipments of nuclear waste have crossed through the majority of our States, including my own State of West Virginia. These shipments traveled on many of the primary routes of interstate commerce, and passed within close proximity to major urban areas, and millions of American homes. Thus far, we have been lucky, with no recorded acts of sabotage against these shipments. But the possibility has always been present, since this toxic cargo is carried by both rail and truck.

From 1979–1994, there were 1,282 separate shipments of commercial spent nuclear fuel. Ninety percent of these shipments traveled on the Nation's highways, with only 10 percent traveling by rail. And it is important to note that this figure does not include classified shipments of high level nuclear waste from Department of Energy or military facilities, although my amendment covers those shipments, as well.

Even though more trucks were involved in this commerce than trains, over 70 percent of the total volume of radioactive waste was carried by rail. And, this volume could dramatically increase before the end of this century. Current plans call for this spent nuclear fuel, along with even more high level radioactive waste from Federal facilities, to be deposited in a permanent geologic repository. At the present time, Yucca Mountain in Nevada is under consideration as such a repository. The Yucca Mountain site is behind schedule, and the site suitability study is not due to be released until 1998 at the earliest.

In the meantime, pending legislation would authorize the construction of an interim storage facility at the Nevada Test Site. This interim storage facility would be used until Yucca Mountain, or an alternative site, is approved. I want to emphasize that my amendment does not address the issues posed by that pending legislation, namely, whether Yucca Mountain, or an interim storage facility, should be made operational.

My amendment, does, however, address the danger presented by the dramatic increase that would occur in the shipments of toxic nuclear waste to either of these facilities. Current proposals call for the shipment of 2,000 to 3,000 metric tons per year, from up to 79 commercial nuclear reactor sites that have spent nuclear fuel and waste stored on-site. Furthermore, this does not include DOE facilities. The interim site, if it is approved and constructed, would eventually receive up to 100,000 metric tons of spent fuel and high level nuclear waste, pending the opening of a permanent geologic repository.

The Department of Energy has not publicly announced which routes will be used in shipments to Yucca Mountain or an interim storage site. However, these shipments would originate at up to 79 commercial sites, as well as Department of Energy facilities, and would therefore likely travel across large sections of our Nation.

But our concern should not be only about the routes that will be used, but also the sheer number of shipments, and the quantity of highly radioactive waste involved. From 1979 to 1994, a total of one ton of spent nuclear fuel was shipped in the United States by commercial facilities. These proposals to build an interim or permanent nuclear waste facility envision shipments of thousands of tons in a single year.

Again, I am not commenting on whether a permanent waste repository or interim storage facility is needed, or whether such shipments should occur. This body has debated that issue in the past, and will do so again in the future.

Regardless of how that debate is resolved, the fact remains that we are currently shipping the most toxic substance known on our Nation's highways and railroads. And we may dramatically increase those shipments in the future. The very least that we can do is to increase the penalty for sabotage against such shipments, in an effort to deter such acts of terrorism from occurring.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3066.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of the title 18, United States Code, is amended by adding at the end the following new undesignated paragraph:

"Whoever is convicted of a crime under this section involving a motor vehicle that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.".

(b) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended—

(1) by inserting after the fourth undesignated paragraph the following:

"Whoever is convicted of any such crime that involved a train that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years."

Mr. PRESSLER. Mr. President, I think we very much want to accept the amendment, and the Senator from West Virginia would like a rollcall vote on it immediately following this one. I should be clearing with my partner here. But as far as I am concerned we would be delighted to either accept it or have a rollcall vote immediately following this vote, whichever the Senator prefers.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent that this vote occur immediately after the vote on the Dorgan amendment which will occur momentarily, I understand.

Mr. BOND. Mr. President, reserving the right to object, this amendment, the Dorgan amendment, was to be debated in this time period. There are some brief points that could be made, and I wonder if the floor manager would include 2 minutes for the proponents and 2 minutes for the opponents so that we may conclude discussion.

Mr. PRESSLER. Just to explain, the times were reserved between 5 and 5:15. Some Senators have to go on to other schedules. We now will have two rollcall votes starting almost immediately. As far as I am concerned, I would suggest we could yield 2 minutes to the Senator. The Senators who had that time were not here. It might inconvenience other Senators is my point, but as far as I am concerned, I have no objection to 2 minutes being added on at this point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, would the distinguished manager ask unanimous consent that there be no intervening debate on my amendment and that there be no amendment to the amendment?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri will now proceed to speak for 2 minutes on this amendment, after which there will be two consecutive rollcall votes without there being any discussion in between.

AMENDMENT NO. 3064

Mr. BOND. Mr. President, I would ask to be notified when 1 minute is gone. I want to give the prime sponsor the final minute.

Basically, the amendment by the Senator from North Dakota says that the Clayton Act standards—will there be lessening of competition in any line of commerce—be applied to rail mergers. All of us have seen the case in airlines where there is no competition from one nearby city to another and find the cost of that travel is greater than the cost of travel coast to coast. That is because competition is not in effect.

I agree that we ought to get rid of Government regulation, but we need competition to protect the customers in the marketplace, and we can only have competition if the Transportation Board has to apply the same standards to rail mergers it does to other industries.

I urge support of the Dorgan amendment. I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I ask unanimous consent that I be allowed 2 minutes for closing argument.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I addressed this amendment earlier, and I hope that the Senate will vote it down. It is a violation of the basic principles that we put together with a near unanimous vote, if not a unanimous vote, of the Commerce Committee. This amendment would simply place in the Justice Department a veto over things that should be properly decided by the independent body that used to be the Interstate Commerce Commission and now will be a body under the Department of Transportation.

Once again I say, I think that the Justice Department should be a legal advisor, which they are, in the bill introduced by myself and the chairman of the committee, but this is a bad step in the wrong direction, and I hope the Senate will vote it down.

Mr. PRESSLER. Mr. President, I move to table the Dorgan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I might ask the sponsor of the amendment if he wishes additional time.

I yield back the remaining time.

The PRESIDING OFFICER. All time for debate having expired, the question is on agreeing to the motion to table the amendment of the Senator from North Dakota. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 585 Leg.]

YEAS—62

Abraham
Ashcroft
Bennett
Bingaman
Brown
Bryan
Burns
Campbell
Chafee
Coats
Coverdell
Craig
D'Amato
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kerrey
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond

NAYS—35

Akaka
Baucus
Bond
Boxer
Bradley
Breaux
Bumpers
Byrd
Cochran
Cohen
Conrad
Daschle
DeWine
Dodd
Dorgan
Feingold
Glenn
Graham
Harkin
Heflin
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murray
Pell
Pryor
Sarbanes
Simon
Wellstone

NOT VOTING—2

Biden
Warner

So the motion to table the amendment (No. 3064) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3066

The PRESIDING OFFICER (Mr. GORTON). At this time, the Senate will proceed to vote on amendment No. 3066 offered by the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 586 Leg.]

YEAS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Wellstone

NOT VOTING—2

Biden
Warner

So the amendment (No. 3066) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3065

The PRESIDING OFFICER. The pending business is the amendment proposed by Mrs. BOXER for herself and Mr. HARKIN.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to point out to the Senate that article II, section 1, clause 6 of the Constitution states very succinctly:

> The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected. . . .

In addition to that, the people of the United States have ratified the 27th amendment to the Constitution, which states:

> No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

I intended to make a point of order that this amendment is unconstitutional. In the interests of time, I have been asked not to do that and to permit this amendment to be taken to conference. I want to put the Senate on notice that should this provision come back to the Senate in a conference report, I shall raise that point of order.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I appreciate the fact that the Senator from Alaska is not going to have us vote on the constitutionality of the amendment that is pending. In fact, we have passed a version of this already at least twice in this U.S. Senate.

I think anyone who looks at the legislative history of why we moved not to change pay for Members of Congress until the next election knows it was because of pay raises, first.

Second, I would point out to my friend that we did talk with many various attorneys on this—Senate legal counsel, we talked to CRS.

Mr. STEVENS. Does the Senator have any such opinion from either of the agencies she just mentioned?

Mrs. BOXER. If the Senator will let me finish I will give him a synopsis of what they said and I will be happy to get that to the Senator in writing. There is divided opinion on this. It is a gray area. If the Senator read this amendment, which I know he has done, there is nothing in this to say we are changing the pay. As a matter of fact, if you look at the last shutdown, every single Federal employee was made whole. The issue was would they be made whole, and many Senators feel, I think on both sides of the aisle, including Senator SNOWE from Maine who actually wrote this with me, that it is very important we not treat ourselves in a different fashion.

So, I say to my friend, I will be happy to send him the opinions and I will, in fact, monitor this myself. Because, I have to tell my friend, this issue is not getting serious attention. It has been kicked around and everyone says what a good idea it is, but it is never becoming law. I will say to my friend, the Senator from Iowa and I are very clearly of a mind that we are going to make this stick. We will work to make this constitutional. We think there is nothing in this that says the pay is changed. We feel there is a way we can even make that point clearer.

But I will be glad to furnish my friend with these opinions over the next few days, as we get them, in writing.

Mr. HARKIN. Will the Senator yield for a question?

Mr. STEVENS addressed chair.

Mrs. BOXER. I yield to the Senator from Iowa for a question.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HARKIN. Will the Senator yield for a question?

Mrs. BOXER. I will be happy to do so, yes.

Mr. HARKIN. I will ask the Senator, since I am a cosponsor of this, am I of the understanding—this has passed before, has it not? At least twice before it passed in the Senate?

Mrs. BOXER. Actually a harsher version of this has passed twice.

Mr. HARKIN. And in both of those cases the President was not included, was he?

Mrs. BOXER. Yes. The President has been included because, when I put this out the first time, the other side made that point. The President said he wants to be included. As a matter of fact, he thinks that is the appropriate course. And we did put the President in because the other side said they would not take it unless the President was in it.

Mr. HARKIN. In other words, our friends on the Republican side said they would not take it unless the President was in it and now we are hearing the argument from the Republican side it is unacceptable because the President is in there, is that right?

Mrs. BOXER. Yes. It feels like a run-around, to me.

Mr. HARKIN. Article II of the Constitution says that the President's salary shall neither be increased nor diminished during the period for which he shall have been elected. But amendment 27 is much different. The 27th amendment, we all know why that was adopted, and the language shows that deals with pay raises. Is that not correct?

Mrs. BOXER. I believe that is correct.

Mr. HARKIN. That is worded differently than article II of the Constitution because it states in there that the pay of Senators and Representatives, the compensation, shall not be varied during that period of time.

Mrs. BOXER. That is correct.

Mr. HARKIN. So there is a difference between the wording of the 27th amendment and article II.

The Senator answered my questions.

Mrs. BOXER. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, first of all, I want to commend my colleague from California for her excellent work and diligence in pursuing this important amendment.

For the life of me I cannot understand what this is really all about. Late last year and earlier this year a hue and cry went up that Members of the Senate and the House ought to be treated the same as other people in this country. OSHA laws and all of these other things ought to apply to us as well as everyone else so we would know what ordinary people went through. We all voted for that. So we covered the Congress with these laws. I think the people of this country thought that was wise.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I am delighted to yield.

Mr. BYRD. Just to correct the RECORD, there is one Senator who did not vote for that. That was the Senator from West Virginia.

Mr. HARKIN. I think the RECORD will show that I did not say it was unanimous.

Mr. BYRD. One Senator, no Member of the House voted against it. One Member of the Senate voted against it. I voted against it, and I do not regret my vote. I think time will prove me to have been at least partially right.

Mr. HARKIN. I appreciate that the Senator from West Virginia did not vote for it, but we may have a difference of opinion on this since I believe the Congress should have been covered by the same laws, just like I think this also should cover us the same way.

I find it more than passing strange that when the Government shuts down, as it recently did, that FBI agents, air traffic controllers, even our staff, all of our staff who work here, do not get paid. Most people thought that those who were not essential did not get paid, that the ones that went home did not get paid. I talked to a lot of my colleagues who did not know that those who were essential and went to work every day still did not get paid except for Senators and Members of the House.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I am glad to yield for a question.

Mr. STEVENS. I assume the Senator knows it is because of a law passed by this Congress that put that into effect and that it was never exercised by any President before, but this President did exercise it. This President did, contrary to what President Carter did in 1977. He closed down the national parks. He closed down the various other essentials. But the concept was just to put pressure on Congress.

If you want to get into a political argument here, I thought that the understanding was that we would make a statement, and that if it came back I would raise a point of order. If the Senator wants to have this debate now and go into the evening, I am more than willing to get some documents in here and have the debate now. It was my understanding we would have it, if it came back from the conference.

Is what the Senator from Iowa saying is the Senator intends to say that the provisions I have raised do not cover this? I happen to be chairman of the Governmental Affairs Committee, and I share the Senator's feelings about putting people in the position where they are either told to go home or work and not get paid. But that is an act of Congress which I would like to get changed.

But I do not intend to get beat around the head because I want to raise a point of order based on the Constitution of the United States. Are we going to have this bill go to conference tonight or are we going to have this debate?

Mr. HARKIN. I do not know. I cannot answer the Senator's question. I know I want to speak on this. I went to some extent and length to get here to talk on this tonight. I intend to have my say on it. I have the floor, and I intend to speak on it. I do not know how long it is going to take me. It may take me just a little bit, but I am going to have my say on it because I feel very strongly about it.

Mr. President, once again the people of this country see Congress being treated differently than other people that work for the Federal Government. You know when you get laid off of a job and the plant closes down, you do not get paid. We have laws here that say when the Government closes down and we do not pass the appropriations bills, it is not a law. It is basically that we do not have any money to pay them.

So I really do not know what law the Senator was talking about. When we do not pass the appropriations bills—and that deadline occurs at the end of the fiscal year and we do not have any money to run the Government—for those appropriations bills that have not been passed, those agencies shut down unless we have a continuing resolution. When that runs out, then, of course, there is no money to pay it.

Well, there is a law that talks about essential personnel who have to show up. For the life of me, I still do not understand how you can demand that someone come to work every day and still not pay them. I thought slavery went out of existence 130 some years ago in this country. I tell people this, and they are dumbfounded by it. I say, yes, the Federal Government can order people to come to work every day and not pay them. Imagine that: Order them to come to work and not pay them. But that is exactly what is happening. It is unfair.

Quite frankly, I think it is unconstitutional. I do not know if anyone has ever tested it, but I do not think that is constitutional. Certainly, I think it is a violation of civil rights to have someone come to work and say, "However, you are not being paid for that period for which you work."

So I think that we ought to cover Congress just as well as we cover other members of the Federal Government. We passed it two or three different times here. It always goes to conference, and then it gets lost. We know what kind of game that is. We passed it, and everyone says, "Oh, yes, I voted to cover Congress just like everybody else, but something happened in that gray mist of the conference committee."

Well, I think the Congressional Accountability Act that we passed is a good bill. I know the Senator from West Virginia did not think so. But I think the vast majority of Congress obviously did think so. I think it is time that we cover ourselves the same way as other Federal workers. If there is a shutdown in the Government, and the appropriations bills have not been passed and other Federal workers are not being paid, whether they come to work or not, then I do not think Senators and Congressmen ought to be paid for the same period of time either.

It is a basic issue of fairness and equity. You can cloak arguments in constitutionality. I do not want to violate the Constitution. But I think a clear reading of the 27th amendment and the reading of the history of the 27th amendment shows clearly that it was not intended to cover this. It was only intended to cover pay raises enacted by Congress.

The Senator from Alaska may have—indeed, I think probably does—a valid point regarding article II of the Constitution. But I do not believe it is a valid point when it comes to the 27th amendment which talks about Members of the Congress.

The continuing resolution I know did stipulate that all Federal workers could be paid in the next pay period.

So, again, we have this odd system where we had the Government shut down and no one gets paid. They are not paid, but they are paid later. A lot of people get time off but still are going to be paid.

We may be facing another shutdown of the Government on December 15. I do not know. I hope not. But we will be in a situation there again where Federal workers could be told to come to work every day and not get paid. When? During the height of the Christmas season when they have their bills to pay and, as I said, earlier, their mortgages to pay, their car payments to make, and Christmas presents to buy. And, yet, we are going to tell them, no, they do not get paid. But that is all right; Senators and Congressmen will get paid.

It is, Mr. President, a basic issue of fairness and equity. I congratulate the Senator from California for pursuing this, and I am proud to be a cosponsor of it. I join with her in saying that, if it does not make it on this bill, there will be another one and another one and another one, and we will keep attaching it until finally we get something that must pass.

This is an issue we should not let go of because it has to do, as I said, with basic fairness and equity. And we should not be treated any differently than any other Federal worker, I do not care where that Federal worker works, for what agency.

I yield the floor.

Mr. STEVENS. Mr. President, I am not going to prolong the debate. Clearly, it is the intersection of the Antideficiency Act and our having reached the debt ceiling as enacted by Congress and the failure to have appropriations bills all occur at the same time that led to an Executive order of the President instructing Cabinet officers not to have other than essential people work. It was an act of the President of the United States himself in signing that Executive order that brought about everything that the Senator from Iowa has just complained about.

Now, we would be more than happy in my committee to consider changing the law. I have said before I think it should be changed. And I do not see any reason why we should have a situation such as existed. We are not in a position where we are borrowing money to pay those people, but it was just done to put pressure on the Congress.

At this time, however, I am not going to raise this point of order, but I again put the Senate on notice if it comes back from conference we will have a debate on the constitutionality and we will let the Congress and the Senate in particular determine whether it wants to enact an unconstitutional law.

I take it without any question that the article II concept applies. Under the 27th amendment to the Constitution, if the Senator from Iowa wants to know how that would work, if we have such a collision on December 15, as we think we will have, and it extends beyond December 31, the compensation of every Senator in this body would be varied because he or she would not have been paid the compensation we are committed to pay him or her for the year of 1995, and this would be a denial of the compensation to a Member of Congress in violation of the 27th amendment.

There may be a way we could do it, and I do not have any problem about doing it right, but it is not to be done by an amendment just thrown out in the Chamber every time something comes up to try and make the proposition that this Senate under our majority control is somehow or other treating Federal employees different than we are treating ourselves.

That is not true. The laws that we are following were enacted before. The President of the United States followed those laws and signed an Executive order, and that is why people stayed home when they were told not to report to work and we are paying them, as we should, under the laws. But they are not covered by the Constitution as is the President of the United States and Members of Congress.

I would be perfectly willing to continue the debate. I personally would like to vote on the amendment by voice vote, and we will discuss it later. But if the Senate wants to get into it, I will get a few tomes over here and we will get into chapter and verse of why this is unconstitutional legislation.

Mrs. BOXER. Mr. President, I am not going to devote chapter and verse, and I look forward to working with my friend from Alaska to make this right if he feels it can be improved. I just want to point one thing out. This is not something that was just put together. This particular amendment is something I have been working on with my colleagues for a long time because I saw this train wreck coming.

A lot of people said, oh, it will never happen; everything will go smoothly. And I said, well, I am concerned because I had heard certain statements made, particularly in the other body, where I felt we were going to have a train wreck, and at that very moment when I had that sense I realized I wanted to make sure Members of Congress were treated the same way as other Federal employees.

So I just want to say this is not sloppy work. I do not believe, on the part of Members of this body, including the Senator from Maine [Ms. SNOWE], who actually really helped to write this. But I will work to make sure that every time we offer this up, because clearly we are going to have to do it again, we improve it in terms of clarity as far as its constitutionality.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I just want the RECORD to be clear in response to my friend from Alaska. I do not think the RECORD will show I was saying it is because the Republicans are now in the majority. That is not the problem at all. I never said that and the RECORD will show I never said that. Basically, I have said all along this is an issue of basic fairness and equity, and it goes to the heart of whether or not we consider ourselves some sort of different class of people in this country above everything else, where we can continue to get paid while other Federal workers do not during a period of time when the Government is shut down. People in this country understand that. I do not care who is in the majority, whether Democrats or Republicans. It is not fair and it ought not to be done that way. That is my basic point and I will continue to make that point.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3065) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GORTON). The Chair asks that the RECORD show he opposes the Boxer amendment.

Are there further amendments to the bill?

Mr. PRESSLER. Mr. President, I ask unanimous consent that Senator GRASSLEY be added as a cosponsor to S. 1396.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, the managers' amendment accepted earlier today to the Interstate Commerce Commission Sunset Act of 1995 will greatly assist Vermont in maintaining its intercity passenger rail service. I want to thank the managers of the bill for working with me on this important amendment.

Almost 1 year ago, residents of Vermont were informed that they would lose their passenger rail service. In an effort to cut costs and revitalize our struggling national passenger rail corporation, Amtrak announced a major restructuring. This effort included cutbacks in service, downsized management, streamlined operations, and retirement of older equipment. This plan also called for elimination of certain routes, including the Montrealer, which had served Vermont for many years.

Ending Vermont's connection to our national passenger rail system would certainly have hurt our small State. An integral component of our transportation infrastructure, Amtrak brought skiers, business people, and leaf peepers to our beautiful State. In addition, Amtrak allows residents of Vermont to travel economically to nearby destinations and across the country.

In an effort to save this service, I worked with Senator LEAHY, Governor Dean, the Vermont State Legislature, and many dedicated Vermont citizens to develop a plan to continue passenger rail in Vermont. Amtrak became an active partner in assisting with this goal, and early last spring the new Vermonter began service from Washington, DC to Burlington, VT.

The Vermonter has become a model for how Amtrak and States can work together to preserve passenger rail service. Monthly ridership on the Vermonter has increased over 60 percent since April. The train allows residents of New York City to reach the ski slopes of Vermont in a few hours. A baggage car was added to the train, with state-of-the-art ski and bike racks designed by Vermont crafts people and Vermont-made food products are served in the dining car. Vermonter's are proud of this train and we will do all we can to see it survive for the long term.

The plan establishing the Vermonter required the State of Vermont to pay any costs over and above the revenue generated by the train. For 1995, the State agreed to pay $750,000 to support the train. Like all States, Vermont responsibly maintains a balanced budget. This task is becoming more and more difficult, as there are increasing demands on the State to provide services.

To assist States such as Vermont, Senator ROTH offered an amendment to the National Highway System Designation Act, NHS, which would have granted States the flexibility to use highway funds to support Amtrak service. This effort had the strong backing of many State legislatures and the National Governors Association. When brought to a vote in June, the amendment passed by an overwhelming margin here in the Senate, giving States hope for preserving their passenger rail service. However, during conference negotiations on the NHS bill, Senate leaders were forced by the House to drop this important provision.

My amendment will allow Vermont to use unobligated highway funds to pay its portion of the Vermonter's operating costs. In fiscal year 1996, Vermont will obtain over $71 million under the Federal-aid highway program. This funding comes from the highway trust fund, paid for by motor fuel taxes. Vermonter's pay into the trust fund each time they fill their cars with gasoline. I believe these same Vermonters would strongly support using this funding to maintain our passenger rail service.

All States should be granted this flexibility, and the success in utilizing this flexibility in Vermont should prove to skeptics the value of giving all States the authority to spend their Federal transportation dollars to support passenger rail.

Mr. President, I hope in the future we are successful in providing this flexibility to all States. But for now, without the authority provided by my amendment, Vermont may risk losing the Vermonter. This would be a tragedy.

I thank my colleagues for considering this provision, and I appreciate their support.

Mr. DOLE. Mr. President, throughout this Congress, a great deal of discussion has been devoted to a review of existing agencies and functions. The budget resolution and the Department of Transportation appropriations bill called for the elimination of the Interstate Commerce Commission. S. 1396 sunsets the Interstate Commerce Commission and the Federal Maritime Commission and creates a new intermodal board within the Department of Transportation. I believe S. 1396 has taken the right steps to provide for reform while retaining a competitive atmosphere for railroad, motor carrier, and shipping industries.

I have been a strong proponent over the years for rail reform that provides an atmosphere for a strong rail industry as well as retaining a competitive balance for small shippers. I am particularly concerned about the impact of changes upon small shippers, including the small grain handlers, shippers and processors of Kansas and the Midwest.

The legislation before us retains important provisions that have been provided in the past to small shippers while reducing unnecessary regulatory requirements. I believe S. 1396 more adequately addresses the concern of small shippers by providing common carrier obligations, protections on agriculture contracting authority, notice procedures for rate increases, and abandonment procedures. In addition, protections are provided for individuals who lose their jobs due to mergers or acquisitions. For these reasons, S. 1396 has gained bipartisan support and deserves passage.

The railroad industry is going through some interesting times. The Burlington Northern/Santa Fe merger coupled with the proposed Union Pacific/Southern Pacific merger has created concern about the impact of these mergers on shippers. Shippers face unique challenges as railroads merge, creating less options and uncertain futures. Under these circumstances, it becomes increasingly important to ensure an atmosphere where economically viable competition is allowed to exist. The mergers being proposed are of great concern for several States, including Kansas. I believe these mergers can accomplish a strong base for the various industries and small businesses they serve, however, the impacts of the merger must be closely monitored. The reduction in the overall number of railroads should not mean a reduction in services to those who depend on these services the most.

I would like to thank Senator PRESSLER and Senator EXON for their efforts on this legislation and urge your support.

Ms. SNOWE. Mr. President, I rise in support of the Interstate Commerce Commission Sunset Act, and I would like to thank the chairman, the Senator from South Dakota [Mr. PRESSLER], for his interest in, and assistance, in putting language in the bill that addresses the serious problem of trucker fatigue.

The bill would place the Federal Highway Administration [FHWA] on a time line for publishing regulations related to trucker fatigue. The purpose of this language is to move the decisionmaking process forward.

What this language in section 216 will do is require FHWA to issue an advanced notice of proposed rulemaking [ANPR] dealing with fatigue-related issues such as 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, and rest and recovery cycles no later than March 1, 1996. This would be followed by a notice of proposed rulemaking [NPR] within 1 year and a final rulemaking within 2 years.

It is estimated, Mr. President, that truck driver fatigue may be a contributing factor in as many as 30 to 40 percent of all heavy truck accidents.

FHWA has been looking at the issue of trucker fatigue since the 1970's. I believe it is time we moved from studying the issue to making decisions about what is to be done to reduce the number of accidents related to fatigue. I know that regulations alone will not stop these tragic accidents, we need increased education, we need increased awareness and better enforcement as well. But we can set an example and start making changes in laws and regulations—some of them adopted 60 years ago—to improve safety on our highways.

The Office of Motor Carrier Safety currently has six studies underway on tired truckers. Three of them will be completed this year: Fitness for Duty Testing, Multiple Trailer Combination Vehicle Driver Fatigue, and Stress and Rest Areas, and one, Driver Fatigue and Alertness Study will be completed next spring. And I would like to thank the chairman again for arranging a series of staff briefings on these studies, at my request. I believe it is important that this committee stay abreast of the work being done in this area so that we may better formulate legislative responses, where necessary.

In addition, the National Transportation Safety Board [NTSB] released a study in January, 1995 on trucker fatigue that called on FHWA to complete rulemaking within 2 years on issues related to trucker fatigue, so the bill's language is in keeping with NTSB's recommendation.

By establishing a time line for FHWA, we are requiring that the decisionmaking process begin on this important issue. There is a lot more to be done in this area, but the beginning of the rulemaking process is a big step in the right direction.

• Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the Interstate Commerce Commission Sunset Act of 1995 (S. 1396), which provides for the orderly transfer of the residual functions of the Interstate Commerce Commission to an independent Intermodal Surface Transportation Board within the Department of Transportation.

Pennsylvania is a rail-dependent State, and both shippers and railroads are in agreement that there should be no regulatory gap between the Commission and its successor agency during which no agency of the Federal Government has jurisdiction to enforce the Interstate Commerce Act. The fiscal year 1996 Transportation appropriations bill, H.R. 2002 (Pub. L. No. 104-50), provides no funding for the Commission effective December 31, 1995, making passage of the sunset legislation and a prompt House-Senate conference necessary to avoid disruption in the rail industry.

I am pleased to note that the managers' amendments included language that I have worked on and supported, which is designed to ensure that this legislation maintains the balance between the rights and remedies of carriers and shippers incorporated into the Staggers Rail Act of 1980, which provided new market freedoms to this industry. Several provisions in the reported bill could be interpreted as reregulating certain aspects of the railroad industry. These provisions, if left untouched, could undermine the Staggers Act reforms, which have worked well for both shippers and railroads. Therefore, I wish to thank Chairman PRESSLER, the distinguished Senator from South Dakota, and Senator EXON, the ranking minority member, who have worked closely with me, Senator SANTORUM, Senator MACK, and other Senators, in a bipartisan manner to finalize language that maintains a deregulated environment for our vital railroad industry as we streamline Government and provide for an orderly transition from the Interstate Commerce Commission to the Intermodal Surface Transportation Board.

Mr. PRESSLER. Mr. President, I urge any Senators who have any final amendments to come to the floor. I understand one Senator may offer an amendment, at which time I hope we can pass this bill by unanimous consent. I think we are prepared on this side of the aisle to pass this bill. But as I understand it, Senator ASHCROFT may have an amendment.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3067

Mr. ASHCROFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 3067.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 413, after line 14, insert the following new subsection:

"(d) The remedies provided in this part, concerning matters covered by this part with respect to the transportation of household goods by motor carriers are exclusive and preempt the remedies provided under Federal or State law."

Mr. ASHCROFT. Mr. President, I offer this amendment to provide for a fair and uniform way of compensating individuals, shippers of household goods for damage to those goods and to ensure that there is a fair and uniform way of making sure that those damages can be received by shippers of household goods.

Interstate commerce involves the transmission of goods from one jurisdiction to another. Something shipped in California may well cross numerous States on its way to Connecticut. It is important that we do not have the responsibility for those who ship goods to try and prove where damage happened to the goods if there are damages to the goods. It is important that we do not have to try and impose on those who are the carriers of the goods some ability to defend about whether or not there was negligence.

There is in this amendment, and the meaning of this amendment, a requirement that if goods are damaged, that no person whose goods have been damaged has to prove that the damages were caused by the negligence of the carrier or, otherwise, by the improper activities of the carrier. There is an automatic right of the person who ships the goods to recover the value of the goods, and that would be uniform.

Absent that uniformity, there are other things which might exist. For instance, normally, in order to recover against someone who has damaged something, you have to prove negligence. And I do not think that people who ship goods are in a position to prove negligence. They were not in possession of the goods. They usually were not with the goods. They were not in the area where the goods were damaged. They would have a hard time proving that.

So, this measure would provide that you do not have to prove negligence, that if you deliver the goods to the shipper, the household goods were being shipped across the country, and they were damaged, that you could automatically recover the value of the goods without proving negligence, without having to show that there was a particular substandard way of dealing with the goods on the part of the carrier involved.

In return for the concession that the shipper of the goods, the person who sends the goods, does not have to prove negligence, the damages are limited to the value of the goods. You cannot recover emotional harm or pain and suffering because of the anguish of learning that your Aunt Millie's vase was crushed in the shipment. You can only get the value of the vase.

So, the carrier is protected from having to pay some very subjective damages, but the person who ships the goods is guaranteed that if the goods are damaged, that those goods can be replaced because of the strict liability on the part of the carrier. This is a good system. It is a system which has long worked. It ought to be enshrined in this statute.

Now, the alternative is to have States create different laws about what kinds of recovery could be made by individuals whose goods were damaged. You have the potential of someone who ships something from California to Connecticut trying to prove that their goods were damaged in the most generous State or that their goods otherwise were valuable so that if that State allowed for pain and suffering or emotional distress, that those kinds of damages ought to be considered.

In my judgment, such damages ought not to be considered because they provide an incentive for forum shopping, people trying to make sure and prove that goods were damaged in one State as opposed to another. They subject shippers to unreasonable requirements to try and prove where the damage happened or where it did not happen. And we would be well-served in regulating interstate commerce to say that the person shipping the goods does not have to prove negligence, but the person who is carrying the goods is not responsible for a level of damages which is above and beyond the value of the goods, which would include emotional distress or other kinds of subjective things which are very difficult to prove and the amount of which could go into very high levels of expenditure above and beyond the value of the goods.

It is with that in mind that I have proposed the amendment, and I believe the amendment would be something that should be included in this measure.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we have on this side not seen the amendment before it was proposed tonight. As I understand it, there may be some on our side, particularly on the Commerce Committee, that would object to the Senator's amendment. I am put in the position of trying to secure some advice and counsel now from at least the ranking member of the Commerce Committee. So, we will be delayed for some time because he is in a conference, and we will have to try to reach him and see what we can do.

So, Mr. President, I have no alternative but to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT 3063, AS MODIFIED

(Purpose: To modify the manager's amendment)

Mr. PRESSLER. Mr. President, I send an amendment to the desk to modify the manager's amendment. This amendment just changes one word, and it has been agreed to by both sides of the aisle.

I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 3 of the amendment, between lines 14 and 15, insert the following: "On page 311, line 16, insert 'reasonable' after 'a'.".

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

GOOD NEWS FOR ALASKANS

Mr. STEVENS. Mr. President, I come to the floor today to say this is a good day for my State of Alaska. This afternoon President Clinton signed legislation which lifts the ban on the export of Alaskan North Slope crude oil and authorizes the sale of the Alaska Power Administration.

Alaskans have been fighting for both of these provisions for more than 20 years. The ban on the export of our own oil was unjust and unconstitutional, as I have said here on the floor many times. Before today, Alaska was the only State prohibited from exporting its most valuable product. There is no ban on the sale of oil from Texas or the exporting of apples from Washington State. I see the distinguished occupant of the chair is from my southern neighboring State.

Today's action by the President lifts years of discrimination against Alaska, and I think it proves that perseverance can overcome bad policy. Lifting this ban will promote domestic oil production, provide jobs, and make Alaska less dependent on foreign oil. The ban has had the unintended effect of actually threatening our energy security by discouraging further energy production in the south 48 and creating unfair hardships for a struggling oil industry in the United States.

Fundamentally, the existing export restriction distorts the crude oil markets in Alaska and on the west coast. The inability to export Alaskan North Slope crude oil depresses the open market price of Alaska North Slope crude on the west coast, which is essentially the only market for our oil. Some people will tell us that it makes no sense to lift the export ban while Congress is pursuing an effort to authorize oil exploration on Alaska's arctic coastal plain. And nothing could be further from the truth.

Lifting the export ban simply restores a true market price for Alaskan oil, and the west coast will still be the principle consumer of that product. What this new law does is allow an Alaskan product to be sold at a fair price, the same demand farmers in the Midwest make when they sell their crops or automakers in Detroit make when they sell their products.

The Department of Energy noted in a 1994 study of the export ban that the result of the export ban means "that the west coast generates the largest gross refiner margins in the world."

So what does this new law do? It puts fairness back into the economic system and removes an ugly vestige of protectionism.

One of the main reasons I have come to the floor is to congratulate the chairman of the Energy Committee, my colleague and good friend, Senator FRANK MURKOWSKI. I also congratulate Congressman DON YOUNG, chairman of the House Resources Committee. My two colleagues made great efforts to shepherd this bill through the legislative process.

Actually, Mr. President, I think the President signed the bill principally to help California because most of the jobs to be restored will be in California. And I do thank him and Energy Secretary O'Leary for their support of this bill.

The Department of Energy did issue a comprehensive report last year that proved once and for all that the ban on exporting Alaskan oil made no sense. Lifting that ban will create 25,000 jobs nationally, most of them in California, as I said, and could return substantial funds to the Nation and to the States of California and Alaska.

The sale of the Alaska Power Administration is another item, an item that I have worked on for more than two decades. During the Nixon administration, I introduced in the Senate the first bill to authorize the sale of this entity.

Today's actions restore some of the promise that was made when we obtained statehood for Alaskans. We always sought to be a full partner with other States. For too long, Alaska has been treated as a second-class citizen, and I think the export ban was one example. The refusal to pass the law to sell the Alaska Power Administration, as was requested by our citizens 20 years ago, is also an example of just holding up something that was good for Alaska because one Senator in the Congress opposed it.

I do believe that in a State where the Federal Government controls more than 70 percent of the land that we should have been able to export our oil as a marketable product. There would have been a great deal more demand for Alaska's oil exploration in the last period particularly since the discovery of oil on the North Slope. I think it was unfortunate that that was one of the provisions we had to agree to to obtain approval by Congress of the bill that gave us authority to grant the right-of-way for the Trans-Alaska Pipeline.

In my judgment, this has been a long time coming. There is still a long line of actions, Mr. President. The Alaskans have requested us to give them full rights of statehood, and I intend to come to the Senate and ask for those rights as the time goes by.

Thank you very much, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota is recognized.

OPPOSED TO SENDING TROOPS

Mr. PRESSLER. Mr. President, I am opposed to sending troops to Bosnia based on the information I now have. I base that judgment, in part, on my own experience as a lieutenant in the Army in Vietnam many years ago. It has been my observation that our soldiers have a very hard time in a civil-war situation in another country, and that is because our soldiers are frequently used essentially as shields. We value human life so highly that we react very strongly to any body bags coming back or to any casualties, as we should.

There is probably no other country in the world that reacts to its soldiers being killed or captured as we do in the United States, and again, Mr. President, we should act that way. Any action by our soldiers will be shown on television in living color. If there are any funerals, they will be a nationwide event. U.S. soldiers become shields and hostages and symbols very quickly.

If we had a vital interest that we could accomplish there, I would be for it. Unfortunately, it is my strong feeling that the various civil wars in Yugoslavia since the 15th century have been augmented by virtue of having foreign troops come into what is now Yugoslavia and enter into the civil war.

The current civil war there has been extended because foreign troops have come. Let us analogously consider our Civil War in the United States. There were not foreign troops involved, and it was settled. It was a bloody, gruesome war, but it was settled. Let us just imagine foreign troops had come to our Civil War. We probably would still be fighting it today.

What is happening in Yugoslavia is that they are on the border between East and West, between the Moslem world and Christian world, between all the empires of the East and West. Every time they have a civil war, foreign troops come and get involved, and we are part of that pattern. We are doing the same thing.

I do not believe our troops are going to be able to solve the problem there. I think they are going to be shields and hostages. I think, as occurred in Haiti, our best intentions will not result in our intended consequences. We are receiving reports that in Haiti, all the money our taxpayers spent, plus the presence of the United States troops, have been for nought, because now President Aristide is indicating he wants to stay on, or at least that has been the indication. There is rioting in the streets, and it does not seem we accomplished the objectives the taxpayers were asked to pursue.

So I know our President is acting in the best faith, but based on my personal experiences as a soldier in Vietnam, I believe this is a mistake. Some people have said to me, "Are you willing to support the President?" Of course, I want to support the President, but I have a great deal of difficulty because of my personal experiences. I served two tours of duty in Vietnam as a lieutenant and based on that experience, I am opposed to our troops going into Bosnia.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE COMMERCE COMMISSION SUNSET ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3067 WITHDRAWN

Mr. ASHCROFT. Mr. President, I have conferred with individuals whose interest in the amendment which I had proposed has been expressed, and they have been very cordial in their willingness to work to try and accommodate the objectives which I have expressed in filing the amendment, and because we have an opportunity to work toward those objectives together—and I would hope that we can do so effectively—I at this time withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment is withdrawn.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Missouri does have a real problem, and some of that language looked as if he had a good solution but in some instances could have gone too far. The truth of the matter is I am not positive about it, but I am delighted to work with the distinguished Senator and I hope we can get that problem solved for him. I appreciate it.

Mr. EXON. Mr. President, now that we are about where we were at 3 o'clock this afternoon, maybe we will be successful at this time. I think we are ready to pass this bill if the Chair would see fit to recognize the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I commend my colleague from Missouri for his leadership, and we look forward to him revisiting this issue again.

At this time, I ask that the bill be read the third time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2539, the House companion, and that the Senate immediately proceed to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I ask further that all after the enacting clause be stricken and the text of S. 1396, as amended, be inserted in lieu thereof and that H.R. 2539 be read a third time, and the Senate then immediately vote on passage of H.R. 2539.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2539), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Commerce Commission Sunset Act of 1995".

SEC. 2. AMENDMENT OF TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49.
Sec. 3. Table of sections.

TITLE I—TERMINATION OF THE INTERSTATE COMMERCE COMMISSION AND FEDERAL MARITIME COMMISSION; REPEAL OF OBSOLETE AND UNNECESSARY PROVISIONS OF LAW

SUBTITLE A—TERMINATIONS

Sec. 101. Agency terminations.
Sec. 102. Savings provisions.
Sec. 103. References to the ICC in other laws.
Sec. 104. Transfer of functions.
Sec. 105. References to the FMC in other laws.

SUBTITLE B—REPEAL OF OBSOLETE, ETC., PROVISIONS

Sec. 121. Repeal of provisions.
Sec. 122. Coverage of certain entities under other, unrelated Acts not affected.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

SUBTITLE A—ORGANIZATION

Sec. 201. Amendment to subchapter I.
Sec. 202. Administrative support.
Sec. 203. Reorganization.
Sec. 204. Transition plan for Federal Maritime Commission functions.

SUBTITLE B—ADMINISTRATIVE

Sec. 211. Powers.
Sec. 212. Commission action.
Sec. 213. Service of notice in Commission proceedings.
Sec. 214. Service of process in court proceedings.
Sec. 215. Study on the authority to collect charges.
Sec. 216. Federal Highway Administration rulemaking.
Sec. 217. Transport vehicles for off-road, competition vehicles.
Sec. 218. Destruction of motor vehicles or motor vehicle facilities; wrecking trains.

TITLE III—RAIL AND PIPELINE TRANSPORTATION

Sec. 301. General changes in references to Commission, etc.
Sec. 302. Rail transportation policy.
Sec. 303. Definitions.
Sec. 304. General jurisdiction.
Sec. 305. Railroad and water transportation connections and rates.
Sec. 306. Authority to exempt rail carrier and motor carrier transportation.
Sec. 307. Standards for rates, classifications, etc.
Sec. 308. Standards for rates for rail carriers.
Sec. 309. Authority for carriers to establish rates, classifications, etc.
Sec. 310. Authority for carriers to establish through routes.
Sec. 311. Authority and criteria for prescribed rates, classifications, etc.
Sec. 312. Authority for prescribed through routes, joint classifications, etc.
Sec. 313. Antitrust exemption for rate agreements.
Sec. 314. Investigation and suspension of new rail rates, etc.
Sec. 315. Zone of rail carrier rate flexibility.
Sec. 316. Investigation and suspension of new pipeline carrier rates, etc.
Sec. 317. Determination of market dominance.
Sec. 318. Contracts.
Sec. 319. Government traffic.
Sec. 320. Rates and liability based on value.

Sec. 321. Prohibitions against discrimination by common carriers.
Sec. 322. Facilities for interchange of traffic.
Sec. 323. Liability for payment of rates.
Sec. 324. Continuous carriage of freight.
Sec. 325. Transportation services or facilities furnished by shipper.
Sec. 326. Demurrage charges.
Sec. 327. Transportation prohibited without tariff.
Sec. 328. General elimination of tariff filing requirements.
Sec. 329. Designation of certain routes.
Sec. 330. Authorizing construction and operation of railroad lines.
Sec. 331. Authorizing action to provide facilities.
Sec. 332. Authorizing abandonment and discontinuance.
Sec. 333. Filing and procedure for applications to abandon or discontinue.
Sec. 334. Exceptions.
Sec. 335. Railroad development.
Sec. 336. Providing transportation, service, and rates.
Sec. 337. Use of terminal facilities.
Sec. 338. Switch connections and tracks.
Sec. 339. Criteria.
Sec. 340. Rerouting traffic on failure of rail carrier to serve public.
Sec. 341. Directed rail transportation.
Sec. 342. War emergencies; embargoes.
Sec. 343. Definitions for subchapter III.
Sec. 344. Depreciation charges.
Sec. 345. Records, etc.
Sec. 346. Reports by carriers, lessors, and associations.
Sec. 347. Accounting and cost reporting.
Sec. 348. Securities, obligations, and liabilities.
Sec. 349. Equipment trusts.
Sec. 350. Restrictions on officers and directors.
Sec. 351. Limitation on pooling and division of transportation or earnings.
Sec. 352. Consolidation, merger, and acquisition of control.
Sec. 353. General procedure and conditions of approval for consolidation, etc.
Sec. 354. Rail carrier procedure for consolidation, etc.
Sec. 355. Employee protective arrangements.
Sec. 356. Authority over noncarrier acquirers.
Sec. 357. Authority over intrastate transportation.
Sec. 358. Tax discrimination against rail transportation property.
Sec. 359. Withholding State and local income tax by certain carriers.
Sec. 360. General authority for enforcement, investigations, etc.
Sec. 361. Enforcement.
Sec. 362. Attorney General enforcement.
Sec. 363. Rights and remedies.
Sec. 364. Limitation on actions.
Sec. 365. Liability of common carriers under receipts and bills of lading.
Sec. 366. Liability when property is delivered in violation of routing instructions.
Sec. 367. General civil penalties.
Sec. 368. Civil penalty for accepting rebates from common carrier.
Sec. 369. Rate, discrimination, and tariff violations.
Sec. 370. Additional rate and discrimination violations.
Sec. 371. Interference with railroad car supply.
Sec. 372. Record keeping and reporting violations.
Sec. 373. Unlawful disclosure of information.
Sec. 374. Consolidation, merger, and acquisition of control.
Sec. 375. General criminal penalty.
Sec. 376. Financial assistance for State projects.
Sec. 377. Status of AMTRAK and applicable laws.
Sec. 378. Rail-shipper Transportation Advisory Council.

TITLE IV—MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER TRANSPORTATION

SUBTITLE A—ADDITION OF PART B

Sec. 401. Enactment of part B of subtitle IV, title 49, United States Code.

SUBTITLE B—MOTOR CARRIER REGISTRATION AND INSURANCE REQUIREMENTS

Sec. 451. Amendment of section 31102.
Sec. 452. Amendment of section 31138.
Sec. 453. Self-insurance rules.
Sec. 454. Safety fitness of owners and operators.

TITLE V—AMENDMENTS TO OTHER LAWS

Sec. 501. Federal Election Campaign Act of 1971.
Sec. 502. Agricultural Adjustment Act of 1938.
Sec. 503. Agricultural Marketing Act of 1946.
Sec. 504. Animal Welfare Act.
Sec. 505. Title 11, United States Code.
Sec. 506. Clayton Act.
Sec. 507. Consumer Credit Protection Act.
Sec. 508. National Trails System Act.
Sec. 509. Title 18, United States Code.
Sec. 510. Internal Revenue Code of 1986.
Sec. 511. Title 28, United States Code.
Sec. 512. Migrant and Seasonal Agricultural Worker Protection Act.
Sec. 513. Title 39, United States Code.
Sec. 514. Energy Policy Act of 1992.
Sec. 515. Railway Labor Act.
Sec. 516. Railroad Retirement Act of 1974.
Sec. 517. Railroad Unemployment Insurance Act.
Sec. 518. Emergency Rail Services Act of 1970.
Sec. 519. Regional Rail Reorganization Act of 1973.
Sec. 520. Railroad Revitalization and Regulatory Reform Act of 1976.
Sec. 521. Alaska Railroad Transfer Act of 1982.
Sec. 522. Merchant Marine Act, 1920.
Sec. 523. Service Contract Act of 1965.
Sec. 524. Federal Aviation Administration Authorization Act of 1994.
Sec. 525. Fiber drum packaging.
Sec. 526. Termination of certain maritime authority.
Sec. 527. Certain commercial space launch activities.
Sec. 528. Use of highway funds for Amtrak-related projects and activities.
Sec. 529. Violation of grade-crossing laws and regulations.

TITLE VI—AUTHORIZATION

Sec. 601. Authorization of appropriations.

TITLE VII—MISCELLANEOUS PROVISION

Sec. 701. Pay of Members of Congress and the President during Government shutdowns.

TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective Date.

TITLE I—TERMINATION OF THE INTERSTATE COMMERCE COMMISSION AND FEDERAL MARITIME COMMISSION; REPEAL OF OBSOLETE AND UNNECESSARY PROVISIONS OF LAW

Subtitle A—Terminations

SEC. 101. AGENCY TERMINATIONS.

(a) INTERSTATE COMMERCE COMMISSION.—Upon the transfer of functions under this Act to the Intermodal Surface Transportation Board and to the Secretary of Transportation, the Interstate Commerce Commission shall terminate.

(b) FEDERAL MARITIME COMMISSION.—Effective January 1, 1997, the Federal Maritime Commission shall terminate.

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this Act takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this Act, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Transportation Board (to the extent they involve the functions transferred to the Intermodal Surface Transportation Board under this Act) or by the Secretary (to the extent they involve functions transferred to the Secretary under this Act), or by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS; APPLICATIONS.—

(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect, insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Transportation Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

(c) ACTIONS IN LAW COMMENCED BEFORE ENACTMENT.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

(e) SUBSTITUTION OF TRANSPORTATION BOARD AS PARTY.—Any suit by or against the Interstate Commerce Commission begun before enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Board (to the extent the suit involves functions transferred to the Transportation Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.

(a) FUNCTIONS.—With respect to any functions transferred by this Act and exercised after the effective date of the Interstate Commerce Commission Sunset Act of 1995, reference in any other Federal law to the Interstate Commerce Commission shall be deemed to refer to—

(1) the Intermodal Surface Transportation Board, insofar as it involves functions transferred to the Transportation Board by this Act; and

(2) the Secretary of Transportation, insofar as it involves functions transferred to the Secretary by this Act.

(b) OTHER REFERENCES.—Any other reference in any law, regulation, official publication, or other document to the Interstate Commerce Commission as an agency of the United States Government shall be treated as a reference to the Transportation Board.

SEC. 104. TRANSFER OF FUNCTIONS.

(a) TO TRANSPORTATION BOARD.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Board by this Act shall be transferred to the Transportation Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Transportation Board.

(b) TO SECRETARY.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

SEC. 105. REFERENCES TO THE FMC IN OTHER LAWS.

Effective January 1, 1997, reference in any other Federal law to the Federal Maritime Commission shall be deemed to refer to the Transportation Board.

Subtitle B—Repeal of Obsolete, Etc., Provisions

SEC. 121. REPEAL OF PROVISIONS.

The following provisions are repealed:

(1) Section 10101 (relating to transportation policy) and the item relating thereto in the table of sections of chapter 101 are repealed.

(2) Section 10322 (relating to Commission action and appellate procedure in nonrail proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(3) Section 10326 (relating to limitations in rulemaking proceedings related to rail carriers) and the item relating thereto in the table of sections of chapter 103 are repealed.

(4) Section 10327 (relating to Commission action and appellate procedure in rail carrier proceedings) and the item relating thereto in the table of sections of chapter 103 are repealed.

(5) Section 10328 (relating to intervention) and the item relating thereto in the table of sections of chapter 103 are repealed.

(6) Subchapter III of chapter 103 (relating to joint boards) and the items relating thereto in the table of sections of such chapter are repealed.

(7)(A) Subchapter IV of chapter 103 (relating to Rail Services Planning Office) and the items relating thereto in the table of sections of such chapter are repealed.

(B) Section 24505(b) of title 49, United States Code, is amended to read as follows:

"(b) OFFER REQUIREMENTS.—A commuter authority making an offer under subsection (a)(2) of this section shall show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation.".

(8) Subchapter V of chapter 103 (relating to Office of Rail Public Counsel) and the items relating thereto in the table of sections of such chapter are repealed.

(9) Section 10502 (relating to express carrier transportation) and the item relating thereto in the table of sections of chapter 105 are repealed.

(10) Section 10504 (relating to exempt rail mass transportation) and the item relating thereto in the table of sections of such chapter are repealed.

(11) Subchapter II, III, and IV of chapter 105 (relating to freight forwarder service) and the items relating thereto in the table of sections of such chapter are repealed.

(12) Section 10705a (relating to joint rate surcharges and cancellations) and the item relating thereto in the table of sections of chapter 107 are repealed.

(13) Section 10710 (relating to elimination of discrimination against recyclable materials) and the item relating thereto in the table of sections of chapter 107 are repealed.

(14) Section 10711 (relating to effect of certain sections on rail rates and practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(15) Section 10712 (relating to inflation-based rate increases) and the item relating thereto in the table of sections of chapter 107 are repealed.

(16) Subchapter II (relating to special circumstances) of chapter 107 (except for sections 10721 and 10730) and the items relating thereto in the table of sections of chapter 107 (except for the subchapter caption and the items relating to sections 10721 and 10730) are repealed.

(17) Section 10743 (relating to payment of rates) and the item relating thereto in the table of sections of chapter 107 are repealed.

(18) Section 10746 (relating to transportation of commodities manufactured or produced by a rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(19) Section 10748 (relating to transportation of livestock by rail carrier) and the item relating thereto in the table of sections of chapter 107 are repealed.

(20) Section 10749 (relating to exchange of services and limitation on use of common carriers by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 107 are repealed.

(21) Section 10751 (relating to business entertainment expenses) and the item relating thereto in the table of sections of chapter 107 are repealed.

(22) Section 10764 (relating to arrangements between carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(23) Section 10765 (relating to water transportation under arrangements with certain other carriers) and the item relating thereto in the table of sections of chapter 107 are repealed.

(24) Section 10766 (relating to freight forwarder traffic agreements) and the item relating thereto in the table of sections of chapter 107 are repealed.

(25) Section 10767 (relating to billing and collecting practices) and the item relating thereto in the table of sections of chapter 107 are repealed.

(26) Subchapter V of chapter 107 (relating to valuation of property) and the items relating thereto in the table of sections of chapter 107 are repealed.

(27)(A) Section 10908 (relating to discontinuing or changing interstate train or ferry transportation) and the item relating thereto in the table of sections of chapter 109 are repealed.

(B) Subsection (d) of section 24705 of title 49, United States Code, is repealed.

(28) Section 10909 (relating to discontinuing or changing train or ferry transportation in one State) and the item relating thereto in the table of sections of chapter 109 are repealed.

(29) Subchapter II (relating to other carriers and motor carrier brokers) of chapter 109 and the items relating thereto in the table of sections of chapter 109 are repealed.

(30) Section 11102 (relating to classification of carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(31) Section 11105 (relating to protective services) and the item relating thereto in the table of sections of chapter 111 are repealed.

(32) Section 11106 (relating to identification of motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(33) Section 11107 (relating to leased motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(34) Section 11108 (relating to water carriers subject to unreasonable discrimination in foreign transportation) and the item relating thereto in the table of sections of chapter 111 are repealed.

(35) Section 11109 (relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(36) Section 11110 (relating to household goods carrier operations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(37) Section 11111 (relating to use of citizen band radios on buses) and the item relating thereto in the table of sections of chapter 111 are repealed.

(38) Section 11126 (distribution of coal cars) and the item relating thereto in the table of sections of chapter 111 are repealed.

(39) Section 11127 (relating to service of household freight forwarders) and the item relating thereto in the table of sections of chapter 111 are repealed.

(40) Section 11142 (relating to uniform accounting system for motor carriers) and the item relating thereto in the table of sections of chapter 111 are repealed.

(41) Section 11161 (relating to railroad accounting principles board) and the item relating thereto in the table of sections of chapter 111 are repealed.

(42) Section 11162 (relating to cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(43) Section 11163 (relating to implementation of cost accounting principles) and the item relating thereto in the table of sections of chapter 111 are repealed.

(44) Section 11164 (relating to certification of rail carrier cost accounting systems) and the item relating thereto in the table of sections of chapter 111 are repealed.

(45) Section 11167 (relating to report) and the item relating thereto in the table of sections of chapter 111 are repealed.

(46) Section 11168 (relating to authorization of appropriations) and the item relating thereto in the table of sections of chapter 111 are repealed.

(47) Section 11304 (relating to security interest in certain motor vehicles) and the item relating thereto in the table of sections of chapter 113 are repealed.

(48) Section 11321 (relating to limitation on ownership of certain water carriers) and the item relating thereto in the table of sections for chapter 113 are repealed.

(49) Section 11323 (relating to limitation on ownership of other carriers by household goods freight forwarders) and the item relating thereto in the table of sections for chapter 113 are repealed.

(50) Section 11345a (relating to motor carrier procedures for consolidation, merger, and acquisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(51) Section 11346 (relating to expedited rail carrier procedures for consolidation, merger, and acquisition of control) and the item relating

thereto in the table of sections of chapter 113 are repealed.

(52) Section 11349 (relating to temporary operating approval for transactions involving motor and water carriers) and the item relating thereto in the table of sections of chapter 113 are repealed.

(53) Section 11350 (relating to responsibility of the Secretary of Transportation in certain transactions) and the item relating thereto in the table of sections of chapter 113 are repealed.

(54) Subchapter IV of chapter 113 (relating to financial structure) and the items relating thereto in the table of sections of chapter 113 are repealed.

(55) Section 11502 (relating to conferences and joint hearings with State authorities) and the item relating thereto in the table of sections of chapter 115 are repealed.

(56) Section 11503a (tax discrimination against motor carrier transportation property) and the item relating thereto in the table of sections of chapter 115 are repealed.

(57) Section 11505 (relating to State action to enjoin carriers from certain actions) and the item relating thereto in the table of sections of chapter 115 are repealed.

(58) Section 11506 (relating to registration of motor carriers by a State) and the item relating thereto in the table of sections of chapter 115 are repealed.

(59) Section 11507 (relating to prison-made property governed by State law) and the item relating thereto in the table of sections of chapter 115 are repealed.

(60) Section 11704 (relating to action by a private person to enjoin abandonment of service) and the item relating thereto in the table of sections of chapter 117 are repealed.

(61) Section 11708 (relating to private enforcement) and the item relating thereto in the table of sections of chapter 117 are repealed.

(62) Section 11709 (relating to liability for issuance of securities by certain carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(63) Section 11711 (relating to dispute settlement program for household goods carriers) and the item relating thereto in the table of sections of chapter 117 are repealed.

(64) Section 11712 (relating to tariff reconciliation rules for motor common carriers of property) and the item relating thereto in the table of sections of chapter 117 are repealed.

(65) Section 11902a (relating to penalties for violations of rules relating to loading and unloading motor vehicles) and the item relating thereto in the table of sections of chapter 119 are repealed.

(66) Section 11905 (relating to transportation of passengers without charge) and the item relating thereto in the table of sections of chapter 119 are repealed.

(67) Section 11906 (relating to evasion of regulation of motor carriers and brokers) and the item relating thereto in the table of sections of chapter 119 are repealed.

(68) Section 11908 (relating to abandonment of service by household goods freight forwarders) and the item relating thereto in the table of sections of chapter 119 are repealed.

(69) Section 11911 (relating to issuance of securities, etc.) and the item relating thereto in the table of sections of chapter 119 are repealed.

(70) Section 11913a (relating to accounting principles violations) and the item relating thereto in the table of sections of chapter 119 are repealed.

(71) Section 11917 (relating to weight-bumping in household goods transportation) and the item relating thereto in the table of sections of chapter 119 are repealed.

SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER, UNRELATED ACTS NOT AFFECTED.

Notwithstanding any provision of this Act, an entity that is, or is treated as, an employer under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, or the Railroad Retirement Tax Act under subtitle IV of title 49, United States Code, as in effect on the day before the date of enactment of this Act, shall continue to be covered as employers under those Acts.

TITLE II—INTERMODAL SURFACE TRANSPORTATION BOARD

Subtitle A—Organization

SEC. 201. AMENDMENT TO SUBCHAPTER I.

(a) AMENDMENT.—Subchapter I of chapter 103 is amended to read as follows:

“SUBCHAPTER I—ESTABLISHMENT

“§10301. Establishment of Transportation Board

“(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Intermodal Surface Transportation Board.

“(b) MEMBERSHIP.—(1) Members of the Transportation Board shall be appointed by the President, by and with the advice and consent of the Senate. The Transportation Board shall consist of 3 members until January 1, 1997, not more than 2 of whom shall be members of the same political party. Beginning on January 1, 1997, the Transportation Board shall consist of 5 members, no more than 3 of whom shall be members of the same political party.

“(2) At any given time, at least 2 members of the Transportation Board shall be individuals with professional standing and demonstrated knowledge in the fields of rail or motor transportation or transportation regulation or agriculture, and at least 1 member shall be an individual with professional or business experience in the private sector. Effective January 1, 1997, at least 2 members shall be individuals with professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation.

“(3) The term of each member of the Transportation Board shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed 1 year. The President may remove a member for neglect of duty or malfeasance in office.

“(4)(A) On the effective date of this section, the members of the Interstate Commerce Commission shall become members of the Transportation Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

“(B) Effective January 1, 1997, two Federal Maritime Commission commissioners shall become members of the Board to serve terms expiring December 31, 1997, and December 31, 2000. The two members shall be selected in order of the expiration date of their Commission term, beginning with the term having the latest expiration date; provided, however, that the two members added under this subsection may not be from the same political party. The longer Board term shall be filled by the member having the later Federal Maritime Commission term expiration date. Effective January 1, 1997, the rights of any Federal Maritime Commission commissioner other than those designated under this paragraph to remain in office is terminated.

“(5) No individual may serve as a member of the Transportation Board for more than 2 terms. In the case of an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than 1 additional term.

“(6) A member of the Transportation Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

“(7) A vacancy in the membership of the Transportation Board does not impair the right of the remaining members to exercise all of the powers of the Transportation Board. The Transportation Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

“(c) CHAIRMAN.—(1) There shall be at the head of the Transportation Board a Chairman, who shall be designated by the President from among the members of the Transportation Board. The Transportation Board shall be administered under the supervision and direction of the Chairman. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

“(2) Subject to the general policies, decisions, findings, and determinations of the Transportation Board the Chairman shall be responsible for administering the Transportation Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Transportation Board. The Chairman shall—

“(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Transportation Board, including attorneys to provide legal aid and service to the Transportation Board and its members, and to represent the Transportation Board in any case in court;

“(B) appoint the heads of major offices with the approval of the Transportation Board;

“(C) distribute Transportation Board business among officers and employees and offices of the Transportation Board;

“(D) prepare requests for appropriations for the Transportation Board and submit those requests to the President and Congress with the prior approval of the Transportation Board; and

“(E) supervise the expenditure of funds allocated by the Transportation Board for major programs and purposes.

“§10302. Functions

“(a) INTERSTATE COMMERCE COMMISSION FUNCTIONS.—Except as otherwise provided in the Interstate Commerce Commission Sunset Act of 1995, or the amendments made thereby, the Transportation Board shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

“(b) FEDERAL MARITIME COMMISSION FUNCTIONS.—On January 1, 1997, the Transportation Board shall perform all functions that, on that date, were functions of the Federal Maritime Commission or were performed by any officer or employee of the Federal Maritime Commission in the capacity as such officer or employee.

“§10303. Administrative provisions

“(a) EXECUTIVE REORGANIZATION.—For purposes of chapter 9 of title 5, United States Code, the Transportation Board shall be deemed to be an independent regulatory agency and an establishment of the United States Government.

“(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Transportation Board shall be deemed to be an agency.

“(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Transportation Board

shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

"(d) Representation by Attorneys.—Attorneys designated by the Chairman of the Transportation Board may appear for, and represent the Transportation Board in, any civil action brought in connection with any function carried out by the Transportation Board pursuant to this subtitle or as otherwise authorized by law.

"(e) Admission to Practice.—Subject to section 500 of title 5, the Transportation Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

"(f) Budget Requests.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Transportation Board and include a statement by the Transportation Board—

"(1) showing the amount requested by the Transportation Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

"(2) an assessment of the budgetary needs of the Transportation Board.

"(g) Direct Transmittal to Congress.—The Transportation Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Transportation Board with Congress, or a committee or member of Congress, about the information.

"§ 10304. Annual report

"The Transportation Board shall annually transmit to the Congress a report on its activities.".

(b) Conforming Amendment.—The items relating to subchapter I of chapter 103 in the table of sections of such chapter are amended to read as follows:

"SUBCHAPTER I—ESTABLISHMENT

"Sec.
"10301. Establishment of Transportation Board.
"10302. Functions.
"10303. Administrative provisions.
"10304. Annual report.".

SEC. 202. ADMINISTRATIVE SUPPORT.

The Secretary of Transportation shall provide administrative support for the Transportation Board.

SEC. 203. REORGANIZATION.

The Chairman of the Transportation Board may allocate or reallocate any function of the Transportation Board, consistent with this title and subchapter I of chapter 103, as amended by section 201 of this title, among the members or employees of the Transportation Board, and may establish, consolidate, alter, or discontinue in the Transportation Board any organizational entities that were entities of the Interstate Commerce Commission or the Federal Maritime Commission, as the Chairman considers necessary or appropriate.

SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COMMISSION FUNCTIONS.

The Chairman of the Intermodal Surface Transportation Board and the Chairman of the Federal Maritime Commission shall meet within 90 days of enactment of this Act to develop a plan for the orderly transition of the functions of the Federal Maritime Commission to the Transportation Board, including appropriate funding levels for the operations associated with the functions of the Federal Maritime Commission transferred to the Transportation Board, and shall submit such a plan to the Director of the Office of Management and Budget and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not later than 6 months after the enactment of this Act.

Subtitle B—Administrative

SEC. 211. POWERS.

Section 10321 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(2) striking subsection (b) and inserting the following:

"(b) The Transportation Board may obtain from carriers providing transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of those carriers, information the Transportation Board decides is necessary to carry out this part.";

(3) in subsection (c)(1), by striking "Commission, an individual Commissioner, an employee board, and an employee delegated to act under section 10305 of this title" and inserting in lieu thereof "Transportation Board";

(4) by striking paragraph (2) of subsection (c);

(5) by redesignating paragraph (3) of subsection (c) as paragraph (2); and

(6) by striking "Commission" each place it appears and inserting in lieu thereof "Transportation Board".

SEC. 212. COMMISSION ACTION.

(a) Amendments.—Section 10324 is amended—

(1) in the section heading, by striking "**Commission**" and inserting in lieu thereof "**Transportation Board**";

(2) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(3) by striking "Commission" each place it appears in subsection (b) and inserting in lieu thereof "Transportation Board";

(4) by striking subsection (c); and

(5) by adding at the end the following new subsections:

"(c) The Transportation Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(1) reopen a proceeding;

"(2) grant rehearing, reargument, or reconsideration of an action of the Transportation Board; or

"(3) change an action of the Transportation Board.

An interested party may petition to reopen and reconsider an action of the Transportation Board under this subsection under regulations of the Transportation Board.

"(d) Notwithstanding this subtitle, an action of the Transportation Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.".

(b) Conforming Amendment.—The item relating to section 10324 in the table of sections of chapter 103 is amended by striking "Commission" and inserting in lieu thereof "Transportation Board".

SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEEDINGS.

(a) Amendments.—Section 10329 is amended—

(1) by striking "**Commission**" in the section heading;

(2) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(3) striking "(1)" in subsection (a) and by striking paragraph (2) of subsection (a);

(4) striking "subchapter I of" in subsection (a);

(5) striking the second sentence in subsection (b);

(6) striking "(1) in subsection (c) and by striking paragraphs (2) and (3);

(7) striking "notices of the Commission shall be served as follows: (1) A" in subsection (c) and inserting "a";

(8) by striking ", express, sleeping car," in subsection (c)(1);

(9) by striking "Secretary of the" in subsection (c);

(10) in subsection (d)—

(A) by striking ", express, sleeping car,"; and

(B) by striking "who filed the tariff";

(11) by striking subsection (e); and

(12) by striking "Commission" each place it appears and inserting in lieu thereof "Transportation Board".

(b) Conforming Amendment.—The item relating to section 10329 in the table of sections of chapter 103 is amended by striking "Commission".

SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.

Section 10330 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(2) by striking "subchapter I of" in the first sentence of subsection (a);

(3) by striking "Secretary of the Commission" in subsection (a) and inserting in lieu thereof "Transportation Board";

(4) by striking subsection (b); and

(5) by redesignating subsection (c) as subsection (b).

SEC. 215. STUDY ON THE AUTHORITY TO COLLECT CHARGES.

In addition to other user fees that the Transportation Board may impose, the Transportation Board shall complete, within 6 months after the date of enactment of this Act, a study on the authority necessary to assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Transportation Board in that fiscal year.

SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULEMAKING.

(a) Advance Notice.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

(b) Rulemaking.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within one year after the advance notice described in subsection (a) is published, and shall issue a final rule dealing with those issues within 2 years after that date.

SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.

Section 31111(b)(1) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.".

SEC. 218. DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of title 18, United States Code, is amended by adding at the end the following new undesignated paragraph:

"Whoever is convicted of a crime under this section involving a motor vehicle that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.".

(b) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended—

(1) by inserting after the fourth undesignated paragraph the following:

"Whoever is convicted of any such crime that involved a train that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.".

TITLE III—RAIL AND PIPELINE TRANSPORTATION

SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMISSION, ETC.

Subtitle IV is amended—

(1) by striking "Interstate Commerce Commission" each place it appears (including chapter and section headings) and inserting "Intermodal Surface Transportation Board";

(2) by striking "Commission" each place it appears in reference to the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board";

(3) by striking "Commissioner" each place it appears in reference to a member of the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board member";

(4) by striking "Commissioners" each place it appears in reference to members of the Interstate Commerce Commission (including chapter and section headings) and inserting "Transportation Board members";

(5) by striking "this subtitle" each place it appears and inserting "this part";

(6) by inserting "PART A—RAIL AND PIPELINE CARRIERS" after "SUBTITLE IV—INTERSTATE COMMERCE";

(7) by inserting before section 10101 the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"Chapter	"SEC.
"131. General provisions	13101
"133. Administrative provisions	13301
"135. Jurisdiction	13501
"137. Rates	13701
"139. Registration	13901
"141. Operations of carriers	14101
"143. Finance	14301
"145. Federal-State relations	14501
"147. Enforcement; investigations; rights; remedies	14701
"149. Civil and criminal penalties	14901

"PART A—RAIL AND PIPELINE CARRIERS".

SEC. 302. RAIL TRANSPORTATION POLICY.

Section 10101a is amended by—

(1) striking "and" after the semicolon in paragraph (14);

(2) striking the period at the end of paragraph (15) and inserting a semicolon and "and"; and

(3) adding at the end the following:

"(16) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle.".

SEC. 303. DEFINITIONS.

Section 10102 is amended by—

(1) striking paragraphs (1), (2), (5), (6) (8) through (18), (19), (25), (27), and (30) through (33);

(2) redesignating the remaining paragraphs as paragraphs (1) through (11), respectively;

(3) striking paragraph (2) (as redesignated) and inserting:

"(2) 'common carrier' means a pipeline carrier and a rail carrier;";

(4) inserting "common carrier" after "railroad" in paragraph (6) (as redesignated);

(5) striking ", fare," in paragraph (8) (as redesignated);

(6) striking "of passengers or property, or both," in paragraph (10)(A) (as redesignated) and inserting "of property,"; and

(7) striking "passengers and" in paragraph (10)(B) (as redesignated).

SEC. 304. GENERAL JURISDICTION.

Section 10501 is amended by—

(1) striking "Subject to this chapter and other law, the" in subsection (a), and inserting "The";

(2) inserting "of property" after "transportation" in subsection (a);

(3) striking "express carrier, sleeping car carrier," in subsection (a)(1);

(4) striking "passengers or" in subsection (b)(1);

(5) by striking "or" at the end of subsection (b)(1);

(6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and "or";

(7) by adding at the end of subsection (b) the following:

"(3) transportation by a commuter authority, as defined in section 24102 of this title, except for sections 11103, 11104, and 11503.";

(8) striking "subchapter" in subsection (c) and inserting "chapter" and by striking "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" in subsection (c); and

(9) striking "(b)" after "section 11501" in subsection (d).

SEC. 305. RAILROAD AND WATER TRANSPORTATION CONNECTIONS AND RATES.

Section 10503 is amended by—

(1) striking "passengers or" each place it appears in subsection (a)(2); and

(2) striking "passengers," in subsection (a)(2)(B).

SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND MOTOR CARRIER TRANSPORTATION.

Section 10505 is amended by—

(1) striking "rail carrier and motor carrier" from the section heading;

(2) striking subsection (a) and inserting the following:

"(a) In a matter subject to the jurisdiction of the Intermodal Surface Transportation Board under this chapter, the Transportation Board shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title in whole or in part within 180 days after the filing of an application for an exemption, when the Transportation Board finds that the application of that provision in whole or in part—

"(1) is not necessary to carry out the transportation policy of section 10101 or section 10101a of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.";

(3) striking subsection (d) and inserting the following:

"(d) The Transportation Board shall revoke an exemption in whole or in part, to the extent that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title. The Transportation Board shall conclude a proceeding under this subsection within 180 days. In acting upon a request for revocation, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other competitive factors it deems relevant. If a request for revocation under this subsection is accompanied by a complaint seeking monetary damages for a violation of a provision of this title by a railroad, and the Transportation Board does not render a final decision on such request within 180 days after the filing of the revocation request and complaint, then any monetary damages which the Transportation Board may award at the conclusion of the proceeding shall be calculated from no later than the 181st day following the filing of the revocation request and complaint if the Transportation Board finds that such failure to render a final decision within 180 days is due in substantial part to dilatory practices of the railroad.";

(4) striking subsection (f) and inserting the following:

"(f) The Transportation Board may exercise its authority under this section to exempt transportation that is provided by a carrier as a part of a continuous intermodal movement."; and

(5) striking subsection (g) and inserting the following:

"(g) The Transportation Board may not exercise its authority under this section to relieve a carrier of its obligation to protect the interests of employees as required by this part.".

SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.

Section 10701 is amended by—

(1) redesignating subsection (c) as subsection (b);

(2) striking "subchapter I or III of chapter 105" in subsection (b) as so redesignated and inserting "chapter 105";

(3) striking "the jurisdiction of the Commission under either of those subchapters" in subsection (b) as so redesignated and inserting "jurisdiction either under chapter 105 of this part or under part B of this subtitle"; and

(4) striking subsections (d) through (f).

SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.

Section 10701a is amended by—

(1) striking "subchapter I of" in subsection (a);

(2) striking "lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title" in subparagraphs (2)(A)(i) and (2)(B)(i) of subsection (b), and inserting "percentage described in section 10707a(d)(1)"; and

(3) adding at the end of subsection (b) the following:

"(4)(A) Within 1 year after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Transportation Board shall complete the Interstate Commerce Commission non-coal rate guidelines proceeding pending on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly given the value of the case.

"(B) Within 6 months after that date of enactment, the Transportation Board shall establish *procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and for ensuring prompt disposition of motions and interlocutory administrative appeals.*

"(C) In a proceeding to challenge the reasonableness of a railroad rate, other than a proceeding arising under section 10707 of this title, the Transportation Board shall make its determination as to the reasonableness of the challenged rate—

"(i) within 6 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation, or

"(ii) within 3 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to paragraph (4)(A).".

SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, ETC.

Section 10702 is amended by—

(1) beginning with "service," in paragraph (2) of subsection (a) striking all that follows and inserting "service."; and

(2) striking subsections (b) and (c).

SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH THROUGH ROUTES.

Section 10703 is amended by—

(1) striking ", express, sleeping car," in paragraph (1) of subsection (a);

(2) striking paragraphs (3) and (4) of subsection (a); and

(3) replacing "Commission under subchapter I, II (insofar as motor carriers of property are concerned), or III of" in subsection (b) with "Transportation Board under".

SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED RATES, CLASSIFICATIONS, ETC.

Section 10704 is amended by—

(1) striking "subchapter I of" and "(including a maximum or minimum rate, or both)" in the first sentence of subsection (a)(1);

(2) striking "subchapter" in the first sentence of subsection (a)(2) and inserting "chapter";

(3) striking the third sentence of subsection (a)(2);

(4) striking paragraph (3) of subsection (a) and redesignating paragraph (4) as (3);

(5) striking "within 180 days after the effective date of the Staggers Rail Act of 1980 and" and "thereafter" in subsection (a)(3), as redesignated;

(6) striking subsections (b), (c), (d) and (e);

(7) redesignating subsection (f) as subsection (b);

(8) striking "on its own initiative or" in subsection (b) as redesignated; and

(9) striking the last sentence of subsection (b), as redesignated.

SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES, JOINT CLASSIFICATIONS, ETC.

Section 10705 is amended by—

(1) striking "subchapter I, II (except a motor common carrier of property), or III of", and "(including maximum or minimum rates or both)" in paragraph (1) of subsection (a);

(2) striking paragraph (3) of subsection (a);

(3) striking subsections (b) and (h) and redesignating subsections (c) through (g) as subsections (b) through (f);

(4) striking "or (b)" and ", water carrier, or motor common carrier of property" in subsection (b), as redesignated;

(5) striking "tariff" in subsection (d), as redesignated, and inserting "proposed rate change";

(6) striking ", water common carrier, or motor common carrier of property" in subsection (d), as redesignated;

(7) striking "or (b)" and "on its own initiative or" in the first sentence of subsection (e)(1) as redesignated;

(8) striking "if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission" in the second sentence of subsection (e)(1), as redesignated; and

(9) striking "subsection (f)" in subsection (f), as redesignated, and inserting "subsection (e)".

SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.

Section 10706 is amended by—

(1) striking subsection (a)(3)(B);

(2) redesignating paragraphs (3)(C) and (D) of subsection (a) as paragraphs (3)(B) and (C);

(3) striking "consider" in subsection (a)(3)(B)(ii)(II), as redesignated, and inserting "considered";

(4) striking "subchapter I of" in subsection (a)(5)(A);

(5) striking "the effective date of the Staggers Rail Act of 1980" in subsection (a)(5)(C), and inserting "October 1, 1980,";

(6) striking subsections (b), (c), and (d) and redesignating subsections (e) through (g) as subsections (b) through (d);

(7) striking the first sentence of subsection (c), as redesignated, and inserting "The Transportation Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest.";

(8) striking "subsection (a), (b), or (c) of this section." in subsection (d), as redesignated and inserting "subsection (a)."; and

(9) striking subsections (h) and (i).

SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL RATES, ETC.

Section 10707 is amended by—

(1) striking the first sentence of subsection (a) and inserting "When a new individual or joint rate or individual or joint classification, rule, or practice related to a rate is proposed by a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title, the Transportation Board may begin a proceeding, on complaint of an interested party, to determine whether the proposed rate, classification, rule, or practice violates this part.";

(2) striking subsection (d)(3) and redesignating subsection (d)(4) as (d)(3);

(3) striking "or section 10761" in subsection (d)(3), as redesignated; and

(4) striking "the Commission shall, by rule, establish standards and procedures permitting a rail carrier to " in subsection (d)(3), as redesignated, and inserting "a rail carrier may".

SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.

Section 10707a is amended by—

(1) striking "Commencing with the fourth quarter of 1980, the" in subsection (a)(2)(B) and inserting "The";

(2) striking "subchapter I of chapter 105 of this title may" in subsection (b)(1) and inserting "chapter 105 of this title is authorized to";

(3) inserting a period after "involved" in paragraph (1) of subsection (b) and striking the remainder of the paragraph;

(4) striking "may not" in subsection (b)(3) and inserting "is not authorized to";

(5) striking "(A)" and "or (B) inflation based rate increases under section 10712 of this title applicable to that rate" in subsection (b)(3);

(6) striking subsections (c), (d) and (e), redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), and inserting after subsection (b) the following:

"(c) In determining whether a rate is reasonable, the Transportation Board shall consider, among other factors, evidence of the following:

"(1) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(2) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(3) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues."; and

(7) by striking subsection (d), as redesignated, and inserting the following:

"(d)(1) A finding by the Board that a rate increase exceeds the increase authorized under this section does not establish a presumption that (A) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 20 percentage points above the revenue-variable cost percentage applicable under section 10709(d) of this title, the Transportation Board may on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the percentage described in subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Transportation Board shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.".

SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPELINE CARRIER RATES, ETC.

Section 10708 is amended by—

(1) striking subsection (a)(1) and inserting the following:

"(a)(1) The Intermodal Surface Transportation Board may begin a proceeding to determine the lawfulness of a proposed rate, classification, rule, or practice on application of an interested party when a new individual or joint rate or individual or joint classification, rule, or practice affecting a rate is proposed by a pipeline carrier subject to the Transportation Board's jurisdiction under chapter 105 of this part.";

(2) striking "an express, sleeping car, or" in the third sentence of subsection (b) and inserting "a"; and

(3) striking subsections (d) through (g).

SEC. 317. DETERMINATION OF MARKET DOMINANCE.

Section 10709 is amended by—

(1) adding at the end of subsection (a) the following: "In making a determination under this section, the Transportation Board shall consider the availability of other economic transportation alternatives, in addition to any other competitive factors it deems relevant.";

(2) striking "subchapter I of" in the first sentence of subsection (b); and

(3) striking subsection (d) and inserting the following:

"(d) DETERMINATIONS OF RATE CHALLENGES.—

"(1) 180 PERCENT SAFE HARBOR.—In making a determination under this section, the Transportation Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

"(2) METHODOLOGY.—For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined by using the carrier's costs, calculated using the Uniform Railroad Costing System (or an alternative cost finding methodology adopted by the Transportation Board in lieu thereof), with use of the current cost of capital for calculating the return on investment, and indexed quarterly to account for current wage and price levels in the region in which the carrier operates.

"(3) BURDEN OF PROOF; REBUTTAL.—A rail carrier may meet its burden of proof under this subsection by so establishing its variable costs, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Transportation Board may prescribe.

"(4) NO PRESUMPTIONS CREATED.—A finding by the Transportation Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

"(A) such rail carrier has or does not have market dominance over such transportation, or

"(B) the proposed rate exceeds or does not exceed a reasonable maximum.".

SEC. 318. CONTRACTS.

Section 10713 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) striking subsection (b)(1) and inserting the following:

"(b)(1) A summary of each contract for the transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, entered into under this section shall be filed with the Transportation Board, containing such nonconfidential information as the Transportation Board prescribes. The Transportation Board shall publish special rules for such contracts in order to assure that the essential terms of the contract are available to the general public. The parties to any such contract shall supply a copy of the full contract to the Transportation Board upon request.";

(3) striking "in tariff format" in subparagraphs (A) and (C) of subsection (b)(2);

(4) striking subsection (b)(2)(D);

(5) striking "other than a contract for the transportation of agricultural commodities (including forest products and paper)," in subsection (d)(2)(A) and inserting "for the transportation of agricultural commodities,";

(6) strike "only" in (d)(2)(A)(i);

(7) striking "the case of a contract for the transportation of agricultural commodities (including forest products and paper), in" in subsection (d)(2)(B);

(8) inserting "of agricultural commodities" after "filed by a shipper" in subsection (d)(2)(B);

(9) striking the last sentence of subsection (d)(2)(B);

(10) striking "A contract that is approved by the Commission" in subsection (i)(1) and inserting "In any contract entered into after the effective date of the Interstate Commerce Commission Sunset Act of 1995, if the shipper in writing expressly waives all rights and remedies under this part for the transportation covered by the contract, a contract entered into";

(11) striking subsections (l) and (m); and

(12) striking "(including forest products but not including wood pulp, wood chips, pulpwood or paper)" in subsection (i)(1).

SEC. 319. GOVERNMENT TRAFFIC.

The text of section 10721 is amended to read as follows:

"A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.".

SEC. 320. RATES AND LIABILITY BASED ON VALUE.

Section 10730 is amended by—

(1) striking subsections (a) and (b);

(2) striking "(c)";

(3) striking "rail carrier" and inserting "carrier"; and

(4) striking "subchapter I of".

SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY COMMON CARRIERS.

Section 10741 is amended by—

(1) striking "subchapter I of" in subsection (a);

(2) striking subsection (c) and inserting the following:

"(c) A carrier providing transportation subject to the jurisdiction of the Transportation Board under chapter 105 of this title may not subject a freight forwarder providing service subject to jurisdiction under part B of this subtitle to unreasonable discrimination whether or not the freight forwarder is controlled by that carrier.";

(3) striking "subchapter I of" in subsection (e);

(4) striking subsection (f)(1) and inserting the following: "(1) contracts under section 10713 of this title;";

(5) striking paragraphs (2), (3), and (5) of subsection (f) and redesignating paragraph (4) as paragraph (2); and

(6) striking "paragraphs (2), (3), and (4)" in subsection (f) and inserting "paragraph (2)".

SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.

Section 10742 is amended by—

(1) striking "subchapter I or III of" and "passengers and"; and

(2) striking "either of those subchapters." and inserting "Part A or B of this subtitle.".

SEC. 323. LIABILITY FOR PAYMENT OF RATES.

Section 10744 is amended by—

(1) striking ", motor, or water common" in the first sentence of subsection (a)(1);

(2) striking "or express" in the first sentence of subsection (b);

(3) striking "subtitle" in the first sentence of subsections (a)(1) and (b) and inserting "part";

(4) striking paragraph (2) of subsection (c) and renumbering paragraph (3) as paragraph (2); and

(5) striking "or express" in subsection (c)(2), as redesignated.

SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.

Section 10745 is amended by striking "subchapter I of".

SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FURNISHED BY SHIPPER.

Section 10747 is amended by—

(1) striking the first and second sentences and inserting the following: "A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Transportation Board may prescribe the maximum reasonable charge or allowance paid for such service or instrumentality furnished."; and

(2) striking "on its own initiative or" in the last sentence.

SEC. 326. DEMURRAGE CHARGES.

Section 10750 is amended by striking "subchapter I of".

SEC. 327. TRANSPORTATION PROHIBITED WITHOUT TARIFF.

Section 10761 is amended to read as follows:

"§10761. Transportation of agricultural products prohibited without tariff

"Except when providing transportation by contract as provided in this subtitle, a carrier providing transportation of agricultural products, including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide that transportation only if the rate for the transportation is contained in a tariff that is in effect under this subchapter. A carrier subject to this subsection may not charge or receive a different compensation for that transportation than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation, or another device.".

SEC. 328. GENERAL ELIMINATION OF TARIFF FILING REQUIREMENTS.

Section 10762 is amended to read as follows:

"§10762. General elimination of tariff filing requirements

"(a) Except as provided in section 10713 of this title, a carrier providing transportation of agricultural products including grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof, and fertilizer and components thereof, subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall publish, keep open and retain for public inspection, and immediately furnish to an entity requesting the same, tariffs containing its rates for the transportation of such commodities and its classifications, rules, and practices related to such rates. Tariffs are not required for any other commodity.

"(b)(1) Within 180 days after the enactment of the Interstate Commerce Commission Sunset Act of 1995, the Intermodal Surface Transportation Board shall prescribe the form and manner of publishing, keeping open, furnishing to the public, and retaining for public inspection tariffs under this section. The Transportation Board may prescribe specific charges to be identified in a tariff required under this section to be published, kept open, furnished to the public, or retained for public inspection, but those tariffs must identify plainly—

"(A) the places between which property will be transported;

"(B) privileges given and facilities allowed; and

"(C) any rules that change, affect, or determine any part of the published rate.

"(2) A joint tariff published by a carrier under this section shall identify the carriers that are parties to it.

"(c)(1) When a carrier proposes to change a rate for transportation subject to this section, or a classification, rule, or practice related to such rate, the carrier shall publish, transmit, and keep open for public inspection a notice of the proposed change as required under subsections (a) and (b) of this section.

"(2) A notice published under this subsection shall plainly identify the proposed change or new or reduced rate and indicate its proposed effective date. A proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 1 day after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.

"(d) The Transportation Board may reduce the notice period of subsection (c) of this section if cause exists. The Transportation Board may change the other requirements of this section if cause exists in particular instances or as they apply to special circumstances.

"(e) Acting in response to a complaint or on its own motion, the Transportation Board may reject a tariff published under this section if that tariff violates this section or a regulation of the Transportation Board carrying out this section.".

SEC. 329. DESIGNATION OF CERTAIN ROUTES.

Section 10763 is amended by striking "subchapter I of" in subsection (a)(1).

SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION OF RAILROAD LINES.

Section 10901 is amended by—

(1) striking "subchapter I of" in subsection (a); and

(2) adding at the end the following new subsection:

"(f) SPECIAL RULE FOR NON-CLASS I TRANSACTIONS.—For all transactions involving Class II freight rail carriers, Class III freight rail carriers and non-carriers, that are not owned or controlled by a Class I rail carrier and that are not a commuter, switching or terminal railroad, which propose to acquire, construct, operate, or provide transportation over a railroad line pursuant to this section, the Transportation Board may, consistent with the public interest, require an arrangement for the protection of the interest of railroad employees who are adversely affected by the transaction not to exceed one year's salary per adversely affected employee and protection no less than required by sections 2 through 5 of the Worker Adjustment and Retraining Act, unless the adversely affected employees or their representatives and the parties to the transaction agree otherwise.".

SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.

Section 10902 is amended by striking "subchapter I of" in the first sentence.

SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINUANCE.

Section 10903 is amended by striking "subchapter I of" in subsection (a).

SEC. 333. FILING AND PROCEDURE FOR APPLICATIONS TO ABANDON OR DISCONTINUE.

Section 10904 is amended by—

(1) striking "subchapter I of" in subsection (a)(2);

(2) striking subsection (d)(2);

(3) striking "(1)" in subsection (d); and

(4) striking "the application was approved by the Secretary of Transportation as part of a plan or proposal under section 333(a)–(d) of this title, or" in subsection (e)(3).

SEC. 334. EXCEPTIONS.

Section 10907 is amended by striking "subchapter I of" in subsection (a).

SEC. 335. RAILROAD DEVELOPMENT.

Section 10910 is amended by—

(1) striking paragraph (2) of subsection (a) and inserting the following:

"(2) 'railroad line' means any line of railroad.";

(2) striking "the effective date of the Staggers Rail Act of 1980" in subsection (g)(2), and inserting "October 1, 1980,"; and

(3) striking subsection (k) and inserting the following:

"(k) The Transportation Board shall maintain such regulations and procedures as may be necessary to carry out the provisions of this section.".

SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND RATES.

Section 11101 is amended to read as follows:

"§11101. Providing transportation, service, and rates

"(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title shall provide the transportation or service on reasonable request.

"(b) Notwithstanding any other provision of this title, a rail carrier providing transportation service subject to the jurisdiction of the Transportation Board under chapter 105 of this title shall provide, on reasonable written request, common carrier rates and other common carrier service terms of the type requested for specified services between specified points. The response by a rail carrier to a request for such rates or other service terms shall be in writing, or shall be available electronically, and forwarded to the requesting person no later than 30 days after receipt of the request. A rail carrier shall not refuse to respond to a reasonable request under this subsection on grounds that the movement at issue is subject at the time a request is made to a contract entered into under section 10713 of this title.

"(c) Common carrier rates and service terms provided pursuant to subsection (b) of this section shall be subject to the provisions of this title.

"(d) A rail carrier may not increase any common carrier rates, or change any common carrier service terms, provided pursuant to subsection (b) unless at least 20 days' written or electronic notice is first provided to the person that, within the previous 12 months, made a written or electronic request for the issue rate or service. Any such increases or changes shall be subject to provisions of this subtitle.".

SEC. 337. USE OF TERMINAL FACILITIES.

Section 11103 is amended by striking "subchapter I of" in subsection (a).

SEC. 338. SWITCH CONNECTIONS AND TRACKS.

Section 11104 is amended by striking "subchapter I of" in subsection (a).

SEC. 339. CRITERIA.

Section 11121 is amended by—

(1) striking "subchapter I of" in subsection (a)(1);

(2) striking subsection (a)(2) and inserting the following:

"(2) The Transportation Board may require a rail carrier to file its car service rules with the Transportation Board.";

(3) striking ", 11127," in subsection (b); and

(4) adding at the end the following:

"(c) The Transportation Board shall consult, as it deems necessary, with the National Grain Car Council on matters within the charter of that body.".

SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CARRIER TO SERVE PUBLIC.

Section 11124 is amended by striking "subchapter I of" in subsection (a).

SEC. 341. DIRECTED RAIL TRANSPORTATION.

Section 11125 is amended by striking "subchapter I of" in subsection (a).

SEC. 342. WAR EMERGENCIES; EMBARGOES.

Section 11128 is amended by—

(1) striking "sections 11123(a)(4) and 11127(a)(1)(C)" and inserting "section 11123(a)" in subsection (a)(1); and

(2) striking "subchapter I of" in subsection (a)(2).

SEC. 343. DEFINITIONS FOR SUBCHAPTER III.

Section 11141 is amended to read as follows:

"§11141. Definitions

"In this subchapter—

"(1) 'carrier' and 'lessor' include a receiver or trustee of a carrier and lessor respectively.

"(2) 'lessor' means a person owning a railroad or a pipeline that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title.

"(3) 'association' means an organization maintained by or in the interest of a group of carriers providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board that performs a service, or engages in activities, related to transportation under this part.".

SEC. 344. DEPRECIATION CHARGES.

Section 11143 is amended by—

(1) striking "subchapter I or III of"; and

(2) striking "and may, for a class of carriers providing transportation subject to its jurisdiction under subchapter II of that chapter,".

SEC. 345. RECORDS, ETC.

Section 11144 is amended by—

(1) striking ", brokers," in subsection (a)(1);

(2) striking "or express" and "subchapter I of" in subsection (a)(2);

(3) striking ", broker," in subsection (b)(1);

(4) striking "broker," in subsection (b)(2)(A);

(5) striking "or express" in subsection (b)(2)(C);

(6) redesignating subsection (d) as subsection (c); and

(7) striking "brokers," in subsection (c), as redesignated.

SEC. 346. REPORTS BY CARRIERS, LESSORS, AND ASSOCIATIONS.

Section 11145 is amended by—

(1) striking "brokers," in subsection (a)(1);

(2) striking "or express," in subsection (a)(2);

(3) striking "broker," in the first sentence of subsection (b)(1);

(4) striking the second sentence of subsection (b)(1); and

(5) striking subsection (c).

SEC. 347. ACCOUNTING AND COST REPORTING.

Section 11166 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) striking the third sentence of subsection (a); and

(3) striking "the cost accounting principles established by the Transportation Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission" in subsection (b) and inserting "the appropriate cost accounting principles".

SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.

Section 11301(a)(1) is amended by—

(1) striking "or sleeping car"; and

(2) striking "subchapter I of".

SEC. 349. EQUIPMENT TRUSTS.

Section 11303 is amended by adding at the end thereof the following:

"(c) The Transportation Board shall collect, maintain and keep open for public inspection a railway equipment register consistent with the manner and format maintained at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in

railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

"(1) is duly constituted under the laws of a country other than the United States; and

"(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

"(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.".

SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.

Section 11322 is amended by—

(1) redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) inserting before subsection (b), as redesignated, the following:

"(a) In this section "carrier" means a rail carrier providing transportation subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as a part of a general railroad system of transportation), and a corporation organized to provide transportation by rail carrier subject to that chapter.";

(3) striking "as defined in section 11301(a)(1) of this title" in subsection (b) as redesignated; and

(4) striking "subsection (a)" and inserting "subsection (b)" in subsection (c), as redesignated.

SEC. 351. LIMITATION ON POOLING AND DIVISION OF TRANSPORTATION OR EARNINGS.

Section 11342 is amended by—

(1) striking "subchapter I, II, or III of" in the first sentence of subsection (a);

(2) striking "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the" in the second sentence of subsection (a) and inserting "The"; and

(3) striking subsections (b) and (d) and redesignating subsections (c) and (e) as subsections (b) and (c), respectively.

SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11343 is amended by—

(1) inserting "(except a pipeline carrier)" after "involving carriers" in subsection (a);

(2) striking "subchapter I (except a pipeline carrier), II, or III of" in subsection (a);

(3) striking paragraph (1) of subsection (d) and striking "(2)" in paragraph (2); and

(4) striking subsection (e).

SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF APPROVAL FOR CONSOLIDATION, ETC.

Section 11344 is amended by—

(1) striking the third sentence in subsection (a);

(2) striking "subchapter I of that chapter" in the last sentence of subsection (a) and inserting "chapter 105";

(3) striking paragraph (2) of subsection (b) and striking "(1)" in the first paragraph of subsection (b);

(4) striking "transaction." at the end of the second sentence of subsection (c) and inserting "transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated.";

(5) striking the fourth sentence of subsection (c);

(6) striking "When a rail carrier is involved in the transaction, the" in the last sentence of subsection (c) and inserting "The";

(7) striking the last two sentences of subsection (d); and

(8) striking subsection (e).

SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION, ETC.

Section 11345 is amended by—

(1) striking "subchapter I of" in the first sentence of subsection (a);

(2) inserting ", including comments by the Secretary of Transportation and the Attorney General," before "may be filed" in the first sentence of subsection (c)(1);

(3) striking the last two sentences of subsection (c)(1);

(4) inserting ", including comments by the Secretary of Transportation and the Attorney General," before "may be filed" in the first sentence of subsection (d)(1); and

(5) striking the last two sentences of subsection (d)(1).

SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 11347 is amended by striking "or section 11346" in the first sentence.

SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.

Section 11348(a) is amended by striking all after the colon and inserting "sections 504(f) and 10764, subchapter III of chapter 111, and sections 11301, 11901(e), and 11909.".

SEC. 357. AUTHORITY OVER INTRASTATE TRANSPORTATION.

Section 11501 is amended by—

(1) striking subsections (a), (e), (g) and (h) and redesignating subsections (b), (c), (d), and (f) as subsections (a), (b), (c) and (d), respectively;

(2) striking paragraphs (2) through (6) of subsection (a), as redesignated;

(3) striking "(1)" and "subchapter I of" in subsection (a), as redesignated;

(4) striking "subchapter I of" in subsection (b), as redesignated;

(5) striking "subchapter I of" in subsection (c)(1), as redesignated;

(6) striking "subsection (a) of this section and" in subsection (c)(2), as redesignated; and

(7) striking the first sentence of subsection (d), as redesignated, and inserting the following: "The Transportation Board may take action under this section only after a full hearing.".

SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPORTATION PROPERTY.

Section 11503 is amended by—

(1) striking "subchapter I of" in subsection (a)(3); and

(2) striking "subchapter I of" in subsection (b)(4).

SEC. 359. WITHHOLDING STATE AND LOCAL INCOME TAX BY CERTAIN CARRIERS.

Section 11504 is amended by—

(1) striking "subchapter I of" in subsection (a);

(2) striking subsections (b) and (c) and redesignating subsection (d) as subsection (b); and

(3) striking ", motor, and motor private" and "subsection (a) or (b) of" in subsection (b), as redesignated.

SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, INVESTIGATIONS, ETC.

Section 11701 is amended by—

(1) striking ", broker or freight forwarder" in the second and fourth sentences of subsection (a);

(2) striking the third sentence of subsection (a);

(3) striking the first 2 sentences of subsection (b) and inserting the following: "A person, including a governmental authority, may file with the Transportation Board a complaint about a violation of this part by a carrier providing transportation or service subject to the jurisdiction of the Transportation Board under this part. The complaint must state the facts that are the subject of the violation."; and

(4) striking "subchapter I of" in the last sentence of subsection (b).

SEC. 361. ENFORCEMENT.

Section 11702 is amended by—

(1) striking "(a)" in subsection (a);

(2) striking paragraphs (4) through (6) of subsection (a);

(3) striking "or 10933" in paragraph (1);

(4) striking paragraph (2) and inserting the following:

"(2) to enforce subchapter III of chapter 113 of this title and to compel compliance with an order of the Transportation Board under that subchapter; and"

(5) striking "subchapter I of" in paragraph (3);

(6) striking the semicolon at the end of paragraph (3) and inserting a period; and

(7) striking subsection (b).

SEC. 362. ATTORNEY GENERAL ENFORCEMENT.

Section 11703 is amended by striking "or permit" wherever it appears in subsection (a).

SEC. 363. RIGHTS AND REMEDIES.

Section 11705 is amended by—

(1) striking "or a freight forwarder" in subsection (a);

(2) striking subsection (b)(1) and inserting the following:

"(b)(1) A carrier providing transportation or service subject to the jurisdiction of the Transportation Board under chapter 105 of this title is liable to a person for amounts charged that exceed the applicable rate for the transportation or service.";

(3) striking "subparagraph I or III of" in subsection ((b)(2);

(4) striking subsection (b)(3);

(5) striking "subchapter I or III of" in the first sentence of subsection (c)(1);

(6) striking the second sentence of subsection (c)(1);

(7) striking "subchapter I or III of" in the second sentence of subsection (c)(2);

(8) striking "subchapter I or III of" in the first sentence of subsection (d)(1); and

(9) striking ", or (D) if a water carrier, in which a port of call on a route operated by that carrier is located" and inserting "or" before "(C)" in the fourth sentence of subsection (d)(1).

SEC. 364. LIMITATION ON ACTIONS.

Section 11706 is amended by—

(1) striking subsection (a) and inserting the following:

"(a) A carrier providing transportation or service subject to the jurisdiction of the Intermodal Surface Transportation Board under chapter 105 of this title must begin a civil action to recover charges for the transportation or service provided by the carrier within 3 years after the claim accrues.";

(2) striking the first sentence of subsection (b) and inserting "A person must begin a civil action to recover overcharges under section 11705(b)(1) of this title within 3 years after the claim accrues.";

(3) striking "subchapter I or III of" in the last sentence of subsection (b);

(4) striking "(1)" in subsection (c);

(5) striking paragraph (2) of subsection (c); and

(6) striking "(c)(1)" in the second sentence of subsection (d) and inserting "(c)".

SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

(a) Section 11707 is amended by—

(1) striking "(a)(1)" in subsection (a) and inserting "(a)";

(2) striking paragraph (2) of subsection (a);

(3) striking "subchapter I, II, or IV of" and "and a freight forwarder" in the first sentence of subsection (a), as amended;

(4) striking "or freight forwarder" in the second sentence of subsection (a), as amended;

(5) striking "subchapter I, II, or IV" in the second sentence of subsection (a), as amended, and inserting "chapter 105 or subject to jurisdiction under part B of this subtitle";

(6) striking ", except in the case of a freight forwarder," in the third sentence of subsection (a), as amended;

(7) striking "diverted under a tariff filed under subchapter IV of chapter 107 of this title." in the third sentence of subsection (a), as amended, and inserting "diverted.";

(8) striking "or freight forwarder" in the fourth sentence of subsection (a);

(9) striking "and freight forwarder" in subsection (c)(1), and striking "filed with the Commission";

(10) striking paragraph (3) of subsection (c) and redesignating paragraph (4) as paragraph (3);

(11) striking "or freight forwarder" wherever it appears in subsection (e); and

(12) striking "or freight forwarder's" in subsection (e)(2).

(b) The index for chapter 117 is amended by striking out the item relating to section 11707 and inserting in lieu thereof the following:

"Sec. 11707. Liability of Carriers under receipts and bills of lading.".

SEC. 366. LIABILITY WHEN PROPERTY IS DELIVERED IN VIOLATION OF ROUTING INSTRUCTIONS.

Section 11710 is amended by striking "subchapter I of" in subsection (a)(1).

SEC. 367. GENERAL CIVIL PENALTIES.

Section 11901 is amended by:

(1) striking "subchapter I of" in subsection (a) and subsection (b);

(2) striking subsection (c) and subsections (g) through (l), and redesignating subsections (d) through (f) as (c) through (e), respectively, and subsection (m) as (f);

(3) striking "11127" in subsection (d), as redesignated;

(4) striking "(1)" in subsection (d), as redesignated, and striking paragraph (2) of that subsection;

(5) striking "subchapter I of" each place it appears in subsection (e), as redesignated;

(6) striking "(1)" in subsection (f), as redesignated, and striking paragraph (2) of that subsection; and

(7) striking "subsections (a)-(f) of" in subsection (f), as redesignated.

SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM COMMON CARRIER.

Section 11902 is amended by striking "contained in a tariff filed with the Commission under subchapter IV of chapter 107 of this title".

SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLATIONS.

Section 11903 is amended by striking "under chapter 107 of this title" in subsection (a).

SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLATIONS.

Section 11904 is amended by—

(1) striking subsections (b) through (d);

(2) striking "(a)(1)" in subsection (a) and inserting "(a)";

(3) redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c), respectively;

(4) striking "(A)" and "(B)" in subsection (b), as redesignated, and inserting "(1)" and "(2)", respectively;

(5) striking "subchapter I of" in subsections (b) and (c), as redesignated; and

(6) striking 'under chapter 107 of this title" in subsection (b), as redesignated.

SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.

Section 11907 is amended by striking "subchapter I of" in subsections (a) and (b).

SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.

Section 11909 is amended by—

(1) striking subsections (b) through (d);

(2) striking "subchapter I of" in subsection (a); and

(3) striking "(a)" in subsection (a).

SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.

Section 11910 is amended by—

(1) striking paragraphs (2) through (4) of subsection (a);

(2) striking "(a)(1)" in subsection (a) and inserting "(a)";

(3) striking "(A)" and "(B)" in subsection (a) and inserting "(1) and "(2)", respectively;

(4) striking "subchapter I of" in subsections (a) and (d); and

(5) striking "or broker" in subsection (b).

SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

Section 11912 is amended by striking out "11346,".

SEC. 375. GENERAL CRIMINAL PENALTY.

Section 11914 is amended by—

(1) striking subsections (b) through (d);

(2) striking "(a)" in subsection (a);

(3) striking "subchapter I of" in the first sentence; and

(4) striking "11321(a) or" in the last sentence.

SEC. 376. FINANCIAL ASSISTANCE FOR STATE PROJECTS.

Section 22101 is amended by striking "subchapter I of" in the first sentence of subsection (a).

SEC. 377. STATUS OF AMTRAK AND APPLICABLE LAWS.

Section 24301 is amended by striking "subchapter I of" in subsections (c)(2)(B) and (d).

SEC. 378. RAIL-SHIPPER TRANSPORTATION ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Chapter 103 is amended by adding at the end thereof the following:

"SUBCHAPTER VI. RAIL—SHIPPER TRANSPORTATION ADVISORY COUNCIL

§10391. Rail—Shipper Transportation Advisory Council

"(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Rail-Shipper Transportation Advisory Council (hereinafter in this section referred to as the "Council") to be composed of 15 members appointed by the Chairman of the Transportation Board, after recommendation from carriers and shippers, within 60 days after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995. The members of the Council shall be appointed as follows:

"(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the rail and rail shipper industry.

"(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industry, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members or by a majority vote of a quorum thereof. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

"(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

"(B) at least 4 shall be representative of small railroads (Class II or III).

"(3) The remaining 6 members of the Council shall serve in a non-voting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

"(A) 3 shall be from Class I railroads; and

"(B) 3 shall be from large shipper organizations (as determined by the Chairman).

"(4) The Secretary of Transportation and the members of the Transportation Board shall serve as ex officio members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure.

"(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

"(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of three years, except that of the members first appointed—

"(1) 5 members shall be appointed for terms of 1 year, and

"(2) 5 members shall be appointed for terms of 2 years,

as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

"(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

"(d) EXPENSES.—The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman may provide reasonable and necessary travel expenses for such individual Council members from Department or Transportation Board funding sources in order to foster balanced representation on the Council. Upon request by the Council Chairman, the Secretary or Chairman may but is not required to pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this Act. However, prior to making any funding requests the Council Chairman shall undertake best efforts to fund such activities privately unless he or she reasonably feels such private funding would create irreconcilable conflicts or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request

funding from any Federal agency unless he or she provides written justification as to why private funding would create such conflict or appearance, or is otherwise impractical. To enable the Council to carry out its functions—

"(1) the Council Chairman may request directly from any Federal department or agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as he or she determines necessary to carry out the functions of the Council;

"(2) each Federal department or agency may, in their discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

"(3) Federal agencies and departments may, in their discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

"(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold such other meetings as deemed prudent by and at the call of the Council Chairman. Appropriate Federal facilities, where available, may be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their alternates, to participate in the deliberations of the Council.

"(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—The Council shall advise the Secretary, Chairman, and relevant Congressional transportation policy oversight committees with respect to rail transportation policy issues it deems significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims. To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the Grain Car Council. The Secretary and Chairman shall work in cooperation with the Council to provide research, technical and other reasonable support in developing any documents provided for hereby. The Council shall endeavor to develop within the private sector mechanisms to prevent or identify and effectively address obstacles to the most effective and efficient transportation system practicable. The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues within the Council structure in lieu of seeking regulatory or legislative relief, and propose whatever regulatory or legislative relief it deems appropriate in the event such efforts are unsuccessful. The Council shall include therein such recommendations as it deems appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it deems appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to the accuracy of information therein, Council efforts and reasonableness of Council positions and actions and any other aspects of the Council's work as they may deem appropriate. The Council may prepare other reports or develop policy statements as the Council deems appropriate. Each annual report shall cover a fiscal year and shall be submitted to the Secretary and Chairman on or before the thirty-first day of December following the close of the fiscal year. Other such reports and statements may be communicated as the Council deems appropriate.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 103 is amended by adding at the end thereof the following:

"SUBCHAPTER VI. RAIL AND SHIPPER
TRANSPORTATION ADVISORY COUNCIL

"10391. Rail and shipper advisory council.".

TITLE IV—MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER TRANSPORTATION

Subtitle A—Addition of Part B

SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49, UNITED STATES CODE.

Subtitle IV is amended by inserting after chapter 119 the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER 131—GENERAL PROVISIONS

"§13101. Transportation policy

"(a) To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation , and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required; (C) meet the needs of shippers, receivers, passengers, and consumers; (D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (E) allow the most productive use of equipment and energy resources; (F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (G) provide and maintain service to small communities and small shippers and intrastate bus services; (H) provide and maintain commuter bus operations; (I) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (J) promote greater participation by minorities in the motor carrier system; and (K) promote intermodal transportation;

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and (C) to ensure that Federal reform initiatives enacted by section 31138 of this title and the Bus Regulatory Reform Act of 1995 of 1982 are not nullified by State regulatory actions; and

"(4) in regulating transportation by water carrier, to encourage and promote service and price competition in the non-contiguous domestic trade.

"(b) This part shall be administered and enforced to carry out the policy of this section.

"§13102. Definitions

"In this part—

"(1) 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

"(2) 'carrier' means a motor carrier, a water carrier, and a freight forwarder, and, for purposes of sections 13902, 13905, and 13906, the term includes foreign motor private carriers;

"(3) 'contract carriage' means—

"(A) for transportation provided before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, service provided pursuant to a permit issued under former section 10923 of this subtitle; and

"(B) for transportation provided on or after that date, service provided under an agreement entered into under section 14101(b) of this part;

"(4) "control", when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

"(5) 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor carrier of property, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A));

"(6) 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor private carrier, which provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A));

"(7) 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

"(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

"(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

"(C) uses for any part of the transportation a carrier subject to jurisdiction under part A or part B of this subtitle; but the term does not include a person using transportation of an air carrier subject to part A of subtitle VII of this title;

"(8) 'highway' means a road, highway, street, and way in a State;

“(9) ‘household goods’ means—

“(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and similar property, whether the transportation is—

“(i) requested and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling; or

“(ii) arranged and paid for by another party;

“(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and similar property; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

“(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and similar articles; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

“(10) ‘household goods freight forwarder’ means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles;

“(11) ‘motor carrier’ means a person providing motor vehicle transportation for compensation, including foreign motor carriers;

“(12) ‘motor private carrier’ means a person, other than a motor carrier, transporting property by motor vehicle when—

“(A) the transportation is as provided in section 13501 of this title;

“(B) the person is the owner, lessee, or bailee of the property being transported; and

“(C) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise;

“(13) ‘motor vehicle’ means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service;

“(14) ‘non-contiguous domestic trade’ means motor-water transportation subject to jurisdiction under chapter 135 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States;

“(15) ‘person’, in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

“(16) ‘State’ means a State of the United States and the District of Columbia;

“(17) ‘transportation’ includes—

“(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

“(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, packing, unpacking, and interchange of passengers and property;

“(18) ‘United States’ means the States of the United States and the District of Columbia;

“(19) ‘vessel’ means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water; and

“(20) ‘water carrier’ means a person providing water transportation for compensation.

“§ 13103. Remedies are cumulative

“Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or at common law.

“CHAPTER 133—ADMINISTRATIVE PROVISIONS

“§ 13301. Powers

“(a) Except as otherwise specified, the Secretary of Transportation shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

“(b) The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

“(c)(1) The Secretary may subpena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpena.

“(2) The district courts of the United States have jurisdiction to enforce a subpena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

“(d)(1) In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

“(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

“(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

“(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

“(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

“(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

“(e) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

“(f) For those provisions of this part that are specified to be carried out by the Intermodal Surface Transportation Board, the Transportation Board shall have the same powers as the Secretary has under this section.

“§ 13302. Intervention

“Under regulations of the Secretary of Transportation, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 of this title shall be given to interested persons.

“§ 13303. Service of notice in proceedings under this part

“(a) A motor carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 of this title shall designate in writing an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

“(b) A notice to a motor carrier, broker, or freight forwarder is served personally or by mail on the motor carrier, broker, or freight forwarder or on its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, broker, or freight forwarder does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

“§ 13304. Service of process in court proceedings

“(a) A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

“(b) A designation under this section may be changed at any time in the same manner as originally made.

“CHAPTER 135—JURISDICTION

“SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

“§ 13501. General jurisdiction

“The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

“(1) between a place in—

"(A) a State and a place in another State;

"(B) a State and another place in the same State through another State;

"(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

"(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

"(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

"(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

"§13502. Exempt transportation between Alaska and other States

"To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 of this title is provided in a foreign country—

"(1) neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

"(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§13503. Exempt motor vehicle transportation in terminal areas

"(a)(1) Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery;

"(B) is provided by—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

"(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

"(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 of this title when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

"(b)(1) Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Transportation Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery; and

"(B) is provided by a person as an agent or under other arrangement for—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a motor carrier subject to jurisdiction under this subchapter;

"(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

"(2) Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§13504. Exempt motor carrier transportation entirely in one State

"Neither the Secretary of Transportation nor the Intermodal Surface Transportation Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

"SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"§13521. General jurisdiction

"(a) GENERAL RULES.—The Transportation Board has jurisdiction over transportation insofar as water carriers are concerned—

"(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) by water carrier and motor carrier from a place in a State to a place in another State, except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

"(A) by motor carrier that is in the United States; and

"(B) by water carrier that is from a place in the United States to another place in the United States; and

"(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

"(A) when the transportation is by motor carrier, the transportation is provided in the United States;

"(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

"(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

"(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories, commonwealths, and possessions of the United States.

"SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§13531. General jurisdiction

"(a) The Secretary of Transportation and the Intermodal Surface Transportation Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

"(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) a place in a State and another place in the same State through a place outside the State; or

"(3) a place in the United States and a place outside the United States.

"(b) Neither the Secretary nor the Transportation Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"§13541. Authority to exempt transportation or services

"(a) In any matter subject to jurisdiction under this chapter, the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this title, or use this exemption authority to modify a provision of this title, when the Secretary or Transportation Board finds that the application of that provision in whole or in part—

"(1) is not necessary to carry out the transportation policy of section 13101 of this title; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this title is not needed to protect shippers from the abuse of market power.

In a proceeding that affects the transportation of household goods described in section 13102(9)(A), the Secretary or the Transportation Board shall also consider whether the exemption will be consistent with the transportation policy set forth in section 13101 of this title and will not be detrimental to the interests of individual shippers.

"(b) The Secretary or Transportation Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Transportation Board's own initiative or on application by an interested party.

"(c) The Secretary or Transportation Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

"(d) The Secretary or Transportation Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this title to the person, class, or transportation is necessary to carry out the transportation policy of section 13101 of this title.

"(e) This exemption authority may not be used to relieve a person (except a person that would have been covered by a statutory exemption under subchapter II or IV of chapter 105 of this title that was repealed by the Interstate Commerce Commission Sunset Act of 1995) from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; or safety fitness.

"(f) The Secretary or Transportation Board, as applicable, is prohibited from regulating or exercising jurisdiction over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

"(g) The Secretary or Transportation Board, as applicable, may not exempt a water carrier from the application of, or compliance with, sections 13801 and 13702 for transportation in the non-contiguous domestic trade.

“CHAPTER 137—RATES AND THROUGH ROUTES

“§13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

“(a)(1) A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title for transportation or service involving—

“(i) a movement of household goods described in section 13102(9)(A) of this title, or

“(ii) a joint rate for a through movement with a water carrier, or a rate for a movement by a water carrier, in non-contiguous domestic trade, must be reasonable.

“(2) Through routes and divisions of joint rates for such transportation or service as described in paragraph (1) (i) or (ii) must be reasonable.

“(b) When the Intermodal Surface Transportation Board finds it necessary to stop or prevent a violation of subsection (a), the Transportation Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

“(c) A complaint that a rate, classification, rule or practice in the non-contiguous domestic trade violates subsection (a) of this section may be filed with the Transportation Board.

“(d)(1) For purposes of this section, a rate or division of a carrier for service in non-contiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

“(2) The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

“(3) The Transportation Board shall determine whether any rate or division of a carrier or service in the non-contiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) of this section or section 13702(f)(5).

“(4) The Transportation Board, upon a finding of violation of subsection (a) or this section, shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure or tariff. The Transportation Board, upon complaint from any governmental agency or authority, shall, upon a finding or violation of subsection (a) of this section, make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all sums, plus interest, which the Board finds to have been assessed and collected in violation of such subsections.

“(e) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation or service that was pending before the Federal Maritime Commission shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of that date.

“§13702. Tariff requirement for certain transportation

“(a) A carrier subject to jurisdiction under subchapters I or III of chapter 135 of this title may provide transportation or service that is—

“(1) under a joint rate for a through movement in non-contiguous domestic trade, or

“(2) for movement of household goods described in section 13102(9)(A) of this title, only if the rate for such transportation or service is contained in a tariff that is in effect under this section. A rate contained in a tariff shall be stated in money of the United States. The carrier may not charge or receive a different compensation for that transportation or service than the rate specified in the tariff whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

“(b)(1) A carrier providing transportation or service described in paragraph (1) of subsection (a) shall publish and file with the Intermodal Surface Transportation Board tariffs containing the rates established for such transportation or service. The Transportation Board may prescribe other information that carriers shall include in such tariffs.

“(2) Carriers that publish tariffs under this subsection shall keep them open for public inspection.

“(c) The Transportation Board shall prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection under subsection (b). The Transportation Board may prescribe specific charges to be identified in a tariff published by a carrier, but those tariffs must identify plainly—

“(1) the carriers that are parties to it;

“(2) the places between which property will be transported;

“(3) terminal charges if a carrier providing transportation or service subject to jurisdiction under subchapter III of chapter 135 of this title;

“(4) privileges given and facilities allowed; and

“(5) any rules that change, affect, or determine any part of the published rate.

“(d) The Transportation Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs that cover matter that is not being changed when the Transportation Board finds that action to be consistent with the public interest. Those carriers may either—

“(1) publish new tariffs that incorporate changes, or

“(2) plainly indicate the proposed changes in the tariffs then in effect and kept open for public inspection.

“(e) The Transportation Board may reject a tariff submitted to it by a carrier under subsection (b) if that tariff violates this section or regulation of the Transportation Board carrying out this section.

“(f)(1) A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Transportation Board and by shippers, upon reasonable request, at the offices of the carrier and of each tariff publishing agent of the carrier.

“(2) A carrier that maintains a tariff and makes it available for inspection as provided in paragraph (1) may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

“(3) A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this subtitle. A carrier that does not maintain a tariff as provided in this subsection may not enforce the tariff against any individual shipper except as otherwise provided in this subtitle, and shall not transport household goods described in section 13102(9)(A).

“(4) A carrier may incorporate by reference the rates, terms, and other conditions in a tariff in agreements covering the transportation of household goods (except those household goods described in section 13102(9)(A)(i)), if the tariff is maintained as provided in this subsection and the agreement gives notice of the incorporation and of the availability of the tariff for inspection by the commercial shipper.

“(5) A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be filed with the Transportation Board.

“§13703. Certain collective activities; exemption from antitrust laws

“(a) AGREEMENTS.—

“(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

“(A) through routes and joint rates;

“(B) rates for the transportation of household goods described in section 13102(9)(A);

“(C) classifications;

“(D) mileage guides;

“(E) rules;

“(F) divisions;

“(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

“(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

“(2) SUBMISSION OF AGREEMENT TO TRANSPORTATION BOARD; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Transportation Board for approval and may be approved by the Transportation Board only if it finds that such agreement is in the public interest.

“(3) CONDITIONS.—The Transportation Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

“(4) INVESTIGATIONS.—The Transportation Board may suspend and investigate the reasonableness of any classification or rate adjustment of general application made pursuant to an agreement under this section.

“(5) EFFECT OF APPROVAL.—If the Transportation Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Transportation Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

“(b) RECORDS.—The Transportation Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Transportation Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

“(c) REVIEW.—The Transportation Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Transportation Board under this section—

“(1) approving an agreement,

“(2) denying, ending, or changing approval,

“(3) prescribing the conditions on which approval is granted, or

“(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

“(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years

after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Transportation Board, the agreement is unchanged, and the Transportation Board approves such renewal. The Transportation Board shall approve the renewal unless it finds that the renewal is not in the public interest.

"*(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Transportation Board under this section beginning on such effective date.*

"*(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—*

"*(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.*

"*(2) OBLIGATION OF SHIPPER.—Nothing in this title, the Interstate Commerce Commission Sunset Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.*

"*(g) MILEAGE RATE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 of this title may enforce collection of its mileage rates or classifications unless such carrier or forwarder maintains its own independent publication of mileage or classification which can be examined by any interested person upon reasonable request or is a participant in a publication of mileages or classifications formulated under an agreement approved under this section.*

"*(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.*

"§13704. Household goods rates—estimates; guarantees of service

"*(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.*

"*(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.*

"*(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.*

"*(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary of Transportation may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.*

"§13705. Requirements for through routes among motor carriers of passengers

"*(a) A motor carrier of passengers shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them.*

"*(b) A through route between motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 must be reasonable.*

"*(c) When the Intermodal Surface Transportation Board finds it necessary to enforce the requirements of this section, the Transportation Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.*

"§13706. Liability for payment of rates

"*(a) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—*

"*(1) of the agency and absence of beneficial title; and*

"*(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.*

"*(b) When the consignee is liable only for rates billed at the time of delivery under subsection (a) of this section, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.*

"§13707. Billing and collecting practices

"*(a) A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service. No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.*

"*(b) The Transportation Board shall promulgate regulations that prohibit a motor carrier subject to jurisdiction under subchapter II of chapter 105 of this title from providing a reduction in a rate for the provision of transportation of property to any person other than—*

"*(1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract; or*

"*(2) an agent of the person paying for the transportation.*

"§13708. Procedures for resolving claims involving unfiled, negotiated transportation rates

"*(a) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 of this title (as in effect on the day before the effective date of this section) or subchapter I of chapter 135 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—*

"*(1) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and*

"*(2) with respect to the claim—*

"*(A) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Transportation Board or with the former Interstate Commerce Commission, as required, for the transportation service;*

"*(B) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;*

"*(C) the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the former Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;*

"*(D) such transportation rate was billed and collected by the carrier or freight forwarder; and*

"*(E) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.*

If there is a dispute as to the showing under paragraph (1), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (2), such dispute shall be resolved by the Intermodal Surface Transportation Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 149 of this title or chapter 119 of this title, as such chapter was in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"*(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board .*

"*(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from* *whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.*

"(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

"(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in subsection (a) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Transportation Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(g) NOTIFICATION OF ELECTION.—

"(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

"(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

"(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(1) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(2) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(3) if the cargo involved in the claim is recyclable materials. In this provision, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§13709. Additional motor carrier undercharge provisions

"(a)(1) A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based.

"(2) In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Transportation Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

"(3) If a shipper seeks to contest the charges originally billed, the shipper may request that the Transportation Board determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(4) Any tariff on file with the Interstate Commerce Commission on August 26, 1994, not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of the Interstate Commerce Commission Sunset Act of 1995 not required to be filed after that date is null and void beginning on that date.

"(b) If a motor carrier (other than a motor carrier providing transportation of household goods) subject to jurisdiction under subchapter I of chapter 135 of this title had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995 was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Transportation Board shall resolve the dispute.

"§13710. Alternative Procedure for Resolving Undercharge Disputes

"(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation that is subject to jurisdiction of subchapter I of chapter 135 of this title or was subject to jurisdiction under subchapter II of chapter 105 of this title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between—

"(1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter, or with respect to transportation provided before the effective date of this section in accordance with chapter 107 of this title as in effect on the date the transportation service was provided by the carrier or freight forwarder applicable to such transportation service; and

"(2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) of this title or is transporting property between places described in section 13501(1) of this title for the purpose of avoiding the application of this section.

"(b) JURISDICTION OF TRANSPORTATION BOARD.—The Intermodal Surface Transportation Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Transportation Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Transportation Board shall consider—

"(1) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Transportation Board or with the Interstate Commerce Commission, as required, at the time of the movement for the transportation service;

"(2) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(3) whether the carrier or freight forwarder did not properly or timely file with the Transportation Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(4) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

"(5) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

"(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Transportation Board has made a determination as to the reasonableness of the

practice as applied to the freight of the person against whom the claim is made.

"(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702, and for transportation prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995, to the requirements of sections 10761(a) and 10762 of this title as in effect on the date before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, relating to a filed tariff rate and other general tariff requirements.

"(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13708 of this part shall not apply to such rate.

"(f) DEFINITIONS.—For purposes of this section, the term 'negotiated rate' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

"§13711. Government traffic

"A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§13712. Food and grocery transportation

"(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"§13901. Requirement for registration

"A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is currently registered under this chapter to provide the transportation or service.

"§13902. Registration of motor carriers

"(a)(1) Except as provided in this section, the Secretary of Transportation shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

"(A) this part, the applicable regulations of the Secretary and the Intermodal Surface Transportation Board, and any safety requirements imposed by the Secretary,

"(B) the safety fitness requirements established by the Secretary under section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31128 of this title.

"(2) The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

"(3) The Secretary shall find any registrant as a motor carrier under this section to be unfit if the registrant does not meet the fitness requirements under paragraph (1) of this subsection and shall withhold registration.

"(4) The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Transportation Board, the safety requirements of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

"(b) MOTOR CARRIERS OF PASSENGERS.—

"(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENT ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

"(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

"(i) the recipient meets the requirements of subsection (a)(1); and

"(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

"(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

"(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

"(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

"(4) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Any intrastate transportation authorized under this subsection, except as provided in section 14501, shall be deemed to be transportation subject to jurisdiction under subchapter I of chapter 135 of this title until such time, not later than 30 days after the date on which a motor carrier of passengers first begins providing transportation entirely in one State pursuant to this paragraph, as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

"(5) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(6) REVOCATION OF AUTHORITY FOR INTRASTATE TRANSPORTATION.—Notwithstanding paragraph (3) of this subsection, intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

"(7) PREEMPTION OF STATE REGULATION.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135 of this title.

"(8) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

"(i) any State,

"(ii) any municipality or other political subdivision of a State,

"(iii) any public agency or instrumentality of one or more states and municipalities and political subdivisions of a State,

"(iv) any Indian tribe,

"(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which, before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

"(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

"(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

"(1) If the President of the United States, or his or her delegate, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation of property or passengers to, from, or within such foreign country, the President, or his or her delegate, may—

"(A) seek elimination of such practices through consultations; or

"(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

"(2) Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

"(3) The President, or his or her delegate, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President, or his or her delegate, determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

"(4) Unless and until the President or his or her delegate makes a determination under paragraphs (1) or (3) above, nothing in this subsection shall affect—

"(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the U.S.-Mexico border as defined at the time of enactment of the Interstate Commerce Commission Sunset Act of 1995; or

"(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

"(5) Unless the President, or his or her delegate, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraphs (1) or (3) together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraphs (1)(B) or (3) and provide an opportunity for public comments.

"(6) The President may delegate any or all authority under this subsection to the Secretary of Transportation, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary of Transportation may issue regulations to enforce this subsection.

"(7) Either the Secretary of Transportation or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(8) This subsection shall not affect the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to fully comply with all applicable laws and regulations pertaining to fitness; safety of operations; financial responsibility; and taxes imposed by section 4481 of the Internal Revenue Code of 1994.

"§13903. Registration of freight forwarders

"(a) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder, if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Intermodal Surface Transportation Board.

"(b) The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has been registered to provide transportation as a carrier under this chapter.

"§13904. Registration of motor carrier brokers

"(a) The Secretary of Transportation shall register, subject to section 13906(b) of this title, a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135 of this title, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

"(b)(1) The broker may provide the transportation itself only if the broker also has been registered to provide the transportation under this chapter.

"(2) This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

"(c) Regulations of the Secretary shall provide for the protection of shippers by motor vehicle, to be observed by brokers.

"(d) The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

"§13905. Effective periods of registration

"(a) Each registration under section 13902, 13903, or 13904 of this title is effective from the date specified by the Secretary of Transportation and remains in effect for a period of 5 years except as otherwise provided in this section or in section 13906. The Secretary may require any carrier or registrant to provide periodic updating of carrier information.

"(b) On application of the holder, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part. an applicable regulation or order of the Secretary or of the Intermodal Surface Transportation Board, or a condition of its registration.

"(c)(1) Except on application of the holder, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after the Secretary has issued an order to the holder under section 14701 of this title requiring compliance with this part, a regulation of the Secretary, or a condition of the registration of the holder, and the holder willfully does not comply with the order.

"(2) The Secretary may act under paragraph (1) of this subsection only after giving the holder of the registration at least 30 days to comply with the order.

"(d)(1) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

"(2) Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier is conducting unsafe operations which are an imminent hazard to public health or property.

"(3) The Secretary may suspend the registration only after giving notice of the suspension to the holder. The suspension remains in effect until the holder complies with those applicable sections or, in the case of a suspension under paragraph (2) of this subsection, until the Secretary revokes such suspension.

"§13906. Security of motor carriers, brokers, and freight forwarders

"(a)(1) The Secretary of Transportation may register a motor carrier under section 13902 only if the registering carrier (including a foreign motor carrier, and a foreign motor private carrier) files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139 of this title, and the laws of the State or States in which the carrier is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the carrier continues to satisfy the security requirements of this paragraph.

"(2) A motor carrier and a foreign motor private carrier and foreign motor carrier operating in the United States (when providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country) shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection.

"(3) The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

"(b) The Secretary may register a person as a broker under section 13904 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

"(c)(1) The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

"(2) The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

"(3) The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

"(d) The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which

have been granted authority to self-insure as of the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

"(e) The Secretary shall promulgate regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation. The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

"§13907. Household goods agents

"(a) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to jurisdiction under subchapter I of chapter 135 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) Each motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

"(c)(1) Whenever the Secretary of Transportation has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) If such person does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title by an agent or membership on the board of directors of any such motor carrier by an agent.

"§13908. Registration and other reforms

"(a) IN GENERAL.—Within 18 months after the date of enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary, in cooperation with the States, industry groups, and other interested parties shall conduct a study to determine whether, and to what extent, the current Department of Transportation identification number system, the single State registration system under section 14505, the registration system contained in this chapter, and the financial responsibility information system under section 13906, should be modified or replaced with a single, on-line Federal system.

"(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

"(1) Funding for State enforcement of motor carrier safety regulations.

"(2) Whether the existing single State registration system is duplicative and burdensome.

"(3) The justification and need for collecting the statutory fee for such system under section 145-5(c)(2)(B)(iv).

"(4) The public safety.

"(5) The efficient delivery of transportation services.

"(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

"(c) FEE SYSTEM.—The Secretary may consider whether to establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a).

"(d) DEADLINE.—The Secretary shall conclude the study under this section within 18 months and report to Congress on the findings, together with recommendations for any appropriate legislative changes that may be needed.

"CHAPTER 141—OPERATIONS OF CARRIERS

"SUBCHAPTER I—GENERAL REQUIREMENTS

"§14101. Providing transportation and service

"(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

"(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title may enter into a contract with a shipper, other than a shipper of household goods described in section 13102(9)(A)(i), to provide specified services under specified rates and conditions. If the shipper and carrier in writing expressly waives any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under that contract shall not be subject to those provisions of this part, and may not be subsequently challenged on the ground that it violates such provision. The parties may not waive the provisions governing registration, insurance, or safety fitness. The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"§14102. Leased motor vehicles

"(a) The Secretary of Transportation may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

"(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

"(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

"(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

"(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

"(b) The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

"§14103. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the

Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

"§14104. Household goods carrier operations

"(a)(1) The Secretary of Transportation may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title. In establishing performance standards under this paragraph, the Secretary shall take into account at least the following:

"(A) The level of performance that can be achieved by a well-managed motor carrier transporting household goods.

"(B) The degree of harm to individual shippers which could result from a violation of the regulation.

"(C) The need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations.

"(D) Service requirements of the carriers.

"(E) The cost of compliance in relation to the consumer benefits to be achieved from such compliance.

"(F) The need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(3) Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b)(1) Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

"(2) Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

"SUBCHAPTER II—REPORTS AND RECORDS

"§14121. Definitions

"In this subchapter—

"(1) 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

"(2) 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 of this title that performs a service, or engages in activities, related to transportation under this part.

"§14122. Records: form; inspection; preservation

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

"(b) The Secretary or Transportation Board, or an employee designated by the Secretary or Transportation Board, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

"(2) inspect and copy any record of—

"(A) a carrier, broker, or association; and

"(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Transportation Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

"(c) The Secretary or Transportation Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers.

"§14123. Reports by carriers, brokers, and associations

"(a) The Secretary—

"(1) shall require class I and class II motor carriers (as defined by the Secretary) to file annual reports with the Secretary, including a detailed balance sheet and income statement, information related to the ownership or lease of equipment operated by the motor carrier, and data related to the movement of traffic and safety performance, the form and substance of which shall be prescribed by the Secretary and may vary for different classes of motor carriers;

"(2) may require carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations; and

"(3) shall have the authority upon good cause shown to exempt any party from the financial reporting requirements prescribed by subsection (a)(1) or (a)(2).

"(b) Any request for exemption under paragraph (3) of subsection (a) must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available. Exemptions shall only be granted for one-year periods.".

"(c) The Intermodal Surface Transportation Board may require carriers to file special reports containing information needed by the Transportation Board.

"CHAPTER 143—FINANCE

"§14301. Security interests in certain motor vehicles

"(a) In this section—

"(1) 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

"(2) 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

"(3) 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

"(4) 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

"(b) A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

"(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

"(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

"(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

"§14302. Pooling and division of transportation or earnings

"(a) A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Intermodal Surface Transportation Board under this section.

"(b) The Transportation Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers, if the carriers involved assent to the pooling or division and the Transportation Board finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(c)(1) Any motor carrier of property may apply to the Transportation Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Transportation Board not less than 50 days before its effective date. Prior to the effective date of the agreement or combination, the Transportation Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Transportation

Board determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable. If the Transportation Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Transportation Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Transportation Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Transportation Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Transportation Board to be just and reasonable.

"(2) In the case of an application for Transportation Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

"(3) The Transportation Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

"(d) The Transportation Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

"(e) The Transportation Board may begin a proceeding under this section on its own initiative or on application.

"(f) A carrier may participate in an arrangement approved by or exempted by the Transportation Board under this section without the approval of any other federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

"(g) Any agreements in operation under the provisions of this title on the date of enactment of the Interstate Commerce Commission Sunset Act of 1995 that are succeeded by this section shall remain in effect until further order of the Transportation Board.

"§14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

"(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 of this title may be carried out only with the approval of the Intermodal Surface Transportation Board:

"(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

"(3) Acquisition of control of a carrier by any number of carriers.

"(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

"(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

"(b) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

"(1) The effect of the proposed transaction on the adequacy of transportation to the public.

"(2) The total fixed charges that result from the proposed transaction.

"(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

"(c) Within 30 days after an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or (2) reject the application if it is incomplete.

"(d) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (c).

"(e) The Board shall conclude evidentiary proceedings by the 240th day after notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(f) A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(g) This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

"CHAPTER 145—FEDERAL-STATE RELATIONS

"§14501. Federal authority over intrastate transportation

"(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provisions having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

"(b) FREIGHT FORWARDERS AND TRANSPORTATION BROKERS.—

"(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or transportation broker.

"(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

"(c) MOTOR CARRIERS OF PROPERTY.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4) of this title) or any motor private carrier or any transportation intermediary (as defined in sections 13102(1) and 13102(7) of this subtitle) with respect to the transportation of property.

"(2) MATTERS NOT COVERED.—Paragraph (1)—

"(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

"(B) does not apply to the transportation of household goods; and

"(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price and related conditions of for-hire motor vehicle transportation by a tow truck, if such transportation is performed—

"(i) at the request of a law enforcement agency; or

"(ii) without the prior consent or authorization of the owner or operator of the motor vehicle.

"(3) STATE STANDARD TRANSPORTATION PRACTICES.—

"(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

"(i) uniform cargo liability rules,

"(ii) uniform bills of lading or receipts for property being transported,

"(iii) uniform cargo credit rules, or

"(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

"(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary of Transportation or the Intermodal Surface Transportation Board under this part; and

"(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

"(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

"(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

"§14502. Tax discrimination against motor carrier transportation property

"(a) In this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Secretary of Transportation, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135 of this title; and

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

"(3) Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§14503. Withholding State and local income tax by certain carriers

"(a)(1) No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) In this subsection 'employee' has the meaning given such term in section 31132 of this title.

"(b)(1) In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

"(2) A water carrier providing transportation subject to the jurisdiction of the Secretary of Transportation under subchapter II of chapter 135 of this title shall file income tax information returns and other reports only with—

"(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

"(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

"(3) This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal or noncontiguous trade or in the fisheries of the United States.

"(c) A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"§14504. State tax

"A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

"(1) a passenger traveling in interstate commerce by motor carrier;

"(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

"(3) the sale of passenger transportation in interstate commerce by motor carrier; or

"(4) the gross receipts derived from such transportation.

"§14505. Single State registration system

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

"(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this part—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

"(i) shall require that the registration State issue a receipt, in a form, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this subsection and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this paragraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this subsection that—

"(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates,

"(II) minimizes the costs of complying with the registration system, and

"(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a

certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

"§14701. General authority

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may begin an investigation under this part on the Secretary's or the Transportation Board's own initiative or on complaint. If the Secretary or Transportation Board, as applicable finds that a carrier or broker is violating this part, the Secretary or Transportation Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139 of this title, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Transportation Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

"(b) A person, including a governmental authority, may file with the Secretary or Transportation Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Transportation Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

"(c) A formal investigative proceeding begun by the Secretary or Transportation Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the third year after the date on which it was begun.

"§14702. Enforcement by the regulatory authority

"(a) The Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, may bring a civil action—

"(1) to enforce section 14103 of this title; or

"(2) to enforce this part, or a regulation or order of the Secretary or Transportation Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

"(b) In a civil action under subsection (a)(2) of this section—

"(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

"(c) The Transportation Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

"§14703. Enforcement by the Attorney General

"The Attorney General may, and on request of either the Secretary of Transportation or Intermodal Surface Transportation Board shall, bring court proceedings (1) to enforce this part or a regulation or order of the Secretary or Transportation Board or terms of registration under this part and (2) to prosecute a person violating this part or a regulation or order of the Secretary or Transportation Board or term of registration under this part.

"§14704. Rights and remedies of persons injured by carriers or brokers

"(a) A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title does not obey an order of the Secretary of Transportation or the Intermodal Surface Transportation Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

"(b)(1) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff filed under section 13702 of this title.

"(2) A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

"(c)(1) A person may file a complaint with the Transportation Board or the Secretary, as applicable, under section 14701(b) of this title or bring a civil action under subsection (b) (1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title.

"(2) When the Transportation Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Transportation Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Transportation Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Transportation Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

"(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Transportation Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Transportation Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Transportation Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier or broker is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§14705. Limitation on actions by and against carriers

"(a) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

"(b) A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 of this title and an election to file a complaint with the Intermodal Surface Transportation Board or Secretary of Transportation, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

"(c) A person must file a complaint with the Transportation Board or Secretary, as applicable, to recover damages under section 14704(b)(2) of this title within 2 years after the claim accrues.

"(d) The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) of this section and the 2-year period under subsection (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) A person must begin a civil action to enforce an order of the Transportation Board or Secretary against a carrier for the payment of money within one year after the date the order required the money to be paid.

"(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of (1) payment of the rate for the transportation or service involved, (2) subsequent refund for overpayment of that rate, or (3) deduction made under section 3726 of title 31, whichever is later.

"(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

“§14706. Liability of carriers under receipts and bills of lading

“(a)(1) A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 of this title are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

“(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

“(b) The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

“(c)(1) A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper.

“(2) If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

“(d)(1) A civil action under this section may be brought against a delivering carrier (other than a rail carrier) in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

“(2)(A) A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

“(B) A civil action under this section may be brought in a United States district court or in a State court.

“(C) In this section, ‘judicial district’ means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

“(e) A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

“(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

“(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

“(f) A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 of this title may petition the Transportation Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

“(g) Within one year after enactment of the Interstate Commerce Commission Sunset Act of 1995, the Secretary shall deliver to the appropriate Congressional authorizing committees a report on the benefit of revising or modifying the terms or applicability of this section, together with any proposed legislation to implement the study's recommendations, if any.

“§14707. Private enforcement of registration requirement

“(a) If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906 of this title, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

“(b) A copy of the complaint in a civil action under subsection (a) of this section shall be served on the Secretary of Transportation and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a) of this section. The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

“(c) In a civil action under subsection (a) of this section, the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

“§14708. Dispute settlement program for household goods carriers

“(a)(1) As a condition of registration under section 13902 or 13903 of this title, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title must agree to offer to shippers neutral arbitration as a means of settling disputes between such carriers and shippers of household goods concerning the transportation of household goods.

“(b)(1) The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

“(2) The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

“(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

“(4) Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary of Transportation may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

“(5) No fee for instituting an arbitration proceeding may be charged the shipper; except that, if the arbitration is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting an arbitration proceeding. In any case in which a shipper is charged a fee under this paragraph for instituting an arbitration proceeding and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

“(6) The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises.

“(7) The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

“(8) The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

“(c) Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905 of this title.

“(d) In any court action to resolve a dispute between a shipper of household goods and a motor carrier providing transportation or service subject to jurisdiction under subchapter I or III

of chapter 135 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

"(e) In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute through arbitration under this section; or

"(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends, and (B) a decision resolving such dispute is rendered.

"(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 13102(9)(A) of this title.

"§14709. Tariff reconciliation rules for motor carriers of property

"Subject to review and approval by the Intermodal Surface Transportation Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 of this part or sections 10761 and 10762 of this title prior to the effective date of the Interstate Commerce Commission Sunset Act of 1995. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a filed tariff.

"CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

"§14901. General civil penalties

"(a) A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title or transportation by a foreign carrier registered under section 13902 of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not make, prepare, or preserve the record in the form and manner prescribed, (4) does not comply with section 13901 of this title, or (5) does not comply with section 13902(c) of this title is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who does not have authority under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

"(b) A person subject to jurisdiction under subchapter I of chapter 135 of this title, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

"(c) In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(d) If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Transportation Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

"(e) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

"(f) A person, or an officer, employee, or agent of that person, that knowingly pays accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 13707 of this title is liable to the injured party or the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation.

"(g) Trial in a civil action under subsections (a) through (f) of this section is in the judicial district in which (1) the carrier or broker has its principal office, (2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred, (3) the violation occurred, or (4) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"§14902. Civil penalty for accepting rebates from carrier

"A person—

"(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

"(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702 of this title,

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

"§14903. Tariff violations

"(a) A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 of this title at less than the rate in effect under section 13702 of this title shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(b) A carrier providing transportation or service subject to jurisdiction under chapter 135 of this title or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702 of this title, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(c) When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to subsection (a) or (b) of this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

"(d) Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

"§14904. Additional rate violations

"(a) A person, or an officer, employee, or agent of that person, that—

"(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135 of this title; or

"(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702 of this title,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"(b)(1) A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135 of this title, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"(2) A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 of this title at less than the rate in effect for that service under section 13702 of this title, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"§14905. Penalties for violations of rules relating to loading and unloading motor vehicles

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(b) Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"§14906. Evasion of regulation of carriers and brokers

"A person, or an officer, employee, or agent of that person that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"§14907. Record keeping and reporting violations

"A person required to make a report to the Secretary of Transportation or to the Intermodal Surface Transportation Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Transportation Board, as applicable, requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Transportation Board shall be fined not more than $5,000.

"§14908. Unlawful disclosure of information

"(a)(1) A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

"(2) A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

"(b) This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title from giving information—

"(1) in response to legal process issued under authority of a court of the United States or a State;

"(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

"(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"§14909. Disobedience to subpenas

"A person not obeying a subpena or requirement of the Secretary of Transportation or the Intermodal Surface Transportation Board to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than one year, or both.

"§14910. General criminal penalty when specific penalty not provided

"When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 of this title or a condition of a registration under section 13902 of this title, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

"§14911. Punishment of corporation for violations committed by certain individuals

"An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 of this title that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

"§14912. Weight-bumping in household goods transportation

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135 of this title.

"(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

"§14913. Conclusiveness of rates in certain prosecutions

"When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903 of this title. A departure, or offer to depart, from that published or filed rate is a violation of those sections.".

Subtitle B—Motor Carrier Registration and Insurance Requirements

SEC. 451. AMENDMENT OF SECTION 31102.

Section 31102(b)(1) is amended by—

(1) striking "and" at the end of subparagraph (O);

(2) striking the period at the end of subparagraph (P) and inserting a semicolon and "and"; and

(3) adding at the end thereof the following:

"(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146 of this title, or regulations issued thereunder."

SEC. 452. AMENDMENT OF SECTION 31138.

(a) Section 31138(c) is amended by adding at the end thereof the following new paragraph:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(b) Section 31138(e) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following:

"(4) providing mass transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; Provided That, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.".

(c) Section 31139(e) is amended by adding at the end thereof the following:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

SEC. 453. SELF-INSURANCE RULES.

The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.

Section 31144 is amended by—

(1) striking "In cooperation with the Interstate Commerce Commission, the" in the first sentence of subsection (a) and inserting "The";

(2) by striking "sections 10922 and 10923" in that sentence and inserting "section 13902";

(3) striking "and the Commission" in subsection (a)(1)(C); and

(4) striking subsection (b) and inserting the following:

"(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall—

"(1) find a registrant as a motor carrier unfit if the registrant does not meet the safety fitness requirements established under subsection (a) of this section; and

"(2) withhold registration.".

TITLE V—AMENDMENTS TO OTHER LAWS

SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by—

(1) striking "Interstate Commerce Commission," and inserting "Intermodal Surface Transportation Board,"; and

(2) striking "promulgate, within ninety days after the date of enactment of this Act," and inserting "maintain".

SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board" each place it appears;

(2) striking "Commission", wherever it appears and inserting "Transportation Board"; and

(3) striking "Commission's" in subsection (b) and inserting "Transportation Board's".

SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.

Section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) is amended by striking "Interstate Commerce Commission," and inserting "Intermodal Surface Transportation Board,".

SEC. 504. ANIMAL WELFARE ACT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board".

SEC. 505. TITLE 11, UNITED STATES CODE.

(a) Section 1164 of title 11, United States Code, is amended by striking "Commission" and inserting "Intermodal Surface Transportation Board".

(b) Section 1170 of title 11, United States Code, is amended by—

(1) striking "Commission" the first time it appears in subsection (b) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears and inserting "Transportation Board".

(c) Section 1172 of title 11, United States Code, is amended by—

(1) striking "Commission" the first time it appears in subsection (b) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears and inserting "Transportation Board".

SEC. 506. CLAYTON ACT.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in the last sentence of section 7 (15 U.S.C. 18) and inserting "Intermodal Surface Transportation Board";

(2) inserting a comma and "Transportation Board," after "such Commission" in the last sentence of that section;

(3) striking "Interstate Commerce Commission" in the first sentence of section 11(a) (15 U.S.C. 21) and inserting "Intermodal Surface Transportation Board"; and

(4) striking "Interstate Commerce Commission" in section 16 (15 U.S.C. 26) and inserting "Intermodal Surface Transportation Board".

SEC. 507. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in section 621(b)(4) (15 U.S.C. 1681s) and inserting "Intermodal Surface Transportation Board";

(2) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part;" in section 621(b)(4) (15 U.S.C. 1681s) after "those Acts";

(3) striking "Interstate Commerce Commission" in section 704(a)(4) (15 U.S.C. 1691c) and inserting "Intermodal Surface Transportation Board";

(4) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part" in section 704(a)(4) (15 U.S.C. 1691c) after "those Acts";

(5) striking "Interstate Commerce Commission" in section 814(b)(4) (15 U.S.C. 1692l) and inserting "Intermodal Surface Transportation Board"; and

(6) inserting a comma and "and part B of subtitle IV of title 49, United States Code, by the Secretary of Transportation with respect to any common carrier subject to such part" in section 814(b)(4) (15 U.S.C. 1692l) after "those Acts".

SEC. 508. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended by—

(1) striking "Interstate Commerce Commission" in the first sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting "Intermodal Surface Transportation Board";

(2) striking "Commission" in the last sentence of section 8(d) (16 U.S.C. 1247(d)) and inserting "Intermodal Surface Transportation Board"; and

(3) striking "Interstate Commerce Commission" in section 9(b) (16 U.S.C. 1248(d)) and inserting "Intermodal Surface Transportation Board".

SEC. 509. TITLE 18, UNITED STATES CODE.

Section 6001 of title 18, United States Code, is amended by striking "Interstate Commerce Commission" in subsection (1) and inserting "Intermodal Surface Transportation Board".

SEC. 510. INTERNAL REVENUE CODE OF 1986.

(a) Section 3231 of the Internal Revenue Code of 1986 (26 U.S.C. 3231) is amended by—

(1) striking "Interstate Commerce Commission" in subsection (a) and inserting "Intermodal Surface Transportation Board"; and

(2) striking subsection (g) and inserting the following:

"(g) CARRIER.—For purposes of this chapter, the term 'carrier' means a rail carrier providing transportation subject to chapter 105 of title 49, United States Code.".

(b) Section 7701(a) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)) is amended by—

(1) striking "Federal Power Commission" in paragraph (33)(B) and inserting "Federal Energy Regulatory Commission";

(2) striking "Interstate Commerce Commission" in paragraph (33)(C)(i) and inserting "Intermodal Surface Transportation Board";

(3) striking "Interstate Commerce Commission" in paragraph (33)(C)(ii) with "Federal Energy Regulatory Commission";

(4) striking "Interstate Commerce Commission under subchapter III of chapter 105" in paragraph (33)(F) and inserting "Secretary of Transportation under subchapter II of chapter 135";

(5) striking "subchapter I of" in paragraph (33)(G); and

(6) striking "subchapter I of" in the first sentence of paragraph (33)(H).

SEC. 511. TITLE 28, UNITED STATES CODE.

(a) The heading of chapter 157 of part VI of title 28, United States Code, is amended by striking "INTERSTATE COMMERCE COMMISSION" and inserting "INTERMODAL SURFACE TRANSPORTATION BOARD".

(b) Section 2321 of title 28, United States Code, is amended by—

(1) striking "Commission's" in the section caption and inserting "Intermodal Surface Transportation Board's"; and

(2) striking "Interstate Commerce Commission" in subsections (a) and (b) and inserting "Intermodal Surface Transportation Board".

(c) Section 2323 of title 28, United States Code, is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission", wherever it appears, and inserting "Transportation Board".

(d) Section 2341 of title 28, United States Code, is amended by—

(1) striking "Interstate Commerce Commission" in paragraph (3)(A);

(2) striking "and" in paragraph (3)(C);

(3) striking "Act." in paragraph (3)(D) and inserting "Act; and"; and

(4) inserting after paragraph (3)(D) the following:

"(E) the Transportation Board, when the order was entered by the Intermodal Surface Transportation Board.".

(e) Section 2342 of title 28, United States Code, is amended by—

(1) inserting "or pursuant to part B of subtitle IV of title 49, United States Code" at the end of paragraph (3)(A); and

(2) striking paragraph (5) and inserting the following:

"(5) all rules, regulations, or final orders of the Intermodal Surface Transportation Board made reviewable by section 2321 of this title; and".

SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of" in paragraph (2)(C) and inserting "part B of"; and

(2) striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of" in paragraph (3) and inserting "part B of".

SEC. 513. TITLE 39, UNITED STATES CODE.

(a) Section 5005 of title 39, United States Code, is amended by striking "Interstate Commerce Commission" in subsection (b)(3) and inserting "Intermodal Surface Transportation Board".

(b) Section 5203 of title 39, United States Code, is amended by—

(1) striking subsection (f) and redesignating subsection (g) as subsection (f); and

(2) striking "Commission" in subsection (f), as redesignated, and inserting "Intermodal Surface Transportation Board".

(c) Section 5207 of title 39, United States Code, is amended by—

(1) striking "Interstate Commerce Commission", in both the section caption and subsection (a), and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever it appears and inserting "Transportation Board".

(d) Section 5208 of title 39, United States Code, is amended by—

(1) striking "Commission's" in subsection (a) and inserting "Transportation Board's"; and

(2) striking "Commission" wherever it appears and inserting "Transportation Board".

(e) The index for chapter 52 of title 39, United States Code, is amended by striking out the items relating to section 5207 and inserting in lieu thereof the following:

"5207. Intermodal Surface Transportation Board to fix rates.".

SEC. 514. ENERGY POLICY ACT OF 1992.

Section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369) is amended by striking "Interstate Commerce Commission" in subsections (a) and (d) and inserting "Intermodal Surface Transportation Board".

SEC. 515. RAILWAY LABOR ACT.

Section 151 of the Railway Labor Act (45 U.S.C. 151) is amended by—

(1) striking "any express company, sleeping-car company, carrier by railroad, subject to" in the first paragraph and inserting "any railroad subject to";

(2) striking "Interstate Commerce Commission" in the first and fifth paragraphs and inserting "Intermodal Surface Transportation Board"; and

(3) striking "Commission", wherever it appears in the fifth paragraph and inserting "Intermodal Surface Transportation Board".

SEC. 516. RAILROAD RETIREMENT ACT OF 1974.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by—

(1) striking subsection (a)(1)(i) and inserting: "(i) any carrier by railroad subject to chapter 105 of title 49, United States Code;";

(2) striking "Interstate Commerce Commission" in subsection (a)(2)(ii) and inserting "Intermodal Surface Transportation Board";

(3) striking "Board," in subsection (a)(2)(ii) and inserting "Railroad Retirement Board,"; and

(4) inserting "Intermodal Surface Transportation Board," after Interstate Commerce Commission," in the first sentence of subsection (o).

SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) Section 1 of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by—

(1) striking "Interstate Commerce Commission" in the second sentence of paragraph (a) and inserting "Intermodal Surface Transportation Board";

(2) striking "Board," in the second sentence of paragraph (a) and inserting "Railroad Retirement Board,"; and

(3) striking paragraph (b) and inserting the following:

"(b) The term 'carrier' means a carrier by railroad subject to chapter 105 of title 49, United States Code.".

(b) Section 2(h)(3) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

(1) striking "Interstate Commerce Commission" and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Board," and inserting "Railroad Retirement Board,".

SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.

Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by striking "Commission", wherever it appears in subsections (a) and (b), and inserting "Intermodal Surface Transportation Board".

SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.

Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by—

(1) striking "Commission" in subsection (d)(1)(A) and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Commission" wherever else it appears in paragraph (1) or (3) of subsection (d), and in subsections (f) and (g), and inserting "Transportation Board".

SEC. 520. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.

Section 510 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 830) is amended by striking "section 20a of the Interstate Commerce Act (49 U.S.C. 20a)" and inserting "section 11301 of title 49, United States Code".

SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended by striking "Interstate Commerce Commission" wherever it appears in subsections (a) and (c) and inserting "Intermodal Surface Transportation Board".

SEC. 522. MERCHANT MARINE ACT, 1920.

(a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C. App. 867) is amended by—

(1) striking "Interstate Commerce Commission" in both places that it appears and inserting "Intermodal Surface Transportation Board"; and

(2) striking "commission" and inserting "board".

(b) Section 28 of the Merchant Marine Act, 1920 (46 U.S.C. App. 884) is amended by—

(1) striking "Interstate Commerce Commission" where it first appears and inserting "Intermodal Surface Transportation Board"; and

(2) striking "Interstate Commerce Commission" wherever else it appears and inserting "Transportation Board".

SEC. 523. SERVICE CONTRACT ACT OF 1965.

Section 356(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)), is amended by striking "where published tariff rates are in effect".

SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Pub. L. 103–305) is amended by striking all after "subsection (c)" and inserting "shall not take effect as long as section 11501(g)(2) of title 49, United States Code, applies to that State.".

SEC. 525. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as such Act was in effect before October 1, 1991;

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation; and

(3) the packaging will not be used in the transportation of hazardous materials from a point in the United States to a point outside the United States, or from a point outside the United States to a point inside the United States.

(b) HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994.—Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. 5101 note) is repealed.

SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 U.S.C. App. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED PROJECTS AND ACTIVITIES.

Notwithstanding any other provision of law, the State of Vermont may use any unobligated funds apportioned to the State under section 104 of title 23, United States Code, to fund projects and activities related to the provision of rail passenger service on Amtrak within that State.

SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 is amended by adding at the end thereof the following:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorized, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) is amended by adding at the end thereof the following:

"(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

TITLE VI—AUTHORIZATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated—

(1) for the closedown of the Interstate Commerce Commission and severance costs for Interstate Commerce Commission personnel, regardless of whether those severance costs are incurred by the Commission or by the Intermodal Surface Transportation Board, the balance of the $13,379,000 appropriated to the Commission for fiscal year 1996, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996;

(2) for the operations of the Intermodal Surface Transportation Board for fiscal year 1996, $8,421,000, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board; and

(3) for the operations associated with functions transferred from the Interstate Commerce Commission to the Intermodal Surface Transportation Board under this Act, $12,000,000 for each of the fiscal years 1997 and 1998, and any fees collected by the Transportation Board pursuant to section 9701 of title 31, United States Code, shall be made available to the Transportation Board.

TITLE VII—MISCELLANEOUS PROVISION

SEC. 701. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) COMPARABLE PAY TREATMENT.—The pay of Members of Congress and the President shall *be treated in the same manner and to the same extent as the pay of the most adversely affected Federal employees who are not compensated for any period in which appropriations lapse.*

(b) EFFECTIVE DATE.—This section shall take effect December 15, 1995.

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on January 1, 1996.

Mr. EXON. I move to reconsider the vote.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. I finally ask unanimous consent that S. 1396 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Finally, Mr. President, I want to take just a moment to thank some of the staff and individuals who worked so hard to make this legislation possible. They have been working for many months and deserve our thanks. First, let me thank Chris McLean of Senator EXON's staff and Clyde Hart and Carl Bentzel of the committee's minority staff. On the committee's majority staff, I want to thank Tom Hohenthaner and Mike King for their hard work in bringing us to this point. Each of these staff members demonstrated the kind of bipartisan initiative that epitomized the process and the professionalism that made the legislation possible. Finally, I wish to give the highest praise to Ann Begeman for her diligent work on this bill. She displayed great persistence and leadership and I want to especially recognize her efforts.

Let me also thank Linda Morgan, chairman of the ICC, for all her guidance and expertise. Her efforts are much appreciated. I also want to thank a staff member of the ICC, Ellen Hansen, who was generously detailed to the committee by the agency and who has worked very hard, and provided the technical expertise necessary to produce legislation that provides a reasonable and orderly transition. I very much appreciate the professional work done by all these dedicated individuals.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. PRESSLER. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. This notice proposes rulemaking on the following statutes made applicable by the Congressional Accountability Act: the Fair Labor Standards Act, Family Medical Leave Act, Worker Adjustment and Retraining Notification Act, and Employee Polygraph Protection Act.

Section 304 requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD; as follows:

FAIR LABOR STANDARDS ACT

PROPOSED REGULATIONS RELATING TO THE SENATE AND ITS EMPLOYING OFFICES

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Fair Labor Standards Act of 1938 (Notices of Proposed Rulemaking with respect to Interns and Irregular Work Schedules were issued on October 11. The comment period closed on November 13. Final rules will be issued separately pursuant to Section 304 of the CAA.)

Notice of proposed rulemaking

Summary: The Board of Directors of the Office of Compliance is publishing proposed rules to implement section 203(c) of the Congressional Accountability Act of 1995 (P.L. 104-1, Stat. 10) ("CAA"). The proposed regulations, which are to be applied to the Senate and employees of the Senate, set forth the recommendations of the Executive Director for the Senate, Office of Compliance, as approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the CONGRESSIONAL RECORD.

Addresses: Submit written comments to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252-3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Deputy Executive Director for the Senate, Office of Compliance at (202) 252-3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this Notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224-2705.

Supplementary information:

I. Background

A. Introduction

The Congressional Accountability Act of 1995 ("CAA"), PL 104-1, was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 203(a) of the CAA applies the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1) and (d), 207, 212(c) ("FLSA") to covered employees and employing offices. Section 203(c) of the CAA (2 U.S.C. Section 1313(c)) directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations to implement the section. Section 203(c)(2) (2 U.S.C. Section 1313(c)(2)) further states that such regulations, with the exception of certain irregular work schedule regulations to be issued under section 203(a)(3), "shall be the same as substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

B. Advance notice of proposed rulemaking

On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking ("ANPRM") soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. R. S14542 (daily ed., Sept. 28, 1995). In addition to inviting comment on specific questions arising under five of the statutes made applicable by the CAA in the ANPRM, the Board and the statutory appointees of the Office sought consultation with the Chair of the Administrative Conference of the United States, the Secretary of Labor and the Director of the Office of Personnel Management with regard to the development of these regulations in accordance with section 304(g) of the CAA. The Office has also consulted with interested parties to further its understanding of the need for and content of appropriate regulations. Based on the information gleaned from these consultations and the comments on the ANPRM, the Board of Directors of the Office of Compliance is publishing these proposed rules, pursuant to Section 203(c)(1) of the CAA (2 U.S.C. Section 1313(c)(1)).

1. Modification of the regulations of the Department of Labor

In the ANPRM, the Board asked the question, "Whether and to what extent should the Board modify the Secretary's Regulations?" The Board received 15 comments on the ANPRM: two from Senators, four from House Members (one from the leadership of the Committee with primary jurisdiction for the CAA and one from three of the sponsors of the CAA), one from the Secretary of the Senate and three from House offices (two from institutional offices and one from a Member's Chief of Staff), four from business coalitions or associations representing an array of private employers, and one from a labor organization.

Those commenters who expressed views on the ANPRM cited both the statute and the legislative history in taking the position that the CAA presumes that the regulations of the Department of Labor should not be modified. Illustrative comments included the following:

"[Section 304 of the CAA] evidences clear legislative intent that the Board apply these rights and protections to Congressional employees in a manner comparable to and consistent with the rights and protections applicable to employees in the private sector under regulations adopted by the Secretary (DOL). . . . The [CAA] requires that the regulations issued by the Board be the same as those issued by DOL unless the Board determines that modification would more effectively implement the rights and protections of the laws made applicable under the [CAA]."

"[I]f a law is right for the private sector, it is right for Congress; . . . Consistent with [this] principle, we would urge the Office not to deviate (except in those few areas where expressly authorized by the CAA) from applying the laws in the same manner in which they are applied to the private sector.

* * * * *

[W]e have not identified any situations in which modifications [of the DOL regulations] would be appropriate."

"There are no circumstances that justify 'good cause' for adopting regulations that deviate from those currently applied to private sector employers."

"[Section 203(c)(2)] confers on the Office of Compliance only very limited authority to deviate from the present DOL regulations. The legislative history to the 'good cause' exception likewise makes clear that this authority is to be use by the Office of Compliance sparingly."

* * * * *

"The legislative history of the CAA demands that the Office of Compliance apply to Congress the same regulations as those imposed on the private sector."

"[W]e urge the Board to refrain from modifying regulations promulgated by the Department of Labor and other Executive agencies. Use of established regulations will provide the Board, employees and employing offices with a body of instructive case law and interpretive documents."

"While the Office serves an important implementation and enforcement role, it must not place itself in the position of shielding Congress from substantive requirements imposed on private businesses."

Based on the comments and the Board's understanding of the law and the institutions to which it is being made applicable, the Board is issuing the Secretary's regulations with only these limited modifications: Technical changes in the nomenclature and deletion of those sections clearly inapplicable to the legislative branch.

2. Notice posting and recordkeeping

The ANPRM also invited comment on whether the recordkeeping and notice posting requirements of the various laws made applicable by the CAA are incorporated as statutory requirements of the CAA. The ANPRM inquired whether, if such requirements were not incorporated, could and should the Board develop its own requirements pursuant to its "good cause" authority. The ANPRM also invited comment on proposing guidelines and models for recordkeeping and notice posting.

Commenters were in agreement that recordkeeping and notice posting are important to the effective implementation of several of the statutes incorporated in the CAA. However, opinions as to whether the Board should require notice posting and recordkeeping were widely divergent. Several commenters expressed the view that the Board lacks the statutory authority to adopt notice posting and recordkeeping requirements and that the notice posting and recordkeeping requirements of the FLSA do not apply to Congress. Other commenters expressed the view that the Board has the authority to issue regulations to impose recordkeeping and notice posting requirements and that such regulations should be, in substance, the same as those with which the private sector must comply.

The Board agrees with those commenters who took the position that, if employing offices are to be treated the same as private sector employers are treated under FLSA, they should have to comply with the statute's notice posting and recordkeeping requirements. Moreover, the Board notes that notice posting and recordkeeping promote the full and effective enforcement of these incorporated rights and protections. In the Board's view, notice posting and recordkeeping may well be in employers' interests both as a sound personnel practice and in order to defend against subsequent litigation.

But while the CAA incorporates certain specific sections of the FLSA, the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA. Because the Board's authority to modify the Secretary's regulations for "good cause" does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA, the Board has determined that it may not impose such requirements on employing offices. However, as various commenters suggest, the Board will provide guidance to employing offices concerning model recordkeeping practices as part of carrying out its program of education under section 301(h) of the CAA (2 U.S.C. 1381(h)).

The Board would also note that based upon their collective years of experience representing employers and employees with regard to various labor and employment laws, including the FLSA, the absence of recordkeeping and notice posting requirements may create a void which can only partially be filled by the program of education to be carried out by the Board pursuant to Section 301(h)(1) and the optional notice which will be distributed by the Board pursuant to Section 301(h)(2). The Board also would emphasize that employees will in many circumstances be able to establish a prima facie case simply by their own testimony estimating the hours worked by the employees where the employing office has failed to maintain adequate, accurate records. An employing office may find that its ability to respond to an employee's prima facie case is substantially burdened by its failure to keep accurate payroll and time-records. If Congress wishes to experience the same burdens as faced by the private sector and also to address these issues, it should enact recordkeeping requirements comparable to those of the FLSA. (Of course, like the regulations under those statutes, such recordkeeping requirements may leave to the discretion of each employing office the precise form and manner in which records will be kept.) But, in light of the text and structure of the CAA, the Board believes that it is up to Congress to decide whether to do so.

II. The Proposed Regulations

A. Background

Congress committed enforcement of the Fair Labor Standards Act of 1938 to the Department of Labor and its Wage and Hour Division, whose regulations and interpretations of that Act comprise almost one thousand pages of Chapter V, Title 29 of the Code of Federal Regulations. In enacting the CAA, however, Congress expressly refused to commit enforcement to the executive branch of the Federal government nor did Congress bring its employing offices under the FLSA itself. Instead, Congress carefully specified, through sectional references to the FLSA, the substantive rights and protections afforded to legislative employees, and precisely mandated procedures by which those rights and protections would be largely enforced by a new and independent office in the legislative branch, the Office of Compliance. Further, in granting the Board rulemaking authority with respect to the FLSA in Section 203(c)(1) of the CAA, Congress affirmatively commanded the Board to issue substantive regulations, with the important directive that they "shall be the same as substantive regulations promulgated by the Secretary of Labor * * * except as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of rights and protections under" the CAA.

In the Board's view, and notwithstanding what has been urged by some of the commenters, this unusual statutory framework neither mandates nor allows an uncritical, wholesale incorporation of all the regulations and interpretive statements issued by the Labor Department under the FLSA. Rather, this statutory framework requires the Board to cull from the vast body of FLSA material found in the Code of Regulations only those items that constitute "substantive regulations" as the term is understood under settled principles of administrative law. (See *Batterton* v. *Francis*, 422 U.S. 416, 425, n. 9 (1977)). Moreover, the statutory framework authorizes the Board to delete those substantive regulations that either have no application in the employing offices of the Congress or that are not likely to be invoked. For these reasons, the Board is not proposing their adoption, unless public comments establish a justification to the contrary. Finally, by limiting itself to substantive regulations, the Board is not adopting those portions of 29 C.F.R. chapter V that constitute the interpretative bulletins or statements of the Department of Labor and its Wage and Hour Division.

B. Proposed regulations

1. General provisions

The proposed regulations include an initial Part 501 which contains matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance. In addition, a section explains the effect of interpretative bulletins and statements of the Department of Labor, and another section provides for the application of the Portal to Portal Act. These latter sections are discussed below.

It is noted that the definition section incorporates the general provisions of section 101 of the CAA which defines "employee," "covered employee," "employing office," and "employee of the House of Representatives." Section 203 of the CAA, which applies the rights and protections of the FLSA, also contemplates the promulgation of a definitional regulation that excludes "interns" from the meaning of "covered employee." The Board in a separate NPRM issued on October 11, 1995, proposed such a regulation, together with a regulation governing irregular work schedules and the receipt of compensatory time in lieu of overtime compensation. The Board is reviewing the public comments received in response to that NPRM and will issue a separate final rule on those issues.

It should be noted that section 225(f)(1) of the CAA provides that, except where inconsistent with definitions of the CAA itself, the definitions in the laws made applicable by the CAA shall also apply under the CAA. Thus, attention must be paid to those definitions found in the FLSA that are consistent with the CAA even if they are not expressly incorporated in the proposed regulations. In this regard, one commenter expressed concern over whether employing offices would be obligated to pay minimum wages and overtime compensation to individuals who do volunteer work, in light of the fact that under the FLSA "employee" may include certain volunteers. See 29 U.S.C. §203(e)(4)(A), which excludes from the definition of "employee" only certain volunteers who perform work for a State, political subdivision, or interstate governmental agency. Similarly, it is noted that, in enacting the CAA, Congress did make separate provision for excluding interns. Thus, the Board has concluded that, to the extent that volunteer activity would bring an individual under the coverage of the FLSA, similarly situated individuals would be treated in the same manner under the CAA.

2. Provisions derived from regulations of the Department of Labor

Those regulations of the Department of Labor that are being adopted in substance include:

Part 531, which governs the manner in which an employee's wages are calculated taking into account the reasonable cost to an employer of furnishing board, lodging, or other facilities. This Part is derived from Section 3(m) of the FLSA, which directs how the "wage" paid to an employee is determined. Section 3(m) must be treated as applicable under the CAA by virtue of Section 225(f)(1), which authorizes generally the inclusion of those definitions and exemptions that are consistent with definitions and exemptions of the CAA. However, it is noted that section 3(m) is inconsistent with the CAA insofar as the implementing regulations in Part 531, Title 29, C.F.R., provide procedures by which the Wage and Hour Administrator makes determinations in specific cases with respect to the furnishing of board, lodging, or other facilities. Because the Administrator has no role in the enforcement of the CAA by reason of Section 225(f)(3), and because the Board is not at this time is not authorizing the Office of Compliance to make such specific determinations, the Board proposes to delete the provisions setting forth those procedures. Similarly, the reference to "tipped employees" and the method by which their wages are determined are deleted because the applicable sections assign responsibility to the Administrator.

Part 541, which defines and delimits the bona fide executive, administrative, and professional employees who are exempt under Section 13(a) of the FLSA from the minimum wage and maximum hours requirements. The Board has determined that this exemption, commonly known as the "white collar" exemption, is applicable to employing offices of Congress by virtue of Section 225(f)(1) of the CAA.

In the ANPRM, the Board solicited public comment on whether and to what extent it should modify the Labor Department's regulations regarding this exemption. Generally, the commenters did not question the applicability of this exemption to covered employees under the CAA, and several commenters urged the adoption of all of the Department's regulations in Part 541, 29 C.F.R., including the interpretative bulletins, without any modification. Two commenters contended that the Board's regulations should grant a sweeping exemption for nearly all staff employees working in elected members' offices because they exercise independent judgment and discretion in performing their responsibilities.

Other commenters urged the Board to modify the Labor Department regulations to take into account the unique job responsibilities of staff working for an elected member either in a personal office, in a leadership office or on committee. Recognizing that job titles alone cannot be dispositive of who is an exempt employee, these commenters urged the Board to identify with particularity those job duties which, if performed by an employee, would render him or her an exempt executive, administrative, or professional employee.

The Board is proposing to adopt the Labor Department's substantive regulations contained in Subpart A of Part 541 of 29 C.F.R. that set forth the fundamental criteria for satisfying each of the three exemptions. But, for the reasons explained below, the Board is not formally adopting the interpretative bulletins contained in Subpart B of Part 541 of 29 C.F.R., which discuss and illustrate through examples the Department's understanding of the exemption criteria.

With respect to some commenters' request that the Board modify the white collar exemptions, upon reflection, the Board has reluctantly concluded that such a modification would not satisfy the "good cause" requirement of Section 203(c)(2) of the CAA. The Board recognizes that the Secretary's regulations and interpretations were promulgated in a different era, with different employment paradigms in mind. Thus, the Board appreciates the many difficulties that employing offices will have in interpreting and reconciling these regulations to present day realities. Moreover, the Board is mindful of the significant impact the application of the administrative, executive and professional exemption will have on the structuring, functioning and expense of the Members' and Senators' personal offices and committee offices. However, the Board notes that private sector and state and local government employers face the same difficulties. And the Board has not found any sound, principled basis for modifying the exemption regulation for Congress and its instrumentalities. That resolved, the Board nonetheless wishes to make clear its intent to provide, as time and resources permit, appropriate general guidance to the Congress and its instrumentalities on how to identify and justify which employees are exempt. Such efforts made through the Office's education and information programs, will attempt to assist employing offices in determining which job duties will be considered exempt under the executive, administration or professional criteria.

Part 547, which defines, pursuant to Section 7(e)(3)(b) the standard that bona fide thrift or savings plans must meet in order not to be included within an employee's regular rate of pay for purposes of calculating overtime obligations under Section 7 of the FLSA. This is included in light of Section 203(a)(1) of the CAA, which specifically applied the rights and protections of Section 7 of the FLSA.

Part 570, which sets forth the limitations on the use of child labor. This Part implements Section 12(c) of the FLSA, prohibiting oppressive child labor, as defined by Section 3(l) of the same Act. The former section is specifically referenced in Section 203(a)(1) of the CAA, while the latter must be referenced by reason of Section 225(f)(1) of the CAA. The inclusion of this Part in the separate regulations of the Senate is necessitated by the fact that the Senate allows for the appointment of congressional pages below the age of 16, unlike the House of Representatives, which by law sets a minimum age of 16 for such employees. For children under age 16, the FLSA regulations impose limitations on hours worked during the school year. Part 570 is also included in the separate regulations applicable to all other covered employees and employing offices. Given the hazardous nature of some of the activities of the support functions, such as maintenance and repair, Part 570 regulations are being proposed in the event that such instrumentalities employ children under 18 years of age. It is noted that the Board has not adopted regulations comparable to those set forth in the Labor Department's Subpart B (29 C.F.R. Sections 570.5-.27), authorizing the issuance of certificates of age. In addition, with respect to Section 570.52, governing the hazardous occupation of motor-vehicle driver and outside helper, the Board is not adopting the special exemption for school bus driving because by its terms no employing offices would satisfy the criteria of the regulation.

C. Secretary of Labor's regulations that the Board proposes not to adopt

In reviewing the remaining parts of the Labor Department's regulations, it is readily apparent that some have no application to the employing offices within the legislative branch. For this reason, the Board is not including them within its substantive regulations. Among the excluded regulations are: Part 510, which pertains to the application of the minimum wage provisions to Puerto Rico; Part 511, establishing a wage order procedure for American Samoa; Part 515, authorizing the utilization of State government agencies for investigations and inspections; Part 530, governing the employment of industrial homeworkers in certain industries; Part 549, defining the requirements of a "bona fide profit-sharing plan or trust;" Part 550, defining the term "talent fees;" Part 552, regulating the application of the FLSA to domestic service; Part 575, addressing child labor in certain agricultural employment; Parts 578, 579, and 580, implementing the civil money penalties provisions of the FLSA; and Part 679, dealing with industries in American Samoa. Unless public comments suggest otherwise, the Board intends including in the adopted regulations a provision stating that the Board has issued regulations on all matters for which the CAA requires a regulation. See Section 411 of the CAA.

Other substantive regulations could have application in the event that an employing office wished to avail itself of certain special wage rates, subminimum wage exemptions or overtime exemptions under the FLSA. These are found in: Parts 519–528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers. Unless public comments provide a sufficient justification to the contrary the Board is not proposing the adoption of regulations covering the foregoing subjects.

III. The Interpretive Bulletins and Other Relevant Guidance

In addition to the substantive regulations found in Subchapter A, the Department of Labor has issued, under Subchapter B, "Statements of General Policy or Interpretations Not Directly Related to Regulations." 29 C.F.R Parts 775–794. Usually called Interpretive Bulletins, these statements make available in one place the official interpretations which guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties. As the interpretations of an administering agency, such statements are usually given some deference by the courts. As the Supreme Court has observed: "the rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

However, unlike "substantive regulations," these interpretations are not issued by the agency pursuant to its statutory authority to implement the statute and, more significantly, do not have the force and effect of law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). The Board's mandate is only to issue substantive regulations that are "the same as the substantive regulations of the Secretary of Labor to implement the statutory provision [of the FLSA] applied" by Section 204(a) of the CAA unless modified for good cause (CAA Section 203 (c)(2)). Therefore, the Board, does not propose to adopt the non-substantive interpretations of the DOL and its Wage and Hour Division as substantive regulations under the CAA. Moreover, the Board is not proposing to issue the Department's interpretations as its own interpretations of the FLSA rights and protections made applicable under the CAA at this time. However, as discussed below, employing offices should be advised that, pursuant to the Portal to Portal Act, the Board will give due consideration to the Secretary's interpretations of the FLSA.

Application of the Portal to Portal Act.—The Portal to Portal Act, 61 Stat. 84 (1947), codified generally at 29 U.S.C. Sections 216 and 251, et seq. ("PPA"), contains provisions which affect the rights and liabilities of employees and employers with regard to alleged underpayment of minimum or overtime wages under the FLSA. Section 4 of the PPA excludes from the definition of hours worked both activities preliminary to or postliminary to the worker's principal activities and travel time absent a contract, custom or practice to the contrary. 29 U.S.C. Section 254. Sections 9 and 10 of the PPA provide the employer with a defense against liability or punishment in any action or proceeding brought against it for failure to comply with the minimum wage and overtime provisions of the FLSA, where the employer pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any regulation, order, ruling, approval, interpretation, administrative practice or enforcement policy of the Wage and Hour Administrator of the Department of Labor. 29 U.S.C. Sections 258–259. The PPA also contains provisions which restrict and limit employee suits under section 16(b) of the FLSA. For example, section 11 of the PPA provides that in any action brought under section 216 of the FLSA, the court may in its discretion, subject to prescribed conditions, award no liquidated damages or award any amount of such damages not to exceed the amount specified in section 16(b) of the FLSA. 29 U.S.C. Section 260.

The Board has determined that the above provisions of the PPA are incorporated into section 203 of the CAA, either as an amendment to section 16(b) of the FLSA (which is expressly applied to the legislative branch under section 203(b) of the CAA), or by virtue of section 225(f) of the CAA, which applies the definitions and exemptions of the FLSA to the extent not inconsistent with the CAA. To that end, the Board will give due consideration to the interpretations of the FLSA of the Secretary of Labor. Moreover, employing offices may utilize these interpretations in attempting to understand the rights and protections under the FLSA that have been made applicable by the CAA. Unless and until the Secretary's interpretive statements are superseded or interpretative guidance or decisions to the contrary are issued by the Board or the courts, they may be relied upon for purposes of defending against claims brought under the CAA to the same extent as private sector employers may properly rely upon them in actions brought under the FLSA.

Joint Employer Doctrine.—The Board solicited comments in the ANPRM on whether and to what extent the joint employment doctrine as developed under the FLSA is applicable under the CAA. The comments generally advocated adoption of the doctrine to employing offices of the Congress. However, since the issue of joint employment is addressed through a DOL interpretive bulletin set forth in Part 791, 29 C.F.R., rather than a substantive regulation, the Board is not adopting it as such nor issuing it as its own interpretive statement. See discussion at Section III.

Equal Pay Act.—With respect to the Equal Pay Act (EPA), which is included in Section 6(d) of the FLSA, 29 U.S.C. Section 206(d), the Secretary of Labor promulgated interpretative regulations that were originally included in 29 C.F.R. Part 800. Pursuant to the provisions of Reorganization Plan No. 1 of 1978, as confirmed by the Congress in Public Law 98–532, 98 Stat. 2705 (1984), enforcement and administration of the EPA was transferred from the Secretary of Labor to the Equal Employment Opportunity Commission (EEOC). The EEOC promulgated its own interpretations implementing the EPA at 29 C.F.R. Part 1620. Thereafter, the Secretary deleted its interpretations. 52 FR 2517 (Jan. 23, 1987). Thus, there are no substantive regulations implementing the EPA. Under the rationale previously stated regarding the Portal to Portal Act, the Board declines to incorporate the EEOC interpretations as substantive regulations under the CAA but will recognize them as is appropriate.

Opinion letters.—Commenters asked that the Board consider establishing a process under which the Office or the Board would issue opinion letters and upon which employing offices could rely, similar to the procedure followed by the Wage and Hour Administrator in sometimes providing such opinions at the request of private sector employers. The Board understands employing offices' desire for guidance and clarity regarding their obligations under the CAA.

To the extent that the Board itself can address issues through regulations or interpretations, it will do so. Moreover, the Office intends to provide appropriate education and technical assistance as part of its education and information responsibilities. But for the reasons stated here, the Board and the Office's ability to do so is limited by legal, resource and policy considerations. As is the case in the private sector context, many issues under these statutes can only be definitively resolved through case-by-case adjudication on particular facts. Moreover, except in the context of statutes subject to the Portal to Portal Act, it is doubtful that the Board or the Office has the statutory authority to issue guidance with legal effect (outside of the adjudicatory or rulemaking contexts); we are not aware of any such legal authorization for Executive Branch agencies to do so in the context of applying these same laws to the private sector. Further, the resources of the Board and the Office are limited: the first year appropriation is for $2.5 million. These resources are substantially less than those available to analogous Executive Branch agencies that administer fewer laws. Finally, public comment has not provided the Board with the facts necessary for yet making any of these determinations—and a detailed evidentiary record is necessary for such judgment to be made. In short, particularly in light of the various statutory responsibilities of the Office and the Board, it is not possible to give answers with legal effect to each individual request for information and guidance. While the Board will structure education and information programs to assist employees and employing offices, it is forced to respond that, like private employers, employing offices will generally have to rely on their own counsel and human resource advisors in determining their compliance with the Congressional Accountability Act.

IV. Method of Approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 21st day of November, 1995.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

SUBTITLE A—REGULATIONS RELATING TO THE SENATE AND ITS EMPLOYING OFFICES—S SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART H501—GENERAL PROVISIONS

Sec.

S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S501.101 Purpose and scope.
S501.102 Definitions.
S501.103 Coverage.
S501.104 Administrative authority.

S501.105 Effect of Interpretations of the Labor Department.
S501.106 Application of the Portal-to-Portal Act of 1947.

§ S501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (LOC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.
Part 531: Wage payments under the Fair Labor Standards Act of 1938—Part S531.
Part 541: Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees—Part S541.
Part 547: Requirements of a "Bona fide thrift or savings plan"—Part S547.
Part 570: Child labor—Part S570.

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§ S501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§ 206(a)(1) and (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of § 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

§ S501.102 Definitions.

For purposes of this chapter:

(a) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.).

(c) *Covered employee* means any employee of the Senate, including an applicant for employment and a former employee.

(d) *Employee of the Senate* includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) *Employing office* and *employer* mean (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the Senate.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

§ S501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§ S501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

(c) The Board may in its discretion from time to time issue interpretative statements providing guidance to employees and to employing offices on the rights and protections established under the FLSA that are made applicable by Sections 203(a) and 225 of the CAA.

§ S501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. § 553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. § 790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. § 790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No.8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§ S501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§ 216 and 251 *et seq.*, is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. § 259, provides in pertinent part: [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, * * * if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] * * * or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon:

(1) Any written administrative regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board.

(2) Any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board or the courts.

PART S531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

SUBPART A—PRELIMINARY MATTERS

Sec.

S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S531.1 Definitions.
S531.2 Purpose and scope.

SUBPART B—DETERMINATIONS OF "REASONABLE COST"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

S531.3 General determinations of "reasonable cost".
S531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS

§S531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.
531.1 Definitions.—S531.1.
531.2 Purpose and scope.—S531.2.
531.3 General determinations of "reasonable cost".—S531.3.
531.6 Effects of collective bargaining agreements.—S531.6.

§S531.1 Definitions.

(a) Administrator means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) Act means the Fair Labor Standards Act of 1938, as amended.

§S531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term "wage" to include the "reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the "fair value" of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of "fair value" Whenever so determined and when applicable and pertinent, the "fair value" of the facilities involved shall be includable as part of "wages" instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of "wages" if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the "reasonable cost" and "fair value" of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§S531.3 General determinations of "reasonable cost."

(a) The term reasonable cost as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing "facilities" found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§S531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be "bona fide" when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART S541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

SUBPART A—GENERAL REGULATIONS

Sec.
S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
S541.1 Executive.
S541.2 Administrative.
S541.3 Professional.
S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

SUBPART A—GENERAL REGULATIONS

§S541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.
541.1 Executive.—S541.1.
541.2 Administrative.—S541.2.
541.3 Professional.—S541.3.
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees.—S541.5b.

§S541.01 Application of the exemptions of section 13(a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections of covered employees.

§S541.1 Executive.

The term *employee employed in a bona fide executive * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ S541.2 Administrative.

The term *employee employed in a bona fide * * * administrative * * * capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either: (1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or (2) The performance of functions in the administration of the Congressional Page School or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or (2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or (3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or (2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of the Congressional Page School: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ S541.3 Professional.

The term *employee employed in a bona fide * * * professional capacity* in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of: (1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or (2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or (3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the Congressional Page School, or (4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6½ times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ S541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

PART S547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN."

Sec.

S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

S547.0 Scope and effect of part.

S547.1 Essential requirements of qualifications.

S547.2 Disqualifying provisions.

§ S547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

547.0 Scope and effect of part.—S547.0.

547.1 Essential requirements of qualifications.—S547.1.

547.2 Disqualifying provisions.—S547.2.

§ S547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§ S547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § S547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year: *Provided, however*, That a plan permitting a greater contribution may be submitted to the Administrator and approved by him as a "bona fide thrift or savings plan" within the meaning of section 7(e)(3)(b) of the Act if: (1) The plan meets all the other standards of this section; (2) The plan contains none of the disqualifying factors enumerated in § S547.2; (3) The employer's contribution is based to a substantial degree upon retention of savings; and (4) The amount of the employer's contribution bears a reasonable relationship to the amount of savings retained and the period of retention.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§ S547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART S570—CHILD LABOR REGULATIONS

SUBPART A—GENERAL

Sec.
S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
S570.1 Definitions.
S570.2 Minimum age standards.
SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)
S570.31 Determination.
S570.32 Effect of this subpart.
S570.33 Occupations.
S570.35 Periods and conditions of employment.

SUBPART A—GENERAL

§ S570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations—OC Regulations.
570.1 Definitions.—S570.1.
570.2 Minimum age standards.—S570.2.
570.31 Determinations.—S570.31.
570.32 Effect of this subpart.—S570.32.
570.33 Occupations.—S570.33.
570.35 Periods and conditions of employment.—S570.35.

§ S570.1 Definitions.

As used in this part:

(a) Act means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201-219).

(b) Oppressive child labor means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. S570.2 of this subpart.

(c) Oppressive child labor age means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) Secretary or Secretary of Labor means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) Wage and Hour Division means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) Administrator means the Administrator of the Wage and Hour Division or his authorized representative.

§ S570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions: (i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and (ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being. (2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§ S570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

§ S570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in § S570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ S570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with: (1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means; (2) Warehousing and storage; (3) Communications and public utilities; (4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ S570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods: (1) Outside school hours; (2) Not more than 40 hours in any 1 week when school is not in session; (3) Not more than 18 hours in any 1 week when school is in session; (4) Not more than 8 hours in any 1 day when school is not in session; (5) Not more than 3 hours in any 1 day when school is in session; and (6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

FAIR LABOR STANDARDS ACT

PROPOSED REGULATIONS RELATING TO THE HOUSE OF REPRESENTATIVES AND ITS EMPLOYING OFFICES

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Fair Labor Standards Act of 1938 (Notices of Proposed Rulemaking with respect to Interns and Irregular Work Schedules were issued on October 11. The comment period closed on November 13. Final rules will be issued separately pursuant to Section 304 of the CAA.)

Notice of proposed rulemaking

Summary: The Board of Directors of the Office of Compliance is publishing proposed rules to implement section 203(c) of the Congressional Accountability Act of 1995 (P.L. 104-1, Stat. 10) ("CAA"). The proposed regulations, which are to be applied to the House of Representatives and employees of the House of Representatives, set forth the recommendations of the Deputy Executive Director for the House of Representatives, Office of Compliance, as approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Deputy Executive Director for the House of Representatives, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this Notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

Supplementary Information:

I. Background

A. Introduction

The Congressional Accountability Act of 1995 ("CAA"), PL 104-1, was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 203(a) of the CAA applies the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1) and (d), 207, 212(c) ("FLSA") to covered employees and employing offices. Section 203(c) of the CAA (2 U.S.C. Section 1313(c)) directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations to implement the section. Section 203(c)(2) (2 U.S.C. Section 1313(c)(2)) further states that such regulations, with the exception of certain irregular work schedule regulations to be issued under section 203(a)(3), "shall be the same as substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

B. Advance notice of proposed rulemaking

On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking ("ANPRM") soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. R. S14542 (daily ed., Sept. 28, 1995). In addition to inviting comment on specific questions arising under five of the statutes made applicable by the CAA in the ANPRM, the Board and the statutory appointees of the Office sought consultation with the Chair of the Administrative Conference of the United States, the Secretary of Labor and the Director of the Office of Personnel Management with regard to the development of these regulations in accordance with section 304(g) of the CAA. The Office has also consulted with interested parties to further its understanding of the need for and content of appropriate regulations. Based on the information gleaned from these consultations and the comments on the ANPRM, the Board of Directors of the Office of Compliance is publishing these proposed rules, pursuant to Section 203(c)(1) of the CAA (2 U.S.C. Section 1313(c)(1)).

1. Modification of the regulations of the Department of Labor

In the ANPRM, the Board asked the question, "Whether and to what extent should the Board modify the Secretary's Regulations?" The Board received 15 comments on the ANPRM: two from Senators, four from House Members (one from the leadership of the Committee with primary jurisdiction for the CAA and one from three of the sponsors of the CAA), one from the Secretary of the Senate and three from House offices (two from institutional offices and one from a Member's Chief of Staff), four from business coalitions or associations representing an array of private employers, and one from a labor organization.

Those commenters who expressed views on the ANPRM cited both the statute and the legislative history in taking the position that the CAA presumes that the regulations of the Department of Labor should not be modified. Illustrative comments included the following:

"[Section 304 of the CAA] evidences clear legislative intent that the Board apply these rights and protections to Congressional employees in a manner comparable to and consistent with the rights and protections applicable to employees in the private sector under regulations adopted by the Secretary (DOL). . . . The [CAA] requires that the regulations issued by the Board be the same as those issued by DOL unless the Board determines that modification would more effectively implement the rights and protections of the laws made applicable under the [CAA]."

"[I]f a law is right for the private sector, it is right for Congress; . . . Consistent with [this] principle, we would urge the Office not to deviate (except in those few areas where expressly authorized by the CAA) from applying the laws in the same manner in which they are applied to the private sector.

* * * * *

[W]e have not identified any situations in which modifications [of the DOL regulations] would be appropriate."

"There are no circumstances that justify 'good cause' for adopting regulations that deviate from those currently applied to private sector employers."

"[Section 203(c)(2)] confers on the Office of Compliance only very limited authority to deviate from the present DOL regulations. The legislative history to the 'good cause' exception likewise makes clear that this authority is to be used by the Office of Compliance sparingly."

* * * * *

"The legislative history of the CAA demands that the Office of Compliance apply to Congress the *same* regulations as those imposed on the private sector."

"[W]e urge the Board to refrain from modifying regulations promulgated by the Department of Labor and other Executive agencies. Use of established regulations will provide the Board, employees and employing offices with a body of instructive case law and interpretive documents."

"While the Office serves an important implementation and enforcement role, it must not place itself in the position of shielding Congress from substantive requirements imposed on private businesses."

Based on the comments and the Board's understanding of the law and the institutions to which it is being made applicable, the Board is issuing the Secretary's regulations with only these limited modifications: Technical changes in the nomenclature and deletion of those sections clearly inapplicable to the legislative branch.

2. Notice posting and recordkeeping

The ANPRM also invited comment on whether the recordkeeping and notice posting requirements of the various laws made applicable by the CAA are incorporated as statutory requirements of the CAA. The ANPRM inquired whether, if such requirements were not incorporated, could and should the Board develop its own requirements pursuant to its "good cause" authority. The ANPRM also invited comment on proposing guidelines and models for recordkeeping and notice posting.

Commenters were in agreement that recordkeeping and notice posting are important to the effective implementation of several of the statutes incorporated in the CAA. However, opinions as to whether the Board should require notice posting and recordkeeping were widely divergent. Several commenters expressed the view that the Board lacks the statutory authority to adopt notice posting and recordkeeping requirements and that the notice posting and recordkeeping requirements of the FLSA do not apply to Congress. Other commenters expressed the view that the Board has the authority to issue regulations to impose recordkeeping and notice posting requirements and that such regulations should be, in substance, the same as those with which the private sector must comply.

The Board agrees with those commenters who took the position that, if employing offices are to be treated the same as private sector employers are treated under FLSA, they should have to comply with the statute's notice posting and recordkeeping requirements. Moreover, the Board notes that notice posting and recordkeeping promote the full and effective enforcement of these incorporated rights and protections. In the Board's view, notice posting and recordkeeping may well be in employers' interests both as a sound personnel practice and in order to defend against subsequent litigation.

But while the CAA incorporates certain specific sections of the FLSA, the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA. Because the Board's authority to modify the Secretary's regulations for "good cause" does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA, the Board has determined that it may not impose such requirements on employing offices. However, as various commenters suggest, the Board will provide guidance to employing offices concerning model recordkeeping practices as part of carrying out its program of education under section 301(h) of the CAA (2 U.S.C. 1381(h)).

The Board would also note that based upon their collective years of experience representing employers and employees with regard to various labor and employment laws, including the FLSA, the absence of recordkeeping and notice posting requirements may create a void which can only partially be filled by the program of education to be carried out by the Board pursuant to Section 301(h)(1) and the optional notice which will be distributed by the Board pursuant to Section 301(h)(2). The Board also would emphasize that employees will in many circumstances be able to establish a prima facie case simply by their own testimony estimating the hours worked by the employees where the employing office has failed to maintain adequate, accurate records. An employing office may find that its ability to respond to an employee's prima facie case is substantially burdened by its failure to keep accurate payroll and time-records. If Congress wishes to experience the same burdens as faced by the private sector and also to address these issues, it should enact recordkeeping requirements comparable to those of the FLSA. (Of course, like the regulations under those statutes, such recordkeeping requirements may leave to the discretion of each employing office the precise form and manner in which records will be kept.) But, in light of the text and structure of the CAA, the Board believes that it is up to Congress to decide whether to do so.

II. The proposed regulations

A. Background

Congress committed enforcement of the Fair Labor Standards Act of 1938 to the Department of Labor and its Wage and Hour Division, whose regulations and interpretations of that Act comprise almost one thousand pages of Chapter V, Title 29 of the Code of Federal Regulations. In enacting the CAA, however, Congress expressly refused to commit enforcement to the executive branch of the Federal government nor did Congress bring its employing offices under the FLSA itself. Instead, Congress carefully specified, through sectional references to the FLSA, the substantive rights and protections afforded to legislative employees, and precisely mandated procedures by which those rights and protections would be largely enforced by a new and independent office in the legislative branch, the Office of Compliance. Further, in granting the Board rulemaking authority with respect to the FLSA in Section 203(c)(1) of the CAA, Congress affirmatively commanded the Board to issue substantive regulations, with the important directive that they "shall be the same as substantive regulations promulgated by the Secretary of Labor * * * except as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of rights and protections under" the CAA.

In the Board's view, and notwithstanding what has been urged by some of the commenters, this unusual statutory framework neither mandates nor allows an uncritical, wholesale incorporation of all the regulations and interpretive statements issued by the Labor Department under the FLSA. Rather, this statutory framework requires the Board to cull from the vast body of FLSA material found in the Code of Regulations only those items that constitute "substantive regulations" as the term is understood under settled principles of administrative law. (*See Batterton* v. *Francis*, 422 U.S. 416, 425, n. 9 (1977)). Moreover, the statutory framework authorizes the Board to delete those substantive regulations that either have no application in the employing offices of the Congress or that are not likely to be invoked. For these reasons, the Board is not proposing their adoption, unless public comments establish a justification to the contrary. Finally, by limiting itself to substantive regulations, the Board is not adopting those portions of 29 C.F.R. chapter V that constitute the interpretative bulletins or statements of the Department of Labor and its Wage and Hour Division.

B. Proposed regulations

1. General provisions

The proposed regulations include an initial Part 501 which contains matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance. In addition, a section explains the effect of interpretative bulletins and statements of the Department of Labor, and another section provides for the application of the Portal to Portal Act. These latter sections are discussed below.

It is noted that the definition section incorporates the general provisions of section 101 of the CAA which defines "employee," "covered employee," "employing office," and "employee of the House of Representatives." Section 203 of the CAA, which applies the rights and protections of the FLSA, also contemplates the promulgation of a definitional regulation that excludes "interns" from the meaning of "covered employee." The Board in a separate NPRM issued on October 11, 1995, proposed such a regulation, together with a regulation governing irregular work schedules and the receipt of compensatory time in lieu of overtime compensation. The Board is reviewing the public comments received in response to that NPRM and will issue a separate final rule on those issues.

It should be noted that section 225(f)(1) of the CAA provides that, except where inconsistent with definitions of the CAA itself, the definitions in the laws made applicable by the CAA shall also apply under the CAA. Thus, attention must be paid to those definitions found in the FLSA that are consistent with the CAA even if they are not expressly incorporated in the proposed regulations. In this regard, one commenter expressed concern over whether employing offices would be obligated to pay minimum wages and overtime compensation to individuals who do volunteer work, in light of the fact that under the FLSA "employee" may include certain volunteers. See 29 U.S.C. §203(e)(4)(A), which excludes from the definition of "employee" only certain volunteers who perform work for a State, political subdivision, or interstate governmental agency. Similarly, it is noted that, in enacting the CAA, Congress did make separate provision for excluding interns. Thus, the Board has concluded that, to the extent that volunteer activity would bring an individual under the coverage of the FLSA, similarly situated individuals would be treated in the same manner under the CAA.

2. Provisions derived from regulations of the Department of Labor:

Those regulations of the Department of Labor that are being adopted in substance include:

Part 531, which governs the manner in which an employee's wages are calculated taking into account the reasonable cost to an employer of furnishing board, lodging, or other facilities. This Part is derived from Section 3(m) of the FLSA, which directs how the "wage" paid to an employee is determined. Section 3(m) must be treated as applicable under the CAA by virtue of Section 225(f)(1), which authorizes generally the inclusion of those definitions and exemptions that are consistent with definitions and exemptions of the CAA. However, it is noted that section 3(m) is inconsistent with the CAA insofar as the implementing regulations in Part 531, Title 29, C.F.R., provide procedures by which the Wage and Hour Administrator makes determinations in specific cases with respect to the furnishing of board, lodging, or other facilities. Because the Administrator has no role in the enforcement of the CAA by reason of Section 225(f)(3), and because the Board is not at this time authorizing the Office of Compliance to make such specific determinations, the Board proposes to delete the provisions setting forth those procedures. Similarly, the reference to "tipped employees" and the method by which their wages are determined are deleted because the applicable sections assign responsibility to the Administrator.

Part 541, which defines and delimits the bona fide executive, administrative, and professional employees who are exempt under Section 13(a) of the FLSA from the minimum wage and maximum hours requirements. The Board has determined that this exemption, commonly known as the "white collar" exemption, is applicable to employing offices of Congress by virtue of Section 225(f)(1) of the CAA.

In the ANPRM, the Board solicited public comment on whether and to what extent it should modify the Labor Department's regulations regarding this exemption. Generally, the commenters did not question the applicability of this exemption to covered employees under the CAA, and several commenters urged the adoption of all of the Department's regulations in Part 541, 29 C.F.R., including the interpretative bulletins, without any modification. Two commenters contended that the Board's regulations should grant a sweeping exemption for nearly all staff employees working in elected members' offices because they exercise independent judgment and discretion in performing their responsibilities.

Other commenters urged the Board to modify the Labor Department regulations to take into account the unique job responsibilities of staff working for an elected member either in a personal office, in a leadership office or on committee. Recognizing that job titles alone cannot be dispositive of who is an exempt employee, these commenters urged the Board to identify with particularity those job duties which, if performed by an employee, would render him or her an exempt executive, administrative, or professional employee.

The Board is proposing to adopt the Labor Department's substantive regulations contained in Subpart A of Part 541 of 29 C.F.R. that set forth the fundamental criteria for satisfying each of the three exemptions. But, for the reasons explained below, the Board is not formally adopting the interpretative bulletins contained in Subpart B of Part 541 of 29 C.F.R., which discuss and illustrate through examples the Department's understanding of the exemption criteria.

With respect to some commenters' request that the Board modify the white collar exemptions, upon reflection, the Board has reluctantly concluded that such a modification would not satisfy the "good cause" requirement of Section 203(c)(2) of the CAA. The Board recognizes that the Secretary's regulations and interpretations were promulgated in a different era, with different employment paradigms in mind. Thus, the Board appreciates the many difficulties that employing offices will have in interpreting and reconciling these regulations to present day realities. Moreover, the Board is mindful of the significant impact the application of the administrative, executive and professional exemption will have on the structuring, functioning and expense of the Members' and Senators' personal offices and committee offices. However, the Board notes that private sector and state and local government employers face the same difficulties. And the Board has not found any sound, principled basis for modifying the exemption regulation for Congress and its instrumentalities. That resolved, the Board nonetheless wishes to make clear its intent to provide, as time and resources permit, appropriate general guidance to the Congress and its instrumentalities on how to identify and justify which employees are exempt. Such efforts made through the Office's education and information programs, will attempt to assist employing offices in determining which job duties will be considered exempt under the executive, administration or professional criteria.

Part 547, which defines, pursuant to Section 7(e)(3)(b) the standard that bona fide thrift or savings plans must meet in order not to be included within an employee's regular rate of pay for purposes of calculating overtime obligations under Section 7 of the FLSA. This is included in light of Section 203(a)(1) of the CAA, which specifically applied the rights and protections of Section 7 of the FLSA.

Part 570, which sets forth the limitations on the use of child labor. This Part implements Section 12(c) of the FLSA, prohibiting oppressive child labor, as defined by Section 3(l) of the same Act. The former section is specifically referenced in Section 203(a)(1) of the CAA, while the latter must be referenced by reason of Section 225(f)(1) of the CAA. The inclusion of this Part in the separate regulations of the Senate is necessitated by the fact that the Senate allows for the appointment of congressional pages below the age of 16, unlike the House of Representatives, which by law sets a minimum age of 16 for such employees. For children under age 16, the FLSA regulations impose limitations on hours worked during the school year. Part 570 is also included in the separate regulations applicable to all other covered employees and employing offices. Given the hazardous nature of some of the activities of the support functions, such as maintenance and repair, Part 570 regulations are being proposed in the event that such instrumentalities employ children under 18 years of age. It is noted that the Board has not adopted regulations comparable to those set forth in the Labor Department's Subpart B (29 C.F.R. Sections 570.5–.27), authorizing the issuance of certificates of age. In addition, with respect to Section 570.52, governing the hazardous occupation of motor-vehicle driver and outside helper, the Board is not adopting the special exemption for school bus driving because by its terms no employing offices would satisfy the criteria of the regulation.

C. Secretary of Labor's Regulations That the Board Proposes Not to Adopt

In reviewing the remaining parts of the Labor Department's regulations, it is readily apparent that some have no application to the employing offices within the legislative branch. For this reason, the Board is not including them within its substantive regulations. Among the excluded regulations are: Part 510, which pertains to the application of the minimum wage provisions to Puerto Rico; Part 511, establishing a wage order procedure for American Samoa; Part 515, authorizing the utilization of State government agencies for investigations and inspections; Part 530, governing the employment of industrial homeworkers in certain industries; Part 549, defining the requirements of a "bona fide profit-sharing plan or trust;" Part 550, defining the term "talent fees;" Part 552, regulating the application of the FLSA to domestic service; Part 575, addressing child labor in certain agricultural employment; Parts 578, 579, and 580, implementing the civil money penalties provisions of the FLSA; and Part 679, dealing with industries in American Samoa. Unless public comments suggest otherwise, the Board intends including in the adopted regulations a provision stating that the Board has issued regulations on all matters for which the CAA requires a regulation. *See* Section 411 of the CAA.

Other substantive regulations could have application in the event that an employing office wished to avail itself of certain special wage rates, subminimum wage exemptions or overtime exemptions under the FLSA. These are found in: Parts 519–528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers. Unless public comments provide a sufficient justification to the contrary the Board is not proposing the adoption of regulations covering the foregoing subjects.

III. The interpretive bulletins and other relevant guidance

In addition to the substantive regulations found in Subchapter A, the Department of Labor has issued, under Subchapter B, "Statements of General Policy or Interpretations Not Directly Related to Regulations." 29 C.F.R Parts 775–794. Usually called Interpretive Bulletins, these statements make available in one place the official interpretations which guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties. As the interpretations of an administering agency, such statements are usually given some deference by the courts. As the Supreme Court has observed:

"the rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control."

Skidmore v. *Swift*, 323 U.S. 134, 140 (1944).

However, unlike "substantive regulations," these interpretations are not issued by the agency pursuant to its statutory authority to implement the statute and, more significantly, do not have the force and effect of law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). The Board's mandate is only to issue substantive regulations that are "the same as the substantive regulations of the Secretary of Labor to implement the statutory provision [of the FLSA] applied" by Section 204(a) of the CAA unless modified for good cause (CAA Section 203 (c)(2)). Therefore, the Board, does not propose to adopt the non-substantive interpretations of the DOL and its Wage and Hour Division as substantive regulations under the CAA. Moreover, the Board is not proposing to issue the Department's interpretations as its own interpretations of the FLSA rights and protections made applicable under the CAA at this time. However, as discussed below, employing offices should be advised that, pursuant to the Portal to Portal Act, the Board will give due consideration the Secretary's interpretations of the FLSA.

Application of the Portal to Portal Act.—The Portal to Portal Act, 61 Stat. 84 (1947), codified generally at 29 U.S.C. Sections 216 and 251, et seq. ("PPA"), contains provisions which affect the rights and liabilities of employees and employers with regard to alleged underpayment of minimum or overtime wages under the FLSA. Section 4 of the PPA excludes from the definition of hours worked both activities preliminary to or postliminary to the worker's principal activities and travel time absent a contract, custom or practice to the contrary. 29 U.S.C. Section 254. Sections 9 and 10 of the PPA provide the employer with a defense against liability or punishment in any action or proceeding brought against it for failure to comply with the minimum wage and overtime provisions of the FLSA, where the employer pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any regulation, order, ruling, approval, interpretation, administrative practice or enforcement policy of the Wage and Hour Administrator of the Department of Labor. 29 U.S.C. Sections 258–259. The PPA also contains provisions which restrict and limit employee suits under section 16(b) of the FLSA. For example, section 11 of the PPA provides that in any action brought under section 216 of the FLSA, the court may in its discretion, subject to prescribed conditions, award no liquidated damages or award any amount of such damages not to exceed the amount specified in section 16(b) of the FLSA. 29 U.S.C. Section 260.

The Board has determined that the above provisions of the PPA are incorporated into section 203 of the CAA, either as an amendment to section 16(b) of the FLSA (which is expressly applied to the legislative branch under section 203(b) of the CAA), or by virtue of section 225(f) of the CAA, which applies the definitions and exemptions of the FLSA to the extent not inconsistent with the CAA. To that end, the Board will give due consideration to the interpretations of the FLSA of the Secretary of Labor. Moreover, employing offices may utilize these interpretations in attempting to understand the rights and protections under the FLSA that have been made applicable by the CAA. Unless and until the Secretary's interpretive statements are superseded or interpretative guidance or decisions to the contrary are issued by the Board or the courts, they may be relied upon for purposes of defending against claims brought under the CAA to the same extent as private sector employers may properly rely upon them in actions brought under the FLSA.

Joint Employer Doctrine.—The Board solicited comments in the ANPRM on whether and to what extent the joint employment doctrine as developed under the FLSA is applicable under the CAA. The comments generally advocated adoption of the doctrine to employing offices of the Congress. However, since the issue of joint employment is addressed through a DOL interpretive bulletin set forth in Part 791, 29 C.F.R., rather than a substantive regulation, the Board is not adopting it as such nor issuing it as its own interpretive statement. See discussion at Section III.

Equal Pay Act.—With respect to the Equal Pay Act (EPA), which is included in Section 6(d) of the FLSA, 29 U.S.C. Section 206(d), the Secretary of Labor promulgated interpretative regulations that were originally included in 29 C.F.R. Part 800. Pursuant to the provisions of Reorganization Plan No. 1 of 1978, as confirmed by the Congress in Public Law 98-532, 98 Stat. 2705 (1984), enforcement and administration of the EPA was transferred from the Secretary of Labor to the Equal Employment Opportunity Commission (EEOC). The EEOC promulgated its own interpretations implementing the EPA at 29 C.F.R. Part 1620. Thereafter, the Secretary deleted its interpretations. 52 FR 2517 (Jan. 23, 1987). Thus, there are no substantive regulations implementing the EPA. Under the rationale previously stated regarding the Portal to Portal Act, the Board declines to incorporate the EEOC interpretations as substantive regulations under the CAA but will recognize them as is appropriate.

Opinion Letters.—Commenters asked that the Board consider establishing a process under which the Office or the Board would issue opinion letters and upon which employing offices could rely, similar to the procedure followed by the Wage and Hour Administrator in sometimes providing such opinions at the request of private sector employers. The Board understands employing offices' desire for guidance and clarity regarding their obligations under the CAA.

To the extent that the Board itself can address issues through regulations or interpretations, it will do so. Moreover, the Office intends to provide appropriate education and technical assistance as part of its education and information responsibilities. But for the reasons stated here, the Board and the Office's ability to do so is limited by legal, resource and policy considerations. As is the case in the private sector context, many issues under these statutes can only be definitively resolved through case-by-case adjudication on particular facts. Moreover, except in the context of statutes subject to the Portal to Portal Act, it is doubtful that the Board or the Office has the statutory authority to issue guidance with legal effect (outside of the adjudicatory or rulemaking contexts); we are not aware of any such legal authorization for Executive Branch agencies to do so in the context of applying these same laws to the private sector. Further, the resources of the Board and the Office are limited: the first year appropriation is for $2.5 million. These resources are substantially less than those available to analogous Executive Branch agencies that administer fewer laws. Finally, public comment has not provided the Board with the facts necessary for yet making any of these determinations—and a detailed evidentiary record is necessary for such judgment to be made. In short, particularly in light of the various statutory responsibilities of the Office and the Board, it is not possible to give answers with legal effect to each individual request for information and guidance. While the Board will structure education and information programs to assist employees and employing offices, it is forced to respond that, like private employers, employing offices will generally have to rely on their own counsel and human resource advisors in determining their compliance with the Congressional Accountability Act.

IV. Method of approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 21st day of November, 1995.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

SUBTITLE B—REGULATIONS RELATING TO THE HOUSE OF REPRESENTATIVES AND ITS EMPLOYING OFFICES—H SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART H501—GENERAL PROVISIONS

Sec.

H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H501.101 Purpose and scope.
H501.102 Definitions.
H501.103 Coverage.
H501.104 Administrative authority.
H501.105 Effect of Interpretations of the Labor Department.
H501.106 Application of the Portal-to-Portal Act of 1947.

§ H501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

Part 531: Wage payments under the Fair Labor Standards Act of 1938—Part H531.

Part 541: Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees—Part H541.

Part 547 Requirements of a "Bona fide thrift or savings plan"—Part H547.

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§ H501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§ 206(a)(1) & (d), 207, 212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSA, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which require that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of § 203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

§ H501.102 Definitions.

For purposes of this chapter:

(a) CAA means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§ 1301-1438).

(b) FLSA or Act means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.).

(c) Covered employee means any employee of the House of Representatives, including an applicant for employment and a former employee.

(d) Employee of the House of Representatives includes any individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(e) Employing office and employer mean (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives.

(f) Board means the Board of Directors of the Office of Compliance.

(g) Office means the Office of Compliance.

§ H501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§ H501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

(c) The Board may in its discretion from time to time issue interpretative statements providing guidance to employees and to employing offices on the rights and protections established under the FLSA that are made applicable by Sections 203(a) and 225 of the CAA.

§ H501.105 Effect of Interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of

Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§H501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. §259, provides in pertinent part:

> [N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon:

(1) Any written administrative regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board.

(2) Any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling, approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board or the courts.

PART H531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

SUBPART A—PRELIMINARY MATTERS

Sec.
H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H531.1 Definitions.
H531.2 Purpose and scope.
SUBPART B—DETERMINATIONS OF "REASONABLE COST"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS
H531.3 General determinations of 'reasonable cost'.
H531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§H531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

531.1 Definitions—H531.1.

531.2 Purpose and scope—H531.2.

531.3 General determinations of "reasonable cost"—H531.3.

531.6 Effects of collective bargaining agreements—H531.6.

§H531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§H531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value.' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§H531.3 General determinations of 'reasonable cost.'

(a) The term *reasonable* cost as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5½ percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term *good accounting practices* does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term *depreciation* includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ H531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be 'bona fide' when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART H541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL).

SUBPART A—GENERAL REGULATIONS.

H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
H541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
H541.1 Executive.
H541.2 Administrative.
H541.3 Professional.
H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

SUBPART A—GENERAL REGULATIONS.

§ H541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations
541.1 Executive—H541.1.
541.2 Administrative—H541.2.
541.3 Professional—H541.3.
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees—H541.5b.

§ H541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c)and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections of covered employees.

§ H541.1 Executive.

The term employee employed in a bona fide executive * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee: (a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department of subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: Provided, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section

§ H541.2 Administrative.

The term employee employed in a bona fide * * * administrative * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either: (1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or (2) The performance of functions in the administration of the Congressional Page School or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or (2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or (3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or (2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of the Congressional Page School: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ H541.3 Professional.

The term employee employed in a bona fide * * * professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of: (1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or (2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or (3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the Congressional Page School , or (4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer- related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§H541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

PART H547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN."

Sec.

H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

H547.0 Scope and effect of part.

H547.1 Essential requirements of qualifications.

H547.2 Disqualifying provisions.

§H547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

547.0 Scope and effect of part—H547.0.

547.1 Essential requirements of qualifications—H547.1.

547.2 Disqualifying provisions—H547.2.

§H547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§H547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in §H547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year: *Provided, however*, That a plan permitting a greater contribution may be submitted to the Administrator and approved by him as a 'bona fide thrift or savings plan' within the meaning of section 7(e)(3)(b) of the Act if: (1) The plan meets all the other standards of this section; (2) The plan contains none of the disqualifying factors enumerated in §H547.2; (3) The employer's contribution is based to a substantial degree upon retention of savings; and (4) The amount of the employer's contribution bears a reasonable relationship to the amount of savings retained and the period of retention.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: *Provided*, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§H547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PROPOSED REGULATIONS RELATING TO THE EMPLOYING OFFICES OTHER THAN THOSE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Fair Labor Standards Act of 1938 (Notices of Proposed Rulemaking with respect to Interns and Irregular Work Schedules were issued on October 11. The comment period closed on November 13. Final rules will be issued separately pursuant to Section 304 of the CAA.)

Notice of proposed rulemaking

Summary: The Board of Directors of the Office of Compliance is publishing proposed rules to implement section 203(c) of the Congressional Accountability Act of 1995 (P.L. 104-1, Stat. 10) ("CAA"). The proposed regulations, which are to be applied to the House of Representatives and employees of the employing offices, and their employees, of the Congress other than the Senate and the House of Representatives, set forth the recommendations of the Executive Director for Office of Compliance, as approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this Notice in the Congressional Record.

Addresses: Submit written comments to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: The Executive Director, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this Notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

Supplementary information:

I. Background

A. Introduction

The Congressional Accountability Act of 1995 ("CAA"), PL 104-1, was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 203(a) of the CAA applies the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c) ("FLSA") to covered employees and employing offices. Section 203(c) of the CAA (2 U.S.C. Section 1313(c)) directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations to implement the section. Section 203(c)(2) (2 U.S.C. Section 1313(c)(2)) further states that such regulations, with the exception of certain irregular work schedule regulations to be issued under section 203(a)(3), "shall be the same as substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

B. Advance notice of proposed rulemaking

On September 28, 1995, the Board of the Office of Compliance issued an Advance Notice of Proposed Rulemaking ("ANPRM") soliciting comments from interested parties in order to obtain participation and information early in the rulemaking process. 141 Cong. R. S14542 (daily ed., Sept. 28, 1995). In addition to inviting comment on specific questions arising under five of the statutes made applicable by the CAA in the ANPRM, the Board and the statutory appointees of the Office sought consultation with the Chair of the Administrative Conference of the United States, the Secretary of Labor and the Director of the Office of Personnel Management with regard to the development of these regulations in accordance with section 304(g) of the CAA. The Office has also consulted with interested parties to further its understanding of the need for and content of appropriate regulations. Based on the information gleaned from these consultations and the comments on the ANPRM, the Board of Directors of the Office of Compliance is publishing these proposed rules, pursuant to Section 203(c)(1) of the CAA (2 U.S.C. Section 1313(c)(1)).

1. Modification of the regulations of the Department of Labor

In the ANPRM, the Board asked the question, "Whether and to what extent should the Board modify the Secretary's Regulations?" The Board received 15 comments on the ANPRM: two from Senators, four from House Members (one from the leadership of the Committee with primary jurisdiction for the CAA and one from three of the sponsors of the CAA), one from the Secretary of the Senate and three from House offices (two from institutional offices and one from a Member's Chief of Staff), four from business coalitions or associations representing an array of private employers, and one from a labor organization.

Those commenters who expressed views on the ANPRM cited both the statute and the legislative history in taking the position that the CAA presumes that the regulations of the Department of Labor should not be modified. Illustrative comments included the following:

"[Section 304 of the CAA] evidences clear legislative intent that the Board apply these rights and protections to Congressional employees in a manner comparable to and consistent with the rights and protections applicable to employees in the private sector under regulations adopted by the Secretary (DOL). . . . The [CAA] requires that the regulations issued by the Board be the same as those issued by DOL unless the Board determines that modification would more effectively implement the rights and protections of the laws made applicable under the [CAA]."

"[I]f a law is right for the private sector, it is right for Congress; . . . . Consistent with [this] principle, we would urge the Office not to deviate (except in those few areas where expressly authorized by the CAA) from applying the laws in the same manner in which they are applied to the private sector.

* * * * *

[W]e have not identified any situations in which modifications [of the DOL regulations] would be appropriate."

"There are no circumstances that justify 'good cause' for adopting regulations that deviate from those currently applied to private sector employers."

"[Section 203(c)(2)] confers on the Office of Compliance only very limited authority to deviate from the present DOL regulations. The legislative history to the 'good cause' exception likewise makes clear that this authority is to be used by the Office of Compliance sparingly."

* * * * *

"The legislative history of the CAA demands that the Office of Compliance apply to Congress the same regulations as those imposed on the private sector."

"[W]e urge the Board to refrain from modifying regulations promulgated by the Department of Labor and other Executive agencies. Use of established regulations will provide the Board, employees and employing offices with a body of instructive case law and interpretive documents."

"While the Office serves an important implementation and enforcement role, it must not place itself in the position of shielding Congress from substantive requirements imposed on private businesses."

Based on the comments and the Board's understanding of the law and the institutions to which it is being made applicable, the Board is issuing the Secretary's regulations with only these limited modifications: Technical changes in the nomenclature and deletion of those sections clearly inapplicable to the legislative branch.

2. Notice Posting and Recordkeeping

The ANPRM also invited comment on whether the recordkeeping and notice posting requirements of the various laws made applicable by the CAA are incorporated as statutory requirements of the CAA. The ANPRM inquired whether, if such requirements were not incorporated, could and should the Board develop its own requirements pursuant to its "good cause" authority. The ANPRM also invited comment on proposing guidelines and models for recordkeeping and notice posting.

Commenters were in agreement that recordkeeping and notice posting are important to the effective implementation of several of the statutes incorporated in the CAA. However, opinions as to whether the Board should require notice posting and recordkeeping were widely divergent. Several commenters expressed the view that the Board lacks the statutory authority to adopt notice posting and recordkeeping requirements and that the notice posting and recordkeeping requirements of the FLSA do not apply to Congress. Other commenters expressed the view that the Board has the authority to issue regulations to impose recordkeeping and notice posting requirements and that such regulations should be, in substance, the same as those with which the private sector must comply.

The Board agrees with those commenters who took the position that, if employing offices are to be treated the same as private sector employers are treated under FLSA, they should have to comply with the statute's notice posting and recordkeeping requirements. Moreover, the Board notes that notice posting and recordkeeping promote the full and effective enforcement of these incorporated rights and protections. In the Board's view, notice posting and recordkeeping may well be in employers' interests both as a sound personnel practice and in order to defend against subsequent litigation.

But while the CAA incorporates certain specific sections of the FLSA, the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Section 11, 29 U.S.C. §211 of the FLSA. Because the Board's authority to modify the Secretary's regulations for "good cause" does not authorize it to adopt regulatory requirements that are the equivalent of statutory requirements that Congress has omitted from the CAA, the Board has determined that it may not impose such requirements on employing offices. However, as various commenters suggest, the Board will provide guidance to employing offices concerning model recordkeeping practices as part of carrying out its program of education under section 301(h)of the CAA (2 U.S.C. 1381(h)).

The Board would also note that based upon their collective years of experience representing employers and employees with regard to various labor and employment laws, including the FLSA, the absence of recordkeeping and notice posting requirements may create a void which can only partially be filled by the program of education to be carried out by the Board pursuant to Section 301(h)(1) and the optional notice which will be distributed by the Board pursuant to Section 301(h)(2). The Board also would emphasize that employees will in many circumstances be able to establish a prima facie case simply by their own testimony estimating the hours worked by the employees where the employing office has failed to maintain adequate, accurate records. An employing office may find that its ability to respond to an employee's prima facie case is substantially burdened by its failure to keep accurate payroll and time-records. If Congress wishes to experience the same burdens as faced by the private sector and also to address these issues, it should enact recordkeeping requirements comparable to those of the FLSA. (Of course, like the regulations under those statutes, such recordkeeping requirements may leave to the discretion of each employing office the precise form and manner in which records will be kept.) But, in light of the text and structure of the CAA, the Board believes that it is up to Congress to decide whether to do so.

II. The proposed regulations

A. Background

Congress committed enforcement of the Fair Labor Standards Act of 1938 to the Department of Labor and its Wage and Hour Division, whose regulations and interpretations of that Act comprise almost one thousand pages of Chapter V, Title 29 of the Code of Federal Regulations. In enacting the CAA, however, Congress expressly refused to commit enforcement to the executive branch of the Federal government nor did Congress bring its employing offices under the FLSA itself. Instead, Congress carefully specified, through sectional references to the FLSA, the substantive rights and protections afforded to legislative employees, and precisely mandated procedures by which those rights and protections would be largely enforced by a new and independent office in the legislative branch, the Office of Compliance. Further, in granting the Board rulemaking authority with respect to the FLSA in Section 203(c)(1) of the CAA, Congress affirmatively commanded the Board to issue substantive regulations, with the important directive that they "shall be the same as substantive regulations promulgated by the Secretary of Labor * * * except as the Board may determine, for good cause shown * * * that a modification of such regulations would be more effective for the implementation of rights and protections under" the CAA.

In the Board's view, and notwithstanding what has been urged by some of the commenters, this unusual statutory framework neither mandates nor allows an uncritical, wholesale incorporation of all the regulations and interpretive statements issued by the Labor Department under the FLSA. Rather, this statutory framework requires the Board to cull from the vast body of FLSA material found in the Code of Regulations only those items that constitute "substantive regulations" as the term is understood under settled principles of administrative law. (See *Batterton* v. *Francis*, 422 U.S. 416, 425, n. 9 (1977)). Moreover, the statutory framework authorizes the Board to delete those substantive regulations that either have no application in the employing offices of the Congress or that are not likely to be invoked. For these reasons, the Board is not proposing their adoption, unless public comments establish a justification to the contrary. Finally, by limiting itself to substantive regulations, the Board is not adopting those portions of 29 C.F.R. chapter V that constitute the interpretative bulletins or statements of the Department of Labor and its Wage and Hour Division.

B. Proposed regulations

1. General provisions

The proposed regulations include an initial Part 501 which contains matters of general applicability including the purpose and scope of the regulations, definitions, coverage, and the administrative authority of the Board and the Office of Compliance. In addition, a section explains the effect of interpretative bulletins and statements of the Department of Labor, and another section provides for the application of the Portal to Portal Act. These latter sections are discussed below.

It is noted that the definition section incorporates the general provisions of section 101 of the CAA which defines "employee," "covered employee," "employing office," and "employee of the House of Representatives." Section 203 of the CAA, which applies the rights and protections of the FLSA, also contemplates the promulgation of a definitional regulation that excludes "interns" from the meaning of "covered employee." The Board, in a separate NPRM issued on October 11, 1995, proposed such a regulation, together with a regulation governing irregular work schedules and the receipt of compensatory time in lieu of overtime compensation. The Board is reviewing the public comments received in response to that NPRM and will issue a separate final rule on those issues.

It should be noted that section 225(f)(1) of the CAA provides that, except where inconsistent with definitions of the CAA itself, the definitions in the laws made applicable by the CAA shall also apply under the CAA. Thus, attention must be paid to those definitions found in the FLSA that are consistent with the CAA even if they are not expressly incorporated in the proposed regulations. In this regard, one commenter expressed concern over whether employing offices would be obligated to pay minimum wages and overtime compensation to individuals who do volunteer work, in light of the fact that under the FLSA "employee" may include certain volunteers. See 29 U.S.C. §203(e)(4)(A), which excludes from the definition of "employee" only certain volunteers who perform work for a State, political subdivision, or interstate governmental agency. Similarly, it is noted that, in enacting the CAA, Congress did make separate provision for excluding interns. Thus, the Board has concluded that, to the extent that volunteer activity would bring an individual under the coverage of the FLSA, similarly situated individuals would be treated in the same manner under the CAA.

2. Provisions derived from regulations of the Department of Labor

Those regulations of the Department of Labor that are being adopted in substance include:

Part 531, which governs the manner in which an employee's wages are calculated taking into account the reasonable cost to an employer of furnishing board, lodging, or other facilities. This Part is derived from Section 3(m) of the FLSA, which directs how the "wage" paid to an employee is determined. Section 3(m) must be treated as applicable under the CAA by virtue of Section 225(f)(1), which authorizes generally the inclusion of those definitions and exemptions that are consistent with definitions and exemptions of the CAA. However, it is noted that section 3(m) is inconsistent with the CAA insofar as the implementing regulations in Part 531, Title 29, C.F.R., provide procedures by which the Wage and Hour Administrator makes determinations in specific cases with respect to the furnishing of board, lodging, or other facilities. Because the Administrator has no role in the enforcement of the CAA by reason of Section 225(f)(3), and because the Board is not at this time is not authorizing the Office of Compliance to make such specific determinations, the Board proposes to delete the provisions setting forth those procedures. Similarly, the reference to "tipped employees" and the method by which their wages are determined are deleted because the applicable sections assign responsibility to the Administrator.

Part 541, which defines and delimits the bona fide executive, administrative, and professional employees who are exempt under Section 13(a) of the FLSA from the minimum wage and maximum hours requirements. The Board has determined that this exemption, commonly known as the "white collar" exemption, is applicable to employing offices of Congress by virtue of Section 225(f)(1) of the CAA.

In the ANPRM, the Board solicited public comment on whether and to what extent it should modify the Labor Department's regulations regarding this exemption. Generally, the commenters did not question the applicability of this exemption to covered employees under the CAA, and several commenters urged the adoption of all of the Department's regulations in Part 541, 29 C.F.R., including the interpretative bulletins, without any modification. Two commenters contended that the Board's regulations should grant a sweeping exemption for nearly all staff employees working in elected members' offices because they exercise independent judgment and discretion in performing their responsibilities.

Other commenters urged the Board to modify the Labor Department regulations to take into account the unique job responsibilities of staff working for an elected member either in a personal office, in a leadership office or on committee. Recognizing that job titles alone cannot be dispositive of who is an exempt employee, these commenters urged the Board to identify with particularity those job duties which, if performed by an employee, would render him or her an exempt executive, administrative, or professional employee.

The Board is proposing to adopt the Labor Department's substantive regulations contained in Subpart A of Part 541 of 29 C.F.R. that set forth the fundamental criteria for satisfying each of the three exemptions. But, for the reasons explained below, the Board is not formally adopting the interpretative bulletins contained in Subpart B of Part 541 of 29 C.F.R., which discuss and illustrate through examples the Department's understanding of the exemption criteria.

With respect to some commenters' request that the Board modify the white collar exemptions, upon reflection, the Board has reluctantly concluded that such a modification would not satisfy the "good cause" requirement of Section 203(c)(2) of the CAA. The Board recognizes that the Secretary's regulations and interpretations were promulgated in a different era, with different employment paradigms in mind. Thus, the Board appreciates the many difficulties that employing offices will have in interpreting and reconciling these regulations to present day realities. Moreover, the Board is mindful of the significant impact the application of the administrative, executive and professional exemption will have on the structuring, functioning and expense of the Members' and Senators' personal offices and committee offices. However, the Board notes that private sector and state and local government employers face the same difficulties. And the Board has not found any sound, principled basis for modifying the exemption regulation for Congress and its instrumentalities. That resolved, the Board nonetheless wishes to make clear its intent to provide, as time and resources permit, appropriate general guidance to the Congress and its instrumentalities on how to identify and justify which employees are exempt. Such efforts made through the Office's education and information programs, will attempt to assist employing offices in determining which job duties will be considered exempt under the executive, administration or professional criteria.

Part 547, which defines, pursuant to Section 7(e)(3)(b) the standard that bona fide thrift or savings plans must meet in order not to be included within an employee's regular rate of pay for purposes of calculating overtime obligations under Section 7 of the FLSA. This is included in light of Section 203(a)1) of the CAA, which specifically applied the rights and protections of Section 7 of the FLSA.

Part 570, which sets forth the limitations on the use of child labor. This Part implements Section 12(c) of the FLSA, prohibiting oppressive child labor, as defined by Section 3(l) of the same Act. The former section is specifically referenced in Section 203(a)(1) of the CAA, while the latter must be referenced by reason of Section 225(f)(1) of the CAA. The inclusion of this Part in the separate regulations of the Senate is necessitated by the fact that the Senate allows for the appointment of congressional pages below the age of

16, unlike the House of Representatives, which by law sets a minimum age of 16 for such employees. For children under age 16, the FLSA regulations impose limitations on hours worked during the school year. Part 570 is also included in the separate regulations applicable to all other covered employees and employing offices. Given the hazardous nature of some of the activities of the support functions, such as maintenance and repair, Part 570 regulations are being proposed in the event that such instrumentalities employ children under 18 years of age. It is noted that the Board has not adopted regulations comparable to those set forth in the Labor Department's Subpart B (29 C.F.R. Sections 570.5-.27), authorizing the issuance of certificates of age. In addition, with respect to Section 570.52, governing the hazardous occupation of motor-vehicle driver and outside helper, the Board is not adopting the special exemption for school bus driving because by its terms no employing offices would satisfy the criteria of the regulation.

C. Secretary of Labor's regulations that the Board proposes not to adopt

In reviewing the remaining parts of the Labor Department's regulations, it is readily apparent that some have no application to the employing offices within the legislative branch. For this reason, the Board is not including them within its substantive regulations. Among the excluded regulations are: Part 510, which pertains to the application of the minimum wage provisions to Puerto Rico; Part 511, establishing a wage order procedure for American Samoa; Part 515, authorizing the utilization of State government agencies for investigations and inspections; Part 530, governing the employment of industrial homeworkers in certain industries; Part 549, defining the requirements of a "bona fide profit-sharing plan or trust;" Part 550, defining the term "talent fees;" Part 552, regulating the application of the FLSA to domestic service; Part 575, addressing child labor in certain agricultural employment; Parts 578, 579, and 580, implementing the civil money penalties provisions of the FLSA; and Part 679, dealing with industries in American Samoa. Unless public comments suggest otherwise, the Board intends including in the adopted regulations a provision stating that the Board has issued regulations on all matters for which the CAA requires a regulation. See Section 411 of the CAA.

Other substantive regulations could have application in the event that an employing office wished to avail itself of certain special wage rates, subminimum wage exemptions or overtime exemptions under the FLSA. These are found in: Parts 519-528, which authorize subminimum wages for full-time students, student-learners, apprentices, learners, messengers, workers with disabilities, and student workers; Part 548, which authorizes in the collective bargaining context the establishment of basic wage rates for overtime compensation purposes; and Part 551, which implements an overtime exemption for local delivery drivers and helpers. Unless public comments provide a sufficient justification to the contrary the Board is not proposing the adoption of regulations covering the foregoing subjects.

III. The Interpretive Bulletins and other relevant guidance

In addition to the substantive regulations found in Subchapter A, the Department of Labor has issued, under Subchapter B, "Statements of General Policy or Interpretations Not Directly Related to Regulations." 29 C.F.R Parts 775-794. Usually called Interpretive Bulletins, these statements make available in one place the official interpretations which guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties. As the interpretations of an administering agency, such statements are usually given some deference by the courts. As the Supreme Court has observed:

"the rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

However, unlike "substantive regulations," these interpretations are not issued by the agency pursuant to its statutory authority to implement the statute and, more significantly, do not have the force and effect of law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). The Board's mandate is only to issue substantive regulations that are "the same as the substantive regulations of the Secretary of Labor to implement the statutory provision [of the FLSA] applied" by Section 204(a) of the CAA unless modified for good cause (CAA Section 203 (c)(2)). Therefore, the Board, does not propose to adopt the non-substantive interpretations of the DOL and its Wage and Hour Division as substantive regulations under the CAA. Moreover, the Board is not proposing to issue the Department's interpretations as its own interpretations of the FLSA rights and protections made applicable under the CAA at this time. However, as discussed below, employing offices should be advised that, pursuant to the Portal to Portal Act, the Board will give due consideration the Secretary's interpretations of the FLSA.

Application of the Portal to Portal Act.—The Portal to Portal Act, 61 Stat. 84 (1947), codified generally at 29 U.S.C. Sections 216 and 251, et seq. ("PPA"), contains provisions which affect the rights and liabilities of employees and employers with regard to alleged underpayment of minimum or overtime wages under the FLSA. Section 4 of the PPA excludes from the definition of hours worked both activities preliminary to or postliminary to the worker's principal activities and travel time absent a contract, custom or practice to the contrary. 29 U.S.C. Section 254. Sections 9 and 10 of the PPA provide the employer with a defense against liability or punishment in any action or proceeding brought against it for failure to comply with the minimum wage and overtime provisions of the FLSA, where the employer pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any regulation, order, ruling, approval, interpretation, administrative practice or enforcement policy of the Wage and Hour Administrator of the Department of Labor. 29 U.S.C. Sections 258-259. The PPA also contains provisions which restrict and limit employee suits under section 16(b) of the FLSA. For example, section 11 of the PPA provides that in any action brought under section 216 of the FLSA, the court may in its discretion, subject to prescribed conditions, award no liquidated damages or award any amount of such damages not to exceed the amount specified in section 16(b) of the FLSA. 29 U.S.C. Section 260.

The Board has determined that the above provisions of the PPA are incorporated into section 203 of the CAA, either as an amendment to section 16(b) of the FLSA (which is expressly applied to the legislative branch under section 203(b) of the CAA), or by virtue of section 225(f) of the CAA, which applies the definitions and exemptions of the FLSA to the extent not inconsistent with the CAA. To that end, the Board will give due consideration to the interpretations of the FLSA of the Secretary of Labor. Moreover, employing offices may utilize these interpretations in attempting to understand the rights and protections under the FLSA that have been made applicable by the CAA. Unless and until the Secretary's interpretive statements are superseded or interpretative guidance or decisions to the contrary are issued by the Board or the courts, they may be relied upon for purposes of defending against claims brought under the CAA to the same extent as private sector employers may properly rely upon them in actions brought under the FLSA.

Joint employer doctrine.—The Board solicited comments in the ANPRM on whether and to what extent the joint employment doctrine as developed under the FLSA is applicable under the CAA. The comments generally advocated adoption of the doctrine to employing offices of the Congress. However, since the issue of joint employment is addressed through a DOL interpretive bulletin set forth in Part 791, 29 C.F.R., rather than a substantive regulation, the Board is not adopting it as such nor issuing it as its own interpretive statement. See discussion at Section III.

Equal Pay Act.—With respect to the Equal Pay Act (EPA), which is included in Section 6(d) of the FLSA, 29 U.S.C. Section 206(d), the Secretary of Labor promulgated interpretative regulations that were originally included in 29 C.F.R. Part 800. Pursuant to the provisions of Reorganization Plan No. 1 of 1978, as confirmed by the Congress in Public Law 98-532, 98 Stat. 2705 (1984), enforcement and administration of the EPA was transferred from the Secretary of Labor to the Equal Employment Opportunity Commission (EEOC). The EEOC promulgated its own interpretations implementing the EPA at 29 C.F.R. Part 1620. Thereafter, the Secretary deleted its interpretations. 52 FR 2517 (Jan. 23, 1987). Thus, there are no substantive regulations implementing the EPA. Under the rationale previously stated regarding the Portal to Portal Act, the Board declines to incorporate the EEOC interpretations as substantive regulations under the CAA but will recognize them as is appropriate.

Opinion Letters.—Commenters asked that the Board consider establishing a process under which the Office or the Board would issue opinion letters and upon which employing offices could rely, similar to the procedure followed by the Wage and Hour Administrator in sometimes providing such opinions at the request of private sector employers. The Board understands employing offices' desire for guidance and clarity regarding their obligations under the CAA.

To the extent that the Board itself can address issues through regulations or interpretations, it will do so. Moreover, the Office intends to provide appropriate education and technical assistance as part of its education and information responsibilities. But for the reasons stated here, the Board and the Office's ability to do so is limited by legal, resource and policy considerations. As is the case in the private sector context, many issues under these statutes can only be definitively resolved through case-by-case adjudication on particular facts. Moreover, except in the context of statutes subject to the Portal to Portal Act, it is doubtful that the Board or the Office has the statutory authority to issue guidance with legal effect (outside of the adjudicatory or rulemaking contexts); we are not aware of any such legal authorization for Executive Branch agencies to do so in the context of applying these same laws to the private sector. Further, the resources of the Board and the Office are limited: the first year appropriation is for $2.5 million. These resources are substantially less than those available to analogous Executive Branch agencies that administer fewer laws. Finally, public comment has not provided the Board with the facts necessary for yet making any of these determinations—and a detailed evidentiary record is necessary for such judgment to be made. In short, particularly in light of the various statutory responsibilities of the Office and the Board, it is not possible to give answers with legal effect to each individual request for information and guidance. While the Board will structure education and information programs to assist employees and employing offices, it is forced to respond that, like private employers, employing offices will generally have to rely on their own counsel and human resource advisors in determining their compliance with the Congressional Accountability Act.

IV. Method of approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 21st day of November, 1995.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

SUBTITLE C—REGULATIONS RELATING TO THE EMPLOYING OFFICES OTHER THAN THOSE OF THE SENATE AND THE HOUSE OF REPRESENTATIVES—C SERIES

CHAPTER III—REGULATIONS RELATING TO THE RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

PART C501—GENERAL PROVISIONS

Sec.
C501.00 Coresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C501.001 Purpose and scope.
C501.002 Definitions.
C501.003 Coverage.
C501.004 Administrative authority.
C501.005 Effect of Interpretations of the Labor Department.
C501.006 Application of the Portal-to-Portal Act of 1947.

§ C501.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the parts of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding parts of the Office of Compliance (CO) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

Part 531 Wage payments under the Fair Labor Standards Act of 1938—Part C531.

Part 541 Defining and delimiting the terms "bona fide executive," "administrative," and "professional" employees—Part C541.

Part 547 Requirements of a "Bona fide thrift or savings plan"—Part C547.

Part 570 Child labor—Part C570.

SUBPART A—MATTERS OF GENERAL APPLICABILITY

§ C501.101 Purpose and scope.

(a) Section 203 of the Congressional Accountability Act (CAA) provides that the rights and protections of subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. §§206(a)(1) & (d), 207.212(c)) shall apply to covered employees of the legislative branch of the Federal government. Section 301 of the CAA creates the Office of Compliance as an independent office in the legislative branch for enforcing the rights and protections of the FLSE, as applied by the CAA.

(b) The FLSA as applied by the CAA provides for minimum standards for both wages and overtime entitlements, and delineates administrative procedures by which covered worktime must be compensated. Included also in the FLSA are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the FLSA exempts specified employees or groups of employees from the application of certain of its provisions.

(c) This chapter contains the substantive regulations with respect to the FLSA that the Board of Directors of the Office of Compliance has adopted pursuant to Sections 203(c) and 304 of the CAA, which requires that the Board promulgate regulations that are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of §203 of the CAA] except insofar as the Board may determine, for good cause shown . . . that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

§ C501.102 Definitions.

For purposes of this chapter.

(c) *CAA* means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) *FLSA* or *Act* means the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201 et seq.).

(c) *Covered employee* means any employee, including an applicant for employment and a former employee, of the (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(d) (1) *Employee of the Office of the Architect of the Capitol* includes any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;(2) *Employee of the Capitol Police* includes any member or officer of the Capitol Police.

(e) *Employing office* and *employer* mean (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; (6) the Office of Compliance; or (7) the Office of Technology Assessment.

(f) *Board* means the Board of Directors of the Office of Compliance.

(g) *Office* means the Office of Compliance.

§ C501.103 Coverage.

The coverage of Section 203 of the CAA extends to any covered employee of an employing office without regard to whether the covered employee is engaged in commerce or the production of goods for interstate commerce and without regard to size, number of employees, amount of business transacted, or other measure.

§ C501.104 Administrative authority.

(a) The Office of Compliance is authorized to administer the provisions of Section 203 of the Act with respect to any covered employee or covered employer.

(b) The Board is authorized to promulgate substantive regulations in accordance with the provisions of Sections 203(c) and 304 of the CAA.

(c) The Board may in its discretion from time to time issue interpretative statements providing guidance to employees and to employing offices on the rights and protections established under the FLSA that are made applicable by Sections 203(a) and 225 of the CAA.

§ C501.105 Effect of interpretations of the Department of Labor.

(a) In administering the FLSA, the Wage and Hour Division of the Department of Labor has issued not only substantive regulations but also interpretative bulletins. Substantive regulations represent an exercise of statutorily-delegated lawmaking authority from the legislative branch to an administrative agency. Generally, they are proposed in accordance with the notice-and-comment procedures of the Administrative Procedure Act (APA), 5 U.S.C. §553. Once promulgated, such regulations are considered to have the force and effect of law, unless set aside upon judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See *Batterton* v. *Francis*, 432 U.S. 416, 425 n.9 (1977). See also 29 C.F.R. §790.17(b) (1994). Unlike substantive regulations, interpretative statements, including bulletins and other releases of the Wage and Hour Division, are not issued pursuant to the provisions of the APA and may not have the force and effect of law. Rather, they may only constitute official interpretations of the Department of Labor with respect to the meaning and application of the minimum wage, maximum hour, and overtime pay requirements of the FLSA. See 29 C.F.R. §790.17(c) (citing Final Report of the Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess., at p. 27 (1941)). The purpose of such statements is to make available in one place the interpretations of the FLSA which will guide the Secretary of Labor and the Wage and Hour Administrator in the performance of their duties unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect. The Supreme Court has observed: "[T]he rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance. The weight of such a judgment in a particular case will depend upon the thoroughness evident in the consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore* v. *Swift*, 323 U.S. 134, 140 (1944).

(b) Section 203(c) of the CAA provides that the substantive regulations implementing Section 203 of the CAA shall be "the same as substantive regulations promulgated by the Secretary of Labor" except where the Board finds, for good cause shown, that a modification would more effectively implement the rights and protections established by the FLSA. Thus, the CAA by its terms does not mandate that the Board adopt the interpretative statements of the Department of Labor or its Wage and Hour Division. The Board is thus not adopting such statements as part of its substantive regulations.

§ C501.106 Application of the Portal-to-Portal Act of 1947.

(a) Consistent with Section 225 of the CAA, the Portal to Portal Act (PPA), 29 U.S.C. §§ 216 and 251 et seq., is applicable in defining and delimiting the rights and protections of the FLSA that are prescribed by the CAA. Section 10 of the PPA, 29 U.S.C. § 259, provides in pertinent part:

[N]o employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and reliance on any written administrative regulation, order, ruling, approval or interpretation of [the Administrator of the Wage and Hour Division of the Department of Labor] . . . or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) In defending any action or proceeding based on any act or omission arising out of section 203 of the CAA, an employing office may satisfy the standards set forth in subsection (a) by pleading and proving good faith reliance upon:

(1) Any written administrative regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board.

(2) Any written administrative regulation, order, ruling, approval or interpretation, of the Administrator of the Wage and Hour Division of the Department of Labor: *Provided*, that such regulation, order, ruling, approval or interpretation had not been superseded at the time of reliance by any regulation, order, decision, ruling, approval or interpretation, or any administrative practice or enforcement policy, of the Board or the courts.

PART H531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

SUBPART A—PRELIMINARY MATTERS

Sec.
C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C531.1 Definitions.
C531.2 Purpose and scope.

SUBPART B—DETERMINATIONS OF "REASONABLE COST AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

C531.3 General determinations of 'reasonable cost'.
C531.6 Effects of collective bargaining agreements.

SUBPART A—PRELIMINARY MATTERS.

§ C531.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations	OC Regulations
531.1 Definitions	C531.1.
531.2 Purpose and scope	C531.2.
531.3 General determinations of "reasonable cost"	C531.3.
531.6 Effects of collective bargaining agreements	C531.6.

§ C531.1 Definitions.

(a) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative. The Secretary of Labor has delegated to the Administrator the functions vested in him under section 3(m) of the Act.

(b) *Act* means the Fair Labor Standards Act of 1938, as amended.

§ C531.2 Purpose and scope.

(a) Section 3(m) of the Act defines the term 'wage' to include the 'reasonable cost', as determined by the Secretary of Labor, to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by the employer to his employees. In addition, section 3(m) gives the Secretary authority to determine the 'fair value' of such facilities on the basis of average cost to the employer or to groups of employers similarly situated, on average value to groups of employees, or other appropriate measures of 'fair value.' Whenever so determined and when applicable and pertinent, the 'fair value' of the facilities involved shall be includable as part of 'wages' instead of the actual measure of the costs of those facilities. The section provides, however, that the cost of board, lodging, or other facilities shall not be included as part of 'wages' if excluded therefrom by a bona fide collective bargaining agreement. Section 3(m) also provides a method for determining the wage of a tipped employee.

(b) This part 531 contains any determinations made as to the 'reasonable cost' and 'fair value' of board, lodging, or other facilities having general application.

SUBPART B—DETERMINATIONS OF "REASONABLE COST" AND "FAIR VALUE"; EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

§ C531.3 General determinations of 'reasonable cost.'

(a) The term *reasonable cost* as used in section 3(m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging, or other facilities customarily furnished by him to his employees.

(b) Reasonable cost does not include a profit to the employer or to any affiliated person.

(c) The reasonable cost to the employer of furnishing the employee with board, lodging, or other facilities (including housing) is the cost of operation and maintenance including adequate depreciation plus a reasonable allowance (not more than 5 1/2 percent) for interest on the depreciated amount of capital invested by the employer: *Provided*, That if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair rental value (or the fair price of the commodities or facilities offered for sale) shall be the reasonable cost. The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be those arrived at under good accounting practices. As used in this paragraph, the term good accounting practices does not include accounting practices which have been rejected by the Internal Revenue Service for tax purposes, and the term depreciation includes obsolescence.

(d)(1) The cost of furnishing 'facilities' found by the Administrator to be primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

(2) The following is a list of facilities found by the Administrator to be primarily for the benefit of convenience of the employer. The list is intended to be illustrative rather than exclusive: (i) Tools of the trade and other materials and services incidental to carrying on the employer's business; (ii) the cost of any construction by and for the employer; (iii) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

§ C531.6 Effects of collective bargaining agreements.

(a) The cost of board, lodging, or other facilities shall not be included as part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee.

(b) A collective bargaining agreement shall be deemed to be 'bona fide' when pursuant to the provisions of section 7(b)(1) or 7(b)(2) of the FLSA it is made with the certified representative of the employees under the provisions of the CAA.

PART C541—DEFINING AND DELIMITING THE TERMS "BONA FIDE EXECUTIVE," "ADMINISTRATIVE," OR "PROFESSIONAL" CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN SECONDARY SCHOOL)

SUBPART A—GENERAL REGULATIONS

Sec.
C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C541.01 Application of the exemptions of section 13(a)(1) of the FLSA.
C541.1 Executive.
C541.2 Administrative.
C541.3 Professional.
C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

SUBPART A—GENERAL REGULATIONS

§ C541.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations at Title 29 of the Code of Federal Regulations under the

FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.

541.1 Executive—C541.1.
541.2 Administrative—C541.2.
541.3 Professional—C541.3.
541.5b Equal pay provisions of section 6(d) of the FLSA apply to executive, administrative, and professional employees—C541.5b.

§ C541.01 Application of the exemptions of section 13 (a)(1) of the FLSA.

(a) Section 13(a)(1) of the FLSA, which provides certain exemptions for employees employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in a secondary school), applies to covered employees by virtue of Section 225(f)(1) of the CAA.

(b) The substantive regulations set forth in this part are promulgated under the authority of sections 203(c) and 304 of the CAA, which require that such regulations be the same as the substantive regulations promulgated by the Secretary of Labor except where the Board determines for good cause shown that modifications would be more effective for the implementation of the rights and protections of covered employees.

§ C541.1 Executive.

The term employee employed in a bona fide executive * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the management of an employing office in which he is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretionary powers; and

(e) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours of work in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment; and

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the management of the employing office in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

§ C541.2 Administrative.

The term employee employed in a bona fide * * * administrative * * * capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of either:

(1) The performance of office or nonmanual work directly related to management policies or general operations of his employer or his employer's customers, or

(2) The performance of functions in the administration of the Congressional Page School or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c)(1) Who regularly and directly assists the head of an employing office, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in the regulations of this subpart), or

(2) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) Who executes under only general supervision special assignments and tasks; and

(d) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent, of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e)(1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week, exclusive of board, lodging or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers of the Congressional Page School: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

§ C541.3 Professional.

The term employee employed in a bona fide * * * professional capacity in section 13(a)(1) of the FLSA as applied by the CAA shall mean any employee:

(a) Whose primary duty consists of the performance of:

(1) Work requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee, or

(3) Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the Congressional Page School , or

(4) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field; and

(b) Whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) Who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1), (3), or (4) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section: *Provided further*, That the salary or fee requirements of this paragraph shall not apply to an employee engaged in computer-related work within the scope of paragraph (a)(4) of this section and who is compensated on an hourly basis at a rate in excess of 6 1/2 times the minimum wage provided by section 6 of the FLSA as applied by the CAA.

§ C541.5b Equal pay provisions of section 6(d) of the FLSA as applied by the CAA extend to executive, administrative, and professional employees.

The FLSA, as amended and as applied by the CAA, includes within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools) under section 13(a)(1) of the FLSA. Thus, for example, where an exempt administrative employee and another employee of the employing office are performing substantially "equal work," the sex discrimination prohibitions of section 6(d) are applicable with respect to any wage differential between those two employees.

PART C547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.

C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C547.0 Scope and effect of part.
C547.1 Essential requirements of qualifications.
C547.2 Disqualifying provisions.

§C547.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance (OC) Regulations under Section 203 of the CAA:

Secretary of Labor Regulations—OC Regulations.
547.0 Scope and effect of part—C547.0
547.1 Essential requirements of qualifications—C547.1
547.2 Disqualifying provisions—C547.2.

§C547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (FLSA), as applied by the CAA. In determining the total remuneration for employment which section 7(e) of the FLSA requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations.

§C547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(e)(3)(b) of the FLSA as applied by the CAA is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees: *Provided, however*, That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in any year may not exceed the total amount saved or invested by the participating employees during that year: *Provided, however*, That a plan permitting a greater contribution may be submitted to the Administrator and approved by him as a "bona fide thrift or savings plan" within the meaning of section 7(e)(3)(b) of the Act if:

(1) The plan meets all the other standards of this section;

(2) The plan contains none of the disqualifying factors enumerated in §C547.2;

(3) The employer's contribution is based to a substantial degree upon retention of savings; and

(4) The amount of the employer's contribution bears a reasonable relationship to the amount of savings retained and the period of retention.

(f) The employer's contributions shall be apportioned among the individual employees in accordance with a definite formula or method of calculation specified in the plan, which formula or method of calculation is based on the amount saved or the length of time the individual employee retains his savings or investment in the plan: Provided, That no employee's share determined in accordance with the plan may be diminished because of any other remuneration received by him.

§C547.2 Disqualifying provisions.

(a) No employee's participation in the plan shall be on other than a voluntary basis.

(b) No employee's wages or salary shall be dependent upon or influenced by the existence of such thrift or savings plan or the employer's contributions thereto.

(c) The amounts any employee may save under the plan, or the amounts paid by the employer under the plan may not be based upon the employee's hours of work, production or efficiency.

PART C570—CHILD LABOR REGULATIONS

SUBPART A—GENERAL

Sec.
C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.
C570.1 Definitions.
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SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

C570.31 Determination.
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C570.63 Occupations involved in the operation of paper-products machines (Order 12).
C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).
C570.66 Occupations involved in wrecking and demolition operations (Order 15).
C570.67 Occupations in roofing operations (Order 16).
C570.68 Occupations in excavation operations (Order 17).

SUBPART A—GENERAL

§C570.00 Corresponding section table of the FLSA regulations of the Labor Department and the CAA regulations of the Office of Compliance.

The following table lists the sections of the Secretary of Labor Regulations under the FLSA with the corresponding sections of the Office of Compliance Regulations under Section 202 of the CAA:

Secretary of Labor Regulations—OC Regulations.
570.1 Definitions—C570.1.
570.2 Minimum age standards—C570.2.
570.31 Determinations—C570.31.
570.32 Effect of this subpart—C570.32.
570.33 Occupations—C570.33.
570.35 Periods and conditions of employment—C570.35.
570.50 General—C570.50.
570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)—C570.51.
570.52 Occupations of motor-vehicle driver and outside helper (Order 2)—C570.52.
570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5)—C570.55.
570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7)—C570.58.
570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8)—C570.59
570.62 Occupations involved in the operation of bakery machines (Order 11)—C570.62
570.63 Occupations involved in the operation of paper-products machines (Order 12)—C570.63.
570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14)—C570.65.
570.66 Occupations involved in wrecking and demolition operations (Order 15)—C570.66.
570.67 Occupations in roofing operations (Order 16)—C570.67.
570.68 Occupations in excavation operations (Order 17)—C570.68.

§ C570.1 Definitions.

As used in this part:

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201–219).

(b) *Oppressive child labor* means employment of a minor in an occupation for which he does not meet the minimum age standards of the Act, as set forth in Sec. 570.2 of this subpart.

(c) *Oppressive child labor age* means an age below the minimum age established under the Act for the occupation in which a minor is employed or in which his employment is contemplated.

(d) [Reserved]

(e) [Reserved]

(f) *Secretary* or *Secretary of Labor* means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(g) *Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

(h) *Administrator* means the Administrator of the Wage and Hour Division or his authorized representative.

§ C570.2 Minimum age standards.

(a) All occupations except in agriculture. (1) The Act, in section 3(1), sets a general 16-year minimum age which applies to all employment subject to its child labor provisions in any occupation other than in agriculture, with the following exceptions:

(i) The Act authorizes the Secretary of Labor to provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor, if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being (see subpart C of this part); and

(ii) The Act sets an 18-year minimum age with respect to employment in any occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of minors of such age or detrimental to their health or well-being.

(2) The Act exempts from its minimum age requirements the employment by a parent of his own child, or by a person standing in place of a parent of a child in his custody, except in occupations to which the 18-year age minimum applies and in manufacturing and mining occupations.

SUBPART B [RESERVED]

SUBPART C—EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REG. 3)

§ C570.31 Determination.

The employment of minors between 14 and 16 years of age in the occupations, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child in labor.

§ C570.32 Effect of this subpart.

In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees between 14 and 16 years of age for the periods and under the conditions specified in §570.35 shall not be deemed to be oppressive child labor within the meaning of the Fair Labor Standards Act of 1938.

§ C570.33 Occupations.

This subpart shall apply to all occupations other than the following:

(a) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(b) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(c) The operation of motor vehicles or service as helpers on such vehicles;

(d) Public messenger service;

(e) Occupations which the Secretary of Labor may, pursuant to section 3(1) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

(f) Occupations in connection with:

(1) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(2) Warehousing and storage;

(3) Communications and public utilities;

(4) Construction (including demolition and repair); except such office (including ticket office) work, or sales work, in connection with paragraphs (f)(1), (2), (3), and (4) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

§ C570.35 Periods and conditions of employment.

(a) Except as provided in paragraph (b) of this section, employment in any of the occupations to which this subpart is applicable shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any 1 week when school is not in session;

(3) Not more than 18 hours in any 1 week when school is in session;

(4) Not more than 8 hours in any 1 day when school is not in session;

(5) Not more than 3 hours in any 1 day when school is in session;

(6) Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

SUBPART D [RESERVED]

SUBPART E—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§ C570.50 General.

(a) Higher standards. Nothing in this subpart shall authorize non-compliance with any Federal law or regulation establishing a higher standard. If more than one standard within this subpart applies to a single activity the higher standard shall be applicable.

(b) Apprentices. Some sections in this subpart contain an exemption for the employment of apprentices. Such an exemption shall apply only when: (1) The apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Executive Director of the Office of Compliance as employed in accordance with the standards established by the Bureau of Apprenticeship and Training of the United States Department of Labor.

(c) Student-learners. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school and;

(2) Such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age.

§ C570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

(a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in paragraph (a)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a "nonexplosives area" as defined in paragraph (b)(3) of this section.

(2) The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

(b) Definitions. For the purpose of this section:

(1) The term plant or establishment manufacturing or storing explosives or articles containing explosive component means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(2) The terms explosives and articles containing explosive components mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers (49 CFR parts 71 to 78) issued pursuant to the Act of June 25, 1948 (62 Stat. 739; 18 U.S.C. 835).

(3) An area meeting all of the criteria in paragraphs (b)(3) (i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (b)(3) (i) through (iii) of this section.

§ C570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) Findings and declaration of fact. Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § C570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) Exemption—Incidental and occasional driving. The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided*, such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further*, that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) Definitions. For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

§ C570.55 Occupations involved in the operation of power-driven woodworking machines (Order 5).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven wood-working machines are particularly hazardous for minors between 16 and 18 years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(b) Definitions. As used in this section:

(1) The term power-driven woodworking machines shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(2) The term off-bearing shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include: (i) The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (ii) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§ C570.58 Occupations involved in the operation of power-driven hoisting apparatus (Order 7).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(b) Definitions. As used in this section:

(1) The term elevator shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(2) The term crane shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(3) The term derrick shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with an hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(4) The term hoist shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(5) The term high-lift truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(6) The term manlift shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(c) Exception. (1) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(2) For the purpose of this exception the term automatic elevator shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(3) For the purpose of this exception, the term automatic signal operation elevator shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors—from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

§C570.59 Occupations involved in the operations of power-driven metal forming, punching, and shearing machines (Order 8).

(a) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(b) Definitions. (1) The term operator shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term helper shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term forming, punching, and shearing machines shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. 570.50 (b) and (c).

§C570.62 Occupations involved in the operation of bakery machines (Order 11).

(a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cooky or cracker machine.

§C570.63 Occupations involved in the operation of paper-products machines (Order 12).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) Definitions. (1) The term operating or assisting to operate shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term paper products machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

§C570.65 Occupations involved in the operations of circular saws, band saws, and guillotine shears (Order 14).

(a) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(b) Definitions. (1) The term operator shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(2) The term helper shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(3) The term machines equipped with full automatic feed and ejection shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(4) The term circular saw shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(5) The term band saw shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(6) The term guillotine shear shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in §570.50 (b) and (c).

§C570.66 Occupations involved in wrecking and demolition operations (Order 15).

(a) Finding and declaration of fact. All occupations in wrecking and demolition operations are particularly hazardous for the employment of minors between 16 and 18 years of age and detrimental to their health and well-being.

(b) Definition. The term wrecking and demolition operations shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure.

§C570.67 Occupations in roofing operations (Order 16).

(a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) Definition of roofing operations. The term roofing operations shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) The installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment, or similar appliances attached to roofs.

(c) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

§ C570.68 Occupations in excavation operations (Order 17).

(a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons between 16 and 18 years of age: (1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except: (i) Manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(b) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in Sec. C570.50 (b) and (c).

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Family and Medical Leave Act of 1993

Notice of proposed rulemaking

Summary: This notice contains proposed regulations to extend rights and protections under the Family and Medical Leave Act of 1993 ("FMLA") to employees of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below. These proposed regulations implement sections 202 (a) and (b) of the Congressional Accountability Act of 1995 ("CAA"), Public Law 104–1, 2 U.S.C. §§ 1312(a)–(b).

The CAA extends the rights and protections of eleven labor and employment laws to covered employees within the legislative branch. Section 202 governs the extension of the rights and protections of the FMLA to covered employees and employing offices of the House of Representatives, the Senate, and seven Congressional instrumentalities listed in paragraph (3) below. The purposes of the FMLA include entitling employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition.

This notice proposes that substantially similar regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities; and their employees. Accordingly:

(1) *Senate.* It is proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) *House of Representatives.* It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) *Certain Congressional instrumentalities.* It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment, and their employees; and this proposal regarding these seven Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due on or before the date 30 days after the date of publication of this notice in the Congressional Record.

Addresses: Submit written comments (an original and 10 copies) to the Chair of the Board of Directors, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Library of Congress, James Madison Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224–2507.

Supplementary information:

A. *Background.*

Statutory background. The Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. §§ 1301 et seq., was enacted into law on January 23, 1995. The CAA extends the application of eleven federal labor and employment laws to covered employees and employing offices within the legislative branch.

Sections 202 (a) and (b) of the CAA apply rights and protections of the Family and Medical Leave Act of 1993 ("FMLA") to covered employees and employing offices. The FMLA generally requires employers to permit covered employees to take up to 12 weeks of unpaid, job-protected leave during a 12-month period for the birth of a child and to care for the newborn; placement of a child for adoption or foster care; care of a spouse, child, or parent with a serious health condition; or an employee's own serious health condition. The FMLA and the regulations of the Secretary of Labor ("Secretary") implementing the FMLA contain provisions concerning the maintenance of health benefits during leave, job restoration after leave, notice and medical certifications of the need for FMLA leave, and the relationship of FMLA leave to the rights under other employment laws including the Americans With Disabilities Act, workers compensation, and Title VII of the Civil Rights Act of 1964.

Section 202(d) of the CAA directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations to implement the rights and protections under section 202. Section 202(d)(2) further states that the regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) [of section 202] except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section."

Offices to which the proposed regulations apply. As noted above in the Summary, the regulations proposed in this notice are to be adopted in three separate bodies of regulations: (1) one applying to the Senate and its employees, (2) one applying to the House of Representatives and its employees, and (3) one applying to the seven Congressional instrumentalities listed above in the Summary, and their employees.[1] It is proposed that there will be only minor, non-substantive variations among the three versions of these regulations. These proposed variations are set forth in the proposed regulatory language included in this NPRM.

B. The Advance Notice of Proposed Rulemaking, and Response to Comments

On September 28, 1995, the Board of Directors of the Office of Compliance issued an Advance Notice of Proposed Rulemaking ("ANPRM") soliciting comments from interested parties in order to obtain information and participation early in the rulemaking process. 141 Cong. Rec. S 14542 (daily ed., Sept. 28, 1995). In addition to inviting comment on specific questions arising under five of the statutes made applicable by the CAA, the Board and the Executive Director, and the Deputy Executive Directors of the Office of Compliance have consulted with the Chair of the Administrative Conference of the United States, the Secretary of Labor, and the Director of the Office of Personnel Management with regard to the development of these regulations in accordance with Section 304(g) of the CAA. Based on the information gleaned from these comments on the ANPRM and this consultation, the Board is publishing these proposed rules pursuant to section 202(d) of the CAA, 2 U.S.C. § 1312(d).

In response to the ANPRM, the Board received comments from a variety of sources expressing a wide range of views. The following discussion describes issues raised by the ANPRM and by comments in response to the ANPRM, and explains how the Board has taken these comments into account in developing proposed regulations. The Board invites further comments on the regulations proposed in this notice.

The first two issues—on whether the Board should modify the Secretary of Labor's regulations, and on notice posting and recordkeeping—are generic issues that arise under several statutes made applicable by the CAA. The comments on these issues and the Board's conclusions are fully discussed in the Notice of Proposed Rulemaking (NPRM) regarding the application of the Fair Labor Standards Act (FLSA). The NPRM regarding the FLSA is being published today, in this issue of the Congressional Record. Therefore, the comments and analysis regarding these two issues are only briefly summarized in this notice, and the reader is directed to the NPRM regarding the FLSA for a fuller discussion.

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[1] This notice does not apply to the General Accounting Office ("GAO"), the Government Printing Office ("GPO"), or the Library of Congress (the "Library"). Section 201 of the FMLA already applies to GAO, GPO, and the Library (5 U.S.C. §§ 6381 et seq.); section 230 of the CAA requires a study of the application of the FMLA to these three agencies; and section 202(c) of the CAA amends the FMLA provisions applicable to the GAO and the Library, effective one year after the study is transmitted to Congress.

1. Whether and to what extent the board should modify the labor department's regulations

The first question posed in the ANPRM was the general question of whether and to what extent the Board should modify the Department of Labor's regulations with respect to all of the statutes made applicable by the CAA.

Those commenters who expressed views on this issue cited both the statute and the legislative history for the position that the CAA presumes that the regulations of the Department of Labor should generally not be modified. As noted above, the comments received in response to this question are summarized and discussed in the NPRM regarding the application of the FLSA, which is being published today in the CONGRESSIONAL RECORD.

Based on the comments and the Board's understanding of the law and the institutions to which it is being made applicable, the Board has decided to issue the FMLA regulations with only limited and necessary modifications to the Secretary's regulations. In making the FMLA applicable, the CAA changed the key definition of "eligible employee," and the Board therefore proposes to make a corresponding modification to the definition of "eligible employee" in the Secretary's regulations. Certain conforming amendments and technical changes in the nomenclature of the Secretary's regulations have also been proposed, and those sections that are clearly inapplicable have specifically not been proposed for adoption by the Board. These proposed modifications to the Secretary's regulations are discussed below.

2. Notice posting and recordkeeping

The ANPRM also invited comment on whether the notice posting and recordkeeping requirements of the various laws made applicable by the CAA are incorporated as statutory requirements of the CAA. The ANPRM inquired whether, if such requirements were not incorporated, could and should the Board develop its own requirements pursuant to its "good cause" authority. The ANPRM also invited comment on proposing guidelines and models for recordkeeping and notice posting. As noted above, the comments received in response to these questions are summarized and discussed in the NPRM regarding the application of the FLSA.

The Board agrees with those commenters who took the position that, if employing offices are to be treated the same as private sector employers are treated under the FMLA, they should have to comply with the statute's notice posting and recordkeeping requirements. Moreover, the Board notes that notice posting and recordkeeping promote the full and effective enforcement of incorporated rights and protections. In the Board's view, notice posting and recordkeeping may well be in employers' interests both as a sound personnel practice and in order to defend against subsequent litigation.

But, while the CAA incorporates certain specific sections of the FMLA, the CAA explicitly did not incorporate the notice posting and recordkeeping requirements of Sections 109 and 106(b), of the FMLA. For the reasons discussed with respect to the FLSA, as the CAA has not incorporated the notice posting and recordkeeping requirements of the FMLA, the Board will not do so. Accordingly, the Board proposes not to adopt sections 825.300 and 825.500 of the Secretary's FMLA regulations.

For similar reasons, the Board is proposing not to adopt a provision of section 825.110(c) of the Secretary's regulations. Section 825.110(c) addresses the question of how to determine whether the 1,250-hour leave-eligibility requirement has been satisfied. This section states that the principles established under the Fair Labor Standards Act (FLSA) will be used, and states further that, if an employer does not maintain an accurate record of hours worked, the employer has the burden of showing that the employee has not worked the requisite number of hours. Section 825.110(c) further provides that, in the event the employer is unable to meet this burden, the employee is deemed to have met the test. Section 101(2)(C) of the FMLA states that, for purposes of determining whether an employee worked the requisite 1,250 hours, the legal standards established under the FLSA shall apply. Although section 101(2)(C) of the FMLA incorporates the recordkeeping requirements of the FLSA, the Board has concluded that section 101(2)(C) does not make the FLSA recordkeeping requirements applicable under the CAA. This is because, by excluding the FLSA recordkeeping requirements from the FLSA provisions of the CAA, Congress indicated its intent that those recordkeeping requirements should not apply with respect to any CAA requirement. Accordingly, the Board has concluded that the legal authority supporting the Secretary's regulatory provision regarding burdens was not incorporated into the FMLA provisions of the CAA, and this regulatory provision is not included in the Board's proposed regulations.

The Board notes, however, that, as a practical matter, implementation of the FMLA, as made applicable by the CAA, requires an adequate system of keeping records. Such records will be needed, for example, for the employing office to know when employees have satisfied the 12-months and 1,250-hours of service for eligibility, and to keep track of how much FMLA leave each employee has taken during a leave year. As various commenters suggest, the Board will provide guidance to employing offices concerning model recordkeeping practices as part of carrying out its program of education under section 301(h)of the CAA (2 U.S.C. 1381(h)).

The Board would also note, as it did in the NPRM involving the application of the rights and protections of the FLSA, that the absence of recordkeeping and notice posting requirements may create a void which can only partially be filled by the program of education to be carried out by the Board. The Board also would emphasize that employees will in many circumstances be able to establish a prima facie case simply by their own testimony where the employing office has failed to maintain adequate, accurate records and an employing office may find that its ability to respond to an employee's prima facie case is substantially burdened by its failure to keep accurate records. If Congress wishes to experience the same burdens as faced by the private sector and also to address these issues, it should enact recordkeeping requirements comparable to those of the FMLA. (Of course, like the regulations under the FMLA, such recordkeeping requirements may leave to the discretion of each employing office the precise form and manner in which records will be kept.) But, in light of the text and structure of the CAA, the Board believes that it is up to Congress to decide whether to do so.

Finally, section 825.304(c) of the Secretary's regulations refers to the posting of notices without mandating such posting. Section 825.304 implements section 102(e) of the FMLA which requires that an employee give the employer at least 30 days" advance notice of any foreseeable FMLA leave. The regulation provides that, if such notice is not provided, the employer may delay the taking of FMLA leave until at least 30 days after the date of actual notice from the employee. However, in order for the onset of leave to be delayed for lack of required notice, paragraph (c) requires that it must be clear that the employee had actual notice of the FMLA notice requirements. Finally, the paragraph offers that "This condition would be satisfied by the employer's proper posting of the required notice at the worksite where the employee is employed." Because this regulation implements section 102(e) of the FMLA, the Board believes that it must be adopted, absent good cause to modify it. Only a minor modification is needed. Under section 301(h) of the CAA, the Office must distribute information to employing offices in a form suitable for posting, but there is no requirement that the information actually be posted. Accordingly, the Board proposes to refer not to the "required notice", but to the "information distributed by the Office suitable for posting".

3. May an employee aggregate months and hours worked at more than one employing office to satisfy the 12-months and 1,250-hours of work conditions for eligibility?

Both the FMLA and the CAA include definitions of "eligible employee" which require that, to be eligible for FMLA leave, an employee must first have been employed for 12 months and for at least 1,250 hours during the previous 12-month period. However, the wording of the two definitions is significantly different.

The FMLA definition of "eligible employee" requires employment for at least 12 months "by the employer with respect to whom leave is requested" and for at least 1,250 hours of service during the previous 12 months with "such employer". In contrast, under section 202(a)(2)(B) of the CAA, an "eligible employee" is defined as a covered employee who has been employed in "any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months". It is clear that the FMLA definition requires that the 12 months and 1,250 hours must have been worked for the same employer from which the employee requests leave. However, the CAA is ambiguous as to whether an employee who worked for more than one employing office can aggregate the months and hours of employment from more than one employing offices to satisfy the 12-month and 1,250-hour requirements.

Accordingly, the ANPRM asked: Whether and, if so, how the 12 months and 1,250 hours of work should be calculated for employees who worked for more than one employing office.

Commenters expressed opposing views on this question:

One commenter argued that each employing office, in practice and under the CAA, is a separate, independent employer. Therefore, "employing offices" under the CAA should be treated the same as "employers" under the FMLA. Under this view, except in unusual circumstances, an employee must have worked for 12 months, and for 1,250 hours within the previous 12 months, for the particular employing office from which leave is requested.

Another commenter argued that employing offices under the CAA should be treated the same as part of a single institutional "employer" under the FMLA. The Board should treat employing offices as part of a single employer. In this view, employing offices would be analogous to the separate "establishments" or "divisions" of a single corporate employer.

A third view, with respect to the 1,250-hour requirement, was presented by another commenter. For employees who are employed by more than one employing office, the Board should make clear that hours of employment in each employing office will be considered when determining whether or not the 1,250 hour threshold has been met.

The Board believes that the language of the CAA is ambiguous. According to the dictionary, among several possible meanings, the term "any" may mean "one (no matter which one) of more than two", or it may mean "every". Webster's New Universal Unabridged Dictionary (deluxe 2d ed., 1983). If the first meaning were applied, the 12 months and 1,250 hours would have to be accrued in one single employing office; if the second meaning were applied, the months and hours could be aggregated from every employment office where the employee worked.

The Board has concluded that the better understanding of the CAA language is the latter one. The FMLA definition is explicit that the 12 months must have been served with "the employer with respect to whom leave is requested", and the 1,250 hours of service must also have been with "such employer". However, in the CAA, Congress substituted the phrase "any employing office" in place of the FMLA's precise reference to the particular employer from whom leave is requested. It therefore appears that eligibility should be determined on the basis of months and hours worked for employing offices other than just the one from which the leave is requested.[2]

Based on the Board's understanding of the meaning of the CAA, the Board proposes to modify the regulations as promulgated by the Secretary—(1) to incorporate the definition of "eligible employee" as set forth in section 202 of the CAA, and (2) to include language clarifying that, where an employee works for two or more employing offices, the months and hours worked will be aggregated for purposes of determining eligibility. (See §§825.110, 825.800 of the proposed regulations.)

4. Should the Board's regulations retain the House of Representatives rule under which employees are eligible for FMLA leave immediately upon employment?

Title V of the FMLA has applied certain rights and protections to the House and Senate since August 1993. Section 502, which applies to the House of Representatives, and rules adopted in the House to implement section 502, provide that House employees become eligible for FMLA leave immediately, without any minimum months or hours of employment.

In response to the ANPRM, some commenters questioned whether the Board should retain this approach for the House. Certain commenters argued that making FMLA leave immediately applicable in the House is based on the maximum two-year employment period in the House, which comes to a discrete end in the House at the conclusion of each Congress. Immediate eligibility allegedly diminishes many of the anticipated problems and issues regarding the administration of the leave year, treatment of joint employer status, and inconsistency of application. Accordingly, they urged the Board to retain current immediate eligibility for the House. Other commenters urged the opposite—i.e., that the Board should retain the private-sector eligibility requirements of 12 months and 1,250 hours.

The Board recognizes that the two-year employment cycle of the House of Representatives creates terms and conditions of employment which differ from the private sector. The Board also recognizes that at least some within the House of Representatives believe that immediate FMLA eligibility is an important element of an appropriate FMLA program for the House. However, for the Board's regulations to make House employees immediately eligible for FMLA leave would go beyond the express terms of the CAA.

Of course, neither the FMLA, as applied by the CAA, nor the regulations being proposed by the Board, would forbid the House from establishing a more generous leave program under its own authority. See §403 of the FMLA (applied by §225(f)(1) of the CAA); §825.700 of the proposed regulations. These provisions state that employing offices are not intended to be discouraged from adopting or retaining leave policies more generous than any policies that comply with FMLA requirements. Therefore, individual employing offices remain free to grant leave to employees immediately upon employment, and nothing in the FMLA, as applied by the CAA, should affect any ability of the House to mandate immediate leave-eligibility for all House employing offices under its own authority. This should enable the House to retain much of the value of its current FMLA program, if the House determines that it wishes to retain immediate eligibility for leave.

The Board recognizes that, if the House decides to grant leave to employees who do not satisfy the CAA definition of an "eligible employee," attention must be paid to the question of how such leave would be treated under both FMLA and FLSA, as made applicable by the CAA. For example, an employing office may wish to "dock" an employee's pay for leave taken for partial-day absences. However, §825.206(c) of the Board's proposed regulations provide: "Hourly or other deductions which are not in accordance with [applicable requirements under FLSA regulations] may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption [from FLSA requirements]." Furthermore, in preamble language to the Secretary's FMLA regulations, the Secretary stated: "Leave granted under circumstances that do not meet FMLA's coverage, eligibility, or specified reasons for FMLA-qualifying leave may not be counted against FMLA's 12-week entitlement." 60 Fed. Reg. 2230, col. 1 (Jan. 6, 1995).

In light of all of these factors, the Board does not believe that good cause exists for the Board's regulations to make House employees immediately eligible for FMLA leave.

5. Should the Board designate a uniform leave year?

As noted above, title V of the FMLA made certain rights and protections under the FMLA available to employees of the House and Senate. On August 5, 1993, the House Committee on House Administration adopted regulations and forms to implement the FMLA in the House. Among other things, these rules designated the period from January 3 of one year through January 2 of the following year as the FMLA "leave year" for all employers of the House. (The term "leave year" is used here to refer to the 12-month period within which the 12 weeks of leave may be taken.) This regulation has been retained by the Committee on House Oversight. However, section 502 of the FMLA, upon which the House regulations were based, is repealed by the CAA effective January 23, 1996.

With this as background, the ANPRM posed the following question: whether there is "good cause" to believe that designating a uniform FMLA leave year would be "more effective" for implementation of the rights and protections of the CAA than the regulations promulgated by the Secretary. The Secretary's regulations provide considerable freedom to employers to designate the 12-month period appropriate to their office.

Several commenters supported the use of a uniform leave year, and urged the Board to retain a uniform year in its rules, at least for the House. Other commenters disagreed.

Favoring the uniform leave year:

Certain commenters argued that the January 3 through January 2 period is based on the maximum two-year employment period in the House, which comes to a discrete end at the conclusion of each Congress. Because this two-year employment cycle is unique to the House, the Board's regulations should "retain" the current, uniform manner in which FMLA is applied to the House, as a more effective way to implement the FMLA than the various options for defining leave years available under the Secretary's regulations. Furthermore, the uniform leave year is much easier to implement and understand, so that employees are less likely to lose their rights.

Another commenter pointed out that joint employment is very common in Congress, and argued that applying different leave years will cause administration to be problematic.

Opposing a uniform leave year:

Other commenters were doubtful of the need for the Board to establish a uniform leave year for the House, and saw no reason why employing offices should be denied flexibility.

Another commenter clearly took a position opposed to establishing a uniform leave year for the Senate. Each employing office should be allowed to choose any method allowed by the Secretary's regulations, and there is no "good cause" to restrict employers' choice.

The Board recognizes that the use of a uniform leave year may have advantages. However, there is also value in allowing employing offices the flexibility to apply a leave year that is appropriate to the office's circumstances.

Much of the advantage of a uniform leave year, as described by the commenters, involves making the FMLA program easier for the employing offices and for the House payroll and administrative offices to administer.

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[2] This interpretation is consistent with the section-by-section analysis placed in the Congressional Record by Senator Grassley on behalf of himself and Senator Lieberman. Congressional Record, page S 623, col. 3 (Jan. 9, 1995).

However, nothing in the FMLA, as applied by the CAA, or in the regulations being proposed by the Board thereunder, would forbid the House from retaining these benefits by retaining its uniform leave year under the House's own authority. Under the FMLA and the Secretary's regulations, each employer is free to select a leave year. The Board is unaware of anything in the FMLA or the Secretary's regulations that would forbid House employing offices from establishing a uniform leave year for themselves, either by voluntary agreement among employing offices, or by establishing a uniform year under the House's authority of self-regulation. (Senate employing offices would, of course, also be free to consider a uniform leave year for some or all Senate employing offices, if they so desire.)

The Board also recognizes that use of a uniform leave year may provide some benefits and protections for eligible employees. When employees transfer from one employing office to another, or when they work simultaneously for more than one employing office, the application of different leave years by different employing offices could cause confusion and, in some circumstances, could limit flexibility by forcing an employee to fit leave within the constraints of differently defined years. This concern is discussed below, under the topic of whether the use of different leave years would affect FMLA leave rights. As noted, when an employee works jointly for two or more employing offices that apply inconsistent leave years, the employing offices will have to apply a single leave year for the employee.

For these reasons, the Board does not believe that there is good cause to mandate a uniform leave year.

6. Should the definitions of "joint employer", "integrated employer", or "successor employer" be retained or modified?

In the ANPRM, the Board explained that, under certain circumstances under the Secretary's FMLA regulations, two or more employers of the same employee may be treated as a single employer. The concepts under which this may be done are set forth within the provisions applicable to "joint employers", "integrated employers", and "successor employers."

Accordingly, the ANPRM asked for comment regarding: Whether and, if so, how the definitions of "joint employer", "integrated employer", or "successor employer" set forth in the regulations promulgated by the Secretary should be applied and/or modified.

Commenters offered several varying proposals on how these definitions should be modified.

One commenter suggested that, where an employee works concurrently for more than one employing office, the employing offices might jointly decide which of the employing offices will be designated the "primary" employer for purposes of FMLA compliance.

Another commenter suggested that "joint employment" will occur in the House where an employee is under the actual direction and control of a Member, even if another employing authority, such as a committee, performs a ministerial function with respect to payroll administration.

A commenter stated that no two employing offices in the Senate are ever "under common control". A "joint employer" relationship was said to exist in the Senate in only three situations: (a) an employee supplied by a temporary or leasing agency or supplied by another agency on detail, (b) working in two Senators' joint home office, or (c) working on common issues or other matters for more than one employing office. Where there is no "primary" employer, all must designate a single leave year for all of their joint employees. The commenter also stated that the concepts of integrated employer and successors in interest are not applicable to the Senate.

Another commenter suggested that, in the case of joint employment, reinstatement rights should apply with respect to both joint employers.

Finally, a commenter suggested that the Board should adopt the Department of Labor's regulations and allow each employing office to interpret them.

Integrated employer. The Secretary's regulations use the term "integrated employers" to refer to employers that are so closely connected that they are deemed a single entity. Under these regulations, whether employers are an "integrated employer" is determined by review of the entire relationship, and the factors to be considered "include': (i) common management, (ii) interrelation between operations, (iii) centralized control of labor relations, and (iv) common ownership/financial control.

If two employing offices were to be considered an "integrated employer" under the FMLA as applied by the CAA, employee eligibility and employer coverage would not be affected because employing offices are covered regardless of size, and employees' months and hours worked for any employing offices are aggregated for determining eligibility. However, being deemed an "integrated employer" may have implications for the determining employing offices' compliance obligations, so the concept of "integrated employer" should not be discarded as irrelevant.

The first three criteria listed in the Secretary's regulation—i.e., common management, interrelated operations, and centralized control of labor relations—appear to be clearly relevant and appropriate to determining whether two or more offices should be considered a single employing office. One commenter argued that the fourth criterion—common ownership/financial control—is foreign to the Senate. The Board agrees that "common ownership" is inapplicable to employing offices and their employees, and proposes not to adopt it. "Financial control" would probably not be applicable to employing offices in ordinary circumstances, but, in light of the fact that this criterion might prove to be useful in dealing with some unanticipated circumstance, the Board sees no need to omit this criterion.

For these reasons, the Board does not believe that there is good cause to omit the regulation on "integrated employer," and the Board proposes only to delete the reference to "common ownership" from the regulation.

Successor in interest. Like the "integrated employer" provision, the "successor in interest" concept has no implications for whether employees are eligible or employing offices are covered. However, some situations may arise where the concept of successorship will be relevant. For example, if committee jurisdictions are restructured, it may be necessary to determine which, if any, of the surviving committees is the "successor in interest" to the former committee. Thus, determining the successor may be important in determining whether a remaining committee must grant leave for an eligible employee who provided adequate notice to the former committee, or must continue leave begun while an employee was employed by the former committee.

The concept of "successor in interest" is developed in section 825.107 of the Secretary's regulations. The regulations state that a determination of whether a "successor in interest" exists is determined by the "entire circumstances * * * viewed in their totality". The regulation also states: "The factors to be considered include: (1) Substantial continuity of the same business operations; (2) Use of the same plant; (3) Continuity of the work force; (4) Similarity of jobs and working conditions; (5) Similarity of supervisory personnel; (6) Similarity of machinery, equipment, and production methods; (7) Similarity of products or services; and (8) The ability of the predecessor to provide relief."

The Board is concerned that several of the factors listed in 29 C.F.R. §825.107 are largely inapplicable. Except for a few shops, employing offices do not have "business operations". Few employing offices have a "plant", "machinery, equipment, and production methods" or "products or services". Accordingly, the Board proposes not to adopt §825.107 of the Secretary's regulations. Although the Board would wish to provide guidance on how the concept of "successor employer" would be applied under the CAA, it is impossible at this point to foresee how successorship will arise in the unique context of employing offices covered under the CAA. Accordingly, the determinations as to successorship may be addressed in future rulemaking or in case-by-case adjudication. In the latter situation, litigants may raise the question of successorship, and the Board would expect that common-law or other recognized principles of successorship might be considered or applied by the hearing officer, the Board, or a court.

Joint employers. The "joint employer" definition also would not affect employee eligibility, because hours of work are aggregated for eligibility purposes. However, the concept of joint employment is important for determining which employing office or employing offices have responsibility for FMLA compliance. The Board proposes that the regulatory section on joint employment can be adopted with relatively little revision. Examples of joint employment described in comments could be appropriately evaluated with reference to the criteria set forth in the regulation. For example, where an employee on a committee payroll is under the actual direction and control of a Member of the House of Representatives or a Senator, it may be relevant to consider whether the committee is acting "in the interest of" the Member's or Senator's personal office in relation to the employee, or whether the committee and the personal office are under "common control" with respect to the employee's employment. (See §§825.106(a)(2)–(3) of these proposed regulations.) The Board therefore proposes to add to the regulation a reference to examples of joint employment proposed in comments.

Finally, the Board acknowledges the view expressed by some commenters, that there may not be a primary employer in every instance of joint employment, and that joint employers should, by agreement, designate which single employing office will be responsible for compliance with FMLA obligations with respect to the joint employee. However, any such agreement cannot relieve the other joint employing offices of any FMLA responsibilities that are not fulfilled.

7. Whether the use of different leave years by different employing offices would affect the FMLA leave rights of "eligible employees" who are employed by more than one employing office?

Finally, the Board in the ANPRM recognized that a uniform leave year might not be required under Board regulations, and therefore asked for comment whether the lack of uniformity could jeopardize employees' leave rights. The Board suggested that this question be considered in light of the definition of "joint employer", "integrated employer", and "successor employer".

A commenter distinguished the situation of joint employment from the situation of independent employment. In the case of joint employment, if there is no primary employer, all of the employers must jointly designate a leave year for the joint employees. If an employee works at separate times for separate, independent employers, the employers may designate different leave years without depriving the employee of any FMLA rights. If an employee moves from joint employment to become employed by only one of the employers, or moves from being employed by one employer to being employed by that and another employer jointly, and if the applicable leave year therefore changes, the procedure under §825.200(d)(1) would apply. (Under this section, when an employer chooses to shift from one leave year to another, the employee is authorized to take advantage of whichever leave year is more beneficial.)

A commenter suggested that the regulations should authorize joint House employing offices to designate which one will be the "primary" employer responsible for fulfilling FMLA responsibilities.

Furthermore, as noted above, commenters argued that a uniform leave year is easier to understand, so that employees are less likely to lose their FMLA rights through inadvertence or otherwise, and that, if employing offices adopt different leave years, administration of the FMLA requirements would be problematic.

The Board recognizes that the use of inconsistent leave years may make implementation of FMLA provisions of the CAA more complicated, and might have some impact on employees who transfer from one employing office to another or who work independently for more than one employing office. However, where an employee is employed jointly by employing offices that ordinarily use different leave years, commenters suggested that the joint employers either (1) designate one employer whose leave year will apply, or (2) jointly designate an applicable leave year. Another commenter suggested that, where an employee transfers between being jointly employed and being employed by only one of the employing offices, the procedures under §825.200(d)(1) could apply. These approaches would not appear to raise difficulties, provided the employee's FMLA entitlement is not compromised.

In light of these considerations, the Board does not believe that there is good cause to modify the Secretary's regulations with respect to the possibility that different employing offices will apply different leave years.

C. Other drafting issues

Finally, in developing the regulations proposed in this notice, in addition to the policy issues discussed above, the Board considered the following drafting issues:

1. *Worksite eligibility.* Section 101(2)(B)(ii) of the FMLA denies eligibility to any employee at a worksite where the employer employs less than 50 employees if the total number of employees employed within a 75-mile radius is less than 50. This criterion is a "size limitation" that, under section 225(f)(2) of the CAA, does not apply under the CAA. Accordingly, a number of regulatory provisions relating to this worksite eligibility criterion are not included in the regulations proposed by the Board. These omitted provisions include some or all of 29 C.F.R. §§825.105, 825.106(d), 825.110(a)(3), 825.110(f), 825.111, 825.206(c), 825.220(b)(1).

2. *State and local law.* The Department of Labor's regulations contain numerous provisions that address or touch upon the relationship between the FMLA and State or local law addressing leave or related matters. Since State and local law do not govern the employment relationship of covered employees and employing offices, these references to State and local law are omitted from the regulations being proposed by the Board. These omitted provisions include some or all of 29 C.F.R. §§825.200(d)(2), 825.201, 825.202(c), 825.204(b), 825.206(c), 825.701, and other sections.

3. *Consideration of periods before the CAA effective date.* The CAA takes effect on January 23, 1996. Under the Secretary's regulations implementing FMLA, employment with a covered employer before the effective date of the FMLA (August 5, 1993) is to be counted in determining whether an employee is "eligible" for FMLA leave. 29 C.F.R. §825.102. Similarly, the Secretary's regulations provide that leave starting on and after the FMLA effective date is considered FMLA leave which can be counted against an employee's 12-week entitlement. Such leave is qualifying under the FMLA even if the event occasioning the need for leave (e.g., the birth of a child) occurred before the effective date. 29 C.F.R. §825.103. See also 29 C.F.R. §825.200(b)(4).

The proposed regulations adopt the Secretary's general approach regarding the effective date; however, the applicable effective dates for application of the rights and protections of the FMLA in the Congress are somewhat more complicated. The CAA, and its application of the rights and protections of the FMLA, takes effect on January 23, 1996. Section 202(e)(1) of the CAA. However, certain rights and protections of the FMLA applied to employees of the House of Representatives, the Senate, and certain employees of congressional instrumentalities under Title V of the FMLA, effective August 5, 1993. The proposed regulations harmonize these preexisting applications of FMLA rights and protections with application of those rights and protections under the CAA.

The proposed regulations state that an employing office must consider periods of employment before January 23, 1996 when determining if its employees are eligible for leave. Similarly, a covered employee is entitled to FMLA leave if the reason for the leave is qualifying under the FMLA as made applicable by the CAA, even if the event occasioning the leave (such as the birth of a child) occurred before January 23, 1996. However, leave taken before January 23, 1996, if it was FMLA-qualifying leave taken from an employing office subject to Title V of the FMLA, may be counted against the employee's leave entitlement after January 23, 1996. See §§825.102(b), 825.103, 825.200(b)(4).

The Board is cognizant of the principle that agencies may not promulgate regulations which have a retroactive effect unless expressly authorized by the enabling statute. *Landgraf* v. *USI Film Products*, 114 S.Ct. 1483, 1496 (1994). However, the Board concludes that consideration of periods of employment and events prior to the effective date of the CAA under the sections of the proposed regulations cited above does not constitute a retroactive application of the CAA. Unlike retroactive regulations, which "impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed," 114 S.Ct. 1505, these regulations simply "alter the future legal effect of past transactions—so-called secondary retroactivity," which does not violate the presumption against retroactivity. 114 S.Ct. at 1526 n.3 (Scalia, J. concurring). The regulations do not penalize an employing office for a refusal to grant an FMLA leave prior to the effective date of the CAA. They only state that employment and events occurring prior to the effective date of the CAA may be considered in determining the employer's obligation to honor a leave request on or after the effective date.

4. *Minimally paid leave in the Senate.* A commenter explained that the Senate currently provides minimally paid leave rather than unpaid leave under title V of the FMLA. The Secretary's regulations authorize providing greater benefits or pay than is required under the FMLA, and providing greater benefits and pay does not prevent the leave from being considered FMLA-qualifying leave. See section 825.700. Accordingly, the Board does not believe that the situation of minimally paid leave by the Senate needs to be addressed in the proposed regulations.

5. *Local educational agencies and private elementary and secondary schools.* Section 108 of the FMLA provides special rules for local educational agencies and for private elementary and secondary schools. Section 108 was not expressly referenced in section 202 of the CAA. However, the Board believes that section 108 establishes exemptions from certain requirements of those FMLA sections that are referenced in section 202. The provisions of section 108 therefore apply pursuant to section 225(f)(1) of the CAA. Accordingly, regulations implementing section 108 are included in the regulations being proposed by the Board.

6. *Notices other than by posting of notices.* As discussed above, the Board is not proposing regulations on the posting of notices because the statutory authority in the FMLA requiring notice posting was not incorporated into the CAA. However, the Board is proposing to adopt several regulations, based on the Secretary's regulations, that require both employing office and employees to provide notices to each other. The Board is proposing to adopt these notification requirements because they are based on regulations that the Secretary promulgated to implement section 101 through 105 of the FMLA, which are incorporated into the CAA.

For example, section 103(a) of the FMLA authorizes the employer to require that a request for leave be supported by a medical certification. This requirement is implemented by section 825.305 of the Secretary's regulations, which provides for the employer to give notice of any such requirement. Another example is FMLA section 104(a)(4), which authorizes an employer to have a uniformly applied "practice or policy" that requires employees to provide certification of fitness for duty upon returning from leave. The Secretary's regulations at section 825.310(e) require that, as part of a notice given to each employee who advises the employer of need for FMLA leave, the employer must advise the employee if a fitness-for-duty certification will be required. Furthermore, this section requires that, if the employer has an employee handbook, the employer must include in the handbook an explanation of the employer's general policy regarding any requirement for fitness-for-duty certification.

Section 825.301 of the Secretary's regulations requires the employer to provide a number of these notices in two consolidated formats. Under paragraph (b), the employer must provide a notice to each employee who informs the employer of need to take FMLA leave. This notice must inform the employee of whether the employee designates the leave as qualifying for FMLA leave, whether the employer requires certification of a health care provider, and numerous other matters. Paragraph (a) requires the employer to provide information on FMLA rights and responsibilities, together with a statement of the employer's policies regarding FMLA, as part of the employee handbook, if any. If there is no such handbook, the employer must include this information with the notice provided to employees who give notice that they need FMLA leave.

A Senate commenter suggested that paragraph (b) should not be adopted by the Board because there is no requirement in the FMLA, as incorporated in the CAA, for the employer to provide such notice. However, the Board believes that these notification requirements implement the general rights and protections of sections 101 through 105, which are incorporated in the CAA. The Board is not aware of good cause why these requirements should be excluded from the regulations under the CAA.

7. *Medical and other benefits.* In §825.209(a), in the definition of group health plans, the proposed regulations include an added reference to the Federal Employee Health Benefits Program, which applies to many covered employees. The Secretary's regulations identified certain laws governing benefits that may impose requirements above and beyond those of FMLA. However, other benefit requirements apply to covered employees and employing offices under federal statute and under rules and practices of the House, Senate, and Congressional instrumentalities. The Board sees no need to conform the FMLA regulations to the various laws and rules that govern employee benefits. Instead, the Board proposes to add to the regulations an explicit recognition that there may be other applicable laws. E.g., proposed §§825.209(f), 825.309(b). However, covered employees and employing offices must understand that these regulations do not set forth all applicable requirements regarding benefits for covered employees on leave. Other sources must be consulted to determine applicable laws and rules other than those applied by the CAA. The Board is not aware of any way in which laws or rules applicable to covered employees may interfere with the power of employing offices to fully comply with the requirements of the FMLA.

Furthermore, a commenter suggested that certain regulatory provisions regarding payment and reimbursement of insurance premiums should refer to the Senate as well as, or instead of, to the employing office. The Board understands that such financial transactions are not undertaken by Senate employing offices directly. This reality is briefly acknowledged in an introductory explanatory provision, at §825.100(b). However, the CAA makes the employing office responsible for assuring that all requirements of the FMLA, as applied by the CAA, are complied with. For this reason, the disbursing or other administrative office of the Senate may be viewed as functioning as an agent for the employing office, and the Board does not believe that the regulatory requirements need to be modified to refer to the Senate directly.

Regarding another of the Secretary's regulations, the commenter suggested that a reference to "the insurer" should be deleted and replaced with a reference to the Senate. The Board recognizes that, in some situations, the Senate may serve as the intermediary between the employee and the insurer. In such circumstances, the employee would make arrangements with the insurer by means of making arrangements with the Senate. Accordingly, the Board does not believe that this suggested change is necessary.

The proposed regulations also omit, as inapplicable, a section on multi-employer health plans (§825.211) and a reference to the Employee Retirement Income Security Act of 1974 (ERISA) (in §825.215(d)).

8. *Charging leave taken from a prior employing office against the employee's FMLA entitlement.* A commenter urged that the Board's regulations should make it clear that, even when an employee transfers from one employing office to another, the employee does not become entitled to more than 12 weeks of leave in the applicable 12-month period.

To clarify this point, the Board proposes to amend the regulation that allows an employer to count an employee's FMLA leave against the employee's remaining 12-week FMLA entitlement. The existing Labor Department regulations implicitly assume that an employer may designate leave as FMLA leave and then count it against the employee's remaining entitlement. However, the regulations do not address the situation where FMLA leave taken from one employing office is counted by a subsequent employing office against the employee's total FMLA leave entitlement. This situation is not addressed in the Department of Labor regulations, because, in the private sector, no leave taken from a prior employer is of any relevance to a subsequent employer. The employee loses FMLA eligibility for at least 12 months after changing jobs, so leave taken from the former employer will be over 12 months old by the time the employee is eligible for any leave from the new employer.

Under the CAA, however, the employee remains eligible notwithstanding the transfer to a new employing office. Therefore, if the new employing office were not able to count any FMLA leave taken in the preceding months against the employee's entitlement, a covered employee could gain multiple FMLA leave periods, in excess of the entitlement under the FMLA, simply by repeatedly transferring from one employing office to another. Accordingly, the Board believes that good cause exists to clarify section 825.208 so that leave designated as FMLA leave by one employing office may be counted against the leave entitlement by other employing offices.

9. *Definition of "employer".* The definition of "employer" under the FMLA is different and far more varied than the definition of "employer" that applies under section 202 of the CAA. Therefore, several provisions in 29 C.F.R. part 825 that define who is an "employer" have been omitted. These include §825.104(a)-(b) (persons engaged in or affecting commerce), §825.104.(c)(1) and (d) (regarding corporations and persons acting for employers), §825.108 (regarding "public agencies"), §825.109 (regarding Federal agencies). References to "public agencies", e.g., in section §825.209(a), and first part of §825.207(i) (which addresses compensatory time off for State and local employees), were also omitted.

10. *Business/financial terms.* Part 825 of the Secretary's regulations contain a number of references to business-related concepts—e.g., "profit sharing", "business", "firm", "plant", "company," "stock option", "profit sharing", etc. These terms were omitted and, if the context so required, were sometimes replaced with appropriate corresponding terms such as "employing office".

11. *Persons other than covered employees and employing offices.* Section 202(a) of the CAA extends rights and protections only to covered employees. Therefore, certain provisions of the Secretary's regulations that would extend beyond these categories, have been omitted. For example, provisions that protect employees of contractors (§825.216(b)) and employees of temporary agencies and leasing agencies (§825.106) have been omitted because such employees cannot be "covered employees" as that term is defined in the CAA.

Furthermore, section 105 of the FMLA, which prohibits interference with FMLA rights and interference with FMLA proceedings and inquiries, extends rights to persons who are not employees and extends prohibitions to persons who are not employers. The Secretary's regulations, at §825.220, do likewise. To be consistent with the CAA, however, the proposed regulations have been modified to extend rights and protections only to covered employees, and to extend prohibitions only to employing offices.

12. *Pre-existing collective bargaining agreements.* Two provisions of the Secretary's regulations refer to collective bargaining agreements existing before the effective date of the FMLA. Sections 825.102(b), 825.700(c). Because collective bargaining agreements do not now exist within employing offices that are subject to these proposed regulations, these provisions have been omitted.

13. *Determinations as to who is a health care provider.* Section 101(6) of the FMLA defines "health care provider" as including, in addition to certain authorized doctors, "Any other person determined by the Secretary to be capable of providing health care services." This same requirement is incorporated into the Secretary's regulations as section 825.118(a). The Board does not believe that this provision for determinations by the Secretary should be adopted under the CAA, because this provision would authorize enforcement by the executive branch, which is not authorized under section 225(f)(3) of the CAA. The Board therefore proposes to modify this regulation to authorize the Office of Compliance to certify health care professionals. However, the regulation would require the Office to follow any decisions by the Secretary granted to persons other than covered employees, absent good cause for the Office to conclude otherwise.

14. *Enforcement procedures.* Subpart D of the Secretary's regulations describes the enforcement mechanisms available under the FMLA. This has been replaced with a brief summary and cross-reference to the claims procedures available under the CAA.

15. *Effect on other applicable law.* Section 825.702 provides the Secretary's views about the interaction between FMLA and other applicable law. Because the nature of these laws' application, if any, under the CAA is not the same as their application discussed by the Secretary, certain language has been omitted from the section.

16. *Definitions.* In section 825.800, consistent with the changes discussed above, several

definitions were omitted as inapplicable—e.g., Administrator, COBRA, Commerce, Person, Public Agency, State. Two were added—CAA and covered employee. And several were modified, including: eligible employee, employee, and employer.

D. Topics and organization of proposed regulations

The regulations being proposed in this notice are organized into subparts and sections that correspond to the subparts and sections promulgated by the Secretary at 29 C.F.R. Part 825. These regulations are divided into eight subparts:

Subpart A describes what the FMLA is and sets forth to whom it applies under the CAA.

Subpart B states what leave an employee is entitled to take under the FMLA as made applicable by the CAA.

Subpart C sets forth notice requirements, and states what information an employing office may require of an employee.

Subpart D refers to applicable enforcement mechanisms.

Subpart E is reserved.

Subpart F establishes special rules that apply to employees of schools.

Subpart G sets forth how other laws, employing office practices, and collective bargaining agreements affect employee rights under FMLA as made applicable by the CAA.

Subpart H sets forth applicable definitions.

Appendices included in the proposed regulations also provide certain forms and prototype notices.

E. Method of approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C. on this 21st day of November, 1995.

GLEN D. NAGER,
Chair of the Board,
Office of Compliance.

§ 825.1 Purpose and scope

(a) Section 202 of the Congressional Accountability Act (CAA), 2 U.S.C. § 1312, applies the rights and protections of sections 101 through 105 of the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2611–2615, to certain employees of the legislative branch.

(b) This part 825 contains substantive regulations that the Board of Directors of the Office of Compliance has adopted pursuant to section 202 of the CAA. Section 202 provides that these substantive regulations should generally be the same as the substantive regulations promulgated by the Secretary of Labor to implement sections 101 through 105 of the FMLA. (The CAA allows these regulations to differ from the regulations promulgated by the Secretary only insofar as the Board may determine, for good cause shown, that a modification of such regulations would be more effective for the implementation of the rights and protections under section 202 of the CAA.) The regulations promulgated by the Secretary to implement the FMLA are found at 29 C.F.R. Part 825.

(c) Under the CAA, the Board issues three separate bodies of regulations to implement the FMLA as made applicable by the CAA—one applying to the Senate and its employees, one applying to the House of Representatives and its employees, and one applying to other covered employees and employing offices. This part 825 applies to [[1]the Senate and employees of the Senate/the House of Representatives and employees of the House of Representatives/the following employing offices and their employees: (1) the Capitol Guide Service, (2) the Capitol Police, (3) the Congressional Budget Office, (4) the Office of the Architect of the Capitol, (5) the Office of the Attending Physician, (6) the Office of Compliance, and (7) the Office of Technology Assessment].

SUBPART A—WHAT IS THE FAMILY AND MEDICAL LEAVE ACT, AND TO WHOM DOES IT APPLY UNDER THE CONGRESSIONAL ACCOUNTABILITY ACT?

§ 825.100 What is the Family and Medical Leave Act?

(a) The Family and Medical Leave Act of 1993 (FMLA), as made applicable by the Congressional Accountability Act (CAA), allows "eligible" employees of an employing office to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform the functions of his or her job (see § 825.306(b)(4)). In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

(b) An employee on FMLA leave is also entitled to have health benefits maintained while on leave as if the employee had continued to work instead of taking the leave. If an employee was paying all or part of the premium payments prior to leave, the employee would continue to pay his or her share during the leave period. The employing office or a disbursing or other financial office of the House of Representatives or the Senate may recover its share only if the employee does not return to work for a reason other than the serious health condition of the employee or the employee's immediate family member, or another reason beyond the employee's control.

(c) An employee generally has a right to return to the same position or an equivalent position with equivalent pay, benefits and working conditions at the conclusion of the leave. The taking of FMLA leave cannot result in the loss of any benefit that accrued prior to the start of the leave.

(d) The employing office has a right to 30 days advance notice from the employee where practicable. In addition, the employing office may require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. Failure to comply with these requirements may result in a delay in the start of FMLA leave. Pursuant to a uniformly applied policy, the employing office may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition (see § 825.311(c)). The employing office may delay restoring the employee to employment without such certificate relating to the health condition which caused the employee's absence.

§ 825.101 What is the purpose of the FMLA?

(a) FMLA is intended to allow employees to balance their work and family life by taking reasonable unpaid leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity. It was intended that the FMLA accomplish these purposes in a manner that accommodates the legitimate interests of employers, and in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment in minimizing the potential for employment discrimination on the basis of sex, while promoting equal employment opportunity for men and women.

(b) The enactment of FMLA was predicated on two fundamental concerns—the needs of the American workforce, and the development of high-performance organizations. Increasingly, America's children and elderly are dependent upon family members who must spend long hours at work. When a family emergency arises, requiring workers to attend to seriously-ill children or parents, or to newly-born or adopted infants, or even to their own serious illness, workers need reassurance that they will not be asked to choose between continuing their employment, and meeting their personal and family obligations or tending to vital needs at home.

(c) The FMLA is both intended and expected to benefit employers as well as their employees. A direct correlation exists between stability in the family and productivity in the workplace. FMLA will encourage the development of high-performance organizations. When workers can count on durable links to their workplace they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave indicate the powerful productive advantages of stable workplace relationships, and the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own serious illness.

§ 825.102 When are the FMLA and the CAA effective for the Senate and its employees?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to certain Senate employees and certain employing offices of the Senate since August 5, 1993 (*see* section 501 of FMLA). The provisions of the CAA that apply the rights and protections of the FMLA will become effective on January 23, 1996.

§ 825.102 When are the FMLA and the CAA effective for the House of Representatives and its employees?

(a) The rights and protection of sections 101 through 105 of the FMLA have applied to any employee in an employment position and any employment authority of the House of Representatives since August 5, 1993 (*see* section 502 of FMLA). The provisions of the CAA that apply the rights and protections of the FMLA will become effective for the

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[1] This bracketed language contains three versions of regulatory language separated by slashes: the version for the Senate and its employees, the version for the House of Representatives and its employees, and the version for Congressional instrumentalities and their employees, respectively.

House of Representatives and its employees on January 23, 1996.

§ 825.102 When are the FMLA and the CAA effective for the employing offices covered by these regulations and their employees?

(a) The rights and protections of sections 101 through 105 of the FMLA already apply to certain employing offices covered by these regulations and certain employees of these employing offices (*see, e.g.*, Title V of the FMLA, sections 501 and 502). The provisions of the CAA that apply the rights and protections of the FMLA to the employing offices covered by these regulations and their employees will become effective on January 23, 1996.]

(b) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee eligibility.

§ 825.103 How does the FMLA, as made applicable by the CAA, affect leave in progress on, or taken before, the effective date of the CAA?

(a) An eligible employee's right to take FMLA leave began on the date that the rights and protections of the FMLA first went into effect for the employing office and employee (*see* § 825.102(a)). Any leave taken prior to the date on which the rights and protections of the FMLA first became effective for the employing office from which the leave was taken may not be counted for purposes of the FMLA as made applicable by the CAA. If leave qualifying as FMLA leave was underway prior to the effective date of the FMLA for the employing office from which the leave was taken and continued after the FMLA's effective date for that office, only that portion of leave taken on or after the FMLA's effective date may be counted against the employee's leave entitlement under the FMLA, as made applicable by the CAA.

(b) If an employing office-approved leave is underway when the application of the FMLA by the CAA takes effect, no further notice would be required of the employee unless the employee requests an extension of the leave. For leave which commenced on the effective date or shortly thereafter, such notice must have been given which was practicable, considering the foreseeability of the need for leave and the effective date.

(c) Starting on January 23, 1996, an employee is entitled to FMLA leave under these regulations if the reason for the leave is qualifying under the FMLA, as made applicable by the CAA, even if the event occasioning the need for leave (*e.g.*, the birth of a child) occurred before such date (so long as any other requirements are satisfied).

§ 825.104 What employing offices are covered by these regulations?

(a) As used in the CAA, the term "employing office" means—

(1) the personal office of a Member of the House of Representatives or of a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(b) The employing offices covered by the regulations in this part are:

[(1) the personal office of any Senator,

(2) any committee of the Senate, and

(3) any joint committee that employs any employee of the Senate.

(1) the personal office of any Member of the House of Representatives,

(2) any committee of the House of Representatives, and

(3) any joint committee that employs any employee of the House of Representatives.

the offices listed in paragraph (a)(4) of this section.]

(c) Separate entities will be deemed to be parts of a single employer for purposes of the FMLA, as made applicable by the CAA, if they meet the "integrated employer" test. A determination of whether or not separate entities are an integrated employer is not determined by the application of any single criterion, but rather the entire relationship is to be reviewed in its totality. Factors considered in determining whether two or more entities are an integrated employer include: (i) Common management; (ii) Interrelation between operations; (iii) Centralized control of labor relations; and (iv) Degree of common financial control.

§ 825.105 [Reserved.]

§ 825.106 How is "joint employment" treated under the FMLA as made applicable by the CAA?

(a) Where two or more employing offices exercise some control over the work or working conditions of the employee, the employing offices may be joint employers under FMLA, as made applicable by the CAA. Where the employee performs work which simultaneously benefits two or more employing offices, or works for two or more employing offices at different times during the workweek, a joint employment relationship generally will be considered to exist in situations such as:

(1) Where there is an arrangement between employing offices to share an employee's services or to interchange employees;

(2) Where one employing office acts directly or indirectly in the interest of the other employing office in relation to the employee; or

(3) Where the employing offices are not completely disassociated with respect to the employee's employment and may be deemed to share control of the employee, directly or indirectly, because one employing office controls, is controlled by, or is under common control with the other employing office.

(b) A determination of whether or not a joint employment relationship exists is not determined by the application of any single criterion, but rather the entire relationship is to be viewed in its totality. For example, joint employment will ordinarily be found to exist when:

(1) an employee, who is employed by an employing office other than the personal office of a Member of the House of Representatives or of a Senator, is under the actual direction and control of the Member of the House of Representatives or Senator;

(2) two or more employing offices employ an individual to work on common issues or other matters for both or all of them; or

(3) an employing office supplies an employee on detail to another employing office.

(c)(1) In joint employment relationships, only the employing office that is the primary employer, if any, is responsible for giving required notices to its employees, providing FMLA leave, and maintenance of health benefits. Factors considered in determining which employing office is the "primary" employer include authority/responsibility to hire and fire, assign/place the employee, make payroll, and provide employment benefits.

(2) When an employee is jointly employed by more than one employing office, the employing offices may fulfill their responsibilities under the FMLA, as made applicable by the CAA, by arranging for these responsibilities to be performed by any one employing office or by a centralized payroll office. However, any such arrangement does not reduce any responsibilities of any of the employing offices if any of their responsibilities under the FMLA as made applicable by the CAA is not fulfilled.

(d) [Reserved.]

(e) Job restoration is the primary responsibility of the employing office that is the primary employer. The employing office that is the secondary employer is, however, responsible for accepting the employee returning from FMLA leave. An employing office that is the secondary employer is also responsible for compliance with the prohibited acts provisions with respect to its employees. The prohibited acts include prohibitions against interfering with an employee's attempt to exercise rights under the FMLA as made applicable by the CAA, or discharging or discriminating against an employee for opposing a practice which is unlawful under FMLA. An employing office that is the secondary employer will be responsible for compliance with *all* of the provisions of the FMLA, as made applicable by the CAA, with respect to its regular, permanent workforce.

§825.107 [Reserved.]

§ 825.108 [Reserved.]

§ 825.109 [Reserved.]

§ 825.110 Which employees are "eligible" to take FMLA leave under these regulations?

(a) An employee [of the Senate / of the House of Representatives / described in § 825.1(c)] is an "eligible employee" under these regulations if the employee has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) The 12 months an employee must have been employed by any employing office need not be consecutive months. If an employee worked for two or more employing offices sequentially, the time worked will be aggregated to determine whether it equals 12 months. If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave (sick, vacation) during which other benefits or compensation are provided by the employer (*e.g.*, workers' compensation, group health plan benefits, etc.), the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to 12 months.

(c) If an employee was employed by two or more employing offices, either sequentially or concurrently, the hours of service will be aggregated to determine whether the minimum of 1,250 hours has been reached. Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work (*see* 29 C.F.R. Part 785). The determining factor is the number of hours an employee has worked for one or more employing offices. The determination is not limited by methods of recordkeeping, or by compensation agreements that do not accurately reflect all of the hours an employee has worked for or been in service to the employing office. Any accurate accounting of actual hours worked may be used. For this purpose, full-time teachers (see §825.800 for definition) of an elementary or secondary school system, or institution of higher education, or other educational establishment or institution are deemed to meet the 1,250 hour test. An employing office must be able to clearly demonstrate that such an employee did not work 1,250 hours during the previous 12 months in order to claim that the employee is not "eligible" for FMLA leave.

(d) The determinations of whether an employee has worked for any employing office for at least 1,250 hours in the past 12 months and has been employed by any employing office for a total of at least 12 months must be made as of the date leave commences. If an employee notifies the employing office of need for FMLA leave before the employee meets these eligibility criteria, the employing office must either confirm the employee's eligibility based upon a projection that the employee will be eligible on the date leave would commence or must advise the employee when the eligibility requirement is met. If the employing office confirms eligibility at the time the notice for leave is received, the employing office may not subsequently challenge the employee's eligibility. In the latter case, if the employing office does not advise the employee whether the employee is eligible as soon as practicable (i.e., two business days absent extenuating circumstances) after the date employee eligibility is determined, the employee will have satisfied the notice requirements and the notice of leave is considered current and outstanding until the employing office does advise. If the employing office fails to advise the employee whether the employee is eligible prior to the date the requested leave is to commence, the employee will be deemed eligible. The employing office may not, then, deny the leave. Where the employee does not give notice of the need for leave more than two business days prior to commencing leave, the employee will be deemed to be eligible if the employing office fails to advise the employee that the employee is not eligible within two business days of receiving the employee's notice.

(e) The period prior to the effective date of the application of FMLA rights and protections under the CAA must be considered in determining employee's eligibility.

(f) [Reserved.]

§825.111 [Reserved.]

§825.112 Under what kinds of circumstances are employing offices required to grant family or medical leave?

(a) Employing offices are required to grant leave to eligible employees:

(1) For birth of a son or daughter, and to care for the newborn child;

(2) For placement with the employee of a son or daughter for adoption or foster care;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

(b) The right to take leave under FMLA as made applicable by the CAA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child.

(c) Circumstances may require that FMLA leave begin before the actual date of birth of a child. An expectant mother may take FMLA leave pursuant to paragraph (a)(4) of this section before the birth of the child for prenatal care or if her condition makes her unable to work.

(d) Employing offices are required to grant FMLA leave pursuant to paragraph (a)(2) of this section before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or the doctor(s) representing the birth parent, or submit to a physical examination. The source of an adopted child (e.g., whether from a licensed placement agency or otherwise) is not a factor in determining eligibility for leave for this purpose.

(e) Foster care is 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement between the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between the State and foster family that the foster family will take care of the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

(f) In situations where the employer/employee relationship has been interrupted, such as an employee who has been on layoff, the employee must be recalled or otherwise be re-employed before being eligible for FMLA leave. Under such circumstances, an eligible employee is immediately entitled to further FMLA leave for a qualifying reason.

(g) FMLA leave is available for treatment for substance abuse provided the conditions of §825.114 are met. However, treatment for substance abuse does not prevent an employing office from taking employment action against an employee. The employing office may not take action against the employee because the employee has exercised his or her right to take FMLA leave for treatment. However, if the employing office has an established policy, applied in a non-discriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking FMLA leave. An employee may also take FMLA leave to care for an immediate family member who is receiving treatment for substance abuse. The employing office may not take action against an employee who is providing care for an immediate family member receiving treatment for substance abuse.

§825.113 What do "spouse," "parent," and "son or daughter" mean for purposes of an employee qualifying to take FMLA leave?

(a) Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

(b) Parent means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a son or daughter as defined in (c) below. This term does not include parents "in law".

(c) Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."

(1) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

(2) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. Regulations at 29 C.F.R. §1630.2(h), (i), and (j), issued by the Equal Employment Opportunity Commission under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 *et seq.* define these terms.

(3) Persons who are "*in loco parentis*" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(d) For purposes of confirmation of family relationship, the employing office may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship. This documentation may take the form of a simple statement from the employee, or a child's birth certificate, a court document, *etc.* The employing office is entitled to examine documentation such as a birth certificate, etc., but the employee is entitled to the return of the official document submitted for this purpose.

§825.114 What is a "serious health condition" entitling an employee to FMLA leave?

(a) For purposes of FMLA, "serious health condition" entitling an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

(1) *Inpatient care* (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of *incapacity* (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

(2) *Continuing treatment* by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(i) A period of *incapacity* (*i.e.*, inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(A) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(B) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(A) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(B) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(C) May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, etc.).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), kidney disease (dialysis).

(b) Treatment for purposes of paragraph (a) of this section includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (a)(2)(i)(B), a regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(c) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(d) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(e) Absences attributable to incapacity under paragraphs (a)(2) (ii) or (iii) qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

§ 825.115 What does it mean that "the employee is unable to perform the functions of the position of the employee"?

An employee is "unable to perform the functions of the position" where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 *et seq.*, and the regulations at 29 C.F.R. § 1630.2(n). An employee who must be absent from work to receive medical treatment for a serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment. An employing office has the option, in requiring certification from a health care provider, to provide a statement of the essential functions of the employee's position for the health care provider to review. For purposes of FMLA, the essential functions of the employee's position are to be determined with reference to the position the employee held at the time notice is given or leave commenced, whichever is earlier.

§ 825.116 What does it mean that an employee is "needed to care for" a family member?

(a) The medical certification provision that an employee is "needed to care for" a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.

(b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make arrangements for changes in care, such as transfer to a nursing home.

(c) An employee's intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member's condition itself is intermittent, but also where the employee is only needed intermittently—such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

§ 825.117 For an employee seeking intermittent FMLA leave or leave on a reduced leave schedule, what is meant by "the medical necessity for" such leave?

For intermittent leave or leave on a reduced leave schedule, there must be a medical need for leave (as distinguished from voluntary treatments and procedures) and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. The treatment regimen and other information described in the certification of a serious health condition (*see* § 825.306) meets the requirement for certification of the medical necessity of intermittent leave or leave on a reduced leave schedule. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employing office's operations. In addition, an employing office may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

§ 825.118 What is a "health care provider"?

(a)(1) The term "health care provider" means:

(i) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) Any other person determined by the Office of Compliance to be capable of providing health care services.

(2) In making a determination referred to in subparagraph (1)(ii), and absent good cause shown to do otherwise, the Office of Compliance will follow any determination made by the Secretary of Labor (under section 101(6)(B) of the FMLA) that a person is capable of providing health care services, provided the Secretary's determination was not made at the request of a person who was then a covered employee.

(b) Others "capable of providing health care services" include only:

(1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law;

(2) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

(3) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employing office that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

(4) Any health care provider from whom an employing office or the employing office's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

(5) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

SUBPART B—WHAT LEAVE IS AN EMPLOYEE ENTITLED TO TAKE UNDER THE FAMILY AND MEDICAL LEAVE ACT, AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT?

§ 825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employing office is permitted to choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month "leave year," such as a fiscal year, a year required by State law, or a year starting on an employee's "anniversary" date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or,

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the "rolling" 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1997, four weeks beginning June 1, 1997, and four weeks beginning December 1, 1997, the employee would not be entitled to any additional leave until February 1, 1998. However, beginning on February 1, 1998, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, *etc.*

(d)(1) Employing offices will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employing office wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the CAA's FMLA leave requirements.

(2) [Reserved.]

(e) If an employing office fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employing office may subsequently select an option only by providing the 60-day notice to all employees of the option the employing office intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employing office may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for some reason the employing office's activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employing office closing the office for repairs), the days the employing office's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in § 825.205.

§ 825.201 If leave is taken for the birth of a child, or for placement of a child for adoption or foster care, when must the leave be concluded?

An employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of the 12-month period beginning on the date of the birth or placement, unless the employing office permits leave to be taken for a longer period. Any such FMLA leave must be concluded within this one-year period.

§ 825.202 How much leave may a husband and wife take if they are employed by the same employing office?

(a) A husband and wife who are eligible for FMLA leave and are employed by the same employing office may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

(1) for birth of the employee's son or daughter or to care for the child after birth;

(2) for placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or

(3) to care for the employee's parent with a serious health condition.

(b) This limitation on the total weeks of leave applies to leave taken for the reasons specified in paragraph (a) of this section as long as a husband and wife are employed by the "same employing office." It would apply, for example, even though the spouses are employed at two different worksites of an employing office. On the other hand, if one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave.

(c) Where the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes in paragraph (a) of this section, the husband and wife would each be entitled to the difference between the amount he or she has taken individually and 12 weeks for FMLA leave for a purpose other than those contained in paragraph (a) of this section. For example, if each spouse took 6 weeks of leave to care for a healthy, newborn child, each could use an additional 6 weeks due to his or her own serious health condition or to care for a child with a serious health condition.

§ 825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken "intermittently or on a reduced leave schedule" under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employing office agrees. Such a schedule reduction might occur, for example, where an employee, with the employing office's agreement, works part-time after the birth of a child, or takes leave in several segments. The employing office's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employing office may limit leave increments to the shortest period of time that the employing office's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in §§ 825.601 and 825.602.

§825.204 May an employing office transfer an employee to an "alternative position" in order to accommodate intermittent leave or a reduced leave schedule?

(a) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition, or if the employing office agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employing office may require the employee to transfer temporarily, during the period the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. See §825.601 for special rules applicable to instructional employees of schools.

(b) Transfer to an alternative position may require compliance with any applicable collective bargaining agreement, and federal law (such as the Americans with Disabilities Act). Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent or reduced leave.

(c) The alternative position must have equivalent pay and benefits. An alternative position for these purposes does not have to have equivalent duties. The employing office may increase the pay and benefits of an existing alternative position, so as to make them equivalent to the pay and benefits of the employee's regular job. The employing office may also transfer the employee to a part-time job with the same hourly rate of pay and benefits, provided the employee is not required to take more leave than is medically necessary. For example, an employee desiring to take leave in increments of four hours per day could be transferred to a half-time job, or could remain in the employee's same job on a part-time schedule, paying the same hourly rate as the employee's previous job and enjoying the same benefits. The employing office may not eliminate benefits which otherwise would not be provided to part-time employees; however, an employing office may proportionately reduce benefits such as vacation leave where an employing office's normal practice is to base such benefits on the number of hours worked.

(d) An employing office may not transfer the employee to an alternative position in order to discourage the employee from taking leave or otherwise work a hardship on the employee. For example, a white collar employee may not be assigned to perform laborer's work; an employee working the day shift may not be reassigned to the graveyard shift; an employee working in the headquarters facility may not be reassigned to a branch a significant distance away from the employee's normal job location. Any such attempt on the part of the employing office to make such a transfer will be held to be contrary to the prohibited-acts provisions of the FMLA, as made applicable by the CAA.

(e) When an employee who is taking leave intermittently or on a reduced leave schedule and has been transferred to an alternative position no longer needs to continue on leave and is able to return to full-time work, the employee must be placed in the same or equivalent job as the job he/she left when the leave commenced. An employee may not be required to take more leave than necessary to address the circumstance that precipitated the need for leave.

§825.205 How does one determine the amount of leave used where an employee takes leave intermittently or on a reduced leave schedule?

(a) If an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA leave. Similarly, if a full-time employee who normally works 8-hour days works 4-hour days under a reduced leave schedule, the employee would use 1/2 week of FMLA leave each week.

(b) Where an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled is determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule. For example, if an employee who normally works 30 hours per week works only 20 hours a week under a reduced leave schedule, the employee's ten hours of leave would constitute one-third of a week of FMLA leave for each week the employee works the reduced leave schedule.

(c) If an employing office has made a permanent or long-term change in the employee's schedule (for reasons other than FMLA, and prior to the notice of need for FMLA leave), the hours worked under the new schedule are to be used for making this calculation.

(d) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks prior to the beginning of the leave period would be used for calculating the employee's normal workweek.

§825.206 May an employing office deduct hourly amounts from an employee's salary, when providing unpaid leave under FMLA, as made applicable by the CAA, without affecting the employee's qualification for exemption as an executive, administrative, or professional employee, or when utilizing the fluctuating workweek method for payment of overtime, under the Fair Labor Standards Act?

(a) Leave taken under FMLA as made applicable by the CAA may be unpaid. If an employee is otherwise exempt from minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) as a salaried executive, administrative, or professional employee under regulations issued by the Board at [CAA regulations based on 29 CFR Part 541], providing unpaid FMLA-qualifying leave to such an employee will not cause the employee to lose the FLSA exemption. This means that under regulations currently in effect, where an employee meets the specified duties test, is paid on a salary basis, and is paid a salary of at least the amount specified in the regulations, the employing office may make deductions from the employee's salary for any hours taken as intermittent or reduced FMLA leave within a workweek, without affecting the exempt status of the employee. The fact that an employing office provides FMLA leave, whether paid or unpaid, will not be relevant to the determination whether an employee is exempt within the meaning of [CAA regulations based on 29 CFR Part 541].

(b) For an employee paid in accordance with the fluctuating workweek method of payment for overtime (*see* 29 CFR 778.114), the employing office, *during the period* in which intermittent or reduced schedule FMLA leave is scheduled to be taken, may compensate an employee on an hourly basis and pay only for the hours the employee works, including time and one-half the employee's regular rate for overtime hours. The change to payment on an hourly basis would include the entire period during which the employee is taking intermittent leave, including weeks in which no leave is taken. The hourly rate shall be determined by dividing the employee's weekly salary by the employee's normal or average schedule of hours worked during weeks in which FMLA leave is not being taken. If an employing office chooses to follow this exception from the fluctuating workweek method of payment, the employing office must do so uniformly, with respect to all employees paid on a fluctuating workweek basis for whom FMLA leave is taken on an intermittent or reduced leave schedule basis. If an employing office does not elect to convert the employee's compensation to hourly pay, no deduction may be taken for FMLA leave absences. Once the need for intermittent or reduced scheduled leave is over, the employee may be restored to payment on a fluctuating work week basis.

(c) This special exception to the salary basis" requirements of the FLSA exemption or fluctuating workweek payment requirements applies only to employees of covered employing offices who are eligible for FMLA leave, and to leave which qualifies as (one of the four types of) FMLA leave. Hourly or other deductions which are not in accordance with [CAA regulations based on 29 CFR Part 541] or 29 CFR §778.114 may not be taken, for example, where the employee has not worked long enough to be eligible for FMLA leave without potentially affecting the employee's eligibility for exemption. Nor may deductions which are not permitted by [CAA regulations based on 29 CFR Part 541] or 29 CFR §778.114 be taken from such an employee's salary for any leave which does not qualify as FMLA leave, for example, deductions from an employee's pay for leave required under an employing office's policy or practice for a reason which does not qualify as FMLA leave, e.g., leave to care for a grandparent or for a medical condition which does not qualify as a serious health condition; or for leave which is more generous than provided by FMLA as made applicable by the CAA, such as leave in excess of 12 weeks in a year. The employing office may comply with the employing office's own policy/practice under these circumstances and maintain the employee's eligibility for exemption or for the fluctuating workweek method of pay by not taking hourly deductions from the employee's pay, in accordance with FLSA requirements, or may take such deductions, treating the employee as an "hourly" employee and pay overtime premium pay for hours worked over 40 in a workweek.

§825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA, as made applicable by the CAA, permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employing office may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse, child or parent who has a serious health condition. The term "family leave" as used in FMLA refers to paid leave provided by the employing office covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employing office's leave plan allows use of family leave to care for a child but not for a parent, the employing office is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employing office's usual requirements for the use of sick/medical leave. An employing office is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave "in any situation" where the employing office's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employing office's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employing office's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA as made applicable by the CAA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employing office may designate the leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employing office's temporary disability plan are more stringent than those of FMLA as made applicable by the CAA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The FMLA as made applicable by the CAA provides that a serious health condition may result from injury to the employee "on or off" the job. If the employing office designates the leave as FMLA leave in accordance with §825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the employing office's offer of a "light duty job". As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employing office may require the use of accrued paid leave. See also §§825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702 (d)(1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing "paid time off," may be substituted, at either the employee's or the employing office's option, for any qualified FMLA leave. No limitations may be placed by the employing office on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employing office elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to all the paid leave which is earned or accrued under the terms of the employing office's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employing office elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employing office's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA as made applicable by the CAA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employing office's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA as made applicable by the CAA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employing office's sick leave program. See §§825.302(g), 825.305(e) and 825.306(c).

(i) Compensatory time off, if any is authorized under applicable law, is not a form of accrued paid leave that an employing office may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employing office permits the accrual to be used in compliance with regulations, if any [CAA regulations on compensatory time off, if any], the absence which is paid from the employee's accrued compensatory time "account" may not be counted against the employee's FMLA leave entitlement.

§825.208 Under what circumstances may an employing office designate leave, paid or unpaid, as FMLA leave and, as a result, enable leave to be counted against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employing office's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employing office's designation decision must be based only on information received from the employee or the employee's spokesperson (e.g., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employing office of the need to take FMLA leave). In any circumstance where the employing office does not have sufficient information about the reason for an employee's use of paid leave, the employing office should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employing office to determine that the leave qualifies under the FMLA, as made applicable by the CAA. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employing office to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

(2) As noted in §825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the FMLA as made applicable by the CAA or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employing office of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave—consistent with the employing office's established policy or practice—and the employing office denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employing office is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employing office may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employing office has acquired knowledge that the leave is being taken for an FMLA required reason, the employing office must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employing office and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employing office. Such discussions and the decision must be documented.

(2) The employing office's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in

writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employing office requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employing office within two business days of the time the employee gives notice of the need for leave, or, where the employing office does not initially have sufficient information to make a determination, when the employing office determines that the leave qualifies as FMLA leave if this happens later. The employing office's designation must be made before the leave starts, unless the employing office does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employing office has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employing office may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the FMLA, as made applicable by the CAA, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employing office learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee contacts the employing office for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employing office may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (e.g., bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employing offices may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employing office did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employing office may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employing office was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employing office within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employing office knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employing office has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employing office should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employing office must withdraw the designation (with written notice to the employee).

(f) If, before beginning employment with an employing office, an employee had been employed by another employing office, the subsequent employing office may count against the employee's FMLA leave entitlement FMLA leave taken from the prior employing office, except that, if the FMLA leave began after the effective date of these regulations (or if the FMLA leave was subject to other applicable requirement under which the employing office was to have designated the leave as FMLA leave), the prior employing office must have properly designated the leave as FMLA under these regulations or other applicable requirement.

§ 825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, the employing office must maintain the employee's coverage under the Federal Employees Health Benefits Program or any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employing offices are subject to the requirements of the FMLA, as made applicable by the CAA, to maintain health coverage. The definition of "group health plan" is set forth in § 825.800. For purposes of FMLA, the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employing office;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., must be maintained during leave if provided in an employing office's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employing office provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same extent as if the employee were not on leave. For example, if an employing office changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (e.g., in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employing office.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre-existing conditions, etc. See § 825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), or by other applicable law, and for "key" employees (as discussed below), an employing office's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (e.g., if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employing office of his or her intent not to return from leave (including before starting the leave if the employing office is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a "key employee" (see § 825.218) does not return from leave when notified by the employing office that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employing office that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (e.g., holiday pay) is to be determined by the employing office's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

§ 825.210 How may employees on FMLA leave pay their share of group health benefit premiums?

(a) Group health plan benefits must be maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the FMLA leave period. Therefore, any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period. If premiums are raised or lowered, the employee would be required to pay the new premium rates. Maintenance of health insurance policies which are not a part of the employing office's group health plan, as described in § 825.209(a)(1), are the sole responsibility of the employee. The employee and the insurer should make necessary arrangements for payment of premiums during periods of unpaid FMLA leave.

(b) If the FMLA leave is substituted paid leave, the employee's share of premiums must be paid by the method normally used during any paid leave, presumably as a payroll deduction.

(c) If FMLA leave is unpaid, the employing office has a number of options for obtaining payment from the employee. The employing office may require that payment be made to the employing office or to the insurance carrier, but no additional charge may be added to the employee's premium payment for administrative expenses. The employing office may require employees to pay their share of premium payments in any of the following ways:

(1) Payment would be due at the same time as it would be made if by payroll deduction;

(2) Payment would be due on the same schedule as payments are made under COBRA;

(3) Payment would be prepaid pursuant to a cafeteria plan at the employee's option;

(4) The employing office's existing rules for payment by employees on "leave without pay" would be followed, provided that such rules do not require prepayment (i.e., prior to the commencement of the leave) of the premiums that will become due during a period of unpaid FMLA leave or payment of higher premiums than if the employee had continued to work instead of taking leave; or,

(5) Another system voluntarily agreed to between the employing office and the employee, which may include prepayment of premiums (e.g., through increased payroll deductions when the need for the FMLA leave is foreseeable).

(d) The employing office must provide the employee with advance written notice of the terms and conditions under which these payments must be made. (See § 825.301.)

(e) An employing office may not require more of an employee using FMLA leave than the employing office requires of other employees on "leave without pay".

(f) An employee who is receiving payments as a result of a workers' compensation injury must make arrangements with the employing office for payment of group health plan benefits when simultaneously taking unpaid FMLA leave. See paragraph (c) of this section and § 825.207(d)(2).

§ 825.211 [Reserved.]

§ 825.212 What are the consequences of an employee's failure to make timely health plan premium payments?

(a)(1) In the absence of an established employing office policy providing a longer grace period, an employing office's obligations to maintain health insurance coverage cease under FMLA if an employee's premium payment is more than 30 days late. In order to drop the coverage for an employee whose premium payment is late, the employing office must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. If the employing office has established policies regarding other forms of unpaid leave that provide for the employing office to cease coverage retroactively to the date the unpaid premium payment was due, the employing office may drop the employee from coverage retroactively in accordance with that policy, provided the 15-day notice was given. In the absence of such a policy, coverage for the employee may be terminated at the end of the 30-day grace period, where the required 15-day notice has been provided.

(2) An employing office has no obligation regarding the maintenance of a health insurance policy which is not a "group health plan." See § 825.209(a).

(3) All other obligations of an employing office under FMLA would continue; for example, the employing office continues to have an obligation to reinstate an employee upon return from leave.

(b) The employing office may recover the employee's share of any premium payments missed by the employee for any FMLA leave period during which the employing office maintains health coverage by paying the employee's share after the premium payment is missed.

(c) If coverage lapses because an employee has not made required premium payments, upon the employee's return from FMLA leave the employing office must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed, including family or dependent coverage. See § 825.215(d)(1)–(5). In such case, an employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

§ 825.213 May an employing office recover costs it incurred for maintaining "group health plan" or other non-health benefits coverage during FMLA leave?

(a) In addition to the circumstances discussed in § 825.212(b), an employing office may recover its share of health plan premiums during a period of unpaid FMLA leave from an employee if the employee fails to return to work after the employee's FMLA leave entitlement has been exhausted or expires, unless the reason the employee does not return is due to:

(1) The continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA; or

(2) Other circumstances beyond the employee's control. Examples of "other circumstances beyond the employee's control" are necessarily broad. They include such situations as where a parent chooses to stay home with a newborn child who has a serious health condition; an employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's worksite; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; the employee is laid off while on leave; or, the employee is a key employee" who decides not to return to work upon being notified of the employing office's intention to deny restoration because of substantial and grievous economic injury to the employing office's operations and is not reinstated by the employing office. Other circumstances beyond the employee's control would not include a situation where an employee desires to remain with a parent in a distant city even though the parent no longer requires the employee's care, or a parent chooses not to return to work to stay home with a well, newborn child.

(3) When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, thereby precluding the employing office from recovering its (share of) health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. Such certification is not required unless requested by the employing office. The employee is required to provide medical certification in a timely manner which, for purposes of this section, is within 30 days from the date of the employing office's request. For purposes of medical certification, the employee may use the optional form developed for this purpose (see § 825.306(a) and Appendix B of this part). If the employing office requests medical certification and the employee does not provide such certification in a timely manner (within 30 days), or the reason for not returning to work does not meet the test of other circumstances beyond the employee's control, the employing office may recover 100% of the health benefit premiums it paid during the period of unpaid FMLA leave.

(b) Under some circumstances an employing office may elect to maintain other benefits, e.g., life insurance, disability insurance, etc., by paying the employee's (share of) premiums during periods of unpaid FMLA leave. For example, to ensure the employing office can meet its responsibilities to provide equivalent benefits to the employee upon return from unpaid FMLA leave, it may be necessary that premiums be paid continuously to avoid a lapse of coverage. If the employing office elects to maintain such benefits during the leave, at the conclusion of leave, the employing office is entitled to recover only the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

(c) An employee who returns to work for at least 30 calendar days is considered to have "returned" to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

(d) When an employee elects or an employing office requires paid leave to be substituted for FMLA leave, the employing office may not recover its (share of) health insurance or other non-health benefit premiums for any period of FMLA leave covered by paid leave. Because paid leave provided under a plan covering temporary disabilities (including workers' compensation) is not unpaid, recovery of health insurance premiums does not apply to such paid leave.

(e) The amount that self-insured employing offices may recover is limited to only the employing office's share of allowable "premiums" as would be calculated under COBRA, excluding the 2 percent fee for administrative costs.

(f) When an employee fails to return to work, any health and non-health benefit premiums which this section of the regulations permits an employing office to recover are a debt owed by the non-returning employee to the employing office. The existence of this debt caused by the employee's failure to return to work does not alter the employing office's responsibilities for health benefit coverage and, under a self-insurance plan, payment of claims incurred during the period of FMLA leave. To the extent recovery is allowed, the employing office may recover the costs through deduction from any sums due to the employee (e.g., unpaid wages, vacation pay, etc.), provided such deductions do not otherwise violate applicable wage payment or other laws. Alternatively, the employing office may initiate legal action against the employee to recover such costs.

§ 825.214 What are an employee's rights on returning to work from FMLA leave?

(a) On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. See also § 825.106(e) for the obligations of employing offices that are joint employing offices.

(b) If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. However, the employing office's obligations may be governed by the Americans with Disabilities Act (ADA). See § 825.702.

§ 825.215 What is an equivalent position?

(a) An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(b) If an employee is no longer qualified for the position because of the employee's inability to attend a necessary course, renew a license, fly a minimum number of hours, etc., as a result of the leave, the employee shall be given a reasonable opportunity to fulfill those conditions upon return to work.

(c) *Equivalent Pay.*—(1) An employee is entitled to any unconditional pay increases which may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed would not have to be granted unless it is the employing office's policy or practice to do so with respect to other employees on "leave without pay." In such case, any pay increase would be granted based on the employee's seniority, length of service, work performed, etc., excluding the period of unpaid FMLA leave. An employee is entitled to be restored to a position with the same or equivalent pay premiums, such as a shift differential. If an employee departed from a position averaging ten hours of overtime (and corresponding overtime pay) each week, an employee is ordinarily entitled to such a position on return from FMLA leave.

(2) Many employing offices pay bonuses in different forms to employees for job-related performance such as for perfect attendance, safety (absence of injuries or accidents on the job) and exceeding production goals. Bonuses for perfect attendance and safety do not require performance by the employee but rather contemplate the absence of occurrences. To the extent an employee who takes FMLA leave had met all the requirements for either or both of these bonuses before FMLA leave began, the employee is entitled to continue this entitlement upon return from FMLA leave, that is, the employee may not be disqualified for the bonus(es) for the taking of FMLA leave. See § 825.220 (b) and (c). A monthly production bonus, on the other hand, does require performance by the employee. If the employee is on FMLA leave during any part of the period for which the bonus is computed, the employee is entitled to the same consideration for the bonus as other employees on paid or unpaid leave (as appropriate). See paragraph (d)(2) of this section.

(d) *Equivalent Benefits.*—"Benefits" include all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office through an employee benefit plan.

(1) At the end of an employee's FMLA leave, benefits must be resumed in the same manner and at the same levels as provided when the leave began, and subject to any changes in benefit levels that may have taken place during the period of FMLA leave affecting the entire workforce, unless otherwise elected by the employee. Upon return from FMLA leave, an employee cannot be required to requalify for any benefits the employee enjoyed before FMLA leave began (including family or dependent coverages). For example, if an employee was covered by a life insurance policy before taking leave but is not covered or coverage lapses during the period of unpaid FMLA leave, the employee cannot be required to meet any qualifications, such as taking a physical examination, in order to requalify for life insurance upon return from leave. Accordingly, some employing offices may find it necessary to modify life insurance and other benefits programs in order to restore employees to equivalent benefits upon return from FMLA leave, make arrangements for continued payment of costs to maintain such benefits during unpaid FMLA leave, or pay these costs subject to recovery from the employee on return from leave. See § 825.213(b).

(2) An employee may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave. Benefits accrued at the time leave began, however, (e.g., paid vacation, sick or personal leave to the extent not substituted for FMLA leave) must be available to an employee upon return from leave.

(3) If, while on unpaid FMLA leave, an employee desires to continue life insurance, disability insurance, or other types of benefits for which he or she typically pays, the employing office is required to follow established policies or practices for continuing such benefits for other instances of leave without pay. If the employing office has no established policy, the employee and the employing office are encouraged to agree upon arrangements before FMLA leave begins.

(4) With respect to pension and other retirement plans, any period of unpaid FMLA leave shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA leave on that date shall be deemed to have been employed on that date. However, unpaid FMLA leave periods need not be treated as credited service for purposes of benefit accrual, vesting and eligibility to participate.

(5) Employees on unpaid FMLA leave are to be treated as if they continued to work for purposes of changes to benefit plans. They are entitled to changes in benefits plans, except those which may be dependent upon seniority or accrual during the leave period, immediately upon return from leave or to the same extent they would have qualified if no leave had been taken. For example if the benefit plan is predicated on a pre-established number of hours worked each year and the employee does not have sufficient hours as a result of taking unpaid FMLA leave, the benefit is lost. (In this regard, § 825.209 addresses health benefits.)

(e) *Equivalent Terms and Conditions of Employment.*—An equivalent position must have substantially similar duties, conditions, responsibilities, privileges and status as the employee's original position.

(1) The employee must be reinstated to the same or a geographically proximate worksite (i.e., one that does not involve a significant increase in commuting time or distance) from where the employee had previously been employed. If the employee's original worksite has been closed, the employee is entitled to the same rights as if the employee had not been on leave when the worksite closed. For example, if an employing office transfers all employees from a closed worksite to a new worksite in a different city, the employee on leave is also entitled to transfer under the same conditions as if he or she had continued to be employed.

(2) The employee is ordinarily entitled to return to the same shift or the same or an equivalent work schedule.

(3) The employee must have the same or an equivalent opportunity for bonuses and other similar discretionary and non-discretionary payments.

(4) FMLA does not prohibit an employing office from accommodating an employee's request to be restored to a different shift, schedule, or position which better suits the employee's personal needs on return from leave, or to offer a promotion to a better position. However, an employee cannot be induced by the employing office to accept a different position against the employee's wishes.

(f) The requirement that an employee be restored to the same or equivalent job with the same or equivalent pay, benefits, and terms and conditions of employment does not extend to de minimis or intangible, unmeasurable aspects of the job. However, restoration to a job slated for lay-off when the employee's original position is not would not meet the requirements of an equivalent position.

§825.216 Are there any limitations on an employing office's obligation to reinstate an employee?

(a) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employing office must be able to show that an employee would not otherwise have been employed at the time reinstatement is requested in order to deny restoration to employment. For example;

(1) If an employee is laid off during the course of taking FMLA leave and employment is terminated, the employing office's responsibility to continue FMLA leave, maintain group health plan benefits and restore the employee cease at the time the employee is laid off, provided the employing office has no continuing obligations under a collective bargaining agreement or otherwise. An employing office would have the burden of proving that an employee would have been laid off during the FMLA leave period and, therefore, would not be entitled to restoration.

(2) If a shift has been eliminated, or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration. However, if a position on, for example, a night shift has been filled by another employee, the employee is entitled to return to the same shift on which employed before taking FMLA leave.

(b) If an employee was hired for a specific term or only to perform work on a discrete project, the employing office has no obligation to restore the employee if the employment term or project is over and the employing office would not otherwise have continued to employ the employee.

(c) In addition to the circumstances explained above, an employing office may deny job restoration to salaried eligible employees ("key employees," as defined in paragraph (c) of §825.217) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employing office; or may delay restoration to an employee who fails to provide a fitness for duty certificate to return to work under the conditions described in §825.310.

(d) If the employee has been on a workers' compensation absence during which FMLA leave has been taken concurrently, and after 12 weeks of FMLA leave the employee is unable to return to work, the employee no longer has the protections of FMLA and must look to the workers' compensation statute or ADA for any relief or protections.

§825.217 What is a "key employee"?

(a) A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by the employing office within 75 miles of the employee's worksite.

(b) The term "salaried" means "paid on a salary basis," as defined in [CAA regulation based on 29 CFR 541.118]. This is the regulation defining employees who may qualify as exempt from the minimum wage and overtime requirements of the FLSA as executive, administrative, and professional employees.

(c) A "key employee" must be "among the highest paid 10 percent" of all the employees—both salaried and non-salaried, eligible and ineligible—who are employed by the employing office within 75 miles of the worksite.

(1) In determining which employees are among the highest paid 10 percent, year-to-date earnings are divided by weeks worked by the employee (including weeks in which paid leave was taken). Earnings include wages, premium pay, incentive pay, and non-discretionary and discretionary bonuses. Earnings do not include incentives whose value is determined at some future date, *e.g.*, benefits or perquisites.

(2) The determination of whether a salaried employee is among the highest paid 10 percent shall be made at the time the employee gives notice of the need for leave. No more than 10 percent of the employing office's employees within 75 miles of the worksite may be "key employees."

§825.218 What does "substantial and grievous economic injury" mean?

(a) In order to deny restoration to a key employee, an employing office must determine that the restoration of the employee to employment will cause "substantial and grievous economic injury" to the operations of the employing office, not whether the absence of the employee will cause such substantial and grievous injury.

(b) An employing office may take into account its ability to replace on a temporary basis (or temporarily do without) the employee on FMLA leave. If permanent replacement is unavoidable, the cost of then reinstating the employee can be considered in evaluating whether substantial and grievous economic injury will occur from restoration; in other words, the effect on the operations of the employing office of reinstating the employee in an equivalent position.

(c) A precise test cannot be set for the level of hardship or injury to the employing office which must be sustained. If the reinstatement of a "key employee" threatens the economic viability of the employing office, that would constitute "substantial and grievous economic injury." A lesser injury which causes substantial, long-term economic injury would also be sufficient. Minor inconveniences and costs that the employing office would experience in the normal course would certainly not constitute "substantial and grievous economic injury."

(d) FMLA's "substantial and grievous economic injury" standard is different from and more stringent than the "undue hardship" test under the ADA (see, also §825.702).

§825.219 What are the rights of a key employee?

(a) An employing office who believes that reinstatement may be denied to a key employee, must give written notice to the employee at the time the employee gives notice of the need for FMLA leave (or when FMLA leave commences, if earlier) that he or she qualifies as a key employee. At the same time, the employing office must also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employing office should determine that substantial and grievous economic injury to the employing office's operations will result if the employee is reinstated from FMLA leave. If such notice cannot be given immediately because of the need to determine whether the employee is a key employee, it shall be given as soon as practicable after being notified of a need for leave (or the commencement of leave, if earlier). It is expected that in most circumstances there will be no desire that an employee be denied restoration after FMLA leave and, therefore, there would be no need to provide such notice. However, an employing office who fails to provide such timely notice will lose its right to deny restoration even if substantial and grievous economic injury will result from reinstatement.

(b) As soon as an employing office makes a good faith determination, based on the facts available, that substantial and grievous economic injury to its operations will result if a key employee who has given notice of the need for FMLA leave or is using FMLA leave is reinstated, the employing office shall notify the employee in writing of its determination, that it cannot deny FMLA leave, and that it intends to deny restoration to employment on completion of the FMLA leave. It is anticipated that an employing office will ordinarily be able to give such notice prior to the employee starting leave. The employing office must serve this notice either in person or by certified mail. This notice must explain the basis for the employing office's finding that substantial and grievous economic injury will result, and, if leave has commenced, must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

(c) If an employee on leave does not return to work in response to the employing office's notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits and the employing office may not recover its cost of health benefit premiums. A key employee's rights under FMLA continue unless and until the employee either gives notice that he or she no longer wishes to return to work, or the employing office actually denies reinstatement at the conclusion of the leave period.

(d) After notice to an employee has been given that substantial and grievous economic injury will result if the employee is reinstated to employment, an employee is still entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the employing office's notice. The employing office must then again determine whether there will be substantial and grievous economic injury from reinstatement, based on the facts at that time. If it is determined that substantial and grievous economic injury will result, the employing office shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

§825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA, as made applicable by the CAA, prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employing office is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA as made applicable by the CAA.

(2) An employing office is prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) for opposing or complaining about any unlawful practice under the FMLA as made applicable by the CAA.

(3) All employing offices are prohibited from discharging or in any other way discriminating against any covered employee (whether or not an eligible employee) because that covered employee has—

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to the FMLA, as made applicable by the CAA;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA, as made applicable by the CAA.

(b) Any violations of the FMLA, as made applicable by the CAA, or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the FMLA as made applicable by the CAA. "Interfering with" the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by an employing office to avoid responsibilities under FMLA, for example:

(1) [Reserved];

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employing office is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employing offices cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under "no fault" attendance policies.

(d) Employees cannot waive, nor may employing offices induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot "trade off" the right to take FMLA leave against some other benefit offered by the employing office. This does not prevent an employee's voluntary and uncoerced acceptance (not as a condition of employment) of a "light duty" assignment while recovering from a serious health condition (see §825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of "light duty."

(e) Covered employees, and not merely eligible employees, are protected from retaliation for opposing (e.g., filing a complaint about) any practice which is unlawful under the FMLA, as made applicable by the CAA. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the FMLA, as made applicable by the CAA or regulations.

SUBPART C—HOW DO EMPLOYEES LEARN OF THEIR RIGHTS AND OBLIGATIONS UNDER THE FMLA, AS MADE APPLICABLE BY THE CAA, AND WHAT CAN AN EMPLOYING OFFICE REQUIRE OF AN EMPLOYEE?

§ 825.300 [Reserved.]

§ 825.301 What notices to employees are required of employing offices under the FMLA as made applicable by the CAA?

(a)(1) If an employing office has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning both entitlements and employee obligations under the FMLA, as made applicable by the CAA, must be included in the handbook or other document. For example, if an employing office provides an employee handbook to all employees that describes the employing office's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employing office's policies regarding the FMLA, as made applicable by the CAA. Informational publications describing the provisions of the FMLA as made applicable by the CAA are available from the Office of Compliance and may be incorporated in such employing office handbooks or written policies.

(2) If such an employing office does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employing office shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA as made applicable by the CAA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employing offices may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the Office of Compliance to provide such guidance.

(b)(1) The employing office shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate (see §825.300(c)). Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see §825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see §825.305);

(iii) the employee's right to substitute paid leave and whether the employing office will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments (see §825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see §825.310);

(vi) the employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see §825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see §§825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employing office during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see §825.213).

(2) The specific notice may include other information—e.g., whether the employing office will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part [reserved], or may be obtained from the Office of Compliance, which employing offices may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee—within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employing office shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employing office may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employing office is requiring medical certification or a "fitness-for-duty" report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the six-month period and the employing office handbook or other written documents (if any) describing the employing office's leave policies, clearly provided that certification or a "fitness-for-duty" report would be required (e.g., by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a "fitness-for-duty" report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (See §825.305(a).)

(d) Employing offices are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA as made applicable under the CAA.

(e) Employing offices furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under law.

(f) If an employing office fails to provide notice in accordance with the provisions of this section, the employing office may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

§ 825.302 What notice does an employee have to give an employing office when the need for FMLA leave is foreseeable?

(a) An employee must provide the employing office at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employing office as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) "As soon as practicable" means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, "as soon as practicable" ordinarily would mean at least verbal notification to the employing office within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employing office aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employing office should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employing office may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see §825.305).

(d) An employing office may also require an employee to comply with the employing office's usual and customary notice and procedural requirements for requesting leave. For example, an employing office may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employing office procedures will not permit an employing office to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employing office and make a reasonable effort to schedule the leave so as not to disrupt unduly the employing office's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employing offices prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employing office and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employing office to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt the employing office's operations, the employing office may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employing office, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employing office shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employing office's operations, subject to the approval of the health care provider.

(g) An employing office may waive employees' FMLA notice requirements. In addition, an employing office may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement or applicable leave plan allow less advance notice to the employing office. For example, if an employee (or employing office) elects to substitute paid vacation leave for unpaid FMLA leave (see §825.207), and the employing office's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employing office imposes lesser notice requirements on employees taking leave without pay.

§825.303 What are the requirements for an employee to furnish notice to an employing office where the need for FMLA leave is not foreseeable?

(a) When the approximate timing of the need for leave is not foreseeable, an employee should give notice to the employing office of the need for FMLA leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to the employing office within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to an employing office's internal rules and procedures may not be required when FMLA leave is involved.

(b) The employee should provide notice to the employing office either in person or by telephone, telegraph, facsimile ("fax") machine or other electronic means. Notice may be given by the employee's spokesperson (e.g., spouse, adult family member or other responsible party) if the employee is unable to do so personally. The employee need not expressly assert rights under the FMLA, as made applicable by the CAA, or even mention the FMLA, but may only state that leave is needed. The employing office will be expected to obtain any additional required information through informal means. The employee or spokesperson will be expected to provide more information when it can readily be accomplished as a practical matter, taking into consideration the exigencies of the situation.

§825.304 What recourse do employing offices have if employees fail to provide the required notice?

(a) An employing office may waive employees' FMLA notice obligations or the employing office's own internal rules on leave notice requirements.

(b) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the employing office may delay the taking of FMLA leave until at least 30 days after the date the employee provides notice to the employing office of the need for FMLA leave.

(c) In all cases, in order for the onset of an employee's FMLA leave to be delayed due to lack of required notice, it must be clear that the employee had actual notice of the FMLA notice requirements. This condition would be satisfied by the employing office's proper posting, at the worksite where the employee is employed, of the information regarding the FMLA provided (pursuant to section 301(h)(2) of the CAA) by the Office of Compliance to the employing office in a manner suitable for posting. Furthermore, the need for leave and the approximate date leave would be taken must have been clearly foreseeable to the employee 30 days in advance of the leave. For example, knowledge that an employee would receive a telephone call about the availability of a child for adoption at some unknown point in the future would not be sufficient.

§825.305 When must an employee provide medical certification to support FMLA leave?

(a) An employing office may require that an employee's leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An employing office must give notice of a requirement for medical certification each time a certification is required; such notice must be written notice whenever required by §825.301. An employing office's oral request to an employee to furnish any subsequent medical certification is sufficient.

(b) When the leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the leave begins. When this is not possible, the employee must provide the requested certification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(c) In most cases, the employing office should request that an employee furnish certification from a health care provider at the time the employee gives notice of the need for leave or within two business days thereafter, or, in the case of unforeseen leave, within two business days after the leave commences. The employing office may request certification at some later date if the employing office later has reason to question the appropriateness of the leave or its duration.

(d) At the time the employing office requests certification, the employing office must also advise an employee of the anticipated consequences of an employee's failure to provide adequate certification. The employing office shall advise an employee whenever the employing office finds a certification incomplete, and provide the employee a reasonable opportunity to cure any such deficiency.

(e) If the employing office's sick or medical leave plan imposes medical certification requirements that are less stringent than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see §825.207), only the employing office's less stringent sick leave certification requirements may be imposed.

§ 825.306 How much information may be required in medical certifications of a serious health condition?

(a) The Office of Compliance has made available an optional form ("Certification of Physician or Practitioner") for employees' (or their family members) use in obtaining medical certification, including second and third opinions, from health care providers that meets FMLA's certification requirements. (See Appendix B to these regulations.) This optional form reflects certification requirements so as to permit the health care provider to furnish appropriate medical information within his or her knowledge.

(b) The Certification of Physician or Practitioner form is modeled closely on Form WH-380, as revised, which was developed by the Department of Labor (see 29 C.F.R. Part 825, Appendix B). The employing office may use the Office of Compliance's form, or Form WH-380, as revised, or another form containing the same basic information; however, no additional information may be required. In all instances the information on the form must relate only to the serious health condition for which the current need for leave exists. The form identifies the health care provider and type of medical practice (including pertinent specialization, if any), makes maximum use of checklist entries for ease in completing the form, and contains required entries for:

(1) A certification as to which part of the definition of serious health condition" (see § 825.114), if any, applies to the patient's condition, and the medical facts which support the certification, including a brief statement as to how the medical facts meet the criteria of the definition.

(2)(i) The approximate date the serious health condition commenced, and its probable duration, including the probable duration of the patient's present incapacity (defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) if different.

(ii) Whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule basis (i.e., part-time) as a result of the serious health condition (see § 825.117 and § 825.203), and if so, the probable duration of such schedule.

(iii) If the condition is pregnancy or a chronic condition within the meaning of § 825.114(a)(2)(iii), whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3)(i)(A) If additional treatments will be required for the condition, an estimate of the probable number of such treatments.

(B) If the patient's incapacity will be intermittent, or will require a reduced leave schedule, an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any.

(ii) If any of the treatments referred to in subparagraph (i) will be provided by another provider of health services (e.g., physical therapist), the nature of the treatments.

(iii) If a regimen of continuing treatment by the patient is required under the supervision of the health care provider, a general description of the regimen (see § 825.114(b)).

(4) If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), whether the employee:

(i) is unable to perform work of any kind;

(ii) is unable to perform any one or more of the essential functions of the employee's position, including a statement of the essential functions the employee is unable to perform (see § 825.115), based on either information provided on a statement from the employing office of the essential functions of the position or, if not provided, discussion with the employee about the employee's job functions; or

(iii) must be absent from work for treatment.

(5)(i) If leave is required to care for a family member of the employee with a serious health condition, whether the patient requires assistance for basic medical or personal needs or safety, or for transportation; or if not, whether the employee's presence to provide psychological comfort would be beneficial to the patient or assist in the patient's recovery. The employee is required to indicate on the form the care he or she will provide and an estimate of the time period.

(ii) If the employee's family member will need care only intermittently or on a reduced leave schedule basis (i.e., part-time), the probable duration of the need.

(c) If the employing office's sick or medical leave plan requires less information to be furnished in medical certifications than the certification requirements of these regulations, and the employee or employing office elects to substitute paid sick, vacation, personal or family leave for unpaid FMLA leave where authorized (see § 825.207), only the employing office's lesser sick leave certification requirements may be imposed.

§ 825.307 What may an employing office do if it questions the adequacy of a medical certification?

(a) If an employee submits a complete certification signed by the health care provider, the employing office may not request additional information from the employee's health care provider. However, a health care provider representing the employing office may contact the employee's health care provider, with the employee's permission, for purposes of clarification and authenticity of the medical certification.

(1) If an employee is on FMLA leave running concurrently with a workers" compensation absence, and the provisions of the workers" compensation statute permit the employing office or the employing office's representative to have direct contact with the employee's workers" compensation health care provider, the employing office may follow the workers" compensation provisions.

(2) An employing office that has reason to doubt the validity of a medical certification may require the employee to obtain a second opinion at the employing office's expense. Pending receipt of the second (or third) medical opinion, the employee is provisionally entitled to the benefits of the FMLA as made applicable by the CAA, including maintenance of group health benefits. If the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the employing office's established leave policies. The employing office is permitted to designate the health care provider to furnish the second opinion, but the selected health care provider may not be employed on a regular basis by the employing office. See also paragraphs (e) and (f) of this section.

(b) The employing office may not regularly contract with or otherwise regularly utilize the services of the health care provider furnishing the second opinion unless the employing office is located in an area where access to health care is extremely limited (e.g., a rural area where no more than one or two doctors practice in the relevant specialty in the vicinity).

(c) If the opinions of the employee's and the employing office's designated health care providers differ, the employing office may require the employee to obtain certification from a third health care provider, again at the employing office's expense. This third opinion shall be final and binding. The third health care provider must be designated or approved jointly by the employing office and the employee. The employing office and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employing office does not attempt in good faith to reach agreement, the employing office will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification. For example, an employee who refuses to agree to see a doctor in the specialty in question may be failing to act in good faith. On the other hand, an employing office that refuses to agree to any doctor on a list of specialists in the appropriate field provided by the employee and whom the employee has not previously consulted may be failing to act in good faith.

(d) The employing office is required to provide the employee with a copy of the second and third medical opinions, where applicable, upon request by the employee. Requested copies are to be provided within two business days unless extenuating circumstances prevent such action.

(e) If the employing office requires the employee to obtain either a second or third opinion the employing office must reimburse an employee or family member for any reasonable out of pocket" travel expenses incurred to obtain the second and third medical opinions. The employing office may not require the employee or family member to travel outside normal commuting distance for purposes of obtaining the second or third medical opinions except in very unusual circumstances.

(f) In circumstances when the employee or a family member is visiting in another country, or a family member resides in another country, and a serious health condition develops, the employing office shall accept a medical certification as well as second and third opinions from a health care provider who practices in that country.

§ 825.308 Under what circumstances may an employing office request subsequent recertifications of medical conditions?

(a) For pregnancy, chronic, or permanent/long-term conditions under continuing supervision of a health care provider (as defined in § 825.114(a) (2)(ii), (iii) or (iv)), an employing office may request recertification no more often than every 30 days and only in connection with an absence by the employee, unless:

(1) Circumstances described by the previous certification have changed significantly (e.g., the duration or frequency of absences, the severity of the condition, complications); or

(2) The employing office receives information that casts doubt upon the employee's stated reason for the absence.

(b)(1) If the minimum duration of the period of incapacity specified on a certification furnished by the health care provider is more than 30 days, the employing office may not request recertification until that minimum duration has passed unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(2) For FMLA leave taken intermittently or on a reduced leave schedule basis, the employing office may not request recertification in less than the minimum period specified on the certification as necessary for such leave (including treatment) unless one of the conditions set forth in paragraph (c)(1), (2) or (3) of this section is met.

(c) For circumstances not covered by paragraphs (a) or (b) of this section, an employing office may request recertification at any reasonable interval, but not more often than every 30 days, unless:

(1) The employee requests an extension of leave;

(2) Circumstances described by the previous certification have changed significantly (e.g., the duration of the illness, the nature of the illness, complications); or

(3) The employing office receives information that casts doubt upon the continuing validity of the certification.

(d) The employee must provide the requested recertification to the employing office within the time frame requested by the employing office (which must allow at least 15 calendar days after the employing office's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(e) Any recertification requested by the employing office shall be at the employee's expense unless the employing office provides otherwise. No second or third opinion on recertification may be required.

§ 825.309 What notice may an employing office require regarding an employee's intent to return to work?

(a) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The employing office's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

(b) If an employee gives unequivocal notice of intent not to return to work, the employing office's obligations under FMLA, as made applicable by the CAA, to maintain health benefits (subject to applicable requirements of law) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

(c) It may be necessary for an employee to take more leave than originally anticipated. Conversely, an employee may discover after beginning leave that the circumstances have changed and the amount of leave originally anticipated is no longer necessary. An employee may not be required to take more FMLA leave than necessary to resolve the circumstance that precipitated the need for leave. In both of these situations, the employing office may require that the employee provide the employing office reasonable notice (i.e., within two business days) of the changed circumstances where foreseeable. The employing office may also obtain information on such changed circumstances through requested status reports.

§ 825.310 Under what circumstances may an employing office require that an employee submit a medical certification that the employee is able (or unable) to return to work (i.e., a "fitness-for-duty" report)?

(a) As a condition of restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, an employing office may have a uniformly-applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health care provider that the employee is able to resume work.

(b) If the terms of a collective bargaining agreement govern an employee's return to work, those provisions shall be applied. Similarly, requirements under the Americans with Disabilities Act (ADA), as made applicable by the CAA, that any return-to-work physical be job-related and consistent with business necessity apply. For example, an attorney could not be required to submit to a medical examination or inquiry just because her leg had been amputated. The essential functions of an attorney's job do not require use of both legs; therefore such an inquiry would not be job related. An employing office may require a warehouse laborer, whose back impairment affects the ability to lift, to be examined by an orthopedist, but may not require this employee to submit to an HIV test where the test is not related to either the essential functions of his/her job or to his/her impairment.

(c) An employing office may seek fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification itself need only be a simple statement of an employee's ability to return to work. A health care provider employed by the employing office may contact the employee's health care provider with the employee's permission, for purposes of clarification of the employee's fitness to return to work. No additional information may be acquired, and clarification may be requested only for the serious health condition for which FMLA leave was taken. The employing office may not delay the employee's return to work while contact with the health care provider is being made.

(d) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

(e) The notice that employing offices are required to give to each employee giving notice of the need for FMLA leave regarding their FMLA rights and obligations as made applicable by the CAA (see § 825.301) shall advise the employee if the employing office will require fitness-for-duty certification to return to work. If the employing office has a handbook explaining employment policies and benefits, the handbook should explain the employing office's general policy regarding any requirement for fitness-for-duty certification to return to work. Specific notice shall also be given to any employee from whom fitness-for-duty certification will be required either at the time notice of the need for leave is given or immediately after leave commences and the employing office is advised of the medical circumstances requiring the leave, unless the employee's condition changes from one that did not previously require certification pursuant to the employing office's practice or policy. No second or third fitness-for-duty certification may be required.

(f) An employing office may delay restoration to employment until an employee submits a required fitness-for-duty certification unless the employing office has failed to provide the notices required in paragraph (e) of this section.

(g) An employing office is not entitled to certification of fitness to return to duty when the employee takes intermittent leave as described in § 825.203.

(h) When an employee is unable to return to work after FMLA leave because of the continuation, recurrence, or onset of the employee's or family member's serious health condition, thereby preventing the employing office from recovering its share of health benefit premium payments made on the employee's behalf during a period of unpaid FMLA leave, the employing office may require medical certification of the employee's or the family member's serious health condition. (See § 825.213(a)(3).) The cost of the certification shall be borne by the employee and the employee is not entitled to be paid for the time or travel costs spent in acquiring the certification.

§ 825.311 What happens if an employee fails to satisfy the medical certification and/or recertification requirements?

(a) In the case of foreseeable leave, an employing office may delay the taking of FMLA leave to an employee who fails to provide timely certification after being requested by the employing office to furnish such certification (i.e., within 15 calendar days, if practicable), until the required certification is provided.

(b) When the need for leave is not foreseeable, or in the case of recertification, an employee must provide certification (or recertification) within the time frame requested by the employing office (which must allow at least 15 days after the employing office's request) or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for an employee to provide the required certification within 15 calendar days. If an employee fails to provide a medical certification within a reasonable time under the pertinent circumstances, the employing office may delay the employee's continuation of FMLA leave. If the employee never produces the certification, the leave is not FMLA leave.

(c) When requested by the employing office pursuant to a uniformly applied policy for similarly-situated employees, the employee must provide medical certification at the time the employee seeks reinstatement at the end of FMLA leave taken for the employee's serious health condition, that the employee is fit for duty and able to return to work (see § 825.310(a)) if the employing office has provided the required notice (see § 825.301(c); the employing office may delay restoration until the certification is provided. In this situation, unless the employee provides either a fitness-for-duty certification or a new medical certification for a serious health condition at the time FMLA leave is concluded, the employee may be terminated. See also § 825.213(a)(3).

§ 825.312 Under what circumstances may an employing office refuse to provide FMLA leave or reinstatement to eligible employees?

(a) If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the employing office may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the employing office of the need for FMLA leave. (See § 825.302.)

(b) If an employee fails to provide in a timely manner a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, an employing office may delay continuation of

FMLA leave until an employee submits the certificate. (See §§825.305 and 825.311.) If the employee never produces the certification, the leave is not FMLA leave.

(c) If an employee fails to provide a requested fitness-for-duty certification to return to work, an employing office may delay restoration until the employee submits the certificate. (See §§825.310 and 825.311.)

(d) An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. Thus, an employee's rights to continued leave, maintenance of health benefits, and restoration cease under FMLA, as made applicable by the CAA, if and when the employment relationship terminates (e.g., layoff), unless that relationship continues, for example, by the employee remaining on paid FMLA leave. If the employee is recalled or otherwise re-employed, an eligible employee is immediately entitled to further FMLA leave for an FMLA-qualifying reason. An employing office must be able to show, when an employee requests restoration, that the employee would not otherwise have been employed if leave had not been taken in order to deny restoration to employment. (See §825.216.)

(e) An employing office may require an employee on FMLA leave to report periodically on the employee's status and intention to return to work. (See §825.309.) If an employee unequivocally advises the employing office either before or during the taking of leave that the employee does not intend to return to work, and the employment relationship is terminated, the employee's entitlement to continued leave, maintenance of health benefits, and restoration ceases unless the employment relationship continues, for example, by the employee remaining on paid leave. An employee may not be required to take more leave than necessary to address the circumstances for which leave was taken. If the employee is able to return to work earlier than anticipated, the employee shall provide the employing office two business days notice where feasible; the employing office is required to restore the employee once such notice is given, or where such prior notice was not feasible.

(f) An employing office may deny restoration to employment, but not the taking of FMLA leave and the maintenance of health benefits, to an eligible employee only under the terms of the key employee" exemption. Denial of reinstatement must be necessary to prevent substantial and grievous economic injury" to the employing office's operations. The employing office must notify the employee of the employee's status as a key employee" and of the employing office's intent to deny reinstatement on that basis when the employing office makes these determinations. If leave has started, the employee must be given a reasonable opportunity to return to work after being so notified. (See §825.219.)

(g) An employee who fraudulently obtains FMLA leave from an employing office is not protected by job restoration or maintenance of health benefits provisions of the FMLA as made applicable by the CAA.

(h) If the employing office has a uniformly-applied policy governing outside or supplemental employment, such a policy may continue to apply to an employee while on FMLA leave. An employing office which does not have such a policy may not deny benefits to which an employee is entitled under FMLA as made applicable by the CAA on this basis unless the FMLA leave was fraudulently obtained as in paragraph (g) of this section.

SUBPART D—WHAT ENFORCEMENT MECHANISMS DOES THE CAA PROVIDE?

§825.400 What can employees do who believe that their rights under the FMLA as made applicable by the CAA have been violated?

(a) To commence a proceeding, a covered employee alleging a violation of the rights and protections of the FMLA made applicable by the CAA must request counseling by the Office of Compliance not later than 180 days after the date of the alleged violation. If a covered employee misses this deadline, the covered employee will be unable to obtain a remedy under the CAA.

(b) The following procedures are available under title IV of the CAA for covered employees who believe that their rights under FMLA as made applicable by the CAA have been violated:

(1) counseling;

(2) mediation; and

(3) election of either—

(A) a formal complaint, filed with the Office of Compliance, and a hearing before a hearing officer, subject to review by the Board of Directors of the Office of Compliance, and judicial review in the United States Court of Appeals for the Federal Circuit; or

(B) a civil action in a district court of the United States.

(c) Regulations of the Office of Compliance describing and governing these procedures are found at [proposed rules can be found at 141 Cong. Rec. S17012 (November 14, 1995)].

§825.401 [Reserved.]

§825.402 [Reserved.]

§825.403 [Reserved.]

§825.404 [Reserved.]

SUBPART E—[RESERVED.]

SUBPART F—WHAT SPECIAL RULES APPLY TO EMPLOYEES OF SCHOOLS?

§825.600 To whom do the special rules apply?

(a) Certain special rules apply to employees of "local educational agencies," including public school boards and elementary schools under their jurisdiction, and private elementary and secondary schools. The special rules do not apply to other kinds of educational institutions, such as colleges and universities, trade schools, and preschools.

(b) Educational institutions are covered by FMLA as made applicable by the CAA (and these special rules). The usual requirements for employees to be "eligible" do apply, however.

(c) The special rules affect the taking of intermittent leave or leave on a reduced leave schedule, or leave near the end of an academic term (semester), by instructional employees. "Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include, and the special rules do not apply to, teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

(d) Special rules which apply to restoration to an equivalent position apply to all employees of local educational agencies.

§825.601 What limitations apply to the taking of intermittent leave or leave on a reduced leave schedule?

(a) Leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. An instructional employee who is on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.

(1) If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the employing office may require the employee to choose either to:

(i) Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

(ii) Transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

(2) These rules apply only to a leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if an instructional employee who normally works five days each week needs to take two days of FMLA leave per week over a period of several weeks, the special rules would apply. Employees taking leave which constitutes 20 percent or less of the working days during the leave period would not be subject to transfer to an alternative position. "Periods of a particular duration" means a block, or blocks, of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave.

(b) If an instructional employee does not give required notice of foreseeable FMLA leave (see §825.302) to be taken intermittently or on a reduced leave schedule, the employing office may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employing office may require the employee to delay the taking of leave until the notice provision is met. See §825.207(h).

§825.602 What limitations apply to the taking of leave near the end of an academic term?

(a) There are also different rules for instructional employees who begin leave more than five weeks before the end of a term, less than five weeks before the end of a term, and less than three weeks before the end of a term. Regular rules apply except in circumstances when:

(1) An instructional employee begins leave more than five weeks before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last at least three weeks, and

(ii) The employee would return to work during the three-week period before the end of the term.

(2) The employee begins leave for a purpose other than the employee's own serious health condition during the five-week period before the end of a term. The employing office may require the employee to continue taking leave until the end of the term if—

(i) The leave will last more than two weeks, and

(ii) The employee would return to work during the two-week period before the end of the term.

(3) The employee begins leave for a purpose other than the employee's own serious health condition during the three-week period before the end of a term, and the leave will last more than five working days. The employing office may require the employee to continue taking leave until the end of the term.

(b) For purposes of these provisions, "academic term" means the school semester, which typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of FMLA as made applicable by the CAA. An example of leave falling within these provisions would be where an employee plans two weeks of leave to care for a family member which will begin three weeks before the end of the term. In that situation, the employing office could require the employee to stay out on leave until the end of the term.

§825.603 Is all leave taken during "periods of a particular duration" counted against the FMLA leave entitlement?

(a) If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

(b) In the case of an employee who is required to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. The employing office has the option not to require the employee to stay on leave until the end of the school term. Therefore, any additional leave required by the employing office to the end of the school term is not counted as FMLA leave; however, the employing office shall be required to maintain the employee's group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave.

§825.604 What special rules apply to restoration to "an equivalent position?"

The determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school board policies and practices, private school policies and practices, and collective bargaining agreements." The "established policies" and collective bargaining agreements used as a basis for restoration must be in writing, must be made known to the employee prior to the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA, as made applicable by the CAA, for reinstated employees. See §825.215. In other words, the policy or collective bargaining agreement must provide for restoration to an "equivalent position" with equivalent employment benefits, pay, and other terms and conditions of employment. For example, an employee may not be restored to a position requiring additional licensure or certification.

SUBPART G—HOW DO OTHER LAWS, EMPLOYING OFFICE PRACTICES, AND COLLECTIVE BARGAINING AGREEMENTS AFFECT EMPLOYEE RIGHTS UNDER THE FMLA AS MADE APPLICABLE BY THE CAA?

§825.700 What if an employing office provides more generous benefits than required by FMLA as Made Applicable by the CAA?

(a) An employing office must observe any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established by the FMLA. Conversely, the rights established by the FMLA, as made applicable by the CAA, may not be diminished by any employment benefit program or plan. For example, a provision of a CBA which provides for reinstatement to a position that is not equivalent because of seniority (e.g., provides lesser pay) is superseded by FMLA. If an employing office provides greater unpaid family leave rights than are afforded by FMLA, the employing office is not required to extend additional rights afforded by FMLA, such as maintenance of health benefits (other than as may be otherwise required by law), to the additional leave period not covered by FMLA. If an employee takes paid or unpaid leave and the employing office does not designate the leave as FMLA leave, the leave taken does not count against an employee's FMLA entitlement.

(b) Nothing in this FMLA, as made applicable by the CAA, prevents an employing office from amending existing leave and employee benefit programs, provided they comply with FMLA as made applicable by the CAA. However, nothing in the FMLA, as made applicable by the CAA, is intended to discourage employing offices from adopting or retaining more generous leave policies.

(c) [Reserved.]

§825.701 [Reserved.]

§825.702 How does FMLA affect anti-discrimination laws as applied by section 201 of the CAA?

(a) Nothing in FMLA modifies or affects any applicable law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability (e.g., Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act), as made applicable by the CAA. FMLA's legislative history explains that FMLA is "not intended to modify or affect the Rehabilitation Act of 1973, as amended, the regulations concerning employment which have been promulgated pursuant to that statute, or the Americans with Disabilities Act of 1990, or the regulations issued under that act. Thus, the leave provisions of the [FMLA] are wholly distinct from the reasonable accommodation obligations of employing offices covered under the [ADA] * * * or the Federal government itself. The purpose of the FMLA is to make leave available to eligible employees and employing offices within its coverage, and not to limit already existing rights and protection." S. Rep. No. 3, 103d Cong., 1st Sess. 38 (1993). An employing office must therefore provide leave under whichever statutory provision provides the greater rights to employees.

(b) If an employee is a qualified individual with a disability within the meaning of the Americans with Disabilities Act (ADA), the employing office must make reasonable accommodations, etc., barring undue hardship, in accordance with the ADA. At the same time, the employing office must afford an employee his or her FMLA rights. ADA's "disability" and FMLA's "serious health condition" are different concepts, and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employing offices to maintain employees'' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

(c)(1) A reasonable accommodation under the ADA might be accomplished by providing an individual with a disability with a part-time job with no health benefits, assuming the employing office did not ordinarily provide health insurance for part-time employees. However, FMLA would permit an employee to work a reduced leave schedule until the equivalent of 12 workweeks of leave were used, with group health benefits maintained during this period. FMLA permits an employing office to temporarily transfer an employee who is taking leave intermittently or on a reduced leave schedule to an alternative position, whereas the ADA allows an accommodation of reassignment to an equivalent, vacant position only if the employee cannot perform the essential functions of the employee's present position and an accommodation is not possible in the employee's present position, or an accommodation in the employee's present position would cause an undue hardship. The examples in the following paragraphs of this section demonstrate how the two laws would interact with respect to a qualified individual with a disability.

(2) A qualified individual with a disability who is also an "eligible employee" entitled to FMLA leave requests 10 weeks of medical leave as a reasonable accommodation, which the employing office grants because it is not an undue hardship. The employing office advises the employee that the 10 weeks of leave is also being designated as FMLA leave and will count towards the employee's FMLA leave entitlement. This designation does not prevent the parties from also treating the leave as a reasonable accommodation and reinstating the employee into the same job, as required by the ADA, rather than an equivalent position under FMLA, if that is the greater right available to the employee. At the same time, the employee would be entitled under FMLA to have the employing office maintain group health plan coverage during the leave, as that requirement provides the greater right to the employee.

(3) If the same employee needed to work part-time (a reduced leave schedule) after returning to his or her same job, the employee would still be entitled under FMLA to have group health plan coverage maintained for the remainder of the two-week equivalent of FMLA leave entitlement, notwithstanding an employing office policy that part-time employees do not receive health insurance. This employee would be entitled under the ADA to reasonable accommodations to enable the employee to perform the essential functions of the part-time position. In addition, because the employee is working a part-time schedule as a reasonable accommodation, the employee would be shielded from FMLA's provision for temporary assignment to a different alternative position.

Once the employee has exhausted his or her remaining FMLA leave entitlement while working the reduced (part-time) schedule, if the employee is a qualified individual with a disability, and if the employee is unable to return to the same full-time position at that time, the employee might continue to work part-time as a reasonable accommodation, barring undue hardship; the employee would then be entitled to only those employment benefits ordinarily provided by the employing office to part-time employees.

(4) At the end of the FMLA leave entitlement, an employing office is required under FMLA to reinstate the employee in the same or an equivalent position, with equivalent pay and benefits, to that which the employee held when leave commenced. The employing office's FMLA obligations would be satisfied if the employing office offered the employee an equivalent full-time position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employing office to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

(d)(1) If FMLA entitles an employee to leave, an employing office may not, in lieu of FMLA leave entitlement, require an employee to take a job with a reasonable accommodation. However, ADA may require that an employing office offer an employee the opportunity to take such a position. An employing office may not change the essential functions of the job in order to deny FMLA leave. See §825.220(b).

(2) An employee may be on a workers' compensation absence due to an on-the-job injury or illness which also qualifies as a serious health condition under FMLA. The workers' compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employing office). At some point the health care provider providing medical care pursuant to the workers' compensation injury may certify the employee is able to return to work in a "light duty" position. If the employing office offers such a position, the employee is permitted but not required to accept the position (see §825.220(d)). As a result, the employee may no longer qualify for payments from the workers' compensation benefit plan, but the employee is entitled to continue on unpaid FMLA leave either until the employee is able to return to the same or equivalent job the employee left or until the 12-week FMLA leave entitlement is exhausted. See §825.207(d)(2). If the employee returning from the workers' compensation injury is a qualified individual with a disability, he or she will have rights under the ADA.

(e) If an employing office requires certifications of an employee's fitness for duty to return to work, as permitted by FMLA under a uniform policy, it must comply with the ADA requirement that a fitness for duty physical be job-related and consistent with business necessity.

(f) Under Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, and as made applicable by the CAA, an employing office should provide the same benefits for women who are pregnant as the employing office provides to other employees with short-term disabilities. Because Title VII does not require employees to be employed for a certain period of time to be protected, an employee employed for less than 12 months by the employing office (and, therefore, not an "eligible" employee under FMLA) may not be denied maternity leave if the employing office normally provides short-term disability benefits to employees with the same tenure who are experiencing other short-term disabilities.

(g) For further information on Federal anti-discrimination laws applied by section 201 of the CAA, including Title VII and the ADA, individuals are encouraged to contact the Office of Compliance.

SUBPART H—DEFINITIONS

§ 825.800 Definitions.

For purposes of this part:

ADA means the Americans With Disabilities Act (42 U.S.C. 12101 et seq.).

CAA means the Congressional Accountability Act of 1995, Pub. Law 104-1, 101 Stat. 3, 2 U.S.C. §1301.

Continuing treatment means: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(1) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(2) Any period of incapacity due to pregnancy, or for prenatal care.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(5) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

Covered employee means any employee of—(1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Capitol Police; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; (8) the Office of Compliance; or (9) the Office of Technology Assessment.

Employee of the Office of the Architect of the Capitol.—The term "employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

Employee of the Capitol Police.—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

Employee of the House of Representatives—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Employee of the Senate.—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) under "covered employee" above.

Eligible employee means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

Employee means an employee as defined under the CAA and includes an applicant for employment and a former employee.

Employee employed in an instructional capacity. See Teacher.

Employing Office means: (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

Employment benefits means all benefits provided or made available to employees by an employing office, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employing office or through an employee benefit plan. The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage. (See §825.209(a)).

FLSA means the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

FMLA means the Family and Medical Leave Act of 1993, Public Law 103-3 (February 5, 1993), 107 Stat. 6 (29 U.S.C. 2601 et seq.).

Group health plan means the Federal Employees Health Benefits Program and any other plan of, or contributed to by, an employing office (including a self-insured plan) to provide health care (directly or otherwise) to the employing office's employees, former employees, or the families of such employees or former employees. For purposes of FMLA as made applicable by the CAA the term "group health plan" shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that: (1) no contributions are made by the employing office; (2) participation in the program is completely voluntary for employees; (3) the sole functions of the employing office with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer; (4) the employing office receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and, (5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

Health care provider means: (1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or (2) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; and (3) Nurse practitioners, nurse-midwives and clinical social workers who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law; and (4) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. (5) Any health care provider from whom an employing office or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits. (6) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country.

"Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living" (ADLs) or "instrumental activities of daily living" (IADLs). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.

Instructional employee: See Teacher.

Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.

Mental disability: See Physical or mental disability.

Office of Compliance means the independent office established in the legislative branch under section 301 of the Congressional Accountability Act of 1995.

Parent means the biological parent of an employee or an individual who stands or stood in loco parentis to an employee when the employee was a child.

Physical or mental disability means a physical or mental impairment that substantially limits one or more of the major life activities of an individual. Regulations at 29 C.F.R. Part 1630.2(h), (i), and (j), issued by the Equal Employment Opportunity Commission under the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq., define these terms.

Reduced leave schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Secretary means the Secretary of Labor or authorized representative.

Serious health condition entitling an employee to FMLA leave means: (1) an illness, injury, impairment, or physical or mental condition that involves: (i) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or (ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes:

(A) A period of incapacity (i.e., inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves: (1) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(B) Any period of incapacity due to pregnancy, or for prenatal care.

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which: (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

(D) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of paragraph (1) of this definition includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under paragraph (1)(ii)(A)(2) of this definition, a regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bedrest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(4) Substance abuse may be a serious health condition if the conditions of this section are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under paragraphs (1)(ii) (B) or (C) of this definition qualify for FMLA leave even though the employee or the immediate family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability.

Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides, including common law marriage in States where it is recognized.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Teacher (or employee employed in an instructional capacity, or instructional employee) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily noninstructional employees.

APPENDIX A TO PART 825—[RESERVED.]

APPENDIX B TO PART 825—CERTIFICATION OF PHYSICIAN OR PRACTITIONER

CERTIFICATION OF HEALTH CARE PROVIDER (FAMILY AND MEDICAL LEAVE ACT OF 1993 AS MADE APPLICABLE BY THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995)

1. Employee's Name:

2. Patient's Name (if different from employee):

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act as made applicable by the Congressional Accountability Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) ___ (2) ___ (3) ___ (4) ___ (5) ___ (6) ___, or None of the above ___

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? ______

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated[2] and the likely duration and frequency of episodes of incapacity:[2]

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? ______

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ______ If yes, please list the essential functions the employee is unable to perform:

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? ______

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? ______

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? ______

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need: ______

(Signature of Health Care Provider) ______

(Type of Practice) ______

(Address) ______

(Telephone number) ______

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: ______

(Employee signature) ______

(Date) ______

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. *Hospital care.*—Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity[2] or subsequent treatment in connection with or consequent to such inpatient care.

2. *Absence plus treatment.*—(a) A period of incapacity[2] of more than three consecutive calendar days (including any subsequent treatment or period of incapacity[2] relating to the same condition), that also involves: (1) Treatment[3] two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or (2) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment[4] under the supervision of the health care provider.

3. *Pregnancy.*—Any period of incapacity due to pregnancy, or for prenatal care.

4. *Chronic conditions requiring treatments.*—A chronic condition which: (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider; (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) May cause episodic rather than a continuing period of incapacity[2] (e.g., asthma, diabetes, epilepsy, etc.)

5. *Permanent/long-term conditions requiring supervision.*—A period of incapacity[2] which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

6. *Multiple treatments (non-chronic conditions).*—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity[2] of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

APPENDIX C TO PART 825—[RESERVED]

APPENDIX D TO PART 825—PROTOTYPE NOTICE: EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY AND MEDICAL LEAVE

EMPLOYING OFFICE RESPONSE TO EMPLOYEE REQUEST FOR FAMILY OR MEDICAL LEAVE

(Optional use form—see §825.301(c) of the regulations of the Office of Compliance)

(Family and Medical Leave Act of 1993, as made applicable by the Congressional Accountability Act of 1995)

(Date)

To: ______

(Employee's name)

From: ______

(Name of appropriate employing office representative)

Subject: Request for family/medical leave

On ______ (date), you notified us of your need to take family/medical leave due to:

☐ the birth of your child, or the placement of a child with you for adoption or foster care; or

☐ a serious health condition that makes you unable to perform the essential functions of your job; or

☐ a serious health condition affecting your ☐ spouse, ☐ child, ☐ parent, for which you are needed to provide care.

You notified us that you need this leave beginning on ______ (date) and that you expect leave to continue until on or about ______ (date).

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[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity," for purposes of FMLA as made applicable by the CAA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom.

[3] Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

[4] A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

Except as explained below, you have a right under the FMLA, as made applicable by the CAA, for up to 12 weeks of unpaid leave in a 12-month period for the reasons listed above. Also, your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work, and you must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from leave. If you do not return to work following FMLA leave for a reason other than: (1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; or (2) other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.

This is to inform you that: (check appropriate boxes; explain where indicated)

1. You are ☐ eligible ☐ not eligible for leave under the FMLA as made applicable by the CAA.

2. The requested leave ☐ will ☐ will not be counted against your annual FMLA leave entitlement.

3. You ☐ will ☐ will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by ________ (insert date) (must be at least 15 days after you are notified of this requirement) or we may delay the commencement of your leave until the certification is submitted.

4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA leave. If paid leave will be used the following conditions will apply: (Explain)

5(a). If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.)

(b). You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, *provided* we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on leave.

(c). We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.

6. You ☐ will ☐ will not be required to present a fitness-for-duty certificate prior to being restored to employment. If such certification is required but not received, your return to work may be delayed until the certification is provided.

7(a). You ☐ are ☐ are not a "key employee" as described in §825.218 of the Office of Compliance's FMLA regulations. If you are a "key employee," restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us.

(b). We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (Explain (a) and/or (b) below. See §825.219 of the Office of Compliance's FMLA regulations.)

8. While on leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _____ (indicate interval of periodic reports, as appropriate for the particular leave situation) of your status and intent to return to work (see §825.309 of the Office of Compliance's FMLA regulations). If the circumstances of your leave change and you are able to return to work earlier than the date indicated on the reverse side of this form, you ☐ will ☐ will not be required to notify us at least two work days prior to the date you intend to report for work.

9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (Explain below, if necessary, including the interval between certifications as prescribed in §825.308 of the Office of Compliance's FMLA regulations.)

APPENDIX E TO PART 825—[RESERVED.]

OFFICE OF COMPLIANCE

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: EXTENSION OF RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT OF 1988

Notice of proposed rulemaking

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement section 205 of the Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, 2 U.S.C. §1315, to employees of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment statutes to covered employees within the legislative branch. Section 205 provides that no employing office (meeting the size thresholds for coverage as an employer) shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act, 29 U.S.C §2102 ("WARN"), until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees. 2 U.S.C. §1315(a). The provisions of section 205 are effective January 23, 1996, one year after the enactment date of the CAA, for all employing offices except the General Accounting Office and the Library of Congress. Accordingly, this notice does not include rules applicable to the General Accounting Office of the Library of Congress.

This notice proposes that substantially similar regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities; and their employees. Accordingly:

(1) Senate.—It is proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) House of Representatives.—It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) Certain Congressional instrumentalities.—It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment, and their employees; and this proposal regarding these seven Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due within 30 days after the date of publication of this notice in the Congressional Record.

Addresses: Submit written comments to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252-3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Building, 101 Independence Avenue, S.E., Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 252-3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 224-2705.

Supplementary information:

Background and summary: The Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, was enacted into law on January 23, 1995. 2 U.S.C. §§1301 et seq. In general, the CAA applies the rights and protections of eleven federal labor and employment statutes to covered employees and employing offices within the legislative branch. Section 205 of the CAA provides that no employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment Retraining and Notification Act of 1988, 29 U.S.C. §2102 ("WARN") until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees. 2 U.S.C. §1315(a). Section 225(f) of the CAA provides that "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of [WARN] shall apply under this Act." 2 U.S.C. §1361(f). Sections 304(a) and 205(c) of the CAA directs the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §§1384(a), 1315(c). Section 205(c) further states that such regulations "shall be the same as substantive regulations issued by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." 2 U.S.C. §1315(c).

The Board has published in the Congressional Record for comment an Advance Notice of Proposed Rulemaking. See 141 Cong. Rec. S14542 (daily ed., Sept. 28, 1995). After consideration of the public comments relating to rulemaking under section 205 of the CAA, the Board is publishing this proposed regulation.

With the exception of technical and nomenclature changes, the Board does not propose substantial departure from otherwise applicable Secretary's regulations. See Secretary of Labor's regulations at 20 C.F.R. Part 639; Final rule published at 54 Federal Register 16042 (April 20, 1989).

In developing these proposed regulations, a number of issues have been identified and explored. The Board proposes to resolve these issues as described below, and it particularly invites comments on the following issues:

1. Employer coverage.—WARN contains size thresholds for coverage as an employer and specifies which workers are counted in making coverage determinations. Section 225(f)(2) of the CAA makes clear that the provisions of WARN determining coverage based on size shall apply in determining coverage of employing offices under the CAA. 2 U.S.C. §1361(f)(2). Thus, the Secretary's regulations implementing WARN's coverage requirements (20 C.F.R. §639.3(a)) are included in these regulations.

2. Notification of State dislocated worker assistance programs and coordination with job placement and retraining programs.—In contrast to section 3 of WARN, section 205 of the CAA does not require an employing office to give notice of the office closing or layoff to the "State dislocated worker unit" or to the "chief elected official of the unit of local government" within which such closing or layoff is to occur. See 29 U.S.C. §2102(a)(2). Therefore, the proposed regulations do not require notice to be given to State and local entities and do not include the Secretary's regulations regarding such notice.

3. Exemption for strikes and lockouts.—The proposed regulations do not include the Secretary's regulations regarding WARN's exemption for strikes and lockouts (20 C.F.R. §639.5). Strikes are prohibited in federal employment. 18 U.S.C. §1918. Similarly, the Federal Labor Relations Act, which applies to covered employees and employing offices under section 220 of the CAA, prohibits picketing that interferes with agency operations, as well as slowdowns, stoppages and strikes under any circumstances. 5 U.S.C. §7116(b)(7). Therefore, these regulations are inapplicable to legislative branch employees.

4. "Faltering company" exemption.—Section 3(b) of WARN sets forth three conditions under which the notification period may be reduced to less than 60 days. Under the "faltering company" exemption, an employer must be in the process of seeking capital or business during the time that the 60-day notice would have been required. This section is inapplicable to employment within the legislative branch and the Secretary's regulation implementing this section (20 C.F.R. §639.9(a)) is not included in the proposed regulations. The "unforeseen business circumstances" and "natural disaster" exceptions in sections 3(b)(2)(A) and (B) of WARN, appear to be applicable and thus the Secretary's regulations (29 C.F.R. §639.9(b) and (c)) have been included in the proposed regulations, with appropriate modifications.

5. Extension of short-term layoff.—The Secretary's regulations address the Notice requirement where an employer extends short-term layoffs (6 months or less) beyond 6 months due to business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time the initial layoff is required. 20 C.F.R. §639.4(b). There may be circumstances where an employing office may be required to extend short-term layoffs due to unforeseen events (such as unforeseen budget or funding reductions or eliminations). Therefore, the Board includes this provision (with appropriate modification as part of its proposed regulations.

6. Sale of business.—The Board includes the Secretary's regulations regarding Notice in the case of a sale of all or parts of a business (20 C.F.R. §639.4(c)).

Recommended Method of Approval: The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 20th day of November, 1995.

GLEN D. NAGER,
Chair of the Board, Office of Compliance.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE WORKER ADJUSTMENT RETRAINING AND NOTIFICATION ACT OF 1988

Section

639.1 Purpose and scope.
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§639.1 Purpose and scope.

(a) Purpose of WARN as applied by the CAA.—Section 205 of the Congressional Accountability Act, P.L. 104-1 ("CAA"), provides protection to covered employees and their families by requiring employing offices to provide notification 60 calendar days in advance of office closings and mass layoffs within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act of 1988, 29 U.S.C. §2102. Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. As used in these regulations, WARN shall refer to the provisions of WARN applied to covered employing offices by section 205 of the CAA.

(b) Scope of these regulations.—These regulations establish basic definitions and rules for giving notice, implementing the provisions of WARN. The objective of these regulations is to establish clear principles and broad guidelines which can be applied in specific circumstances. However, it is recognized that rulemaking cannot address the multitude of employing office-specific situations in which advance notice will be given.

(c) Notice encouraged where not required.—An employing office that is not required to comply with the notice requirements of section 205 of the CAA is encouraged, to the extent possible, to provide notice to its employees about a proposal to close an office or permanently reduce its workforce.

(d) Notice in ambiguous situations.—It is civically desirable and it would appear to be good business practice for an employing office to provide advance notice to its workers or unions when terminating a significant number of employees. In practical terms, there are some questions and ambiguities of interpretation inherent in the application of WARN that cannot be addressed in these regulations. It is therefore prudent for employing offices to weigh the desirability of advance notice against the possibility of expensive and time-consuming litigation to resolve disputes where notice has not been given. The Office encourages employing offices to give notice in all circumstances.

(e) WARN not to supersede other laws and contracts.—The provisions of WARN do not supersede any otherwise applicable laws or collective bargaining agreements that provide for additional notice or additional rights and remedies. If such law or agreement provides for a longer notice period, WARN notice shall run concurrently with that additional notice period. Collective bargaining agreements may be used to clarify or amplify the terms and conditions of WARN, but may not reduce WARN rights.

§639.2 What does WARN require?

WARN requires employing offices that are planning an office closing or a mass layoff to give affected employees at least 60 days' notice of such an employment action. While the 60-day period is the minimum for advance notice, this provision is not intended to discourage employing offices from voluntarily providing longer periods of advance notice. Not all office closings and layoffs are subject to WARN, and certain employment thresholds must be reached before WARN applies. WARN sets out specific exemptions, and provides for a reduction in the notification period in particular circumstances. Remedies authorized under section 205 of the CAA may be assessed against employing offices that violate WARN requirements.

§639.3 Definitions.

(a) Employing office.—(1) The term "employing office" means any business enterprise that employs—

(i) 100 or more employees, excluding part-time employees; or

(ii) employs 100 or more employees, including part-time employees, who in the aggregate work at least 4,000 hours per week, exclusive of overtime.

Workers on temporary layoff or on leave who have a reasonable expectation of recall are counted as employees. An employee has a "reasonable expectation of recall" when he/she understands, through notification or through common practice, that his/her employment with the employer has been temporarily interrupted and that he/she will be recalled to the same or to a similar job.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN, are nonetheless counted as employees for purposes of determining coverage as an employer.

(3) An employing office may have one or more sites of employment under common ownership or control.

(b) Office closing.—The term "office closing" means the permanent or temporary shutdown of a "single site of employment", or one or more "facilities or operating "units" within a single site of employment, if the shutdown results in an "employment loss" during any 30-day period at the single site of employment for 50 or more employees, excluding any part-time employees. An employment action that results in the effective cessation of the work performed by a unit, even if a few employees remain, is a shutdown. A "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations, layoffs exceeding 6 months, or reductions in hours of work as specified under the definition of "employment loss."

(c) Mass layoff.—(1) The term "mass layoff" means a reduction in force which first, is not the result of an office closing, and second, results in an employment loss at the single site of employment during any 30-day period for:

(i) At least 33 percent of the active employees, excluding part-time employees, and

(ii) At least 50 employees, excluding part-time employees.

Where 500 or more employees (excluding part-time employees) are affected, the 33% requirement does not apply, and notice is required if the other criteria are met. Office closings involve employment loss which results from the shutdown of one or more distinct units within a single site or the entire site. A mass layoff involves employment loss, regardless of whether one or more units are shut down at the site.

(2) Workers, other than part-time workers, who are exempt from notice under section 4 of WARN are nonetheless counted as employees for purposes of determining coverage as an office closing or mass layoff. For example, if an employer closes a temporary project on which 10 permanent and 40 temporary workers are employed, a covered office closing has occurred although only 10 workers are entitled to notice.

(d) Representative.—The term "representative" means an exclusive representative of employees within the meaning of 5 U.S.C. §§7101 et seq., as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. §1351.

(e) Affected employees.—The term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer. This includes individually identifiable employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such individual workers reasonably can be identified at the time notice is required to be given. The term "affected employees" includes managerial and supervisory employees. Consultant or contract employees who have a separate employment relationship with another employing office or employer and are paid by that other employing office or employer, or who are self-employed, are not "affected employees" of the business to which they are assigned. In addition, for purposes of determining whether coverage thresholds are met, either incumbent workers in jobs being eliminated or, if known 60 days in advance, the actual employees who suffer an employment loss may be counted.

(f) Employment loss.—(1) The term "employment loss" means (i) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (ii) a layoff exceeding 6 months, or (iii) a reduction in hours of work of individual employees of more than 50% during each month of any 6-month period.

(2) Where a termination or a layoff (see paragraphs (f)(1)(i) and (ii) of this section) is involved, an employment loss does not occur when an employee is reassigned or transferred to employing office-sponsored programs, such as retraining or job search activities, as long as the reassignment does not constitute a constructive discharge or other involuntary termination.

(3) An employee is not considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employing office's operations and, prior to the closing or layoff—

(i) The employing office offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment, or

(ii) The employing office offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(4) A "relocation or consolidation" of part or all of an employing office's operations, for purposes of paragraph §639.3(f)(3), means that some definable operations are transferred to a different site of employment and that transfer results in an office closing or mass layoff.

(g) Part-time employee.—The term "part-time" employee means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required, including workers who work full-time. This term may include workers who would traditionally be understood as "seasonal" employees. The period to be used for calculating whether a worker has worked "an average of fewer than 20 hours per week" is the shorter of the actual time the worker has been employed or the most recent 90 days.

(h) Single site of employment.—(1) A single site of employment can refer to either a single location or a group of contiguous locations. Separate facilities across the street from one another may be considered a single site of employment.

(2) There may be several single sites of employment within a single building, such as an office building, if separate employing offices conduct activities within such a building. For example, an office building housing 50 different employing offices will contain 50 single sites of employment. The offices of each employing office will be its single site of employment.

(3) Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.

(4) Non-contiguous sites in the same geographic area which do not share the same staff or operational purpose should not be considered a single site.

(5) Contiguous buildings operated by the same employing office which have separate management and have separate workforces are considered separate single sites of employment.

(6) For workers whose primary duties require travel from point to point, who are outstationed, or whose primary duties involve work outside any of the employing office's regular employment sites (e.g., railroad workers, bus drivers, salespersons), the single site of employment to which they are assigned as their home base, from which their work is assigned, or to which they report will be the single site in which they are covered for WARN purposes.

(7) Foreign sites of employment are not covered under WARN. U.S. workers at such sites are counted to determine whether an employing office is covered as an employer under §639.3(a).

(8) The term "single site of employment" may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of WARN to provide notice is not acceptable.

(i) Facility or operating unit.—The term "facility" refers to a building or buildings. The term "operating unit" refers to an organizationally or operationally distinct product, operation, or specific work function within or across facilities at the single site.

§639.4 Who must give notice?

Section 205(a)(1) of the CAA states that "[n]o employing office shall be closed or a mass layoff ordered within the meaning of section 3 of [WARN] until the end of a 60-day period after the employer serves written notice of such prospective closing or layoff * * *." Therefore, an employing office that is anticipating carrying out an office closing or mass layoff is required to give notice to affected employees or their representative(s). (See definitions in §639.3 of this part.).

(a) It is the responsibility of the employing office to decide the most appropriate person within the employing office's organization to prepare and deliver the notice to affected employees or their representative(s). In most instances, this may be the local site office manager, the local personnel director or a labor relations officer.

(b) An employing office that has previously announced and carried out a short-term layoff (6 months or less) which is being extended beyond 6 months due to business circumstances not reasonably foreseeable at the time of the initial layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A layoff extending beyond 6 months from the date the layoff commenced for any other reason shall be treated as an employment loss from the date of its commencement.

(c) In the case of the sale of part or all of a business, section 2(b)(1) of WARN, as applied by the CAA, defines who the "employer" is. The seller is responsible for providing notice of any plant closing or mass layoff which takes place up to and including the effective date (time) of the sale, and the buyer is responsible for providing notice of any office closing or mass layoff that takes place thereafter. Affected employees are always entitled to notice; at all times the employer is responsible for providing notice.

(1) If the seller is made aware of any definite plans on the part of the buyer to carry out an office closing or mass layoff within 60 days of purchase, the seller may give notice to affected employees as an agent of the buyer, if so empowered. If the seller does not give notice, the buyer is, nevertheless, responsible to give notice. If the seller gives notice as the buyer's agent, the responsibility for notice still remains with the buyer.

(2) It may be prudent for the buyer and seller to determine the impacts of the sale on workers, and to arrange between them for advance notice to be given to affected employees or their representative(s), if a mass layoff or office closing is planned.

§639.5 When must notice be given?

(a) General rule.—(1) With certain exceptions discussed in paragraphs (b), (c) and (d) of this section and in §639.9 of this part, notice must be given at least 60 calendar days prior to any planned office closing or mass layoff, as defined in these regulations. When all employees are not terminated on the same date, the date of the first individual termination within the statutory 30-day or 90-day period triggers the 60-day notice requirement. A worker's last day of employment is considered the date of that worker's layoff. The first and each subsequent group of terminees are entitled to a full 60 days' notice. In order for an employer to decide whether issuing notice is required, the employer should—

(i) Look ahead 30 days and behind 30 days to determine whether employment actions both taken and planned will, in the aggregate for any 30-day period, reach the minimum numbers for an office closing or a mass layoff and thus trigger the notice requirement; and

(ii) Look ahead 90 days and behind 90 days to determine whether employment actions both taken and planned each of which separately is not of sufficient size to trigger WARN coverage will, in the aggregate for any 90-day period, reach the minimum numbers for an office closings or a mass layoff and thus trigger the notice requirement. An employing office is not, however, required under section 3(d) to give notice if the employing office demonstrates that the separate employment losses are the result of separate and distinct actions and causes, and are not an attempt to evade the requirements of WARN.

(2) The point in time at which the number of employees is to be measured for the purpose of determining coverage is the date the first notice is required to be given. If this "snapshot" of the number of employees employed on that date is clearly unrepresentative of the ordinary or average employment level, then a more representative number can be used to determine coverage. Examples of unrepresentative employment levels include cases when the level is near the peak or trough of an employment cycle or when large upward or downward shifts in the number of employees occur around the time notice is to be given. A more representative number may be an average number of employees over a recent period of time or the number of employees on an alternative date which is more representative of normal employment levels. Alternative methods cannot be used to evade the purpose of WARN, and should only be used in unusual circumstances.

(b) Transfers.—(1) Notice is not required in certain cases involving transfers, as described under the definition of "employment loss" at §639.3(f) of this part.

(2) An offer of reassignment to a different site of employment should not be deemed to be a "transfer" if the new job constitutes a constructive discharge.

(3) The meaning of the term "reasonable commuting distance" will vary with local conditions. In determining what is a "reasonable commuting distance," consideration should be given to the following factors: geographic accessibility of the place of work, the quality of the roads, customarily available transportation, and the usual travel time.

(4) In cases where the transfer is beyond reasonable commuting distance, the employing office may become liable for failure to give notice if an offer to transfer is not accepted within 30 days of the offer or of the closing or layoff (whichever is later). Depending upon when the offer of transfer was made by the employing office, the normal 60-day notice period may have expired and the office closing or mass layoff may have occurred. An employing office is, therefore, well advised to provide 60-day advance notice as part of the transfer offer.

(c) Temporary employment.—(1) No notice is required if the closing is of a temporary facility, or if the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking.

(2) Employees must clearly understand at the time of hire that their employment is temporary. When such understandings exist will be determined by reference to employment contracts, collective bargaining agreements, or employment practices of an industry or a locality, but the burden of proof will lie with the employing office to show that the temporary nature of the project or facility was clearly communicated should questions arise regarding the temporary employment understandings.

§ 639.6 Who must receive notice?

Section 3(a) of WARN provides for notice to each representative of the affected employees as of the time notice is required to be given or, if there is no such representative at that time, to each affected employee.

(a) Representative(s) of affected employees.—Written notice is to be served upon the chief elected officer of the exclusive representative(s) or bargaining agent(s) of affected employees at the time of the notice. If this person is not the same as the officer of the local union(s) representing affected employees, it is recommended that a copy also be given to the local union official(s).

(b) Affected employees.—Notice is required to be given to employees who may reasonably be expected to experience an employment loss. This includes employees who will likely lose their jobs because of bumping rights or other factors, to the extent that such workers can be identified at the time notice is required to be given. If, at the time notice is required to be given, the employing office cannot identify the employee who may reasonably be expected to experience an employment loss due to the elimination of a particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

§ 639.7 What must the notice contain?

(a) Notice must be specific.—(1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employer must ensure that all of the information required by this section is provided in writing to the parties listed in §639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event, such as the renewal of a major contract, only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of business, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of a company official to contact for further information.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

§ 639.8 How is the notice served?

Any reasonable method of delivery to the parties listed under §639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

§ 639.9 When may notice be given less than 60 days in advance?

Section 3(b) of WARN, applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exception have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in §639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in §639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

§ 639.10 When may notice be extended?

Additional notice is required when the date or schedule of dates of a planned office closing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in §639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§639.5, 639.6, and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Extension of Rights and Protections Under the Employee Polygraph Protection Act of 1988

Notice of proposed rulemaking

Summary: The Board of Directors of the Office of Compliance is publishing proposed regulations to implement Sections 204 (a) and (b) of the Congressional Accountability Act of 1995 ("CAA") to employees of the House of Representatives, the Senate, and certain Congressional instrumentalities listed below.

The CAA applies the rights and protections of eleven labor and employment and statutes to covered employees within the legislative branch. Section 204(a) provides that no employing may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 ("EPPA"), 29 U.S.C. §2002 (1), (2) or (3). 2 U.S.C. §1314(a). Section 204(a) of the CAA also applies the waiver provision of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. Id. The provisions of section 204 are effective January 23, 1996, one year after the enactment date of the CAA, for all employing offices except the General Accounting Office and the Library of Congress. 2 U.S.C. §1314(d). Accordingly, this notice does not include rules applicable to the General Accounting Office or the Library of Congress.

The purpose of these regulations is to implement section 204 of the CAA, which provides protection for most covered employees from lie detector testing, either pre-employment or during the course of employment, with certain limited exceptions. This notice proposes that substantially similar regulations be adopted for the Senate, the House of Representatives, and the seven Congressional instrumentalities; and their employees. Accordingly:

(1) Senate. It is proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Senate and employees of the Senate, and this proposal regarding the Senate and its employees is recommended by the Office of Compliance's Deputy Executive Director for the Senate.

(2) House of Representatives. It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the House of Representatives and employees of the House of Representatives, and this proposal regarding the House of Representatives and its employees is recommended by the Office of Compliance's Deputy Executive Director for the House of Representatives.

(3) Certain Congressional instrumentalities. It is further proposed that regulations as described in this notice be included in the body of regulations that shall apply to the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment, and their employees; and this proposal regarding these seven Congressional instrumentalities is recommended by the Office of Compliance's Executive Director.

Dates: Comments are due within 30 days after the date of publication of this notice in the Congressional Record.

Addresses: Submit written comments to the Chair of the Board of Directors, Office of Compliance, Room LA 200, Library of Congress, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252-3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Building, 101 Independence Avenue, S.E., Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 252-3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Services Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, at (202) 244-2705.

Supplementary information:

Background and summary

The Congressional Accountability Act of 1995 ("CAA"), P.L. 104-1, 109 Stat. 3, was enacted on January 23, 1995. 2 U.S.C. §§1301-1438. In general, the CAA applies the rights and protections of eleven federal labor and employment and public access statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988, 29 U.S.C. §2002 (1), (2) or (3) ("EPPA"). 2 U.S.C. §1314(a). Section 204(a) of the EPPA also applies the waiver provisions of section 6(d) of the EPPA (29 U.S.C. §2005(d)) to covered employees. Id. Section 225(f) of the CAA provides that, "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions of the [EPPA] shall apply under this Act." 2 U.S.C. §1361(f)(1). Section 204(c) of the CAA requires the Board of Directors of the Office of Compliance established under the CAA to issue regulations implementing the section. 2 U.S.C. §1314(c). Section 204(c) further states that such regulations "shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section." Id.

The regulations in this Part are divided into three subparts. Subpart A contains the provisions generally applicable to covered employing offices, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of the rights and protections of the EPPA. Subpart C sets forth the restrictions on lie detector usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

In preparing the proposed regulations, the Board has considered the comments submitted in response to the Board's general Advance Notice of Proposed Rulemaking published at 141 Cong. Rec. S14542 (daily ed.

Sept. 28, 1995), regarding regulations that the Board should issue in this area. In developing these proposed Regulations, a number of issues have been identified and explored. The Board proposes to resolve these issues as described below, and it particularly invites comments on the following issues:

(1) Notice posting and recordkeeping requirements. The CAA incorporates only the prohibitions on the use of lie detector tests contained in paragraphs (1), (2) and (3) of section 3 of the EPPA (prohibiting use of lie detectors subject to limited exceptions), the waiver provisions of section 6(d) of the EPPA, the civil action remedies provision of section 6(c)(1) of the EPPA, and the exemptions and definitions of the EPPA (to the extent appropriate and not inconsistent with exemptions and definitions in the CAA). See sections 204(a), (b) and 225(f) of the CAA, 2 U.S.C. §§1314(a), (b) and 1361(f)(1). As a result, the provisions of sections 4 (directing the Secretary to prepare a notice of the provisions of the EPPA and requiring employers to post such notices), and 5 (authorizing the Secretary to issue regulations, make investigations and require recordkeeping) of the EPPA, 29 U.S.C. §§2003, 2004, are not incorporated into the CAA.

On September 28, 1995, the Board issued an Advance Notice of Proposed Rulemaking ("ANPR") for publication in the Congressional Record which invited comments regarding whether and to what extent the Board should impose notice posting and recordkeeping requirements on employing offices. After considering the comments received, the Board has concluded that the CAA does not incorporate the notice and recordkeeping requirements of the EPPA and that, as a consequence, such requirements may not be imposed at this time under the "good cause" provision under section 204(c). See Notice of Proposed Rulemaking on the Fair Labor Standards Act submitted concurrently with this notice.

The EPPA does contain specific recordkeeping requirements which are included in sections of the EPPA applied by the CAA. Section 8 of the EPPA, 29 U.S.C. §2007, which sets forth the restrictions on the use of exemptions under the EPPA, requires any employer conducting a polygraph test under the ongoing investigations exemption (which is incorporated into the CAA under section 225(f)(1)) to provide a signed a statement to the examinee setting forth the factual basis for testing the particular employees, a copy of which is retained by the employer for at least 3 years. 29 U.S.C. §2006(d)(4)(C). The portions of the Secretary's regulations requiring such recordkeeping (29 C.F.R. §§801.12, 801.26, and 801.30) have been included in the proposed regulations (Sections 1.12, 1.26, and 1.30), but only to the extent that such regulatory provisions are derived from section 8 of the EPPA.

(2) Administrative enforcement. The CAA does not incorporate Section 6(a) and (b) of the EPPA (providing for civil penalties in an administrative enforcement scheme and an administrative civil penalty remedy), 29 U.S.C. §2005. A civil action in federal court or an administrative claim before the Board (following counseling and mediation) is the exclusive means by which covered employees may enforce their EPPA rights and protections. See sections 401–416 of the CAA, 2 U.S.C. §§1401-1416. Therefore, the proposed regulations, consistent with the terms of Section 204 of the CAA, exclude any reference to the Secretary's authority to make investigations and initiate enforcement actions. Consistent with section 204(c)(1) of the CAA, 2 U.S.C. §1314(c)(1), the proposed regulations state that the Board has authority to issue regulations under this section.

(3) Exemptions. Section 225(f) of the CAA, 2 U.S.C. §1361(f), provides that "[e]xcept where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the laws made applicable by this Act shall apply under this Act."

(a) Exemption for security services and drug security, drug theft, or drug diversion investigations. Section 7(e) of the EPPA, 29 U.S.C. §2006(e), provides an exemption authorizing the use of polygraph tests, but no other types of lie detector tests, by certain armored car, security alarm, and security guard employers. Section 7(e) is limited by its terms to private employers and the Board is not aware of any employing office whose functions would meet the requirements of the section 7(e) exemption. Therefore, the Board has not included the Secretary's regulations implementing section 7(e) (29 C.F.R. §801.14) as part of its proposed regulations.

Section 7(f) of the EPPA allows certain employers authorized to manufacture, distribute, or dispense controlled substances to use polygraph tests, but no other types of lie detector tests, under certain circumstances. There may be entities within the legislative branch, such as the Office of the Attending Physician, that might have employees whose duties meet the drug security, drug theft or drug diversion investigations exemption. Therefore, the Board's proposed regulation (at section 1.13, infra) includes a modified version of the Secretary's regulations under the drug security, drug theft or drug diversion investigations exemption (29 C.F.R. §801.13) as part of its proposed regulations.

(b) Exemption for national defense and security. Section 7(b) of the EPPA, 29 U.S.C. §2006(b), provides, among other things, that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence functions, to certain employees whose duties involve access to information classified at the level of top secret or designated as being within a special access program under 4.2(a) of Executive Order 12356 (or a successor Executive Order). There may be some employing offices within the legislative branch, such as intelligence committees, that have employees whose duties meet the exemption under section 7(b) of the EPPA. Therefore, the Board proposes a modified version of the Secretary's regulations implementing such exemption (29 C.F.R. §801.11) in its proposed regulations.

(c) FBI contractor exemption. Section 7(c) of the EPPA, 29 U.S.C. §2006(c), exempts Federal Bureau of Investigation contractors from the requirements of the EPPA under certain circumstances. This provision has no apparent applicability to employing offices. Therefore, the Board does not include the Secretary's regulations implementing this provision (29 C.F.R. §801.11(e)) as part of its proposed regulations.

(d) Limited exemption for ongoing investigations. Section 7(d) of the EPPA, 29 U.S.C. §2006(d), provides a limited exemption permitting polygraph tests, but no other types of lie detector tests, in the context of employer investigations involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage. The Board believes that there may be situations where an employing office may be able to meet the exemption under section 7(d). Accordingly, the Board includes the Secretary's regulations implementing this exemption (29 C.F.R. §801.12) as part of its proposed regulations.

(e) Exemption for employees of the Capitol Police. By Notice of Proposed Rulemaking published September 28, 1995 in the Congressional Record, the Board recommended regulations authorizing the Capitol Police to use lie detector tests in certain circumstances. After both appropriate consideration of comments received and further deliberation about the matter, the Board has determined to incorporate such regulations into these proposed regulations. However, this proposed rule adds new section 1.4(e) to make clear it that the regulation excluding the Capitol Police from section 204 of the CAA with respect to its own employees is not a total exemption of the Capitol Police from the prohibitions on the employment-related use of lie detector tests by the Capitol Police. Specifically, section 1.4(e) provides that the Capitol Police may not require covered employees other than Capitol Police employees to take a lie detector test except in circumstances where the Capitol Police administers a lie detector test during the course of an "ongoing investigation" by the Capitol Police. This additional language makes clear the Board's intent to prohibit employing offices other than the Capitol Police from administering lie detector tests on their covered employees indirectly through the Capitol Police.

(4) Restrictions on use of exemptions. Section 204(a) provides that no employing office may require a covered employee to take a lie detector test where an employer would be prohibited from requiring such a test under paragraphs (1), (2) or (3) of section 3 of the EPPA, 29 U.S.C. §2002(1), (2) or (3). Section 3 of the EPPA provides that, except as provided in sections 7 and 8 of the EPPA (29 U.S.C. §§2006 and 2007), it shall be unlawful for an employer to require a lie detector test under paragraphs (1), (2) or (3). Thus, the restrictions on the use of exemptions under 29 U.S.C. §2007 are incorporated into section 204 and the Secretary's regulations implementing this section (29 C.F.R. Subpart C) are included in the Board's proposed regulations.

(5) Confidentiality provisions and notice to examinees. Section 204 of the CAA incorporates the restrictions on disclosure set forth in section 9 of the EPPA, 29 U.S.C. §2008, since such restrictions are the conditions on which polygraphs are allowed under the exemptions of section 7 of the EPPA. Accordingly, the Board includes in its proposed regulations (with appropriate modifications) the Secretary of Labor's regulations regarding restrictions on disclosure of polygraph information (29 C.F.R. §801.35). See section 225(f)(1) of the CAA (except where inconsistent with definitions and exemptions provided in the CAA, the definitions and exemptions under the laws made applicable by the CAA apply under the CAA). For the same reasons, the Board includes in its proposed regulations the requirement of the Secretary's regulations that employing offices authorized to conduct polygraph tests under the exemptions established in these regulations to give written notice to the examinee of the confidentiality and other requirements.

(6) Technical and nomenclature changes. The proposed regulations make technical and nomenclature changes, where appropriate, to conform to the provisions of the CAA. See, e.g., 29 C.F.R. §§801.1 (Purpose and scope), 801.2 (Definitions), 801.3 (Coverage).

Recommended method of approval

The Board recommends that (1) the version of the proposed regulations that shall apply to the Senate and employees of the Senate be approved by the Senate by resolution; (2) the version of the proposed regulations that shall apply to the House of Representatives and employees of the House of Representatives be approved by the House of Representatives by resolution; and (3) the version of the proposed regulations that shall apply to other covered employees and employing offices be approved by the Congress by concurrent resolution.

Signed at Washington, D.C., on this 20th day of November, 1995

GLEN D. NAGER,
Chair of the Board
Office of Compliance.

COMPARISON TABLE

This table lists sections of the Secretary of Labor's Regulations under the EPPA with the corresponding section (if any) of the Office of Compliance's proposed Regulations under Section 204 of the CAA.

Secretary of Labor Regulations Code of Federal Regulation Section	Office of Compliance Regulations Section [Modified As Appropriate]
Subpart A—General	
801.1 Purpose and scope	1.1.
801.2 Definitions	1.2.
801.3 Coverage	1.3.
801.4 Prohibitions on lie detector use.	1.4.
801.5 Effect on other laws and agreements.	1.5.
801.6 Notice of protection ..	1.6.
801.7 Authority of the Secretary.	1.7.
801.8 Employment relationship.	1.8.
Subpart B—Exemptions	
801.10 Exclusion for public sector employees.	1.10 [Exclusion for Capitol Police; public sector employee exclusion not adopted].
801.11 Exemption for national defense and security.	1.11.
801.12 Exemption for employers conducting investigations of economic loss or injury.	1.12.
801.13 Exemption for employers authorized to manufacture, distribute, or dispense controlled substances.	1.13.
801.14 Exemption for employers providing security services.	Not Adopted.
Subpart C—Restrictions on Polygraph Usage Under Exemptions	
801.20 Adverse employment action under on-going investigation exemption.	1.20.
801.21 Adverse employment action under security service and controlled substance exemptions.	1.21 [controlled substance exemption only].
801.22 Rights of examinee—general.	1.22.
801.23 Rights of examinee—pretest phase.	1.23.
801.24 Rights of examinee—actual test phase.	1.24.
801.25 Rights of examinee—post-test phase.	1.25.
801.26 Qualifications of and requirements for examiners.	1.26.
Subpart D—Recordkeeping and Disclosure Requirements	
801.30 Records to be preserved for 3 years.	1.30.
801.35 Disclosure of test information.	1.35.
Subpart E—Enforcement	
801.40–801.75	Not Adopted.
Appendix A to Part 801—Notice to Examinee.	Appendix A—Notice to Examinee.

APPLICATION OF RIGHTS AND PROTECTIONS OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

SUBPART A—GENERAL

Section
1.1 Purpose and scope.
1.2 Definitions.
1.3 Coverage.
1.4 Prohibitions on lie detector use.
1.5 Effect on other laws or agreements.
1.6 Notice of protection.
1.7 Authority of the Board.
1.8 Employment relationship.

SUBPART B—EXEMPTIONS

1.10 Exclusion for employees of the Capitol Police. [Reserved]
1.11 Exemption for national defense and security.
1.12 Exemption for employing offices conducting investigations of economic loss or injury.
1.13 Exemption for employing offices authorized to manufacture, distribute, or dispense controlled substances.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

1.20 Adverse employment action under ongoing investigation exemption.
1.21 Adverse employment action under controlled substance exemption.
1.22 Rights of examinee—general.
1.23 Rights of examinee—pretest phase.
1.24 Rights of examinee—actual testing phase.
1.25 Rights of examinee—post-test phase.
1.26 Qualifications of and requirements for examiners.

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

1.30 Records to be preserved for 3 years.
1.35 Disclosure of test information.
Appendix A—Notice to Examinee
Authority: Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. 1314(c)

SUBPART A—GENERAL

Sec. 1.1 Purpose and scope

Enacted into law on January 23, 1995, the Congressional Accountability Act ("CAA") directly applies the rights and protections of eleven Federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 204(a) of the CAA, 2 U.S.C. §1314(a) provides that no employing office may require any covered employee (including a covered employee who does not work in that employing office) to take a lie detector test where such test would be prohibited if required by an employer under paragraphs (1), (2) or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (EPPA) 29 U.S.C. §2002(1), (2) or (3). The purpose of this part is to set forth the regulations to carry out the provisions of Section 204 of the CAA.

Subpart A contains the provisions generally applicable to covered employers, including the requirements relating to the prohibitions on lie detector use. Subpart B sets forth rules regarding the statutory exemptions from application of section 204 of the CAA. Subpart C sets forth the restrictions on polygraph usage under such exemptions. Subpart D sets forth the rules on recordkeeping and the disclosure of polygraph test information.

Sec. 1.2 Definitions

For purposes of this part:

(a) Act or CAA means the Congressional Accountability Act of 1995 (P.L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(b) EPPA means the Employee Polygraph Protection Act of 1988 (Pub. L. 100-347, 102 Stat. 646, 29 U.S.C. §§2001-2009) as applied to covered employees and employing offices by Section 204 of the CAA.

(c) The term covered employee means any employee of (1) the House of Representatives; (2) the Senate; (3) the Capitol Guide Service; (4) the Congressional Budget Office; (5) the Office of the Architect of the Capitol; (6) the Office of the Attending Physician; (7) the Office of Compliance; or (8) the Office of Technology Assessment.

(d) The term employee includes an applicant for employment and a former employee.

(e) The term employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(f) The term employee of the Capitol Police includes any member or officer of the Capitol Police.

(g) The term employee of the House of Representatives includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(h) The term employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (c) above.

(i) The term employing office means (1) the personal office of a Member of the House of Representatives or of a Senator; (2) a committee of the House of Representatives or the Senate or a joint committee; (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or (4) the Capitol Guide Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment. The term employing office includes any person acting directly or indirectly in the interest of an employing office in relation to an employee or prospective employee. A polygraph examiner either employed for or whose services are retained for the sole purpose of administering polygraph tests ordinarily would not be deemed an employing office with respect to the examinees. Any reference to "employer" in these regulations includes employing offices.

(j)(1) The term lie detector means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual. Voice stress analyzers, or psychological stress evaluators, include any systems that utilize voice stress analysis, whether or not an opinion on honesty or dishonesty is specifically rendered.

(2) The term lie detector does not include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids. Also not included in the definition of lie detector are written or oral tests commonly referred to as "honesty" or "paper and pencil" tests, machine-scored or otherwise; and graphology tests commonly referred to as handwriting tests.

(k) The term polygraph means an instrument that—

(1) Records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(2) Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(l) Board means the Board of Directors of the Office of Compliance.

(m) Office means the Office of Compliance.

Sec. 1.3 Coverage

The coverage of Section 204 of the Act extends to any "covered employee" or "covered employing office" without regard to the number of employees or the employing office's effect on interstate commerce.

Sec. 1.4 Prohibitions on lie detector use

(a) Section 204 of the CAA provides that, subject to the exemptions of the EPPA incorporated into the CAA under section 225(f) of the CAA, as set forth in Sec. 1.10 through 1.12 of this Part, employing offices are prohibited from: (1) Requiring, requesting, suggesting or causing, directly or indirectly, any covered employee or prospective employee to take or submit to a lie detector test; (2) Using, accepting, or inquiring about the results of a lie detector test of any covered employee or prospective employee; and (3) Discharging, disciplining, discriminating against, denying employment or promotion, or threatening any covered employee or prospective employee to take such action for refusal or failure to take or submit to such test, or on the basis of the results of a test. The above prohibitions apply irrespective of whether the covered employee referred to in paragraphs (1), (2) or (3), above, works in that employing office.

(b) An employing office that reports a theft or other incident involving economic loss to police or other law enforcement authorities is not engaged in conduct subject to the prohibitions under paragraph (a) of this section if, during the normal course of a subsequent investigation, such authorities deem it necessary to administer a polygraph test to a covered employee(s) suspected of involvement in the reported incident. Employing offices that cooperate with police authorities during the course of their investigations into criminal misconduct are likewise not deemed engaged in prohibitive conduct provided that such cooperation is passive in nature. For example, it is not uncommon for police authorities to request employees suspected of theft or criminal activity to submit to a polygraph test during the employee's tour of duty since, as a general rule, suspect employees are often difficult to locate away from their place of employment. Allowing a test on the employing office's premises, releasing a covered employee during working hours to take a test at police headquarters, and other similar types of cooperation at the request of the police authorities would not be construed as "requiring, requesting, suggesting, or causing, directly or indirectly, any covered employee * * * to take or submit to a lie detector test." Cooperation of this type must be distinguished from actual participation in the testing of employees suspected of wrongdoing, either through the administration of a test by the employing office at the request or direction of police authorities, or through reimbursement by the employing office of tests administered by police authorities to employees. In some communities, it may be a practice of police authorities to request testing by employing offices of employees before a police investigation is initiated on a reported incident. In other communities, police examiners are available to covered employing offices, on a cost reimbursement basis, to conduct tests on employees suspected by an employing office of wrongdoing. All such conduct on the part of employing offices is deemed within the prohibitions of section 204 of the CAA.

(c) The receipt by an employing office of information from a polygraph test administered by police authorities pursuant to an investigation is prohibited by section 3(2) of the EPPA. (See paragraph (a)(2) of this section.)

(d) The simulated use of a polygraph instrument so as to lead an individual to believe that an actual test is being or may be performed (e.g., to elicit confessions or admissions of guilt) constitutes conduct prohibited by paragraph (a) of this section. Such use includes the connection of a covered employee or prospective employee to the instrument without any intention of a diagnostic purpose, the placement of the instrument in a room used for interrogation unconnected to the covered employee or prospective employee, or the mere suggestion that the instrument may be used during the course of the interview.

(e) The Capitol Police may not require a covered employee not employed by the Capitol Police to take a lie detector test (on its own initiative or at the request of another employing office) except where the Capitol Police administers such lie detector test as part of an "ongoing investigation" by the Capitol Police. For the purpose of this subsection, the definition of "ongoing investigation" contained section 1.12(b) shall apply.

Sec. 1.5 Effect on other laws or agreements

(a) Section 204 of the CAA does not preempt any otherwise applicable provision of federal law or any rule or regulation of the House or Senate or any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to the use of lie detector tests.

(b)(1) This provision applies to all aspects of the use of lie detector tests, including procedural safeguards, the use of test results, the rights and remedies provided examinees, and the rights, remedies, and responsibilities of examiners and employing offices. (2) For example, a collective bargaining agreement that provides greater protection to an examinee would apply in addition to the protection provided in section 204 of the CAA.

Sec. 1.6 Notice of protection

Pursuant to section 301(h) of the CAA, the Office shall prepare, in a manner suitable for posting, a notice explaining the provisions of section 204 of the CAA. Copies of such notice may be obtained from the Office of Compliance.

Sec. 1.7 Authority of the Board

Pursuant to sections 204 and 304 of the CAA, the Board is authorized to issue regulations to implement the rights and protections of the EPPA.

Sec. 1.8 Employment relationship

Subject to the exemptions incorporated into the CAA by section 225(f), section 204 applies the prohibitions on the use of lie detectors by employing offices with respect to covered employees irrespective of whether a covered employee works in that employing office. Sections 101 (3), (4) and 204 of the CAA also apply EPPA prohibitions against discrimination to applicants for employment and former employees of a covered employing office. For example, an employee may quit rather than take a lie detector test. The employing office cannot discriminate or threaten to discriminate in any manner against that person (such as by providing bad references in the future) because of that person's refusal to be tested. Similarly, an employing office cannot discriminate or threaten to discriminate in any manner against that person because that person files a complaint, institutes a proceeding, testifies in a proceeding, or exercises any right under section 204 of the CAA. (*See* section 207 of the CAA.)

SUBPART B—EXEMPTIONS

Sec. 1.10 Exclusion for employees of the Capitol Police

[Reserved]

Sec. 1.11 Exemption for national defense and security

(a) The exemptions allowing for the administration of lie detector tests in the following paragraphs (b) through (e) of this section apply only to the Federal Government; they do not allow covered employing offices to administer such tests. For the purposes of this section, the term "Federal Government" means any agency or entity within the Federal Government authorized to administer polygraph examinations which is otherwise exempt from coverage under section 7(a) of the EPPA, 29 U.S.C. §2006(a).

(b) Section 7(b)(2)(B) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides that nothing in the EPPA shall be construed to prohibit the administration of any lie detector test by the Federal Government, in the performance of any intelligence or counterintelligence function, to any covered employee whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2 (a) of Executive Order 12356 (or a successor Executive Order).

(c) Counterintelligence for purposes of the above paragraphs means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, terrorist activities, or assassinations conducted for or on behalf of foreign governments, or foreign or domestic organizations or persons.

(d) Lie detector tests of persons described in the above paragraphs will be administered in accordance with applicable Department of Defense directives and regulations, or other regulations and directives governing the use of such tests by the United States Government, as applicable.

Sec. 1.12 Exemption for employing offices conducting investigations of economic loss or injury

(a) Section 7(d) of the EPPA, incorporated into the CAA under section 225(f) of the CAA, provides a limited exemption from the general prohibition on lie detector use for employers conducting ongoing investigations of economic loss or injury to the employer's business. An employing office may request an employee, subject to the conditions set forth in sections 8 and 10 of the EPPA and Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26 and 1.35 of this part, to submit to a polygraph test, but no other type of lie detector test, only if—

(1) The test is administered in connection with an ongoing investigation involving economic loss or injury to the employing office's business, such as theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage;

(2) The employee had access to the property that is the subject of the investigation;

(3) The employing office has a reasonable suspicion that the employee was involved in the incident or activity under investigation;

(4) The employing office provides the examinee with a statement, in a language understood by the examinee, prior to the test which fully explains with particularity the specific incident or activity being investigated and the basis for testing particular employees and which contains, at a minimum:

(i) An identification with particularity of the specific economic loss or injury to the business of the employing office;

(ii) A description of the employee's access to the property that is the subject of the investigation;

(iii) A description in detail of the basis of the employing office's reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(iv) Signature of a person (other than a polygraph examiner) authorized to legally bind the employing office; and

(5) The employing office retains a copy of the statement and proof of service described in paragraph (a)(4) of this section for at least 3 years.

(b) For the exemption to apply, the condition of an "ongoing investigation" must be met. As used in section 7(d) of the EPPA, the ongoing investigation must be of a specific incident or activity. Thus, for example, an employing office may not request that an employee or employees submit to a polygraph test in an effort to determine whether or not any thefts have occurred. Such random testing by an employing office is precluded by the EPPA. Further, because the exemption is limited to a specific incident or activity, an employing office is precluded from using the exemption in situations where the so-called "ongoing investigation" is continuous. For example, the fact that items in inventory are frequently missing from a warehouse would not be a sufficient basis, standing alone, for administering a polygraph test. Even if the employing office can establish that unusually high amounts of inventory are missing from the warehouse in a given month, this, in and of itself, would not be a sufficient basis to meet the specific incident requirement. On the other hand, polygraph testing in response to inventory shortages would be permitted where additional evidence is obtained through subsequent investigation of specific items missing through intentional wrongdoing, and a reasonable suspicion that the employee to be polygraphed was involved in the incident under investigation. Administering a polygraph test in circumstances where the missing inventory is merely unspecified, statistical shortages, without identification of a specific incident or activity that produced the inventory shortages and a "reasonable suspicion that the employee was involved," would amount to little more than a fishing expedition and is prohibited by the EPPA as applied to covered employees and employing offices by the CAA.

(c)(1)(i) The terms economic loss or injury to the employer's business include both direct and indirect economic loss or injury.

(ii) Direct loss or injury includes losses or injuries resulting from theft, embezzlement, misappropriation, industrial espionage or sabotage. These examples, cited in the EPPA, are intended to be illustrative and not exhaustive. Another specific incident which would constitute direct economic loss or injury is the misappropriation of confidential or trade secret information.

(iii) Indirect loss or injury includes the use of an employer's business to commit a crime, such as check-kiting or money laundering. In such cases, the ongoing investigation must be limited to criminal activity that has already occurred, and to use of the employing office's business operations (and not simply the use of the premises) for such activity. For example, the use of an employing office's vehicles, warehouses, computers or equipment to smuggle or facilitate the importing of illegal substances constitutes an indirect loss or injury to the employing office's business operations. Conversely, the mere fact that an illegal act occurs on the employing office's premises (such as a drug transaction that takes place in the employer's parking lot or rest room) does not constitute an indirect economic loss or injury to the employing office.

(iv) Indirect loss or injury also includes theft or injury to property of another for which the employing office exercises fiduciary, managerial or security responsibility, or where the office has custody of the property (but not property of other offices to which the employees have access by virtue of the business relationship). For example, if a maintenance employee of the manager of an apartment building steals jewelry from a tenant's apartment, the theft results in an indirect economic loss or injury to the employer because of the manager's management responsibility with respect to the tenant's apartment. A messenger on a delivery of confidential business reports for a client firm who steals the reports causes an indirect economic loss or injury to the messenger service because the messenger service is custodian of the client firm's reports, and therefore is responsible for their security. Similarly, the theft of property protected by a security service employer is considered an economic loss or injury to that employer.

(v) A theft or injury to a client firm does not constitute an indirect loss or injury to an employer unless that employer has custody of, or management, or security responsibility for, the property of the client that was lost or stolen or injured. For example, a cleaning contractor has no responsibility for the money at a client bank. If money is stolen from the bank by one of the cleaning contractor's employees, the cleaning contractor does not suffer an indirect loss or injury.

(vi) Indirect loss or injury does not include loss or injury which is merely threatened or potential, e.g., a threatened or potential loss of an advantageous business relationship.

(2) Economic losses or injuries which are the result of unintentional or lawful conduct would not serve as a basis for the administration of a polygraph test. Thus, apparently unintentional losses or injuries stemming from truck, car, workplace, or other similar type accidents or routine inventory or cash register shortages would not meet the economic loss or injury requirement. Any economic loss incident to lawful union or employee activity also would not satisfy this requirement.

(3) It is the business of the employer which must suffer the economic loss or injury. Thus, a theft committed by one employee against another employee of the same employer would not satisfy the requirement.

(d) While nothing in the EPPA as applied by the CAA prohibits the use of medical tests to determine the presence of controlled substances or alcohol in bodily fluids, the section 7(d) exemption of the EPPA does not permit the use of a polygraph test to learn whether an employee has used drugs or alcohol, even where such possible use may have contributed to an economic loss to the employer (e.g., an accident involving a company vehicle).

(e) Section 7(d)(2) of the EPPA provides that, as a condition for the use of the exemption, the employee must have had access to the property that is the subject of the investigation.

(1) The word access, as used in section 7(d)(2), refers to the opportunity which an employee had to cause, or to aid or abet in causing, the specific economic loss or injury under investigation. The term "access", thus, includes more than direct or physical contact during the course of employment. For example, as a general matter, all employees working in or with authority to enter a warehouse storage area have "access" to unsecured property in the warehouse. All employees with the combination to a safe have "access" to the property in a locked safe. Employees also have "access" who have the ability to divert possession or otherwise affect the disposition of the property that is the subject of investigation. For example, a bookkeeper in a jewelry store with access to inventory records may aid or abet a clerk who steals an expensive watch by removing the watch from the employer's inventory records. In such a situation, it is clear that the bookkeeper effectively has "access" to the property that is the subject of the investigation.

(2) As used in section 7(d)(2), property refers to specifically identifiable property, but also includes such things of value as security codes and computer data, and proprietary, financial or technical information, such as trade secrets, which by its availability to competitors or others would cause economic harm to the employer.

(f)(1) As used in section 7(d)(3), the term reasonable suspicion refers to an observable, articulable basis in fact which indicates that a particular employee was involved in, or responsible for, an economic loss. Access in the sense of possible or potential opportunity, standing alone, does not constitute a basis for "reasonable suspicion." Information from a co-worker, or an employee's behavior, demeanor, or conduct may be factors in the basis for reasonable suspicion. Likewise, inconsistencies between facts, claims, or statements that surface during an investigation can serve as a sufficient basis for reasonable suspicion. While access or opportunity, standing alone, does not constitute a basis for reasonable suspicion, the totality of circumstances surrounding the access or opportunity (such as its unauthorized or unusual nature or the fact that access was limited to a single individual) may constitute a factor in determining whether there is a reasonable suspicion.

(2) For example, in an investigation of a theft of an expensive piece of jewelry, an employee authorized to open the establishment's safe no earlier than 9 a.m., in order to place the jewelry in a window display case, is observed opening the safe at 7:30 a.m. In such a situation, the opening of the safe by the employee one and one-half hours prior to the specified time may serve as the basis for reasonable suspicion. On the other hand, in the example given, if the employer asked the employee to bring the piece of jewelry to his or her office at 7:30 a.m., and the employee then opened the safe and reported the jewelry missing, such access, standing alone, would not constitute a basis for reasonable suspicion that the employee was involved in the incident unless access to the safe was limited solely to the employee. If no one other than the employee possessed the combination to the safe, and all other possible explanations for the loss are ruled out, such as a break-in, the employer may formulate a basis for reasonable suspicion based on sole access by one employee.

(3) The employer has the burden of establishing that the specific individual or individuals to be tested are "reasonably suspected" of involvement in the specific economic loss or injury for the requirement in section 7(d)(3) of the EPPA to be met.

(g)(1) As discussed in paragraph (a)(4) of this section, section 7(d)(4) of the EPPA sets forth what information, at a minimum, must be provided to an employee if the employer wishes to claim the exemption.

(2) The statement required under paragraph (a)(4) of this section must be received by the employee at least 48 hours, excluding weekend days and holidays, prior to the time of the examination. The statement must set forth the time and date of receipt by the employee and be verified by the employee's signature. This will provide the employee with adequate pre-test notice of the specific incident or activity being investigated and afford the employee sufficient time prior to the test to obtain and consult with legal counsel or an employee representative.

(3) The statement to be provided to the employee must set forth with particularity the specific incident or activity being investigated and the basis for testing particular employees. Section 7(d)(4)(A) of the EPPA requires specificity beyond the mere assertion of general statements regarding economic loss, employee access, and reasonable suspicion. For example, an employer's assertion that an expensive watch was stolen, and that the employee had access to the watch and is therefore a suspect, would not meet the "with particularity" criterion. If the basis for an employer's requesting an employee (or employees) to take a polygraph test is not articulated with particularity, and reduced to writing, then the standard is not met. The identity of a co-worker or other individual providing information used to establish reasonable suspicion need not be revealed in the statement.

(4) It is further required that the statement provided to the examinee be signed by the employer, or an employee or other representative of the employer with authority to legally bind the employer. The person signing the statement must not be a polygraph examiner unless the examiner is acting solely in the capacity of an employer with respect to his or her own employees and does not conduct the examination. The standard would not be met, and the exemption would not apply if the person signing the statement is not authorized to legally bind the employer.

(h) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.20, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employing office to remedial actions, as provided for in section 6(c) of the EPPA.

Sec. 1.13 Exemption of employers authorized to manufacture, distribute, or dispense controlled substances

(a) Section 7(f) of the EPPA, incorporated into the CAA by section 225(f) of the CAA, provides an exemption from the EPPA's general prohibition regarding the use of polygraph tests for employers authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. §812). This exemption permits the administration of polygraph tests, subject to the conditions set forth in sections 8 and 10 of the EPPA and Sec. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part, to:

(1) A prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(2) A current employee if the following conditions are met:

(i) The test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employer; and

(ii) The employee had access to the person or property that is the subject of the investigation.

(b)(1) The terms manufacture, distribute, distribution, dispense, storage, and sale, for the purposes of this exemption, are construed within the meaning of the Controlled Substances Act (21 U.S.C. §812 et seq.), as administered by the Drug Enforcement Administration (DEA), U.S. Department of Justice.

(2) The exemption in section 7(f) of the EPPA applies only to employers who are authorized by DEA to manufacture, distribute, or dispense a controlled substance. Section 202 of the Controlled Substances Act (21 U.S.C. §812) requires every person who manufactures, distributes, or dispenses any controlled substance to register with the Attorney General (i.e., with DEA). Common or contract carriers and warehouses whose possession of the controlled substance is in the usual course of their business or employment are not required to register. Truck drivers and warehouse employees of the persons or entities registered with DEA and authorized to manufacture, distribute, or dispense controlled substances, are within the scope of the exemption where they have direct access or access to the controlled substances, as discussed below.

(c) In order for a polygraph examination to be performed, section 7(f) of the Act requires that a prospective employee have "direct access" to the controlled substance(s) manufactured, dispensed, or distributed by the employer. Where a current employee is to be tested as a part of an ongoing investigation, section 7(f) requires that the employee have "access" to the person or property that is the subject of the investigation.

(1) A prospective employee would have "direct access" if the position being applied for has responsibilities which include contact with or which affect the disposition of a controlled substance, including participation in the process of obtaining, dispensing, or otherwise distributing a controlled substance. This includes contact or direct involvement in the manufacture, storage, testing, distribution, sale or dispensing of a controlled substance and may include, for example, packaging, repackaging, ordering, licensing, shipping, receiving, taking inventory, providing security, prescribing, and handling of a controlled substance. A prospective employee would have "direct access" if the described job duties would give such person access to the products in question, whether such employee would be in physical proximity to controlled substances or engaged in activity which would permit the employee to divert such substances to his or her possession.

(2) A current employee would have "access" within the meaning of section 7(f) if the employee had access to the specific person or property which is the subject of the on-going investigation, as discussed in Sec. 1.12(e) of this part. Thus, to test a current employee, the employee need not have had "direct" access to the controlled substance, but may have had only infrequent, random, or opportunistic access. Such access would be sufficient to test the employee if the employee could have caused, or could have aided or abetted in causing, the loss of the specific property which is the subject of the investigation. For example, a maintenance worker in a drug warehouse, whose job duties include the cleaning of areas where the controlled substances which are the subject of the investigation were present, but whose job duties do not include the handling of controlled substances, would be deemed to have "access", but normally not "direct access", to the controlled substances. On the other hand, a drug warehouse truck loader, whose job duties include the handling of outgoing shipment orders which contain controlled substances, would have "direct access" to such controlled substances. A pharmacy department in a supermarket is another common situation which is useful in illustrating the distinction between "direct access" and "access." Store personnel receiving pharmaceutical orders, i.e., the pharmacist, pharmacy intern, and other such employees working in the pharmacy department, would ordinarily have "direct access" to controlled substances. Other store personnel whose job duties and responsibilities do not include the handling of controlled substances but who had occasion to enter the pharmacy department where the controlled substances which are the subject of the investigation were stored, such as maintenance personnel or pharmacy cashiers, would have "access." Certain other store personnel whose job duties do not permit or require entrance into the pharmacy department for any reason, such as produce or meat clerks, checkout cashiers, or baggers, would not ordinarily have "access." However, any current employee, regardless of described job duties, may be polygraphed if the employer's investigation of criminal or other misconduct discloses that such employee in fact took action to obtain "access" to the person or property that is the subject of the investigation—e.g., by actually entering the drug storage area in violation of company rules. In the case of "direct access", the prospective employee's access to controlled substances would be as a part of the manufacturing, dispensing or distribution process,

while a current employee's "access" to the controlled substances which are the subject of the investigation need only be opportunistic.

(d) The term prospective employee, for the purposes of this section, includes a current employee who presently holds a position which does not entail direct access to controlled substances, and therefore is outside the scope of the exemption's provisions for preemployment polygraph testing, provided the employee has applied for and is being considered for transfer or promotion to another position which entails such direct access. For example, an office secretary may apply for promotion to a position in the vault or cage areas of a drug warehouse, where controlled substances are kept. In such a situation, the current employee would be deemed a "prospective employee" for the purposes of this exemption, and thus could be subject to preemployment polygraph screening, prior to such a change in position. However, any adverse action which is based in part on a polygraph test against a current employee who is considered a "prospective employee" for purposes of this section may be taken only with respect to the prospective position and may not affect the employee's employment in the current position.

(e) Section 7(f) of the EPPA makes no specific reference to a requirement that employers provide current employees with a written statement prior to polygraph testing. Thus, employers to whom this exemption is available are not required to furnish a written statement such as that specified in section 7(d) of the EPPA and Sec. 1.12(a)(4) of this part.

(f) For the section 7(f) exemption to apply, the polygraph testing of current employees must be administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employer.

(1) Current employees may only be administered polygraph tests in connection with an ongoing investigation of criminal or other misconduct, relating to a specific incident or activity, or potential incident or activity. Thus, an employer is precluded from using the exemption in connection with continuing investigations or on a random basis to determine if thefts are occurring. However, unlike the exemption in section 7(d) of the EPPA for employers conducting ongoing investigations of economic loss or injury, the section 7(f) exemption includes ongoing investigations of misconduct involving potential drug losses. Nor does the latter exemption include the requirement for "reasonable suspicion" contained in the section 7(d) exemption. Thus, a drug store employer is permitted to polygraph all current employees who have access to a controlled substance stolen from the inventory, or where there is evidence that such a theft is planned. Polygraph testing based on an inventory shortage of the drug during a particular accounting period would not be permitted unless there is extrinsic evidence of misconduct.

(2) In addition, the test must be administered in connection with loss or injury, or potential loss or injury, to the manufacture, distribution, or dispensing of a controlled substance.

(i) Retail drugstores and wholesale drug warehouses typically carry inventory of so-called health and beauty aids, cosmetics, over-the-counter drugs, and a variety of other similar products, in addition to their product lines of controlled drugs. The non-controlled products usually constitute the majority of such firms' sales volumes. An economic loss or injury related to such non-controlled substances would not constitute a basis of applicability of the section 7(f) exemption. For example, an investigation into the theft of a gross of cosmetic products could not be a basis for polygraph testing under section 7(f), but the theft of a container of valium could be.

(ii) Polygraph testing, with respect to an ongoing investigation concerning products other than controlled substances might be initiated under section 7(d) of the EPPA and Sec. 1.12 of this part. However, the exemption in section 7(f) of the EPPA and this section is limited solely to losses or injury associated with controlled substances.

(g) Polygraph tests administered pursuant to this exemption are subject to the limitations set forth in sections 8 and 10 of the EPPA, as discussed in Secs. 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, and 1.35 of this part. As provided in these sections, the exemption will apply only if certain requirements are met. Failure to satisfy any of the specified requirements nullifies the statutory authority for polygraph test administration and may subject the employer to the remedial actions authorized in section 204 of the CAA. The administration of such tests is also subject to collective bargaining agreements, which may either prohibit lie detector tests, or contain more restrictive provisions with respect to polygraph testing.

SUBPART C—RESTRICTIONS ON POLYGRAPH USAGE UNDER EXEMPTIONS

Sec. 1.20 Adverse employment action under ongoing investigation exemption

(a) Section 8(a)(1) of the EPPA provides that the limited exemption in section 7(d) of the EPPA and Sec. 1.12 of this part for ongoing investigations shall not apply if an employer discharges, disciplines, denies employment or promotion or otherwise discriminates in any manner against a current employee based upon the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence.

(b) "Additional supporting evidence", for purposes of section 8(a) of the EPPA, includes, but is not limited to, the following:

(1)(i) Evidence indicating that the employee had access to the missing or damaged property that is the subject of an ongoing investigation; and

(ii) Evidence leading to the employer's reasonable suspicion that the employee was involved in the incident or activity under investigation; or

(2) Admissions or statements made by an employee before, during or following a polygraph examination.

(c) Analysis of a polygraph test chart or refusal to take a polygraph test may not serve as a basis for adverse employment action, even with additional supporting evidence, unless the employer observes all the requirements of sections 7(d) and 8(b) of the EPPA, as described in Secs. 1.12, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.21 Adverse employment action under controlled substance exemption

(a) Section 8(a)(2) of the EPPA provides that the controlled substance exemption in section 7(f) of the EPPA and section 1.13 of this part shall not apply if an employing office discharges, disciplines, denies employment or promotion, or otherwise discriminates in any manner against a current employee or prospective employee based solely on the analysis of a polygraph test chart or the refusal to take a polygraph test.

(b) Analysis of a polygraph test chart or refusal to take a polygraph test may serve as one basis for adverse employment actions of the type described in paragraph (a) of this section, provided that the adverse action was also based on another bona fide reason, with supporting evidence therefor. For example, traditional factors such as prior employment experience, education, job performance, etc. may be used as a basis for employment decisions. Employment decisions based on admissions or statements made by an employee or prospective employee before, during or following a polygraph examination may, likewise, serve as a basis for such decisions.

(c) Analysis of a polygraph test chart or the refusal to take a polygraph test may not serve as a basis for adverse employment action, even with another legitimate basis for such action, unless the employing office observes all the requirements of section 7(f) of the EPPA, as appropriate, and section 8(b) of the EPPA, as described in sections 1.13, 1.22, 1.23, 1.24 and 1.25 of this part.

Sec. 1.22 Rights of examinee—general

(a) Pursuant to section 8(b) of the EPPA, the limited exemption in section 7(d) of the EPPA for ongoing investigations (described in Sec. 1.12 of this part) shall not apply unless all of the requirements set forth in this section and Secs. 1.23 through 1.25 of this part are met.

(b) During all phases of the polygraph testing the person being examined has the following rights:

(1) The examinee may terminate the test at any time.

(2) The examinee may not be asked any questions in a degrading or unnecessarily intrusive manner.

(3) The examinee may not be asked any questions dealing with:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or behavior; or

(v) Beliefs, affiliations, opinions, or lawful activities concerning unions or labor organizations.

(4) The examinee may not be subjected to a test when there is sufficient written evidence by a physician that the examinee is suffering from any medical or psychological condition or undergoing any treatment that might cause abnormal responses during the actual testing phase. "Sufficient written evidence" shall constitute, at a minimum, a statement by a physician specifically describing the examinee's medical or psychological condition or treatment and the basis for the physician's opinion that the condition or treatment might result in such abnormal responses.

(5) An employee or prospective employee who exercises the right to terminate the test, or who for medical reasons with sufficient supporting evidence is not administered the test, shall be subject to adverse employment action only on the same basis as one who refuses to take a polygraph test, as described in Secs. 1.20 and 1.21 of this part.

(c) Any polygraph examination shall consist of one or more pretest phases, actual testing phases, and post-test phases, which must be conducted in accordance with the rights of examinees described in Secs. 1.23 through 1.25 of this part.

Sec. 1.23 Rights of examinee—pretest phase

(a) The pretest phase consists of the questioning and other preparation of the prospective examinee before the actual use of the polygraph instrument. During the initial pretest phase, the examinee must be:

(1) Provided with written notice, in a language understood by the examinee, as to when and where the examination will take place and that the examinee has the right to consult with counsel or an employee representative before each phase of the test. Such notice shall be received by the examinee at least forty-eight hours, excluding weekend days and holidays, before the time of the examination, except that a prospective employee may, at the employee's option, give written consent to administration of a test anytime within 48 hours but no earlier than 24 hours after receipt of the written notice. The written notice or proof of service must set forth the time and date of receipt by the employee or prospective employee and be verified by his or her signature. The purpose of this requirement is to provide a sufficient opportunity prior to the examination for the examinee to consult with counsel or an employee representative. Provision shall also be made for a convenient place on the premises where the examination will take place at which the examinee may consult privately with an attorney or an employee representative before each phase of the test. The attorney or representative may be excluded from the room where the examination is administered during the actual testing phase.

(2) Informed orally and in writing of the nature and characteristics of the polygraph instrument and examination, including an explanation of the physical operation of the polygraph instrument and the procedure used during the examination.

(3) Provided with a written notice prior to the testing phase, in a language understood by the examinee, which shall be read to and signed by the examinee. Use of Appendix A to this part, if properly completed, will constitute compliance with the contents of the notice requirement of this paragraph. If a format other than in Appendix A is used, it must contain at least the following information:

(i) Whether or not the polygraph examination area contains a two-way mirror, a camera, or other device through which the examinee may be observed;

(ii) Whether or not any other device, such as those used in conversation or recording will be used during the examination;

(iii) That both the examinee and the employing office have the right, with the other's knowledge, to make a recording of the entire examination;

(iv) That the examinee has the right to terminate the test at any time;

(v) That the examinee has the right, and will be given the opportunity, to review all questions to be asked during the test;

(vi) That the examinee may not be asked questions in a manner which degrades, or needlessly intrudes;

(vii) That the examinee may not be asked any questions concerning religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations;

(viii) That the test may not be conducted if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination;

(ix) That the test is not and cannot be required as a condition of employment;

(x) That the employing office may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against the examinee based on the analysis of a polygraph test, or based on the examinee's refusal to take such a test, without additional evidence which would support such action;

(xi)(A) In connection with an ongoing investigation, that the additional evidence required for the employing office to take adverse action against the examinee, including termination, may be evidence that the examinee had access to the property that is the subject of the investigation, together with evidence supporting the employer's reasonable suspicion that the examinee was involved in the incident or activity under investigation;

(B) That any statement made by the examinee before or during the test may serve as additional supporting evidence for an adverse employment action, as described in paragraph (a)(3)(x) of this section, and that any admission of criminal conduct by the examinee may be transmitted to an appropriate government law enforcement agency;

(xii) That information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(A) To the examinee or any other person specifically designated in writing by the examinee to receive such information;

(B) To the employing office that requested the test;

(C) To a court, governmental agency, arbitrator, or mediator pursuant to a court order;

(D) By the employing office, to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct;

(xiii) That if any of the examinee's rights or protections under the law are violated, the examinee has the right to take action against the employing office under sections 401–404 of the CAA. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees;

(xiv) That the examinee has the right to obtain and consult with legal counsel or other representative before each phase of the test, although the legal counsel or representative may be excluded from the room where the test is administered during the actual testing phase.

(xv) That the employee's rights under the EPPA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the EPPA, agreed to and signed by the parties.

(b) During the initial or any subsequent pretest phases, the examinee must be given the opportunity, prior to the actual testing phase, to review all questions in writing that the examiner will ask during each testing phase. Such questions may be presented at any point in time prior to the testing phase.

Sec. 1.24 Rights of examinee—actual testing phase

(a) The actual testing phase refers to that time during which the examiner administers the examination by using a polygraph instrument with respect to the examinee and then analyzes the charts derived from the test. Throughout the actual testing phase, the examiner shall not ask any question that was not presented in writing for review prior to the testing phase. An examiner may, however, recess the testing phase and return to the pre-test phase to review additional relevant questions with the examinee. In the case of an ongoing investigation, the examiner shall ensure that all relevant questions (as distinguished from technical baseline questions) pertain to the investigation.

(b) No testing period subject to the provisions of the Act shall be less than ninety minutes in length. Such "test period" begins at the time that the examiner begins informing the examinee of the nature and characteristics of the examination and the instruments involved, as prescribed in section 8(b)(2)(B) of the EPPA and Sec. 1.23(a)(2) of this part, and ends when the examiner completes the review of the test results with the examinee as provided in Sec. 1.25 of this part. The ninety-minute minimum duration shall not apply if the examinee voluntarily acts to terminate the test before the completion thereof, in which event the examiner may not render an opinion regarding the employee's truthfulness.

Sec. 1.25 Rights of examinee—post-test phase

(a) The post-test phase refers to any questioning or other communication with the examinee following the use of the polygraph instrument, including review of the results of the test with the examinee. Before any adverse employment action, the employing office must:

(1) Further interview the examinee on the basis of the test results; and

(2) Give to the examinee a written copy of any opinions or conclusions rendered in response to the test, as well as the questions asked during the test, with the corresponding charted responses. The term "corresponding charted responses" refers to copies of the entire examination charts recording the employee's physiological responses, and not just the examiner's written report which describes the examinee's responses to the questions as "charted" by the instrument.

Sec. 1.26 Qualifications of and requirements for examiners

(a) Section 8 (b) and (c) of the EPPA provides that the limited exemption in section 7(d) of the EPPA for ongoing investigations shall not apply unless the person conducting the polygraph examination meets specified qualifications and requirements.

(b) An examiner must meet the following qualifications:

(1) Have a valid current license, if required by the State in which the test is to be conducted; and

(2) Carry a minimum bond of $50,000 provided by a surety incorporated under the laws of the United States or of any State, which may under those laws guarantee the fidelity of persons holding positions of trust, or carry an equivalent amount of professional liability coverage.

(c) An examiner must also, with respect to examinees identified by the employing office pursuant to Sec. 1.30(c) of this part:

(1) Observe all rights of examinees, as set out in Secs. 1.22, 1.23, 1.24, and 1.25 of this part;

(2) Administer no more than five polygraph examinations in any one calendar day on which a test or tests subject to the provisions of EPPA are administered, not counting those instances where an examinee voluntarily terminates an examination prior to the actual testing phase;

(3) Administer no polygraph examination subject to the provisions of the EPPA which is less than ninety minutes in duration, as described in Sec. 1.24(b) of this part; and

(4) Render any opinion or conclusion regarding truthfulness or deception in writing.

Such opinion or conclusion must be based solely on the polygraph test results. The written report shall not contain any information other than admissions, information, case facts, and interpretation of the charts relevant to the stated purpose of the polygraph test and shall not include any recommendation concerning the employment of the examinee.

(5) Maintain all opinions, reports, charts, written questions, lists, and other records relating to the test, including, statements signed by examinees advising them of rights under the CAA (as described in section 1.23(a)(3) of this part) and any electronic recordings of examinations, for at least three years from the date of the administration of the test. (See section 1.30 of this part for recordkeeping requirements.)

SUBPART D—RECORDKEEPING AND DISCLOSURE REQUIREMENTS

Sec. 1.30 Records to be preserved for 3 years

(a) The following records shall be kept for a minimum period of three years from the date the polygraph examination is conducted (or from the date the examination is requested if no examination is conducted):

(1) Each employing office that requests an employee to submit to a polygraph examination in connection with an ongoing investigation involving economic loss or injury shall retain a copy of the statement that sets forth the specific incident or activity under investigation and the basis for testing that particular covered employee, as required by section 7(d)(4) of the EPPA and described in 1.12(a)(4) of this part.

(2) Each examiner retained to administer examinations pursuant to any of the exemptions under section 7(d), (e) or (f) of the EPPA (described in sections 1.12, 1.13, and 1.14 of this part) shall maintain all opinions, reports, charts, written questions, lists, and other records relating to polygraph tests of such persons.

Sec. 1.35 Disclosure of test information

This section prohibits the unauthorized disclosure of any information obtained during a polygraph test by any person, other than the examinee, directly or indirectly, except as follows:

(a) A polygraph examiner or an employing office (other than an employing office exempt under section 7 (a), (b), or (c) of the EPPA (described in Secs. 1.10 and 1.11 of this part)) may disclose information acquired from a polygraph test only to:

(1) The examinee or an individual specifically designated in writing by the examinee to receive such information;

(2) The employing office that requested the polygraph test pursuant to the provisions of the EPPA (including management personnel of the employing office where the disclosure is relevant to the carrying out of their job responsibilities);

(3) Any court, governmental agency, arbitrator, or mediator pursuant to an order from a court of competent jurisdiction requiring the production of such information;

(b) An employing office may disclose information from the polygraph test at any time to an appropriate governmental agency without the need of a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

(c) A polygraph examiner may disclose test charts, without identifying information (but not other examination materials and records), to another examiner(s) for examination and analysis, provided that such disclosure is for the sole purpose of consultation and review of the initial examiner's opinion concerning the indications of truthfulness or deception. Such action would not constitute disclosure under this part provided that the other examiner has no direct or indirect interest in the matter.

APPENDIX A TO PART 801—NOTICE TO EXAMINEE

Section 204 of the Congressional Accountability Act, which extends the rights and protections of section 8(b) of the Employee Polygraph Protection Act, and the regulations of the Board of Directors of the Office of Compliance (Sections 1.22, 1.23, 1.24, and 1.25), require that you be given the following information before taking a polygraph examination:

1. (a) The polygraph examination area [does] [does not] contain a two-way mirror, a camera, or other device through which you may be observed.

(b) Another device, such as those used in conversation or recording, [will] [will not] be used during the examination.

(c) Both you and the employing office have the right, with the other's knowledge, to record electronically the entire examination.

2. (a) You have the right to terminate the test at any time.

(b) You have the right, and will be given the opportunity, to review all questions to be asked during the test.

(c) You may not be asked questions in a manner which degrades, or needlessly intrudes.

(d) You may not be asked any questions concerning: Religious beliefs or opinions; beliefs regarding racial matters; political beliefs or affiliations; matters relating to sexual preference or behavior; beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations.

(e) The test may not be conducted if there is sufficient written evidence by a physician that you are suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the examination.

(f) You have the right to consult with legal counsel or other representative before each phase of the test, although the legal counsel or other representative may be excluded from the room where the test is administered during the actual testing phase.

3. (a) The test is not and cannot be required as a condition of employment.

(b) The employer may not discharge, dismiss, discipline, deny employment or promotion, or otherwise discriminate against you based on the analysis of a polygraph test, or based on your refusal to take such a test without additional evidence which would support such action.

(c)(1) In connection with an ongoing investigation, the additional evidence required for an employing office to take adverse action against you, including termination, may be (A) evidence that you had access to the property that is the subject of the investigation, together with (B) the evidence supporting the employing office's reasonable suspicion that you were involved in the incident or activity under investigation.

(2) Any statement made by you before or during the test may serve as additional supporting evidence for an adverse employment action, as described in 3(b) above, and any admission of criminal conduct by you may be transmitted to an appropriate government law enforcement agency.

4. (a) Information acquired from a polygraph test may be disclosed by the examiner or by the employing office only:

(1) To you or any other person specifically designated in writing by you to receive such information;

(2) To the employing office that requested the test;

(3) To a court, governmental agency, arbitrator, or mediator that obtains a court order;

(b) Information acquired from a polygraph test may be disclosed by the employing office to an appropriate governmental agency without a court order where, and only insofar as, the information disclosed is an admission of criminal conduct.

5. If any of your rights or protections under the law are violated, you have the right to take action against the employing office by filing a request for counseling with the Office of Compliance under section 402 of the Congressional Accountability Act. Employing offices that violate this law are liable to the affected examinee, who may recover such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, and promotion, payment of lost wages and benefits, and reasonable costs, including attorney's fees.

6. Your rights under the EPPA may not be waived, either voluntarily or involuntarily, by contract or otherwise, except as part of a written settlement to a pending action or complaint under the EPPA, and agreed to and signed by the parties.

I acknowledge that I have received a copy of the above notice, and that it has been read to me. ____________

(Date) ____________

(Signature)

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on November 27, 1995, received a message from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

The nominations received on November 27, 1995, are shown in today's RECORD at the end of the Senate proceedings.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were offered to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 97

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1994, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *November 28, 1995.*

REPORT ON THE NATIONAL EMERGENCY WITH IRAN—MESSAGE FROM THE PRESIDENT—PM 98

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of May 18, 1995, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c). This report covers events through September 29, 1995. My last report, dated May 18, 1995, covered events through April 18, 1995.

1. On March 15 of this year by Executive Order No. 12957, I declared a separate national emergency pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. Executive Order No. 12959, issued May 6, 1995, then significantly augmented those new sanctions. As a result, as I reported on September 18, 1995, in conjunction with the declaration of a separate emergency and the imposition of new sanctions, the Iranian Transactions Regulations, 31 CFR Part 560, have been comprehensively amended.

There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535, since the last report. However, the amendments to the Iranian Transactions Regulations that implement the new separate national emergency are of some relevance to the Iran-United States Claims Tribunal (the "Tribunal") and related activities. For example, sections 560.510, 560.513, and 560.525 contain general licenses with respect to, and provide for specific licensing of, certain transactions related to arbitral activities.

2. The Tribunal, established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered four awards, bringing the total number to 566. As of September 29, 1995, the value of awards to successful American claimants from the Security Account held by the NV Settlement Bank stood at $2,368,274,541.67.

Iran has not replenished the Security Account established by the Accords to ensure payment of awards to successful U.S. claimants since October 8, 1992. The Account has remained continuously below the $500 million balance required by the Algiers Accords since November 5, 1992. As of September 29, 1995, the total amount in the Security Account was $188,105,627.95, and the total amount in the Interest Account was $32,066,870.62.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 31, 1995. The United States is preparing a Reply for filing on December 4, 1995.

3. The Department of State continues to present other United States Government claims against Iran, in coordination with concerned government agencies, and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In September 1995, the Departments of Justice and State represented the United States in the first Tribunal hearing on a government-to-government claim in 5 years. The Full Tribunal heard arguments in Cases A/15(IV) and A/24. Case A/15(IV) is an interpretive dispute in which Iran claims that the United States has violated the Algiers Accords by its alleged failure to terminate all litigation against Iran in U.S. courts. Case A/24 involves a similar interpretive dispute in which, specifically, Iran claims that the obligation of the United States under the Accords to terminate litigation prohibits a lawsuit against Iran by the McKesson Corporation from proceeding in U.S. District Court for the District of Columbia. The McKesson Corporation reactivated that litigation against Iran in the United States following the Tribunal's negative ruling on Foremost McKesson Incorporated's claim before the Tribunal.

Also in September 1995, Iran filed briefs in two cases, to which the United States is now preparing responses. In Case A/11, Iran filed its Hearing Memorial and Evidence. In that case, Iran has sued the United States for $10 billion, alleging that the United States failed to fulfill its obligations under the Accords to assist Iran in recovering the assets of the former Shah of Iran. Iran alleges that the United States improperly failed to (1) freeze the U.S. assets of the Shah's estate and certain U.S. assets of close relatives of the Shah; (2) report to Iran all known information about such assets; and (3) otherwise assist Iran in such litigation.

In Case A/15(II:A), 3 years after the Tribunal's partial award in the case, Iran filed briefs and evidence relating to 10 of Iran's claims against the United States Government for nonmilitary property allegedly held by private companies in the United States. Although Iran's submission was made in response to a Tribunal order directing Iran to file its brief and evidence "concerning all remaining issues to be decided by this Case," Iran's filing failed to address many claims in the case.

In August 1995, the United States filed the second of two parts of its consolidated submission on the merits in Case B/61, addressing issues of liability and compensation. As reported in my May 1995 Report, Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran alleges it did not receive. The equipment was purchased pursuant to commercial contracts with more than 50 private American companies. Iran alleges that it suffered direct losses and consequential damages in excess of $2 billion in total because the United States Government's refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords.

4. Since my last report, the Tribunal has issued two important awards in favor of U.S. nationals considered dual United States-Iranian nationals by the Tribunal. On July 7, 1995, the Tribunal issued Award No. 565, awarding a claimant $1.1 million plus interest for Iran's expropriation of the claimant's shares in the Iranian architectural firm of Abdolaziz Farmafarmaian & Associates. On July 14, 1995, the Tribunal issued Award No. 566, awarding two claimants $129,869 each, plus interest, as compensation for Iran's taking real property inherited by the claimants from their father. Award No. 566 is significant in that it is the Tribunal's first decision awarding dual national claimants compensation for Iran's expropriation of real property in Iran.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1622. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act and the Rural Development Act of 1972 to improve the effectiveness of certain rural development programs by providing limited authority to transfer appropriated funds among program accounts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1623. A communication from the Director of Corporate Financial Audits, the General Accounting Office, transmitting, pursuant to law, a determination of the 1995 fiscal year interest rates on rural telephone bank loans; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1624. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers, and Support Systems), transmitting, a cost comparison study of the Euro-NATO Joint Jet Pilot Training (ENJJPT) aircraft maintenance contract; to the Committee on Armed Services.

EC–1625. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1626. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of Accomplishments Under the Air Improvement Program for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–474. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Foreign Relations.

"HOUSE CONCURRENT RESOLUTION NO. 54

"Whereas, the people of the Republic of China are among the most trusted friends of the American people. They have built a prosperous, successful, and free economy, and they are important trading partners of the American people. It is incumbent on the people of Michigan to foster this relationship, and no better way of doing so exists than in establishing a sister-state relationship between our two peoples; and

"Whereas, in a complex world it is very important to promote greater world understanding by learning more about the people of different nations. Such actions are mutually beneficial and encourage social, economic, educational, and cultural programs through which all nations are enriched and increased world understanding is created; and

"Whereas, the Republic of China is rich in agricultural products, textiles, electrical machinery, and plastic products. It is wealthy, too, in its people, as we are in Michigan. It would be in our own interest and in the interest of the Republic of China to foster a strengthening of our current knowledge of one another by creating a sister-state relationship between the Province of Taiwan of the Republic of China and the state of Michigan of the United States: Now, therefore be it

"*Resolved by the House of Representatives (the Senate concurring)*, That the Michigan Legislature hereby establishes a sister-state relationship with the Province of Taiwan of the Republic of China and the state of Michigan of the United States. We invite the people and government of the Republic of China to conduct mutually beneficial social, economic, educational, and cultural programs to bring our citizens closer together and to strengthen international understanding and goodwill; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Michigan delegation to the Congress of the United States, and executive and legislative officials of the Republic of China."

POM–475. A petition from a citizen of the State of Texas relative to Congressional term limits; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1136. A bill to control and prevent commercial counterfeiting, and for other purposes (Rept. No. 104–177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN:

S. 1427. A bill to improve the national crime database and create a Federal cause of action for early release of violent felons; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. DOLE, Mrs. BOXER, Mr. THOMAS, Mr. WARNER, Mr. KEMPTHORNE, Mr. GRASSLEY, Mr. MCCAIN, Mr. COHEN, Mr. ABRAHAM, Mr. CHAFEE, Mr. JEFFORDS, Mr. PRESSLER, Mr. NICKLES, Mr. SIMPSON, Mr. SPECTER, Mrs. HUTCHISON, Mr. DOMENICI, Mr. DEWINE, Mrs. KASSEBAUM, Mr. BROWN, Mr. GREGG, Mr. COATS, Mr. HARKIN, Mr. BOND, Mr. COCHRAN, Mr. THURMOND, Mr. BAUCUS, Mr. SANTORUM, and Mr. SMITH):

S. 1428. A bill to provide for comparable treatment of federal employees and members of Congress and the President during current fiscal hiatus; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself, Mr. LOTT, Mr. WARNER, Mr. STEVENS, Mr. COHEN, Mr. EXON, and Mr. PRESSLER):

S. 1429. A bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995; to the Committee on Governmental Affairs.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 1430. A bill to authorize a land conveyance at the Radar Bomb Scoring Site, Belle Fourche, South Dakota; to the Committee on Armed Services.

By Mr. MCCAIN:

S. 1431. A bill to make certain technical corrections in laws relating to Native Americans, and for other purposes; to the Committee on Indian Affairs.

S. 1432. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the social security earnings limit for individuals who have attained retirement age, and for other purposes; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 1427. A bill to improve the national crime database and create a Federal cause of action for early release of violent felons; to the Committee on the Judiciary.

THE VIOLENT CRIME INTERVENTION ACT OF 1995

Mr. DORGAN. Mr. President, I rise today to introduce legislation that will fill the void in the Federal response to the Nation's crime epidemic by putting violent offenders in jail and keeping them there.

Probably all of us have seen reference in the papers these days that crime is down. According to the statistics by the FBI, there is a slight decrease in crime in our country. That ought not give anyone great comfort, in my judgment, because the slight decrease comes from an extraordinarily high rate of crime in our country.

A violent crime occurs every 17 seconds in America; a rape occurs every 5 minutes; a robbery, every 51 seconds; a murder every 23 minutes.

We have a country that is, presumably, a civilized nation full of wonderful people—with 23,000 murders every year. So no one should take great solace in the fact that the FBI or someone else says the crime rate is down slightly. It is at an extraordinarily high level, and represents an epidemic of crime that we must deal with.

Crime no longer is limited to specific neighborhoods, cities, or States. It is a national epidemic, and the criminal justice system of each State often affects citizens of other states. My legislation, the Violent Crime Intervention Act of 1995, addresses two aspects of this problem on which the Federal Government must show leadership.

First, the bill will make it a national priority to put into operation a complete, accurate, and up-to-date nationwide database of criminal records. Currently, the Federal Bureau of Investigation's interstate identification index—the triple-I—provides more than 75,000 criminal record checks every day, but the information it provides is incomplete and, therefore, unreliable. In fact, only 30 States currently participate in this system.

The bill will help to complete a national database of violent criminals. Last year's crime bill appropriated $100 million for fiscal year 1995 to help states establish or improve their criminal databases under the Brady law. It also authorized another $50 million for this same purpose for fiscal years 1996 and 1997. Under my legislation, every State must set up a criminal record database within 2 years that is connected to the Triple-I and that provides accurate information about that State's criminals.

States that do not comply with these provisions would not be shut off from using the Triple-I system. That could hurt law enforcement. However, they would have to pay a fee each time they use the system until they contribute their own complete and up-to-date records.

It does not take Dick Tracy to figure out who is going to commit the next murder, or the next violent crime. You can almost bet that the next violent crime in America committed in the next 45 seconds or so will be committed by someone who has committed violent crimes in the past. You can almost guarantee it. That is why it is critical for us to know who has committed previous crimes.

I will mention a personal story. My mother was a victim of a manslaughter incident some years ago. She was tragically killed in a circumstance in which those who were involved had criminal records. As I looked at those criminal records, I saw something curious. I saw that a judge with respect to one of the people involved had sentenced him to the State penitentiary once for a crime. He was picked up again when he was out on probation, was sent back to court—and the judge said, "Well, OK. On the second offense you get probation."

I called the judge. I said, "Why would you give probation on a second offense?"

He said, "Because I did not know the person committed the first offense."

I said, "You are kidding me. This defendant stands in front of you, a defendant who has been in State penitentiary, and you did not know that when you sentenced the defendant for the second offense?"

He said, "I had no idea."

Computer records even between jurisdictions in the same State were not then available to give the judge that basic information.

It does not make any sense what is going on. Michael Jordan's father was murdered allegedly by two people on a road in the Carolinas. Take a look at their records. The two people who allegedly killed Michael Jordan's father—both of them—had long criminal histories. And I will bet, if you access the triple-I, you will not find half of their criminal histories.

Second, my bill will provide a strong incentive for States to keep their violent criminals locked up for the criminal's full sentence. Last year's crime bill offered Federal crime-fighting funds to States that keep violent criminals locked up for at least 85 percent of their sentences. Surely we can do better than that.

Under my legislation, a State will be liable to victims of violent crimes committed by criminals the State released early from a sentence for a previous violent crime. A State could avoid liability only if the State required all violent criminals to serve their full sentences.

It occurred to me that we ought to do this because of a wonderful woman named Donna Martz who was murdered. She used to come to the Capitol steps and bring bus tours from North Dakota. I used to see her most every year and visit with her. She was murdered about 2 years ago by a couple of people who were convicted of violent crimes in Pennsylvania, and then they went to North Dakota, and abducted Donna Martz. The story is too violent and awful even to retell. They took her through several States, and eventually brutally murdered her out in the desert of the West.

My point is this. Someone who is convicted in the State for a violent crime ought to serve their entire sentence. If a State decides for its own reasons that this violent criminal shall be let out before a sentence is ended, then I think that the State ought to be liable to the next victim or to the next victim's family. If that violent criminal is let out early and commits another violent act during the time when they should have been in a prison, make the State liable for its decision. That is the second part of my legislation. Clearly, the States will not like this.

States simply must keep known, violent offenders behind bars for their full sentence—or face the consequences of the State's decision to release these criminals. It is time for States to take responsibility for the horrible suffering and fear they can foster by prematurely releasing violent criminals.

These issues are of national concern and we can deal with them if the Federal and State governments make a concerted effort to keep violent offenders behind bars for their full sentences.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Intervention Act of 1995".

TITLE I—NATIONAL CRIME RECORDS DATABASE

SEC. 101. FINDINGS.

The Congress finds that—

(1) nationwide—

(A) many State criminal record systems are not up to date and contain incomplete or incorrect information; and

(B) less than 20 percent of all criminal records are fully computerized, include court dispositions, and are accessible through the Interstate Identification Index of the Department of Justice; and

(2) a complete and accurate nationwide criminal record database is an essential element in fighting crime and development of such a database is a national priority.

SEC. 102. STATE CRIMINAL RECORD UPGRADES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General of the United States shall issue guidelines establishing specific requirements for a State to qualify as a fully participating member of the Interstate Identification Index.

(b) MINIMUM REQUIREMENTS.—The guidelines referred to in subsection (a) shall require—

(1) that all arrest reports and final disposition orders are submitted to the State records repository within 7 days;

(2) the State repository to enter these records and orders into the State database not more than 24 hours after the repository receives the information;

(3) the State to conduct audits, at least annually, of State criminal records to ensure that such records contain correct and complete information about every felony arrest and report the results of each audit to the Attorney General of the United States;

(4) the State to certify to the Attorney General of the United States, on January 1 of each year, that the law enforcement agencies, courts, and records officials of the State are in compliance with this section; and

(5) such other conditions as the Attorney General determines are necessary.

(c) LIMITATIONS ON USE OF FILES.—The Attorney General may establish limitations on the purposes for which the Interstate Identification Index may be used and may allow a State to prohibit the use of information provided by the State for searches unrelated to law enforcement.

(d) FEES.—A State that does not qualify as a fully participating State, pursuant to the guidelines referred to in subsection (a), within 2 years after the date on which the Attorney General of the United States issues such guidelines shall pay a user fee for each identification request made to the Interstate Identification Index in an amount equal to the average cost of a single Federal database inquiry, as determined by the Attorney General each year.

TITLE II—LIABILITY FOR EARLY RELEASE OF VIOLENT FELONS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) violent criminals often serve only a small portion of their original sentences;

(2) a significant proportion of the most serious violent crimes committed in the United States are committed by criminals who have been released early from a sentence for a previous violent crime;

(3) violent criminals who are released early from prison often travel to other States to commit additional violent crimes;

(4) the crime and threat of crime committed by violent criminals released early from prison affects tourism, economic development, use of the interstate highway system, federally owned or supported facilities, and other commercial activities of individuals; and

(5) the policies of one State regarding the early release of criminals sentenced in that State for a violent crime often affect the citizens of other States, who can influence those policies only through Federal law.

(b) PURPOSE.—The purpose of this title is to reduce violent crime by requiring States to bear the responsibility for the consequences of releasing violent criminals before they serve the full term for which they were sentenced.

SEC. 202. CAUSE OF ACTION.

(a) IN GENERAL.—The victim (or in the case of a homicide, the family of the victim) of a violent crime shall have a Federal cause of action in any district court against a State if the individual committing the crime—

(1) had previously been convicted by the State of a violent offense;

(2) was released prior to serving his or her full sentence for such offense; and

(3) committed the violent crime before the original sentence would have expired.

(b) DEFINITION.—As used in this title, the term "crime of violence" has the same meaning as in section 16 of title 18, United States Code.

(c) DAMAGES.—A State shall be liable to the victim in an action brought under this title for the actual damages (direct and indirect) resulting from the violent crime, but not for punitive damages.

By Mr. DOMENICI (for himself, Mr. LOTT, Mr. STEVENS, Mr. COHEN, Mr. EXON, Mr. PRESSLER, and Mr. WARNER):

S. 1429. A bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995, to the Committee on Governmental Affairs.

REIMBURSEMENT FOR FURLOUGHED FEDERAL EMPLOYEES DURING RECENT GOVERNMENT SHUTDOWN LEGISLATION

• Mr. DOMENICI. Mr. President, I introduce legislation relating to the recently enacted continuing appropriations resolution and concerns that have been raised regarding the payment of furloughed employees during the 6-day Government closure. I am joined in offering this legislation by my distinguished colleagues, Senators LOTT and Senator WARNER.

Mr. President, the furlough pay language that the Congress adopted as part of House Joint Resolution 122, the continuing resolution, is language that previous Congresses have adopted to provide compensation to Federal employees during periods of Government closure.

This language was enacted to provide compensation to Federal employees affected by Government closure in 1984, 1986, 1987, and 1990. This language was provided to Congress by the administration to meet our stated intent that Federal workers should not suffer a loss of pay as a result of the 6-day closure of the Federal Government.

It has now been brought to our attention that the language included in the continuing resolution may inadvertently not cover all employees who were subject to the furlough. The administration has indicated that there are State employees paid with 100 percent Federal funds who make disability determinations and administer unemployment insurance benefits, for example, that may not be covered by the language in the continuing resolution regarding the payment of compensation during the recent 6-day shutdown of the Federal Government.

I am therefore introducing legislation to clarify our intent that all furloughed Federal workers, including federally funded workers, affected by the shutdown of the Federal Government receive their pay as Congress intended. The legislation ensures that 100 percent federally funded State employees affected by the furlough receive their pay, and that States using their own funds to make up for the lack of Federal funds for these employees are reimbursed to carry out 100 percent federally supported functions.

Mr. President, it was and is clearly the intent of the Congress to pay Federal workers for the 6-day period of the Government shutdown. The language enacted in the continuing resolution has been used in previous years to successfully address this situation. I hope the language does so this year. If not, I urge my colleagues to adopt the bill I am introducing to clarify our intent on this matter.•

By Mr. PRESSLER (for himself, and Mr. DASCHLE):

S. 1430. A bill to authorize a land conveyance at the radar bomb-scoring site, Belle Fourche, SD; to the Committee on Armed Services.

LAND CONVEYANCE LEGISLATION

Mr. PRESSLER. Mr. President, I rise today to introduce legislation that would transfer Air Force radar bomb-scoring facilities near Belle Fourche, SD, to the local Belle Fourche School District. The Air Force has declared facilities located at Detachment 21 of the 554th Range Squadron as excess Federal property. The Air Force is expected to dispose of the excess bomb-scoring facilities in July 1996.

Mr. President, the transfer of excess Air Force facilities to the Belle Fourche School District would relieve overcrowded local public educational facilities in a school district with increasing enrollments. Currently, the Belle Fourche School District is one of the poorest school districts in South Dakota. A small tax base coupled with a proposed additional tax burden for the renovation of the old Roosevelt school building prompted local taxpayers to reject two bond issues that would have relieved the growing classroom crowding problem. The transfer of excess Air Force facilities to the Belle Fourche School District is a responsible, cost-effective approach to addressing an increasingly serious local problem. It is an example of two levels of government cooperating for a common good. The transfer of excess Air Force facilities would help provide a quality educational environment for many schoolchildren living in Belle Fourche.

Mr. President, I ask unanimous consent that resolutions of support for my legislation from State, county, city and local governments be included in the RECORD. I further ask unanimous consent the full text of the bill be printed in the RECORD. I urge my colleagues to adopt this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, RADAR BOMB SCORING SITE, BELLE FOURCHE, SOUTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Belle Fourche School District, Belle Fourche, South Dakota (in this section referred to as the "District"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 37 acres located in Belle Fourche, South Dakota, which has served as the location of a support complex and housing facilities for Detachment 21 of the 554th Range Squadron, an Air Force Radar Bomb Scoring Site located in Belle Fourche, South Dakota. The conveyance may not include any portion of the radar bomb scoring site located in the State of Wyoming.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the District—

(1) use the property and facilities conveyed under that subsection for education, economic development, and housing purposes; or

(2) enter into an agreement with an appropriate public or private entity to sell or lease the property and facilities to such entity for such purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

STATE OF SOUTH DAKOTA,
November 15, 1995.

Mr. WADE PEHL,
Belle Fourche School District 9–1,
Belle Fourche, SD.

DEAR MR. PEHL: I am certainly pleased to lend my support to the proposed acquisition of the Air Force Detachment 21 site in Belle Fourche by the Belle Fourche School District. The potential for public good is remarkable. Not only will it address certain critical facility needs of the school district, it will provide badly needed moderate income housing for the Belle Fourche community. I am especially pleased with the cooperative spirit that has been evident in this project between the various local governments; it is this type of cooperation that will provide innovative solutions to many community challenges.

You and the entire board are to be commended for your creativity in this matter. Please be assured that you have my wholehearted support in this undertaking. If I may be of further assistance, please do not hesitate to contact my office.

Sincerely,

WILLIAM J. JANKLOW,
Governor.

BOARD OF BUTTE COUNTY COMMISSIONERS RESOLUTION OF SUPPORT

It Is Hereby Resolved by the Butte County Board of Commissioners that a majority of the Board supports a proposed U.S. Senate Bill to authorize a land conveyance at the Detachment 21 of the 554th Range Squadron, an Air Force Radar Bomb Scoring Site in Belle Fourche, South Dakota to the Belle Fourche School District, Belle Fourche, South Dakota.

Dated this 21st day of November 1995.

RESOLUTION

Whereas, it has come to the attention of the Common Council of the City of Belle Fourche, Butte County, South Dakota, of the proposed termination of the support complex and housing facilities for Detachment 21 of the 554th range Squadron, an Air Force Radar Bomb Scoring Site located in Belle Fourche; and

Whereas, the Belle Fourche School District No. 9–1, is in need of an additional site so as to provide adequate public education facilities for its citizens and patrons; and

Whereas, the Common council of the City recognizes the need to provide adequate facilities for education within the community and feels that the complex has great potential to enhance the program for learning within the City;

Now, therefore, be it *Resolved*, That the Common Council of the City of Belle Fourche does hereby support the transfer of ownership of the support complex and housing facilities for U. S. Air Force Detachment 21 located in Belle Fourche, South Dakota to the Belle Fourche School District No. 9–1.

Dated at Belle Fourche, this 20th day of November 1995.

BELLE FOURCHE SCHOOL DISTRICT BOARD OF EDUCATION RESOLUTION OF SUPPORT

It Is Hereby Resolved by the Belle Fourche School District 9–1 Board of Education that the Board fully supports the transfer of the United States Air Force property in Belle Fourche, South Dakota, to the Belle Fourche School District 9–1 as a "public benefit transfer." Transfer of the support complex and housing facilities for Detachment 21 of the 554th Range Squadron for use by the Belle Fourche School District 9–1 would benefit Belle Fourche School District 9–1 and such a transfer has the full and unqualified support of the Belle Fourche School District 9–1 Board of Education.

Dated this 13th day of November 1995, at Belle Fourche, South Dakota.

By Mr. McCAIN:

S. 1431. A bill to make certain technical corrections in laws relating to native Americans, and for other purposes; to the Committee on Indian Affairs.

TECHNICAL CORRECTIONS LEGISLATION

• Mr. McCAIN. Mr. President, I am introducing today a bill to amend two existing laws that provide for the settlement of the water rights claims of two Indian tribes in Arizona.

Section 1 of the bill amends section 112 of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 to extend by 6 months the time for the settlement parties to finish all actions required to complete the settlement. Under the original act, the Secretary of the Interior is required to publish in the Federal Register by December 31, 1995, a statement of findings that includes a finding that contracts for the assignment of Central Arizona Project water have been executed. Due to several unforeseen developments, the Department of the Interior, the Yavapai-Prescott Tribe, and the city of Prescott have concluded that additional time is necessary to finalize the agreements and publish the Secretary's findings in the Federal Register. Accordingly, the amendment extends the deadline for completion of the settlement to June 30, 1996.

Section 2 of the bill amends the San Carlos Apache Tribe Water Rights Settlement Act of 1992 to extend by 1 year the deadline for the settlement parties to complete all actions needed to effect the settlement, including finalizing agreements between the San Carlos Apache Tribe and the Phelps-Dodge Corp., and between the tribe and the town of Globe. This amendment would extend the deadline from December 31, 1995, to December 31, 1996. The Department of the Interior, the San Carlos Apache Tribe, and the other settlement parties all support this extension.

Mr. President, it is extremely important that the Congress pass these two time-sensitive provisions before the end of the year. The San Carlos Apache and Yavapai-Prescott settlements are the product of years of painstaking negotiation and effort by many parties. No party, in particular the United States, would benefit from a lapse in the statutory authority for completing these settlements. Without the time extensions contained in this bill, the many fruits of these collective efforts could be lost.

On October 31, 1995, the Senate passed S. 325, a bill comprised of 22 sections containing amendments to various laws affecting native Americans. Sections 1 and 2 described in the preceding paragraphs are identical to sections 15 and 22 of S. 325. However, it now appears doubtful that the House will pass S. 325 by the end of the year. Consequently, I am introducing this bill today to ensure that the parties to the San Carlos and Yavapai-Prescott settlements will have sufficient time to complete the work needed to make those settlements final.•

ADDITIONAL COSPONSORS

S. 326

At the request of Mr. HATFIELD, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 326, a bill to prohibit U.S. military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the U.N. Register of Conventional Arms.

S. 386

At the request of Mr. McCONNELL, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes.

S. 771

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 837

At the request of Mr. WARNER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Arkansas

[Mr. PRYOR], the Senator from Tennessee [Mr. FRIST], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. COHEN], the Senator from North Carolina [Mr. HELMS], the Senator from Kentucky [Mr. FORD], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1043

At the request of Mr. STEVENS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1396

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1396, a bill to amend title 49, United States Code, to provide for the regulation of surface transportation.

S. 1401

At the request of Mr. BENNETT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1401, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to minimize duplication in regulatory programs and to give States exclusive responsibility under approved States program for permitting and enforcement of the provisions of that act with respect to surface coal mining and reclamation operations, and for other purposes.

S. 1409

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1409, a bill to amend section 255 of the National Housing Act to extend the mortgage insurance program for home equity conversion mortgages, and for other purposes.

S. 1414

At the request of Mrs. HUTCHISON, the names of the Senator from Wyoming [Mr. THOMAS] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1414, a bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities, of dependency and indemnity compensation for survivors of such veterans, and of other veterans benefits are made regardless of Government financial shortfalls.

AMENDMENTS SUBMITTED

THE INTERSTATE COMMERCE COMMISSION SUNSET ACT OF 1995

PRESSLER (AND EXON) AMENDMENT NO. 3063

Mr. PRESSLER (for himself and Mr. EXON) proposed an amendment to the bill (S. 1396) to amend title 49, United States Code, to provide for the regulation of surface transportation; as follows:

On page 256, between lines 4 and 5, insert the following:

(c) SEPARATED EMPLOYEES.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

On page 281, between lines 18 and 19, insert the following:

SEC. 217. TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.

Section 31111(b)(1) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.".

On page 283, strike lines 9 through 11 and insert the following:

"(16) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle.".

On page 284, between lines 18 and 19, insert the following:

(5) by striking "or" at the end of subsection (b)(1);

(6) by striking the period at the end of subsection (b)(2) and inserting a semicolon and "or";

(7) by adding at the end of subsection (b) the following:

"(3) transportation by a commuter authority, as defined in section 24102 of this title, except for sections 11103, 11104, and 11503.";

On page 284, line 19, strike "(5)" and insert "(8)".

On page 284, line 24, strike "(6)" and insert "(9)".

On page 286, line 16, insert "competitive" after "other".

On page 288, line 22, insert "full" after "a".

On page 288, line 23, strike "impractical." and insert "too costly given the value of the case.".

On page 298, line 14, insert "competitive" after "other".

On page 319, between lines 2 and 3, insert the following:

(4) striking "transaction." at the end of the second sentence of subsection (c) and inserting "transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated.";

On page 319, line 3, strike "(4)" and insert "(5)".

On page 319, line 4, strike "(5)" and insert "(6)".

On page 319, line 7, strike "(6)" and insert "(7)".

On page 319, line 9, strike "(7)" and insert "(8)".

On page 339, line 20, strike "and".

On page 340, line 6, strike "actions." and insert "actions; and".

On page 340, between lines 6 and 7, insert the following:

"(4) in regulating transportation by water carrier, to encourage and promote service and price competition in the non-contiguous domestic trade.

On page 346, line 21, insert "arranging for," after "including".

On page 346, line 23, insert "unpacking," after "packing,".

On page 356, line 10, before "The" insert "(a) GENERAL RULES.—".

On page 357, between lines 21 and 22, insert the following:

"(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories, commonwealths, and possessions of the United States.

On page 360, between lines 10 and 11, insert the following:

"(f) The Secretary or Transportation Board, as applicable, is prohibited from regulating or exercising jurisdiction over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under federal law in effect on November 1, 1995.

"(g) The Secretary or Transportation Board, as applicable, may not exempt a water carrier from the application of, or compliance with, sections 13801 and 13702 for transportation in the non-contiguous domestic trade.

On page 361, between lines 9 and 10, insert the following:

"(c) A complaint that a rate, classification, rule or practice in the non-contiguous domestic trade violates subsection (a) of this section may be filed with the Transportation Board.

"(d)(1) For purposes of this section, a rate or division of a carrier for service in non-contiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

"(2) The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

"(3) The Transportation Board shall determine whether any rate or division of a carrier or service in the non-contiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) of this section or section 13702(f)(5).

"(4) The Transportation Board, upon a finding of violation of subsection (a) or this section, shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure or tariff. The Transportation Board, upon complaint from any governmental agency or authority, shall, upon a finding or violation of subsection (a) of this section, make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all sums, plus interest, which the Board finds to have been assessed and collected in violation of such subsections.

"(e) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation or service that was pending before the Federal Maritime Commission shall continue to be heard until completion of issuance of a final order thereon under all applicable laws in effect as of that date.

On page 360, line 22, insert ", or a rate for a movement by a water carrier," after "carrier".

On page 408, line 7, strike "13102(9)(A)," and insert "13102(9)(A)(i),".

On page 485, between lines 7 and 8, insert the following:

SEC. 525. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as such Act was in effect before October 1, 1991;

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation; and

(3) the packaging will not be used in the transportation of hazardous materials from a point in the United States to a point outside the United States, or from a point outside the United States to a point inside the United States.

(b) HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994.—Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. 5101 note) is repealed.

SEC. 526. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 U.S.C. App. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 527. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or removal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action forpurposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 528. USE OF HIGHWAY FUNDS FOR AMTRAK-RELATED PROJECTS AND ACTIVITIES.

Notwithstanding any other provision of law, the State of Vermont may use any unobligated funds apportioned to the State under section 104 of title 23, United States Code, to fund projects and activities related to the provision of rail passenger service on Amtrak within that State.

SEC. 529. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 is amended by adding at the end thereof the following:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorized, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) is amended by adding at the end thereof the following:

"(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

Amend the table of sections by inserting the following after the item relating to section 216 of the bill:

Sec. 217. Transport vehicles for off-road, competition vehicles ....

Amend the table of sections by inserting the following after the item relating to section 524 of the bill:

Sec. 525. Fiber drum packaging ....
Sec. 526. Termination of certain maritime authority ....
Sec. 527. Certain commercial space launch activities ....
Sec. 528. Use of highway funds for Amtrak-related projects and activities ....
Sec. 529. Violation of grade-crossing laws and regulations. ....

DORGAN (AND BOND) AMENDMENT NO. 3064

Mr. DORGAN (for himself and Mr. BOND) proposed an amendment to the bill S. 1396, supra; as follows:

On page 319, strike lines 1 through 9 and insert in lieu thereof the following—

(3) striking subparagraph (E) of subsection (b)(1) and inserting in lieu thereof the following—

"(E) whether the proposed transaction will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country.";

(4) striking paragraph (2) of subsection (b) and striking "(1)" in the first paragraph of subsection (b);

(5) striking subsection (c) and inserting in lieu thereof the following—

"(c) The Commission shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. In making the findings under subsection (b)(1)(E), the Transportation Board—

"(1) shall request an analysis by the Attorney General of the United States and shall accord substantial deference to the recommendations of the Attorney General and shall approve the transaction only if it finds that transaction does not violate the standards set forth in subsection (b)(1)(E). The transaction may not be consummated before the thirtieth calendar day after the date of approval by the Transportation Board. Action under the antitrust laws arising out of the merger transaction may be brought only by the Attorney General, and any action brought shall be commenced prior to the earliest time under this subsection at which a merger transaction approved under this subsection may be consummated. The commencement of such an action shall stay the effectiveness of the Transportation Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. Upon consummation of a merger transaction in compliance with this subsection and after termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of Title 15, but nothing in this subsection shall exempt any rail carrier resulting from a merger transaction approved under this subsection from complying with the antitrust laws after the consummation of such transaction:

"(2) may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights. Any trackage rights conditions imposed to alleviate anticompetitive effects of the transaction shall provide for compensation levels to ensure that such effects are alleviated;

"(3) may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest, when the transaction contemplates a guaranty or assumption of payment dividends or of fixed charges or will result in an increase of total fixed charges; and

"(4) may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Transportation Board finds their inclusion to be consistent with the public interest.";

(6) striking the last two sentences of subsection (d);

(7) striking subsection (e); and

(8) notwithstanding any other provision of this Act, amendments under this section shall apply to all applications pending before the Transportation Board.

BOXER (AND OTHERS) AMENDMENT NO. 3065

Mrs. BOXER (for herself, Mr. HARKIN, Mr. BRYAN, Mr. BUMPERS, and Mr. FEINGOLD) proposed an amendment to the bill S. 1396, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) COMPARABLE PAY TREATMENT.—The pay of Members of Congress and the President shall be treated in the same manner and to the same extent as the pay of the most adversely affected Federal employees who are not compensated for any period in which appropriations lapse.

(b) This section shall take effect December 15, 1995.

BYRD AMENDMENT NO. 3066

Mr. BYRD proposed an amendment to the bill S. 1396, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of title 18, United States Code, is amended by adding at the end the following new undesignated paragraph:

"Whoever is convicted of a crime under this section involving a motor vehicle that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years.".

(b) WRECKING TRAINS.—Section 1992 of title 18, United States Code, is amended—

(10 by inserting after the fourth undesignated paragraph the following:

"Whoever is convicted of any such crime that involved a train that, at the time the crime occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)), or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be imprisoned for not less than 30 years."

ASHCROFT AMENDMENT NO. 3067

Mr. ASHCROFT proposed an amendment to the bill S. 1396, supra; as follows:

On page 413, after line 14, insert the following new subsection:

"(d) The remedies provided in this part, concerning matters covered by this part with respect to the transportation of household goods by motor carriers are exclusive and preempt the remedies provided under Federal or State law."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10:15 a.m. on Tuesday, November 28, 1995, in open session, to receive testimony on the use of United States military forces to enforce the Bosnian peace agreement and the role of NATO and other foreign nations in the implementation force.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, November 28, 1995, at 2 p.m. to hold a closed hearing regarding intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE JOINT RESOLUTION 29

• Mr. SIMON. Mr. President, in going through the CONGRESSIONAL RECORDS I came across Senator FRANK MURKOWSKI's comments on Senate Joint Resolution 29.

In that resolution, he calls for dialog between North and South Korea.

Almost a year ago, Senator MURKOWSKI and I visited North Korea and South Korea, and I applaud what he suggests in this resolution and his leadership on it.

Let me add that I believe the United States could be a facilitator of this dialog.

Senator MURKOWSKI and I sent a letter suggesting that North Korea send 10 parliamentarians to the United States and South Korea the same, and that after visiting the United States for about 8 days, that the parliamentarians of both countries meet the last 2 days in an isolated setting with a few of us who would be hosts from the United States.

Because of the tensions that have arisen since the death of Kim Il Sung neither side was willing to take that step.

It is time to explore this again.

Nowhere in the world do you have as many troops facing each other, heavily armed, with a total lack of communication between the two sides.

The potential for explosion is very real and there are 140,000 American troops on the South Korean side.

We would have an interest in resolving this even without the presence of those troops but that adds a meaningful dimension to this.

I am sending a copy of these remarks to the Assistant Secretary of State for Asia, Winston Lord.

I ask that the text of the resolution be printed in the RECORD.

The text of the resolution follows:

S.J. RES. 29

Whereas the Agreed Framework Between the United States and the Democratic People's Republic of Korea of October 21, 1994, states in Article III, paragraph (2), that "[t]he DPRK will consistently take steps to implement the North-South Joint Declaration on the Denuclearization of the Korean Peninsula";

Whereas the Agreed Framework also states the "[t]he DPRK will engage in North-South dialogue, as this Agreed Framework will help create an atmoshphere that promotes such dialogue";

Whereas the two agreements entered into between North and South Korea in 1992, namely the North-South Denuclearization Agreement and the Agreement on Reconciliation, Nonaggression and Exchanges and Cooperation, provide an existing and detailed framework for dialogue between North and South Korea;

Whereas the North Korean nuclear program is just one of the lingering threats to peace on the Korean Peninsula; and

Whereas the reduction of tensions between North and South Korea directly serve United States interests, given the substantial defense commitment of the United States to South Korea and the presence on the Korean Peninsula of United States troops: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STEPS TOWARD NORTH-SOUTH DIALOGUE ON THE KOREAN PENINSULA.

It is the sense of the Congress that—

(1) substantive dialogue between North and South Korea is vital to the implementation of the Agreed Framework Between the United States and North Korea, dated October 21, 1994; and

(2) together with South Korea and other concerned allies, and in keeping with the spirit and letter of the 1992 agreements between North and South Korea, the President should pursue measures to reduce tensions between North and South Korea and should facilitate progress toward—

(A) holding a North Korea-South Korea summit;

(B) initiating mutual nuclear facility inspections by North and South Korea;

(C) establishing liaison offices in both North and South Korea;

(D) resuming a North-South joint military discussion regarding steps to reduce tensions between North and South Korea;

(E) expanding trade relations between North and South Korea;

(F) promoting freedom to travel between North and South Korea by citizens of both North and South Korea;

(G) cooperating in science and technology, education, the arts, health, sports, the environment, publishing, journalism, and other fields of mutual interest;

(H) establishing postal and telecommunications services between North and South Korea; and

(I) reconnecting railroads and roadways between North and South Korea.

SEC. 2. REPORT TO CONGRESS.

Beginning 3 months after the date of enactment of this joint resolution, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report setting forth the progress made in carrying out section 1.

SEC. 3. DEFINITIONS.

As used in this joint resolution—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives;

(2) the term "North Korea" means the Democratic People's Republic of Korea; and

(3) the term "South Korea" means the Republic of Korea.•

TRIBUTE TO GILFORD HIGH SOCCER

• Mr. SMITH. Mr. President, true dynasties in sports are hard to come by these days. I am pleased to report, however, that a group of high school athletes and coaches in my State have achieved a special kind of success.

The Gilford Middle High School Golden Eagles varsity soccer team won their national record-setting ninth straight State championship on November 6. Senior All-American striker Kris Keenan finished off a brilliant high-school career with the game's only goal. Keenan's goal 10:06 into sudden-death overtime came at the expense of the Coe-Brown Northwood Academy Comanches. The loss was the first of the season for the Comanches, who had a tremendous season in their own right.

Winning the championship game extended Gilford's undefeated streak to 100 consecutive games. The team's last loss occurred almost six full seasons ago. With four more wins at the start of the 1996 campaign, the Golden Eagles will hold this national mark, as well.

The one constant throughout this amazing string of success has been head coach David Pinkham. Coach Pinkham came to Gilford in 1977, fresh off of his career as an All-American soccer player at Plymouth State College in Plymouth, NH.

In 19 seasons, Coach Pinkham has compiled a career record of 281–28–13. That is good for a .893 career winning percentage. Under his tutelage, the Golden Eagles have gone undefeated the past five seasons, and in seven of the past nine. Gilford's record since the beginning of its first championship season in 1987 is an incredible 152–2–7—.966.

Over the duration of his coaching career, Coach Pinkham's teams have scored almost seven and a half goals for every one of their opponents. Before a scoreless tie earlier this year, his teams had not been shut out for 121 consecutive games. This too, may be a national record.

Gilford has made the playoffs 17 consecutive years and has advanced to at least the Class M State semifinals for 15 straight seasons. Amazingly, the last time it failed to make it to the final four—1980—some members of this year's team had not yet been born.

The Golden Eagles have earned the respect of their opponents and followers of New Hampshire high school soccer not only for their athletic accomplishments, but also for the way they conduct themselves on the field. Gilford's players work extremely hard for their success and play the game with a tremendous amount of pride and class. At the same time, they show a great deal of respect for their opponents and the game they love.

These attributes that produce so many on-field accomplishments are evident in the rest of the players daily lives, as well. The Gilford community is rightfully proud of the dozens of fine young men produced by the Gilford soccer program.

Congratulations to Coach Dave Pinkham and the 1995 Class M State Soccer Champion Gilford Golden Eagles. On behalf of the citizens of the State of New Hampshire, I commend your outstanding accomplishment.•

THE DEATH OF HENRY J. KNOTT, SR.

• Ms. MIKULSKI. Mr. President, with great sadness, I rise today to pay tribute to an extraordinary man. Henry J. Knott, Sr., died yesterday at the age of 89. For many decades, we knew him in Baltimore and throughout Maryland as a talented businessman and a philanthropist whose generosity knew no bounds.

I first want to express my deepest condolences to his wife of 67 years, Marion Burk Knott, his 12 children, his 51 grandchildren, and his 55 great-grandchildren.

People in positions of power and responsibility should serve as role models for our young people and give something back to their communities. I have great admiration for people who have a sense of civic responsibility, for people who try to make their community a better place to live.

Mr. Knott epitomized these qualities. Throughout his career, he sought to help those less fortunate than himself get a better education and lead better lives. He donated millions of dollars to Catholic educational institutions like his alma mater, Loyola College; Mount St. Mary's College, Emmitsburg; the College of Notre Dame in Maryland; and the University of Notre Dame in Indiana. He was especially generous to the Institute of Notre Dame, a catholic high school both his daughters and I attended.

His legendary generosity extended well beyond education. He provided enormous help to health and cultural institutions as well. He donated essential funds to the Baltimore Symphony Orchestra, the Johns Hopkins Oncology Center, and several Baltimore hospitals to help them establish an income fund to provide medical care for the poor.

His many business activities earned him a reputation as a highly disciplined and hard-working person. But his civic and charitable activities showed us that he was also an extremely modest person who had very deep feelings for the Catholic Church, his community, and the people around him.

In a 1987 Baltimore magazine article, he was asked about his prodigious philanthropy. He replied that making money was "like catching fish. You get up early. You fill the boat up with fish. And then you give them all away before they start to rot." This quote says a great deal about Henry Knott. He saw his wealth as a way to make life better for others. He never lost sight of this goal.

I mourn Henry Knott's death along with his family and the rest of Maryland. We will miss him greatly. However, I am very grateful that he was with us for 89 years, and I rejoice that he left Maryland and our Nation a better place than he found it.•

TRIBUTE TO PATRICIA WILBUR

• Mr. HATFIELD. Mr. President, it is unfortunately true that all good things must come to an end. On November 30, 1995, one of the best members of my staff will retire. Patricia Wilbur joined the staff on October 7, 1973, and will soon be joining her husband Perry in a long-deserved respite from the clamor of Capitol Hill.

Pat's career is a virtual survey of the technological revolution's impact on the Senate. As my office's systems administrator, Pat has witnessed the transition from typewriters and mimeograph machines, rotary phones and telegrams, to the world of faxes, pagers, cellular phones and computers. Pat has overseen this transformation with grace and humor as well as consummate professionalism.

The contribution of a good staffer often goes beyond their technical ability. This is a especially true with Pat. Fondly known as Mrs. Wilbur to several generations of staffers, Pat has helped shaped the lives of young Oregonians who wish to serve in the U.S. service academies and helped us all to be more efficient in our jobs. Pat has added to our hearts with her generosity and expressions of concern and added to our waistlines with her delicious home-baked cakes.

During her 22 years in our office, Pat has been a laudable embodiment of hard work, dedication and loyalty. She and I have grayed together—she far more gracefully than I. Pat has many good reasons for retiring, but three—her grandchildren Stephanie, Michael, and Julie—are the best. We will miss her institutional memory, her compassion and love as well as her competence but have nothing but good wishes as she ends her Senate career.

I am deeply grateful for Pat Wilbur's many years of invaluable assistance and ask my colleagues to join me in offering our thanks for her service to the U.S. Senate.•

TWO SIDES AGREE ON OPPOSING GAMBLING

• Mr. SIMON. Mr. President, Father Robert Drinan, former member of the House, had a column in the National Catholic Reporter recently that is of interest.

It points out where Catholics and Christian Coalition people can work together, and it is an area where liberals and conservatives can work together.

That is the growing problem of gambling.

I ask that the Robert Drinan column be printed in the RECORD.

The column follows:

TWO SIDES AGREE ON OPPOSING GAMBLING

(By Robert F. Drinan)

I was happy to discover recently that I agree with the Christian Coalition on at least one issue: opposition to gambling. Ralph Reed, the coalition's executive director (and a Presbyterian who looks like an altar boy) says that his organization may help finance an antigambling office in Washington. Reed asserts that his organization is "pounding away" at casinos and lotteries.

A conservative Colorado group named Focus on the Family is also pushing an antigambling agenda. Gambling foes are planning their first national convention in Florida. Keynote speaker is Congressman Frank Wolf, a conservative Republican from Virginia who is working aggressively against government-sponsored gambling.

It is far from clear that any coalition of antigambling groups can reverse the explosive growth of this form of entertainment. Lotteries, casinos, riverboat gambling and an ever-widening array of slot machines and other devices took in $482 billion last year.

Substantial sums from that take have gone to Republicans, including leading presidential candidates. Sen. Robert Dole took in $477,450 from gambling interests in Las Vegas, Nev. Sen. Phil Gramm of Texas has also benefited.

A further sign of entanglement: The former chairman of the Republican National Committee, Frank Fahrenkopf, is now the head of the American Gambling Association, the industry's trade group.

Daily and vehemently, the new Republican majority in the Congress proclaims agreement with the Christian Coalition on abortion, school prayer and welfare. But when it comes to gambling, the GOP is trapped between its devotion to the Christian Coalition and its desire for campaign contributions from the gambling industry.

Will the Christian Coalition use its newfound power in Congress and some Southern states to reinstate laws against gambling—laws that religious groups, Protestant and Catholic alike, fought to get on the books a century ago?

A clash before next year's presidential election is unlikely. Recognizing that the crusade against gambling is all but a lost cause, even the most ardent adherents of the Christian Coalition's agenda are not about to expend political capital telling state lawmakers to abolish gambling and tax their people fairly.

A further complication is that most Americans have never really focused on gambling's evils. It appeared on the American scene as a phenomenon that is odorless, invisible and inaudible. Hardly anyone is angry or indignant.

Still, the potential for scandal and corruption in the exploding gambling industry is so vast that almost anything could happen.

The protests of the Christian Coalition against gambling should be welcomed by all citizens and persons of faith. The desire to get something for nothing and the fantasy that we can be millionaires overnight are arguably the product of a sinful heart.

Count of Catholics, Mr. Reed, for support. On this issue, Catholics and the Christian Coalition are reading out of the same prayer book.•

NURSING HOME QUALITY AND THE BOREN AMENDMENT

• Mr. DORGAN. Mr. President, there has been considerable discussion on the Senate floor about the proposed changes to Federal nursing home quality standards.

In addition to making major cuts in projected Medicaid spending, early versions of the 7-year budget plan would have repealed entirely the nursing home standards adopted in 1987 as part of the Medicaid law. The final House-Senate compromise bill recently adopted by the Congress did not go that far, but it would weaken or eliminate several of these standards and would allow States to get waivers from the remaining Federal requirements.

Several of my colleagues have come to the floor to remind the Senate of the conditions in some nursing homes which led to the adoption of these standards in the first place.

Now I do not believe that all or even most nursing homes drugged or restrained their residents unnecessarily before the quality standards were put in place. Nursing homes in my State have a strong record of providing quality care.

But it is undeniable that some nursing homes did engage in these practices. And it is also undeniable that some States were too slow in putting an end to this kind of abuse. Therefore, I continue to believe that there should be minimum Federal quality standards, especially since the majority of Medicaid funding for nursing homes comes from the Federal Government.

However, one critical point which has not received as much attention in this debate is the ability of nursing homes to maintain the quality of their care—Federal standards or not—in the face of significant reductions in Medicaid reimbursement. As we all know, the budget plan would reduce by $163 billion future Federal funding for Medicaid. But that is not all.

A little noticed provision of this plan to turn the Medicaid Program into a block grant to the States is the repeal of the Boren amendment. The Boren amendment currently requires States to provide reimbursement to hospitals and nursing homes which is reasonable and adequate to cover their costs. This has provided critical protection from State attempts to cut Medicaid reimbursement below levels necessary to deliver quality care.

My fear is that repealing this protection is part of a deal with the States so that they will accept significantly reduced Federal funding for Medicaid. The budget proposal tells States to make due with less funding, but it allows them to, in effect, shift that funding shortfall onto nursing homes and hospitals. Well it may make the numbers add up, but what will it do to the care these institutions are able to provide to their patients?

So as we continue to debate the various changes which have been proposed to the Medicaid Program, let us not forget that Federal quality standards are not the only part of the Medicaid Program that impact quality of care. The $163 billion in cuts, combined with the repeal of the Boren amendment are also a great threat to the quality of care received by Medicaid beneficiaries. I believe the Boren amendment must be preserved in any final compromise on the budget, and I intend to fight to see that it is.•

TRIBUTE TO ISRAEL COHEN

• Ms. MIKULSKI. Mr. President, I rise today to pay tribute to a great man and a great friend. Late last Wednesday, Israel Cohen, the chairman of Giant Food, passed away at 83.

Mr. Cohen came to this country as a young boy and learned the grocery business in his father's store on Georgia Avenue—one of the first self-service stores of its kind in the country. From this beginning, Mr. Cohen built the Giant Food & Drug empire. In a rapidly changing retail food market, Mr. Cohen survived and prospered through innovation. He experimented with selling items under private labels to cut costs and his stores were the first in the country to use scanners at the checkout counters.

Mr. Cohen was more than simply a successful businessman. He knew that the success of his business was directly related to the health and well-being of his employees. He was a man who always had time to visit with his employees, no matter how busy he may have been. He created a family atmosphere with his employees, refusing to be called Mr. Cohen, but insisting on Izzy. And he worked as hard for them as they did for him. His employees tell of waiting around after putting in a full shift to meet and shake hands with him. Mr. Cohen recognized the value and importance of every single worker at his stores, from the President of the company to the high-schooler who bags groceries on Saturday afternoons.

Mr. Cohen was dedicated to providing the best service possible. Even if that meant he had to jump in behind a cash register and bag a customer's groceries himself. This is a lesson from which every American should learn.•

ON THE ADVISABILITY OF NOT DEFAULTING

• Mr. SIMON. Mr. President, we have had a variety of sources telling us that the Nation should not default on its obligations because of the debt limit.

It should hardly be necessary to stress that. If we create debt, we have to pay for it. For that reason I have consistently—with one exception—voted for extending the debt limit whether it was a Democratic President or a Republican President. The real choice is when we create the debt. Once it is created we have to face up to it.

But a publication which probably has limited circulation that I have come to respect is Grant's Interest Rate Observer, published by James Grant.

His November 10 issue has a front page commentary titled, "On the Advisability of Not Defaulting."

It approaches the question of default from a slightly different perspective that I believe my colleagues should note.

I ask that the commentary be printed in the RECORD.

The material follows:

[From Grant's Interest Rate Observer, Nov. 10, 1995]

ON THE ADVISABILITY OF NOT DEFAULTING

Over the past 12 months, the 30-year Treasury bond actually delivered a higher total return than the stock market (source: the authoritative center pages of this publication). The margin of outperformance, 32.92% to 29.60%, was remarkably strong for an asset class that is under the cloud of default.

It would be better if there were no default, we think. Over the past 46 years, according to our friends at Ryan Labs, income contributed a little more than 100% of the total return of the overall Treasury market. Thus, the contribution of capital gains to the same calculation—the bear market lasted for 34½ years, until September 1981—was less than zero.

Because the bond is an income security, low interest rates work a hardship on bondholders. Default would work the ultimate hardship. To achieve the identical 32.92% total return in the next 12 months, Ryan calculates, the current 30-year Treasury would have to rally to a yield of 4.59%. Over the past five years, the long bond has produced a total return of 12.35%; to reproduce that feat in the next five years would require a rally to 3.60%. To match the past decade's total return of 11.48%, the 30-year Treasury would have to rally to 0.29%. Repeat: 0.29%.

Since May 1974, bonds have delivered 12-month total returns in excess of those achieved by stocks in no fewer than 110 months, a fact almost guaranteed to win a bar bet from any stock market chauvinist who insists that the returns to management, diligence, hard work and ingenuity should, by right, exceed those to coupon clipping.

Perhaps the creditor class isn't finished yet. As the graph on pages six and seven points up, bond market out-performance is rarely a one-month flash in the pan; it tends to roll on. But that is a question of relative return. The immediate risk of default is one of absolute performance, not in the short run but over the long pull. One long-term risk is the precedent of default (to be technical, this would be the second American default; in 1933, the government abrogated the contracts under which it had promised to pay gold to its bondholders). A second is that the temporary nonpayment of interest and principal would cause intelligent people to reexamine the nation's monetary institutions. Wondering about the whereabouts of their money, they might turn to the Federal Reserve's balance sheet. Reading it, they would observe: non-interest-bearing currency on the liabilities side; Treasury securities on the asset side. Their eyes would flash to a footnote: $484 billion in Treasurys held in custody by the Federal Reserve for the account of foreign central banks.

A very intelligent American reader would come to appreciate that he or she is the beneficiary of a vast fandango. The world has willingly come to accept the promises of this government, either in interest-bearing or non-interest-bearing form. The half-trillion dollars or so worth of dollar securities visibly held by foreign central banks constitute the evidence not of American strength but of weakness. Mainly, they represent the track of currency intervention. Buying dollars, the central banks turn them in for U.S. government securities. It is an indirect gift.

Another subversive feature of a Treasury default is that it would turn the spotlight on other classes of non-interest-bearing investments. Of these, perhaps none is so lowly as gold, which this year has caused even its few remaining friends to despise it. However, notes Peter McTeague, of MCM TradeWatch, Boston, gold option volatility has collapsed, speculators are short the market, central banks are hostile toward it and producers continue to sell the metal forward (the proof of which is a gold lease rate that has surged to 2.3% from 1.8% in the past month: even at the lower yield, it would represent towering value in the Japanese bond markets). On Tuesday came news that the output of the South African mining industry is closing in on a 40-year low; a spokesman for the Anglo American Corp. described the country's gold operations as being in a "state of managed decline." The other day, a friend described his own growing, unfashionable bullishness toward gold. However, he added before hanging up: "I'm not sure I want my name used with this." It has been a vale of tears.•

COMMON SENSE PRODUCT LIABILITY REFORM ACT

Mr. PRESSLER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 956, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 956) entitled "An Act to establish legal standards and procedures for product liability litigation, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. Hyde, Mr. Sensenbrenner, Mr. Gekas, Mr. Inglis of South Carolina, Mr. Bryant of Tennessee, Mr. Conyers, Mrs. Schroeder, and Mr. Berman.

As additional conferees from the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. Bliley, Mr. Oxley, Mr. Cox of California, Mr. Dingell, and Mr. Wyden.

Mr. PRESSLER. I move that the Senate insist on its amendments, agree to the request from the House for a conference, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer (Mr. GORTON) appointed Mr. PRESSLER, Mr. GORTON, Mr. LOTT, Mr. STEVENS, Ms. SNOWE, Mr. ASHCROFT, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, and Mr. ROCKEFELLER conferees on the part of the Senate.

MEASURE READ FOR FIRST TIME—S. 1432

Mr. PRESSLER. Mr. President, I send the enclosed bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1432) to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

Mr. PRESSLER. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. I object to my own request.

The PRESIDING OFFICER. The bill will remain at the desk until the next legislative day.

ORDERS FOR WEDNESDAY, NOVEMBER 29, 1995

Mr. PRESSLER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m., Wednesday, November 29, that following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exception: Senator DASCHLE for 30 minutes.

I further ask unanimous consent that at 10 a.m., the Senate proceed to consideration of calendar 226, S. 1316, the Safe Drinking Water Act.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I wish to amend my unanimous-consent request.

I ask unanimous consent that when the Senate adjourns, the Senate stand in adjournment until the hour of 10 a.m., Wednesday, November 29, 1995, and that the 30 minutes for Senator DASCHLE be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. PRESSLER. For the information of all Senators, the Senate will begin debate on the Safe Drinking Water Act at 10 a.m., tomorrow morning.

Amendments are anticipated to S. 1316. Therefore, Senators can expect rollcall votes during Wednesday's session.

It is also possible that the Senate will consider the VA–HUD appropriations conference report if received from the House.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. PRESSLER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:35 p.m., adjourned until Wednesday, November 29, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate November 27, 1995, under authority of the order of the Senate of January 4, 1995:

THE JUDICIARY

ANN L. AIKEN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE JAMES H. REDDEN, RETIRED.

JOSEPH A. GREENAWAY, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE JOHN F. GERRY, RETIRED.

FAITH S. HOCHBERG, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE H. LEE SAROKIN, ELEVATED.

ANN D. MONTGOMERY, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA VICE DIANA E. MURPHY, ELEVATED.

Executive nominations received by the Senate November 28, 1995:

DEPARTMENT OF THE TREASURY

JAMES E. JOHNSON, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE RONALD K. NOBLE.

DEPARTMENT OF DEFENSE

H. MARTIN LANCASTER, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE NANCY PATRICIA DORN, RESIGNED.

NATIONAL COMMISSION OF LIBRARIES AND INFORMATION SCIENCE

LEVAR BURTON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2000, VICE KAY W. RIDDLE, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER IN THE COAST GUARD:

MICHAEL S. FIJALKA
JOSEPH P. SARGENT JR.
GERALD E. ANDERSON
KRISTOPHER G. FURTNEY
GEORGE E. BUTLER
GARY A. SCHENK
MARGARET S. BOSIN
GUY R. THERIAULT
RICHARD A. SPARACINO
MARK S. HEMANN
GREGORY A. CRUTHIS
RALPH HAES
CHARLES D. DAHILL
STEVEN R. GODFREY
WESLEY E. DRIVER
EDWARD B. SWIFT
WALTER B. WRZESNIEWSKI
FRANCIS J. ELFRING
PHILLIP F. DOLIN
MICHAEL A. WALZ
NICHOLAS F. RUSSO
BRYAN R. EMOND
DALE M. JONES JR.
CHRISTOPHER P. SCRABA
STEPHEN C. ROTHCHILD
BYRON H. ROMINE
MICHAEL W. SHOMIN
MEREDITH L. AUSTIN
GARY G. LAKIN
STEPHEN S. SCARDEFIELD
JOSEPH D. PHILLIPS
CARLYLE A. BLOMME
KELLY S. STRONG
THOMAS J. HUGHES
WAYNE D. CAWTHORN
JOSEPH C. MC GUINESS
FRANK H. KINGETT
DANIEL J. CHRISTOVICH
ROBIN E. KANE
ROBERT B. WATTS
KEITH J. TURRO
LORI A. MATHIEU
DAVIS L. KONG
EDWARD J. GIBBONS
MANUEL R. RARAS III
EDWARDO GAGARIN
MATTHEW E. MILLER
DAVID M. SINGER
DOUGLAS H. OLSON
LINCOLN H. BENEDICT
SCOTT A. FLEMING
BRIAN F. POSKAITIS
KEVIN P. CRAWLEY
TERRY L. HOOVER
DUANE F. RUMPCA
DANIEL S. ROTERMUND
ADOLPH L. KEYES
RONALD L. RODDMAN
JOHN T. FOX
MARK R. DIX
JAMES R. MANNING
NANCY R. GOODRIDGE
STEVEN A. WEIDEN
JOSEPH J. TUROSKY III
ERIC J. FORDE
THOMAS A. SAINT, JR.
CHARLES A. SCHUE III
FREDERICK A. SALISBURY
MICHAEL C. RYAN
WESLEY S. TRULL
GUY A. MC ARDLE
ROGER V. BOHNERT
GEORGE J. BOWEN II
JOHN A. MEEHAN
WILLIAM J. ZIEGLER
DOUGLAS W. STEPHEN
DOUGLAS R. MC CRIMMON, JR.
DAVID P. DANGELO
DOUGLAS W. SIMPSON
BRIAN L. DUNN
KENNETH J. REYNOLDS
DOUGLAS I. HATFIELD
BRENTON S. MICHAELS
JOSEPH A. LUKINICH, JR.
RONDAL B. LITTERELL
DAVID C. HOARD
CARL B. HANSEN
GREGORY S. OMERNIK
ERNEST M. GASKINS
BRIAN A. SANBORN
HOWARD R. WHITE
ALBERTO L. PEREZ-VERGARA
WILLIAM F. IMLE
LINN M. CARPER
JERRY R. HONEYCUTT, JR.
JOSEPH B. KOLB
FREDERICK E. BARTLETT
ANDREW W. CONNOR
GERALD A. GREEN
CAROLYN M. DELEO
ROBERT B. BURRIS
CHRISTOPHER L. ROBERGE
JON G. BEYER
PATRICK LITTLE
JOHN D. SHARON
MICHAEL B. CHRISTIAN
MICHAEL F. MC ALLISTER
TOMMEY H. MEYERS
MATTHEW VON RUDEN
KARL J. GABRIELSEN
JAMES S. PLUGGE
DANIEL T. PIPPENGER
WERNER A. WINZ
THOMAS E. HICKEY
CHRISTOPHER J. TOMNEY
MARK T. LUNDAY
JAMES R. LEE
JOHN N. HEALEY
KURT A. VAN HORN
MARK DIETRICH
HUNG M. NGUYEN
JOHN R. CAPLIS
STEVEN T. BAYNES
TODD S. TURNER
GREGORY C. BUSCH
JAMES J. FISHER
ROBERT T. VICENTE
TIMOTHY A. COOK
BRIAN C. EMRICH
CATHERINE A. HAINES
TODD K. WATANABE
BRENDAN C. FROST
MICHAEL R. HICKS
JACOB R. ELLEFSON
JAMES L. KNIGHT
LAURA L. SCHMITT
JAMES F. MARTIN
CHRISTINE C. PIPPENGER
ELIZABETH A. LASICKI
STEVEN C. TRUHLAR
GARY M. THOMAS
JAY JEWESS
CHRISTOPHER YAKABE
DAVID A. VAUGHN
GEOFFREY A. TRIVERS
STEVEN V. CARLETON
ROBERT S. BURCHELL
ROBERT E. BROGAN
TERANCE E. KEENAN
LAURIE J. MOSIER
MARK S. OGLE
WAYNE P. BROWN
TIMOTHY P. LEARY
BRANDT G. ROUSSEAUX
JAMES M. HEINZ
MARK P. PETERSON
BYRON E. THOMPSON
MICHAEL A. MOHN
GREGORY J. SUNDGAARD
RICHARD K. HUNT
PAUL S. SZWED
MARK A. TRUE
MARK A. CAWTHORN
KATHRYN L. OAKLEY
BARRY A. COMPAGNONI
ROBERT J. KLAPPROTH
CRAIGN L. ELLER
MARK E. DOLAN
FREDERICK G. MYER
CHARLES A. TURNER
CHRISTOPHER D. BREWTON
DALE A. BOUFFIOU
CHRIS A. NETTLES
LIA E. DEBETTENCOURT
JOHN G. HORNBUCKLE
MARK J. METOYER
RICHARD E. PETHERBRIDGE
CRAIG A. LINDSEY
KIMBERLY J. NETTLES

IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTION 531 OF TITLE 10, UNITED STATES CODE; WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

TODD D. BERGMAN, [redacted]
WALTER T. BERRIDGE [redacted]
PETER M. BONETTI [redacted]
JOHN E. BUCHANAN [redacted]
MICHAEL S. BUCHER [redacted]
CRAIG A. CAMPBELL [redacted]
MARK L. CHAFE [redacted]
TARA A. CUNNINGHAM [redacted]
SUZANNE M. DEAN [redacted]
STACIA A. EASLEY [redacted]
TODD B. EBERT [redacted]
DAMON C. FRANKLIN, [redacted]
LISA M. GEVRY [redacted]
PAUL L. HARTMAN [redacted]
SUSAN E. IDZIAK [redacted]
DARRYL N. LEON [redacted]
ROBERT D. LORTON [redacted]
JAMES R. MC GLONE [redacted]
ROBERT B. MOORE, [redacted]
KATHLEEN J. OROURKE, [redacted]
CRAIG M. PERRY [redacted]
RANDALL D. POLLAK [redacted]
JOHN K. PROCTOR [redacted]
TORRENCE W. SAXE [redacted]
JENNIFER M. SHORT [redacted]
ANTHONY W. SNODGRASS [redacted]
THOMAS A. VALENTINE, JR. [redacted]
GINA D. VOELZKE [redacted]
JEFFERY M. WOLIVER [redacted]
SCOTT J. WOOLLARD [redacted]

THE FOLLOWING-NAMED AIR NATIONAL GUARD OFFICERS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 12203 AND 12212, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES AS INDICATED.

MEDICAL CORPS

To be lieutenant colonel

RUTH T. LIM [redacted]
BARRETT F. SCHWARTZ [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IS ALSO BEING NOMINATED FOR REGULAR ARMY APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE.

NELSON L. MICHAEL [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

ROBERT L. ACKLEY [redacted]
KEVIN W. BOND [redacted]
KEVIN W. CARTER [redacted]
JAMES S. CURRIE [redacted]
HARRY L. DORSEY [redacted]
ULDRIC L. FIORE [redacted]
EDWARD W. FRANCE [redacted]
JUDITH M. GUARINO [redacted]
THOMAS W. MC SHANE [redacted]
JOHN H. NOLAN III [redacted]
JAMES F. QUINN [redacted]
PHILIP A. SAVOIE [redacted]
LARRY D. VICK, [redacted]
DANIEL V. WRIGHT [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 3353 AND 12203(A) AND 12207:

MEDICAL CORPS

To be lieutenant colonel

PAUL A. OSTERGAARD [redacted]

THE FOLLOWING NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

CHARLES W. BACCUS [redacted]
DIANE E. BEAVER [redacted]
GREGORY O. BLOCK [redacted]
STEPHEN W. BROSS [redacted]
DANA K. CHIPMAN [redacted]
MICHAEL P. COMODECA [redacted]
WILLIAM F. CONDRON [redacted]
MARK J. CONNOR [redacted]
DAVID N. DINER [redacted]
THEODORE E. DIXON [redacted]
THOMAS W. DWORSCHAK [redacted]

KARL M. ELLCESSOR [redacted]
TERRY L. ELLING [redacted]
THOMAS K. EMSWILER [redacted]
FRANK W. FOUNTAIN [redacted]
JOSEPH T. FRISH [redacted]
KARL M. GOETZKE [redacted]
KENNETH T. GRANT [redacted]
NATALIE L. GRIFFIN [redacted]
RICHARD O. HATCH [redacted]
PAUL P. HOLDEN [redacted]
DAVID B. HOWLETT [redacted]
WILLIAM A. HUDSON [redacted]
RICHARD A. JAYNES [redacted]
JOHN C. KENT [redacted]
WILLIAM KILGALLIN [redacted]
JAMES E. MACKLIN [redacted]
DIANA MOORE [redacted]
LAWRENCE J. MORRIS [redacted]
PATRICK D. OHARE [redacted]
PAUL M. PETERSON [redacted]
MARSHA A. SAJER [redacted]
DANIEL P. SHAVER [redacted]
SANDRA B. STOCKEL [redacted]
KATHRYN STONE [redacted]
STEVEN T. STRONG [redacted]
ROBERT D. TEETSEL [redacted]
CRAIG E. TELLER [redacted]
GAYLEN G. WHATCOTT [redacted]
DEANA M. WILLIS [redacted]
DONNA M. WRIGHT [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE AND FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be major

MARK E. BENZ [redacted]
STEVEN L. BERRY [redacted]
KENNETH W. BUSH [redacted]
ROBERT M. COFFEY [redacted]
ROGER D. CRINER [redacted]
ANIBAL CRUZBAEZ [redacted]
KAREN J. DIEFENDORF [redacted]
RANDALL C. DOLINGER [redacted]
MICHAEL W. DUGAL [redacted]
THOMAS E. ENGLE [redacted]
DONALD W. EUBANK [redacted]
JOHN M. FOXWORTH [redacted]
GUY E. GLAD [redacted]
THOMAS C. HARTMANN [redacted]
CHARLES M. HERRING [redacted]
THOMAS E. KILLGORE [redacted]
RODNEY A. LINDSAY [redacted]
JOHN D. LITTLE [redacted]
DENNIS W. MADTES [redacted]
DANIEL J. MINJARES [redacted]
ONERRAY, NEAL [redacted]
CHRISTOPHER C. NO [redacted]
JOHN D. POTTER [redacted]
JERRY D. POWELL [redacted]
DIETER E. SCHWARTZ [redacted]
RONALD H. THOMAS, [redacted]
JON P. TIDBALL [redacted]
JOHN W. WILSON [redacted]
PHILLIP F. WRIGHT [redacted]
STEVEN R. YOUNG, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

ARMY NURSE CORPS

To be first lieutenants

VINCENT B. BOGAN [redacted]
FRANCIS J. BORSEY, JR [redacted]
TERRY J. BROWN [redacted]
FRANK LEE [redacted]

To be captains

BRENDA A. BLATT [redacted]
PAUL A. KENNEDY [redacted]
MARIO C. MALLARI [redacted]
TRENT N. TALBERT [redacted]
ROY D. THURSTON [redacted]

To be majors

PATRICIA M. LEROUX [redacted]
CLAYTON J. NEIL [redacted]
LINDA S. WEAVER [redacted]

To be lieutenant colonel

JEAN M. DAILEY [redacted]

To be colonel

JERI. I. GRAHAM [redacted]

MEDICAL SERVICE CORPS

To be first lieutenants

THOMAS S. BUNDT [redacted]
LISA M. HARVEY [redacted]
ROBERT C. HOERAUF [redacted]
WILLIAM J. KAYS [redacted]
ERIC M. MAROYKA [redacted]
STACY A. MOSKO [redacted]
PATRICK W. PICARDO [redacted]
MICHAEL W. SMITH [redacted]
THERESA E. VOWELS [redacted]
KEITH A. WAGNER [redacted]

To be captains

TIMOTHY H. DIXON [redacted]
EVELYN GAVIN [redacted]
JEFFREY S. HILLARI [redacted]
MOHAMED S. IBRAHIM [redacted]
DAVID L. KELLMEYER [redacted]
MARK B. LITTLE [redacted]
BRIAN E. MACMANUS [redacted]
WILLIAM F. STARNES [redacted]
AMY L. SWIECICHOWSKI [redacted]
KIMBERLY THOMPSON [redacted]
JULIAN VELASQUEZ [redacted]
BEATE M. WRIGHT [redacted]
TOU T. YANG [redacted]

To be majors

LORRAINE A. BABEU [redacted]
BENJAMIN P. FRENCH [redacted]
LARRY C. JAMES [redacted]

To be lieutenant colonel

CARL E. SMITH, [redacted]

VETERINARY CORPS

To be captain

SHANNON A. STUTLER [redacted]

To be major

ROGER W. PARKER, 462–88–6141

MEDICAL CORPS

To be colonels

JAMES L. BESON [redacted]
THOMAS M. CASHMAN [redacted]
JAMES T. HARDY [redacted]
DAVID L. MICHAELS [redacted]
ALBERT J. MORENO [redacted]
THEODORE R. MCNIT [redacted]
ROBERT L. REED [redacted]
PURNIMA SAU [redacted]
ARTURO T. SISON [redacted]
RICHARD O. SUTTON, JR [redacted]

To be lieutenant colonels

SHELBY R. BRAMMER [redacted]
FREDERICK B. BROWN [redacted]
MICHAEL A. CAWTHON [redacted]
RALPH L. DRU [redacted]
LOUIS A. HIEB [redacted]
AURORA G. KELLOGG [redacted]
SEUNG I. KIM [redacted]
ROBERT E. LEWIS [redacted]
RICHARD H. MOORE [redacted]
ELMER J. PACHECO [redacted]
VIJAY K. SANGAR [redacted]
PHILLIP J. TODD [redacted]
RONALD P. TURNICKY [redacted]

To be majors

LARRY K. ANDREO [redacted]
DAVID A. KRISTO [redacted]
JUAN M. LOPEZ [redacted]
LOREE K. SUTTON [redacted]

DENTAL CORPS

To be colonel

RAY D. DERRINGER [redacted]

To be majors

PETE MINES [redacted]
VINCENT VISSICHELLI [redacted]

To be captain

ROBERT R. GALVAN, JR [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

BRENDA F. MOSLEY [redacted]

To be major

MARY S. LOPEZ [redacted]

To be captains

LARRY G. HARRIS [redacted]
KAREN S. KAMINSKI [redacted]

THE FOLLOWING-NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533, AND 2106:

JASON M. COLBERT [redacted]
CHARLES R. GEIB [redacted]
JOSEPH J. GRUBER [redacted]
JOHN E. HOWELL [redacted]
HEATHER R. MANUS [redacted]
DANIEL E. MAZZEI [redacted]
JOHN D. MCCREADY [redacted]
MICHAEL J. MCGUIRE [redacted]
COREY R. SISLER [redacted]
SCOTT A. WHITE [redacted]
SCOTT D. WILKINSON [redacted]
BETTY ZIMMERMAN [redacted]

THE FOLLOWING-NAMED HONOR GRADUATES FROM THE OFFICER CANDIDATE SCHOOL FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

GRAHAM J. COMPTON [redacted]
GARY TREVINO [redacted]

THE FOLLOWING-NAMED GRADUATES, GRADUATING CLASS OF 1995, U.S. AIR FORCE ACADEMY WHO HAVE REQUESTED APPOINTMENT IN THE REGULAR ARMY IN THE GRADE OF SECOND LIEUTENANT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531(A) AND 99541:

ALEJANDOR ANTUNEZ [redacted]
THOMAS A. BRIEN [redacted]
BARRY A. BURNS [redacted]
DEREK C. HAM [redacted]
ZACHARY N. HESS [redacted]
SHAWN E. LEONARD [redacted]
CHRISTOPHER LIONTAS [redacted]
JOHN F. MURRAY [redacted]
KEVIN B. PRICE [redacted]
WILLIAM P. SAMMON [redacted]
PHILLIP R. STEWART [redacted]
KEVIN G. WEAVER [redacted]

THE FOLLOWING-NAMED GRADUATES, GRADUATING CLASS OF 1995, U.S. NAVAL ACADEMY WHO HAVE REQUESTED APPOINTMENT IN THE REGULAR ARMY IN THE GRADE OF SECOND LIEUTENANT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531(A) AND 99541:

DAVID W. GORDON [redacted]
KRISTA E. MURPHY [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS, ON THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE

JAMES P. AARON [redacted]
DAVID M. ABERNETHY [redacted]
LEONIDES R. ABREO [redacted]
TODD M. ACKERMAN [redacted]
JOHN F. ACKERMANN [redacted]
CHRISTOPHER J. ADAMS [redacted]
TERRY A. ADAMS [redacted]
THOMAS L. ADAMS [redacted]
WALLACE L. ADDISON [redacted]
RUSSELL G. ADELGREN [redacted]
MARK L. ADKINS [redacted]
MICHAEL J. AFTOSMIS [redacted]
DANIEL E. AGRAMONTE [redacted]
ROYALAN C. AGUSTIN [redacted]
GREGORY C. AHLQUIST [redacted]
PATRICK N. AHMANN [redacted]
BRIAN D. AKINS [redacted]
JACQUELINE A.F. ALBRIGHT [redacted]
ERNEST F. ALBRITTON, JR [redacted]
PAUL D. ALDERMAN [redacted]
RICHARD T. ALDRIDGE [redacted]
ALEJANDRO J. ALEMAN [redacted]
JEFFREY S. ALEXANDER [redacted]
NATHAN B. ALHOLINNA [redacted]
ALEE R. ALI [redacted]
CATHERINE A. ALINOVI [redacted]
KEITH A. ALLBRITTEN [redacted]
LISA C. ALLEN [redacted]
TIMOTHY C. ALLMAN [redacted]
JOHN M. ALSPAUGH [redacted]
JAMES W. ALSTON [redacted]
JOHN S. ALSUP [redacted]
RUBEN ALTUNIAN [redacted]
DENIO A. ALVARADO [redacted]
EMMANUEL R. ALVAREZ [redacted]
IGNACIO G. ALVAREZ [redacted]
RICHARD C. AMBURN [redacted]
STEVEN J. AMENT [redacted]
MATTHEW G. ANDERER [redacted]
WILLIAM D. ANDERSEN [redacted]
CHRISTINA M. ANDERSON [redacted]
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LYNN R. ANDERSON [redacted]
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PETER J. ANDREWS [redacted]
JOSEPH F. ANGEL [redacted]
BENJAMIN C. ANGUS [redacted]
RICHARD A. ANSTETT [redacted]
ROBERT D. APLINGTON [redacted]
REBECCA J. APPERT [redacted]

KENNETH M. APPEZZATO [redacted]
GREGORY S. ARMAND [redacted]
BORIS R. ARMSTRONG [redacted]
DALE W. ARMSTRONG [redacted]
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WAYNE P. ARMSTRONG [redacted]
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JASON W. ARNOLD [redacted]
BRUCE A. ARRINGTON [redacted]
AMY V. ARWOOD [redacted]
MYRON H. ASATO [redacted]
CHRISTOPHER D. ASHABRANNER [redacted]
JOHN R. ASKREN [redacted]
DONALD A. ASPDEN [redacted]
MARK C. ASTIN [redacted]
IRA R. ASTRACHAN [redacted]
RUDOLPH E. ATALLAH [redacted]
ROBIN D. ATHEY [redacted]
KORVIN D. AUCH [redacted]
LAWRENCE F. AUDET, JR [redacted]
BRIAN K. AUGSBURGER [redacted]
WARREN G. AUSTIN [redacted]
RICHARD J. AUTHIER, JR [redacted]
ROBERT M. BABB [redacted]
CHRISTOPHER S. BABBIDGE [redacted]
SCOTT E. BABOS, 506–64–7683
JONATHAN C. BACHTOLD [redacted]
ERIC P. BAENEN [redacted]
AMANDA B. BAILEY [redacted]
KALLEN R. BAILEY [redacted]
MARK A. BAIRD [redacted]
ANDREW N. BAKER [redacted]
RALPH T. BAKER [redacted]
ROBERT A. BAL [redacted]
GUSTAVE B. BALDWIN [redacted]
REECE S. BALDWIN [redacted]
JOHN P. BALL, JR [redacted]
JOY M. BALL [redacted]
DOUGLAS A. BALLINGER [redacted]
ROBERT M. BAMRICK [redacted]
JOSEPH J. BANIAK [redacted]
PAUL J. BANKS, 273–44–8510
ANTHONY E. BARBARISI [redacted]
TINA M. BARBERMATTHEW [redacted]
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MARILYN J. BAUER [redacted]
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SONJE F. BEAL [redacted]
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BARRY D. BEAVERS [redacted]
MATTHEW J. BECKAGE [redacted]
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MICHAEL D. BEESON [redacted]
PAUL R. BEGANSKY, I [redacted]
WAYNE E. BELL [redacted]
WILLIAM G. BELT [redacted]
DAVID B. BELZ [redacted]
DANIEL W. BENEDICT [redacted]
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ERIC R. BENTS [redacted]
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ERIC A. BERBERICH [redacted]
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SYLVIA M. BERTOT [redacted]
LINDA K. BETHKE [redacted]
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CRAIG ALAN C. BIAS [redacted]
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DANIEL S. BLUE [redacted]
MORRIS C. BLUMENTHAL [redacted]
ROBERT M. BLYTHE [redacted]
RANDY R. BODIFORD [redacted]
DOUGLAS P. BODINE [redacted]
EDWARD S. BODONY [redacted]
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TIMOTHY M. BOLDUC [redacted]
DEWAYNE B. BOLLEN [redacted]
RICHARD E. BOLTON [redacted]
CRAIG L. BOMBERG [redacted]
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JOHN D. BOND [redacted]
MICHAEL H. BOND [redacted]
STEVEN B. BONINE [redacted]
ROBERT J. BONNEAU [redacted]
DAVID C. BONNEY [redacted]
JAMES I. BOOTH [redacted]
SCOTT C. BORCHERS [redacted]
MARK W. BORDEN [redacted]
TONY C. BOREN [redacted]
LINDSEY J. BORG [redacted]
MICHAEL F. BORGERT [redacted]
KENNETH J. BOSCHERT [redacted]
DAROLD S. BOSWELL [redacted]
JOHN L., BOSWORTH II [redacted]
FRITZIC P. BOUDREAUX, JR. [redacted]
DUANE K. BOWEN [redacted]
ROBERT D. BOWER [redacted]
ROBERT D. BOWIE [redacted]
RANDELL P. BOWLING [redacted]
CLIFFORD M. BOWMAN [redacted]
RODNEY D. BOYD [redacted]
ROBERT C. BOYLES [redacted]
HAROLD W. BRACKINS [redacted]
SCOTT W. BRADLEY [redacted]
JUAQUIN D. BRADSHAW [redacted]
GREGORY R. BRAFORD [redacted]
ERIC P. BRAGANCA [redacted]
JAMES A. BRANDENBURG II [redacted]
LAURA A. BRANZELL [redacted]
SAMUEL BRASHEAR [redacted]
HELEN L. BRASHER [redacted]
RON BRAXLEY [redacted]
BRIAN G. BRAY [redacted]
HYPOLITE F. BREARD II [redacted]
DAVID P. BREDEMEYER [redacted]
PAUL L. BREDHOLT [redacted]
JESSE M. BREEDLOVE [redacted]
STEVEN W. BREMNER [redacted]
PATRICK D. BRENNAN [redacted]
TOBIN C. BREWER [redacted]
GARY F. BRIDA [redacted]
CHARLIE C. BRIDGES II [redacted]
JONATHAN A. BRIDGES [redacted]
MICHAEL F. BRIDGES [redacted]
LORING G. BRIDGEWATER [redacted]
BRADLEY J. BRINZO [redacted]
PAUL D. BRITTON [redacted]
RANDALL S. BROADRIGHT [redacted]
RONALD E. BRODEN [redacted]
ANDREW J. BROMSEY [redacted]
D.J. BROOKS [redacted]
DALLAS S. BROOKS [redacted]
JOSEPH E. BROPHY, JR. [redacted]
TODD M. BROST [redacted]
DAWN M. BROTHERTON [redacted]
ANN L. BROWN [redacted]
DARRELL P. BROWN [redacted]
DAVID M. BROWN [redacted]
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MANNING C. BROWN [redacted]
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RAY S. BROWN [redacted]
SANFORD V. BROWN, JR. [redacted]
STEVEN D. BROWN [redacted]
STUART W. BROWN [redacted]
WARREN M. BROWN [redacted]
KENNETH J. BROWNELL [redacted]
JOHN F. BROWNFIELD III [redacted]
HERALDO B. BRUAL [redacted]
RICHARD A. BRUCE [redacted]
ROBERT J. BRUCKNER [redacted]
JERRY P. BRUMFIELD [redacted]
ERIC J. BRUMSKILL [redacted]
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ROBERT B. BUCHANAN [redacted]
CAMERON E. BUCHHOLTZ [redacted]
PATRICIA A. BUCKMAN [redacted]
GEORGE B. BUDZ [redacted]
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PAUL A. BUGENSKIE [redacted]
CARL A. BUHLER [redacted]
DAVID J. BUKOVEY [redacted]
KIMBERLY F. BULLOCK [redacted]
DEBORAH L. BUNCH [redacted]
KIRK P. BUNCH [redacted]
DAVID J. BURACHIO, [redacted]
JEFFREY B. BURCHFIELD [redacted]
DENNIS T. BURGART [redacted]
STEVEN M. BURGER [redacted]
RONALD A. BURGESS [redacted]
MAHLON M. BURKET [redacted]
JOSEPH J. BURLEIN [redacted]
TIMOTHY A. BURNS [redacted]
SCOTT D. BURNSIDE [redacted]
MICHAEL BURSEY [redacted]
PHLECIA R. BURSEYHEYWARD [redacted]
STEVEN B. BURTON [redacted]
CHARLES K. BUSCH [redacted]
TIMOTHY W. BUTCHER [redacted]
MITCHEL H. BUTIKOFER [redacted]
CHRISTOPHER S. BUTLER [redacted]
DONALD E. BUTLER [redacted]
RANDALL BUTLER [redacted]
ERIC J. BUTTERBAUGH [redacted]
ANTHONY C. BUTTS [redacted]
WILLIAM J. BUTZ [redacted]
BRADLEY J. BUXTON [redacted]
PHILIP M. BYRD [redacted]
JOHN J. CABALA [redacted]
FREDERICK B. CADE [redacted]
EDWARD J. CAFFREY [redacted]
SEANN J. CAHILL [redacted]
ROBERT G. CALDARELLI [redacted]
CATHERINE M. CALDWELL [redacted]
SHAWN D. CALDWELL [redacted]
JOHN C. CALEY [redacted]
ROY S. CALFAS [redacted]
MARK J. CALFEE [redacted]
GREGORY B. CALHOUN [redacted]
ALEXANDER R. CALICCHIO [redacted]
ELWIN B. CALLAHAN [redacted]
ROBERT W. CALLAHAN [redacted]
ITALO A. CALVARESI [redacted]
MARK D. CAMERER [redacted]
DENNIS T. CAMPBELL [redacted]
JAMES C. CAMPBELL [redacted]
STEVEN M. CAMPBELL [redacted]
MICHAEL O. CANNON [redacted]
KENNETH E. CANTERBURY [redacted]
ALEJANDRO R. CANTU [redacted]
BARRON D. CANTY [redacted]
TIMOTHY E. CAPLINGER [redacted]
DANIEL D. CAPPABIANCA [redacted]
SCOTT A. CARLIN [redacted]
BARAK J. CARLSON [redacted]
ERIC CARLSON [redacted]
KARN L. CARLSON [redacted]
KELLY J. CARLSON [redacted]
RUSSELL L. CARLSON [redacted]
BRENT A. CARLSTROM [redacted]
JAMES A. CAROLE [redacted]
GUY D. CARPENTER [redacted]
VINCENT M. CARR, JR. [redacted]
THOMAS J. CARROLL III [redacted]
AURELIA C. CARROLVERSON [redacted]
CHARLES M. CARTER [redacted]
DANIEL E. CARTER [redacted]
DAVID J. CARTER [redacted]
MICHAEL C. CARTER, [redacted]
MICHAEL S. CARTER [redacted]
TERRY H. CARTER [redacted]
PAUL D. CARVER [redacted]
KENNETH R. CARYER [redacted]
MICHAEL C. CASEBEER [redacted]
JOHN E. CASEBOLT [redacted]
BRAD L. CASEMENT [redacted]
KIMBERLEY S. CASH [redacted]
LINA M. CASHIN [redacted]
WILLIAM M. CASHMAN [redacted]
MANUEL F. CASIPIT [redacted]
CURT A. CASTILLO [redacted]
MITCHELL CATANZARO [redacted]
STEPHEN D. CATCHINGS [redacted]
MARC E. CAUDILL [redacted]
PAUL E. CAVINS [redacted]
GARY J. CEGALIS [redacted]
MARY T. CENTNER [redacted]
BRUCE C. CESSNA [redacted]
JEFFREY D. CETOLA [redacted]
CHARLES E. CHAMBERS, [redacted]
CHARLES R. CHAMBERS [redacted]
RICHARD M. CHAMBERS [redacted]
STEVEN S. CHAMBLESS [redacted]
SUSAN B. CHANDLER [redacted]
RAVI S. CHANDRA [redacted]
SONYA L. CHANEY [redacted]
CRAIG C. CHANG [redacted]
WONJIN CHANG [redacted]
BRADFORD A. CHASE [redacted]
TARUN K. CHATTORAJ [redacted]
KEVIN P. CHAVEZ [redacted]
XAVIER D. CHAVEZ [redacted]
RICHARD A. CHENG [redacted]
JOHN A. CHERREY [redacted]
MARC L. CHERRY [redacted]
THOMAS E. CHESLEY [redacted]
MARK D. CHESLOW [redacted]
CHONG S. CHI [redacted]
RODNEY A. CHIAPUSIO [redacted]
LISETTE D. CHILDERS [redacted]
ROBERT T. CHILDRESS [redacted]
ERIC H. CHOATE [redacted]

TONG C. CHOE [redacted]
ROBERT T. CHOWHOY [redacted]
DIANE M. CHOY [redacted]
MIKE G. CHRISTIAN [redacted]
MICHAEL L. CHU [redacted]
JAMEY B. CIHAK [redacted]
DAVID L. CIMINELL [redacted]
DANIEL J. CLAIRMONT [redacted]
ANDRA B. CLAPSADDLE [redacted]
DOUGLAS S. CLARK [redacted]
JAMES A. CLARK [redacted]
KELLY B. CLARK [redacted]
RAELYN D. CLARK [redacted]
RONALD A. CLARK [redacted]
ROGER L. CLAYPOOLE, JR [redacted]
WILLIAM T. CLAYPOOLE [redacted]
JEFFREY C. CLAYTON [redacted]
OWEN T. CLEMENT [redacted]
RODNEY L. CLEMENTS [redacted]
CHAD M. CLIFTON [redacted]
TERENCE P. CLINE [redacted]
CHAD M. CLOMAN [redacted]
JAMES O. CLONTS [redacted]
LUKE E. CLOSSON, II [redacted]
MARK E. CLOSSON [redacted]
KIMBERLY L. CLOW [redacted]
LAURA S. CLOWARD [redacted]
KEVIN W. COBURN [redacted]
JOHN M. COCHRAN [redacted]
ALFORD C. COCKFIELD [redacted]
ROBERT M. COCKRELL [redacted]
THOMAS C. COGLITORE [redacted]
STEVEN A. COKER [redacted]
WILLIAM M. COKER [redacted]
RICHARD B. COLBURN, JR [redacted]
JAMES F. COLLINS [redacted]
JOYCE L. COLLINS [redacted]
LOUIS G. COLLINS [redacted]
MATTHEW G. COLLINS [redacted]
MARK E. COLUZZI [redacted]
DANIEL E. COMBS [redacted]
JUAN T. COMMON [redacted]
RONALD L. COMOGLIO [redacted]
EDWARD C. COMPERRY [redacted]
WILLIAM J. COMPTON [redacted]
BRIAN D. CONANT [redacted]
ALLEN W. CONARD [redacted]
KEVIN P. CONDON [redacted]
DAVID A. CONGDON [redacted]
SCOTT A. CONIGLIO [redacted]
MATTHEW D. CONLAN [redacted]
BRIAN D. CONLEY [redacted]
SHANE M. CONNARY [redacted]
CHRISTOPHER K. CONNOLLY [redacted]
ROFTIEL CONSTANTINE [redacted]
SEBASTIAN M. CONVERTINO [redacted]
DAYNE G. COOK [redacted]
MICHAEL E. COOK [redacted]
RANDALL B. COOK [redacted]
SCOTT P. COOK [redacted]
DOUGLAS E. COOL [redacted]
JAMES N. COOMBES, II [redacted]
FRANK M. COOPER, JR [redacted]
TOMMY A. COOPER, II [redacted]
WILLIE C. COOPER [redacted]
ARTHUR T. COPPAGE [redacted]
DAVID J. COPPLER [redacted]
TIMOTHY J. CORBIN [redacted]
MATTHEW J. CORNELL [redacted]
SEAN C. CORNFORTH [redacted]
DAVID C. CORRA [redacted]
DEREK F. COSSEY [redacted]
MICHAEL J. COSTELLO [redacted]
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DAVID L. COTNER [redacted]
BRIAN S. COULTRIP [redacted]
ERNST B. COUMOUVUIJK [redacted]
KENNETH R. COUNCIL, JR [redacted]
PAUL E. COURTNEY [redacted]
THOMAS A. COURTNEY [redacted]
DEXTER R. COX, JR [redacted]
JEFFERY M. COX [redacted]
JEFFREY A. COX [redacted]
JODY D. COX [redacted]
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RICKY D. COX [redacted]
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WILLIAM S. CRAIG [redacted]
DENISE A. CRATER [redacted]
DAWN D. CRAVEN [redacted]
KEITH M. CRAW [redacted]
CHRIS D. CRAWFORD [redacted]
DAVID M. CREAN [redacted]
RAYMOND J. CREWS [redacted]
ALDO R. CROATTI [redacted]
ANDREW A. CROFT [redacted]
GIA C. CROMER [redacted]
MICHAEL E. CROOK [redacted]
ALBERT A. CROOM, JR [redacted]
TIMOTHY W. CROSNOE [redacted]
RICHARD B. CROSS [redacted]
ANDREW R. CROUSE [redacted]
WILLIAM P. CROWE [redacted]
BRETT E. CROZIER [redacted]
ANTHONY D. CRUCIANI [redacted]
HAYWOOD L. CRUDUP [redacted]
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HECTOR L. CRUZ [redacted]
JAMES P. CRYTSER [redacted]
PHILLIP A. CSOROS [redacted]

ROBERT E. CULCASI [redacted]
GARY A. CUNDIFF [redacted]
CARNELL C. CUNNINGHAM [redacted]
RUSSELL C. CURATOLO [redacted]
MARK T. CURLEY [redacted]
WILLIAM J. CURRAN [redacted]
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MARC E. CWIKLIK [redacted]
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HENRY L. CYR [redacted]
GLENN T. CZYZNIK [redacted]
DENNIS V. DAGDAGAN [redacted]
TODD S. DAGGETT [redacted]
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SCOTT V. DAHL [redacted]
BRYAN T. DAHLEMELSAETHER [redacted]
DAVID D. DAHLSTROM [redacted]
KENT B. DALTON [redacted]
STEVEN J. DALTON [redacted]
MADALENA M. DAMA [redacted]
JON Y. DANDREA [redacted]
AVERA L. DANIELS II [redacted]
RONALD M. DANIELS [redacted]
ERIC D. DANNA [redacted]
TERRY L. DANNENBRINK [redacted]
PHILIPPE R. DARCY [redacted]
CHRISTOPHER O. DARLING [redacted]
STEPHEN R. DASUTA [redacted]
KEVIN J. DAUL [redacted]
JUSTIN C. DAVEY [redacted]
JANINE A. DAVISON [redacted]
BRIDGET P. DAVIS [redacted]
CHARLES R. DAVIS [redacted]
DEREK K. DAVIS [redacted]
HARRY A. DAVIS [redacted]
LEE S. DAVIS [redacted]
STEPHEN L. DAVIS [redacted]
STEPHEN M. DAVIS [redacted]
THEODORE L. DAVIS, JR [redacted]
ERIK K. DAVISON [redacted]
JAMES C. DAWKINS, JR [redacted]
JERI L. DAY [redacted]
DARRELL S. DEARMAN [redacted]
ROD A. DEAS [redacted]
JEFFREY A. DEBOER [redacted]
JOSEPH A. DEBOSKEY [redacted]
MICHAEL E. DEBRECZENI [redacted]
JEFFREY W. DECKER [redacted]
KIMBERLY JO DECKER [redacted]
LAURY E. DECKER [redacted]
TIMOTHY B. DECKER [redacted]
CHARLES E. DECKETT [redacted]
MICHAEL E. DEE [redacted]
JOHN C. DEEMS [redacted]
MATTHEW W. DEGNER [redacted]
HARVEY T. DEGROOT [redacted]
DENNIS L. DEITNER [redacted]
PETER J. DEITSCHEL [redacted]
TONY J. DELIBERATO [redacted]
DAVID R. DELK [redacted]
CALVIN J. DELP [redacted]
JOSEPH W. DEMARCO [redacted]
JOHN T. DEMBOSKI [redacted]
FRANKLIN L. DEMENT [redacted]
STEVEN J. DEMILLIANO [redacted]
LEONARD A. DEMOOR [redacted]
PAUL E. DEMPSEY [redacted]
JAMES E. DENBOW [redacted]
DAVID R. DENHARD [redacted]
TIMOTHY J. DENIS [redacted]
JAMES R. DENKERT, [redacted]
MARK W. DENN [redacted]
KEVIN R. DENNINGER [redacted]
DARIN W. DENNIS [redacted]
MICHAEL R. DENNIS [redacted]
GERALD S. DEPASTINO [redacted]
STEPHEN G. DERANIAN [redacted]
LEANN DERBY [redacted]
JOSEPH L. DERDZINSKI [redacted]
CHRISTINA L. DERICKSON [redacted]
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DAVID J. IMPICCINI [redacted]
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HENRY C. JENKINS, JR. [redacted]
JEFFREY J. JENKINS [redacted]
MARK M. JENKS [redacted]
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RONALD C. KAMAHELE [redacted]
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SUHRA E. KANG [redacted]
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RUSSELL L. KARR [redacted]
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ADAM B. KAVLICK [redacted]
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EDWARD T. KEESEE [redacted]
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ALFONSO A. LAPUMA [redacted]
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CRAIG C. LARGENT [redacted]
ANDRE M. LARKINS [redacted]
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SEAN D. LASSITER [redacted]
ROBERT M. LATIN [redacted]
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ROBERT R. LATOUR [redacted]
ZEBEDEE T. LAU [redacted]
ARTHUR H. LAUBACH, JR. [redacted]
OCTAVE P. LAURET III [redacted]
JEFFREY L. LAVALLEE [redacted]
MELTON LAVERGNE [redacted]
LORI S. LAVEZZI [redacted]
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PETER D. LAZZARI [redacted]
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ANN Y. LEE [redacted]
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CHUL K. LEE [redacted]
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KEE H. LEE [redacted]
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CHARLES A. LEGER [redacted]

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DENISE M. LEVERICH [redacted]
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STUART I. LIBBY [redacted]
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DARREL M. LILLQUIST [redacted]
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PETER J. LINCOLN [redacted]
JOHN R. LINDELL [redacted]
NATHAN J. LINDSAY, JR. [redacted]
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FREDERICK H. LINK [redacted]
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STACY LOCKLEAR, JR. [redacted]
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MICHAEL W. LOGAN [redacted]
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DOUGLAS C. LOONEY [redacted]
ADALBERTO LOPEZ, JR. [redacted]
MAX LOPEZ [redacted]
LESTER R. LORENZ [redacted]
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MATTHEW T. LOUGHNEY [redacted]
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JEFFREY C. LOVELACE [redacted]
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DENNIS J. LUCAS [redacted]
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BARRY L. LUFF [redacted]
ROBERT J. LUIS [redacted]
MARIANNE LUMSDEN [redacted]
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SEAN F. LYNCH [redacted]
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DAVID H. MACALUSO [redacted]
ADAM MACDONALD [redacted]
BRUCE L. MACDONALD [redacted]
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JOHN H. MACNICOL [redacted]
TIMOTHY J. MADDEN [redacted]
DOUGLAS B. MADDOCK, JR. [redacted]
MITCHELL E. MADIS [redacted]
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PAUL M. MARKS [redacted]
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TONY R. MARLOWE [redacted]
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LANCE Y. MATSUSHIMA [redacted]
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AUDRA R. MATTHEWS [redacted]
JOHN R. MATTHEWS [redacted]
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MADELEINE MCPETERS [redacted]
FRANK A. MCVAY [redacted]
MARC C. MCWILLIAMS [redacted]
LISA A. MEADE, [redacted]
CHARLES R. MEADOWS [redacted]
BRUNO A. MEDIATE [redacted]
BERTRAM K. MEDLOCK [redacted]
JOHN J. MEGAN [redacted]
DOUG J. MELANCON [redacted]
RICHARD A. MELEADY [redacted]
HERMAN MELLAMA, JR. [redacted]
BYRON E. MELTON [redacted]
CINDY L. MENCHES [redacted]
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JESSICA MEYERAAN [redacted]
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ROBERT E. MIGLIONICO [redacted]
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LOUIS E. MINGO, JR. [redacted]
CHRISTINE M. MINO [redacted]
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OSCAR MOJICA [redacted]
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ROGER H. MOON [redacted]
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PORFIRIO H. MUNOZ, JR. [redacted]
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CHRISTOPHER R. NASH [redacted]
JOSEPH B. NATTERER [redacted]
JOSEPH D. NEDEAU [redacted]

BRET G. NEELY [redacted]
ELLEN D. NEELY [redacted]
THOMAS J. NEFE [redacted]
JOHN S. NEHR [redacted]
JAMES A. NEICE, JR [redacted]
JEFFREY D. NEISCHEL [redacted]
RANDY R. NEITZEL [redacted]
BRETT J. NELSON [redacted]
DONALD G. NELSON [redacted]
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ARTHUR C. NEPUTE [redacted]
CORT J. NEUMAN [redacted]
CARL A. NEWHART, JR. [redacted]
HOWARD T. NEWHOUSE [redacted]
DAVID J. NEWTON [redacted]
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KELLY M. NOGA [redacted]
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MARC C. OHMER [redacted]
DAVIS S. OISHI [redacted]
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WILLIAM C. OLIEN [redacted]
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KRIS D. OLIVER [redacted]
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LESLIE PAOLUCC [redacted]
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ROSLAND J. PETERSON [redacted]
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JULIE R. PLUMMER [redacted]
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ABBY G. POSNER [redacted]
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JOHN P. POSSEL [redacted]
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CHARLES A. PRYOR III [redacted]
WILLIAM PUGH [redacted]
JOSEPH C. PULIDO [redacted]
JACK D. PULLIS [redacted]
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STEPHEN QUAST [redacted]

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LARRY S. RAINES [redacted]
ALARIC D. RAINEY [redacted]
ANTHONY J. RAKUS [redacted]
ELMER A. RAMIREZ [redacted]
ROBERT J. RANKIN [redacted]
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GLENN A. RATCHFORD [redacted]
JOHN T. RAUCH, JR. [redacted]
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JON A. REESMAN [redacted]
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SCOTT P. REID [redacted]
XAN M. REINERS [redacted]
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MARK E. RESSEL [redacted]
WALTER G. REULBACH III [redacted]
PAUL R. REYNOLDS [redacted]
DONALD P. RICE, JR. [redacted]
ETHAN B. RICH [redacted]
HAROLD L. RICHARD, JR. [redacted]
KYLE R. RICHARD [redacted]
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DUKE Z. RICHARDSON [redacted]
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RUDY L. RIDENBAUGH [redacted]
JOHN J. RIEHL [redacted]
DANNY W. RILEY [redacted]
EDWARD J. RIMBACK [redacted]
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SHAWN L. RIORDAN [redacted]
LUIS A. RIOS [redacted]
RUBEN, RIOS [redacted]
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DEIRDRE C. ROCHE [redacted]
JOSEPH P. ROCHE [redacted]
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JOHN M. RODEN [redacted]
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KYLE G. ROESLER [redacted]
JOHN G. ROHLINGER [redacted]
ABDON ROJAS, JR. [redacted]
GREGORY E. ROLLINS [redacted]
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STEPHEN A. ROSE [redacted]
ERIC C. ROSS [redacted]
LISA R. ROSS [redacted]
SCOTT K. ROSS [redacted]
DEAN M. ROTCHADL [redacted]
SCOTT M. ROTHWEILER [redacted]
JOHN P. ROULEAU II [redacted]
CHRISTOPHER E. ROUND [redacted]
LORI J.B. ROUNSAVALL [redacted]
MICHAEL C. ROUSE [redacted]
DANIEL F. ROWE [redacted]
NANCY M. ROWER [redacted]
MICHAEL C. ROZIER [redacted]
KELLY F. RUCKER [redacted]
MARK J. RUCKH [redacted]
PAUL A. RUDE [redacted]
GARY S. RUDMAN [redacted]
GARY T. RUHA, [redacted]
ANDREA K. RUPP [redacted]
RICKY N. RUPP [redacted]
JAMES E. RUSSELL [redacted]
JOHN T. RUSSELL [redacted]
BRANSON R. RUTHERFORD II [redacted]
GREGORY L. RUTHERFORD [redacted]
BARRY A. RUTLEDGE [redacted]
JOHN K. RYAN [redacted]
PATRICK G. RYAN [redacted]
JAMES SABELLA [redacted]
IAN R. SABLAD [redacted]
DAVID T. SAELENS [redacted]
DAVID A. SAGO [redacted]
AMIN Y. SAID [redacted]

JOEL A. SAKURA [redacted]
JOHN C. SALENTINE [redacted]
WILLIAM B. SALKIND [redacted]
MICHAEL NMN SALOPEK [redacted]
STEVEN P. SAMANIEGO [redacted]
MATTHEW D. SAMBORA [redacted]
ALBERTO C. SAMONTE [redacted]
RICHARD A. SAMPLE, JR. [redacted]
DAVID M. SAMPSON [redacted]
KIRK J. SAMPSON [redacted]
CHRISTIAN A. SAMTER [redacted]
ERIC G. SANDBERG [redacted]
GREGORY D. SANDERS [redacted]
BLAIR R. SANDERSON [redacted]
RALPH A. SANDFRY [redacted]
KEITH A. SANDS [redacted]
RALEIGH A. SANDY [redacted]
SHADE H. SANFORD [redacted]
ELIA P. SANJUME [redacted]
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SUSAN S. SANTOS [redacted]
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GEORGE W. SCHANTZ, JR. [redacted]
PAUL A. SCHANTZ [redacted]
DOROTHY RUTH SCHANZ [redacted]
DAVID J. SCHAUER [redacted]
GUY E. SCHAUMBURG [redacted]
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DANA R. SCHINDLER [redacted]
EDWARD W. SCHLOEMAN, JR. [redacted]
DAVID M. SCHLOSSER [redacted]
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GARRETT J. SCHMIDT [redacted]
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JEFFREY D. SEINWILL [redacted]
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CLARK M. SODERSTEN [redacted]
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DWIGHT C. SONES [redacted]
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DAVID A. SPALDING [redacted]
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SAMUEL L. SPOONER III [redacted]
STEPHEN E. SPOUTZ [redacted]
MICHAEL E. SPRAY [redacted]
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R0BERT M. STAIR [redacted]
GUY B. STALLWORTH [redacted]
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ROBERT W. STANLEY II [redacted]
MATJEU J. STAPLETON [redacted]
QUINONES QUISAIRA S. STARKEY [redacted]
ALTON E. STARLING, JR. [redacted]
JAMES Z. STATEN [redacted]
JAMES P. STAVER [redacted]
MICHAEL G. STAVROS [redacted]
JENNIFER E. STEFANOVICH [redacted]
KEVIN M. STEFFENSON [redacted]
ROBERT W. STEINDL [redacted]
CHRISTINA M. STEISKAL [redacted]
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EARL STEPHENS, JR. [redacted]
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GERALD C. STUCK [redacted]
JOSEPH L. STUPIC [redacted]
NELSON R. STURDIVANT [redacted]
OSMAN P. SUBOYU [redacted]
ANTONIO R. SUKLA [redacted]
JOHN D. SULLIVAN [redacted]
JOHN D. SULLIVAN [redacted]
JOHN L. SULLIVAN III [redacted]
THOMAS F. SUPPLE [redacted]
LUTHER W. SURRATT II [redacted]
RICHARD J. SUSAK, JR. [redacted]
CHRISTOPHER S. SVEHLAK [redacted]
BRETT L. SWAIN [redacted]
CLAUDE C. SWAMMY [redacted]
BRADLEY A. SWANSON [redacted]
JEFFREY L. SWANSON [redacted]
RUSSELL L. SWART [redacted]
SCOT E. SWARTZENDRUBER [redacted]
BRYAN E. SWECKER [redacted]
DAWN MARIE SWEET [redacted]
GREGORY B. SWEITZER [redacted]
JAMES R. SWITZER [redacted]
ELIZABETH A. SYDOW [redacted]
LEO A. SYNORACKI [redacted]
JEFFREY P. SZCZEPANIK [redacted]
NICLAS P. SZOKE [redacted]
THADDEUS D. SZRAMKA, JR., [redacted]
GEORGE M. SZYMECZEK II [redacted]
BRADLEY K. TABOR [redacted]
JOHN K. TAKIGAWA [redacted]
BRET C. TALBOTT [redacted]
KEVIN C. TALIAFERRO [redacted]
JOHN M. TALLAROVIC [redacted]
MARK S. TALPAS [redacted]
KERRY L. TARR [redacted]
WILLIAM M. TART [redacted]
JOHN M. TARUTANI [redacted]
ALLEN D. TATE [redacted]
EDWARD E. TATGE [redacted]
JAMES M. TATON [redacted]
KIMERLEE L. TATUM [redacted]
CHARLES M. TAYLOR [redacted]
CLYDE A. TAYLOR IV [redacted]
JOHN C. TAYLOR [redacted]
KYLE F. TAYLOR [redacted]
MICHAEL C. TAYLOR [redacted]
MICHAEL T. TAYLOR [redacted]
STEPHEN W. TAYLOR [redacted]
STEVEN M. TAYLOR [redacted]
STEPHANIE M. TEAGUE [redacted]
SCOTT G. TENNENT [redacted]
GARY M. TESTUT [redacted]
PAUL T. THEISEN [redacted]
THEO THEODOR, JR. [redacted]
JEFFREY L. THETFORD [redacted]
DAVID T. THIBODEAUX [redacted]
SAMMIE J. THIRTYACRE [redacted]
BOB F. THOENS [redacted]
ALICE JANE THOMAS [redacted]
BRENDA G. THOMAS [redacted]
CHRISTOPHER G. THOMAS [redacted]
DAVID L. THOMAS [redacted]
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JAMES C. THOMAS [redacted]
JEFFREY L. THOMAS [redacted]
PETER N. THOMAS [redacted]
ROBERT S. THOMAS [redacted]
FORREST C. THOMPSON [redacted]
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JOHNNY A. THOMPSON [redacted]
PAUL D. THOMPSON [redacted]
RICKY L. THOMPSON [redacted]
ROBERT S. THOMPSON, JR. [redacted]
THOMAS J. THOMPSON [redacted]
KENNETH P. N. THOMSON [redacted]
ANDREW A. THORBURN [redacted]
JEFFREY S. THORBURN [redacted]
JAMES B. THORDAHL [redacted]
ROSEMARY L. THORNE [redacted]
DEIRDRE M. THORNHILL [redacted]
JENNIFER J. THORPE [redacted]
KEVIN J. THRASH [redacted]
RICHARD G. THUERMER [redacted]
PATRIC A. THUSIUS [redacted]
MICHAEL D. TIDBALL [redacted]
ROBERT W. TIEDEMANN, JR. [redacted]
SCOTT R. TIMKO [redacted]
PAUL D. TOBIN [redacted]
SCOTT D. TOBIN [redacted]
JEFFREY M. TODD [redacted]
CHRIS E. TOENSING [redacted]
LANCE S. TOKUNAGA [redacted]
LESA K. TOLER [redacted]
PAUL K. TOM [redacted]
KEVIN S. TOMB [redacted]
KEVIN C. TOMPKINS [redacted]
KEITH R. TONNIES [redacted]

WILLIAM A. TORMEY [redacted]
KAREN L. TORRACA [redacted]
RAYMOND G. TOTH [redacted]
ROBERT P. TOTH [redacted]
STEPHEN J. TOTH [redacted]
ADDISON P. TOWER [redacted]
JOEL B. TOWER [redacted]
CHARLES E. TRACEY [redacted]
DEE A TRACY [redacted]
HAI N. TRAN [redacted]
JEROME T. TRAUGHBER [redacted]
DOUGLAS J. TRAVERSA [redacted]
SCOTT L. TRAXLER [redacted]
PETER J. TREMBLAY [redacted]
JAY M. TRENT [redacted]
LARRY J. TRENT [redacted]
MARVIN H. TREU [redacted]
RICK J. TRINKLE [redacted]
DAVID W. TRIVETT [redacted]
JOHN R. TRUJILLO, JR [redacted]
DANIEL M. TRULUCK [redacted]
THOMAS J. TRUMBULL II [redacted]
PIERCE E. TUCKER [redacted]
ALEXANDER N. TULINTSEFF [redacted]
RICHARD L. TUTKO [redacted]
PATRICIA A. TUTTLE [redacted]
RUSSELL J. TUTTY [redacted]
RICHARD J. TUZNIK [redacted]
BARRY B. TYE [redacted]
THOMAS W. TYSON [redacted]
BRIAN J. UDELL [redacted]
JOHN F. UKLEYA, JR. [redacted]
WILLIAM K. UPTMOR [redacted]
GEORGE A. URIBE [redacted]
STEVEN J. URSELL [redacted]
DAVID E. UVODICH [redacted]
JIMMIE D. VAIL, JR [redacted]
GREG A. VALDEZ [redacted]
PAUL J. VALENZUELA [redacted]
DAVID C. VALORZ [redacted]
ZUIDEN TRACY L. VAN [redacted]
KEVIN E. VANDEGRIFF [redacted]
HANS M. VANDENBRINK [redacted]
GREGG D. VANDERLEY [redacted]
JAMES L. VANDERSALL [redacted]
SAMUEL B. VANDIVER [redacted]
DALE J. VANDUSEN [redacted]
JAMES J. VANHOOMISSEN [redacted]
JAY A. VANHORN II [redacted]
BRUCE J. VANREMORTEL [redacted]
DAVID A. VANVELDHUIZEN [redacted]
JOHN E. VARLJEN [redacted]
JOSEPH L. VARUOLO [redacted]
GLENN M. VAUGHAN [redacted]
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JOHN E. VENABLE [redacted]
ANTONIOS G. VENGEL [redacted]
MATTHEW L. VENZKE [redacted]
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MICHAEL L. VICK [redacted]
PRENTICE R. VICK II [redacted]
JESSE E. VICKERS [redacted]
DARREN R. VIGEN [redacted]
CRISTINA C. VILELLA [redacted]
RUBEN VILLA [redacted]
ANTHONY L. VILLANUEVA [redacted]
FRANCISCO J. VILLAVERDE [redacted]
FREDERICK D. VINCENT III [redacted]
KEVIN J. VISCO [redacted]
TODD W. VOGES [redacted]
TROY D. VOKES [redacted]
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ROBERT J. VOLPE [redacted]
CONSTANCE M. VONHOFFMAN [redacted]
MICHAEL K. VONHOFFMAN [redacted]
ANNE M. VONLUHRTE [redacted]
CHRISTOPHER R. VONTHADEN [redacted]
BENEDICT R. VOTIPKA [redacted]
KATHLEEN M. WABISZEWSKI [redacted]
MARK I. WADE [redacted]
JOHN G. WAGGONER [redacted]
BARBARA A. WAGNER [redacted]
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JON D. WALLANDER [redacted]
KENNETH A. WALTERS [redacted]
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JERROLD A. WANGBERG [redacted]
DOUGLAS K. WANKOWSKI [redacted]
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DALE A. WARD [redacted]
IVAN W. WARE [redacted]
TOM A. WARNER [redacted]
ELIZABETH G. WARREN [redacted]
JOHN A. WARZINSKI [redacted]
MICHAEL E. WASHINGTON [redacted]
ALFRED E. WASSEL [redacted]
JOSEPH M. WASSEL [redacted]
JEFFREY W. WATKINS [redacted]
GLENN G. WATSON [redacted]
MARK A. WATTS [redacted]
DAVID A. WATZEK [redacted]
KATHLEEN E. WEATHERSPOON [redacted]
ROBERT F. WEAVER II [redacted]
GREGORY A. WEBER [redacted]
TIMOTHY T. WEBSTER [redacted]
BRIAN D. WEIDMANN [redacted]
DAVID A. WEIGAND [redacted]
MONTE T. WEILAND [redacted]
PATRICK M. WEINBERG [redacted]
JEFFERY D. WEIR [redacted]
ROBERT G. WELLINGTON [redacted]
GLENN L. WELLS [redacted]
CAROL P. WELSCH [redacted]
TIMOTHY A. WELSH [redacted]
LAURA A. WENSLEY [redacted]
JASON S. WERCHAN [redacted]
ALBERT H. WESSBECHER [redacted]
STEVEN W. WESSBERG [redacted]
DANE P. WEST [redacted]
ELIZABETH A. WEST [redacted]
ERIC A. WEST [redacted]
OTIS K. WEST [redacted]
TIMOTHY M. WEST [redacted]
FREDERICK H. WESTON [redacted]
GREGORY G. WEYDERT [redacted]
PAUL A. WHEELESS [redacted]
MARK S. WHERLEY [redacted]
HOYT D. WHETSTONE [redacted]
AUBREY D. WHITE [redacted]
BRYAN S. WHITE [redacted]
JEFFREY M. WHITE [redacted]
KENT B. WHITE [redacted]
KIMBERLY ANN WHITE [redacted]
TIMOTHY M. WHITE [redacted]
LEE R. WHITTINGTON [redacted]
RONALD J. WIECHMANN [redacted]
MARSHA W. WIERSCHKE [redacted]
STEVEN W. WIGGINS [redacted]
HOLLY R. WIGHT [redacted]
CRAIG A. WILCOX [redacted]
ZACHARY W. WILCOX [redacted]
DIANA L. WILCOXSON [redacted]
MICHAEL L. WILK [redacted]
HENRY T. WILKENS, JR [redacted]
JOHN L. WILKERSON [redacted]
ALICIA M. WILLIAMS [redacted]
ANTHONY B. WILLIAMS [redacted]
APRIL Y. WILLIAMS [redacted]
CARL J. WILLIAMS [redacted]
CARL T. WILLIAMS [redacted]
CHARLES E. WILLIAMS [redacted]
DONALD L. WILLIAMS [redacted]
FREDERICK D. WILLIAMS [redacted]
GREGORY A. WILLIAMS [redacted]
JAMES B. WILLIAMS [redacted]
MARK D. WILLIAMS [redacted]
MICHAEL K. WILLIAMS [redacted]
NANETTE M. WILLIAMS [redacted]
ROBERT T. WILLIAMS, JR [redacted]
ROGER J. WILLIAMS [redacted]
VIRGINIA L. WILLIAMS [redacted]
WAYNE M. WILLIAMS [redacted]
KENNETH C. WILLIG [redacted]
ERIC E. WILLINGHAM [redacted]
ADAM B. WILLIS [redacted]
PAUL S. WILLMING [redacted]
BRETT A. WILMORE [redacted]
CEDRIC N. WILSON [redacted]
CHRISTOPHER H. WILSON [redacted]
JOEL L. WILSON [redacted]
JON C. WILSON [redacted]
KELCE S. WILSON [redacted]
KIRK G. WILSON [redacted]
VALERIE W. WILSON [redacted]
WILLIAM F. WILSON [redacted]
SHAWNA WIMPY [redacted]
GLENN J. WINCHELL [redacted]
MATTHEW R. WINKLER [redacted]
MICHAEL N. WIRSTROM [redacted]
COLLEEN M. WISE [redacted]
RICHARD J. WISSLER, JR [redacted]
PATTY R. WITMER [redacted]
SCOTT J. WITTE [redacted]
JULIE A. WITTKOFF [redacted]
ROBERT J. WITZEL [redacted]
WARREN G. WOHR [redacted]
THOMAS E. WOLCOTT [redacted]
SCOTT W. WOLFF [redacted]
SCOTT W. WOLFORD [redacted]
JOHN C. WOMACK [redacted]
DEREK T. WONG [redacted]
GRAND F. WONG [redacted]
DAVID M. WOOD [redacted]
JOHN M. WOOD [redacted]
MICHAEL A. WOOD [redacted]
ROBERT L. WOOD [redacted]
STEPHEN D. WOOD [redacted]
TIMOTHY S. WOOD [redacted]
MICHAEL A. WOODLEE [redacted]
BRIAN V. WOODS [redacted]
NEIL E. WOODS [redacted]
THOMAS L. WOODS [redacted]
ANTHONY L. WOODSON [redacted]
URSULA J. WOODSON [redacted]
DOUGLAS T. WOOLWORTH [redacted]
LOUIS A. WOOTTON II [redacted]
ROBERT A. WORK [redacted]
WILLIAM S. WORSHAM [redacted]
CHARLES A. WRIGHT [redacted]
EDDY R. WRIGHT [redacted]
KURTIS L. WRIGHT [redacted]
PATRICK W. WRIGHT [redacted]
JOHN D. WROTH [redacted]
CHRISTIE M. WYATT [redacted]
EVAN W. XENAKIS [redacted]
MARK D. YADLOSKY [redacted]
BARBARA J. YANCEY [redacted]
JOSEPH M. YANKOVICH, JR [redacted]
JOSEPH E. YATES [redacted]
JEFFREY H.L. YEE [redacted]
RONALD A. YENKO [redacted]
JEFFREY A. YINGLING [redacted]
DAVID L. YOCKEY [redacted]
DAVID B. YORK [redacted]
ANTHONY C. YOUNG [redacted]
GEORGETTE J. YOUNG [redacted]
JANE C. YOUNG [redacted]
JOHN G. YOUNG [redacted]
PAUL A. YOUNG [redacted]
THOMAS A. YOUNG [redacted]
TODD M. YOUNG [redacted]
WILLIAM G. YOUNG [redacted]
CHARLES E. YOUNGBLOOD [redacted]
TIMOTHY ZADZORA [redacted]
BLAKE M. ZANDBERGEN [redacted]
JOHN M. ZELINKA [redacted]
JEFFREY M. ZELLER [redacted]
JAMES P. ZEMOTEL [redacted]
MICHAEL A. ZENOBI [redacted]
AMY E. ZETZL [redacted]
MICHAEL P. ZICK [redacted]
TODD S. ZIEGLER [redacted]
TIMOTHY P. ZIMMER [redacted]
MARK A. ZIMMERHANZEL [redacted]
WEBSTER EVELYN M. ZOHLEN [redacted]
DAVID R. ZOOK [redacted]
CHRISTOPHER A. ZWETZIG [redacted]
STEVEN R. ZWICKER [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER SECTION 531 OF TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER SECTION 8067 OF TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

CHAPLAIN CORPS

GARY R. BREIG [redacted]
KEVIN G. BROWNE [redacted]
EFFSON CHESTER BRYANT [redacted]
CHARLES R. CORNELISSE [redacted]
MARVA Y. CROMARTIE [redacted]
DAVID M. FITZPATRICK [redacted]
PHILLIP C. GUIN [redacted]
RONALD M. HARVELL [redacted]
THOMAS D. KELLY [redacted]
PHILIP S. LLANOS [redacted]
MICHAEL A. MOORE [redacted]
RANDALL E. ROBERTS, JR [redacted]
JIMMIE L. SANDERS [redacted]
PAUL L. SHEROUSE [redacted]
MICHAEL THORNTON [redacted]
TIMOTHY P. WAGONER [redacted]

NURSE CORPS

CARLENA A. ABALOS [redacted]
BEATRICE A. ABBOTT [redacted]
LAURA S. ABNEY [redacted]
MARY E. ADDISON [redacted]
ROSARIO AGANON [redacted]
NOEMI ALGARINLOZANO [redacted]
CATHERINE M. AMITRANO [redacted]
BERNADETTE A. ANDERSON [redacted]
CONNIE R. ANDERSON [redacted]
LESLIE R. ANN [redacted]
DENISE G. AUGUSTINE [redacted]
STEVEN A. AUSTIN [redacted]
CASSANDRA D. AUTRY [redacted]
JUDITH A. BACHMAN [redacted]
DIANNE C. BAILEY [redacted]
VICTORIA J. BAILY [redacted]
TODD E. BARNETT [redacted]
SUSAN E. BASSETT [redacted]
DANA B. BATES [redacted]
MARIALOURDE BENCOMO [redacted]
BELLA T. BIAG [redacted]
LEOLYN A. BISCHEL [redacted]
DEBORAH M. BONI [redacted]
REBECCA A. BOSANKO [redacted]
MARGARET A. BROWN [redacted]
MICHAEL C. BROWN [redacted]
JANET D. BRUMLEY [redacted]
JOHN B. BRYANT [redacted]
RICHARD D. BRYANT [redacted]
MARK A. BUETTGENBACH [redacted]
TAMRA S. BUETTGENBACH [redacted]
ANN M. BURNS [redacted]
CHERRI L. CABRERA [redacted]
CARL L. CALIFORNIA [redacted]
THERESA B. CALLOWAY [redacted]
DONNA S. CARNEY [redacted]
LOLA R.B. CASBY [redacted]
FAYE G. CENTENO [redacted]
JEN JEN CHEN [redacted]
JOY A. CHILDRESS [redacted]
LILLY B. CHRISMAN [redacted]
YVONNE J. CLARKE [redacted]
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JOHN T. CONNELLY, JR [redacted]
DOUGLAS G. COOK [redacted]
LENORA L. COOK [redacted]
BARBARA M. COPPEDGE [redacted]

NANCY E. COSGROVE [redacted]
ANKA COSIC [redacted]
TERRY L. CUNNINGHAM [redacted]
BARBARA C. CUPIT [redacted]
GLENDA M. CUTHBERT [redacted]
MICHAEL A. DEBROECK [redacted]
ELAINE M. DEKKER [redacted]
MARY M. DELGADO [redacted]
JANE G. DENTON [redacted]
BERNARD L. DICK [redacted]
SARAH E.M. DIECKMAN [redacted]
REBECCA F. DURDEN [redacted]
STEVEN P. EBY [redacted]
LEEANN ELLIOTT [redacted]
BETH A. EWING [redacted]
DIANE E. FARRIS [redacted]
ALICE G. FITZPATRICK [redacted]
LAURIE A. FORD [redacted]
MARY E. FRANTZ [redacted]
SANDRA A. FREDRICKSON [redacted]
KATHLEEN A. FRENCH [redacted]
WILLIAM E. FRITZ I [redacted]
MARIE J. FUENTES [redacted]
NICHOLAS W. GABRIEL [redacted]
BRENDA M. GARZA [redacted]
JEWEL A. GEORGE [redacted]
PATRICK B. GILLEN [redacted]
MARY C. GOETTER [redacted]
JANET K. GORCZYNSKI [redacted]
DARRYL W. GREEN [redacted]
DEBORAH J. GREGGS [redacted]
SANDRA D. HAGEDORN [redacted]
FRANCES J. HAGEL [redacted]
KYNA N. HAGER [redacted]
BELINDA F. HAINES [redacted]
ROBIN G. HAKALA [redacted]
WANDA F. HARRIS [redacted]
LYNN M. HARVEY [redacted]
ROLAND HAWKINS [redacted]
GERARD T. HOGAN [redacted]
KELLY M. HOGUE [redacted]
JOEL B. HOLDBROOKS [redacted]
EVALYN D. HOLDEN [redacted]
RHONDA D. HOLDER [redacted]
KELLY A. HOLLIDAY [redacted]
WILSON ETHEL F. HOLT [redacted]
DEBRA A. HOPPE [redacted]
JUDITH L. HORECNY [redacted]
ROBERT E. HORSMANN [redacted]
PENNY J. HOUGHTON [redacted]
ROBERT J. HOUK [redacted]
CHERYL Y. HOWARD [redacted]
WYNONDA J. HUBBARD [redacted]
JANET C. HUDSON [redacted]
DENISE A. HUFF [redacted]
ROBIE V. HUGHES [redacted]
SUSANNE M. HUMPHREYS [redacted]
ROBERT G. HUNT [redacted]
BRIAN S. JOHNSON [redacted]
KEVIN L. JOHNSON [redacted]
ANNA M. JONES [redacted]
PATRICIA J. JONES [redacted]
TERESA L. JONES [redacted]
TRACY J. KAESLIN [redacted]
KIM M. KANE [redacted]
ANTHONY J. KARNAVAS [redacted]
JANETTE L. KARNAVAS [redacted]
ELIZABETH C. KENNA [redacted]
JACK L. KENNEDY [redacted]
DONALD C. KLINE III [redacted]
JOHN KOKENES [redacted]
NANCY M. LACHAPELLE [redacted]
SUZANNE M. LAFOREST [redacted]
LINDA B. LANCASTER [redacted]
CHRISTINE M. LAUGHLIN [redacted]
FELICIA LAUTEN [redacted]
DIANE L. LAYMAN [redacted]
JULIE A. LEAL [redacted]
SUSAN C. LEE [redacted]
PATRICIA C. LEGARTH [redacted]
TUCKER DIANE F. LENT [redacted]
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LISA A. LIMARY [redacted]
SINA J. LINMAN [redacted]
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LYNN M. MALONE [redacted]
ROBERT J. MARKS [redacted]
CYNTHIA A. MARTIN [redacted]
DAN E. MASON [redacted]
RUBEN MATA [redacted]
NERIDA MAUROSA [redacted]
DOUGLAS G. MAUS [redacted]
MONA P. MAYROSE [redacted]
SHERRY A. MCATEE [redacted]
JOHN F. MCCRORY [redacted]
MARY A. MCCUBBINS [redacted]
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CHARLES M. MCDANNALD III [redacted]
WANDA J. MCFATTER [redacted]
AURA L. MELENDEZ [redacted]
GINGER D. METCALF [redacted]
ALTHEA D. MICHEL [redacted]
EDDIE T. MILLER [redacted]
ROSILAND C. MILLERBALL [redacted]
BILLYE T. MOFFATT [redacted]
LYNNE A. MONSEES [redacted]
PATRICIA R. MOORE [redacted]
ALAN G. MUENCHAU [redacted]
GRETCHEN A. MULHORN [redacted]
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MAUREEN A. NESSLER [redacted]
GAIL M. NOBLE [redacted]
WILLIAM A. NOVAK [redacted]
LAWRENCE F. O BRIEN [redacted]
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JENNIE C. OLSEN [redacted]
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CANDACE G. ORONA [redacted]
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BEVERLY D. OSTERMEYER [redacted]
KAREN L. OTTINGER [redacted]
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ROBERT M. PERON [redacted]
LUCI P. PERRI [redacted]
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JAMES E. QUINN [redacted]
VICTORIA S. QUINN [redacted]
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TERESA L. REED [redacted]
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JAMES E. REINEKE [redacted]
MARCIA L. RILEY [redacted]
CAROLE S. ROBBINS [redacted]
DAWN ROBBINS [redacted]
CYNTHIA J. ROLEFF [redacted]
DAVID C. ROSSI [redacted]
DENISE M. ROULIER [redacted]
THERESA A. ROWE [redacted]
LAUREN RUNGER [redacted]
JEAN M. SABIDO [redacted]
JOHN A. SADECKI [redacted]
BIENVENIDA M. SALAZAR [redacted]
ALBERT G. SANDERS [redacted]
DELIA M. SANTIAGO [redacted]
HOWARD W. SCHACHT [redacted]
KEVIN D. SCHARFF [redacted]
NICOLAUS A. SCHERMER [redacted]
JAMES L. SENN [redacted]
KIMBERLY D. SEUFERT [redacted]
CHERYL L. SHARP [redacted]
CARRIE L. SHARPLES [redacted]
ROBERT G. SHEA [redacted]
LEE A. SHEEHAN [redacted]
CLAIR M. SHEFFIELD [redacted]
WILLIAM L. SHOPP [redacted]
LOUANN SITES [redacted]
SUSAN M. SMYKOWSKI [redacted]
IRENE M. SOTO [redacted]
MARIA STANEK [redacted]
DIANA L. STARKEY [redacted]
MICHAEL G. STEPP [redacted]
MARY E. SWEENEY [redacted]
DENISE M. TABARY [redacted]
ANNETTE TARDY [redacted]
DANIEL J. TAYLOR, JR. [redacted]
TERRY L. THOMAS [redacted]
MICHAEL E. THOMPSON [redacted]
RICHARD H. THORNELL [redacted]
PATRICIA A. TOLES [redacted]
SUSAN A. TOUPS [redacted]
KAREN K. TOWNSEND [redacted]
CHERYL SCHARNELL TROCK [redacted]
CHRISTINE M. TRUEMAN [redacted]
BARBARA A. TUITELE [redacted]
BARBARA A. TURNER [redacted]
AMY L. VAFLOR [redacted]
KERRY VANORDEN, [redacted]
RACHEL VLK [redacted]
KARLA J. VOY [redacted]
ERNESTINE WALKER [redacted]
DIANE L. WALLINGTON [redacted]
DOROTHY A. WEEKS [redacted]
FREDDIE WHITE [redacted]
MARY M. WHITEHEAD [redacted]
ELIZABETH M. WILCOX [redacted]
LOU A. WILLIAMS [redacted]
NANCY T. WILLIAMS [redacted]
SHERI L. WILLIAMSON [redacted]
WANDA F. WILLIS [redacted]
KIRBY L. WOOTEN III [redacted]
TAMARA YASELSKY [redacted]
CARMEN R. YOUNG [redacted]
RITA R. YOUSEF [redacted]

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ALBERT J. BAINGER [redacted]
KYLE A, BAUMAN, [redacted]
MARILYN A. BEATTY [redacted]
MONROE A. BRADLEY [redacted]
KEVIN D. BROUSSARD [redacted]
MICHELLE N. CALLISON [redacted]
DANIEL W. CAMPBELL [redacted]
GREGORY D. CARSON [redacted]
MICHAEL W. CASEY [redacted]
JACALYN K. EAGAN [redacted]
MARK A. ELLIS [redacted]
MICHAEL J. ELLIS [redacted]
DANIEL G. FLYNN [redacted]
DONOVAN Q. GONZALES [redacted]
VERA Z. GOROCHOW [redacted]
JOHN R. GREEN [redacted]
KARLAN B. HOGGAN [redacted]
TROY S. HORRISBERGER [redacted]
STACY A. KELLY [redacted]
MARK A. KOPPEN [redacted]
REX A. LANGSTON [redacted]
KATY L. MC CLURE [redacted]
FRANKIE D. MC DANIEL [redacted]
RICHARD A. MC MILLAN [redacted]
DAVID G. MISTRETTA [redacted]
LESLIE K. NESS [redacted]
ALFONSO M. NOYOLA [redacted]
LUANN OLLERT [redacted]
GARY M. ONYETT [redacted]
WILLIAM D. PARKER [redacted]
CRAIG A. PASCOE [redacted]
JOHN M. PATELLA [redacted]
DAVID W. PFAFFENBICHLER [redacted]
KEVIN F. PILLOUD [redacted]
ALEXANDER ROMEYN, [redacted]
TERRY L. SANCHEZ [redacted]
SCOTT M. SHIELDS [redacted]
RONALD J. SHOLLEY [redacted]
ROGER G. SPONDIKE [redacted]
RUDY J. STONE [redacted]
RICHARD N. TERRY [redacted]
RICHARD D. THOMAS [redacted]
PORTIA A.T. THOMPSON [redacted]
TIMOTHY VALLADARES [redacted]
MARSHA M. WOODARD [redacted]
JESUS E. ZARATE [redacted]

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MONTY R. BAILEY [redacted]
JOHN M. BEERY [redacted]
JOHN E. BELL [redacted]
MICKEY C. BELLEMIN [redacted]
RANDALL E. BLAKE [redacted]
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LINDA L. BONNEL [redacted]
LINDA K. BRANDT [redacted]
LISA A. BRIGHT [redacted]
SCOTT W. BROOKS [redacted]
RUSSELL L. BYRD [redacted]
STEPHEN J. BYRNES [redacted]
JOSEPH D. CALLISTER [redacted]
WALTER E. CALVO [redacted]
DAVID T. CAREY [redacted]
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BRIDGET K. CARR [redacted]
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DANIEL J. CROSSLEY [redacted]
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DENNIS W. FAY [redacted]
TIMOTHY C. FLACH [redacted]
SARAH R. FUTTERMAN [redacted]
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MARGARET A. GERNER [redacted]
FRANK J. GODSHALL [redacted]
RAYE A. GRIFFIN [redacted]
BETSAIDA H. GUZMAN [redacted]
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JIMMY D. HENRY [redacted]
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ANETTE HIKIDA [redacted]
KURTIS K. HILL [redacted]
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STEVEN R. HINTEN [redacted]
JUDY A. HOUSE [redacted]
HARRY B. JEFFRIES, JR. [redacted]
MARCUS A. JIMMERSON [redacted]
JEFFERY A. JOHNSON [redacted]
MONNIE J. JOHNSON [redacted]
RONALD S. JOHNSON [redacted]
MARK A. JURY [redacted]
JOHN D. KESSLER [redacted]
SANDRA A. KNUTSON [redacted]
RONALD L. LAHTI [redacted]
JULIA A. LAULESS [redacted]
CYNTHIS L. LEEZIEGLER, [redacted]
VERON T. LEW [redacted]
JOHN C. LIPSCOMB [redacted]
JENNIFER L. MANN [redacted]
MEGAN MCCORMICK [redacted]
KYMBLE L. MCCOY [redacted]
WILLIAM D. MCCOY [redacted]
JAMES J. MCDEVITT [redacted]
DAVID J. MCINTYRE [redacted]
SUSAN L. MYERS [redacted]
RONALD T. NOWALK [redacted]
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DANIEL R. OLEARY [redacted]
MARK S. OORDT [redacted]
LESLIE L. PAULEY [redacted]
BRIAN J. PFEIFFER [redacted]
RICHARD A. PHINNEY [redacted]
KELLY A. PREDIERI [redacted]
STEVEN P. QUIGLEY [redacted]
MARY L. QUINT [redacted]
JENNY H. RAINWATER [redacted]

SARA M. RAMIREZ [redacted]
DANIEL E. REISER [redacted]
ROBERT A. RELLA [redacted]
DAVID G. RICE, II [redacted]
LONDON S. RICHARD [redacted]
PAUL R. RIVEST [redacted]
WILLIAM P. ROACH [redacted]
CHRISTOPHER S. ROBINSON [redacted]
DAWN L. ROCKETT [redacted]
KENNETH R. RUSSELL, JR [redacted]
REBECCA L. SALASGROVES [redacted]
JEFFREY D. SALMAN [redacted]
CONRADO C. SAMPANG [redacted]
SCOTT E. SANZOTTA [redacted]
DONALD H. SAVAGE [redacted]
LEONARD W. SCHUBRING [redacted]
SCOTT C.G. SHERPARD [redacted]
LEE D. SHIBLEY [redacted]
MICHAEL B. SLACK [redacted]
JAMES B. SNYDER [redacted]
SUSAN E. SNYDER [redacted]
BRIAN K. STANTON [redacted]
HELEN ANN STRACK [redacted]
RONALD R. STUMBO [redacted]
CATHY A. THOMAS [redacted]
GRETCHEN C. TYLER [redacted]
STEPHEN H. VINING [redacted]
JOY E. VROONLAND [redacted]
JOEL W. WASHINGTON [redacted]
PATRICIA K. WELCH [redacted]
JAMES O. WHITE [redacted]
PAUL G. WILSON [redacted]
WILLIAM P. WONDRA [redacted]
WILLIAM D. WOODCOX [redacted]
KAREN C. YAMAGUCHI [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS, ON THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531, OF TITLE 10, U.S.C., WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

LINE

JAMES P. AARON [redacted]
DAVID M. ABERNETHY [redacted]
LEONIDES R. ABERC [redacted]
TODD M. ACKERMAN [redacted]
JOHN F. ACKERMANN [redacted]
CHRISTOPHER J. ADAMS [redacted]
TERRY A. ADAMS [redacted]
THOMAS L. ADAMS [redacted]
WALLACE L. ADDISON [redacted]
RUSSELL G. ADELGREN [redacted]
MARK L. ADKINS [redacted]
MICHAEL J. AFTOSMIS [redacted]
DANIEL E. AGRAMONTE [redacted]
ROYALAN C. AGUSTIN [redacted]
GREGORY C. AHLQUIST [redacted]
PATRICK N. AHMANN [redacted]
BRIAN D. AKINS [redacted]
JACQUELINE A. F. ALBRIGHT [redacted]
ERNEST F. ALBRITTON, JR [redacted]
PAUL D. ALDERMAN [redacted]
RICHARD T. ALDRIDGE [redacted]
ALEJANDRO J. ALEMAN [redacted]
JEFFREY S. ALEXANDER [redacted]
NATHAN B. ALHOLINNA [redacted]
ALEE R. ALI [redacted]
CATHERINE A. ALINOV [redacted]
KEITH A. ALLBRITTEI [redacted]
LISA C. ALLEN [redacted]
TIMOTHY C. ALLMAN [redacted]
JOHN M. ALSPAUGH [redacted]
JAMES W. ALSTON [redacted]
JOHN S. ALSUP [redacted]
RUBEN ALTUNIAN [redacted]
DENIO A. ALVARADO [redacted]
EMMANUEL R. ALVAREZ [redacted]
IGNACIO G. ALVAREZ [redacted]
RICHARD C. AMBURN [redacted]
STEVEN J. AMENT [redacted]
MATTHEW G. ANDERER [redacted]
WILLIAM D. ANDERSEN [redacted]
CHRISTINA M. ANDERSON [redacted]
DANIEL L. ANDERSON [redacted]
JEM P. ANDERSON [redacted]
KREG M. ANDERSON [redacted]
LYNN R. ANDERSON [redacted]
MATTHEW P. ANDERSON [redacted]
MICHAEL D. ANDERSON [redacted]
ROBERT A. ANDERSON [redacted]
ROBERT H. ANDERSON [redacted]
STEPHEN L. ANDREASEN [redacted]
EDWARD W. ANDREWS [redacted]
HAROLD G. ANDREWS II [redacted]
PETER J. ANDREWS [redacted]
JOSEPH F. ANGEL [redacted]
BENJAMIN C. ANGUS [redacted]
RICHARD A. ANSTETT [redacted]
ROBERT D. APLINGTON [redacted]
REBECCA J. APPERT [redacted]
KENNTH M. APPEZZATO [redacted]
GREGORY S. ARMAND [redacted]
BORIS R. ARMSTRONG [redacted]
DALE W. ARMSTRONG [redacted]
MARK A. ARMSTRONG [redacted]
WAYNE P. ARMSTRONG [redacted]
DAVID C. ARNOLD [redacted]
JASON W. ARNOLD [redacted]
BRUCE A. ARRINGTON [redacted]
AMY V. ARWOOD [redacted]
MYRON H. ASATO [redacted]
CHRISTOPHER D. ASHABRANNER [redacted]
JOHN R. ASKREN [redacted]
DONALD A. ASPDEN [redacted]
MARK C. ASTIN [redacted]
IRA R. ASTRACHAN [redacted]
RUDOLPH E. ATALLAH [redacted]
ROBIN D. ATHEY [redacted]
KORVIN D. AUCH [redacted]
LAWRENCE F. AUDET, JR. [redacted]
BRIAN K. AUGSBURGER [redacted]
WARREN G. AUSTIN [redacted]
RICHARD J. AUTHIER, JR. [redacted]
ROBERT M. BABB [redacted]
CHRISTOPHER S. BABBIDGE [redacted]
SCOTT E. BABOS [redacted]
JONATHAN D. BACHTOLD [redacted]
ERIC P. BAENEN [redacted]
AMANDA B. BAILEY [redacted]
KALLEN R. BAILEY [redacted]
MARK A. BAIRD [redacted]
ANDREW N. BAKER [redacted]
RALPH T. BAKER [redacted]
ROBERT A. BAL [redacted]
GUSTAVE B. BALDWIN [redacted]
REECE S. BALDWIN [redacted]
JOHN P. BALL, JR [redacted]
JOY M. BALL [redacted]
DOUGLAS A. BALLINGER [redacted]
ROBERT M. BAMRICK [redacted]
JOSEPH J. BANIAK [redacted]
PAUL J. BANKS [redacted]
ANTHONY E. BARBARISI [redacted]
TINA M. BARBERMATTHEW [redacted]
RICHARD G. BARINGER, [redacted]
ERIC C. BARKER [redacted]
TONY L. BARKER [redacted]
PHILLIP B. BARKS [redacted]
WARREN P. BARLOW [redacted]
DAVID J. BARNES [redacted]
BRIAN T. BARNSLEY [redacted]
ROGER A. BARR [redacted]
BRUCE C. BARTHOLOMEW [redacted]
DAVID R. BARKTOWIAK [redacted]
WILLIAM C. BARTON [redacted]
STEVEN L. BASHAM [redacted]
RANDALL G. BASS [redacted]
PETER D. BASTIEN [redacted]
AARON BATULA [redacted]
MARILYN J. BAUER [redacted]
DAVID J. BAYLOR [redacted]
SONJE F. BEAL [redacted]
JOHN D. BEAN [redacted]
MICHAEL N. BEARD [redacted]
STEPHEN E. BEAUCHAMP [redacted]
ANDREW C. BEAUDOIN [redacted]
DAVID W. BEAUREGARD [redacted]
BARRY D. BEAVERS [redacted]
MATTHEW J. BECKAGE [redacted]
JOSEPH P. BECKER [redacted]
JEANNINE A. BEER [redacted]
BRIAN A. BEERS [redacted]
MICHAEL D. BEESON [redacted]
PAUL R. BEGANSKY II [redacted]
WAYNE E. BELL [redacted]
WILLIAM G. BELT [redacted]
DAVID B. BELZ [redacted]
DANIEL W. BENEDICT [redacted]
JEFFREY B. BENESH [redacted]
BRIAN R. BENKEL [redacted]
GREGORY N. BENNETT [redacted]
JAMES A. BENNETT [redacted]
KENNETH H. BENNETT, JR. [redacted]
MATTHEW A. BENNETT [redacted]
ROBERT E. BENNING [redacted]
JAMES M. BENSON [redacted]
RICHARD W. BENSON [redacted]
RALPH E. BENTLEY [redacted]
KELLY P. BENTON [redacted]
ERIC R. BENTS [redacted]
SCOTT I. BENZA [redacted]
ERIC A. BERBERICH [redacted]
ANTHONY P. BERG [redacted]
ERIC W. BERG [redacted]
JEFFREY C. BERGDOLT [redacted]
WILLIAM S. BERGMAN [redacted]
KURT A. BERGO [redacted]
LEONARD M. BERMAN [redacted]
DANIEL C. BERNAZANI [redacted]
ALAN R. BERRY [redacted]
JOHN N. BERRY [redacted]
SYLVIA M. BERTOT [redacted]
LINDA K. BETHKE [redacted]
BRIAN A. BETTS [redacted]
GEORGE D. BEVILACQUA [redacted]
CRAIG ALAN C. BIAS [redacted]
ROBERT W. BICKEL [redacted]
LEE A. BIELSTEIN [redacted]
GREG S. BIERMAN [redacted]
SCOTT, E. BILLHARTZ [redacted]
GREGORY A. BINGHAM [redacted]
MICHAEL O. BIRKELAND [redacted]
ROGER K. BISHOP [redacted]
TIMOTHY G. BISHOP [redacted]
STEPHEN H. BISSONNETTE [redacted]
PAUL W. BIVENS [redacted]
JOSEPH P. BLACK [redacted]
MARK L. BLACK [redacted]
DAVID T. BLACKWELL [redacted]
KRISTINE E. BLACKWELL [redacted]
JEFFREY E. BLALOCK [redacted]
ALEXANDER J. BLANTON [redacted]
PATRICIA D. BLAZAUSKAS [redacted]
DAVID W. BLIESNER [redacted]
AARON T. BLOCKER [redacted]
GARRY M. BLOOD [redacted]
DANIEL S. BLUE [redacted]
MORRIS C. BLUMENTHAL [redacted]
ROBERT M. BLYTHE [redacted]
RANDY R. BODIFORD [redacted]
DOUGLAS P. BODINE [redacted]
EDWARD S. BODONY [redacted]
JAMES M. BOGUSLAWSKI [redacted]
MARTIN B. BOHN [redacted]
TIMOTHY M. BOLDUC [redacted]
DEWAYNE B. BOLLEN [redacted]
RICHARD E. BOLTON [redacted]
CRAIG L. BOMBERG [redacted]
GREGORY L. BONAFEDE [redacted]
ANTHONY F. BOND [redacted]
JOHN D. BOND [redacted]
MICHAEL H. BOND [redacted]
STEVEN B. BONINE [redacted]
ROBERT J. BONNEAU [redacted]
DAVID C. BONNEY [redacted]
JAMES I. BOOTH [redacted]
SCOTT C. BORCHERS [redacted]
MARK W. BORDEN [redacted]
TONY C. BOREN [redacted]
LINDSEY J. BORG [redacted]
MICHAEL F. BORGERT [redacted]
KENNETH J. BOSCHERT [redacted]
DAROLD S. BOSWELL [redacted]
JOHN L. BOSWORTH II [redacted]
FRITZIC P. BOUDREAUX, JR [redacted]
DUANE K. BOWEN [redacted]
ROBERT D. BOWER [redacted]
ROBERT D. BOWIE [redacted]
RANDELL P. BOWLING [redacted]
CLIFFORD M. BOWMAN [redacted]
RODNEY D. BOYD [redacted]
ROBERT C. BOYLES [redacted]
HAROLD W. BRACKINS [redacted]
SCOTT W. BRADLEY [redacted]
JUAQUIN D. BRADSHAW [redacted]
GREGORY R. BRAFORD [redacted]
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JAMES A. BRANDENBURG II [redacted]
LAURA A. BRANZELL [redacted]
SAMUEL BRASHEAR [redacted]
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RON BRAXLEY [redacted]
BRIAN G. BRAY [redacted]
HYPOLITE F. BREARD III [redacted]
DAVID P. BREDEMEYER [redacted]
PAUL L. BREDHOLT [redacted]
JESSE M. BREEDLOVE [redacted]
STEVEN W. BREMNER [redacted]
PATRICK D. BRENNAN [redacted]
TOBIN C. BREWER [redacted]
GARY F. BRIDA [redacted]
CHARLIE C. BRIDGES II [redacted]
JONATHAN A. BRIDGES [redacted]
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ANDREW J. BROMSEY [redacted]
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DALLAS S. BROOKS [redacted]
JOSEPH E. BROPHY, JR [redacted]
TODD M. BROST [redacted]
DAWN M. BROTHERTON [redacted]
ANN L. BROWN [redacted]
DARRELL P. BROWN [redacted]
DAVID M. BROWN [redacted]
JOEL R. BROWN [redacted]
MANNING C. BROWN, [redacted]
MICHAEL S. BROWN [redacted]
PATRICK A. BROWN [redacted]
RAY S. BROWN [redacted]
SANFORD V. BROWN, JR. [redacted]
STEVEN D. BROWN [redacted]
STUART W. BROWN [redacted]
WARREN M. BROWN, [redacted]
KENNETH J. BROWNELL [redacted]
JOHN F. BROWNFIELD II [redacted]
HERALDO B. BRUAL [redacted]
RICHARD A. BRUCE [redacted]
ROBERT J. BRUCKNER [redacted]
JERRY P. BRUMFIELD [redacted]
ERIC J. BRUMSKILL [redacted]
DALE S. BRUNER [redacted]
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CAMERON E. BUCHHOLTZ [redacted]
PATRICIA A. BUCKMAN, [redacted]
GEORGE B. BUDZ [redacted]
ANTHONY W. BUENGER [redacted]
STEVEN C. BUETOW [redacted]
PAUL A. BUGENSKE [redacted]
CARL A. BUHLER [redacted]
DAVID J. BUKOVEY [redacted]
KIMBERLY F. BULLOCK [redacted]
DEBORAH L. BUNCH [redacted]
KIRK P. BUNCH [redacted]
DAVID J. BURACHIO, [redacted]
JEFFREY B. BURCHFIELD [redacted]
DENNIS T. BURGART [redacted]

STEVEN M. BURGER [redacted]
RONALD A. BURGESS [redacted]
MAHLON M. BURKET [redacted]
JOSEPH J. BURLEIN [redacted]
TIMOTHY A. BURNS [redacted]
SCOTT D. BURNSIDE [redacted]
MICHAEL BURSEY [redacted]
PHLECIA R. BURSEYHEYWARD [redacted]
STEVEN B. BURTON [redacted]
CHARLES K. BUSC [redacted]
TIMOTHY W. BUTCHER [redacted]
MITCHEL H. BUTIKOFER [redacted]
CHRISTOPHER S. BUTLER [redacted]
DONALD E. BUTLER [redacted]
RANDALL BUTLER [redacted]
ERIC J. BUTTERBAUGH [redacted]
ANTHONY C. BUTTS [redacted]
WILLIAM J. BUTZ [redacted]
BRADLEY J. BUXTON [redacted]
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JOHN J. CABALA [redacted]
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EDWARD J. CAFFREY [redacted]
SEANN J. CAHILL [redacted]
ROBERT G. CALDARELL [redacted]
CATHERINE M. CALDWELL [redacted]
SHAWN D. CALDWELL [redacted]
JOHN C. CALEY [redacted]
ROY S. CALFAS [redacted]
MARK J. CALFEE [redacted]
GREGORY B. CALHOUN [redacted]
ALEXANDER R. CALICCHIO [redacted]
ELWIN B. CALLAHAN [redacted]
ROBERT W. CALLAHAN [redacted]
ITALO A. CALVARESI [redacted]
MARK D. CAMERER [redacted]
DENNIS T. CAMPBELL [redacted]
JAMES C. CAMPBELL [redacted]
STEVEN M. CAMPBELL [redacted]
MICHAEL O. CANNON [redacted]
KENNETH E. CANTERBURY [redacted]
ALEJANDRO R. CANTU [redacted]
BARRON D. CANTY [redacted]
TIMOTHY E. CAPLINGER [redacted]
DANIEL D. CAPPABIANCA [redacted]
SCOTT A. CARLIN, [redacted]
BARAK J. CARLSON [redacted]
ERIC CARLSON [redacted]
KARN L. CARLSON [redacted]
KELLY J. CARLSON [redacted]
RUSSELL L. CARLSON [redacted]
BRENT A. CARLSTROM [redacted]
JAMES A. CAROLE [redacted]
GUY D. CARPENTER [redacted]
VINCENT M. CARR, JR. [redacted]
THOMAS J. CARROLL III [redacted]
AURELIA C. CARROLVERSON [redacted]
CHARLES M. CARTER [redacted]
DANIEL E. CARTER [redacted]
DAVID J. CARTER [redacted]
MICHAEL C. CARTER [redacted]
MICHAEL S. CARTER [redacted]
TERRY H. CARTER [redacted]
PAUL D. CARVER [redacted]
KENNETH R. CARYER [redacted]
MICHAEL C. CASEBEER [redacted]
JOHN E. CASEBOLT [redacted]
BRAD L. CASEMENT [redacted]
KIMBERLEY S. CASH [redacted]
LINA M. CASHIN [redacted]
WILLIAM M. CASHMAN [redacted]
MANUEL F. CASIPIT [redacted]
CURT A. CASTILLO [redacted]
MITCHELL CATANZARO [redacted]
STEPHEN D. CATCHINGS [redacted]
MARC E. CAUDILL [redacted]
PAUL E. CAVINS [redacted]
GARY J. CEGALIS [redacted]
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TERENCE P. CLINE [redacted]
CHAD M. CLOMAN, [redacted]
JAMES O. CLONTS [redacted]
LUKE E. CLOSSON, III [redacted]
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EDWARD C. COMPERRY [redacted]
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FRANK M. COOPER, JR. [redacted]
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WILLIE C. COOPER [redacted]
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DAVID J. COPPLER [redacted]
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KENNETH R. COUNCIL, JR. [redacted]
PAUL E. COURTNEY [redacted]
THOMAS A. COURTNEY [redacted]
DEXTER R. COX, JR. [redacted]
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ERIK K. DAVISON [redacted]
JAMES C. DAWKINS, JR. [redacted]
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DENIS P. DOTY [redacted]

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IAN A. EDDY [redacted]
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MARION J. FEATHERSTON [redacted]
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JUSTIN C. FORTUNE [redacted]
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VINCENT R. FRANKLIN [redacted]
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TRUCO W. FUHST [redacted]
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PAUL A. GALLAHER [redacted]
JACK M. GALLUPPO [redacted]
RAYMOND J. GALONIS, JR [redacted]
JAMES C. GALONSKY [redacted]
BARRY R. GAMBRELL [redacted]
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CHADWICK H. GARBER [redacted]
ARTHUR G. GARCIA [redacted]
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SAMUEL J. GARDNER II [redacted]
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MICHAEL HALUSEK [redacted]

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SUHRA E. KANG [redacted]
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RUSSELL L. KARR [redacted]
CALVIN H. KASADATE [redacted]
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ADAM B. KAVLICK [redacted]
SHEILA F. KEANE [redacted]
MARK S. KEATING [redacted]
PATRICK D. KEE [redacted]
WILLIAM J. KEEGAN, JR [redacted]
CLIFFORD A. KEENAN [redacted]
TIMOTHY L. KEEPORTS [redacted]
EDWARD T. KEESEE [redacted]
ROBERT W. KEIRSTEAD, JR [redacted]
DONALD E. KELLER, JR. [redacted]
JOHN G. KELLER [redacted]
JAMES H. KELLEY, JR. [redacted]
KEVIN C. KELLEY, JR. [redacted]
BRIAN T. KELLY [redacted]
MICHAEL B. KELLY [redacted]
MICHAEL D. KEMMLER [redacted]
JEROME F. KEMPTON [redacted]
DEWAYNE C. KENDALL [redacted]
SCOTT L. KENDALL [redacted]
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JOHN T. KENNEDY [redacted]
BURL T. KENNER III [redacted]
ROMAN H. KENT [redacted]
SCOTT P. KENT [redacted]
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SEAN H. KERRICK [redacted]
VICKIE S. KERSEY [redacted]
GRANT D. KESSLER [redacted]
PATRICIA L. KESSLER [redacted]
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PETER A. KIIGEMAGI [redacted]
KEVIN J. KILB [redacted]
THOMAS J. KILLEEN [redacted]
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YUN K. KIM [redacted]
KIMEL A. KIMBLE [redacted]
DAVID E. KIMPEL [redacted]
KRISTINA E. KINCAID [redacted]
SCOTT C. KINDER [redacted]
BENJAMIN T. KINDT [redacted]
ALAN H. KING, [redacted]
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JOHN A. KINTZELE, JR. [redacted]
ROBERT A. KIRBY [redacted]
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GUS S. KIRKIKIS [redacted]
KELLY A. KIRTS [redacted]
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DOUGLAS K. KLEIST [redacted]
WILLIAM J. KLUG [redacted]
MATTHEW A. KMON [redacted]
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KEIR D. KNAPP [redacted]

KENNETH J. KNAPP [redacted]
ROBERT A. KNAPP, JR. [redacted]
TAMMY M. KNIERIM [redacted]
DAVID W. KNIGHT [redacted]
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KURT W. KNURR [redacted]
JOHN P. KOCHANSKY [redacted]
WAYNE T. KODAMA [redacted]
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SCOTT W. KOESTER [redacted]
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DUSTY L. KOVAR [redacted]
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BRET A. KRAIDMAN [redacted]
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ROBERT R. LATOUR [redacted]
ZEBEDEE T. LAU [redacted]
ARTHUR H. LAUBACH, JR. [redacted]
OCTAVE P. LAURET III [redacted]
JEFFREY L. LAVALLE [redacted]
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MAX LOPEZ [redacted]
LESTER R. LORENZ [redacted]
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ADAM MAC DONALD [redacted]
BRUCE L. MAC DONALD [redacted]
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JOHN H. MACNICOL [redacted]
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TIMOTHY H. MAGUIRE [redacted]
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DEBORAH J. MARQUART [redacted]
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ACHIM MARTINEZ, [redacted]
MARIO R. MARTINS [redacted]
JAMES T. MARX [redacted]
DAVID B. MARZO [redacted]
ROBERT L. MASON [redacted]
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EDWARD J. MASTERSON [redacted]
CHARLES R. MATHEWS [redacted]
RUSSELL A. MATIJEVICH [redacted]
LANCE Y. MATSUSHIMA [redacted]
DANE D. MATTHEW [redacted]
AUDRA R. MATTHEWS [redacted]
JOHN R. MATTHEWS [redacted]
DAVID M. MATTSON [redacted]
DEAN W. MAUD [redacted]
PATRICIA C. MAULDIN [redacted]
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DAVID K. MAY [redacted]
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HAROLD O. MAYNARD [redacted]
MAURIZIO MAZZA [redacted]
ANDRE MC AFEE [redacted]
DAVID W. MC ANANEY [redacted]
PAUL W. MC AREE [redacted]
JOHN D. MC ARTHUR [redacted]
TODD, V. MC CAGHY, [redacted]
SCOTT C. MC CAIG [redacted]
KYNA R. MC CALL [redacted]
TIMOTHY O. MC CANN [redacted]
SCOTT P. MC CARTT [redacted]
PAUL R. MC CARVER [redacted]
JAMES C. MC CLELLAN [redacted]
JOHN I. MC CLENDON [redacted]
LORENZO MC CORMICK [redacted]
JOHN P. MC COY [redacted]
SCOTT H. MC CRACKEN [redacted]
JAMES D. MC CREARY [redacted]
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TRACY L. MC DERMOTT [redacted]
DANA M. MC DONALD [redacted]
MARK C. MC DONALD [redacted]
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RICHARD L. MC GOUGH [redacted]
THERESA J. MC GOWANSROCZYK [redacted]
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TIMOTHY M. MC GUIRE [redacted]
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JOHN A. MC KNIGHT [redacted]
SCOTT ARTHUR MC KUSICK [redacted]
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GILLIAN M. MC NALLY [redacted]
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ROBERT C. MC NEIL [redacted]
THOMAS J. MC NEILL [redacted]
GREGORY J. MC NEW [redacted]
SAMUEL L. MC NIEL [redacted]
NATHANIEL K. MC NURE [redacted]
MADELEINE MC PETERS [redacted]
FRANK A. MC VAY [redacted]
MARC C. MC WILLIAMS [redacted]
LISA A. MEADE [redacted]
CHARLES R. MEADOWS [redacted]
BRUNO A. MEDIATE [redacted]
BERTRAM K. MEDLOCK [redacted]
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COLIN R. MOENING [redacted]
OSCAR MOJICA [redacted]
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ROGER H. MOON [redacted]
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BRET G. NEELEY [redacted]
ELLEN D. NEELY [redacted]
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CORT J. NEUMAN [redacted]
CARL A. NEWHART, JR [redacted]
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WILLIAM C. OLIEN [redacted]
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KRIS D. OLIVER [redacted]
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RAMON B. OMES, JR. [redacted]
JAMES P. ONEILL [redacted]
DANIEL ONIELL, JR [redacted]
DOUGLAS A. OPERSTENY [redacted]
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NANCY E. OROURKE [redacted]
JOSE R. ORTEGA [redacted]
DOMINICK ORTIZ [redacted]
TROY D. ORWAN [redacted]
HOWARD K. OSBORNE [redacted]
THERESA OSBORNE [redacted]
EDWIN H. OSHIBA [redacted]
CRAIG J. OSTRANDER [redacted]
MARK J. OSTROV [redacted]
LAWRENCE J. OTT [redacted]
WALTER W. OTTO [redacted]
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ANDREW T. OWENS [redacted]
BARBARA E. OWENS [redacted]
DAVID A. OWENS, JR [redacted]
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RONALD G. OWENS [redacted]
RONALD S. PAGE [redacted]
DAVID E. PAINTER [redacted]
THOMAS E. PAINTER, JR [redacted]
JOSEPH T. PALAGANAS [redacted]
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JEFFREY P. PALUMBO [redacted]
PERRY V. PANOS [redacted]
GREGORY A. PANTLE [redacted]
ALAN PAOLUCCI [redacted]
LESLIE PAOLUCCI [redacted]
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ZANNIS M. PAPPAS [redacted]
JOHN A. PARADIS [redacted]
JEREMY M. PARIS [redacted]
VINCENT K. PARK [redacted]
JAMES G. PARKER, JR [redacted]
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TOM D. PARKS [redacted]
KEITH C. PARNELL [redacted]
PATRICIA S. PARRIS [redacted]
EDWARD S. PARSONS [redacted]
MICHAEL J. PASTIKA, JR [redacted]
SARA A. PATE [redacted]
JAMES PATTERSON [redacted]
DAVID M. PATTERSON [redacted]
MICHAEL A. PAUKEN, JR. [redacted]
JOHN D. PEAK [redacted]
DARREN L. PEAR [redacted]
WILLIAM G. PEARCE [redacted]
FRANK C. PEARSON II [redacted]
JEFFREY A. PEARSON [redacted]
JESSE K. PEARSON III [redacted]
STEVEN D. PEARSON [redacted]
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SCOTT D. PEEL [redacted]
KEITH I. PEKAU [redacted]
TIMOTHY W. PENLEY [redacted]
SCOTT V. PENNELL [redacted]
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GROVER C. PERDUE [redacted]
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TRACEY M. PERRONE [redacted]
KENDRIC J. PERRY [redacted]
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MARK A. PETERSEN [redacted]
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RAYMOND J. PETERSON [redacted]
ROSALIND J. PETERSON [redacted]
RICK T. PETITO [redacted]
BETH L. PETRICK [redacted]
STEPHEN D. PETTERS [redacted]
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MARK C. PFEIFLER [redacted]
BRUCE T. PHAM [redacted]
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TIMOTHY PITTS [redacted]
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FREDRICK G. PLAUMANN [redacted]
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JULIE R. PLUMMER [redacted]
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GEOFFREY E. POKORNY [redacted]
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DAVID C. POLK [redacted]
BRIAN A. POLLOCK [redacted]
JEFFRY D. POMEROY [redacted]
LEWIS E. POORE, JR. [redacted]
JOHN C. POPE [redacted]
ANTHONY P. POPOVICH [redacted]
WILLIAM S. PORTER, JR [redacted]
SCOTT PORTERFIELD [redacted]
ABBY G. POSNER [redacted]
CHRISTOPHER J. POSSEHL [redacted]
JOHN P. POSSEL [redacted]
RICHARD C. POSTON [redacted]
CHARLES T.A. POTHIER [redacted]
FRANK E. POUKNER III [redacted]
MARK A. POWERS [redacted]
MICHAEL W. PRATT [redacted]
STEPHEN R. PRATT [redacted]
LAWRENCE E. PRAVECEK [redacted]
KEITH M. PREISING [redacted]
MILES J. PRICE [redacted]
ROBERT D. PRICE [redacted]
RICHARD J. PRIEVE [redacted]
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CYNTHIA A. PROVOST [redacted]
K. ELIZABETH PRUNEAU [redacted]
CHRISTOPHER M. PRUNESKI [redacted]
CHARLES A. PRYOR III [redacted]
WILLIAM PUGH [redacted]
JOSEPH C. PULIDO [redacted]
JACK D. PULLIS [redacted]
STEVEN W. PULSE [redacted]
HAMILTON A. QUANT [redacted]
STEPHEN QUAST [redacted]
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CHARLES M. QUISENBERRY [redacted]
ALLEN C. RABAYDA [redacted]
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ALARIC D. RAINEY [redacted]

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GLENN A. RATCHFORD [redacted]
JOHN T. RAUCH, JR. [redacted]
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BRUCE RAYNO [redacted]
CATHERINE A. REARDON [redacted]
ALAN F. REBHOLZ [redacted]
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RANDALL A. REDDIG [redacted]
MARK A. REDMON [redacted]
SCOTT M. REED [redacted]
JON A. REESMAN [redacted]
MICHAEL S. REFFLE [redacted]
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SCOTT P. REID [redacted]
XAN M. REINERS [redacted]
PATRICK R. RENWICK [redacted]
MARK E. RESSEL [redacted]
WALTER G. REULBACH II [redacted]
PAUL R. REYNOLDS [redacted]
DONALD P. RICE, JR. [redacted]
ETHAN B. RICH [redacted]
HAROLD L. RICHARD, JR [redacted]
KYLE R. RICHARD [redacted]
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DUKE Z. RICHARDSON [redacted]
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CHRISTOPHER E. ROUND [redacted]
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GARY T. RUHA, [redacted]
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JOHN K. RYAN [redacted]
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JAMES SABELLA [redacted]
IAN R. SABLAD [redacted]
DAVID T. SAELENS [redacted]
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AMIN Y. SAID [redacted]
JOEL A. SAKURA [redacted]
JOHN C. SALENTINE [redacted]
WILLIAM B. SALKIND [redacted]
MICHAEL NMN SALOPEK [redacted]
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ALBERTO C. SAMONTE [redacted]
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RALPH A. SANDFRY [redacted]
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RALEIGH A. SANDY [redacted]
SHADE H. SANFORD [redacted]
ELIA P. SANJUME [redacted]
RONALD J. SANTORO [redacted]
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JAIME SANTOS [redacted]
SUSAN S. SANTOS [redacted]
PETER A. SARTORI [redacted]
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ROD S. SCHACK [redacted]
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GEORGE W. SCHANTZ, JR. [redacted]
PAUL A. SCHANTZ [redacted]
DOROTHY RUTH SCHANZ [redacted]
DAVID J. SCHAUER [redacted]
GUY E. SCHAUMBURG [redacted]
DANIEL M. SCHELL [redacted]
RAYMOND D. SCHERR [redacted]
DANA R. SCHINDLER [redacted]
EDWARD W. SCHLOEMAN, JR. [redacted]
DAVID M. SCHLOSSER [redacted]
MYRON L. SCHLUETER [redacted]
GARRETT J. SCHMIDT [redacted]
KIRK T. SCHMIERER [redacted]
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GARY J. SCHNEIDER [redacted]
NEAL W. SCHNEIDER [redacted]
TODD A. SCHOLEY [redacted]
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JAMES R. SCHRAMM [redacted]
KARY R. SCHRAMM, [redacted]
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BARRY G. SCHRIMSHER [redacted]
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JACK D. SCHULZE [redacted]
RALPH K. SCHWEERS [redacted]
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KARL E. SCHWEHM [redacted]
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BRADLEY S. SEARS [redacted]
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ERIK J. SEIFFERT [redacted]
JEFFREY D. SEINWILL [redacted]
JOHN T. SELDEN I [redacted]
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JORGE F. SERAFIN [redacted]
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GREGG A. SHELTON [redacted]
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NAM N.M. SHELTON [redacted]
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FAY T. SPELLERBERG [redacted]
JOHN E. SPENCER [redacted]
MERRICE SPENCER [redacted]
MICHAEL S. SPENCER [redacted]
RON L. SPERLING [redacted]
RICHARD K. SPILLANE [redacted]
STACEE N. SPILLING [redacted]
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ROBERT A. SPITZNAGEL [redacted]
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DARREN D. SPRUNK [redacted]
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EARL STEPHENS, JR [redacted]
PAUL F. STEVENS [redacted]
CRAIG D. STEVENSON [redacted]
JAMES R. STEVENSON, JR [redacted]
CASEY J. STEWART [redacted]
CHRISTOPHER T. STEWART [redacted]
SCOTT M. STEWART [redacted]
SUSAN STEWART [redacted]
KURT E. STIEPER [redacted]
JOEL B. STINNETT [redacted]
PATRICK J. STOFFEL [redacted]
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GREGORY L. STONE [redacted]

KEVIN J. STONE [redacted]
JOHN J. STOREY [redacted]
CHRISTOPHER J. STRATTON [redacted]
ROBERT M. STRESEMAN [redacted]
RONALD S. STRINGER [redacted]
TIMOTHY A. STRUSZ [redacted]
ERIK A. STRYKER [redacted]
GERALD C. STUCK [redacted]
JOSEPH L. STUPIC [redacted]
NELSON R. STURDIVANT [redacted]
OSMAN P. SUBOYU [redacted]
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SCOT E. SWARTZENDRUBER [redacted]
BRYAN E. SWECKER [redacted]
DAWN MARIE SWEET [redacted]
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BRET C. TALBOTT [redacted]
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MICHAEL T. TAYLOR [redacted]
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FORREST C. THOMPSON [redacted]
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JOHNNY A. THOMPSON [redacted]
PAUL D. THOMPSON [redacted]
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ROBERT S. THOMPSON, JR [redacted]
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ANDREW A. THORBURN [redacted]
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MICHAEL D. TIDBAL [redacted]
ROBERT W. TIEDEMANN, JR [redacted]
SCOTT R. TIMKO [redacted]
PAUL D. TOBIN [redacted]
SCOTT D. TOBIN [redacted]
JEFFREY M. TOD [redacted]
CHRIS E. TOENSING [redacted]
LANCE S. TOKUNAGA [redacted]
LESA K. TOLER [redacted]
PAUL K. TOM [redacted]
KEVIN S. TOME [redacted]
KEVIN C. TOMPKINS [redacted]
KEITH R. TONNIES [redacted]
WILLIAM A. TORMEY [redacted]
KAREN L. TORRACA [redacted]
RAYMOND G. TOTH [redacted]
ROBERT P. TOTH [redacted]
STEPHEN J. TOTH [redacted]
ADDISON P. TOWER [redacted]
JOEL B. TOWER [redacted]
CHARLES E. TRACEY [redacted]
DEE A. TRACY [redacted]
HAI N. TRAN [redacted]
JEROME T. TRAUGHBER [redacted]
DOUGLAS J. TRAVERSA [redacted]
SCOTT L. TRAXLER [redacted]
PETER J. TREMBLAY [redacted]
JAY M. TRENT [redacted]
LARRY J. TRENT [redacted]
MARVIN H. TREU [redacted]
RICK J. TRINKLE [redacted]
DAVID W. TRIVETT [redacted]
JOHN R. TRUJILLO, JR [redacted]
DANIEL M. TRULUCK [redacted]
THOMAS J. TRUMBULL II [redacted]
PIERCE E. TUCKER [redacted]
ALEXANDER N. TULINTSEFF [redacted]
RICHARD L. TUTKO [redacted]
PATRICIA A. TUTTLE [redacted]
RUSSELL J. TUTTY [redacted]
RICHARD J. TUZNIK [redacted]
BARRY B. TYE [redacted]
THOMAS W. TYSON [redacted]
BRIAN J. UDELL [redacted]
JOHN F. UKLEYA, JR [redacted]
WILLIAM K. UPTMOR [redacted]
GEORGE A. URIBE [redacted]
STEVEN J. URSELL [redacted]
DAVID E. UVODICH [redacted]
JIMMIE D. VAIL, JR [redacted]
GREG A. VALDEZ [redacted]
PAUL J. VALENZUELA [redacted]
DAVID C. VALORZ [redacted]
ZUIDEN TRACY L VAN [redacted]
KEVIN E. VANDEGRIFF [redacted]
HANS M. VANDENBRINK [redacted]
GREGG D. VANDERLEY [redacted]
JAMES L. VANDERSALL [redacted]
SAMUEL B. VANDIVER [redacted]
DALE J. VANDUSEN [redacted]
JAMES J. VANHOOMISSEN [redacted]
JAY A. VANHORN II [redacted]
BRUCE J. VANREMORTEL [redacted]
DAVID A. VANVELDHUIZEN [redacted]
JOHN E. VARLJEN [redacted]
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GLENN M. VAUGHAN [redacted]
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MATTHEW L. VENZKE [redacted]
DANA P. VERMEER [redacted]
JOSEPH P. VICHOT [redacted]
MICHAEL L. VICK [redacted]
PRENTICE R. VICK III [redacted]
JESSE E. VICKERS [redacted]
DARREN R. VIGEN [redacted]
CRISTINA C. VILELLA [redacted]
RUBEN VILLA [redacted]
ANTHONY L. VILLANUEVA [redacted]
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FREDERICK D. VINCENT III [redacted]
KEVIN J. VISCO [redacted]
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CONSTANCE M. VONHOFFMAN [redacted]
MICHAEL K. VONHOFFMAN [redacted]
ANNE M. VONLUHRTE [redacted]
CHRISTOPHER R. VONTHADEN [redacted]
BENEDICT R. VOTIPKA [redacted]
KATHLEEN M. WABISZEWSKI [redacted]
MARK I. WADE [redacted]
JOHN G. WAGGONER [redacted]
BARBARA A. WAGNER [redacted]
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DALE A. WARD [redacted]
IVAN W. WARE [redacted]
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CARL T. WILLIAMS [redacted]
CHARLES E. WILLIAMS [redacted]
DONALD L. WILLIAMS [redacted]
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WILLIAM F. WILSON [redacted]
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JOHN C. WOMACK [redacted]
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GRAND F. WONG [redacted]
DAVID M. WOOD [redacted]
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MICHAEL A. WOOD [redacted]
ROBERT L. WOOD [redacted]
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TIMOTHY S. WOOD [redacted]
MICHAEL A. WOODLEE [redacted]
BRIAN V. WOODS [redacted]
NEIL E. WOODS [redacted]
THOMAS L. WOODS [redacted]
ANTHONY L. WOODSON [redacted]
URSULA J. WOODSON [redacted]
DOUGLAS T. WOOLWORTH [redacted]
LOUIS A. WOOTTON II [redacted]
ROBERT A. WORK [redacted]
WILLIAM S. WORSHAM [redacted]
CHARLES A. WRIGHT [redacted]
EDDY R. WRIGHT [redacted]
KURTIS L. WRIGHT [redacted]
PATRICK W. WRIGHT [redacted]
JOHN D. WROTH [redacted]
CHRISTIE M. WYATT [redacted]
EVAN W. XENAKIS [redacted]
MARK D. YADLOSKY [redacted]
BARBARA J. YANCEY [redacted]
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RONALD A. YENKO [redacted]
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ANTHONY C. YOUNG [redacted]
GEORGETTE J. YOUNG [redacted]
JANE C. YOUNG [redacted]
JOHN G. YOUNG [redacted]
PAUL A. YOUNG [redacted]
THOMAS A. YOUNG [redacted]
TODD M YOUNG [redacted]
WILLIAM G YOUNG [redacted]
CHARLES E. YOUNGBLOOD [redacted]
TIMOTHY ZADZORA [redacted]
BLAKE M. ZANDBERGEN [redacted]
JOHN M. ZELINKA [redacted]
JEFFREY M. ZELLER [redacted]
JAMES P. ZEMOTEL [redacted]
MICHAEL A. ZENOBI [redacted]
AMY E. ZETZL [redacted]
MICHAEL P. ZICK [redacted]
TODD S. ZIEGLER [redacted]
TIMOTHY P. ZIMMER [redacted]
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EVELYN M. WEBSTER ZOHLEN [redacted]
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STEVEN R. ZWICKER [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER SECTION 531, OF TITLE 10, U.S.C. WITH A VIEW TO DESIGNATION UNDER SECTION 8067, OF TITLE 10, UNITED STATES CODE., TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

CHAPLAIN CORPS

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EFFSON CHESTER BRYANT [redacted]
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PAUL L. SHEROUSE [redacted]
MICHAEL THORNTON [redacted]
TIMOTHY P. WAGONER [redacted]

NURSE CORPS

CARLENA A. ABALOS [redacted]
BEATRICE A. ABBOTT [redacted]
LAURA S. ABNEY [redacted]
MARY E. ADDISON [redacted]
ROSARIO AGANON [redacted]
NOEMI ALGARINLOZANO [redacted]
CATHERINE M. AMITRANO [redacted]
BERNADETTE A. ANDERSON [redacted]
CONNIE R. ANDERSON [redacted]
LESLIE R. ANN [redacted]
DENISE G. AUGUSTINE [redacted]
STEVEN A. AUSTIN [redacted]
CASSANDRA D. AUTRY [redacted]
JUDITH A. BACHMAN [redacted]
C. DIANNE BAILEY [redacted]
VICTORIA J. BAILY [redacted]
TODD E. BARNETT [redacted]
SUSAN E. BASSETT [redacted]
DANA B. BATES [redacted]
MARIALOURDES BENCOMO [redacted]
BELLA T. BIAG [redacted]
LEOLYN A. BISCHEL [redacted]
DEBORAH M. BONI [redacted]
REBECCA A. BOSANKO [redacted]
MARGARET A. BROWN [redacted]
MICHAEL C. BROWN [redacted]
JANET D. BRUMLEY [redacted]
JOHN B. BRYANT [redacted]
RICHARD D. BRYANT [redacted]
MARK A. BUETTGENBACH [redacted]
TAMRA S. BUETTGENBACH [redacted]
ANN M. BURNS [redacted]
CHERRI L. CABRERA [redacted]
CARL L. CALIFORNIA [redacted]
THERESA B. CALLOWAY [redacted]
DONNA S. CARNEY [redacted]
LOLA R. B. CASBY [redacted]
FAYE G. CENTENO [redacted]
JEN JEN CHEN [redacted]
JOY A. CHILDRESS [redacted]
LILLY B. CHRISMAN [redacted]
YVONNE J. CLARKE [redacted]
ROBERT K. CLAY [redacted]
KIMBERLY G COLTMAN [redacted]
JOHN T. CONNELLY, JR. [redacted]
DOUGLAS G. COOK [redacted]
LENORA L. COOK [redacted]
BARBARA M. COPPEDGE [redacted]
NANCY E. COSGROVE [redacted]
ANKA COSIC [redacted]
TERRY L. CUNNINGHAM, [redacted]
BARBARA C. CUPIT [redacted]
GLENDA M. CUTHBERT [redacted]
MICHAEL A. DEBROECK [redacted]
ELAINE M. DEKKER [redacted]
MARY M. DELGADO [redacted]
JANE G. DENTON [redacted]
BERNARD L. DICK [redacted]
SARAH E. M. DIECKMAN [redacted]
REBECCA F. DURDEN [redacted]
STEVEN P. EBY [redacted]
LEEANN ELLIOTT [redacted]
BETH A. EWING [redacted]
DIANE E. FARRIS [redacted]
ALICE G. FITZPATRICK [redacted]
LAURIE A. FORD [redacted]
MARY E. FRANTZ [redacted]
SANDRA A. FREDRICKSON [redacted]
KATHLEEN A. FRENCH [redacted]
WILLIAM E. FRITZ I [redacted]
MARIE J. FUENTES [redacted]
NICHOLAS W. GABRIEL [redacted]
BRENDA M. GARZA [redacted]
JEWEL A. GEORGE [redacted]
PATRICK B. GILLEN [redacted]
MARY C. GOETTER [redacted]
JANET K. GORCZYNSKI [redacted]
DARRYL W. GREEN [redacted]
DEBORAH J. GREGGS [redacted]
SANDRA D. HAGEDOWN [redacted]
FRANCES J. HABEL [redacted]
KYNA N. HAGER [redacted]
BELINDA F. HAINES [redacted]
ROBIN G. HAKALA [redacted]
WANDA F. HARRIS [redacted]
LYNN M. HARVEY [redacted]
ROLAND HAWKINS [redacted]
GERARD T. HOGAN [redacted]
KELLY M. HOGUE [redacted]
JOEL B. HOLDBROOKS [redacted]
EVALYN D. HOLDEN [redacted]
RHONDA D. HOLDER [redacted]
KELLY A. HOLIDAY [redacted]
WILSON ETHEL F. HOLT [redacted]
DEBRA A. HOPPE [redacted]
JUDITH L. HORECNY [redacted]
ROBERT E. HORSMANN [redacted]
PENNY J. HOUGHTON [redacted]
ROBERT J. HOUK [redacted]
CHERYL Y. HOWARD [redacted]
WYNONDA J. HUBBARD [redacted]
JANET C. HUDSON [redacted]
DENISE A. HUFF [redacted]
ROBIE V. HUGHES [redacted]
SUSANNE M. HUMPHREYS [redacted]
ROBERT G. HUNT [redacted]
BRIAN S. JOHNSON [redacted]
KEVIN L. JOHNSON [redacted]
ANNA M. JONES [redacted]
PATRICIA J. JONES [redacted]
TERESA L. JONES [redacted]
TRACY J. KAESLIN [redacted]
KIM M. KANE [redacted]
ANTHONY J. KARNAVAS [redacted]
JANETTE L. KARNAVAS [redacted]
ELIZABETH C. KENNA [redacted]
JACK L. KENNEDY [redacted]
DONALD C. KLINE III [redacted]
JOHN KOKENES [redacted]
NANCY M. LACHAPELLE [redacted]
SUZANNE M. LAFOREST [redacted]
LINDA B. LANCASTER [redacted]
CHRISTINE M. LAUGHLIN [redacted]
FELICIA LAUTEN [redacted]
DIANE L. LAYMAN [redacted]
JULIE A. LEAL [redacted]
SUSAN C. LEE [redacted]
PATRICIA C. LEGARTH [redacted]
TUCKER DIANE F. LENT [redacted]
CARON A. LEONWOODS [redacted]
ALFRED M. LIMARY [redacted]
LISA A. LIMARY [redacted]
SINA J. LINMAN [redacted]
JANE K. LOWE [redacted]
VALERIE L. LUSTER [redacted]
BETSY S. MAJMA [redacted]
LYNN M. MALONE [redacted]
ROBERT J. MARKS [redacted]
CYNTHIA A. MARTIN [redacted]
DAN E. MASON [redacted]
RUBEN MATA [redacted]
NERIDA MAUROSA [redacted]
DOUGLAS G. MAUS, [redacted]
MONA P. MAYROSE [redacted]
SHERRY A. MC ATEE [redacted]
JOHN F. MC CRORY [redacted]
MARY A. MC CUBBINS [redacted]
TERRY L. MC DANIEL [redacted]
CHARLES M. MC DANNALD III [redacted]
WANDA J. MC FATTER [redacted]
AURA L. MELENDEZ [redacted]
GINGER D. METCALF [redacted]
ALTHEA D. MICHEL [redacted]
EDDIE T. MILLER [redacted]
ROSILAND C. MILLERBALL [redacted]
BILLYE T. MOFFATT [redacted]
LYNNE A. MONSEES [redacted]
PATRICIA R. MOORE [redacted]
ALAN G. MUENCHAU [redacted]
GRETCHEN A. MULHORN [redacted]
MARY J. NACHREINER [redacted]
PATRICIA A. NARAMORE [redacted]
REBECCA M. NELSON [redacted]
MAUREEN A. NESSLER [redacted]
GAIL M. NOBLE [redacted]
WILLIAM A. NOVAK [redacted]
LAWRENCE F. O'BRIEN [redacted]
JEFFREY L. OLIVERSON [redacted]
JENNIE C. OLSEN [redacted]
PATRICK R. O'NEILL [redacted]
NANCY A. OPHEIM [redacted]
CANDACE G. ORONA [redacted]
SHARON M. O'SHEA [redacted]
BEVERLY D. OSTERMEYER [redacted]
KAREN L. OTTINGER [redacted]
VICKI S. PADGET [redacted]
JOSEPH F. PALLARIA, JR [redacted]
JENNIFER R. PAPIN [redacted]
JUNE A. PARK [redacted]
LACEY TAMARA E. PASTOR [redacted]
RONNIE M. PATTERSON, [redacted]
ROBERT M. PERON [redacted]
LUCI P. PERR [redacted]
VICTOR P. POLITO [redacted]
KENNETH D. PRINCE [redacted]
BRENDA D. QUARRELS [redacted]
JAMES A. QUIGLEY [redacted]
JAMES E. QUINN [redacted]
VICTORIA S. QUINN [redacted]
RONALD E. REAVES [redacted]
TERESA L. REED [redacted]
ROBERT M. REICHELT [redacted]
JAMES E. REINEKE [redacted]
MARCIA L. RILEY [redacted]
CAROLE S. ROBBINS [redacted]
DAWN ROBBINS, [redacted]
CYNTHIA J. ROLEFF [redacted]
DAVID C. ROSSI [redacted]
DENISE M. ROULIER [redacted]
THERESA A. ROWE [redacted]
LAUREN RUNGER, [redacted]
JEAN M. SABIDO [redacted]
JOHN A. SADECKI, [redacted]
BIENVENIDA M. SALAZAR [redacted]
ALBERT G. SANDERS [redacted]
DELIA M. SANTIAGO [redacted]
HOWARD W. SCHACHT [redacted]
KEVIN D. SCHARFF, [redacted]
NICOLAUS A. SCHERMER [redacted]
JAMES L. SENN [redacted]
KIMBERLY D. SEUFERT [redacted]
CHERYL L. SHARP [redacted]
CARRIE L. SHARPLES [redacted]
ROBERT G. SHEA [redacted]
LEE A. SHEEHAN [redacted]
CLAIR M. SHEFFIELD [redacted]
WILLIAM L. SHOPP [redacted]
LOUANN SITES [redacted]
ERNESTINE SMITH [redacted]
SUSAN M. SMYKOWSKI [redacted]
IRENE M. SOTO [redacted]
MARIA STANEK [redacted]
DIANA L. STARKEY [redacted]
MICHAEL G. STEPP [redacted]
MARY E. SWEENEY [redacted]
DENISE M. TABARY [redacted]
ANNETTE TARDY [redacted]
DANIEL J. TAYLOR, JR [redacted]
TERRY L. THOMAS [redacted]
MICHAEL E. THOMPSON [redacted]
RICHARD H. THORNELL [redacted]
PATRICIA A. TOLES [redacted]
SUSAN A. TOUPS [redacted]
KAREN L. TOWNSEND [redacted]
CHERYL SCHARNELL TROCK [redacted]
CHRISTINE M. TRUEMAN [redacted]
BARBARA A. TUITELE [redacted]
BARBARA A. TURNER [redacted]
AMY L. VAFLOR [redacted]
KERRY VANORDEN, [redacted]
RACHEL VLK [redacted]
KARLA J. VOY [redacted]
DIANE L. WALLINGTON [redacted]
DOROTHY A. WEEKS [redacted]
FREDDIE WHITE [redacted]
MARY M. WHITEHEAD [redacted]
ELIZABETH M. WILCOX [redacted]
LOU A. WILLIAMS [redacted]
NANCY T. WILLIAMS [redacted]
SHERI L. WILLIAMSON [redacted]
WANDA F. WILLIS [redacted]
KIRBY L. WOOTEN III [redacted]
TAMARA YASELSKY [redacted]
CARMEN R. YOUNG [redacted]
RITA R. YOUSEF [redacted]

MEDICAL SERVICE CORPS

REGINA J. ARMENTROUT [redacted]
ALBERT J. BAINGER [redacted]
KYLE A. BAUMAN [redacted]
MARILYN A. BEATTY [redacted]
MONROE A. BRADLEY [redacted]
KEVIN D. BROUSSARD [redacted]
MICHELLE N. CALLISON [redacted]
DANIEL W. CAMPBELL [redacted]
GREGORY D. CARSON [redacted]
MICHAEL W. CASEY [redacted]
JACALYN K. EAGAN [redacted]
MARK A. ELLIS [redacted]
MICHAEL J. ELLIS [redacted]
DANIEL G. FLYNN [redacted]
DONOVAN Q. GONZALES [redacted]
VERA Z. GOROCHOW [redacted]
JOHN R. GREEN [redacted]
KARLAN B. HOGGAN [redacted]
TROY S. HORRISBERGER [redacted]
STACY A. KELLY [redacted]
MARK A. KOPPEN [redacted]
REX A. LANGSTON [redacted]
KATY L. MC CLURE [redacted]
FRANKIE D. MC DANIEL [redacted]

RICHARD A. MC MILLAN [redacted]
DAVID G. MISTRETTA [redacted]
LESLIE K. NESS [redacted]
ALFONSO M. NOYOLA [redacted]
LUANN OLLERT [redacted]
GARY M. ONYETT [redacted]
WILLIAM D. PARKER [redacted]
CRAIG A. PASCOE [redacted]
JOHN M. PATELLA [redacted]
DAVID W. PFAFFENBICHLER [redacted]
KEVIN F. PILLOUD [redacted]
ALEXANDER ROMEYN [redacted]
TERRY L. SANCHEZ [redacted]
SCOTT M. SHIELDS [redacted]
RONALD J. SHOLLEY [redacted]
ROGER G. SPONDIKE [redacted]
RUDY J. STONE [redacted]
RICHARD N. TERRY [redacted]
RICHARD D. THOMAS [redacted]
PORTIA A. T. THOMPSON [redacted]
TIMOTHY VALLADARES [redacted]
MARSHA M. WOODARD [redacted]
JESUS E. ZARATE [redacted]

BIOMEDICAL SCIENCES CORPS

THOMAS A. ANDOLINA [redacted]
HOLLY M. ARVIDSON [redacted]
MONTY R. BAILEY [redacted]
JOHN M. BEERY [redacted]
JOHN E. BELL [redacted]
MICKEY C. BELLEMIN [redacted]
RANDELL E. BLAKE [redacted]
CHARLES H. BLAKESLEE, JR [redacted]
JOANNE BOLLHOFER [redacted]
LINDA L. BONNEL [redacted]
LINDA K. BRANDT [redacted]
LISA A. BRIGHT [redacted]
SCOTT W. BROOKS [redacted]
RUSSELL L. BYRD [redacted]
STEPHEN J. BYRNES [redacted]
JOSEPH D. CALLISTER [redacted]
WALTER E. CALVO [redacted]
DAVID T. CAREY [redacted]
WILLIAM L. CARNES, JR [redacted]
BRIDGET K. CARR [redacted]
MICHAEL E. CHULICK [redacted]
JEFFREY A. CIGRANG [redacted]
RANDALL S. COLLINS [redacted]
NICHOLAS CONSENTINO [redacted]
DANIEL J. CROSSLEY [redacted]
PAUL D. DAVENPORT [redacted]
DEBORAH A. DOWNES [redacted]
DAVID DUQUE [redacted]
SHEREE L. EDKIN [redacted]
NANCY K. FAGAN [redacted]
DENNIS W. FAY [redacted]
TIMOTHY C. FLACH [redacted]
SARAH R. FUTTERMAN [redacted]
GALEN G. GEARHEART [redacted]
MARGARET A. GERNER [redacted]
FRANK J. GODSHALL [redacted]
RAYE A. GRIFFIN [redacted]
BETSAIDA H. GUZMAN [redacted]
SAMUEL D. HALL, II [redacted]
MARGARET C. HAWKINS [redacted]
JIMMY D. HENRY [redacted]
NANCY M. HEWITT [redacted]
ANETTE HIKIDA [redacted]
KURTIS K. HILL [redacted]
LEE C. HINRICHSEN [redacted]
STEVEN R. HINTEN [redacted]
JUDY A. HOUSE [redacted]
HARRY B. JEFFRIES, JR [redacted]
MARCUS A. JIMMERSON [redacted]
JEFFREY A. JOHNSON [redacted]
MONNIE J. JOHNSON [redacted]
RONALD S. JOHNSON [redacted]
MARK A. JURY [redacted]
JOHN D. KESSLER [redacted]
SANDRA A. KNUTSON [redacted]
RONALD L. LAHTI [redacted]
JULIA A. LAULESS [redacted]
CYNTHIA L. LEEZIEGLER [redacted]
VERNON T. LEW [redacted]
JOHN C. LIPSCOMB [redacted]
JENNIFER L. MANN [redacted]
MEGAN MC CORMICK [redacted]
KYMBLE L. MC COY [redacted]
WILLIAM D. MC COY [redacted]
JAMES J. MC DEVIT [redacted]
DAVID J. MC INTYRE [redacted]
SUSAN L. MYERS [redacted]
RONALD T. NOWALK [redacted]
GHITIANA M. OATIS [redacted]
DANIEL R. OLEARY [redacted]
MARK S. OORDT [redacted]
LESLIE L. PAULEY [redacted]
BRIAN J. PFEIFFER [redacted]
RICHARD A. PHINNEY [redacted]
KELLY A. PREDIERI [redacted]
STEVEN P. QUIGLEY [redacted]
MARY L. QUINT [redacted]
JENNY H. RAINWATER [redacted]
SARA M. RAMIREZ [redacted]
DANIEL E. REISER [redacted]
ROBERT A. RELLA [redacted]
DAVID G. RICE, III [redacted]
LONDON S. RICHARD [redacted]
PAUL R. RINEST [redacted]
WILLIAM P. ROACH [redacted]
CHRISTOPHER S. ROBINSON [redacted]
DAWN L. ROCKETT [redacted]
KENNETH R. RUSSELL, JR [redacted]
REBECCA L. SALASGROVES [redacted]
JEFFREY D. SALMAN [redacted]
CONRANDO C. SAMPANG [redacted]
SCOTT E. SANZOTTA [redacted]
DONALD H. SAVAGE [redacted]
LEONARD W. SCHUBRING [redacted]
SCOTT C.G. SHEPARD [redacted]
LEE D. SHIBLEY [redacted]
MICHAEL B. SLACK [redacted]
JAMES B. SNYDER [redacted]
SUSAN E. SNYDER [redacted]
BRIAN K. STANTON [redacted]
HELEN ANN STRACK [redacted]
RONALD R. STUMBO [redacted]
CATHY A. THOMAS [redacted]
GRETCHEN C. TYLER [redacted]
STEPEHN H. VINING [redacted]
JOY E. VROONLAND [redacted]
JOEL W. WASHINGTON [redacted]
PATRICIA K. WELCH [redacted]
JAMES O. WHITE [redacted]
PAUL G. WILSON [redacted]
WILLIAM P. WONDRA [redacted]
WILLIAM D. WOODCOX [redacted]
KAREN C. YAMAGUCHI [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be colonel

ALVIN D. AARON [redacted]
FREDERIC E. ABT [redacted]
ROY H. ADAMS [redacted]
RICHARD J. ADAN [redacted]
GARY R. ADDISON [redacted]
JAMES C. ALLARD [redacted]
JAMES C. ALLEN [redacted]
JOHNNIE L. ALLEN [redacted]
MICHAEL W. ALVIS [redacted]
CHARLES ATKINS [redacted]
LLOYD J. AUSTIN [redacted]
BYRON S. BAGBY [redacted]
MICHAEL J. BAIER [redacted]
ALLEN S. BAKER [redacted]
DANIEL F. BAKER [redacted]
TIMOTHY J. BAKER [redacted]
MICHAEL D. BARGERO [redacted]
BERNARD A. BARNES [redacted]
DANIEL J. BAUR [redacted]
LOIS C. BEARD [redacted]
JAMES W. BERRY [redacted]
BRUCE A. BERWICK [redacted]
MICHAEL A. BINGHAM [redacted]
GEORGE A. BIRDSONG [redacted]
ROY V. BISHOP, 429-02-4634
MERRILL S. BLACKMAN [redacted]
JOHN O. BLAKENEY [redacted]
GARTH T. BLOXHAM [redacted]
LOUIS T. BONHAM [redacted]
TIMOTHY G. BOSSE [redacted]
THOMAS P. BOSTICK [redacted]
JAMES W. BOYLE [redacted]
NEAL H. BRADLEY [redacted]
WILLIAM BRANSFORD [redacted]
LARRY M. BROM [redacted]
DAVID BROWN, JR. [redacted]
SUSAN A. BROWNING [redacted]
RANDALL E. BRUCH [redacted]
KONE BRUGH II [redacted]
ALBERT BRYANT, JR [redacted]
MAURICE BUCHANAN [redacted]
HOWARD C. BUTLER [redacted]
REMO BUTLER [redacted]
SEAN J. BYRNE [redacted]
JAMES D. CAMBRON [redacted]
DAVID W. CAMMONS [redacted]
MARY P. CAPIN [redacted]
CHARLES N. CARDINAL [redacted]
WALDO F. CARMONA [redacted]
ALLAN B. CARROLL [redacted]
ROGER L. CARTER [redacted]
ROBERT L. CASLEN [redacted]
DAVID M. CASMUS [redacted]
RANDAL R. CASTRO [redacted]
STEPHEN D. CELLUCCI [redacted]
RANDALL D. CHASE [redacted]
CHARLES D. CHILDERS [redacted]
MICHAEL CHRISTIAN [redacted]
JAMES W. CHURCH [redacted]
ROBERT L. CLARK [redacted]
ROBERT D. CLEMENCE [redacted]
MICHAEL R. CLIFFORD [redacted]
WILLIAM CLINGEMPEEL [redacted]
JAMES A. COGGIN [redacted]
LARRY W. COKER [redacted]
PHILIP D. COKER [redacted]
EDDIE D. COLEMAN [redacted]
GARY S. COLEMAN [redacted]
RUTH B. COLLINS [redacted]
MICHAEL L. COMBEST [redacted]
JOHN R. COMBS [redacted]
HAROLD E. COONEY [redacted]
ANTHONY COROALLES [redacted]
ROBERT W. CRAWFORD [redacted]
GARY G. DACEY [redacted]
TIMOTHY M. DANIEL [redacted]
DONALD P. DAUGHERTY [redacted]
JOHN E. DAVIES [redacted]
DANIEL J. DAVIS [redacted]
ROBERT L. DAVIS [redacted]
RONALD V. DAVIS [redacted]
MARK K. DEAN [redacted]
ROY S. DEFORD [redacted]
JOHN L. DELLAJACONO [redacted]
EMILIO DIGIORGIO [redacted]
MARK W. DILLE [redacted]
ROBERT R. DONOHO [redacted]
LAWRENCE C. DOTON [redacted]
ANN K. DRACH [redacted]
COLIN K. DUNN [redacted]
LARRY M. EDMONDS [redacted]
GEORGE EDWARDS [redacted]
JACKEY L. EDWARDS [redacted]
MERLE B. ELLIOTT [redacted]
ANDREW G. ELLIS [redacted]
DENNIS D. ERICKSON [redacted]
GREGORY H. EVENSTAD [redacted]
WILLIAM L. FAISTENHAMMER [redacted]
DAVID A. FASTABEND [redacted]
LANCE M. FEERO [redacted]
DAVID N. FETTER [redacted]
EDWARD J. FILIBERTI [redacted]
EDWARD A. FISHER [redacted]
BENJAMIN FLETCHER [redacted]
MICHAEL C. FLOWERS [redacted]
BILLY W. FORRESTER [redacted]
CHARLES S. FOWLER [redacted]
LAWRENCE J. FRANK [redacted]
JOSEPH FRANKIE III [redacted]
STEVEN J. FRAZIER [redacted]
JOHN D. FRKETIC [redacted]
MANUEL FUENTES [redacted]
THOMAS A. GANDY [redacted]
MANOLITO GARABATO [redacted]
GREGORY C. GARDNER [redacted]
JOHN D. GARDNER [redacted]
LOUIS GELLING, JR [redacted]
PETER W. GIBBONS [redacted]
JOSEPH L. GILBREATH [redacted]
CARLOS R. GLOVER [redacted]
MARY G. GOODWIN [redacted]
WILLIAM P. GOODWIN [redacted]
JAMES E. GORDON [redacted]
ROBERT L. GORE [redacted]
ROBERT G. GORRIE [redacted]
JOHN K. GRAHAM [redacted]
DALE R. GRANGER [redacted]
BRUCE D. GRANT, [redacted]
LEONARD A. GRASSO [redacted]
HAROLD A. GRAZIANO [redacted]
KEVIN J. GREANEY [redacted]
RICHARD S. GULA [redacted]
ROBERT T. GUNNING [redacted]
KARL J. GUNZELMAN [redacted]
DAVID A. HAFELE [redacted]
JAMES H. HAIRSTON [redacted]
CHARLES W. HALL [redacted]
JOHN W. HALL [redacted]
SUSAN S. HALTER [redacted]
EDWARD A. HAMILTON [redacted]
STEVEN C. HAMILTON [redacted]
THEODORA HAMILTON [redacted]
MARY A. HAMMOND, [redacted]
GARY L. HARRELL [redacted]
THOMAS M. HARRISON [redacted]
GLENN J. HARROLD [redacted]
MICHAEL C. HARVEY [redacted]
WILLIAM A. HASTIE [redacted]
ROBERT J. HAUSER [redacted]
EGON F. HAWRYLAK [redacted]
MICHAEL N. HAWRYLAK [redacted]
MICHAEL T. HAYES [redacted]
MARK HENDERSON [redacted]
MICHAEL D. HEREDIA [redacted]
MARK P. HERTLING [redacted]
JANET E. HICKS [redacted]
THOMAS N. HINKEL [redacted]
JAMES T. HIRAI [redacted]
MICHAEL HOLLINGSWORTH [redacted]
GARY L. HOLLISTER [redacted]
WALTER L. HOLTON [redacted]
JAY W. HOOD [redacted]
JOHN A. HOOK [redacted]
KARL R. HORST [redacted]
STEPHEN B. HOWARD [redacted]
OLIVER H. HUNTER [redacted]
KENNETH W. HUNZEKER [redacted]
DOUGLAS HUTHWAITE [redacted]
DANIEL D. IMHOLTE [redacted]
JONATHAN F. JACKSON [redacted]
EDWIN P. JANASKY [redacted]
JERRY D. JOHNSON [redacted]
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RICHARD M. JOHNSON [redacted]
ROBERT E. JOHNSON [redacted]
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THOMAS L. JONES [redacted]
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PAUL B. KAPPELMAN [redacted]
JAN S. KARCZ [redacted]
THOMAS KELLER [redacted]
JAMES A. KELLEY [redacted]
DOUGLAS KEY [redacted]
MARK T. KIMMITT [redacted]
MARK R. KINDL [redacted]
ROBERT C. KLASS [redacted]
MATTHEW S. KLIMOW [redacted]
LAWRENCE KLOOSTER [redacted]

WAYNE R. KNISKERN [redacted]
TED O. KOSTICH [redacted]
CARL J. KROPF [redacted]
DONALD KROPP [redacted]
NEIL P. KRUKAR [redacted]
ALAN D. KRUSE [redacted]
DONALD L. LANGRIDGE [redacted]
PHILIP A. LAPERLA [redacted]
STEPHEN A. LAROCCA [redacted]
JAMES L. LAUGHLIN [redacted]
GERALD A. LECHLITER [redacted]
CHARLES B. LEE [redacted]
MICHAEL A. LEEPER [redacted]
ROBERT C. LEICHT [redacted]
HARRY L. LEIFERMAN [redacted]
DENNIS R. LEWIS [redacted]
EDMUND W. LIBBY [redacted]
BOBBY A. LITTLE [redacted]
TIMOTHY D. LIVSEY [redacted]
ANDREW G. LOERCH [redacted]
ANTHONY N. LOVE [redacted]
JAMES R. LOY [redacted]
JUDITH A. LUCKETT [redacted]
THOMAS G. LUEBKER [redacted]
TIMOTHY M. LUND [redacted]
RICKY LYNCH [redacted]
PATRICK D. MACE [redacted]
DOUGLAS MACGREGOR [redacted]
JOSEPH P. MACKIN [redacted]
FRENCH L. MACLEAN [redacted]
DANIEL M. MAGUIRE [redacted]
JOHN R. MARTIN [redacted]
WILLIAM H. MARVIN [redacted]
GEORGE E. MAUSER [redacted]
RUSSELL J. MAZIARKA [redacted]
ROBERT H. MCBRIDE [redacted]
KAREN L. MC CLELLAN [redacted]
WILLIAM H. MC COY [redacted]
JOHN H. MC DONALD [redacted]
TIMOTHY P. MC HALE [redacted]
JOSEPH B. MC MILLAN [redacted]
GARY K. MC MILLEN [redacted]
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BENJAMIN R. MIXON [redacted]
DAVID M. MOAK [redacted]
JERRY T. MOHR [redacted]
MICHAEL R. MOLOSSO [redacted]
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GEORGE MONTGOMERY [redacted]
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GARY E. MORGAN [redacted]
MARCIA R. MORGAN [redacted]
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ALTON D. MORRISON [redacted]
GARY J. MOTSEK [redacted]
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JAMES R. MYLES [redacted]
ROGER A. NADEAU [redacted]
RAY A. NELSON [redacted]
EDWARD W. NEWING [redacted]
LARRY C. NEWMAN [redacted]
PATRICIA L. NOLIN [redacted]
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KURT D. NORMAN [redacted]
JOHN D. NORWOOD [redacted]
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GEORGE F. OLIVER [redacted]
DAVID K. OSBORN [redacted]
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GEORGE M. PARKER [redacted]
KERRY R. PARKER [redacted]
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DANIEL J. ROH [redacted]
VICTOR M. ROSELLO [redacted]
HY S. ROTHSTEIN [redacted]
RICHARD J. ROWE [redacted]
GARY A. ROYSTER [redacted]
FRED A. RUNNELS [redacted]
DAVID W. RUSSELL [redacted]
CHRISTOPHER SARGENT [redacted]
KURT R. SAULSBURY [redacted]
RICHARD M. SAUNDERS [redacted]
JOSEPH SCHROEDEL [redacted]
CHARLES SCHWOEBEL [redacted]
BARRY L. SCRIBNER [redacted]
GRATTON O. SEALOCK [redacted]
WAYNE R. SEARS [redacted]
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LINDA J. SHOCKLEY [redacted]
JOHN F. SHORTAL [redacted]
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HARRY G. SIMMETH [redacted]
ARNOLD SMITH [redacted]
ERIC F. SMITH [redacted]
JOHN B. SMITH [redacted]
KIMBERLEY T. SMITH [redacted]
LAWRENCE J. SOWA [redacted]
ROBERT L. STAGGERS [redacted]
ANTHONY J. STAMILIO [redacted]
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ALAN G. STOLBERG [redacted]
MICHAEL C. STRIPLIN [redacted]
GREGORY H. SWANSON [redacted]
PATRICK C. SWEENEY [redacted]
GARY G. SWENSON [redacted]
MARK L. SWINSON [redacted]
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RUSSELL H. THADEN [redacted]
PATRICK A. THOMAS [redacted]
STEPHEN G. THOMAS [redacted]
LEE A. THOMPSON [redacted]
WILLIAM H. THROOP [redacted]
DAVIS D. TINDOLL [redacted]
OMER C. TOOLEY [redacted]
DAVID F. TREUTING [redacted]
JOHN F. TROXELL [redacted]
HAROLD A. TUCKER [redacted]
JOHN J. TWOHIG [redacted]
RONALD W. VANDIVER [redacted]
JAMES G. VANPATTEN [redacted]
CHARLES VANSISTINE [redacted]
DALE W. VARGA [redacted]
JOSE A. VAZQUEZ [redacted]
KEITH C. WALKER [redacted]
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VOLNEY J. WARNER [redacted]
BRETT H. WEAVER [redacted]
ROBERT J. WEBER [redacted]
JAMES A. WELLS [redacted]
LAMONT J. WELLS [redacted]
DEWEY D. WHEAT [redacted]
ELMER G. WHITE II [redacted]
FRANK G. WHITEHEAD [redacted]
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ROBERT M. WILLIAMS [redacted]
COLEN K. WILLIS [redacted]
PAUL G. WOLFE [redacted]
THOMAS E. WOOSLEY [redacted]
WILLIAM B. WRIGHT [redacted]
DONALD R. YATES [redacted]
JOHN A. YINGLING [redacted]
TERRY R. YOUNGBLUTH [redacted]
RICHARD P. ZAHNER [redacted]
CRAIG L. ZIMMERMAN [redacted]

IN THE AIR FORCE

THE FOLLOWING CADETS, UNITED STATES AIR FORCE ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 9353(B) AND 531, TITLE 10, U.S.C., WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE

CARLOS L. ACEVEDO [redacted]
MATTHEW C.J. ADAMS [redacted]
MICHAEL A. AGUILAR [redacted]
MATTHEW C. AHNER [redacted]
IVAN AKERMAN [redacted]
JEFFREY D. ALEXANDER [redacted]
PHILIP R. ALEXANDER [redacted]
GARY L. ALLEN, JR. [redacted]
JASON N. ALLEN [redacted]
THERESA M. ALLEN [redacted]
JEFFREY T. ALLISON [redacted]
DUSTIN D. ALLRED [redacted]
KEVIN D. ALLRED [redacted]
JUAN A. ALVAREZ [redacted]
EDWARD R. ANDERSON [redacted]
AMY L. ANDERT [redacted]
GIGI D. ANGELES [redacted]
SHAWN E. ANGER [redacted]
NICHOLAS G. ANTONOPULOS [redacted]
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JASON G. ARNOLD [redacted]
MICHAEL J. ARTELLI [redacted]
JASON B. AVRAM [redacted]
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ANTHONY D. BABCOCK [redacted]
LISLE H. BABCOCK [redacted]
CHRISTOPHER A. BACON [redacted]
DANTE C. BADIA [redacted]
GEORGE E. BAJUSCIK [redacted]
PAUL D. BAKER [redacted]
CHRISTOPHER T. BARBER [redacted]
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RUSSELL D. BARKER [redacted]
RYAN R. BARNEY [redacted]
ANTHONY R. BARRETT [redacted]
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CLAYTON B. BARTELS [redacted]
LINELL A. BARTHOLIC [redacted]
WILLIAM M. BARTLETT [redacted]
BRIAN R. BAUDE [redacted]
BRIAN S.D. BAUMAN [redacted]
MELISSA K. BAUMANN [redacted]
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ANGELA S. BECKER [redacted]
ELIZABETH C. BEEGAN [redacted]
KEVIN R. BEEKER [redacted]
DANIEL J. BEGIN [redacted]
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ERIN K. BERRY [redacted]
TIMOTHY J. BICE, JR. [redacted]
ERIK D. BIEBIGHAUSER [redacted]
PAUL R. BIRCH [redacted]
SAMUEL W. BIRCH [redacted]
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DEREK S. BLOUGH [redacted]
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KYLE J. BOECKMAN [redacted]
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WILLIAM J. BOEHME [redacted]
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JAMES B. BONGIOLATTI [redacted]
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BARBARA M. BRENNAN [redacted]
ROBERTA L. BREYEN [redacted]
CHRISTOPHER A. BRIDGES [redacted]
SCOTT E. BRIESE [redacted]
JEREMY D. BRIGHAM [redacted]
DANIEL S. BRINGS [redacted]
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NIKO S. BRONSON [redacted]
MATTHEW R. BROOKS [redacted]
PENELOPE A. BROOKS [redacted]
DARRYL V.D. BROWN, JR. [redacted]
MATTHEW A. BRUHN [redacted]
DONALD R. BRUNK [redacted]
BYRON T. BRUNSON [redacted]
RANDALL T. BRUNSON [redacted]
ROBERT H. BRYANT III [redacted]
BRENTON S. BUCKNER [redacted]
JONATHAN C. BUFFINGTON [redacted]
RODNEY D. BULLARD [redacted]
BRIAN B. BULLERMAN [redacted]
MITCHELL A. BULMANN [redacted]
TIMOTHY D. BUNNELL [redacted]
MATTHEW K. BURBA [redacted]
CURTIS W. BURNEY [redacted]
DAVID A. BURNS [redacted]
BRIAN E. BURR [redacted]
GAIL D. BUTLER [redacted]
THOMAS A. CABALLERO [redacted]
MICHAEL R. CABRAL [redacted]
BRYAN J. CAHILL [redacted]
MAURIZIO D. CALABRESE [redacted]
ROBERT G. CALTRIDER [redacted]
JACOB T. CAMPBELL [redacted]
MARY M. CANCELLARA [redacted]
JEFFREY A. CANNON [redacted]
RALPH T. CANNON [redacted]
ANTHONY J. CAPARELLA [redacted]
JOSEPH M. CAPASSO [redacted]
SHAY R. CAPEHART [redacted]
PAUL K. CARLTON III [redacted]
CAMERON W. CAROOM [redacted]
STEPHEN M. CARR [redacted]
CHRISTOPHER C. CARTER [redacted]
MICHAEL B. CASEY [redacted]
DEIRDRE C. CATLIN [redacted]
MICHAEL W. CAVELLO [redacted]
AARON C. CERRONE [redacted]
MICHAEL A. CERVANTEZ [redacted]
WILL C. CHAFFEE IV [redacted]
MARK D. CHAGARIS [redacted]
KIMBERLY A. CHALAIRE [redacted]
KELLEY A. CHASE [redacted]
RONALD E. CHEATHAM [redacted]
RAYMOND A. CHEHY, JR. [redacted]
JORGE CHEN [redacted]
LISA M. CHERRY [redacted]
PINNIE Y. CHILIGIRIS [redacted]
NATHAN A. CHINE [redacted]
WAYNE M. CHITMON [redacted]
JOHN A. CHRIST [redacted]
KELSEY T. CHRISTOPHER [redacted]
DAVID J. CIESIELSK [redacted]
BRET J. CILLESSEN [redacted]
CHRISTOPHER R. CLARK [redacted]
TAD D. CLARK [redacted]
WILL CLARK [redacted]
DOMINIC P. CLEMENTZ [redacted]
TOM R. COATES [redacted]
BRENT S. COBB [redacted]
KARRINA M. COLEMAN [redacted]
JOHN A. COMINIELLO [redacted]
RENA A. CONEJO [redacted]
THEODORE E. CONKLIN, JR. [redacted]
JAMES A. CONLEY [redacted]
MICHAEL E. CONLEY [redacted]
GERALD M. COOK [redacted]

TODD W. COOK [redacted]
JASON C. COOKE [redacted]
JASIN R. COOLEY [redacted]
ANDREW E. COOP [redacted]
JUSTIN D. COOPER [redacted]
DAX CORNELIUS [redacted]
JOHN M. CORNETT [redacted]
CASEY A. CORNISH [redacted]
EDWARD N. CORRIDORI [redacted]
SHAWN C. COVAULT [redacted]
WILEY R. COX [redacted]
JOHN C. COYLE [redacted]
BRIAN J. COYNE [redacted]
ERIK C. COYNE [redacted]
DIALLO O. CREAL [redacted]
DEWAYNE J. CREAMER [redacted]
BRIAN H. CRISMORE [redacted]
JEFFREY C. CROUSE [redacted]
ROBERT A. CUELLAR [redacted]
CHRISTOPHER A. CULLENBINE [redacted]
TIMOTHY W. CUMMINS [redacted]
JEFFREY M. CUNNINGHAM [redacted]
KENNETH T. CUSHING [redacted]
VINCENT E. CYRAN [redacted]
MARTIN T. DAACK, JR. [redacted]
STEPHEN G. DAMICO [redacted]
CALVIN E. DANIELS, JR [redacted]
NHUT L. DAO [redacted]
MELISSA S. DAVIDSON [redacted]
JEFFREY W. DAVIES [redacted]
ALISYA DAVIS [redacted]
JONATHAN G. DAVIS [redacted]
MATTHEW L. DAVIS [redacted]
RYAN W. DAVIS [redacted]
THOMAS P. DAVIS [redacted]
LADENAID D. DAY [redacted]
MATTHEW R. DEAN [redacted]
SARA B. DEAVER [redacted]
MICHAEL D. DEE [redacted]
GWENDOLYN R. DEFILIPP [redacted]
MARK W. DEGIRONIMO [redacted]
ERIC R. DELWICHE [redacted]
KEITH A. DERBENWICK [redacted]
MARK J. DEROCK [redacted]
DOUGLAS C. DERRICK [redacted]
MATTHEW P. DEUTSCH [redacted]
JOHAN A. DEUTSCHER [redacted]
JEFFREY M. DILL [redacted]
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DOUGLAS J. DISTASO [redacted]
ELTON E. DIXON [redacted]
KIPLING B. DIXON [redacted]
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ROSADEL S. DOMINGUEZ [redacted]
MICHAEL R. DONAGHY [redacted]
CHRISTOPHER F. DOUGHERTY [redacted]
EVE A. DOUGLAS [redacted]
ENRIQUE DOVALO, JR. [redacted]
JONATHAN G. DOWNING [redacted]
NATHANIEL S. DOWNING [redacted]
BRADLEY C. DOWNS [redacted]
MICHAEL R. DROWLEY [redacted]
DARON J. DROWN [redacted]
SCOTT A. DRUMMOND, JR. [redacted]
ALLEN E. DUCKWORTH [redacted]
ANTHONY W. DUDLEY [redacted]
STEPHEN T. DUJMOVIC [redacted]
CRAIG L. DUMAS [redacted]
JOHN J. DUNCAN [redacted]
RAY W. DUNHAM III [redacted]
TRACY L. DUPREE [redacted]
DAVID M. DUTCHER [redacted]
RICHARD E. DWYER [redacted]
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LORALIE EDINGER [redacted]
ADAM L. EDWARDS [redacted]
KATRINA A. EKMAN [redacted]
ROBERT L. ELLER [redacted]
NICOLE M. ELLINGWOOD [redacted]
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ROBERTO, FIGUEROA [redacted]
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VERNON J. FLETCHER [redacted]
ADAM C. FLOOD [redacted]
JACK D. FLOYD [redacted]

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ROUVEN M. FORBES [redacted]
JOHN D. FOSTER [redacted]
KRISTIN A. FOSTER [redacted]
LANELL J.E. FOUNTAIN [redacted]
STEFANIE M. FOX [redacted]
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STEPHEN P. FRANK [redacted]
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RYAN C. FRAZIER [redacted]
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AMIE L. GRABANSKI [redacted]
PAUL G. GRADDON [redacted]
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DAGOBERTO GUERRERO [redacted]
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GARRETT L. GULISH [redacted]
KEITH D. GURNICK [redacted]
BRIAN C. GWINNUP [redacted]
ALEXANDER J. HADDAD [redacted]
CARL R. HAGEN [redacted]
GERHARD HAHN [redacted]
SANG K. HAHN [redacted]
MICHAEL G. HAINES [redacted]
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ANNMARIE HALTERMAN [redacted]
BRIAN J. HAMLET [redacted]
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JENNIFER HAMMERSTEDT [redacted]
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JUSTIN A. HANSEN [redacted]
MARK W. HANSON [redacted]
VALERIE W. HARDAWAY [redacted]
JOHN M. HARDEE [redacted]
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SCOTT A. HARTMAN [redacted]
WILLIAM P. HARVEY [redacted]
TYLER E. HATCH [redacted]
BRYAN A. HAY [redacted]
KATHERINE M. HAYDEN [redacted]
KARAMO D. HAYWARD [redacted]
TRACY L. HEALY [redacted]
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MICHAEL R. HENDERSON [redacted]
STEVEN D. HENDRICKS [redacted]
JOHNATHAN E. HENDRIX [redacted]
DAVID A. HENSHAW [redacted]
BLAIR A. HERDRICK [redacted]
SCOTT A. HERITSCH [redacted]
MARC C. HERRERA [redacted]
NATHANIEL B. HESSE [redacted]
KEVIN C. HETRICK, [redacted]
ROBERT S. HILLIARD [redacted]
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JASON R. HINDS [redacted]
WALTER R. HODGES III [redacted]
DARIN L. HOENLE [redacted]

ROBERT J. HOERITZ, JR [redacted]
ERIK K. HOFFMAN [redacted]
DANIEL J. HOGAN [redacted]
JEFFREY A. HOGAN [redacted]
ALLEN D. HOLDER [redacted]
DAVID N. HOLLOMAN [redacted]
NATALIE HOLZHERR [redacted]
ALAN M. HOOK [redacted]
JOSEPH E. HOPKINS [redacted]
ALLEN J. HORSENS [redacted]
KRISTOPHER J. HORTON [redacted]
JASON D. HOSKINS [redacted]
FRANCIS F. HOWARD, JR. [redacted]
JOSEPH M. HOWARD [redacted]
JOSEPH S. HOWARD [redacted]
SCOTT J. HOWE [redacted]
MERNA H.H. HSU [redacted]
NATHAN G. HUBER [redacted]
CHAD B. HUDGINS [redacted]
LERON D. HUDGINS [redacted]
BRYAN R. HUFFMAN [redacted]
COLIN P. HUGHES [redacted]
JAMES P. HUGHES, JR [redacted]
KRISTOPHER M. HUGHES [redacted]
MATTHEW R. HUNTER [redacted]
WILLIAM R. HURT [redacted]
CHRISTOPHER G. HUTCHINS [redacted]
JARED J. HUTCHINSON [redacted]
VERONICA J. HUTFLES [redacted]
KRISTI L. HYNES [redacted]
JAVIER M. IBARRA [redacted]
CHADWICK D. IGL [redacted]
DAVID J. IRVIN, JR. [redacted]
ZIGMUND W. JACKIM [redacted]
CHRISTOPHER R. JACKSON [redacted]
KENDRA L. JACOB [redacted]
SEMA A. JASTREBSKI [redacted]
JEREMY M. JENNESS [redacted]
ANTONIO D. JESURUN [redacted]
JACQUE M. JOFFRION [redacted]
CHRISTOPHER T. JOHANNSSEN [redacted]
DANTE L. JOHNSON [redacted]
GLENN S. JOHNSON [redacted]
JAMES R. JOHNSON [redacted]
JAMES W. JOHNSON, JR [redacted]
PHILLIP K. JOHNSON [redacted]
JEREMY T. JOHNSTON [redacted]
GRAILING JONES, JR. [redacted]
JAMES A. JONES [redacted]
KEITH W. JONES [redacted]
THOMAS C. JUDD [redacted]
JASON M. JULIANA [redacted]
BLAIR I. KAISER [redacted]
JAMES E. KAJDASZ [redacted]
JON J. KALBERER [redacted]
TIM Y. KAO [redacted]
DEREK J. KECK [redacted]
KEVIN A. KEENE [redacted]
BRENT A. KELLY [redacted]
ROBERT H. KELLY [redacted]
JOHN A. KENT IV [redacted]
SHAYNE K. KIEFER [redacted]
ROBERTA A. KILROY [redacted]
BRETT A. KING [redacted]
JONATHAN D. KING [redacted]
KELVIN D. KING [redacted]
CHRISTOPHER P. KIRBY [redacted]
ERIK A. KJELLBERG [redacted]
KRISTOPHER M. KLEIN [redacted]
ROBERT G. KNOWLTON [redacted]
JENNIFER A. KORNACKER [redacted]
MATTHEW H. KOUCHOUKOS [redacted]
KEVIN D. KOZUCH [redacted]
KURT F. KREMSER [redacted]
JOSEPH P. KRIEGER [redacted]
CHRISTOPHER L. KROSSCHELL [redacted]
TERENCE Y. KUDO [redacted]
CHRISTOPHER K. LACOUTURE [redacted]
DARIN A. LADD [redacted]
JOEL A. LAFLEUR [redacted]
SHAWN T. LANE, [redacted]
CHRISTOPHER M. LANIER [redacted]
MARK A. LANKFORD [redacted]
CHRISTOPHER E. LANTAGNE [redacted]
KEN M. LANTAGNE [redacted]
CLEMENTE E. LARA, JR [redacted]
ERIC C. LARSON [redacted]
TERESA R. LARSON [redacted]
GREGORY M. LASSERE [redacted]
CHARLIE L. LAW [redacted]
JASON R. LAWLESS [redacted]
LEANNE M. LAWRENCE [redacted]
CHRISTOPHER T. LAY [redacted]
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ROBERT T. LEE [redacted]
RICHARD A. LEHMKUHL, [redacted]
COLLEEN M. LEHNE [redacted]
MICHAEL A. LENHART [redacted]
LELAND K. LEONARD [redacted]
DANIEL J. LEONE [redacted]
DAVID M. LERCHER [redacted]
GREGORY M. LETENDRE [redacted]
FREDERICK L. LEWIS, JR [redacted]
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TODD M. LINDELL [redacted]
CHADWICK D. LINDSTROM [redacted]
RYAN A. LINK [redacted]
MATTHEW D. LINNELL [redacted]
ALEXANDER B. LINVILLE [redacted]
NOEL R. LIPANA [redacted]
THOMAS E. LIVINGSTON [redacted]
MARCUS A. LLANUSA [redacted]

STEVEN W. LO [redacted]
JOHN R. LODMELL [redacted]
RYAN W. LOGAN [redacted]
SCOTT W. LOGAN [redacted]
GEOFFREY E. LOHMILLER [redacted]
JEREMY D. LONG [redacted]
PATRICK V. LONG [redacted]
SCOTT E. LORENZ [redacted]
CARRIE G. LOUDERMILK [redacted]
WILLIAM E. LOUX [redacted]
ANDY K. LOVING [redacted]
KRISTI LOWENTHAL [redacted]
STEPHEN J. LUCAS [redacted]
DANIEL L. LUCE [redacted]
RODNEY E. LUCKETT [redacted]
JOHN R. LUDINGTON III [redacted]
RANDY M. LUDWIG [redacted]
JACOB D. LUNDBERG [redacted]
DARCY C. LYDAY [redacted]
CHRISTIAN L. LYONS [redacted]
ANN E. MACGHEE [redacted]
ERIC G. MACK [redacted]
PHILIP D. MAC WILIAMS [redacted]
CURTIS J. MADELEY [redacted]
BRENT A. MAIER [redacted]
MARK A. MALAN [redacted]
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AFIA I. MALONE [redacted]
JOHN G. MANGAN [redacted]
MICHAEL P. MANION [redacted]
RYAN W. MARESH [redacted]
DANIEL L. MARINE [redacted]
GAVIN P. MARKS [redacted]
EDWARD W. MARSH [redacted]
RICHARD A. MARSH [redacted]
MARGARET C. MARTIN [redacted]
SEAN P. MARTIN [redacted]
MICHAEL A. MARTINEZ [redacted]
SARAH E. MARTINEZ [redacted]
ALEXANDER E. MASK [redacted]
AMBER D. MASON [redacted]
LANCE C. MASSEY [redacted]
SCOTT R. MATTES [redacted]
STEPHEN B. MATTHEWS [redacted]
RYAN P. MATTSON [redacted]
JENNIFER L. MAYERS [redacted]
COLLEEN M. MC BRATNEY [redacted]
THOMAS C. MC BRIDE [redacted]
MEGHAN E. MC CANN [redacted]
CHRISTOPHER J. MC CARTHY [redacted]
JOSHUA D. MC CLURE [redacted]
ALAN P. MC CRACKEN [redacted]
BRIAN MC CRAY [redacted]
WILLIAM J. MC CRINK III [redacted]
MICHAEL P. MC DERMOTT [redacted]
BRIAN C. MC DONALD [redacted]
TIAA E. MC DONALD [redacted]
WILLIAM T. MC ELHINNEY [redacted]
CHAD V. MC GARRY [redacted]
MATTHEW J. MC GARRY [redacted]
WENDELL F. MC GINNIS II [redacted]
KEVIN J. MC GOWAN [redacted]
JAIME P. MC GRATH [redacted]
THOMAS C. MC INTYRE [redacted]
SCOTT A. MC LAREN [redacted]
CHARLES F. MC LEAN III [redacted]
JACOB C. MC MANUS [redacted]
ANDRE A. MC MILLIAN [redacted]
ANDREW L. MC WHORTER [redacted]
JEFFREY MEADE [redacted]
ANDREW M. MEEHAN [redacted]
JEFFREY S. MEEK [redacted]
THOMAS M. MEER [redacted]
EDVARDO C. MEIDUNAS [redacted]
DAVID C. MEIER [redacted]
MARK L. MEIER [redacted]
MATHES H. MENNELL [redacted]
CHRISTOPHER E. MENUEY [redacted]
CHARLES J. METZGAR [redacted]
ERIC A. MICAL [redacted]
DAVID M. MICHAUD [redacted]
SARAH F. MIKLASKI [redacted]
CHRISTOPHER N. MILES [redacted]
DEREK R. MILLER [redacted]
ELLEN M. MILLER [redacted]
STEPHEN C. MILLER [redacted]
FREDERICK W. MILLET, JR [redacted]
ANTHONY J. MIMS [redacted]
REGINALD D. MINTON [redacted]
CHRISTOPHER L. MITCHELL [redacted]
ERIC A. MITCHELL [redacted]
MARK W. MITCHUM [redacted]
JOHN S. MIZELL [redacted]
JASON A. MOCK [redacted]
SHANNON J. MOHAM [redacted]
SCOTT R. MOORE [redacted]
TODD M. MOORE [redacted]
ERIC P. MORAES [redacted]
MARCELO MORALES [redacted]
IAN P. MORENO [redacted]
CHAD M. MORGAN [redacted]
SEAN P. MORGAN [redacted]
JULIE D. MORGANSON [redacted]
MADISON L. MORRIS [redacted]
TIMOTHY J. MORRIS [redacted]
BRADLEY L. MORRISON [redacted]
MATTHEW B. MORRISON [redacted]
SCOTT A. MORRISON [redacted]
JOHN A. MORSE, JR [redacted]
GERALD E. MOSLEY [redacted]
KALE M. MOSLEY [redacted]
SERENA E. MOSLEY [redacted]
SAKURA A. MOTEN [redacted]
REBECCA A. MOTTO [redacted]
MICHAEL C. MOYNIHAN [redacted]
ESTHER N. MUKASAMAGOYE [redacted]
ERIC A. MULERT [redacted]
KEVIN M. MURCH [redacted]
KIRSTEN A. MURRAY [redacted]
AMANDA S. MYERS [redacted]
LATIMER B. NEAL IV [redacted]
CHARLES E. NELSON [redacted]
ERIC B. NELSON [redacted]
CHRISTOPHER J. NEMETH [redacted]
NEAL NEWELL III [redacted]
DANNY M. NEWMAN, JR. [redacted]
MATTHEW J. NICHOLSON [redacted]
DANIEL S. NIELSEN, JR [redacted]
JOSHUA J. NIELSON [redacted]
CHAD M. NIKEL [redacted]
DAVID M. NILLES [redacted]
BOBBY L. NORTHERN, JR. [redacted]
RYAN M. NOVAK [redacted]
RANDY P. OAKLAND [redacted]
KEITH R. OBER [redacted]
ESTHER R. OBERT [redacted]
THOMAS A. OBROCHTA [redacted]
PATRICK J. OBRUBA [redacted]
SCOTT A. OGLEDZINSKI [redacted]
JEFFREY A. OGRADY [redacted]
BRETT M. OHALLORAN [redacted]
JACOB B. OLDHAM [redacted]
DARON E. OLMSTED [redacted]
ROBERT N. OLSON [redacted]
JOHN F. ONEILL, [redacted]
JOHN T. ORCHARD, JR. [redacted]
ROBIN E. ORTH [redacted]
JASON A. ORTIZ [redacted]
JOSEPH T. OTTO [redacted]
NATHAN L. OWENDOFF [redacted]
DAVID L. OWENS [redacted]
ERIK W. OWENS [redacted]
CHARLES J. PACELLO [redacted]
JULIAN L. PACHECO [redacted]
STEPHEN C. PAINE [redacted]
DARREN A. PALADINO [redacted]
JOSEPH D. PALMER [redacted]
BRIAN D. PARDEE [redacted]
BRANDON D. PARKER [redacted]
HAYLEY R. PARKER [redacted]
KARA J. PARKS [redacted]
MARCO J. PARZYCH [redacted]
REINALDO F. PASTORA [redacted]
KSHAMATA PATEL [redacted]
KEVIN J. PATRICK [redacted]
MICHAEL S. PATTERSON [redacted]
AUNDREA C. PEAK [redacted]
JAMES D. PEDERSEN [redacted]
ERASMO E. PEREZ [redacted]
RITA C. PEREZ [redacted]
JOSEPH P. PESTANA [redacted]
BRIAN A. PETE [redacted]
KRISTEN L. PETERSEN [redacted]
EDWARD F. PETKA, JR [redacted]
EDWARD P. PHILLIPS [redacted]
JON E. PLASTERER II [redacted]
WILLIAM A. PLIES [redacted]
KRISTEN L. PLUMMER [redacted]
JAI R. POPE [redacted]
JASON B. PORTER [redacted]
TIMOTHY W. PORTER [redacted]
RYAN D. PORTERFIELD [redacted]
GREGORY T. POUND [redacted]
KATE PRESTON [redacted]
MARCUS C. PRINCE [redacted]
ANTHONY J. PRINCIPI [redacted]
CAMERON S. PRINGLE [redacted]
MARK P. PRODEN [redacted]
JOHN M. PROMERSBERGER [redacted]
JEFFREY M. PULLEY [redacted]
JEFFREY B. PUTNAM [redacted]
ERIN P. PYLE [redacted]
JEREMY D. QUATACKER [redacted]
CHRISTOPHER T. QUINN [redacted]
RACHEL F. RABENI [redacted]
JAMES C. RADFORD [redacted]
GARY B. RAFNSON [redacted]
MICHAEL J. RAHM [redacted]
ANDREA K. RAMBAROSE [redacted]
ELVIRA Y. RAMIREZ [redacted]
SAMUEL RANSOM II [redacted]
BRANDON L. RASMUSSEN [redacted]
REID F. RASMUSSEN [redacted]
SEAN M. RASSAS [redacted]
CHRISTOPHER R. RATIGAN [redacted]
BRETT A. RAWALD [redacted]
KIRK L. REAGAN [redacted]
NICHOLAS J. REED [redacted]
TONI M. REID [redacted]
DAMION RENHARDT [redacted]
TISHA R. RENFROE [redacted]
SHANE M. RENIKER [redacted]
JONATHAN A. REYES [redacted]
TERREL J. REYES [redacted]
GONZALO REYNA [redacted]
JOSHUA B. REYNOLDS [redacted]
AARON L. RHODES [redacted]
PAUL D.G. RIBEIRO [redacted]
KEISHA D. RICE [redacted]
BLAKE E. RICHARDSON [redacted]
MICHAEL A. RIDER, JR. [redacted]
DALE A. RIEDEL [redacted]
KEYAN D. RILEY [redacted]
GLENN A. RINEHEART [redacted]
MATTHEW G. RIPPEN [redacted]
STEPHEN J. RIPPON [redacted]
ANTHONY A. RIVERA [redacted]
BRIAN D. RIZZOLI [redacted]
CHAD M. ROBBINS [redacted]
TODD A. ROBBINS [redacted]
RANDALL L. ROBERTS [redacted]
THEODORE G. ROBERTS [redacted]
BEN C. ROBINSON [redacted]
MARK S. ROBINSON [redacted]
RUSSELL B. ROSLEWSKI [redacted]
STEVEN M. ROSS [redacted]
JACOB J.A. ROSSER [redacted]
ANDY H. ROWE [redacted]
JAMES W. ROY III [redacted]
JASON B. RUDD [redacted]
RADOSLAW RUSEK [redacted]
ROBERT B. RUSSELL [redacted]
RODNEY M. RUSSELL II [redacted]
PATRICK G. RYAN [redacted]
FRED T. SAFFORLD [redacted]
JOEL W. SAFRANEK [redacted]
ANDREA C. SALAZAR [redacted]
JUAN S. SANCHEZ [redacted]
JUSTIN B. SANDERS [redacted]
AUDREY A. SANDROCK [redacted]
ERIC G. SANDS [redacted]
JOHN C. SAPP [redacted]
SANDIP SARKAR [redacted]
JASON M. SCHATTL [redacted]
STEPHEN S. SCHELL [redacted]
MATTHEW E. SCHEXNYDER [redacted]
DEREK F. SCHIN [redacted]
JEFFREY G. SCHMIDT [redacted]
CHAD W. SCHRECENGOST [redacted]
JEFFREY T. SCHREINER [redacted]
GEORGE N. SCHWARTZ [redacted]
LEWIS R. SCHWARTZ [redacted]
GEORGE H. SEBREN, JR. [redacted]
KURT C. SELKO [redacted]
ERIK M. SELL [redacted]
ANDREW J. SERAFIN [redacted]
MARTINA A. SEVER [redacted]
DOUBLAS G. SEYMOUR [redacted]
JASON A. SHARP [redacted]
MICHAEL L. SHARP [redacted]
ERIC A. SHAW [redacted]
FELTON S. SHELLEY [redacted]
CHRISTOPHER J. SHEPPARD [redacted]
RICHARD N. SHERROW [redacted]
BRYAN F. SHUMWAY [redacted]
JEAN P. SICOTTE [redacted]
GREGORY J. SIDOR [redacted]
KEVIN O. SILKNITTER [redacted]
BRYCE A. SILVER [redacted]
CRAIG R. SIMMONS [redacted]
MATTHEW R. SIMMONS [redacted]
LUKE A. SIMON [redacted]
JAMES A. SIMONDS [redacted]
ROBERT M. SIMPSON [redacted]
CHRISTOPHER J. SIMS [redacted]
ADAM R. SITLER [redacted]
WILLIAM T. SKEETERS [redacted]
JOHN S. SKINNER [redacted]
WILLIAM K.J. SKINNER [redacted]
MARK W. SLATON, [redacted]
GERANDO L. SMITH [redacted]
GORDON B. SMITH [redacted]
JESSE C. SMITH [redacted]
MARC A. SMITH II [redacted]
SCOTT W. SMITH [redacted]
TAMARA A. SMITH [redacted]
GREGORY D. SODERSTROM [redacted]
BRIAN P. SOLSBEE [redacted]
ROBERTO SOMARRIBA [redacted]
MATTHEW L. SORIA [redacted]
MACKJAN H. SPENCER [redacted]
JENNIFER A. SPINDLE [redacted]
CHRISTOHER J. SPINELL [redacted]
CORBAN D. SPRAKER [redacted]
JUNKO SPRINGER [redacted]
BRANDON L. STADEL [redacted]
CURTIS J. STAMAND [redacted]
THOMAS W. STAMP [redacted]
BENJAMIN J. STAPERA [redacted]
ADAM M. STARR, [redacted]
MICHAEL S. STARR [redacted]
DANIEL L. STCLAIR [redacted]
TERESA M. STEDMAN [redacted]
ROUVEN J.N. STEEVES [redacted]
THOMAS R. STEMARIE, [redacted]
JULIAN D. STEPHENS [redacted]
JAMES C. STEVENS, JR [redacted]
KELLEY C. STEVENS [redacted]
JOHN R. STEVENSON [redacted]
BRIAN R. STHULTZ [redacted]
JASON B. STINCHCOMB [redacted]
DAVID J. STOCK [redacted]
JEFFREY D. STOCKWELL [redacted]
PHILIP L. STODICK [redacted]
CHRISTOPHER M. STOPPEL [redacted]
JEFFREY T. STRICKER [redacted]
GARRETT C. STUMB [redacted]
CHRISTOPHER M. SULLIVAN [redacted]
GUY R. SULZBERGER [redacted]
RYAN J. SUTTLEMYRE [redacted]
ADAM SVOLTO [redacted]
JOSEPH B. SZUCS [redacted]
RANDLE W. TANKERSLEY [redacted]
DONYE J. TAYLOR [redacted]
JONATHAN B. TAYLOR [redacted]
KIMBERLY M. TAYLOR [redacted]

JASON A. TELLEZ [redacted]
JASON B. TERRY [redacted]
CHRISTINE E. THOLEN [redacted]
DEREK E. THOMAS [redacted]
JOHN M. THOMAS [redacted]
MICHAEL D. THOMAS [redacted]
ANTIONETTE L. THOMPSON [redacted]
CHRISTOPHER R. THOMPSON [redacted]
JOHN B. THOMPSON [redacted]
MATTHEW A. TIEMAN [redacted]
CHAD A. TILBURY [redacted]
MARK R. TOBIN [redacted]
ROBIN C. TOMLIN [redacted]
RODERICK E. TOMS [redacted]
MARC A. TOURVILLE [redacted]
MATTHEW J. TRACY [redacted]
DEVIN S. TRAYNOR [redacted]
JAMES D. TREADWELL II [redacted]
ALLISON M. TRINKLEIN [redacted]
JENNIFER S. TROST [redacted]
JAIME H. TRUJILLO [redacted]
MATTHEW F. TUCKER [redacted]
JOBIE S. TURNER [redacted]
SCOTT J. TURNER [redacted]
BRADLEY C. TURPEN [redacted]
BRIAN J. TYLER [redacted]
KEITH S. UDCOFF [redacted]
MICHAEL C. UFFELMAN [redacted]
JILL M. VANESS [redacted]
CHRISTOPHER L. VANHOOF [redacted]
MATTHEW C. VANHOOREWEGHE [redacted]
MATTHEW A. VANWAGNER [redacted]
JOHN E. VARGAS, JR. [redacted]
MICHAEL W. VARNER [redacted]
SCOTT A. VECCHIONE [redacted]
JEREMY S. VICKERS [redacted]
MARIA C. VILLALPANDO [redacted]
ANDREA C. VINYARD [redacted]
PETER D. VITT [redacted]
NORMAN P. VUCHETICH [redacted]
DAWN R. WAGNER [redacted]
MELISSA L. WAINWRIGHT [redacted]
JAMES M. WALKER [redacted]
SCOTT W. WALKER [redacted]
SHAKA M. WALKER [redacted]
ANTHONY W. WALLEY [redacted]
DANIEL P. WALLS [redacted]
ANDREW J. WALTER [redacted]
JEFFREY B. WARD [redacted]
WILLIAM N. WARD [redacted]
BRETT A. WARING [redacted]
STEVEN S. WARNER [redacted]
FRANK W. WATSON, JR. [redacted]
JEREMY R. WATTS [redacted]
MATTHEW W. WEAVER [redacted]
BRENT E. WEISNER [redacted]
MATTHEW D. WEISSERT [redacted]
JOHN A. WELLMAN [redacted]
MICHAEL K. WEMPE [redacted]
MATHEW C. WENTHE [redacted]
JON S. WHEELER, JR. [redacted]
KRISTIN S. WHEELER [redacted]
CHRISTIAN R. WHITE [redacted]
DIANA M. WHITE [redacted]
JEFFREY E. WHITFIELD [redacted]
SARA A. WHITTINGHAM [redacted]
JUSTIN B. WIELAND [redacted]
ALAN J. WIGDHAL [redacted]
STEVEN B. WIGGINS [redacted]
ANDREW C. WILES [redacted]
JONATHAN M. WILEY [redacted]
BRANDON L. WILKERSON [redacted]
ANTHONY L. WILKO [redacted]
CHRISTOPHER J. WILLIAMS [redacted]
IKE H. WILLIAMS [redacted]
KINAMO J. WILIAMS [redacted]
ROBERT A. WILLIAMSON [redacted]
PAUL B. WILLINGHAM [redacted]
BRIAN L. WILLITS [redacted]
JAMES M. WILMER [redacted]
NIKOLE L. WILSON [redacted]
WALTER J. WILSON [redacted]
DAVID H. WINANS [redacted]
CHAD L. WINDHOLZ [redacted]
DAVID J. WINEBRENER [redacted]
CHRISTIAN S. WOHLWEND [redacted]
BRANDON C. WOOD [redacted]
THADDEUS R. WOODS [redacted]
JENNIFER T.S. WORD [redacted]
JASON C. WORLEY [redacted]
JOSEPH C. WOYTE [redacted]
PARKER H. WRIGHT [redacted]
ROBIN C. WRIGHT [redacted]
GEORGE R. WYSE [redacted]
ARCHER M. YATES, JR. [redacted]
RUSTIN T. YERKES [redacted]
MARK T. YETMAN, JR. [redacted]
MICHAEL S. YI [redacted]
VINCENT ZALESKI [redacted]
JACOB A. ZOCHERT [redacted]
BRIAN K. ZOELLNER [redacted]
BRIAN D. ZULLO [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, November 28, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. BARR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 28, 1995.

I hereby designate the Honorable BOB BARR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

WHAT IS AT STAKE IN BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, much has been said on this floor and on TV screens in American households—and much has been written in newspapers across the country—about the alleged dangers of shrinking Government and cutting spending. The rhetorical warfare playing itself out among the partisan politics and the Presidential ambitions understandably has many Americans concerned. Big changes can be scary—and that fact has given comfort to those whose mission it is to preserve the status quo, whether the status quo is working or not, whether status quo is affordable or not. But I am convinced that most Americans are ready for the big changes we need to bring our Federal budget into balance. I am also convinced that most Americans see the real danger before us—the danger of doing nothing. Americans understand what is at stake in this debate. The facts are indisputable: We are on an unsustainable trend, spending more than we have. We are more than $5 trillion in debt. Seventy years ago, at his inaugural, Calvin Coolidge said:

> The men and women of this country who toil are the ones who bear the cost of the Government. Every dollar that we carelessly waste means that their life will be so much the more meager. Every dollar that we prudently save means that their life will be so much the more abundant. Economy is idealism in its most practical form.

I am mindful of my new grandchild, born just a few weeks ago. Because we failed to heed the advice of Coolidge and so many of our Nation's greatest leaders, that baby already carries on his tiny shoulders a lifetime share of the interest payment on the national debt totaling $187,000. That's the bill we are sending to every baby born this year just to pay the debt service for our failure to bring spending into line. Spending is the problem. We spend too much. Looking at it from another view, think about this: If we don't take the steps necessary to make annual deficits a thing of the past by 2002, as we are trying to do, we will be paying more every year for interest on our debt than we spend for our national defense.

The President of the United States went on television last night to talk to us about what a tough place the world is, and we are having a great debate about how we spend, but nobody denies we need moneys for national defense and we are spending more on interest payments than we are on national defense. The new leadership in this Congress has signaled that enough is enough. We must control spending. We have gone to the mat in order to implement the big changes needed to bring the budget into balance within 7 years. Balancing the budget will mean that Americans will see lower interest rates—making homes and cars and higher education more affordable. Unshackling the economy from its massive debt will boost productivity—creating millions of new jobs. Per capita incomes will rise and Federal revenues will increase as a result. There should be no need for tax increases—in fact, we will have more opportunities to reduce the Federal tax bite so that Americans can keep more of their hard earned tax dollars.

Mr. Speaker, no one enjoyed the partial Federal shutdown we saw before Thanksgiving. All agree that we must settle our major philosophical disagreements before the next major deadline of December 15, so we can avoid a repeat of that anxious time. But we cannot paper over the very real differences that exist between those of us who believe we must balance the budget within 7 years and those who do not see any urgency about reaching that goal. It is something like the irresistible force of reform hitting up against the immovable object of status quo. Given the tendency of this administration to watch the public opinion polls, the best way to bring about the right conclusion is for the American people to make their voices heard about their commitment to balancing the budget.

Certainly the cards, the letters, the calls that are coming into my office are overwhelmingly in support of the concept of getting our spending under control and balancing our budget in 7 years. I think that is probably true in every congressional office. I hope it is true at the White House, and I hope Americans will not lose patience and will keep sending those messages, because now is the time we are going to balance the budget for the United States of America and get spending under control so every baby is not born with the prospect of $187,000 of interest payments alone in his or her lifetime.

ENGLISH-ONLY LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I want to address the House on the issue of English only, making English the official language of the United States.

Mr. Speaker, mandating English as the official language of the United States is unnecessary, resolves no particular problem of Government, and communicates a negative divisive message to the society about people who speak other languages. We all acknowledge that English is the common language. In fact, 97 percent of Americans over the age of 5 speak English. And every immigrant to this country recognizes this also. In fact, today's immigrants learn English faster than previous immigrant generations.

A variety of official language legislation has been introduced in the 104th. Some of these bills are less intrusive than others, but most of them include provisions similar to section 2 of H.R. 739, the Declaration of Official Language Act, which states that all communications by Federal officials and employees with U.S. citizens "shall be in English." This implies that English-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

only improves Government efficiency. In fact, just the opposite is true. Language restrictions will make carrying out the functions of Government more cumbersome in the few instances where languages other than English are used. In fact 99.96 percent of all Federal Government documents are printed in English according to GAO.

Members of this House would feel the burden of this legislation if it ever became law. Under English-only provisions I would be breaking the law if I wrote a letter to one of my constituents in the indigenous language of our island of Guam. My staff would be breaking the law if they spoke to a constituent in a language other than English. Many of our congressional offices would become less effective if forced to speak only English.

English-only advocates further claim that language is what binds us together as a nation. I maintain rather that our unity as a nation is rooted in common beliefs and values, as well as a common language. It is these distinctive American values that bind us together as a people.

There are those in this country who feel it necessary to declare English as an official language in a symbolic way, but I want to remind Members of this House that most of this English-only legislation goes far, way beyond symbolism.

English-only legislation solves no real problem either in the Government or among U.S. citizens. What this kind of legislation does is stigmatize users of other languages as somehow not being quite American enough and discourages the cultivation of our linguistic resources. How can we value multilingualism, and simultaneously discourage the environment which would allow it to flourish. This country needs to develop not stifle our linguistic resources to compete in a global economy. This legislation communicates the wrong message. It tells citizens to speak only English while at the same time, American businesses seek persons with foreign language skills in order to maintain a competitive edge in today's global economy, and higher education degrees mark the truly educated as those who are multilingual.

In Arizona, English-only legislation has already been determined unconstitutional because it required all government officials to "act" only in English. This clearly inhibited the free speech of these employees. I find it ironic that those who fight for devolution, States rights, and limited government, also fight for English-only which takes power from the States and hands it over to the Federal Government. Further, it mandates that the Government infiltrate our private lives by regulating how we talk. This is the ultimate in Government intrusion and runs counter to the mood of the country which is to deregulate Government, to get Government out of our lives as free citizens. Nowhere did I hear a cry to regulate language, to regulate speech.

H.R. 739 also states that the Government "shall promote and support the use of English for communications among U.S. citizens." Provisions like this go far beyond encouraging the learning of English and move toward English-only, not English first but English-only. We make a distinction between attitudes. Frivolous litigation, which would no doubt follow such a law, would flood our already overburdened court system with claims such as: "I was spoken to in Spanish by a Government employee." "I heard them talking in Chinese on Government time." "The Government isn't doing enough to promote English." And on and on. Citizens will be permitted to sue for monetary relief based on these claims of linguistic abuse.

Because it solves no problems, English-only legislation which seeks to regulate language seems to be giving life to the social forces of resentment.

This resentment could stem from a rise in the number of foreign accents we hear day-to-day or the increase in the use of languages other than English. This kind of resentment is not based on a need to improve communications between individuals or their Government, but is based on a fear of the growing foreignness in our midst.

Recently, proponents of English-only have tried to frighten us by comparing America with Canada. They tell us that if we reject English-only, portions of America will again attempt secession from the United States. Every country has a different history and those who attempt to draw this comparison display an ignorance of the Quebec situation. In Canada, official languages were written into the original legal framework. It is because of legal language restrictions on languages that Canada finds herself divided. I doubt Americans want to create a bureaucracy to enforce language policy like our northern neighbors have.

English-only legislation is potentially dangerous because it encourages nativism, raises constitutional issue about free speech and empowers the Federal Government to regulate—for the first time in our country's 219-year history—how Americans speak. The message of English-only legislation cannot be that English should be America's common language because it already is. Is the message then that we are less than those who speak only English? For those of us with different mother tongues, it is not at all incompatible to practice the continuance of a mother tongue, to be a good American, and recognize that the lingua franca is English.

As Congress considers English-only measures, I urge my colleagues to consider the implications of such legislation and the message it will send to this Nation of immigrants.

Mr. Speaker, I urge every Member to take a close look at this legislation and examine it, and see it for what it is worth.

RECOMMENDING A LOBBYING DISCLOSURE BILL WITH NO AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, today the House will resume consideration of the Lobbying Disclosure Act. As we resume consideration of this bill, we have a historic opportunity to pass a lobbying disclosure bill and send it to the President for his signature. We need to do that. For 40 years the Congress has been grappling with this issue unsuccessfully. We have seen 40 years of gridlock on the subject of lobbying disclosure reform. It is time that we end this gridlock and move forward.

When the House begins its consideration later today of this bill, we will vote on four amendments. I want to bring the Member's attention to the substance of these amendments and urge that the Members reject these and all other amendments to the lobbying reform bill.

The Washington Post summed the situation up in an editorial that appeared yesterday. The headline says "Amending Lobby Reform to Death." The editorial says, "The question now is whether the House will pass this bill and send it to the President or gum it up with amendments that would force a House-Senate conference and delay enactment indefinitely. The Senate lobbying bill is worth passing, as written, and its enactment should not be delayed any further. The House should vote down the various amendments and send the bill straight to the President.

We need to focus on the task that is before us. That is the task of passing lobbying disclosure reform. I have some comments on the particular amendments. The first amendment we will vote on is an amendment offered by the gentleman from Pennsylvania [Mr. FOX]. The gentleman from Pennsylvania has good intentions with his amendment, which would prohibit lobbyists from giving gifts to Members of Congress, but his amendment is unnecessary because we have already passed comprehensive gift reform in the House and in the Senate.

Furthermore, his amendment is dangerous because it contains a definition of "gift" which is different from the definition contained in the gift reform that the House passed. The only thing that will result from the adoption of the Fox amendment is confusion and trouble for Members of the House.

Furthermore, the amendment is unfair. It will create a double standard under which a lobbyist can be fined up to $50,000 in a civil penalty for giving a gift to a Member of Congress that is prohibited, while a Member of Congress does not face a similar civil penalty. Is that fair? Should we have one standard for imposing fines on lobbyists and exempt Members of Congress for fines? I do not think that is consistent with the spirit of reform. The Fox amendment does that, and it should be rejected for that reason alone.

Another amendment that we will consider is offered by the gentleman from Pennsylvania [Mr. CLINGER]. The amendment of the gentleman from Pennsylvania deals with an important issue of lobbying by executive agencies. I believe there have been some abuses there which should be corrected, but the amendment of Mr. CLINGER is poorly drafted, it has not been through the committee process, and it will create all sorts of problems.

Under the Clinger amendment, agency press officers would not be allowed to answer inquiries from the press regarding the agency's position on legislative proposals. Does that make any sense, I do not think so. This proposal goes too far. Mr. CLINGER should take this back through his committee, which has jurisdiction of the issue, and come forward with a refined proposal to really address the abuse. This amendment by the gentleman from Pennsylvania [Mr. CLINGER] is designed and calculated to ensure a veto of this bill.

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The President is bound to veto this bill if anything like the Clinger amendment is attached to it. We should not derail lobbying disclosure reform by adding extraneous amendments such as this.

There are other amendments that will be considered; some of them have some merit. Some of them, standing alone, are amendments that I would support. But this is not the time; this is not the place. We need to get on with the business that has occupied the Congress off and on for more than 40 years, and if we can pass this bill and send it to the President I believe that we will demonstrate to the American people that things really have changed here in Washington, that we can accomplish things in this Congress that other Congresses have been unable to deal with.

So I would encourage the Members to support lobbying disclosure reform and oppose all amendments to the lobbying disclosure reform bill. These amendments all have one thing in common. They will derail this effort to reform this law, which everyone admits desperately needs reforming.

THE SHUTDOWN OF THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, if we ask the average American what got shut down 25 days ago, They will say that the Federal Government got shut down 25 days ago. Well, I am here to tell my colleagues, Mr. Speaker, that the city in which the Congress does its business got shut down completely 25 days ago. The city got shut down with its own money.

Mr. Speaker, because of limitations on home rule, our entire budget has to come here, although 85 percent of that budget is raised in the District of Columbia from District taxpayers. The District got shut down with its own money, although the District of Columbia is second per capita in taxes paid to the Federal Treasury among the 50 States and the District of Columbia.

Suppose you represented people who paid that much tax and got shut down because they got caught in the middle of a debate that had nothing to do with them? I think you would be pretty mad, and so am I.

Mr. Speaker, I am asking on day 18, as we move toward December 15, that whatever quarrels the Federal Government and the President get in among themselves, that you not shut down my city again. This is a city in the midst of an awesome financial crisis, and the most that the Congress of the United States has been able to think to do to it is to allow it to be shut down.

Our appropriation is caught up here, 85 percent of that money, of course, being our own. What the Federal Government contributes is not a grant but is only a payment in lieu of taxes, because we cannot build on land occupied by the Federal Government and because we cannot build very high because of limitations put on us by the Congress of the United States. So who in the world would shut down people who are already in the midst of a financial crisis, except people who are unaccountable to the people in that city, the 600,000 people that I represent?

Of course we, like the Federal Government, had to pay our employees, because they were put on forced administrative leave; and, thus, we have to pay for all of that lost productivity. Mr. Speaker, because of the fiscal crisis, these employees had already given back 6 furlough days and had already given back 12 percent of their pay because the city is in crisis.

This city is not a Federal agency. We are demanding that we be treated like a city and not like a Federal agency—like a city that pays its own way.

Mr. Speaker, I am asking that if we get to Day Zero and another continuing resolution is necessary, that D.C. not be put in another short-term continuing resolution. Do you realize what it is like to have to calibrate on a 2- or 3-week basis so that you do not overobligate your own money?

My continuing resolution will say look, you can spend your own money; we are holding back part of the Federal payment. That is the least you can do if you want to insert onto our appropriation stuck up here on provisions you want to insert onto our appropriation that have been undemocratically put there by Members unaccountable to the voters of the District of Columbia. Free the D.C. appropriation.

The chairman of the subcommittee, Mr. DAVIS has cosponsored an independent D.C. continuing resolution with me. Congress has already done damage, incalculable damage in shutting the District down. All I am asking now is if you cannot get our appropriation out, and I would not bet on getting it out by December 15, that the Congress not do more to hurt the innocent bystanders.

Those are the people who pay the highest taxes, barring none, if you combine local taxes and Federal taxes in the United States. Those are the people who contribute more to the Federal Treasury than Members who represent any jurisdiction in the United States, except New jersey. We are second in Federal taxes only to New Jersey. So if you are not from New Jersey, you have to get behind the people I represent, get way behind them.

Let us keep our city open. Can you imagine that the Federal Government was delivering mail, but we could not pick up the trash in the District of Columbia for a week because of a dispute between the President and the Congress? That is your business. Stay out of our business. Let us keep our city open. Do us no harm. Do not get caught in the middle.

Shut down the Federal agencies if you must. That is your money. Do not shut down D.C. We have already paid for our city.

AMERICAN TROOPS IN BOSNIA A DANGEROUS PROPOSITION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. BUYER] is recognized during morning business for 5 minutes.

Mr. BUYER. Mr. Speaker, I am compelled to come to the House floor today, being a leader in this Congress, to speak against placing United States ground troops in Bosnia. Having listened to the President's address last night, I feel compelled to speak to not only the Members listening back in their offices but to the American people as well.

On October 30, 1995, this House voted overwhelmingly in a bipartisan fashion on the Buyer-McHale resolution, and it was approved by a vote of 315 to 103. Ninety-three members of the Democratic caucus, almost half, supported the proposition that expressed a sense of this Congress that U.S. ground troops should not be a part of a peace agreement in the Balkans. This resolution passed because the President's plan is ill-conceived, poorly defined, and highly dangerous.

It is ill-conceived because, over 2 years ago, the President promised 25,000 U.S. troops to enforce a future peace agreement. The President made this commitment without knowing the mission or the conditions of a peace agreement.

Peacing 25,000 United States troops on the ground to implement an agreement and to make an enforced peace is ill-conceived because the United States forces have lost the protection of neutrality after having bombed the Bosnian Serbs and promising to arm and train the Bosnian Moslems. U.S. troops, having lost this protection of neutrality, will become targets and casualties on the ground.

The implementation plan has been poorly defined. What is the mission of the NATO force? We need very clear objectives. What are the criteria for success? What is the exit strategy? A date set for withdrawal in 1 year is no exit strategy. Will the rules of engagement allow the force to accomplish the mission? How do we prevent the "mission creep" that we learned in Somalia that may escalate United States involvement in the Balkans beyond the time period which the President has set, and how do we keep United States troops from conducting nation-building exercises?

This implementation plan is also highly dangerous in that the United States and NATO forces will enforce an agreement that is politically unsustainable in a region of the world that has a long history of all sides exercising vengeance and retribution on one another. This is a long-term ethnic and religious conflict that could take generations to cure.

That is why the President of France has indicated that NATO's involvement in the Balkans could be 20 years, 20 years. Now the President is saying, we are only going in for 1 year, and we have this exit strategy. Twenty years. Think of this. It is generational.

Now, the President last night made a good speech, but I would submit a good speech does not make good foreign policy. Whether it is mass murder or ethnic cleansing, the rape and the pillage and the plunder, the destruction are all violent to America's values. But if our foreign policy followed our heart and emotion, then U.S. troops would become the world's policeman and we would find ourselves in over 67 hot spots throughout the world. I do not believe America wants U.S. troops to be the world's policeman.

That is why, Mr. Speaker, we tie U.S. troops and their commitments on foreign soil to vital national security interests. Mr. Speaker, that is a lesson we learned in Somalia, that when a nation, when one of our own, our finest sons or daughters take an oath to lay down their life for this country for liberties and economic freedoms that many people take for granted, we in this Congress must ensure, and that we believe in their solemn oath to make sure that their life is not given in vain, that it is tied to national security interests.

I am extremely disappointed to be standing here and have the President of the United States ignore the will of this Congress, for we have voted twice on this issue of Bosnia in saying no to sending troops. I resent the position that the President of the United States has placed the American people in, I resent the position in which he has placed these American troops, and I resent the position that he has placed this U.S. Congress in. I remain highly skeptical of this deployment, and I recognize that the President, as Commander in Chief, can send these troops.

The Framers of the Constitution created friction between the legislative body and the President. Do we have to have the friction? We are going to. We are going to, because the President has on the blinders. He has ignored the will of the American people and this Congress, and he is sending the troops.

We control the purse stings. So what are we going to do? Well, I do not agree with the President's foreign policy with regard to placing ground troops in Bosnia. I believe that we have a key and vital role to play in the peace process and that we should be providing our air power and sea power and logistics on the ground in Bosnia but not sending the troops; and we have a duty to support our troops, but will narrow the parameters, define the criteria to minimize the loss of life.

REJECT ISTOOK AND McINTOSH ON LOBBYING REFORM LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. SKAGGS] is recognized during morning business for 5 minutes.

Mr. SKAGGS. Mr. Speaker, as the gentleman from Florida mentioned a few minutes ago, we will be resuming debate later today on the lobbying reform legislation. And, as he put it so well, I hope this House will reject all of the many amendments that are pending on this bill. Some have merit, but as the gentleman indicated, they will doom this bill. We do not need to risk that, and we should not.

As we resume consideration later today, it is especially important, I think, to understand what the amendments to be offered by my colleagues from Indiana and Oklahoma would do. I think once those amendments noticed by the gentleman from Oklahoma [Mr. ISTOOK] and the gentleman from Indiana [Mr. McINTOSH] are understood, they will be rejected. However, we need to read them as they were once proposed, as a single legislative proposal. We can now not unscramble that egg.

Let me refer my colleagues to a statement made by that noted conservative columnist George Will about this proposal. He said, "It would make lawyers happy; it would erect a litigation-breeding regulatory regime of baroque complexity regarding political expression."

Now, why in the world would George Will say that about a proposal like this? Let me just give you a few examples of the terribly burdensome effect, the red-tape-breeding provisions of this legislation as it would affect what private organizations in America can do with their private money.

For example, the University of Georgia would be limited in how much contact it could have with Georgia's State government. That is because State colleges and universities that receive Federal grants would be regulated under this proposal and could only spend a limited amount on any kind of contacts with other governmental entities. The definition of governmental contact is very broad and includes State and local governments.

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Another example. If the National Association of Counties has any contact with a Federal official about legislative or policy matters, then no county that is a member of NACO could receive Federal funds. Why is that? Well, under the McIntosh language, if a 501(c)(4) nonprofit like NACO engages in any lobbying, then it and all organizations that are affiliated with it are prohibited from receiving any kind of Federal grants, loans, or contracts.

Another example. A zealous, vigilante-type person could bring harassing lawsuits against State and local governments under this provision, as well as against universities, nonprofits, you name it. A cut of treble damage verdicts would be available to anybody that might wish to pursue such a lawsuit for violation of the McIntosh-Istook provisions under the False Claims Act. That is what would be put into the law by the McIntosh private citizen enforcement amendment.

A Federal grantee like General Motors, obviously a private company, would have to account to the Federal Government for every time any of its thousands of employees had any contact with a Federal, State, or local government official about virtually any issue, whether it is local zoning or fuel efficiency standards.

Looking at another well-known and worthy nonprofit organization, Mothers Against Drunk Driving would not be able to carry out its mission if this were to become law, because under the amendment's formula for the maximum allowable government relations expenditures, Mothers Against Drunk Driving could spend only 3 percent of its entire budget on contacts with all levels of government. It would simply cripple MADD's efforts to get stricter Federal, State, and local laws and enforcement against drunk driving.

But do not take my word for this. Let me read to my colleagues from a letter sent out yesterday in behalf of the presidents of 34 major research universities in this country from the Association of American Universities. And I quote:

> The Istook-McIntosh-Erlich legislation would impose a burdensome, new recordkeeping mandate on our universities, some of which receive thousands of Federal grants for diverse purposes. For each grant, this legislation would require detailed and duplicative reports on political advocacy—even if the amount of advocacy did not exceed the prohibited threshold.

Mr. Speaker, I could go on and on, including a recent communication from the Red Cross about this. Let me just conclude by pointing out what our former colleague Mickey Edwards of Oklahoma had to say about this recently: "This is big brother with a vengeance." My colleagues, we should defeat these amendments.

AMERICA BETTER OFF WITH BALANCED BUDGET

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized during morning business for 5 minutes.

Mr. HOKE. Mr. Speaker, I want to address the House this morning about an article that appeared yesterday in USA Today. It was entitled "What Life Would Be Like In 2002 With A Balanced Budget." It is a survey of a number of different economists and analysts and consultants who have been asked about what the impact would be on our economy over a 7-year period of coming into balance with the Federal budget.

It starts out by saying,

> Mortgage rates near 5 percent. An economy that purrs along with a steady jobless rate around 5.5 percent. A standard of living that's on the rise again because wages are finally growing at a decent rate. A trade surplus.

Economists are nearly unanimous in their answers that for most people, in fact 80 percent or more, life would be better. Says Michael Englund, who is chief economist at consultants MMS International, "I have to believe a rising tide does raise all boats. Probably 80 percent or more would gladly benefit" with a balanced budget that helps bolster the economy.

Todd Buchholz, author and economist who is the author of a book entitled "From Here to Economy" says, "I can tell you things will only get worse if we don't balance the budget or come close to that."

Now why is that? What is at the bottom of this? At the bottom of it is the ability of the Government to borrow in a way that sucks capital out of capital markets that would go to productive activity in the economy.

In other words, if there is a deficit that is running, right now the deficit is about $164 billion, then it has to borrow that money in the capital markets. That means that that money is not available to be borrowed by individuals for the purchase of homes or consumer goods, or by businesses for capital investment that would create more jobs.

Because we do spend more than we collect, the Federal Government has to borrow from investors to pay its bills. The article goes on by saying it borrows by selling Treasury bonds, notes and bills on which it pays interest. That borrowing, most economists agree, keep interest rates higher than they would be otherwise.

I can tell you that the Chairman of the Federal Reserve Bank, Mr. Greenspan, testified before my committee, the Committee on the Budget, earlier in this year, and said that on average he believed that interest rates would drop 2 percent as the result of balancing the budget.

"The government is tapping into our savings pool," says Nancy Kimelman, chief economist at Investment Advisors Technical Data in Boston. It lures investors' money the only way that a borrower can, by offering tempting yields on bonds.

When you subtract the Government from the competition for investors money by balancing its budget, then the effect would be immediate and interest rates would head down. Here are some of the estimates.

Lawrence Meyer and Associates, which is a St. Louis-based economic consulting firm, estimates that by 2002 short-term interest rates would be close to 3 percent, as opposed to 5.4 percent today, and long-term rates would be just about 5 percent, versus 6.2 percent today.

With rates that low, the economy would surely be far better off. Businesses would invest more because they could borrow more at lower rates. Investment in computers, in buildings and equipment, would boost productivity even further.

There is another issue at stake here besides all of these economic benefits that would inure not only to the economy generally but to individual people, both in terms of lower interest rates that they would pay for mortgage payments and car payments and school tuition payments as well as the capital formation aspects that create a lot more jobs and a lot more opportunity. The other issue that I want to talk about with respect to a balanced budget is the one that goes to the question of how we define what Government should be, what its appropriate role is, and what its appropriate role ought to be in the American scene.

The way that this idea of a balanced budget comes into play with respect to that is that the most perfect way, the most compelling way, the most clarifying way to define as a people what we believe government's role ought to be is what we as a people are willing to pay for it on a pay-as-you-go basis. So that if we say to each other, to ourselves, look, we are only willing to spend what we are willing to pay for, then that is the most perfect way to define what this Government should be and should do. It also has the added benefit of not putting on our children the borrowing that we enter into and engage in today. It very perfectly defines what we ought to be as a government.

DEFEAT ISTOOK AMENDMENT TO LOBBY REFORM BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. MENENDEZ] is recognized during morning business for 5 minutes.

Mr. MENENDEZ. Mr. Speaker, I rise to express my outrage with the Istook amendment we will be voting on that will impede with the fundamental right of Americans—particularly nonprofit organizations to advocate with their Government—their Representatives.

Let me first make it clear that I find this whole censorship effort reprehensible. But what makes it truly despicable is that it is specifically crafted to deal only with certain kinds of grants from the Government—the kind that go to people they do not like. People who might dare to oppose their extremist agenda.

What I mean is this: Mr. ISTOOK's own testimony on behalf of his original amendment cited two Supreme Court decisions in which the court specifically stated that there are two kinds of Federal benefits that put taxpayer dollars in an organization's pocket: Grants, and tax exemptions and deductions. The Supreme Court came right out and said it point blank. Both Mr. ISTOOK's original and more controversial amendment and the one he offers here today allegedly rely on these decisions. But when it came time to put this amendment down on paper, he decided he was only interested in one kind of benefit—the grants—completely ignoring the court's specific finding that tax-exemptions are a form of subsidy which have much the same effect as a cash grant. What a curious oversight. The court names just two things—just two—but when Republicans wrote the bill, they managed to forget half of that short list.

What is the effect of this oversight? The American Heart Association is restricted. The American Red Cross is restricted. The Girl Scouts are restricted. They are restricted because they get grants. But the Speaker's network of think tanks and pet projects—such as the Progress and Freedom Foundation, Earning by Learning, National Empowerment Television and the like—can take tax-deductible donations and keep their money tax-free. And do they take money? Yes, millions from the Speaker's political supporters. And what do they do with it? They videotape Mr. GINGRICH's speeches and sell them. They use the money to produce a weekly television show starring the Speaker. In short, the Speaker uses their activities to promote his political agenda—and it is all done on the taxpayer dollar. All tax-exempt.

What did the Supreme Court say about that? Mr. ISTOOK has told us that they said tax-exemptions were the same as cash grants. If so, then why is there no mention of tax-exemptions in this amendment? The Progress and Freedom Foundation gets no grants, so this amendment will not stop them from sending every Member a so-called "briefing" on why the telecommunications industry needs reform, and coincidentally that it should be reformed in precisely the way Speaker GINGRICH suggests. But the Supreme Court, and more importantly Mr. ISTOOK, said their money is just as much "welfare for lobbyists" as a grant is.

All of you have received numerous briefings from the National Center for Policy Analysis supporting Medical Savings Accounts, an idea which actually wormed its way into the bill which cut Medicare by $270 billion. Has anyone figured out why? The Republicans said they were impressed by the savings these accounts could achieve. But the CBO says these accounts will actually cost the Government $3.5 billion. Of course, the savings were based on numbers produced by the think tank itself, and were then used to lobby Members. This think tank, by the way, is a tax-exempt organization. Distribution of their briefings was essentially lobbying. That means that the National Center for Policy Analysis lobbied Members with taxpayer dollars.

But what does this amendment do about it? Nothing. Why? Does it have anything to do with the fact that the National Center for Policy Analysis is heavily funded by a major backer of the Speaker's Progress and Freedom Foundation, the shadowy GOPAC organization, and others of the Speaker's funds?

Consider also that this big-time financial backer is also the CEO of the Golden Rule Insurance Co., the country's biggest marketer of medical savings accounts. In other words, a big financial backer of the Speaker's has used his tax-deductible contributions to fund a tax-exempt lobbying campaign designed to result in legislation that would bring huge profits to his company. Later this week, they will try to rake in still more by including medical savings accounts in the Federal employee health benefits plan. Ironically, the hearing on the subject will be before the Government Reform and Oversight Committee—the very committee which has written and promoted the Istook language. Does this bother anyone?

It bothers me, but it apparently does not bother the supporters of the Istook amendment. They do not protest while big money buys out American politics, piece by piece. In fact, they now offer legislation designed to facilitate the process.

This Istook amendment is a sham. It deserves defeat. Let us not stop the Association for Retarded Citizens, the YMCA, and other voices of the little guy from advocating with their Government while we let fat cat special interests lobby to maintain huge profits, and then write off the expenses as tax deductions.

NO UNITED STATES TROOPS DEPLOYMENT TO BOSNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. MANZULLO] is recognized during morning business for 5 minutes.

Mr. MANZULLO. Mr. Speaker, the United States Congress will within a very short period of time take up the very delicate issue as to whether or not American fighting troops should be positioned in the country that we know as Bosnia and Herzegovina. For the past 3 years, our President has, without consulting Congress, made a commitment that somehow he is going to send 20,000 to 25,000 American troops to Bosnia and Herzegovina.

□ 1315

Now we find ourselves at this point in American history where this body has to make a reasoned decision as to whether or not we should put these young men and women in harm's way. We have to take a look at the historical background of this country as we know it.

One can go back 1,000 or even 1,500 years to see continuous fighting on either side of the Balkans as the various tribes from the areas that we know as the former provinces of Yugoslavia, now independent nations, have risen up, engaged each other in mortal combat, then been quiet for a period of time only to have these types of prejudices flare up again and result in killing.

The question is this: Does America have such a strategic interest in Bosnia and Herzegovina so as to commit our young men and women into combat? And that other question is this: If there is, indeed, a peace treaty, then why should our young men and women, as part of a NATO force, be sent in heavily armed for the purpose of killing to keep the peace?

As I examined last night the very thick document that sets forth the memorandum of understanding among the parties to this horrible conflict, several points stood out, and I think the American people have a right to know the terms upon which American troops would be sent into this country.

Let us take a look at the nature of the country that will be set up. There will be an elected house. There will not be a president; there will not be two presidents; there will be three presidents. Can you imagine a constitution that has a troika for a presidency and is able to rule? And, incidentally, each of these presidents have to come from each of the three warring factions, the Moslems, the Croats, and the Serbs. So now you take one of each, put them into a government and say, "You rule."

What is even more ironic is that in the constitution that will be set up is called the country of Bosnia and Herzegovina, and yet it is legally split, one country that is already split, and this is supposed to be a peace agreement.

How is this peace agreement formed? Well, a demilitarized zone is set up. American troops have to pour in, and the language of the agreement says that the troops will use whatever force is reasonably necessary in order to carry out the peace plan. So that if the warring factions do not clear out of the DMZ, then after some type of a warning, presumably NATO forces will be called upon to shoot in order to secure a peace.

Mr. Speaker, I ask the question: What type of peace is this? And that is not all. The agreement says that within a year the troops are to be withdrawn.

So everybody gets together for a year, possibly acquiesces in a DMZ zone, and then knowing at the end of the year they can pull out only to have the fighting resume.

But there is more to it than this.

Mr. Speaker, I would encourage my colleagues to examine very closely the agreement before they vote in favor of this type of peace plan.

MOVE RESPONSIBLY AND PASS THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from the Virgin Islands [Mr. FRAZER] is recognized during morning business for 1 minute.

Mr. FRAZER. Mr. Speaker, I rise to urge my colleagues on both sides of the aisle to come together. The time is now for us to represent our constituents in a responsible manner.

We all agree that a balanced budget is possible. The manner in which we get there is our dilemma. We need a balanced budget that is fair and equitable. This equality is based on a set of principles wherein all areas of Government are affected proportionally.

Our children are the future. Our Government must continue to provide a safety net for mothers and children who are least able to provide for themselves. Programs such as child nutrition and Head Start are essential to our national interest. We must also invest in education and job training so that our Nation will be able to effectively compete in the global marketplace.

We must also honor our commitment to the elderly. They have the right to live in this country and enjoy the security and comfort of retirement without the fear of Government reducing their benefits to the point they must sell all of their assets to qualify for governmental assistance.

We can achieve a balanced budget without devastating cuts in Medicaid, Medicare, education, and without raising taxes on working families.

Therefore I urge my colleagues to move responsibly and pass the budget.

EPA APPROPRIATIONS CONFERENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 4 minutes.

Mr. PALLONE. Mr. Speaker, this week, we will be addressing the remaining appropriations conference reports, including the VA-HUD appropriations conference report which provides funding for the Environmental Protection Agency.

Unfortunately, our environmental laws have taken blow after blow in the 104th Congress as bills spiked with antienvironmental measures pass the House floor, both out in the open as in the Clean Water Act reauthorization or through more mischievous measures, as through appropriation and budget bills like the VA-HUD conference report that we will be voting on this week, most likely tomorrow.

No other Government agency is facing the kind of cuts that are included in this bill for the EPA.

The bill cuts funding for the EPA to set and enforce environmental and public health standards for air pollution, pesticides, and clean and safe water by 17 percent from what the President proposed.

Hazardous waste site cleanup is being cut by 25 percent, slowing efforts to make the Superfund Program faster, fairer, and more efficient.

And EPA's enforcement funding is being hit even harder, with a 27-percent cut in enforcement of all environmental programs.

On top of all the direct cuts to EPA's budget, this bill cuts by 30 percent funds that go straight to the States to help keep raw sewage off beaches and out of waterways.

And State loan funds for use in protecting community drinking water nationwide are reduced by 45 percent in this bill.

Restricting the EPA's ability to implement environmental protection programs and reducing funding to the States, in my opinion, is nothing less than an unfunded mandate on the States to maintain environmental quality.

In the majority of cases where adequate Federal funds are not made available, State funding just is not there.

This means that a virtual environmental protection vacuum will be created by this bill, where polluters get off scot free at the expense of environmental quality, and human safety and health.

One must ask why funding for environmental protection is being targeted or why after three votes to remove restrictive riders from the VA-HUD appropriations bill, the majority of the riders were simply moved to report language and several riders still remain as actual legislative language in the bill.

For example, incorporated in this bill is a rider that prevents EPA from stopping dumping of potentially harmful fill into wetlands.

EPA is by no means overly zealous in its use of this authority over wetlands, and only 11 times in the history of the wetlands program has it stepped in to veto this type of dumping.

Even in New Jersey, a State with one of the most stringent wetlands programs in the country, 94 percent of all wetlands permit applications are approved. So why is it necessary to put a rider in this bill prohibiting the EPA from protecting wetlands?

Another measure that does not belong in this bill is the prohibition of EPA's authority to add hazardous waste sites to the national priority list under Superfund.

The Superfund listing process is strictly scientific now.

There are those in this Congress, however, who seem determined to politicize the process by placing all sorts of restrictions on listing Superfund sites.

My committee, the Committee on Commerce, is now reviewing the Superfund Program, and I maintain the legislative process should simply be allowed to run its course.

If this conference report is passed in its current form, the EPA's hands will be tied and the quality of the air we breathe and the water we drink will suffer dramatically.

I urge my colleagues to oppose this bill and send it back to conference in order to restore the EPA's ability to effectively protect the health and safety of our environment and our constituents.

Essentially, if we send the bill back to conference again, those who represent the House and the Senate can get together and come up with a better bill that does not cut enforcement for environmental protection as much, that provides sufficient funding to the States so that they can continue to maintain a quality environment. This is what we should be doing in this Congress instead of passing this bill.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 25 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we gain more knowledge about the workings of our world, we pray, gracious God, that we will sense more fully the wonder and the awe and the marvel that are about us and which have been provided by Your creative hand. May we live each day with a reverence for the miracles that are before us, with an appreciation of the mysteries of the universe and with a greater awareness of the ambiguities of the road ahead. Give us pause to reflect on Your majesty, the power of Your love, and the marvelous occasions we have to serve You and the people of the land. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. WELLER] come forward and lead the House in the Pledge of Allegiance.

Mr. WELLER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, November 28, 1995.
Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 2702(a)(1)(B)(vi) of Public Law 101-509, I hereby appoint as a member of the Advisory Committee on the Records of Congress the following person: Roger Davidson, 3510 Edmunds Street, NW, Washington, DC.

With warm regards,
ROBIN H. CARLE, *Clerk.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Monday, November 20, 1995:

S. 440, to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; and

S. 1328, to amend the commencement dates of certain temporary Federal judgeships.

TIME TO BALANCE THE BUDGET

(Mr. WELLER asked and was given permission to address the House for 1 minute.)

Mr. WELLER. Mr. Speaker, as one of the Republican freshmen, one of the new Members of this body, I came here with a commitment to change how Washington works. I now, as a privilege of serving as a Member of the House, carry a voting card, a piece of plastic with which to record my vote.

For the last 26 years, Members of the House have used this card and made it the world's most expensive credit card, running up a $4.9 trillion debt. We think about our own families, when someone runs up a massive credit card debt, what that means and how it needs to be paid off.

I have with me a bag full of play money, but this bag represents the $19,000 that every Illinois citizen, that every American citizen currently owes as their share of the national debt. If we had to pay off the national debt today, every American citizen would have to write a check for $19,000.

It is time to change how Washington works, to balance the budget. The President has now agreed with the Congress that we should do it in 10 years.

Republicans have a plan to balance the budget in 7 years by reforming welfare, strengthening Medicare and providing tax relief to working families, but the President has failed to show us his plan. Now he is going to leave the country for 6 days. All he issues is a press release saying he would like to do it in 7 years.

Mr. President, I think it is time, before you leave the country for 6 days, when we need to provide a balanced budget by December 15, that you show us the specifics. Show us, Mr. President, if you do not like our plan to balance the budget, how you would do it. We need to see the fine print.

REPUBLICAN TAX PLAN IS UNFAIR

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I have been very critical of the Republican budget plan because I believe that it cuts Medicare in order to provide major tax breaks primarily for wealthy Americans. This of course is disputed by some of the Republican leaders, most notably the gentleman from Texas [Mr. ARCHER], who is the chairman of the Republican, or in this case, the House Committee on Ways and Means, the tax-cutting committee.

The New York Times last week put out an editorial based on the Treasury Department's figures. Basically the Treasury Department shows that in fact the tax breaks are primarily for the wealthy in this Republican bill.

It says in the New York Times editorial that the Treasury estimated that the richest 1 percent would rake in almost twice as much, or 17 percent of the tax cut under the bill. Indeed, under the Republican bill the poorest 20 percent of families, taken as a group, would pay higher taxes as a percentage of their income. The Treasury figures are solid evidence that the Republican tax cut is heavily weighted toward the rich.

As we proceed over the next 2 weeks in this budget battle, in negotiating a compromise, I am very hopeful that we will see a lot of money brought back into Medicare, to make sure that the Medicare Program is viable, and that we cut back on these tax breaks for wealthy Americans. It is not fair to cut Medicare and essentially destroy it at the expense of the average American in order to finance tax breaks primarily for those wealthier members among us.

PRESIDENT SHOULD SIGN BALANCED BUDGET ACT

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Kentucky. Mr. Speaker, if the President is honestly looking for a plan that balances the budget in 7 years, uses legitimate numbers, and protects his priorities, he need look no further than the Republican Balanced Budget Act. Let us consider some of the areas the President says he has problems with our bill.

Medicare—our plan increases Medicare spending every year and ensures Medicare's solvency through at least 2010. There are no cuts.

Education—there are no education cuts in the Republican bill. The dollar volume of student loans increases 50 percent during the next 7 years. More student loans will be available next year than ever before.

The environment—not a single environmental protection program is touched in the Republican Balanced Budget Act. There are no environmental cuts in the Republican bill.

Mr. Speaker, the Republican Balanced Budget Act is a good bill. It balances the budget while preserving the American people's priorities. The President should sign this bill.

SAYING NO TO GROUND TROOPS IN BOSNIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I oppose sending ground troops to Bosnia. All military experts agree that Bosnia is not a military threat to the United States. Also, they agree that Europe has more than enough military capability to handle the peacekeeping problems in Bosnia.

But there is another argument that keeps popping up, and that is that we must protect the integrity of NATO. My colleagues, NATO was created to protect Europe from Soviet invasion. I say it is time that America stop subsidizing Europe's protection. It is time to disband NATO, let them create their own military alliance that they can support.

Let Congress not forget, in the 1960's the Johnson administration asked Europe to help us in Vietnam. Europe said, "It's too costly. There's too much killing. It's your way, America."

I say, look, we have all come to know him as Uncle Sam. Now we are letting him be treated like Uncle Sucker. They have enough money. They have enough military capability. This is in Europe's backyard. Let them send their troops to the front. We can provide support with air strikes, with training, with advisers, but not with ground troops.

COLONIAL BEACH VOLUNTEER FIRE DEPARTMENT 100TH ANNIVERSARY

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, the Colonial Beach Volunteer Fire Department got its start in March 1884, with a resolution passed at the 35th meeting of the town council, promising cooperation with property owners in raising funds to purchase a fire extinguishing apparatus to be operated by a volunteer fire company. A committee was appointed in October 1895, to ascertain the cost and to determine how much money interested citizens would contribute toward its purchase.

A request was received in July 1896, from the Howe Pump and Engine Company of Indianapolis, IN, to demonstrate a piece of fire apparatus in Colonial Beach, VA. The apparatus was to be drawn by a team of two horses, and would be operated by eight men, four on each side of the pump by cantilever action. It would be capable of dispensing 60 gallons of water per minute and was equipped with 500 feet of 2¼ inch hose. One of the rear wheels had a striker, which hit a gong with each revolution of the wheel. The apparatus was purchased in August 1896, for $875, a far cry from the $250,000 to $500,000 required to purchase one today. Since the fire department did not own any horses, it was agreed to purchase a set of double harnesses and that a premium of $2 be given to the first person to reach the fire house with two good fast horses and hookup to the apparatus.

Today's fire sirens, beepers, and radios are a far cry from the way fire alarms used to be sounded. The first alarm used in Colonial Beach, was by striking a metal triangle with a hammer and later on a large ring was struck with a sledge hammer. Both the triangle and the ring are displayed at the fire station on Colonial Avenue.

In August 1896, a bid was submitted by Charles Pfeil to build the first fire house for a sum of $24. A year later, Pfeil was appointed fire chief at a salary of $3 per month. His duties were to keep the apparatus, fire house, and fixtures clean and in ready condition. The fire house was moved to the old town hall in March 1907 and did not move again until another fire house was built in 1940. In 1952, a second story was added with the help of the Ladies Auxiliary. A brand new building was built in 1961 on Colonial Avenue and is the current fire house.

The first 100 years of the Colonial Beach Volunteer Fire Department have been an exciting time of service and growth. The department has always stayed one step ahead of its peers with new, innovative thinking and proactive programs. Their members have committed themselves for over 100 years now with a sense of pride, tradition, and service to all those in their community. The Colonial Beach Volunteer Fire Department vows to continue to carry the high level of professional service that has become their hallmark into the next century, protecting the citizens of the community through the next 100 years.

SUPPORT THE BOSNIA PEACE PLAN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, for the past 4 years Bosnia has witnessed atrocities not seen on the European Continent since the horrors of World War II. Among these are concentration camps, women and girls raped as a tool of war, documented instances of mass murder, and the nightmare of ethnic cleansing becoming a reality.

A quarter of a million people have been killed in this war, many of them defenseless civilians. This number includes women and children. Two million people, about half the population, have been forced from their homes and are now suffering the miserable life of refugees.

For 4 years war has raged in Bosnia, and the United States has rightly stayed out of the war. The United States could not force peace on the warring factions. Now the situation is different. Due primarily to American leadership, peace has been brokered between the war-weary combatants.

Mr. Speaker, let us say thanks that the war and the killing has ended. Genocide has stopped and the war is over because of American leadership. We should thank the President, Secretary of State Christopher, Madeline Albright, Richard Holbrook, and the man that probably had the most to do with this peace, Robert Frazier, who gave his life to this process. I would also like to particularly acknowledge the key role played by National Security Adviser Tony Lake in securing the peace agreement. The peace process was initiated during his trip to Europe in late July.

The United States now has the historic opportunity to help Bosnia return to normalcy and bring stability to this troubled region.

THE PRESIDENT HAS NOT MADE THE CASE IN BOSNIA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, last night the President came to the American people to convince us it is a good idea to send ground troops to Bosnia. He says he will come to Congress. Both of these things are the things he should be doing. We have been asking him to do it.

I sat there in front of my television half wanting to be convinced, because you do not want to embarrass the President, you want him to be right, you want him to represent the country in the right way. What I found with his speech was a great deal of emotion. He talked about rapes and concentration camps and mass executions, all things that we would like to stop if we possibly could, but he was short on substance.

He talked about vital American interests but he does not tell us what that was. He talked about American leadership and he seemed to be saying that the only way we can have American leadership is if we pay the bill, if we pay the price with our blood and with our money. I found myself wondering, I wonder if it is so bad if in some cases if someone else takes the leadership. Do we have to lead in everything? Is this not a European problem? Could we not rely on Europe to take the leadership in this?

I wonder how the President is going to respond to the families who lose children in this conflict, and they will lose some. Is he going to say, "Your son died for the future of NATO?" Is he going to say, "Your son died because we might stop World War III?" Is he going to say, "Your son died for American leadership?" I do not think he has made the case.

THE LESSON OF HAITI

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as the subject of Bosnia has come up, Haiti has somehow crept into the conversation as some sort of a model.

I think people should know that things are not so good in Haiti. Public security there is literally falling apart. There is violent rioting through the country, mob rule, the streets are unsafe. This past weekend a 6-year-old school girl waiting for a schoolbus was shot dead. Businesses are closed and shuttered.

I do not know how many people have been burned to death or hacked to death, but I know it is more than one. The police station in the major city has been burned down. A drive-by shooting took place at city hall. Fear is pervasive. You can measure it; you can feel it.

The wave of unrest and violence that is going on is not something that is caused by citizens from the ground up. It was unleashed by the democratically elected President, President Aristide, 2½ weeks ago at a funeral.

The new police force that is supposed to protect and provide law and order there was disassembled and disarmed by the mob and chased out. The judiciary is in hiding. The Presidential elections that we are supporting and paying for are in doubt.

□ 1415

Certainly, even if they come off, they will not be full, fair, and free. Investment is not happening. Privatization is not taking place. Corruption is not being taken care of.

But refugees are starting again. The drownings are happening again. This is not a model for success.

Let us not hope we are going to do in Bosnia what has happened in Haiti.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

A BALANCED BUDGET: GOOD FOR NEW YORK AND NEW YORKERS

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to extend her remarks.)

Mrs. KELLY. Mr. Speaker, many of my colleagues have talked generally about the national merits of our achieving a balanced Federal budget. However, I want to talk about the balanced budget and what the subsequent lower interest rates mean for my friends and neighbors in New York's Hudson River Valley.

Lower interest rates will be good for homeowners. In fact a reduction in interest rates will not only help middle-class families save on their home mortgages, but it will also help those first-time home buyers make that crucial first step on the path toward long term financial security.

Because of this, experts agree that the average New York family will achieve annual mortgage savings of at least $2,643. And the Federal Reserve has stated that it is quite possible that once we achieve a balanced budget, we will see mortgage interest rates drop even lower to 5¼ percent—a rate which hasn't been seen in generations.

Another benefit of a balanced budget is an increase in the overall affordability of college education. The average New York student loan is $2,783, and a 2.7-percent drop in interest rates would mean that students would save $557 over each year of the life of their loan.

Mr. Speaker, President Clinton agreed to help us balance the Federal budget. The country will hold him to this promise. And I believe that New Yorkers need him to keep his promise. Our childrens' futures are at stake, and the President must remember it.

BOSNIA

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, I served as the United States Ambassador to Yugoslavia's next door neighbor, Romania. Bill Clinton is talking about 20,000 soldiers, many of whom will come out of North Carolina, for peacekeeping. This is not peacekeeping, it is peace enforcement. But there is no peace to enforce. Just 2 days ago the Bosnian Serb leader said he did not like the agreement.

So what artificial peace are we going to enforce? Last night we heard Orwellian doublespeak: war is peace, peace is war. Clinton has gotten bad advice.

What could we possibly hope to accomplish? Our troops stand guard for 1 year, then we are out. We lose some lives, we leave maybe, then full-scale war breaks out again. What is the purpose? What is 1 year in 600 years of ethnic warfare in the area? And what about the cost to the taxpayer for this folly?

We have spent the last 50 years defending our European allies in NATO from the Soviet threat; now wealthy Western Europe should use its resources to try to keep the peace in its backyard.

Our vital national security interests are not at stake in Bosnia and Herzegovina. First of all, there is no real Bosnian nation, no Bosnian people, no Bosnian language; there are Croats, Serbs, Muslims fighting each other since the 1300's. If Bosnia's ethnic strife and people killed are in our national interest, then whey not go into every place on the earth where people are fighting and being killed?

This is a tragic mistake. American lives will be sacrificed. And for what? Can we not learn some lessons from history?

THE PEOPLE'S INTEREST, NOT SPECIAL INTERESTS

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I hope every American reads yesterday's Washington Post article on the Republican's real approach to campaign reform. This is sleight of hand and sleight of tongue, taken to its highest level.

While talking like the revolutionary, good government leader, GINGRICH has engineered the most aggressive quid pro quo ever seen in this city. We have seen lobbyists actually writing legislation and hear tell of the Republican list that determines which special interests get taken care of.

I challenge all freshmen Members, Democrats and Republicans, to join together and demand real reform now. None of us came here to be a part of a government that is for sale. The Republican majority has taken deception to a new high and government integrity to a new low. Mr. Speaker, this House should be more concerned with the people's interest than the special interest.

PRESIDENT HAS NOT MADE THE CASE FOR DEPLOYING TROOPS TO BOSNIA

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, American service men and women should not be asked to risk their lives in Bosnia unless national security interests are threatened and military deployment would protect United States interests. President Clinton made a strong statement last night, describing the horrors in Bosnia. But he did not define what American national security interests are involved in Bosnia. And his statement did not establish that U.S. ground troops would resolve the Balkan conflict.

The people of the 21st District of Texas are committed to a strong American defense that protects our Nation's security interests around the world. Thousands in the 21st District have risked their lives to serve our Nation in World War I, World War II, Korea, Vietnam, and the gulf war. But America's leaders have a responsibility to ask for their service only when it is essential to protect our Nation's national security interests.

Before committing U.S. troops, the President should demonstrate that American national security interests are at risk and that U.S. military deployment can decisively advance our interests. President Clinton has not made this case.

LISTEN TO THE AMERICAN PEOPLE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, we spent $2 billion going on $3 billion in Haiti, and it is a mess.

We tried to do nation building in Somalia. We lost 18 young Americans, and we left Somalia, and the dictators, the warlords that were in charge, are still in charge over there. We spent hundreds of millions of dollars, and nothing was accomplished.

That foreign policy led to disaster. Now the President that got us into those two messes is going to send 20,000 to 30,000 young Americans into Sarajevo, into Bosnia. There are 60,000 people around Bosnia, Bosnian Serbs that say they are not going to abide by the treaty. Some of them said, "You saw Americans dragged through the streets of Somalia dead and naked. You are going to see the same things around Sarajevo." They are telling us what is going to happen.

There are 6 million land mines over there. We only know where 100,000 to 500,000 of them are, 6 million land mines.

This is a recipe for disaster.

We saw a terrible tragedy occur in Beirut when I first came to Congress. We saw 240-some marines blown to smithereens. The same thing may very well happen in Bosnia.

The President is making a monumental mistake. I do not think the American people want this to happen. I know they do not, and the President should listen to them.

FACTS ABOUT BENEFITS OF A BALANCED BUDGET

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, over the past few months, congressional Democrats have used every scare tactic possible to attack the Republican balanced budget proposal. They accuse Republicans of taking away health care for senior citizens, trying to frighten senior citizens. Later they found out at the end of 7 years the part B premium, the Republican proposal is $87, Mr. Clinton's proposal is $84, only $3 difference.

Then senior citizens find out, and they are really upset. This is what they call a deep cut?

Second, they are accusing that we are stealing school lunches from children. Later they found out that actually we are doing more money to local districts by eliminating bureaucrats. Then suddenly they quiet down.

Finally, we are throwing poor people out in the street for talking about earned income tax credit. Again, what we are trying to do is eliminate waste and fraud, actually allowing people who have actual children to receive benefits. People again quiet down.

Now in the last few days, guess what is happening now, Democrats are trying to scare students by saying Republicans are cutting student loans. Oh, come on now, the fact is that our plan increases spending on student loans. Under our plan, total spending on student loans, listen to this, increased from $24 to $26 billion by the year 2002. That is a 48-percent increase.

REPUBLICANS ARE DOING WHAT DEMOCRATS FAILED TO DO

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, the refrain we hear about Washington these days is everybody wants to balance the Federal budget. We even hear that claim coming from some of the more liberal Members of Congress who traditionally in years past have supported more deficit spending and higher taxes.

Well, let us remember a few important facts. First of all, candidate Bill Clinton pledged to balance the budget in 5 years, and we Republicans are proposing to do that in 7 years.

Second, the President stated unequivocally in his State of the Union Address, no less from the podium right behind me, that the Congressional Budget Office estimates should be used when formulating the budget, the same numbers that Republicans are using and that he now disputes.

Third, the Democratic Party controlled Congress for the last 2 years, the first 2 years of the Clinton Presidency, and nothing even remotely approaching a balanced budget plan evolved. In fact, many Americans got a tax hike despite the President's campaign promises of tax cuts.

We ought to remember the truth when we are having this debate, Mr. Speaker. If Democrats had us on a glidepath to a balanced budget within the first 2 years of the Clinton administration, not only would the Government shutdown have been avoided, but they would more than likely still be the majority party in the Congress.

Now the President is simply playing politics trying to block the Republicans from doing what his party has failed to do.

IS BOSNIA WORTH DYING FOR?

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, last night I listened very attentively to what the President was telling the House and the Congress and also the American people. I listened to the President, and he did not answer the question: Is Bosnia worth dying for?

I think that is the core question we have to ask ourselves. Therefore, I think the people in the Congress are not going to follow the President's wishes and back him going into Bosnia. Going into Bosnia is not a smart move.

Every lesson we learned in Vietnam has either been forgotten or ignored. Secretary of State Christopher's own doctrine says before you can put troops anywhere in the world you have to ask yourself four questions: First, what is the mission? The President did not give us a clear mission.

Second, is there a reasonable chance for success? There is no reasonable chance for success in Bosnia.

Third, the support of the American people. The American people do not support this adventure.

And, fourth, what is the exit strategy? There is no exit strategy.

Going into Bosnia is a very bad idea, and if we do, we will rue the day that we have done it.

CONTINUING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BARR) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of May 18, 1995, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c). This report covers events through September 29, 1995. My last report, dated May 18, 1995, covered events through April 18, 1995.

1. On March 15 of this year by Executive Order No. 12957, I declared a separate national emergency pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. Executive Order No. 12959, issued May 6, 1995, then significantly augmented those new sanctions. As a result, as I reported on September 18, 1995, in conjunction with the declaration of a separate emergency and the imposition of new sanctions, the Iranian Transactions Regulations, 31 CFR Part 560, have been comprehensively amended.

There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535, since the last report. However, the amendments to the Iranian Transactions Regulations that implement the new separate national emergency are of some relevance to the Iran-United States Claims Tribunal (the "Tribunal") and related activities. For example, sections 560.510, 560.513, and 560.525 contain general licenses with respect to, and provide for specific licensing of, certain transactions related to arbitral activities.

2. The Tribunal, established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered four awards, bringing the total number to 566. As of September 29, 1995, the value of awards to successful American claimants from the Security Account held by the NV Settlement Bank stood at $2,368,274.541.67.

Iran has not replenished the Security Account established by the Accords to ensure payment of awards to successful U.S. claimants since October 8, 1992. The Account has remained continuously below the $500 million balance required by the Algiers Accords since November 5, 1992. As of September 29, 1995, the total amount in the Security Account was $188,105,627.95, and the total amount in the Interest Account was $32,066,870.62.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 31, 1995. The United

States is preparing a Reply for filing on December 4, 1995.

3. The Department of State continues to present other United States Government claims against Iran, in coordination with concerned government agencies, and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In September 1995, the Departments of Justice and State represented the United States in the first Tribunal hearing on a government-to-government claim in 5 years. The Full Tribunal heard arguments in Cases A/15(IV) and A/24. Case A/15(IV) is an interpretive dispute in which Iran claims that the United States has violated the Algiers Accords by its alleged failure to terminate all litigation against Iran in U.S. courts. Case A/24 involves a similar interpretive dispute in which, specifically, Iran claims that the obligation of the United States under the Accords to terminate litigation prohibits a lawsuit against Iran by the McKesson Corporation from proceeding in U.S. District Court for the District of Columbia. The McKesson Corporation reactivated that litigation against Iran in the United States following the Tribunal's negative ruling on Foremost McKesson Incorporated's claim before the Tribunal.

Also in September 1995, Iran filed briefs in two cases, to which the United States is now preparing responses. In Case A/11, Iran filed its Hearing Memorial and Evidence. In that case, Iran has sued the United States for $10 billion, alleging that the United States failed to fulfill its obligations under the Accords to assist Iran in recovering the assets of the former Shah of Iran. Iran alleges that the United States improperly failed to (1) freeze the U.S. assets of the Shah's estate and certain U.S. assets of close relatives of the Shah; (2) report to Iran all known information about such assets; and (3) otherwise assist Iran in such litigation.

In Case A/15(II:A), 3 years after the Tribunal's partial award in the case, Iran filed briefs and evidence relating to 10 of Iran's claims against the United States Government for nonmilitary property allegedly held by private companies in the United States. Although Iran's submission was made in response to a Tribunal order directing Iran to file its brief and evidence "concerning all remaining issues to be decided by this Case," Iran's filing failed to address many claims in the case.

In August 1995, the United States filed the second of two parts of its consolidated submission on the merits in Case B/61, addressing issues of liability and compensation. As reported in my May 1995 Report, Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran alleges it did not receive. The equipment was purchased pursuant to commercial contracts with more than 50 private American companies. Iran alleges that it suffered direct losses and consequential damages in excess of $2 billion in total because of the United States Government's refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords.

4. Since my last report, the Tribunal has issued two important awards in favor of U.S. nationals considered dual U.S.-Iranian nationals by the Tribunal. On July 7, 1995, the Tribunal issued Award No. 565, awarding a claimant $1.1 million plus interest for Iran's expropriation of the claimant's shares in the Iranian architectural firm of Abdolaziz Farmafarmaian & Associates. On July 14, 1995, the Tribunal issued Award No. 566, awarding two claimants $129,869 each, plus interest, as compensation for Iran's taking of real property inherited by the claimants from their father. Award No. 566 is significant in that it is the Tribunal's first decision awarding dual national claimants compensation for Iran's expropriation of real property in Iran.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995*.

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD, FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure and the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1994, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995*.

☐ 1430

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. BARR). This is the day for the call of the Corrections Calendar.

The Clerk will call the first bill on the Corrections Calendar.

PHILANTHROPY PROTECTION ACT OF 1995

The Clerk called the bill (H.R. 2519) to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

The Clerk read the bill, as follows:

H.R. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Philanthropy Protection Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Investment Company Act of 1940.
Sec. 3. Amendment to the Securities Act of 1933.
Sec. 4. Amendments to the Securities Exchange Act of 1934.
Sec. 5. Amendment of the Investment Advisers Act of 1940.
Sec. 6. Protection of philanthropy under State law.
Sec. 7. Effective dates and applicability.

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) EXEMPTION.—Section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(10)) is amended to read as follows:

"(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

"(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

"(ii) which is or maintains a fund described in subparagraph (B).

"(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

"(i) assets of the general endowment fund or other funds of one or more charitable organizations;

"(ii) assets of a pooled income fund;

"(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

"(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

"(v) assets of a charitable lead trust;

"(vi) assets of a trust not described in clauses (i) through (v), the remainder interests of which are revocably dedicated to a charitable organization, subject to subparagraph (C); or

"(vii) such assets (including assets revocably dedicated to a charitable organization) as the Commission may prescribe by rule, regulation, or order in accordance with section 6(c).

"(C) A fund that contains assets described in clause (vi) of subparagraph (B) shall be excluded from the definition of an investment company for a period of 3 years after the date of enactment of this subparagraph, but only if—

"(i) such assets were contributed before the date which is 60 days after the date of enactment of this subparagraph; and

"(ii) such assets are commingled in the fund with assets described in one or more of clauses (i) through (v) of subparagraph (B).

"(D) For purposes of this paragraph—

"(i) a trust or fund is 'maintained' by a charitable organization if the organization serves as a trustee or administrator of the trust or fund or has the power to remove the trustees or administrators of the trust or fund and to designate new trustees or administrators;

"(ii) the term 'pooled income fund' has the same meaning as in section 642(c)(5) of the Internal Revenue Code of 1986;

"(iii) the term 'charitable organization' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

"(iv) the term 'charitable lead trust' means a trust described in section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code of 1986;

"(v) the term 'charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in section 664(d) of the Internal Revenue Code of 1986; and

"(vi) the term 'charitable gift annuity' means an annuity issued by a charitable organization that is described in section 501(m)(5) of the Internal Revenue Code of 1986.".

(b) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a–7) is amended by adding at the end the following new subsection:

"(e) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Each fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of this Act shall provide, to each donor to such fund, at the time of the donation or within 90 days after the date of enactment of this subsection, whichever is later, written information describing the material terms of the operation of such fund.".

SEC. 3. AMENDMENT TO THE SECURITIES ACT OF 1933.

Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by inserting after the semicolon at the end the following: "or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940;".

SEC. 4. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTED SECURITIES.—Section 3(a)(12)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

(1) in clause (iv) by striking "and" at the end;

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

"(v) any security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; and".

(b) EXEMPTION FROM BROKER-DEALER PROVISIONS.—Section 3 of such Act (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

"(e) CHARITABLE ORGANIZATIONS.—

"(1) EXEMPTION.—Notwithstanding any other provision of this title, but subject to paragraph (2) of this subsection, a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or any trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, shall not be deemed to be a 'broker', 'dealer', 'municipal securities broker', 'municipal securities dealer', 'government securities broker', or 'government securities dealer' for purposes of this title solely because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of—

"(A) such a charitable organization;

"(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

"(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trust or other instrument.

"(2) LIMITATION ON COMPENSATION.—The exemption provided under paragraph (1) shall not be available to any charitable organization, or any trustee, director, officer, employee, or volunteer of such a charitable organization, unless each person who, on or after 90 days after the date of enactment of this subsection, solicits donations on behalf of such charitable organization from any donor to a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, is either a volunteer or is engaged in the overall fund raising activities of a charitable organization and receives no commission or other special compensation based on the number or the value of donations collected for the fund.".

(d) CONFORMING AMENDMENT.—Section 12(g)(2)(D) of such Act (15 U.S.C. 78l(g)(2)(D)) is amended by inserting before the period "; or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940".

SEC. 5. AMENDMENT OF THE INVESTMENT ADVISERS ACT OF 1940.

Section 203(b) of Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any investment adviser that is a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, whose advice, analyses, or reports are provided only to one or more of the following:

"(A) any such charitable organization;

"(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

"(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the trustees, administrators, settlors (or potential settlors), or beneficiaries of any such trust or other instrument.".

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

(a) REGISTRATION REQUIREMENTS.—A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) TREATMENT OF CHARITABLE ORGANIZATIONS.—No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person's employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

(1) a charitable organization;

(2) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

(3) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.

(c) STATE ACTION.—Notwithstanding subsections (a) and (b), during the 3-year period beginning on the date of enactment of this Act, a State may enact a statute that specifically refers to this section and provides prospectively that this section shall not preempt the laws of that State referred to in this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "charitable organization" means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

(2) the term "security" has the same meaning as in section 3 of the Securities Exchange Act of 1934; and

(3) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

This Act and the amendments made by this Act shall apply in all administrative and judicial actions pending on or commenced after the date of enactment of this Act, as a defense to any claim that any person, security, interest, or participation of the type described in this Act and the amendments made by this Act is subject to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any State statute or regulation preempted as provided in section 6 of this Act, except as otherwise specifically provided in such Acts or State law.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, pursuant to clause 4, rule VIII of the rules of the House, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BLILEY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Philanthropy Protection Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Investment Company Act of 1940.
Sec. 3. Amendment to the Securities Act of 1933.
Sec. 4. Amendments to the Securities Exchange Act of 1934.
Sec. 5. Amendment of the Investment Advisers Act of 1940.
Sec. 6. Protection of philanthropy under State law.
Sec. 7. Effective dates and applicability.

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) EXEMPTION.—Section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(10) is amended to read as follows:

"(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

"(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

"(ii) which is or maintains a fund described in subparagraph (B).

"(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

"(i) assets of the general endowment fund or other funds of one or more charitable organizations;

"(ii) assets of a pooled income fund;

"(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

"(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

"(v) assets of a charitable lead trust;

"(vi) assets of a trust, the remainder interests of which are revocably dedicated to or for the benefit of 1 or more charitable organizations, if the ability to revoke the dedication is limited to circumstances involving—

"(I) an adverse change in the financial circumstances of a settlor or an income beneficiary of the trust;

"(II) a change in the identity of the charitable organization or organizations having the remainder interest, provided that the new beneficiary is also a charitable organization; or

"(III) both the changes described in subclauses (I) and (II);

"(vii) assets of a trust not described in clauses (i) through (v), the remainder interests of which are revocably dedicated to a charitable organization, subject to subparagraph (C); or

"(viii) such assets as the Commission may prescribe by rule, regulation, or order in accordance with section 6(c).

"(C) A fund that contains assets described in clause (vii) of subparagraph (B) shall be excluded from the definition of an investment company for a period of 3 years after the date of enactment of this subparagraph, but only if—

"(i) such assets were contributed before the date which is 60 days after the date of enactment of this subparagraph; and

"(ii) such assets are commingled in the fund with assets described in one or more of clauses (i) through (vi) and (viii) of subparagraph (B).

"(D) For purposes of this paragraph—

"(i) a trust or fund is 'maintained' by a charitable organization if the organization serves as a trustee or administrator of the trust or fund or has the power to remove the trustees or administrators of the trust or fund and to designate new trustees or administrators;

"(ii) the term 'pooled income fund' has the same meaning as in section 642(c)(5) of the Internal Revenue Code of 1986;

"(iii) the term 'charitable organization' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

"(iv) the term 'charitable lead trust' means a trust described in section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code of 1986;

"(v) the term 'charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in section 664(d) of the Internal Revenue Code of 1986; and

"(vi) the term 'charitable gift annuity' means an annuity issued by a charitable organization that is described in section 501(m)(5) of the Internal Revenue Code of 1986.".

(b) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a-7) is amended by adding at the end the following new subsection:

"(e) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Each fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of this Act shall provide, to each donor to such fund, at the time of the donation or within 90 days after the date of enactment of this subsection, whichever is later, written information describing the material terms of the operation of such fund.".

SEC. 3. AMENDMENT TO THE SECURITIES ACT OF 1933.

Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by inserting after the semicolon at the end the following: "or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940;".

SEC. 4. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTED SECURITIES.—Section 3(a)(12)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

(1) in clause (iv) by striking "and" at the end;

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

"(v) any security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; and".

(b) EXEMPTION FROM BROKER-DEALER PROVISIONS.—Section 3 of such Act (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

"(e) CHARITABLE ORGANIZATIONS.—

"(1) EXEMPTION.—Notwithstanding any other provision of this title, but subject to paragraph (2) of this subsection, a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or any trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, shall not be deemed to be a 'broker', 'dealer', 'municipal securities broker', 'municipal securities dealer', 'government securities broker', or 'government securities dealer' for purposes of this title solely because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of—

"(A) such a charitable organization;

"(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

"(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trust or other instrument.

"(2) LIMITATION ON COMPENSATION.—The exemption provided under paragraph (1) shall not be available to any charitable organization, or any trustee, director, officer, employee, or volunteer of such a charitable organization, unless each person who, on or after 90 days after the date of enactment of this subsection, solicits donations on behalf of such charitable organization from any donor to a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, is either a volunteer or is engaged in the overall fund raising activities of a charitable organization and receives no commission or other special compensation based on the number or the value of donations collected for the fund.".

(d) CONFORMING AMENDMENT.—Section 12(g)(2)(D) of such Act (15 U.S.C. 78l(g)(2)(D)) is amended by inserting before the period "; or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940".

SEC. 5. AMENDMENT OF THE INVESTMENT ADVISERS ACT OF 1940.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any investment adviser that is a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, whose advice, analyses, or reports are provided only to one or more of the following:

"(A) any such charitable organization;

"(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

"(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the trustees, administrators, settlors (or potential settlors), or beneficiaries of any such trust or other instrument.".

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

(a) REGISTRATION REQUIREMENTS.—A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) TREATMENT OF CHARITABLE ORGANIZATIONS.—No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person's employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

(1) a charitable organization;

(2) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

(3) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.

(c) STATE ACTION.—Notwithstanding subsections (a) and (b), during the 3-year period beginning on the date of enactment of this Act, a State may enact a statute that specifically refers to this section and provides prospectively that this section shall not preempt the laws of that State referred to in this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "charitable organization" means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

(2) the term "security" has the same meaning as in section 3 of the Securities Exchange Act of 1934; and

(3) the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

This Act and the amendments made by this Act shall apply in all administrative and judicial actions pending on or commenced after the date of enactment of this Act, as a defense to any claim that any person, security, interest, or participation of the type described in this Act and the amendments made by this Act is subject to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any State statute or regulation preempted as provided in section 6 of this Act, except as otherwise specifically provided in such Acts or State law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2519, the Philanthropy Foundation Act of 1995.

Mr. Speaker, the far-reaching, bipartisan support of the legislation before this body today underscores the importance of the Philanthropy Protection Act of 1995 to our Nation's charitable organizations and the many people they serve.

While the genesis of this legislation is in a misguided lawsuit pending in Texas, the impact of that lawsuit has already been felt across the country—from Georgetown University to the Salvation Army. Universities, hospitals, religious groups, and other philanthropic organizations that exist to help others have been forced to cut back their planned giving programs as a result of that lawsuit.

The impact is especially devastating at this time of year—when charitable organizations normally receive a significant portion of their funding through yearend gifts.

While charitable income funds permit donors to contribute assets and receive income from the investment of those assets, there is a vital distinction between a charitable income fund and an investment company. That distinction is the intent of the contributors to the fund. A person who invests money in an investment company has one primary goal: to make money. A person who contributes through a charitable income fund also has one primary goal: to give money away. These different goals mandate regulation that recognizes the distinction between the two.

The Philanthropic Protection Act will make it clear that charitable income funds are not investment vehicles. But the act will not open any loopholes for those who would dress up a fraudulent scheme in benevolent clothing. The antifraud provisions of the Federal securities laws will continue to apply to charitable organizations and income funds—so that criminals who create Ponzi schemes like the new era fraud will continue to be prosecuted.

The amendment in the nature of a substitute that I have offered clarifies and makes more efficient the exemption from the Federal securities laws that this legislation provides.

The amendment adds two additional categories of revocable assets to the types of assets that exempt charitable income funds may hold under this legislation.

The Securities and Exchange Commission staff has expressed concern in the past that a person who donates revocable assets may not have donative intent, but, rather, the intent of an investor.

However, under certain circumstances, the donative intent of donors who give revocable gifts is reasonably certain. The amendment prescribes two circumstances in which the donative intent of a donor is not put into doubt by a gift's revocability.

This amendment will make compliance with the terms of the legislation's exemptions less costly to charitable organizations and the Securities and Exchange Commission by eliminating the need for the Commission to promulgate a rule or process an exemptive application to address situations where there really is no question as to donative intent of a donor.

This act is one component of a twofold legislative effort by the Commerce Committee and the Judiciary Committee, and I applaud Judiciary Committee Chairman HYDE for introducing H.R. 2525, The Charitable Gift Annuity Antitrust Relief Act of 1995, to complete this effort.

The Judiciary Committee's legislation correctly excludes the application of its terms to the prohibition in section 5 of the Federal Trade Commission Act against deceptive acts or practices, That prohibition lies within the exclusive jurisdiction of the Commerce Committee.

For the same reasons we have maintained the applicability of the antifraud provisions of the securities laws in the Philanthropy Protection Act of 1995, the Federal and State laws that prohibit deceptive acts or practices should continue to protect charitable organizations and the donors who contribute to them.

However, the use of joint annuity rates by charitable organizations is not, in and of itself, a deceptive act or practice for purposes of the Federal Trade Commission Act and similar State statutes. It has been brought to my attention that plaintiffs have sought to use consumer protection statutes similar to the deceptive acts or practices prohibition of the Federal Trade Commission Act to attack antitrust conduct where antitrust remedies are not available. At least one State supreme court has dismissed such a case, refusing to reward creative pleading at the expense of consistent application of legal principles.

The Federal Trade Commission Act is not intended to serve as a back door through which plaintiffs may seek to revoke charitable donations by disguising antitrust allegations as consumer protection claims.

I would like to take a few moments to thank Congressman FIELDS for bringing this legislation to the attention of the committee. I also would like to thank ranking members Congressman DINGELL and Congressman MARKEY for their hard work and cosponsorship of this legislation.

I also commend you, Mr. Speaker, for your work in bringing the Corrections Calendar to fruition to enable this Congress to consider matters such as the Philanthropy Protection Act of 1995 on this streamlined and expedited basis. Congresswoman VUCANOVITCH should also be recognized for her excellent work in making the Corrections Calendar such a success.

Finally, I would like to thank Linda Dallas Rich, Steve Cope, and Brian

McCullough of our staff for their diligent and excellent work on this initiative.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2519, the Philanthropy Protection Act of 1995. I am very pleased to have cosponsored the legislation, along with the gentleman from Texas [Mr. Fields], the gentleman from Virginia [Mr. Bliley], the gentleman from Michigan [Mr. Dingell], and I want to compliment at this time the gentleman from Illinois [Mr. Hyde] and the gentleman from Michigan [Mr. Conyers] for their work on the companion piece of legislation which is moving through the House this afternoon on the same subject.

Mr. Speaker, H.R. 2519 clarifies the exemptions provided in the Federal securities laws for charitable organizations. Under existing law, companies organized exclusively for religious, educational, benevolent, fraternal, or charitable purposes traditionally have been exempted from the registration and reporting requirements established for investment companies, investment advisers, and issuers of securities. These exemptions have reflected a longstanding congressional intent that such organizations should not be asked to comply with the comprehensive scheme of investor protection regulations designed to protect investors in the securities of for-profit corporations.

Over the years, the SEC staff has issued a series of interpretive no-action letters that have spelled out the precise contours of these exemptions, thereby giving assurances to the charitable community that their fundraising activities would not result in any SEC enforcement action being brought against them. This arrangement worked quite well until very recently, when a class action lawsuit filed in the State of Texas placed a cloud of uncertainty over the exempt status of charitable donation funds.

This lawsuit has alleged that the charitable donation funds maintained by the defendants are operating illegally as unregistered investment companies and that the gift annuities offered by these charities are illegal unregistered securities. While there is good reason to believe that this lawsuit ultimately would not prevail on the merits, its very existence has created great uncertainty, confusion, and concern within the philanthropic community.

At the subcommittee's hearing last month, we heard testimony from several charitable and educational organizations, including the Massachusetts General Hospital, that the lawsuit in Texas has already had a chilling effect upon its donations. We also heard from the president of the Boston-based National Council of Planned Giving that this lawsuit was having an adverse impact on charities throughout New England.

H.R. 2519 would eliminate the legal uncertainties raised by the Texas lawsuit by writing into the statute the longstanding SEC staff interpretive report of the nature and scope of the charitable organization exemptions. To ensure that the exemptions in the bill would not provide a loophole that would permit fraudulent activity, the legislation provides that the antifraud provisions of the Federal and State securities laws apply to charitable donation pools and the organizations that operate them.

Again, I am pleased to be a cosponsor of this bipartisan consensus piece of legislation. I applaud the gentleman from Texas [Mr. Fields] and the gentleman from Virginia [Mr. Bliley] for their expeditious bringing of the legislation to the floor before the end of the year when so many Americans make their decisions as to whether or not they are going to be making large charitable donations.

Mr. Speaker, I include for the Record an editorial in this matter which recently appeared in the Boston Globe.

The document referred to is as follows:

[From the Boston Globe, Oct. 16, 1995]

An Uncharitable Lawsuit

Federal Judge Joe Kendall has a choice to make. Sitting in his Dallas chambers, he will soon decide whether to expose America's charitable institutions to an ignoble lawsuit that could cost them billions of dollars.

In 1988, Louise Peter, now 90, of Wichita Falls, Texas, gave her $800,000 estate to the Lutheran Foundation in an arrangement known as a charitable gift annuity. At regular intervals the foundation pays Peter a certain sum based upon the value of her donation. In return, the charity keeps the Peter fortune upon her death.

The annuities make sense. Donors minimize taxes and are able to enjoy their philanthropy while still alive. Charities, whose burdens burgeon with each pass of Washington's budget buzzsaw, enjoy greater and more consistent revenue.

The only people who have reason to feel less than happy about the annuities are some of the would-be heirs who are passed over. The family of Louise Peter wants her money.

Peter's grandniece, Dorothy Ozee, sued the Lutheran Foundation for issuing the annuity without an insurance license and for administering the Peter estate without license as a trust company. Ozee also accused the foundation of breaking federal antitrust laws by following the payout recommendations of the nonprofit American Council on Gift Annuities. Judge Kendall's preliminary ruling favored the greedy niece. Now he has to rule on her petition to make the lawsuit a class action against almost the entirety of America's philanthropic community. If the class is certified and the suit succeeds, the charities may be required to return billions in contributions plus treble damages.

That is absurd. Charitable gift annuities have represented a legitimate way to help others for more than 100 years. Congress should quickly follow the Texas Legislature's lead and reiterate that the regulations in question were never meant to apply to charities. Judge Kendall's duty is to put an end to Ozee's bitter agenda of revenge.

Mr. DINGELL. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 2519, the Philanthropy Protection Act of 1995, and I rise in support of the bill. I commend the chairman of the subcommittee, Mr. Fields, for his strong leadership in introducing this bill and shepherding it through the hearing and markup process so promptly. I also commend the chairman of the Commerce Committee, Mr. Bliley, for bringing this legislation to the House floor today. I want to thank both gentlemen for the bipartisan and cooperative manner in which this bill has been handled by you and your able staff.

Time is of the essence. As spelled out in our committee's report (104–333) on this bill, abusive litigation currently pending in Texas poses a grave threat to numerous charitable organizations who have been appropriately operating in compliance with the terms and conditions of no-action letters granted by the Securities and Exchange Commission. H.R. 2519 is part of a twofold legislative effort that includes H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act of 1995, which has been reported to the House by the Judiciary Committee. This combined legislation will eliminate the bases for antitrust and securities law claims against charitable organizations who make legitimate use of joint annuity rates.

With respect to matters under the Commerce Committee's jurisdiction, H.R. 2519 would codify current SEC practice under the Federal securities laws and confirm Congress' intent—that the Federal securities laws apply to investments in securities, not to gift giving. Members should note that this bill does not affect the reach or scope of the antifraud provisions of the Federal securities laws and that those laws would continue to prohibit Ponzi schemes and any other frauds perpetrated under the guise of charitable activity. In other words, H.R. 2519 will not cut back in any way the authority or ability of the SEC to prosecute to the fullest extent activity such as that widely reported earlier this year in connection with the Foundation For New Era Philanthropy.

Finally, the Federal Trade Commission Act is not intended to serve as a back door through which plaintiffs may seek to revoke charitable donations by disguising antitrust allegations as consumer protection claims.

In closing, I believe that this bill strikes an appropriate balance between protecting investors and consumers and facilitating the ability of philanthropic entities to manage their donations.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Fields], chairman of the Subcommittee on Telecommunications and Finance of the Committee on Commerce.

Mr. FIELDS of Texas. Mr. Speaker, the goals of the Philanthropy Protection Act of 1995 before this body today echo the spirit of this season. This legislation will ensure that Americans may continue to help one another not just at holiday time, but throughout the year through gifts to charitable income funds.

We have all seen examples of the extraordinary work philanthropic organizations do. We must not allow ourselves to take this good work for granted. The funding that is provided through charitable income funds is essential to institutions like my alma mater, Baylor University—not just for providing scholarships, but for paying the bills to keep its doors open. Hospitals need the funding provided by charitable income funds not only to provide care for the sick, but also to conduct research to keep future generations healthy. Many other organizations rely on charitable income funds as a key element of their planned giving programs.

But right now many of these organizations are being forced to spend their resources on legal fees rather than the people who need their help.

The lawsuit in Texas that has given rise to the immediate need for this legislation alleges that charitable income funds are illegally unregistered investment companies. But the Investment Company Act of 1940, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940 were adopted to regulate investment activity—not gift-giving.

Charitable gift annuities, charitable lead trusts, and other charitable income funds permit donors to structure gifts to suit their financial capabilities. These planned giving vehicles permit every person—not just the wealthy—to make a significant donation to an organization he wishes to support.

At the same time, it is important to note that this legislation will not affect the reach or scope of laws that guard against securities fraud—because charitable organizations and the people who give to them should be protected from disreputable people who prey on good will.

I want to emphasize my agreement with the point made by Chairman BLILEY regarding the Charitable Gift Annuity Antitrust Relief Act of 1995, introduced by Judiciary Committee Chairman HYDE and numerous distinguished cosponsors. That legislation, together with the Commerce Committee's Philanthropy Protection Act, will eliminate the basis for antitrust and securities law claims against charitable organizations that legitimately use joint annuity rates.

The exemption the Judiciary Committee's bill provides from Federal antitrust law should not be vitiated by a clever lawyer who couches an antitrust claim as a deceptive trade practice claim under section 5 of the Federal Trade Commission Act or any similar State law. The Texas Supreme Court, in Abbott Laboratories versus Crystal Segura, threw out a claim that used exactly this tactic. The Federal Trade Commission Act's prohibition against deceptive trade practices does not extend to antitrust claims, regardless of how those claims are manipulated.

I thank Chairman BLILEY for cosponsoring this legislation and shepherding it through the Commerce Committee so expeditiously. I also thank Congressman DINGELL for joining the bipartisan effort, as well as my good friend, Congressman ED MARKEY. I also want to thank the many other distinguished cosponsors of this legislation—the legislation's popularity speaks highly of its significance to all Americans.

I also would like to commend you, Mr. Speaker, for creating the Corrections Calendar. The expedited fashion in which the Corrections Calendar has enabled this legislation to receive the consideration of this body is invaluable to the thousands of charitable organizations that are waiting with baited breath for the threat to their funding to go away. I thank Congresswoman BARBARA VUCANOVICH for her excellent work in developing this important new tool, which will be invaluable to this Congress as we seek to accomplish our goals as efficiently and effectively as possible.

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Finally, I want to thank our staff, Linda Dallas Rich, Steve Cope, and Brian McCullough, for their dedication and hard work on this initiative.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I am a member of the Corrections Day Advisory Group, and I support this bill that is before us today and the other bills that are going to be considered on the Corrections Calendar.

I last spoke about the corrections day on the House floor in June when we considered setting up a correction day. At that time, I raised the concern that the calendar would become a fast track for special interests to stop regulations to protect public health and the environment. Today, I am here to say that this has not happened and to commend the corrections day process.

The guidelines we developed for the Corrections Day Advisory Committee say that a corrections bill should address laws and regulations that are ambiguous, arbitrary, or ludicrous. The bill should be noncontroversial and have broad bipartisan support. The idea was to provide a forum for correcting silly, burdensome regulations that might not otherwise get the attention they deserve.

The Chair of the advisory group is the gentlewoman from Nevada [Mrs. VUCANOVICH]. Under her leadership, we have been learning how to apply these guidelines to the many bills that come before the Corrections Day Advisory Group.

The advisory group in general, and Chairman VUCANOVICH in particular, has been doing an excellent job in managing this Corrections Calendar. We have truly been identifying needless, burdensome regulations that can be corrected on the Corrections Calendar without controversy and with broad bipartisan support. At the same time, we have been rejecting bills that do not meet the corrections day criteria because they are controversial or address significant policy issues that should be considered under regular legislative procedures.

There are many examples of worthwhile corrections day bills that the House has enacted or is considering. The bill before us right now is an excellent example. Earlier this month, we passed a corrections bill that eliminated a duplicative reporting requirement relating to cardiac pacemakers, the Committee on Commerce reported a corrections bill that eliminates duplicative warning notices for products containing saccharin, and I hope we will also be able to deal with the issue of ride-sharing under the Clean Air Act in a way that meets the criteria of the Corrections Calendar.

I am particularly pleased to report that the existence of this Corrections Calendar has persuaded agencies to correct problems on their own. Let me give an example.

In September, the gentleman from Iowa [Mr. NUSSLE] brought a bill to the advisory committee that addressed a technical problem in the Clean Air Act. The problem was that the grain elevators that operate seasonally were being treated by air pollution regulators as if they were operated year round. The result was that these elevators might be classified as a major pollution source subject to permitting requirements.

Congresswoman VUCANOVICH and I wrote the EPA Administrator Carol Browner about the issue, informing her that this appeared to be a candidate for the Corrections Calendar. The Administrator investigated the issue, agreed that there was a problem that needed correcting, and promised to issue new guidelines correcting the grain elevator problem.

On November 14, the EPA fulfilled its commitment and issued the new guideline. The National Feed and Grain Association commended EPA on this action and estimated that the savings would be $10 to $20 million annually.

In closing, I particularly want to commend the gentlewoman from Nevada [Mrs. VUCANOVICH]. When the Corrections Day Advisory Committee first met, she said she wanted to feel her way step-by-step in establishing fair and appropriate procedures for corrections day. She has done an excellent job feeling her way. Speaking as one who initially had doubts about how the corrections day process would be handled, I am pleased to be able to say that it has been handled very fairly and productively under the leadership of the gentlewoman from Nevada [Mrs. VUCANOVICH].

The bill that is before us right now and the other bills on the calendar today under this procedure deserve the support of Members of the House. I hope that the Corrections Day Advisory Committee will present other worthwhile measures for the House to consider and to pass through this expedited procedure.

Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for giving me this opportunity to address this subject.

Mr. FIELDS of Texas. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding me this time. I would also like to thank the gentleman from California [Mr. WAXMAN] for the nice comments that he made just a few minutes ago.

Mr. Speaker, I rise today in support of H.R. 2519 and H.R. 2525, which address a critical need of the charitable community.

When we were working to establish corrections day we included in our definition of a corrections bill matters relating to court decisions. There was some discussion about the need for corrections day to deal with court decisions, and a general concern that we were designing a system to override, in a capricious way, all decisions we didn't agree with. At the time, it was difficult to cite an example of the type of case we had in mind. Now, here today we have the perfect example.

A court in Texas is considering Richie versus American Council on Gift Annuities in which it is alleged that the use of the same annuity rate by the various charities constitutes price fixing, and is thus a violation of the antitrust laws. This case has been certified as a class action suit greatly expanding its potential impact on the charitable community.

I think this is a clear example of a court case and possible decision that will have serious harmful impact. There is no evidence that this system of fixing annuity rates among charities causes any harm, in fact, the fixing of rates insures that giving decisions are made based on the merits of the charity rather than on the merits of the investment.

The House should put a stop to this misguided effort immediately, and I hope the other body will take up this legislation without delay.

Before I end today I would like to say a few words about corrections day in general and the progress we are making in perfecting the corrections process.

Last week this House passed a bill sponsored by Mr. WAXMAN and me to delete the heart pacemaker registry. As most Members know, Mr. WAXMAN and I seldom find ourselves on the same side of any issue. Despite our different outlooks, I must say that we have worked together very well over the last several months in getting corrections day to fulfill its purpose.

We have a very good group of people on our advisory group, who have been toiling away in anonymity and not always with much appreciation. The 12 of us, Mr. ZELIFF, Mr. MCINTOSH, Mr. SOLOMON, Mr. DREIER, Mr. JOHNSON, Mr. EHRLICH, Mr. WAXMAN, Mr. COLLIN PETERSON, Mr. CONDIT, Ms. RIVERS, and Mr. BECERRA have been meeting regularly since mid-July. During these months we have listened to many Members of Congress present their proposals for corrections day and worked diligently to get a flow of bills to the floor. I'm proud to say that we have made great progress.

Today marks the 5th corrections day. The House has passed a total of seven bills under this procedure and today we will pass bills eight and nine. One bill, the Edible Oil Regulatory Reform Act, has been signed into law by the President.

An additional benefit to this process has been the attention corrections day has brought to the regulatory process. We have found that by our advisory group looking into an issue we may be able to resolve the differences between the Federal agency and the constituent who is having a problem. As an example, Mr. WAXMAN mentioned our intervention on behalf of Congressman NUSSLE and his constituents resulted in a positive resolution of a problem between the grain elevator operators and the EPA.

In a time when the media is characterizing this institution as gridlocked, and the public view is that we are unable to solve the Nation's problems, it is encouraging to see that our legislative system can be made to work for the benefit of the average American. Again, Mr. Speaker, I would like to thank the gentleman from Virginia [Mr. BLILEY], the gentleman from Illinois [Mr. HYDE], and especially the gentleman from California [Mr. WAXMAN]. Also, I would like to thank the various staff members who have worked on this corrections day process.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. Speaker, I rise in strong support of H.R. 2519 and again to repeat from the previous week my urge that there is nothing we need more around here than corrections.

I would like to explain that the most correcting that is needed is not entirely addressed by H.R. 2519 by charities alone but also is to do away with the approach that the congressional Republicans have taken in their budget.

Referring to H.R. 2519, we clearly need to encourage more charitable giving. A summer study of 100 charities showed that, based on the Republican budget, they alone would cause the Nation's charities a $250 billion shortfall between 1996 and 2002. Now, it may just be coincidental that that is almost the amount of the tax cut that the Republicans intend to give to their rich friends. However, the head of the independent sector, Dr. Sara Melendez, says that the Nation's nonprofits will not only be unable to provide services at their current levels but their capacity will be so reduced that they will be incapable of meeting the increasing services that are projected for the new needs created by the Federal reductions in entitlement programs by 2002.

Now, H.R. 2519 takes a small step in correcting that. However, when we look at the huge problem that has been created by the Republican budget, and I quote here; for example, the study shows that the Lutheran Social Services of Michigan will have a shortfall of almost 280,000 days in nursing homes for the elderly.

The Crittendon Family Services in Columbus, OH, will serve 13 percent fewer people in their Family Preservation Services Program.

The Arkansas Easter Seal Society will serve 20 percent fewer children in its early intervention program for children with disabilities.

In Houston, TX, the Family Resources Society will have to turn away 20,000 children from its Child Abuse Prevention and Treatment Program, all because of the Republican budget cuts.

The Jewish Family Service of Los Angeles, CA, will be unable to meet the needs of some 80,000 meals for its Meals to the Elderly Program.

If the participating organizations are to make up their program revenue with private giving, which H.R. 2519 will help them do, the contributions would have to increase by 125 percent from the previous year over and above expected increases.

Now, when we are going to cut services to the elderly from 17 to 9 percent, nursing homes for the elderly from 42 to 30 percent, community development programs from 50 to 31 percent, home health care from 39 to 27 percent, legal services from 40 to 4 percent, food services from 46 to 40 percent, we need H.R. 2519.

Because the Republican draconian cuts that impact the poor and the disadvantaged, which these charities under H.R. 2519 are designed to serve, and where that money is being given, the $245 billion that is being cut and given to the very rich in tax cuts, we can only hope that H.R. 2519 will encourage those same rich Republicans who get the $245 billion in tax cuts to give a little bit of it back. The harm they are causing the poor, the elderly, the disadvantaged, the disabled in this country and the young children, is so huge that one wonders if this little correction is going to be enough to overcome that awful, heartless cutting and gutting of the social programs that protect the needy and the disadvantaged in this country.

While I urge my colleagues to vote for H.R. 2519, I urge them to remember that we cannot let this budget, that the Republicans have suggested, go through, giving all of this $245 billion in tax cuts to the rich, taking it out of the hides of the poor. H.R. 2519, while it is a good bill, will do a little bit but not nearly enough to correct the egregious error and hurt that the Republicans are inflicting on American society.

Mr. RICHARDSON. Mr. Speaker I would like to voice support for this bipartisan legislation and I would like to commend Mr. BLILEY, Mr. FIELDS, Mr. MARKEY, and Mr. DINGELL for expediting this important bill.

Some years ago the New Mexico Boys Ranch, Inc., became a member of the Committee on Gift Annuities—now American Council on Gift Annuities—because they were told that the Securities and Exchange Commission and the U.S. Treasury Department. utilized the committee to ensure that charities were properly trained and equipped to issue and administer charitable gift annuities to their donors. They were told that being a member was essential to demonstrate to both government regulators and donors that as a charity they were qualified to participate in this area of deferred giving.

This legislation will clarify that the American Council on Gift Annuities has not violated the law. It will dismantle a pending lawsuit that would otherwise limit the ability of the New Mexico Boys and Girls Ranches to provide services to children and potentially bankrupt and close the ranches permanently.

Because the future of philanthropy in the United States, as we now know it, is at stake and the future of the New Mexico Boys and Girls Ranches and many other New Mexico charities is threatened, I am wholeheartedly supportive of H.R. 2519.

NEW MEXICO
BOYS RANCH & GIRLS RANCH,
Albuquerque, NM, October 30, 1995.

Congressman BILL RICHARDSON,
Rayburn House Office Bldg.,
Washington, DC.

DEAR REPRESENTATIVE RICHARDSON, Years ago the New Mexico Boys Ranch, Inc. became a member of the Committee on Gift Annuities (now American Council on Gift Annuities) because we were told that the Securities and Exchange Commission and the United States Treasury Dept. utilized the committee to ensure that charities were properly trained and equipped to issue and administer charitable gift annuities to their donors. I was told that being a member was essential to demonstrate to both government regulators and donors that as a charity we were qualified to participate in this area of deferred giving.

I learned recently that a federal lawsuit had been filed in Texas that alleges that the American Council on Gift Annuities violated antitrust laws by providing actuarial tables to charities to assist them in determining the annuity rates for charitable gift annuities and that commingling of more than one charities' trust funds in a pooled income fund is a violation of the Investment Company Act of 1940, and other securities laws.

To my astonishment I learned last week that now the attorneys for the plaintiff have been granted class action certification to expand the suit to charities in every state. The plaintiff attorneys want to force charities to return all charitable gift annuities to the donors plus treble damages. With New Mexico Boys and Girls Ranch Foundation as a member of the American Council on Gift Annuities in the past, this would obviously greatly limit the ability of the New Mexico Boys and Girls Ranches to provide services to children and has the potential of bankrupting and closing the ranches permanently.

Because the future of philanthropy in the United States as we now know it is at stake and the future of the New Mexico Boys and Girls Ranches and many other New Mexico charities is threatened, I am urgently asking you to co-sponsor (if you have not already done so) and support HR 2519, introduced jointly by Representative Thomas Bailey of Virginia, Chairman of the House Commerce Committee and Representative Jack Fields of Texas, Chairman of that committee's subcommittee on Telecommunications and Finance. I also urge you to co-sponsor and support HR 2525, introduced by Representative Henry Hyde, Chairman of the House Judiciary Committee.

I would deeply appreciate hearing from you as soon as possible. I thank you in advance for your help in addressing this crisis. I honestly feel that the work of the charitable community throughout this nation will be seriously damaged if this legislation is not passed very soon.

Sincerely yours,
MICHAEL H. KULL,
President.

Mr. STEARNS. Mr. Speaker, I rise in strong support of H.R. 2519, legislation to modify our Federal securities laws to preclude litigation that is threatening the future funding of our Nation's numerous philanthropic organizations.

Philanthropic organizations are some of the most important organizations in the United States today. These charitable, religious, and educational groups have the laudable goal of providing assistance, support, and hope to those in society that may need a helping hand.

When an individual makes the generous decision to contribute to a charitable donation fund, the charity should not be prevented from enjoying the benefits derived from that contribution because some disgruntled relative, feeling that the money should go in their pockets, makes a claim on the money. Such relatives should not be allowed to initiate lawsuits on these grounds especially when the donor made a valid gift with sufficient donative intent.

Charitable donation funds fall outside the purview of our securities laws for the simple reason that donors do not intend to reap high returns on their investments. Instead they are seeking to make a gift to charity.

I urge all my colleagues to support H.R. 2519 to prevent contributions intended for charitable donation funds out of the pockets of selfish relatives.

□ 1500

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARR). Pursuant to the rule, the previous question is ordered on the amendment in the nature of a substitute and the bill.

The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia [Mr. BLILEY].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. MARKEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this bill will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. FIELDS of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to insert extraneous material on H.R. 2519.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF 1995

The Clerk called the bill (H.R. 2525) to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The Clerk read the bill, as follows:

H.R. 2525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charitable Gift Annuity Antitrust Relief Act of 1995".

SEC. 2. MODIFICATION OF ANTITRUST LAWS.

(a) EXEMPT CONDUCT.—Except as provided in subsection (b), it shall not be unlawful under any of the antitrust laws, or under a State law similar to any of the antitrust laws, for 2 or more persons described in section 501(c)(3) of the Internal Revenue Code of

1986 (26 U.S.C. 501(c)(3)) that are exempt from taxation under section 501(a) of such Code to use, or to agree to use, the same annuity rate for the purpose of issuing 1 or more charitable gift annuities.

(b) LIMITATION.—Subsection (a) shall not apply with respect to the enforcement of a State law similar to any of the antitrust laws, with respect to conduct described in subsection (a) occurring after the State enacts a statute, not later than 3 years after the date of the enactment of this Act, that expressly provides that subsection (a) shall not apply with respect to such conduct.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ANNUITY RATE.—The term "annuity rate" means the percentage of the fair market value of a gift (determined as of the date of the gift) given in exchange for a charitable gift annuity, that represents the amount of the annual payment to be made to 1 or 2 annuitants over the life of either or both under the terms of the agreement to give such gift in exchange for such annuity.

(2) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(3) CHARITABLE GIFT ANNUITY.—The term "charitable gift annuity" has the meaning given it in section 501(m)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 501(m)(5)).

(4) PERSON.—The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(5) STATE.—The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

SEC. 4. APPLICATION OF ACT.

This Act shall apply with respect to conduct occurring before, on, or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2525.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act, which provides antitrust protection for nonprofit organizations that issue charitable gift annuities. H.R. 2525 has been crafted in an extremely narrow manner, so as to protect only very limited conduct and to avoid application to any potential anticompetitive conduct. I am pleased to be joined by the ranking member of the Judiciary Committee, Mr. CONYERS, in sponsoring this bipartisan measure.

Charitable gift annuities are one of the oldest and most commonly used planned-giving vehicles in existence today. Many charities, including relatively small ones, issue dozens of gift annuity contracts each year, and they do so within rules established by the Internal Revenue Code. You have all probably seen the advertisements for charities that promise to "pay you an income for life." This is what a gift annuity does, and it is the kind of giving that H.R. 2525 is designed to protect.

When a person enters into a gift annuity agreement, he or she is actually doing two things—making a charitable gift and purchasing a fixed income for life. Probably, if the donor could afford to do so, he or she would turn over to the organization as an outright gift the entire amount paid for the annuity; but the donor needs to make some provision for income while alive. The important thing to remember is that gift annuities are not arms-length commercial insurance transactions. Donors expect charities to benefit from their gift, and they know the charities will pay less income than banks or insurance companies.

The annuity rate applied to the value of the gift is the critical element in ensuring that the transaction will result in a meaningful gift to the charity. The American Council on Gift Annuities, a nonprofit organization representing more than 1,500 charitable organizations and institutions, assists its members in determining annuity rates which will produce an average gift to the organization of between 40 and 60 percent of the amount originally donated under the agreement.

H.R. 2525 addresses the application of the antitrust laws, and of similar State laws, to the issuance of charitable gift annuities and the publication and distribution of suggested annuity rates for charitable gift annuities—the activities of the American Council and other charitable organizations. In defining the application of the law as it pertains to charitable gift annuities, the bill addresses issues raised in a class action lawsuit brought in the U.S. District Court for the Northern District of Texas, Wichita Falls Division. This lawsuit charges that use of the annuity rates recommended by the council constitutes price fixing, and thus violates the antitrust laws.

Mr. Speaker, I believe in the vigorous and nondiscriminatory application of the antitrust laws, and as a general matter, I do not favor exemptions or exclusions from the antitrust laws. In this limited instance, however, it would serve no public policy purpose to subject the calculation of charitable gifts to antitrust scrutiny.

First of all, it is not at all certain that the use of consistent annuity rates would be found to be a violation of the antitrust laws. The answer depends on whether the issuance of gift annuities is deemed "pure charity" or a "commercial transaction with a 'public service aspect.'" If it is considered "pure charity," the conduct is not trade or commerce, and therefore not within the scope of the antitrust laws.

Even if the issuance of charitable annuities were considered trade or commerce, a court might well find that use of the same annuity rates is not anticompetitive in effect. It is particularly difficult to see what anticompetitive effect the supposed setting of prices has in a context where the decision to give is motivated not by price but by interest in and commitment to a charitable mission. Furthermore, it is unclear whether the selection of an annuity rate could be characterized as the setting of a price: in this instance an annuity rate merely determines the portion of the donation to be returned to the donor, and the portion the charity will retain. Donors are not primarily buying an annuity; they are making a gift.

Notwithstanding the serious doubts as to whether the alleged conduct would be considered a violation of the antitrust laws, the current litigation is causing charities to expend massive amounts of time and resources on defending their positions. It is also forcing these organizations to make public information about their donors, a fact which makes people who guard their privacy reluctant to give. In addition, the class action certification makes donors—people who want to help their charities—into unwilling adversaries, causing the charities to expend donated funds opposing those who gave the funds in the first place.

If the plaintiffs in the class action lawsuit prevail, thousands of charities nationwide would be required to refund donations and to pay treble damages. This would mean that virtually every charitable organization in America is threatened with losses which could total billions of dollars.

Our goal should be to encourage gift giving through legitimate means, and particularly through instruments which the IRS approves and regulates. Gift annuities carry this imprimatur. Regardless of the outcome of the suit, there is no denying that it has had and will continue to have a chilling effect on gift giving and that it is consuming financial resources which would otherwise be allocated to charitable millions. This loss to society far outweighs any possible benefit from the application of the antitrust laws to the setting and use of charitable annuity rates.

To eliminate the uncertainty raised by this litigation, and to ensure the proper public policy result, H.R. 2525 makes clear that charities' use of the same annuity rates when they issue gift annuities does not violate Federal or State antitrust laws. The antitrust protection provided by H.R. 2525 is intended to extend to attorneys, accountants, actuaries, consultants and others retained or employed by a person described in section 501(c)(3) of the Internal Revenue Code of 1986, when assisting in the issuance of charitable gift annuities or the setting of charitable annuity rates.

I urge my colleagues to join me in protecting the charities of this country by voting in favor of H.R. 2525. I also urge my colleagues to support complementary legislation introduced by the gentleman from Texas [Mr. FIELDS] which addresses allegations of securities and insurance law violations contained in the class action suit. Enactment of that bill, H.R. 2519, along with H.R. 2525, will ensure that the vital work of charitable organizations can continue without the threat of crippling lawsuits.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased this day to join with the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary, in cosponsoring legislation that will help our nonprofits solicit charitable gifts which are so vital to their long-term operation and exclude them from being subjected to the possibility of unnecessary antitrust litigation.

As the Members of this body know so well, I support antitrust laws and their vigorous exercise thereof, and I am pleased to note that the ever-watchful Assistant Attorney General Anne Bingaman of the Antitrust Division has not had anything to do with the bringing of this case. This case was not brought nor was the Department of Justice involved in it in any way.

I favor the enforcement of antitrust laws and normally am very careful about exclusions or exemptions to the antitrust law. This limited instance, however, I believe, is one so important and so vital to public policy purpose that to subject the calculation of charitable gifts to antitrust scrutiny is something that we might want to avoid. Moreover, the bill has been crafted in an extremely narrow manner, and so it will not apply to any potential anticompetitive conduct.

The measure before us will overturn a legal action brought in a Federal court challenging the actions of the American Council on Gift Annuities in recommending annuity rates for nonprofits. These annuity rates represent complex calculations which allow donors to receive a reasonable future income and a tax deduction while preserving much of the gift's value for the charity. If the courts find the antitrust laws apply to these actions, it would cost our charities billions of dollars in resources and this would come at the expense of urgently needed civic and charitable needs at a time when they are more vital then ever to those who need them.

I would like to point out that the case that has been referenced has not been concluded. No decision has been rendered. And so we are acting in a very zealous fashion to make sure that no outcome that would cast a doubt over many of the activities of nonprofits could ever occur.

I must make one observation, though, that we are here under the corrections day calendar, Mr. Speaker. There have been 5 correction days and 7 bills so far, but might I point out that this measure could have perhaps more properly been brought under suspension of the rules. We have bipartisan support, there is little opposition, but to suggest that the Sherman Act and the Clayton Act, the antitrust laws of the Federal Government, should be subject to a corrections day revision I do not think speaks very thoughtfully about the importance of our bill, and the fact that the amendment we are making is neither ludicrous nor arbitrary. It is a serious change that we are making. We are making it in anticipation of a decision that nobody knows what would have happened. I think we are quite properly removing a cloud from over charitable gifts in the first place.

With that very minor and I hope not too nagging technicality, I also, as an original cosponsor of the legislation, urge Members to support the passage of this measure.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

□ 1515

Mr. STARK. Mr. Speaker, I thank the gentleman for his kindness.

I want to support H.R. 2525, granting antitrust relief to charitable gift annuities, because we are going to need some more charitable gifts.

Now, to my modern-day pharisees on the other side of the aisle, I would point out it is, indeed, a Christian thing to do to encourage giving. The Bible uses the word "give" 862 times, and the phrase "stop giving" does not appear at all. But the Republicans are stopping giving.

H.R. 2525 may help that. But I wonder, and I am not a lawyer so I would have to rely on the Committee on the Judiciary, low-income energy assistance is being cut. Should we, therefore, give an exemption to the oil companies?

Food stamps are being capped and cut 20 percent.

POINT OF ORDER

Mr. HYDE. Mr. Speaker, point of order. Should the gentleman's remarks be confined to the bill and not to extraneous matter that may be lurking within his fertile imagination?

The SPEAKER pro tempore (Mr. BARR). The gentleman is correct. The Chair would admonish the gentleman from California to limit his remarks to the subject matter of H.R. 2525 currently pending before this body.

Mr. STARK. I thank the Speaker, and I shall continue to talk about granting of antitrust relief to encourage gift annuities, which I believe is the bill, the nexus of the relationship.

For instance, Medicare, which is being cut where it pays for debt for low-income seniors, the hospitals very much want an antitrust exemption, which is really the nexus of this bill.

Would it not be wise to correct the Republican mistake of cutting Medicare and to give hospitals an antitrust exemption?

Or, in the same vein, H.R. 2525 allows antitrust relief. Would if not be good to give antitrust relief to the landlords of Macy's and Wal-Mart because of the $33 billion in earned income tax credits being cut out of low-income people while rich people will not need it? I suggest that is within the nexus of H.R. 2525 and antitrust relief.

Finally, college aid is being cut $5 billion. Last weekend Muskingum College in Ohio was dropping tuition from $13,000 a year to $9,000 a year. I remember when MIT and the Ivy leagues were clamped for antitrust for getting together on student aid.

Why not give the college antitrust relief? Then we will not need the college loan program that the Republican are gutting.

So I say support H.R. 2525. Start a movement. Replace the $254 billion in charitable cuts the Republicans are making with a Thousand Points of Light.

I urge support of the bill.

Mr. THORNBERRY. Mr. Speaker, I rise today to add my support to the effort being made to assist our Nation's charities, universities, hospitals, and other organizations that hold as their sole objective assisting the needy. The Philanthropy Protection Act and the Charitable Gift Annuity Antitrust Relief Act are necessary steps toward restoring the interpretation of the purpose of charitable gifts. Without these two pieces of legislation, the foundation for donating charitable gifts and trusts will be eliminated.

Because of a lawsuit filed in my district, organizations ranging from the Girl Scouts of America and the Southern Baptist Foundation to the Red Cross and Texas Tech University will be in true danger of losing their primary source of revenue. In an era when we are asking Americans to take greater responsibility for themselves, their families, and their neighbors, we must protect charitable organizations' ability to continue their work.

The two acts offered on the House floor today will establish charitable gift annuities as an exemption from Federal antitrust and securities laws that require interest return at market rates. This will enable charitable organizations to continue to accept planned giving donations from individuals, pay out reasonable annual returns to the donor and provide the excess interest to benevolent activities.

People who give charitable gifts do not do it to get rich—they do it mainly to help others. Using charitable gift annuities and charitable trusts makes it possible for donors to make a contribution, while still retaining some income from their gift. This flexible arrangement allows the funds to be used to care for and educate the less fortunate while at the same time providing investment income for the donor.

In light of the immense benefit of these kind of gifts, it is only unfortunate that these bills were precipitated by some heirs seeking to retain the donations for their own use. Although this originated in the 13th District in Texas, the effects of these two acts will benefit the entire Nation. It is for these reasons that I am proud to join in this bipartisan effort.

Ms. PELOSI. Mr. Speaker, I rise to offer my support for both H.R. 2525, the Charitable Gift Annuity Relief Act, and H.R. 2519, the Philanthropy Protection Act. These bills offer much-needed clarity to our securities and antitrust laws and will encourage continued charitable giving by our Nation's non-profit organizations.

Charitable gift annuities and charitable trusts make it possible for donors to make contributions while still retaining some income from the gift. This legislation encourages this flexible arrangement and should be supported.

Mr. Speaker, the people of the United States are the most generous in the world. In 1995 alone, contributions to charity totaled $120 billion. These bills will ensure that this level of generosity continues. Vote "Yes" on H.R. 2519 and H.R. 2525.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I just want to say how pleasant it is to have the gentleman from Michigan [Mr. CONYERS] on our side.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken.

Mr. HYDE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 5:30 p.m.

Accordingly (at 3 o'clock and 20 minutes p.m.), the House stood in recess until 5:30 p.m.

□ 1730

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BARR) at 5 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the questions that were postponed earlier today in the order in which each question was entertained.

Votes will be taken in the following order:

H.R. 2519 de novo; and

H.R. 2525 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PHILANTHROPY PROTECTION ACT OF 1995

The SPEAKER pro tempore. The pending business is the question de novo on the passage of the bill, H.R. 2519, on which further proceeding were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KLECZKA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 822]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman

Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Coleman
Cunningham
de la Garza
Fowler
Hefner
Kennedy (RI)
Maloney
Pelosi
Radanovich
Royce
Tucker

□ 1752

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CUNNINGHAM. Mr. Speaker, during rollcall vote No. 822, I was detained. I ask that the RECORD reflect had I been present, I would have voted "yea".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARR). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the remaining postponed question.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of passage of the bill, H.R. 2525, on which further proceedings were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 5, as follows:

[Roll No. 823]

YEAS—427

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Fowler
Hefner
Maloney
Pelosi
Tucker

□ 1804

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, due to a family medical emergency, I was not present for rollcall vote Nos. 822 and 823. Had I been present I would have voted "yes" on H.R. 2525 and "yes" on Senate Concurrent Resolution 33.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I was unavoidably detained in my district, but had I been present, I would have voted "aye" on both rollcall votes 822 and 823.

EXPRESSING THANKS AND GOOD WISHES TO HON. GEORGE M. WHITE ON HIS RETIREMENT AS ARCHITECT OF THE CAPITOL

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 33) expressing the thanks and good wishes of the American people to Hon. George M. White on the occasion of his retirement as the Architect of the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The text of the Senate concurrent resolution is as follows:

S. CON. RES. 33

Whereas at its inception, the Capitol of the United States of America was blessed to rise under the hand of some of this Nation's greatest architects, including Dr. William Thornton, Benjamin Henry Latrobe, and Charles Bullfinch;

Whereas prior to the Honorable George Malcolm White, FAIA, being appointed by President Nixon on January 27, 1971, it had been 106 years since a professional architect had been named to the post of Architect of the Capitol;

Whereas Mr. White has served the Congress through an unprecedented period of growth and modernization, using to advantage his professional accreditation in architecture, engineering, law, and business;

Whereas Mr. White has prepared the Capitol Complex for the next century by developing the "Master Plan for the Future Development of the Capitol Grounds and Related Areas";

Whereas Mr. White has added new buildings to the Capitol grounds as authorized by Congress, including the Thurgood Marshall Federal Judiciary Building, the Philip A. Hart Senate Office Building, and the Library of Congress James Madison Memorial Building, and through acquisition and renovation, the Thomas P. O'Neill and Gerald R. Ford House Office Buildings, the Webster Hall Senate Page Dormitory, and the Capitol Police Headquarters Building;

Whereas Mr. White has preserved for future generations the existing historic fabric of the Capitol Complex by faithfully restoring the Old Senate Chamber, the Old Supreme Court Chamber, National Statuary Hall, the Brumidi corridors, the Rotunda canopy and frieze, the West Central Front and Terraces of the Capitol, the House Monumental Stairs, the Library of Congress Thomas Jefferson and John Adams Buildings, and the Statue of Freedom atop the Capitol Dome;

Whereas Mr. White has greatly contributed to the preservation and enhancement of the design of the District of Columbia through his place on the District of Columbia Zoning Commission, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and other civic organizations and commissions; and

Whereas upon Mr. White's retirement on November 21, 1995, he leaves a legacy of tremendous accomplishment, having made the Capitol his life's work and brought to this century the erudition and polymath's capacity of our first Architects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the thanks and good wishes of the American people are hereby tendered to the Honorable George M. White, FAIA, on the occasion of his retirement from the Office of the Architect of the Capitol after nearly a quarter-century of outstanding service to this nation.

The SPEAKER pro tempore (Mr. BARR). Is there objection to the request of the gentleman from California?

Mr. FAZIO of California. Mr. Speaker, reserving the right to object, and I will not object, but I yield to my friend, the gentleman from California [Mr. THOMAS], who might like to make some comments on the legislation.

Mr. THOMAS. Mr. Speaker, after almost 25 years the Architect of the Capitol, George M. White, has retired. His retirement date was November 21. This resolution was passed in the Senate on the 20th of November, and we are just now getting around to giving the recognition that Mr. White deserves. We may certainly be recognizing his retirement after the fact, but at least it is not posthumously.

Mr. White was appointed Architect of the Capitol in 1971 by President Richard Nixon. He was only the ninth Architect of the Capitol in the history of the United States. Mr. White's credentials were virtually unique. He holds both a bachelor and master's degree of science from the Massachusetts Institute of Technology.

He holds a master's in business administration from Harvard, and he has a law degree as well, a juris doctorate.

In the time that George White has been Architect of the Capitol, the Capitol as we now know it evolved. There was no Hart Building. George White oversaw the construction of the third Senate Office Building. Anyone taking a tour of the Capitol today may not know that George White was responsible for the restoration of the old Senate Chamber or the old Supreme Court chamber, the restoration of the sandstone on the west front of the Capitol, and currently the renovation of the east monumental stairs in front of the House wing of the Capitol. Visitors may not realize how much he has contributed to the ongoing preservation of the Capitol.

The most well-publicized and perhaps unique event occurring under George White's tenure as Architect was the removal from the Capitol dome of the statue Freedom by helicopter, placing it on the east front, and carrying out a restoration on this very identifiable symbol of the Capitol. Then, after restoration, with great precision and accuracy, placing Freedom back on the Capitol to be preserved for an open-ended amount of time, the first time the statue had been refurbished in 130 years.

So, although it may be after the fact, our sincerity in wishing George White many happy years and many pleasant memories goes from this body to him. I thank the gentleman from California for yielding time to me.

Mr. FAZIO of California. Mr. Speaker, if I could continue to speak on my reservation briefly, I want to add my congratulations to George White, who perhaps had more impact on this monument that we work on here, this entire complex in Capitol Hill, than many, many Members of Congress of greater renown.

George White was the last Architect of the Capitol to be appointed by a President, without any advice or consent of Congress, to an open-ended term. His 25 years here already marked by many accomplishments: the Madison Building of the Library of Congress, the effort to house the new Senate Office Building, and to build buildings for all judicial offices, all of which were contemporary buildings of real merit.

I believe his greatest contribution was to restore the Library of Congress to a jewel-like facility, which I think is one of the most appreciated buildings in the country, and certainly one of the most important period pieces in American architectural history.

Mr. White has seen a transition in the office that he headed, and now he will be succeeded by an individual who will have a new challenge, the management and maintenance of the facilities as well as the architectural development of the Capitol. They will be a seminal element in the development of this city and the Capitol complex. He deserves the commendation this resolution provides.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING ADDITIONAL DEBATE TIME ON AMENDMENTS ON WHICH VOTE WAS POSTPONED ON H.R. 2564, LOBBYING DISCLOSURE ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that in the further consideration of the bill, H.R. 2564, in the Committee of the Whole, prior to the votes on the four amendments which were considered on November 16 upon which further proceedings were postponed, that the gentleman from Pennsylvania [Mr. FOX], the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Pennsylvania [Mr. ENGLISH], and the gentleman from Illinois [Mr. WELLER], each be recognized for 2½ minutes in support of their amendment, and that I be recognized for 2½ minutes in opposition to each amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1815

LOBBYING DISCLOSURE ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2564.

□ 1815

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, November 16, 1995, the amendment offered by the gentleman from Illinois [Mr. WELLER] had failed by voice vote and a request for a recorded vote had been postponed.

Pursuant to the order of the House of today, there will be a period of further debate on the following amendments on which further proceedings were postponed on Thursday, November 16, 1995:

No. 1, the amendment by the gentleman from Pennsylvania [Mr. FOX].

Second, the amendment by the gentleman from Pennsylvania [Mr. CLINGER.]

Third, the amendment by the gentleman from Pennsylvania [Mr. ENGLISH].

Fourth, the amendment by the gentleman from Illinois [Mr. WELLER].

Further debate on each amendment will be limited to 5 minutes equally divided and controlled by the proponent and the gentleman from Florida [Mr. CANADY]. Such further debate shall occur at the point of the debate.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. FOX].

The gentleman from Pennsylvania [Mr. FOX] will be recognized for 2½ minutes, and the gentleman from Florida [Mr. CANADY] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

My colleagues, we have a very important mission tonight to look at some important amendments. I regard the first rule of safety in any matter as self-defense, and my amendment provides that security in a bipartisan fashion.

We passed a rule not long ago which requires that we not take gifts from lobbyists. My amendment makes sure lobbyists do not give us gifts so that we are not caught in a catch-22, being guilty of receiving gifts, not knowing about it, not disclosing it, having an ethics violation, when in fact it should not exist.

Now, there have been some erroneous arguments presented by the gentleman from Florida [Mr. CANADY], my good friend, and I would like to explain why they are not correct. My amendment will not derail this important legislation, it will strengthen it so that we can finally attain lobby reform in a strong and logical way, and this will make sure we have true gift reform as well.

It is necessary because a ban of lobbyists presenting gifts to Members of Congress will protect Members of Congress from an unintentional failure to reject gifts. It is consistent with the Gift Reform Act that we passed under House Resolution 250. My amendment will provide reform without risk, and any differences there can be clarified within the conference committee.

It is fair because it makes lobbyists and Members equally responsible, and it makes sure that in fact they will be protected. As representatives of the people, we need to give the kind of reforms not only for lobbyists but for ourselves which the public wants.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Florida [Mr. CANADY] for yielding me this time and for his contributions on this important issue.

The issue here is whether or not we are going to have a lobbying bill. We have a history here of legislation getting killed because it gets caught up in House-Senate fights. I have filed a bill today, along with the gentleman from Texas and the gentleman from Connecticut, it is bipartisan, leaders in this fight, that take many of the amendments that will be offered that have a lot of merit and make them into a separate bill. Because if we amend this bill, the certainty is that it goes to the Senate; and the likelihood then is that no bill emerges and it becomes a way to kill it.

Mr. Chairman, the preferable way is to send this first very good step to the President and have him sign it and then for us to deal with this amendment and others in a vehicle that will soon follow.

I would ask the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, who has done such a good leadership job in this, if he would agree, as he has told me, that we would have such a vehicle.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I would say to the gentleman that I am committed to moving forward with other aspects of this reform issue early next year, and I will certainly work with the gentleman from Massachusetts and other Members who are concerned about strengthening this bill at the right time and the right place.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, very often we have good bills that come to the floor and the chairman and the ranking members and many others have worked well to come forward with a bill that is a good bill. We have an amendment here which improves the bill, and frankly, my colleagues of the House, this is an amendment to protect Members of the House.

We all know that there are those out there who want to set up and entrap Members of Congress and their staff. This amendment will protect Members of Congress and their staff from entrapment by our political enemies who solely want to file ethics charges for campaign purposes.

Mr. Chairman, I say to my colleagues, I urge a "yes" vote. The gentleman from Pennsylvania [Mr. FOX] is right on the mark.

Mr. CANADY of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and my colleagues of the House, I especially understand the importance of the lobby disclosure bill, and all Americans want to see us pass it, but I think also they want to see that we do it right with the gift ban.

When we pass a rule, there is nothing like teeth in a bill like this bill, making it better, making sure that lobbyists do not try to give us gifts: and, frankly, this is what the American people want. We want to make sure we have true reform that is meaningful. This amendment is necessary, it is consistent, it clarifies, it is fair, and it will help make the Canady bill better, not worse.

Mr. Chairman, I ask for passage of this bill and this amendment.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first say that I have the utmost respect for the gentleman from Pennsylvania [Mr. FOX]. He is a valuable Member of the House. However, I believe that the amendment before the House today is a seriously flawed amendment, and Members should pay close attention to its flaws.

The definition of gift contained in the amendment is different from the definition of gift contained in the gift reform rule adopted by the House. Look at the two versions and you will see they are different. This inconsistency will create a mess for Members. It will not protect Members.

For example, under the gift reform rule, Members may accept food or refreshments of a nominal value, other than as part of a meal. However, under the Fox amendment, lobbyists would be banned from providing such food and refreshments of nominal value.

Under the Fox amendment, lobbyists are permitted to make donations of home State products to Members, but under the gift reform rule, Members are prohibited from accepting gifts of home State products.

These and other inconsistencies will only lead to confusion and trouble for Members, not to protection for Members.

Even more troubling, and I ask the Members to pay close attention to this, is the double standard set up by this amendment under which lobbyists who give unlawful gifts will face a civil penalty of up to $50,000, while Members are exempt from any civil penalty, no matter how many prohibited gifts they accept. Is that what we want to do in this House today? It is patently unfair.

How can we explain to the American people that we will hammer lobbyists with fines for giving gifts while we are exempt from the same fines if we accept gifts? Any attempt at an explanation to the American people will fall on deaf ears. The double standard should be rejected. This amendment should be rejected.

The CHAIRMAN. All time has expired.

AMENDMENT OFFERED BY MR. CLINGER

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 2½ minutes, and the gentleman from Florida [Mr. CANADY] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the amendment we are considering at this point is an important amendment, and it is a commonsense amendment. I would not be offering this amendment, obviously, if this were a closed rule, and it would not be allowable for me to offer that, but this is an open rule.

Second, if this were not a germane amendment, I would not be offering it. They are asking for waivers, but it is a germane amendment.

The fact is I think all of us know that we have a problem in this area. Too many Federal agencies, both now and in the past, have been using taxpayer dollars to produce propaganda, lobbying material in the form of brochures and folders and flyers, et cetera, which then are disseminated out into the grassroots, out into the field and come back to us in the form of grassroots lobbying. That clearly is an impermissible activity. It is clearly one that should be illegal; and, in fact, it is illegal.

Under a law passed in 1919, it is a criminal offense to do just that, but nobody, nobody, no agency has ever been prosecuted under that criminal offense. What we would propose to do in this amendment is create a civil problem in saying, look, it is a civil offense; you cannot do this.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, with great respect to the gentleman from Pennsylvania [Mr. CLINGER], and there is no greater foe of Astroturf lobbying and abuses of grassroots lobbying on the floor than myself, having spoken on it several times, but I would still urge a no vote on this amendment and every amendment to this, because the purpose we have today is to try and get a clean bill through to the President.

We can handle it in separate legislation, offered in a bipartisan way. We can amend what will be a law later to include great ideas like this. There are many ways that we can have these sorts of advances in the law without having to do it by clogging up this bill and actually stopping the process cold today. I urge a "no" vote.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

□ 1830

Mr. BRYANT of Texas. Mr. Chairman, I urge Members to vote against this.

We have asked all Members to vote against these amendments so we can send a clean bill to the President and be signed.

This amendment would in effect say that the President of the United States and the Cabinet members are the only ones that could communicate on television about any matter of public importance.

What it in effect says is that they would have to answer every single press inquiry and nobody in the agency could legally talk to a radio or television reporter or to the press.

I think it is very, very overbroad, it is probably unconstitutional, and if it is important enough and deserves our action, the bill is now in the committee of the gentleman from Pennsylvania [Mr. CLINGER]. He could bring the bill to the floor standing alone.

Vote against the amendment.

Mr. CLINGER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. TAUZIN], a strong supporter of this amendment.

Mr. TAUZIN. Mr. Chairman, I rise in strong support of the amendment. This is the right bill for this amendment.

This bill is about inappropriate lobbying. If there is a form of inappropriate lobbying that is most pernicious, it is the use of taxpayer dollars, which are supposed to be spent to carry out Government programs, instead using those taxpayer dollars to lobby this Congress and to work in collusion with outside groups to lobby this Congress. That is an act that ought to be prohibited in the civil statutes just as it is in the criminal statutes.

By the way, this practice is not a Democrat or Republican one. It has been going on for years. We need to make it illegal.

Mr. CLINGER. Mr. Chairman, I yield myself the balance of my time just to underscore a couple of points the gentleman from Louisiana made.

No. 1, this has been accused of being a partisan effort. It is not. Clearly this activity has gone on in many administrations. I can cite examples from the Reagan administration.

It is an amendment that will continue to be alive and well in the next administration, which those of us hope will be a Republican administration.

Second, we cannot worry always about what the other body is going to do. If we were going to circumscribe our activity by what the other body was going to do, we would never do anything over on this side. I think that is somewhat of a spurious argument.

This amendment is strongly supported by NFIB, the Chamber of Commerce, the National Taxpayers Union, Citizens Against Government Waste, and the House leadership, I might point out.

I would suggest, Mr. Chairman, that it is a good amendment, an amendment that clearly fits within this bill. It has to do with lobby reform, it has to do with inappropriate lobbying. Nothing could be more inappropriate in the way of lobbying than to have an administrative/executive branch agency producing documents which then are used in the field for grassroots lobbying. Let us put a stop to it. Let us vote for this amendment.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time.

Although offered with the very best of intentions to address a real problem, I believe that the Clinger amendment is the wrong approach at the wrong time.

I am afraid to say that it is a poorly drafted proposal which will have an exceptionally broad impact. For example, under the Clinger amendment, agency press officers would not be allowed to answer inquiries from the press regarding the agency's position on legislative proposals. Do we really want to do that?

Agency press secretaries would not be allowed to issue press releases regarding pending information. Do we really want to do that?

Agency legislative liaison personnel would be prohibited from making public statements regarding the merits of legislative proposals. Do we really want to do that?

No hearings have been conducted on this proposal even though the issue is within the jurisdiction of the gentleman from Pennsylvania, the committee that he chairs.

This proposal involves a conflict between the legislative branch and the executive branch and is calculated to provoke a Presidential veto. Although there have been lobbying abuses by Federal agencies, we all understand that, it has been a bipartisan matter, the Clinger amendment simply goes to far. The proposal of the gentleman from Pennsylvania [Mr. CLINGER] should be considered and refined by the Committee on Government Reform and Oversight which the gentleman from Pennsylvania chairs. It should not be allowed to threaten this Lobbying Disclosure Reform Act. We have waited too long.

I urge Members to vote against this amendment so that we can end 40 years of gridlock and send a lobbying disclosure reform bill to the President for his signature.

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH].

The gentleman from Pennsylvania [Mr. ENGLISH] and the gentleman from Florida [Mr. CANADY] each will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself 1¼ minutes.

Mr. Chairman, I rise in strong support of the English-Traficant amendment and ask that the House do the right thing and slam the revolving door for all U.S. trade officials who then try to go to work for foreign interests.

The underlying bill here, which I strongly support, includes a life ban on people leaving the position of U.S. trade representative or deputy trade representative and going to work for foreign interests. It also applies a ban on individuals being hired for those positions who have previously worked for foreign interests.

I believe that it is very important that we extend this restriction to the Secretary of Commerce and to the members of the International Trade Commission. This is a clear conflict of interest. I think this is a fundamental reform necessary to protect American companies and American workers and preserve the integrity of U.S. trade law enforcement.

Mr. Chairman, we cannot allow these people to serve on one side of the table negotiating on our behalf, learn our secrets, learn our strategies, learn the inside, and then move over to the other side.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, this legislation presents us with a rare opportunity in this Congress to work together as people of good will, Democrats and Republicans, in a bipartisan effort to provide reform that people really want. We know that this is a statute that has not been significantly rewritten since 1946 when it was enacted. There has been one failed effort after another.

Now is not the time to let the perfect become the enemy of the good. This particular amendment is not a bad idea. In fact, I would support it as a freestanding piece of legislation, and there are numerous opportunities to put this kind of legislation on other legislation. But to put it on this particular bill at this time is to cripple and to defeat this bill.

There is only one way to get this legislation passed and to avoid the never-never land of a perfect bill, and that is to defeat this and every other amendment and to put this bill on the President's desk now and get it in place and signed into law by January. That is what we need to do tonight.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Youngstown, OH [Mr. TRAFICANT], one of the most distinguished trade warriors in this Chamber.

Mr. TRAFICANT. Mr. Chairman, I have heard the discussion that now is not the time, we can add this to some other piece of legislation. There is no other legislation. We will not see it.

Let me make this point. If a Government official left the Department of Defense to go to work for our enemies during war, they would in fact be jailed and charged with espionage and treason. But today high-ranking officials, once they leave our service, work on behalf of foreign interests.

Now the bill recognizes that. With a lifetime ban, U.S. Trade Representative and other deputy representatives. What about the Secretary of Commerce? What about the members of the International Trade Commission, folks?

I think this amendment speaks right to the point. There have been people wheeling and dealing in high places and when they leave, they go right to work for our competitors.

This is the bill, this is germane, this is the time to pass it. Support this amendment. It makes sense.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think it is essential for American workers and American companies that every Member of this Chamber who supports fair trade, who supports protecting our economic interests, who opposes economic quislings supports this amendment. It is essential. Ladies and gentlemen, let us get this one done.

Mr. CANADY of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I urge Members to vote "no" on an amendment that I would on any other day in any other situation support.

I strongly support the English of Pennsylvania and the Fox of Pennsylvania amendments to the lobby reform bill. I strongly agree with the purposes of these amendments. I have supported the concepts contained in them for years and I continue to do so.

But I deeply regret I am compelled to urge Members to vote against them—just as we have urged Members to oppose all amendments to the bill—so we can send the bill on to the President to be signed into law.

We know any amendment to this bill—even those as meritorious as these two—will doom the bill to conference with the Senate, where it will surely die as all other attempts to reform lobbying for over 40 years have died.

Make no mistake about it, if we have to go to conference again on this bill, we will be stuck there—just as we were stuck at the adjournment of the last Congress when the original bill died. This bill is too important to meet the same fate in this Congress.

The chairman of the Constitution Subcommittee, Mr. CANADY, and its ranking member, Mr. FRANK, have promised to move a separate lobby reform bill through the Judiciary Committee early next year. I will cosponsor that bill and will do everything I can to ensure it becomes law with these two amendments in it.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Chairman, I think what we see before us today is what some of us call loving a bill to death.

In the State legislature, we used to call it Christmas treeing. You get enough on the Christmas tree that it crumbles by its own weight. Loving it to death just means that you keep doing good things to the bill until it dies.

Today we could be loving this bill to death if we pass any of these very good amendments. What we have got is some amendments that are good but at the wrong time. If we pass amendments on this bill, the chances of the underlying bill not becoming law go up substantially.

I believe inside, and from what I am hearing from the Senate and the President, there is a good chance that we will kill this legislation by hanging one amendment on it.

Since I have gotten here, I have found that a lot of people say a lot of good things about reform but then they find a lot of good ways to kill it. Do not kill this bill. Vote "no" on all the amendments.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time.

I rise in opposition to this amendment, although I am very sympathetic to the goal of this amendment and I believe that the amendment has substantial merit. This proposal and others relating to representation of foreign interests will be considered by the Subcommittee on the Constitution early next year.

I do not believe, however, that it should be allowed to interfere with the passage of this bill and sending this bill to the President for his signature. We have waited 40 years and we should not allow this good proposal to get in the way of our goal of enacting lobbying disclosure reform.

AMENDMENT OFFERED BY MR. WELLER

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Illinois [Mr. WELLER].

The gentleman from Illinois [Mr. WELLER] and the gentleman from Florida [Mr. CANADY] will each be recognized for 2½ minutes.

The Chair recognizes the gentleman from Illinois [Mr. WELLER].

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Mr. WELLER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is basically a pretty simple issue on this amendment, and that is: Do taxpayers have the right to know?

Earlier this year there was a poll that was taken, and the national news media was actually held in lower esteem by the taxpayers than the Congress. I believe that the public deserves the right to know.

This amendment gives the public the opportunity to know that journalists are being paid speaking fees and honoraria by special interests. The Senate has already made clear its intentions by urging members of the media to disclose it.

Well, this amendment places the burden on the lobbyists when they disclose their paperwork every year. All they have to do is say what honoraria they pay to which journalists and when they pay it. It still allows journalists to collect the fees. It still allows journalists the right to go out and speak. It just gives the public the right to know.

I ask for a "yes" vote.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I was to offer an amendment tonight that would require disclosure of paid lobbyists' contacts with Members. I thought it would be extraordinarily valuable to the public and the lobbyist community. But in the interests of getting this bill passed and getting some improvement in this situation here in Washington, I will withhold that amendment tonight and would urge everybody to oppose all amendments because it is a ruse to kill the bill.

We have got to get this bill, begin reform, and then we can come back with more significant reforms later in a second piece of legislation that we will bring up after the first of the year.

Mr. WELLER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, I want to commend the gentleman from Illinois for his leadership in regards to reform issues.

This Congress has truly been cleaning house about rebuilding faith in our institutions. We have already done many of these reforms. There is more to be done.

There are some in the media, as was stated, that do receive honoraria for their speaking engagements. They then get the opportunity to report in regard to these industries on television.

The public has the right to know who these industries are. This amendment does not prohibit, does not limit. It simply requires the disclosure by the lobbyists who provide this honoraria.

The taxpayers have a right to know. We owe it to them.

Mr. CANADY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, if Members want to kill lobby disclosure, just amend it. Find the best amendment and just amend it, and you have killed lobby disclosure.

The last meaningful bill we had was in 1946. Then the Senate gutted lobby disclosure. We have 660,000 to 780,000 people who lobby. Only 6,000 are registered lobbyists.

I urge my Members to wake up and see what is happening here. This is, in the end, an attempt to kill lobby disclosure.

Defeat all amendments. Send this to the President. Get this signed into law, and then bring out these bills after they have had public hearings.

Mr. WELLER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I stand in strong support of the bill the gentleman from Florida [Mr. CANADY] has brought forward. He is my friend. He has worked hard on this. I understand his intent.

Let us make a good bill better. I believe the process works. We need to add good amendments.

I also believe the American public has the right to know when those who are providing information and determining what information is shared with the American public on issues that are so important to American taxpayers that those who are the gatekeeper on information are receiving speaking fees or honoraria.

Let us give the public the right to know. What this amendment does is require a registered lobbyist to disclose speaking fees and honoraria that they pay to journalists, when it was paid, how it was paid and how much, and let the public know. Otherwise, journalists can continue receiving these fees.

It does not prevent them from being on the speaking circuit. It just gives the public the right to know journalists are receiving speaking fees up to $60,000.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge a vote against the Weller amendment on the grounds it raises serious first amendment concerns.

I believe that targeting the media in the way that this amendment does is not something we should do, and would urge Members to vote against it on that basis.

But I would also urge Members, focus on what is at stake here. Tonight the House has a historic opportunity to end 40 years of gridlock, 40 years of inaction and stalemate and 40 years of failure. The bill we are considering is identical to the bill which passed the Senate 98 to zero. The President has said he will sign it.

It is time we got the job done. The American people want lobbying reform. We should listen to them. We should listen to them. We should not let this opportunity pass us by.

Let us send a bill to the President, no more delay, no more promises, no more excuses. Let us give the American people lobbying reform tonight.

I urge that the Members vote against all the amendments and support this bill.

Mr. WYDEN. Mr. Speaker, lobbying reform needs to be enacted now. If there is any delay, it may be another 40 years before anything gets done.

The United We Stand organization has written all of us that amendments on this bill should be opposed so that lobbying reform does not get caught up again in legislative gridlock. My colleagues SMITH, BRYANT, CANADY, FRANK, and others have argued passionately and convincingly that amendments would only mean that once again the enemies of lobbying reform would prevail. This is why I chose to oppose any amendments to this legislation.

I do want to emphasize, however, that under any other circumstances, I would support the Fox amendment to prohibit lobbyists from giving gifts to Members of Congress. Already, as of January 1, 1996, Members will be prohibited from accepting gifts, and we ought to make this a two-way street.

Additionally, I would strongly support Representative ENGLISH's amendment which would impose a lifetime ban on the Secretary of Commerce and the Commissioner of the International Trade Commission from lobbying for a foreign interest.

Representative CANADY has promised that these amendments will be brought up in a second piece of legislation. I intend to be a part of the effort to move these amendments and will work for their passage.

While I think there are many ways to further improve lobbying reform legislation, it is time to end the gridlock on lobbying reform. The time is now. The place is here. At long last, let's send a lobbying reform bill to the President.

Mr. BOEHNER. Mr. Speaker, I support the amendment offered by Representative BILL CLINGER to put an end to the lobbying activities of executive branch employees.

Too much of the information the executive branch distributes is designed not to educate or inform but to generate public opposition or support for matters before Congress. Currently, there is a law on the books to prohibit such political lobbying activity. However, the statute is so vague, no one has ever been held accountable.

The Clinger amendment clarifies the existing law to make sure that Federal employees are administering Federal programs and assisting the American people rather than spending their time involved in partisan politics. Executive branch officials such as the President, Vice President, and officials approved by the Senate are exempted, but other public servants involved in the day-to-day operations of this Nation would be prohibited from playing politics with taxpayer money.

I have witnessed first-hand this irresponsible and inappropriate behavior by Ohio employees of the Department of Agriculture [USDA]. Ohio State directors of USDA programs issued a press release making outrageous claims mimicking the shrill, partisan attacks we have heard from full time politicians in Washington.

The antics of these employees, at taxpayer expense, degrade the term "public servants." These politically appointed bureaucrats with the USDA should have been spending their time and our tax dollars helping Ohio's farmers instead of attacking for partisan gain efforts to balance the budget. No administration, Democrat or Republican, should be allowed to use publicly paid employees to further blatantly partisan and political agendas.

I urge my colleagues to support the Clinger amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my Republican colleagues are a little thin-skinned. They do not like criticism. Faced with it, their instinctive reaction is to try and silence it.

That is what the Istook amendment was all about—silencing the criticism of the Red Cross, the Girl Scouts, the Boy Scouts, the YMCA, and countless other nonprofit groups that oppose Republican cuts in education, nutritional programs, and health care.

They especially wanted to silence the National Council of Senior Citizens that had the nerve to oppose Speaker GINGRICH's cuts in Medicare and Medicaid. Republicans even went as far as to have senior citizens arrested when they tried to make their views known at a committee meeting.

The amendment of my colleague from Pennsylvania is also aimed at silencing opposition—this time it's the opposition of Federal agencies.

Isn't it interesting that the Republicans, who are so fond of reminding us that the Government belongs to the people, propose in this amendment to prohibit, I repeat prohibit, Federal agencies from talking to anyone except Congress? I ask my Republican colleagues, why do you want to prevent the people's Government from speaking to the people?

This amendment strictly prohibits, and I quote, "the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement, that is intended to promote public support or opposition to any legislative proposal * * * on which congressional action is not complete.", end of quote.

Mr. Chairman, we had a President, not so long ago, who prided himself on being a great communicator. President Reagan took his case directly to the people. He had his whole administration out convincing the people of the correctness of his policies.

He went around Congress in order to build public support for his legislative agenda, and without that public support he would never have gotten Congress to do what he wanted.

I sincerely doubt President Reagan, the great communicator, would have wanted his administration restricted to communicating with Congress. While I was not a fan of many of President Reagan's policies, I firmly believe that he, and every President, not only has the right, but the duty to make his case directly to the people.

Mr. Chairman, let's get one other thing clear, too. The amendment we are now considering seeks to remedy a nonexistent problem.

Federal law already prohibits agencies from using appropriated funds to engage in lobbying.

If the proponents of this amendment believe agencies have engaged in grassroots lobbying, then they can take action under existing laws that already prohibit this activity.

So, why are new restrictions needed?

Mr. Chairman, the answer is: they are not.

I urge my colleagues to vote no on this amendment. True democracy can only exist where trust, not deceit, binds the people to their government and the government to its people.

Mr. LEACH. Mr. Chairman, I rise to explain a series of votes on lobby reform under consideration today. Amendments, several of which meet thorough-going commonsense standards, have been introduced which I expect to vote against because they will precipitate the bill going to conference where those leading the reform movement are convinced I will be buried.

National organizations from Common Cause to Ralph Nader's advocacy groups, as well as major newspapers such as the New York Times, Washington Post, and Des Moines Register have expressed concern that unless this lobby disclosure bill is passed without amendment exactly as the Senate has already approved it, lobby disclosure will wither in this Congress.

Hence, it is my intention to vote against amendments to this bill with the understanding that I would expect to support the precepts underlying them in discreet, separate bills which can be brought to the floor at another time.

As for now, if we pass this bill unamended, it can go to the President's desk for signature this week. If we amend it with any of the well-intentioned amendments before us, a strong possibility exists that the underlying bill will never become law. Let us thus pass the bill as is and then bring forth the approaches contained in the amendment in another context at another time.

Mr. POMEROY. Mr. Speaker, I rise in strong support of the Lobbying Disclosure Act of 1995 and in opposition to the amendments that will be offered for consideration today.

Mr. Speaker, the bill before us today is identical to the legislation passed by the Senate by unanimous vote. If we approve this legislation without amendment, the bill will be sent to the President and signed into law. If, on the other hand, the House adopts even a single amendment, the bill must be sent to conference, where history has taught us that the enemies of lobbying reform will delay, obstruct and effectively kill this breakthrough legislation.

Therefore, I will vote against the amendments offered today not because the bill is perfect or because all of the amendments are without merit, but because Congress can no longer afford to delay meaningful lobbying reform.

I appreciate the commitment of Chairman CANADY and Mr. FRANK to strongly advocate for the expeditious consideration these amendments in separate legislation. In this way, Congress will have the opportunity to evaluate the merit of these amendments without endangering the enactment of lobbying reform.

I congratulate the chairman and ranking minority member for their work on this legislation and strongly urge its adoption.

The CHAIRMAN. All time for further debate on these amendments has expired.

Pursuant to the order of the House of Tuesday, November 16, 1995, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from Pennsylvania [Mr. FOX], the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER], the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH], and the amendment offered by the gentleman from Illinois [Mr. WELLER].

The Chair would advise Members that he will reduce to a minimum of 5 minutes the time for any electronic vote after the second vote in this series. The first and second votes will be 15-minute votes. The last two will be 5-minute votes.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. Fox], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Fox of Pennsylvania: Page 23, insert after line 2 the following:

(d) PROHIBITION ON GIFTS.—

(1) IN GENERAL.—No lobbyist who is registered under section 4 may provide any gift to a Member of the House of Representatives, a Senator, or an officer or employee of the House of Representatives or the Senate unless the lobbyist is related to the Member, Senator, or officer or employee.

(2) DEFINITION.—For the purpose of paragraph (1), the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(3) EXCEPTION.—The restriction in paragraph (1) shall not apply to the following:

(A) Anything for which the Member, Senator, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a contribution for election to a State or local government office limited as prescribed by section 301(8)(B) of such Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(B) A gift from a relative as described in section 109(5) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

(C)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Senator, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, Senator, officer, or employee and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Senator, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(I) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(II) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(D) A contribution or other payment to a legal expense fund established for the benefit of a Member, Senator, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(E) Any gift from another Member, Senator, officer, or employee of the Senate or the House of Representatives.

(F) Food, refreshments, lodging, and other benefits—

(i) resulting from the outside business or employment activities (or other outside activities that are not concerned to the duties of the Member, Senator, officer, or employee as an officeholder) of the Member, Senator, officer, or employee, or the spouse of the Member, Senator, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, Senator, officer, or employee and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(G) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employee.

(H) Informational materials that are sent to the office of the Member, Senator, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(I) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(J) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(K) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(L) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, Senator, officer, or employee, if such training is in the interest of the Senate or House of Representatives.

(M) Bequests, inheritances, and other transfers at death.

(N) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(O) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(P) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(Q) Free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event provided by the sponsor of the event.

(R) Opportunities and benefits which are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(S) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

(T) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 257, not voting 4, as follows:

[Roll No 824]

AYES—171

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Bartlett
Barton
Bishop
Bliley
Boehner
Bono
Boucher
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Chabot
Chambliss
Christensen
Clinger
Coburn
Collins (GA)
Combest
Cooley
Costello
Crane
Cremeans
Cubin
Danner
de la Garza
DeFazio
Dickey
Dornan
Doyle
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
English
Evans
Fields (LA)
Fields (TX)
Filner
Forbes
Fox
Frisa
Funderburk
Gallegly
Gekas
Gillmor
Goodling
Gordon
Green
Gutierrez
Gutknecht
Hall (TX)
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Holden
Horn
Hostettler
Istook
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
Kingston
Klink
LaHood
Largent
LaTourette
Lewis (CA)
Lipinski
LoBiondo
Lucas
Manton
Manzullo
Mascara
McDade
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (CA)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Oxley
Parker
Pastor
Paxon
Peterson (MN)
Porter
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Rogers
Rohrabacher
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Shadegg
Skelton
Smith (MI)

Solomon
Souder
Stearns
Stenholm
Stockman
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thurman
Tiahrt
Traficant
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Young (AK)

NOES—257

Ackerman
Baker (LA)
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Bonilla
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Callahan
Calvert
Canady
Cardin
Castle
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cox
Coyne
Cramer
Crapo
Cunningham
Davis
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Emerson
Engel
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Latham
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lofgren
Longley
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Portman
Quinn
Rangel
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Stokes
Studds
Stump
Tejeda
Thomas
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Fowler
Hefner
Tucker
Volkmer

☐ 1909

Messrs. BARCIA, LATHAM, and LAZIO of New York changed their vote from "aye" to "no."

Messrs. PORTER, CHAMBLISS, SCHUMER, WILLIAMS, MILLER of California, and DEFAZIO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CLINGER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLINGER: Beginning on page 25, redesignate sections 8 through 24 as sections 9 through 25, respectively, strike "this Act" each place it occurs and insert "this Act (other than section 8)", and insert after line 2 the following:

SEC. 8. PROHIBITION ON USE OF APPROPRIATIONS FOR LOBBYING.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1354. Prohibition on lobbying by Federal agencies

"(a) PROHIBITION.—Except as provided in subsection (b), until or unless such activity has been specifically authorized by an Act of Congress and notwithstanding any other provision of law, no funds made available to any Federal agency, by appropriation, shall be used by such agency for any activity (including the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement) that is intended to promote public support or opposition to any legislative proposal (including the confirmation of the nomination of a public official or the ratification of a treaty) on which congressional action is not complete.

"(b) CONSTRUCTION.—

"(1) COMMUNICATIONS.—Subsection (a) shall not be construed to prevent officers or employees of Federal agencies from communicating directly to Members of Congress, through the proper official channels, their requests for legislation or appropriations that they deem necessary for the efficient conduct of the public business or from responding to requests for information made by Members of Congress.

"(2) OFFICIALS.—Subsection (a) shall not be construed to prevent the President, Vice President, any Federal agency official whose appointment is confirmed by the Senate, any official in the Executive Office of the President directly appointed by the President or Vice President, or the head of any Federal agency described in paragraph (2) or (3) of subsection (d), from communicating with the American public, through radio, television, or other public communication media, on the views of the President for or against any pending legislative proposal. The preceding sentence shall not permit any such official to delegate to another person the authority to make communications subject to the exemption provided by such sentence.

"(c) COMPTROLLER GENERAL.—

"(1) ASSISTANCE OF INSPECTOR GENERAL.—In exercising the authority provided in section 712, as applied to this section, the Comptroller General may obtain, without reimbursement from the Comptroller General, the assistance of the Inspector General within whose Federal agency activity prohibited by subsection (a) of this section is under review.

"(2) EVALUATION.—One year after the date of the enactment of this section, the Comptroller General shall report to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate on the implementation of this section.

"(3) ANNUAL REPORT.—The Comptroller General shall, in the annual report under section 719(a), include summaries of investigations undertaken by the Comptroller General with respect to subsection (a).

"(d) DEFINITION.—For purpose of this section the term 'Federal agency' means—

"(1) any executive agency, within the meaning of section 105 of title 5; and

"(2) any private corporation created by a law of the United States for which the Congress appropriates funds."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1353 the following new item:

"1354. Prohibition on lobbying by Federal agencies."

"(c) APPLICABILITY.—The amendments made by this section shall apply to the use of funds after the date of the enactment of this Act, including funds appropriated or received on or before such date.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 238, not voting 4, as follows:

[Roll No. 825]

AYES—190

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bliley
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodling
Gordon
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary

Hobson
Horn
Hostettler
Houghton
Hunter
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Zeliff

NOES—238

Abercrombie
Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Calvert
Canady
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Graham
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hoke
Holden
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Kolbe
LaFalce
LaHood
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—4

Fowler
Hefner
Tucker
Volkmer

□ 1926

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of Thursday, November 16, 1995, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH] on which further proceedings were postponed and on which the noes prevailed on voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGLISH of Pennsylvania: Page 39, line 9, strike "REPRESENTATIVE" and insert "OFFICIAL".

Page 39, line 13, strike "or" and insert a comma and in line 14 insert before the close quotation marks a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 39, line 18 strike "APPOINTMENT" through "REPRESENTATIVE" in line 20 and insert "APPOINTMENTS."

Page 40, line 4, strike "or as a" and insert a comma and insert before the first period in line 5 a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 40, line 8, strike "or as a" and insert a comma and in line 9 insert before "on" a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 204, noes 221, not voting 7, as follows:

[Roll No. 826]

AYES—204

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bliley
Boehlert
Boehner
Bono
Boucher
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Cremeans
Cubin
Cunningham
Danner
DeFazio
DeLay
Dickey
Doolittle
Dornan
Doyle
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
English
Ensign
Evans
Everett
Fields (LA)
Fields (TX)
Forbes
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Horn
Hostettler
Hunter
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
LoBiondo
Longley
Lucas
Mascara
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Mica
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Peterson (MN)
Pombo
Portman
Poshard
Quillen
Ramstad
Reed
Regula
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Zeliff

NOES—221

Ackerman
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Bonilla
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Canady
Cardin
Castle
Chapman
Chenoweth
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
Crapo
Davis
de la Garza
Deal
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Ehrlich
Engel
Eshoo
Ewing

Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Goss
Graham
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Leach
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McDermott
McHale
McKinney
Meehan
Meek
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Pryce
Quinn
Radanovich
Rahall
Rangel
Richardson
Riggs
Rivers
Roberts
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanford
Sawyer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torkildsen
Torres
Towns
Velazquez
Vento
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—7

Bateman
Fowler
Hefner
Livingston
Sanders
Tucker
Volkmer

□ 1934

Mr. GUTIERREZ changed his vote from "aye" to "no."

Mr. FRANKS of Connecticut changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Chairman, on rollcall No. 826, I was detained and missed the vote on the English amendment. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. WELLER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois [Mr. WELLER], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WELLER: Page 21, line 9, strike "and", in line 14 strike the period and insert "; and", and after line 14 insert the following:

(5) a report of honoraria (as defined in section 505(3) of the Ethics in Government Act of 1978) paid to a media organization or a media organization employee, including when it was provided, to whom it was provided, and its value.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 233, not voting 6, as follows:

[Roll No. 827]

AYES—193

Abercrombie
Allard
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Bartlett
Bass
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
DeFazio
DeLay
Dickey
Dingell
Doolittle
Dornan
Doyle
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Farr
Fields (LA)
Fields (TX)
Filner
Forbes
Fox
Frisa
Funderburk
Gallegly
Gillmor
Gilman
Goodling
Graham
Greenwood
Gutierrez
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hobson
Holden
Horn
Hostettler
Hunter
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kelly
Kingston
Klink
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lightfoot
Lincoln
Lipinski
Longley
Lucas
Maloney
Manton
Manzullo
Mascara
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (CA)
Molinari
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Pelosi
Peterson (MN)
Pombo
Porter
Poshard
Quillen
Radanovich
Regula
Rogers
Rohrabacher
Roth
Salmon
Schaefer
Schumer
Seastrand
Shadegg
Shuster
Skeen
Slaughter
Smith (MI)
Solomon
Souder
Stearns
Stenholm
Stockman
Stokes
Stump
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Tiahrt
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Young (AK)
Zeliff

NOES—233

Ackerman
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Calvert
Canady
Cardin
Castle
Chabot
Chapman
Clayton
Clement
Clyburn
Collins (IL)
Conyers
Coyne
Cramer
Davis
Deal
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Dreier
Dunn
Engel
Ensign
Evans
Fattah
Fawell
Fazio
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Gordon
Goss
Green
Gunderson
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayworth
Hilliard
Hinchey
Hoekstra
Hoke
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Luther
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Peterson (FL)
Petri
Pickett
Pomeroy
Portman
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Riggs
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Studds
Stupak
Talent
Tauzin
Thornberry
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—6

Bachus
Fowler
Hefner
Livingston
Tucker
Volkmer

□ 1941

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CHRYSLER) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the amendments just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PRIVILEGES OF THE HOUSE—REQUEST FOR REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING COMPLAINTS AGAINST SPEAKER

Mr. JOHNSTON of Florida. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution, on behalf of myself and the gentleman from Florida [Mr. PETERSON], which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas—although complaints against Speaker Gingrich have been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than December 12, 1995, concerning:

(1) The status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

□ 1945

The SPEAKER pro tempore (Mr. CHRYSLER). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Speaker in the legislative schedule within 2 legislative days of its being properly noticed. The Chair will announce the Chair's designation at a later time.

The Chair's determination as to whether the resolution constitutes a question of privilege will be made at the time designated by the Chair for consideration of the resolution.

COMMUNICATION FROM THE HON. DANA ROHRABACHER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Hon. DANA ROHRABACHER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
November 15, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER. This is to formally notify you, pursuant to Rule L (50) of the rules of the House of Representatives that three staff persons in my Huntington Beach, California District Office—Cindy Hoffman, Lawrence Jones and Kathleen Hollingsworth—have been served with subpoenas issued by the Municipal Court of Orange County, California, in the matter of the People of the State of California v. Michael James Perry.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoenas is consistent with the precedents and privileges of the House.

Sincerely,
DANA ROHRABACHER,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNITION OF VOLUNTEER TOUR GUIDES AT BULL SHOALS DAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, far too often the work of the men and women who choose to volunteer their time and talent goes unnoticed. These individuals, most of whom are busy with families, full-time jobs, and daily tasks, are rarely recognized for the invaluable service which they provide to their communities.

Mr. Speaker, I rise today to pay tribute to seven such individuals from my own congressional district of northwest Arkansas, who are better known to the folks back home as "The Fabulous Seven." All local residents of Lakeview and Bull Shoals, AR, Mr. Pete Ehmen, Ms. Shirley Spitzer, Mr. Bob Olmo, Mr. Curt Schlueter, Mr. Bob Koenig, Mr. Carl Wilhelm, and Mr. Neil Underhill took precious time out of their already-busy summers to conduct guided tours of Bull Shoals Dam, when Federal budget constraints threatened to end public tours of the local Corps of Engineers dam.

Mr. Speaker, I commend these individuals for coming forth with such a brilliant solution and putting it into action! At a time when Federal downsizing is necessary, and Federal funds are very limited, citizen volunteers are indispensable in keeping the wheels turning in our communities. Throughout the entire summer, over 7,000 tourists had the opportunity to see things, which otherwise would not have been possible, without this "Fabulous Gang of Seven."

According to Mr. Bill Self, Chief of the Corps of Engineers' hydropower facility in Mountain Home, it was quite routine to hear tourists exclaim, "This was the best tour we have ever been on!" after their tour of the dam. Mr. Self is particularly proud that his office did not receive one complaint all summer regarding the tours.

Mr. Speaker, while I am recognizing these individuals today on the floor of the U.S. House of Representatives, I would also like to point out that the corps formally honored "The Fabulous Seven" this fall with a brunch, and presented them with certificates of appreciation for their invaluable contributions throughout the summer. In the very words of Mr. Self, "The volunteers did a fabulous job this year!"

To "The Fabulous Seven," thank you for your dedication and hard work for Bull Shoals Dam, for northwest Arkansas, and for our great State of Arkansas.

CLINTON FOREIGN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I would like to talk tonight about the Clinton foreign policy. The President has been asking us over the past couple of days to support him in sending troops to Bosnia. Before we start doing that, we ought to look at the record of the administration in dealing with foreign policy issues. So let us start with Haiti.

Mr. Aristide down there said he was going to become a true lover of democracy. He said that he was going to privatize a lot of the Government agencies down there, Government functions. He said he was going to have free and fair elections and step down as President. We found out just recently that he is not going along with the privatization program that he promised.

There have been a lot of killings recently, and he has used some very harsh rhetoric when speaking to crowds, which has led to additional killings. He said that he may not step down as President, may try to keep an extra 3 years. We have been putting pressure on him, and now it appears as though he will put in a puppet to replace them to keep control for the next 6 years and, during this time that we have been giving him hundreds of millions of dollars and keeping American troops down there, he has spent $1.8 million of American taxpayers' money to lobby the Congress of the United States to get more money. He is using our taxpayers' dollars to get more money.

This has been a total failure by the administration. It has not completely manifested itself yet, but it is getting there. Things are getting out of control. Mr. Aristide has paid one firm $48,000 a month. Ira Kurzban, a Miami attorney who has worked for Castro, who has worked for the Communist Sandinistas, who has worked for Mr. Aristide, in fact, his wife, Kurzban's wife, was so enamored with Castro, the Communist dictator in Cuba, she kissed him. And this is the man who is representing him in getting $48,000 of American taxpayers' money to represent him to lobby Congress.

There is another firm getting $50,000 a month. Another getting $41,000 a month. Another getting $12,500 a month. Another getting $10,000, another getting $5,000. All United States taxpayer money to support a failed policy in Haiti.

Then we talk about Somalia. In Somalia the President went over there and said he was going to nation build, to bring democracy to Somalia. He said he was going to bring the horrible Mr. Aideed, the tribal leader over there, to justice. Mr. Aideed used his forces to kill 18 American military people. What happened? A year later, after spending hundreds of millions of dollars to stabilize the situation in Somalia, we pulled out. Aideed is still there. Another foreign policy failure. And it cost the taxpayers hundreds of millions of dollars and a lot of American lives for nothing.

Now the President says he wants to send 25,000 troops into Bosnia to nation build, to stabilize the situation, to bring about peace and democracy there in a country that has a history of hundreds of years of war between religious factions and various ethnic groups.

Our troops are going to be put right smack-dab in the middle. Sixty thousand of the Serbian, Bosnian Serbs around Sarajevo have said they do not like the agreement, they are not going to go along with the agreement, and they have guns and weapons. And our troops are going to be there to maintain the peace. This is a recipe for disaster, another in a series of failed foreign policy programs pushed by the Clinton administration.

Do you know how many land mines there are in Bosnia? Six million. Six million. It is almost like you could not walk anyplace without stepping on a land mine. Do you know something even worse than that? We only have a map showing where between 100,000 and 1 million of them are. That means at least 5 million land mines are out there that we do not know about.

Our troops are going to be put there in between warring factions who hate each other, and we are supposed to keep the peace. If they break across the 2½-mile-wide line that we are going to be patrolling, then we have, we will be able to defend ours, shoot to kill. But when we do that, there is going to be retaliation. There is going to be a lot of Americans killed.

It is unfortunate that the President, time after time after time has had failed foreign policy, and we in the Congress of the United States have been unable to do anything about it. As Commander in Chief, he does not listen to the will of the Congress of the United States. We did not want him to send troops into Haiti, but he did it anyhow. We did not want him to nation build in Somalia, but he did it anyhow. We do not want him, by a vote of over 300 to less than 125, we did not want him to send troops into Bosnia, but he has said last night on American TV we are going to do it anyhow.

□ 2000

To heck with what the people in the Congress of the United States want; to heck with what the American people want. So I just like to say to my colleagues we ought to send the President a very strong message, try to stop him any way we can from sending troops over there. Once they get there, we have to support them because they are our young men and women. We cannot leave them in harm's way without proper military equipment.

But the President bears the responsibility. He said last night he bears the full responsibility. You bet he does.

SECURITIES LITIGATION REFORM ACT

Mr. WHITE submitted the following conference report and statement on the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-369)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058), to reform Federal securities litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Private securities litigation reform.
Sec. 102. Safe harbor for forward-looking statements.
Sec. 103. Elimination of certain abusive practices.
Sec. 104. Authority of Commission to prosecute aiding and abetting.
Sec. 105. Loss causation.
Sec. 106. Study and report on protections for senior citizens and qualified retirement plans.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Proportionate liability.
Sec. 203. Applicability.
Sec. 204. Rule of construction.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. PRIVATE SECURITIES LITIGATION REFORM.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by adding at the end the following new section:

"SEC. 27. PRIVATE SECURITIES LITIGATION.

"(a) PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The provisions of this subsection shall apply to each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINT.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the

complaint during the class period specified in the complaint;

''(v) identifies any other action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve, or served, as a representative party on behalf of a class; and

''(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4).

''(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

''(3) APPOINTMENT OF LEAD PLAINTIFF.—

''(A) EARLY NOTICE TO CLASS MEMBERS.—

''(i) IN GENERAL.—Not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

''(I) of the pendency of the action, the claims asserted therein, and the purported class period; and

''(II) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

''(ii) MULTIPLE ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title is filed, only the plaintiff or plaintiffs in the first filed action shall be required to cause notice to be published in accordance with clause (i).

''(iii) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under clause (i) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

''(B) APPOINTMENT OF LEAD PLAINTIFF.—

''(i) IN GENERAL.—Not later than 90 days after the date on which a notice is published under subparagraph (A)(i), the court shall consider any motion made by a purported class member in response to the notice, including any motion by a class member who is not individually named as a plaintiff in the complaint or complaints, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this paragraph referred to as the 'most adequate plaintiff') in accordance with this subparagraph.

''(ii) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by clause (i) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this subparagraph.

''(iii) REBUTTABLE PRESUMPTION.—

''(I) IN GENERAL.—Subject to subclause (II), for purposes of clause (i), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

''(aa) has either filed the complaint or made a motion in response to a notice under subparagraph (A)(i);

''(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

''(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

''(II) REBUTTAL EVIDENCE.—The presumption described in subclause (I) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

''(aa) will not fairly and adequately protect the interests of the class; or

''(bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

''(iv) DISCOVERY.—For purposes of this subparagraph, discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

''(v) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.

''(vi) RESTRICTIONS ON PROFESSIONAL PLAINTIFFS.—Except as the court may otherwise permit, consistent with the purposes of this section, a person may be a lead plaintiff, or an officer, director, or fiduciary of a lead plaintiff, in no more than 5 securities class actions brought as plaintiff class actions pursuant to the Federal Rules of Civil Procedure during any 3-year period.

''(4) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

''(5) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

''(6) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class.

''(7) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

''(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

''(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

''(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

''(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

''(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

''(F) OTHER INFORMATION.—Such other information as may be required by the court.

''(8) ATTORNEY CONFLICT OF INTEREST.—If a plaintiff class is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the plaintiff class.

''(b) STAY OF DISCOVERY; PRESERVATION OF EVIDENCE.—

''(1) IN GENERAL.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

''(2) PRESERVATION OF EVIDENCE.—During the pendency of any stay of discovery pursuant to this subsection, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under the Federal Rules of Civil Procedure.

''(3) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with paragraph (2) may apply to the court for an order awarding appropriate sanctions.

''(c) SANCTIONS FOR ABUSIVE LITIGATION.—

''(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure. Prior to making a finding that any party or attorney has violated Rule 11 of the Federal Rules of Civil Procedure, the court shall give such party or attorney notice and an opportunity to respond.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction—

"(i) for failure of any responsive pleading or dispositive motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation; and

"(ii) for substantial failure of any complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred in the action.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an unreasonable burden on that party or attorney and would be unjust, and the failure to make such an award would not impose a greater burden on the party in whose favor sanctions are to be imposed; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.

"(d) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (78a et seq.) is amended by inserting after section 21C the following new section:

"SEC. 21D. PRIVATE SECURITIES LITIGATION.

"(a) PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The provisions of this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINT.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any other action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) EARLY NOTICE TO CLASS MEMBERS.—

"(i) IN GENERAL.—Not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(I) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(II) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(ii) MULTIPLE ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title is filed, only the plaintiff or plaintiffs in the first filed action shall be required to cause notice to be published in accordance with clause (i).

"(iii) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under clause (i) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(B) APPOINTMENT OF LEAD PLAINTIFF.—

"(i) IN GENERAL.—Not later than 90 days after the date on which a notice is published under subparagraph (A)(i), the court shall consider any motion made by a purported class member in response to the notice, including any motion by a class member who is not individually named as a plaintiff in the complaint or complaints, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this paragraph referred to as the 'most adequate plaintiff') in accordance with this subparagraph.

"(ii) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by clause (i) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(iii) REBUTTABLE PRESUMPTION.—

"(I) IN GENERAL.—Subject to subclause (II), for purposes of clause (i), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(aa) has either filed the complaint or made a motion in response to a notice under subparagraph (A)(i);

"(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(II) REBUTTAL EVIDENCE.—The presumption described in subclause (I) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(aa) will not fairly and adequately protect the interests of the class; or

"(bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iv) DISCOVERY.—For purposes of this subparagraph, discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(v) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.

"(vi) RESTRICTIONS ON PROFESSIONAL PLAINTIFFS.—Except as the court may otherwise permit, consistent with the purposes of this section, a person may be a lead plaintiff, or an officer, director, or fiduciary of a lead plaintiff, in no more than 5 securities class actions brought as plaintiff class actions pursuant to the Federal Rules of Civil Procedure during any 3-year period.

"(4) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class.

"(5) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(6) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class.

"(7) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought. Such information shall be clearly summarized on the cover page of any notice to a party of any proposed or final settlement agreement.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.

"(8) SECURITY FOR PAYMENT OF COSTS IN CLASS ACTIONS.—In any private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the court may require an undertaking from the attorneys for the plaintiff class, the plaintiff class, or both, or from the attorneys for the defendant, the defendant, or both, in such proportions and at such times as the court determines are just and equitable, for the payment of fees and expenses that may be awarded under this subsection.

"(9) ATTORNEY CONFLICT OF INTEREST.—If a plaintiff class is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the plaintiff class.

"(b) REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.—

"(1) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

"(A) made an untrue statement of a material fact; or

"(B) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the complaint shall state with particularity all facts on which that belief is formed.

"(2) REQUIRED STATE OF MIND.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind.

"(3) MOTION TO DISMISS; STAY OF DISCOVERY.—

"(A) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of paragraphs (1) and (2) are not met.

"(B) STAY OF DISCOVERY.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

"(C) PRESERVATION OF EVIDENCE.—

"(i) IN GENERAL.—During the pendency of any stay of discovery pursuant to this paragraph, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under the Federal Rules of Civil Procedure.

"(ii) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with clause (i) may apply to the court for an order awarding appropriate sanctions.

"(4) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission of the defendant alleged to violate this title caused the loss for which the plaintiff seeks to recover damages.

"(c) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure. Prior to making a finding that any party or attorney has violated Rule 11 of the Federal Rules of Civil Procedure, the court shall give such party or attorney notice and an opportunity to respond.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction—

"(i) for failure of any responsive pleading or dispositive motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation; and

"(ii) for substantial failure of any complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred in the action.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an unreasonable burden on that party or attorney and would be unjust, and the failure to make such an award would not impose a greater burden on the party in whose favor sanctions are to be imposed; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.

"(d) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.

"(e) LIMITATION ON DAMAGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market.

"(2) EXCEPTION.—In any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.

"(3) DEFINITION.—For purposes of this subsection, the 'mean trading price' of a security shall be an average of the daily trading price of that security, determined as of the close of the market each day during the 90-day period referred to in paragraph (1).".

SEC. 102. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) AMENDMENT TO THE SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27 (as added by this Act) the following new section:

"SEC. 27A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) APPLICABILITY.—This section shall apply only to a forward-looking statement made by—

"(1) an issuer that, at the time that the statement is made, is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934;

"(2) a person acting on behalf of such issuer;

"(3) an outside reviewer retained by such issuer making a statement on behalf of such issuer; or

"(4) an underwriter, with respect to information provided by such issuer or information derived from information provided by the issuer.

"(b) EXCLUSIONS.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, this section shall not apply to a forward-looking statement—

"(1) that is made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934; or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the antifraud provisions of the securities laws;

"(II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or

"(III) determines that the issuer violated the antifraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction; or

"(E) makes the forward-looking statement in connection with a going private transaction; or

"(2) that is—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made in connection with an offering by, or relating to the operations of, a partnership, limited liability company, or a direct participation investment program; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

"(c) SAFE HARBOR.—

"(1) IN GENERAL.—Except as provided in subsection (b), in any private action arising under this title that is based on an untrue statement of a material fact or omission of a material fact necessary to make the statement not misleading, a person referred to in subsection (a) shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that—

"(A) the forward-looking statement is—

"(i) identified as a forward-looking statement, and is accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement; or

"(ii) immaterial; or

"(B) the plaintiff fails to prove that the forward-looking statement—

"(i) if made by a natural person, was made with actual knowledge by that person that the statement was false or misleading; or

"(ii) if made by a business entity; was—

"(I) made by or with the approval of an executive officer of that entity, and

"(II) made or approved by such officer with actual knowledge by that officer that the statement was false or misleading.

"(2) ORAL FORWARD-LOOKING STATEMENTS.—In the case of an oral forward-looking statement made by an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, or by a person acting on behalf of such issuer, the requirement set forth in paragraph (1)(A) shall be deemed to be satisfied—

"(A) if the oral forward-looking statement is accompanied by a cautionary statement—

"(i) that the particular oral statement is a forward-looking statement; and

"(ii) that the actual results could differ materially from those projected in the forward-looking statement; and

"(B) if—

"(i) the oral forward-looking statement is accompanied by an oral statement that additional information concerning factors that could cause actual results to differ materially from those in the forward-looking statement is contained in a readily available written document, or portion thereof;

"(ii) the accompanying oral statement referred to in clause (i) identifies the document, or portion thereof, that contains the additional information about those factors relating to the forward-looking statement; and

"(iii) the information contained in that written document is a cautionary statement that satisfies the standard established in paragraph (1)(A).

"(3) AVAILABILITY.—Any document filed with the Commission or generally disseminated shall be deemed to be readily available for purposes of paragraph (2).

"(4) EFFECT ON OTHER SAFE HARBORS.—The exemption provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (g).

"(d) DUTY TO UPDATE.—Nothing in this section shall impose upon any person a duty to update a forward-looking statement.

"(e) DISPOSITIVE MOTION.—On any motion to dismiss based upon subsection (c)(1), the court shall consider any statement cited in the complaint and cautionary statement accompanying the forward-looking statement, which are not subject to material dispute, cited by the defendant.

"(f) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) during the pendency of any motion by a defendant for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(g) EXEMPTION AUTHORITY.—In addition to the exemptions provided for in this section, the Commission may, by rule or regulation, provide exemptions from or under any provision of this title, including with respect to liability that is based on a statement or that is based on projections or other forward-looking information, if and to the extent that any such exemption is consistent with the public interest and the protection of investors, as determined by the Commission.

"(h) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FORWARD-LOOKING STATEMENT.—The term 'forward-looking statement' means—

"(A) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(B) a statement of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the issuer;

"(C) a statement of future economic performance, including any such statement contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(D) any statement of the assumptions underlying or relating to any statement described in subparagraph (A), (B), or (C);

"(E) any report issued by an outside reviewer retained by an issuer, to the extent that the report assesses a forward-looking statement made by the issuer; or

"(F) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(2) INVESTMENT COMPANY.—The term 'investment company' has the same meaning as in section 3(a) of the Investment Company Act of 1940.

"(3) PENNY STOCK.—The term 'penny stock' has the same meaning as in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules and regulations, or orders issued pursuant to that section.

"(4) GOING PRIVATE TRANSACTION.—The term 'going private transaction' has the meaning given that term under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934.

"(5) SECURITIES LAWS.—The term 'securities laws' has the same meaning as in section 3 of the Securities Exchange Act of 1934.

"(6) PERSON ACTING ON BEHALF OF AN ISSUER.—The term 'person acting on behalf of an issuer' means an officer, director, or employee of the issuer.

"(7) OTHER TERMS.—The terms 'blank check company', 'rollup transaction', 'partnership', 'limited liability company', 'executive officer of an entity' and 'direct participation investment program', have the meanings given those terms by rule or regulation of the Commission.".

(b) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21D (as added by this Act) the following new section:

"SEC. 21E. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) APPLICABILITY.—This section shall apply only to a forward-looking statement made by—

"(1) an issuer that, at the time that the statement is made, is subject to the reporting requirements of section 13(a) or section 15(d);

"(2) a person acting on behalf of such issuer;

"(3) an outside reviewer retained by such issuer making a statement on behalf of such issuer; or

"(4) an underwriter, with respect to information provided by such issuer or information derived from information provided by such issuer.

"(b) EXCLUSIONS.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, this section shall not apply to a forward-looking statement—

"(1) that is made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the antifraud provisions of the securities laws;

"(II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or

"(III) determines that the issuer violated the antifraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction; or

"(E) makes the forward-looking statement in connection with a going private transaction; or

"(2) that is—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made in connection with an offering by, or relating to the operations of, a partnership, limited liability company, or a direct participation investment program; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

"(c) SAFE HARBOR.—

"(1) IN GENERAL.—Except as provided in subsection (b), in any private action arising under this title that is based on an untrue statement of a material fact or omission of a material fact necessary to make the statement not misleading, a person referred to in subsection (a) shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that—

"(A) the forward-looking statement is—

"(i) identified as a forward-looking statement, and is accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement; or

"(ii) immaterial; or

"(B) the plaintiff fails to prove that the forward-looking statement—

"(i) if made by a natural person, was made with actual knowledge by that person that the statement was false or misleading; or

"(ii) if made by a business entity; was—

"(I) made by or with the approval of an executive officer of that entity; and

"(II) made or approved by such officer with actual knowledge by that officer that the statement was false or misleading.

"(2) ORAL FORWARD-LOOKING STATEMENTS.—In the case of an oral forward-looking statement made by an issuer that is subject to the reporting requirements of section 13(a) or section 15(d), or by a person acting on behalf of such issuer, the requirement set forth in paragraph (1)(A) shall be deemed to be satisfied—

"(A) if the oral forward-looking statement is accompanied by a cautionary statement—

"(i) that the particular oral statement is a forward-looking statement; and

"(ii) that the actual results might differ materially from those projected in the forward-looking statement; and

"(B) if—

"(i) the oral forward-looking statement is accompanied by an oral statement that additional information concerning factors that could cause actual results to materially differ from those in the forward-looking statement is contained in a readily available written document, or portion thereof;

"(ii) the accompanying oral statement referred to in clause (i) identifies the document, or portion thereof, that contains the additional information about those factors relating to the forward-looking statement; and

"(iii) the information contained in that written document is a cautionary statement that satisfies the standard established in paragraph (1)(A).

"(3) AVAILABILITY.—Any document filed with the Commission or generally disseminated shall be deemed to be readily available for purposes of paragraph (2).

"(4) EFFECT ON OTHER SAFE HARBORS.—The exemption provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (g).

"(d) DUTY TO UPDATE.—Nothing in this section shall impose upon any person a duty to update a forward-looking statement.

"(e) DISPOSITIVE MOTION.—On any motion to dismiss based upon subsection (c)(1), the court shall consider any statement cited in the complaint and any cautionary statement accompanying the forward-looking statement, which are not subject to material dispute, cited by the defendant.

"(f) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) during the pendency of any motion by a defendant for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(g) EXEMPTION AUTHORITY.—In addition to the exemptions provided for in this section, the Commission may, by rule or regulation, provide exemptions from or under any provision of this title, including with respect to liability that is based on a statement or that is based on projections or other forward-looking information, if and to the extent that any such exemption is consistent with the public interest and the protection of investors, as determined by the Commission.

"(h) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FORWARD-LOOKING STATEMENT.—The term 'forward-looking statement' means—

"(A) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(B) a statement of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the issuer;

"(C) a statement of future economic performance, including any such statement contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(D) any statement of the assumptions underlying or relating to any statement described in subparagraph (A), (B), or (C);

"(E) any report issued by an outside reviewer retained by an issuer, to the extent that the report assesses a forward-looking statement made by the issuer; or

"(F) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(2) INVESTMENT COMPANY.—The term 'investment company' has the same meaning as in section 3(a) of the Investment Company Act of 1940.

"(3) GOING PRIVATE TRANSACTION.—The term 'going private transaction' has the meaning given that term under the rules or regulations of the Commission issued pursuant to section 13(e).

"(4) PERSON ACTING ON BEHALF OF AN ISSUER.—The term 'person acting on behalf of an issuer' means any officer, director, or employee of such issuer.

"(5) OTHER TERMS.—The terms 'blank check company', 'rollup transaction', 'partnership', 'limited liability company', 'executive officer of an entity' and 'direct participation investment program', have the meanings given those terms by rule or regulation of the Commission.".

SEC. 103. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.".

(b) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

SEC. 104. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

"LIABILITY OF CONTROLLING PERSONS AND
PERSONS WHO AID AND ABET VIOLATIONS";

and

(2) by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under paragraph (1) or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in violation of a provision of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.".

SEC. 105. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Any person";

(2) by inserting ", subject to subsection (b)," after "shall be liable"; and

(3) by adding at the end the following:

"(b) LOSS CAUSATION.—In an action described in subsection (a)(2), if the person who offered or sold such security proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, then such portion or amount, as the case may be, shall not be recoverable.".

SEC. 106. STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act;

(2) determine whether investors that are senior citizens or qualified retirement plans have been adversely impacted by abusive or unnecessary securities fraud litigation, and whether the provisions in this Act or amendments made by this Act are sufficient to protect their investments from such litigation; and

(3) if so, submit to the Congress a report containing recommendations on protections from securities fraud and abusive or unnecessary securities fraud litigation that the Commission determines to be appropriate to thoroughly protect such investors.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "qualified retirement plan" has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term "senior citizen" means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final".

SEC. 108. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933, commenced before and pending on the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. PROPORTIONATE LIABILITY.

(a) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 21D the Securities Exchange Act of 1934 (as added by this Act) is amended by adding at the end the following new subsection:

"(g) PROPORTIONATE LIABILITY.—

"(1) APPLICABILITY.—Nothing in this subsection shall be construed to create, affect, or in any manner modify, the standard for liability associated with any action arising under the securities laws.

"(2) LIABILITY FOR DAMAGES.—

"(A) JOINT AND SEVERAL LIABILITY.—Any covered person against whom a final judgment is entered in a private action shall be liable for damages jointly and severally only if the trier of fact specifically determines that such covered person knowingly committed a violation of the securities laws.

"(B) PROPORTIONATE LIABILITY.—

"(i) IN GENERAL.—Except as provided in paragraph (1), a covered person against whom a final judgment is entered in a private action shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that covered person, as determined under paragraph (3).

"(ii) RECOVERY BY AND COSTS OF COVERED PERSON.—In any case in which a contractual relationship permits, a covered person that prevails in any private action may recover the attorney's fees and costs of that covered person in connection with the action.

"(3) DETERMINATION OF RESPONSIBILITY.—

"(A) IN GENERAL.—In any private action, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, with respect to each covered person and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning—

"(i) whether such person violated the securities laws;

"(ii) the percentage of responsibility of such person, measured as a percentage of the total fault of all persons who caused or contributed to the loss incurred by the plaintiff; and

"(iii) whether such person knowingly committed a violation of the securities laws.

"(B) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under subparagraph (A) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each covered person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

"(C) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

"(i) the nature of the conduct of each covered person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs; and

"(ii) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

"(4) UNCOLLECTIBLE SHARE.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(B), upon motion made not later than 6 months after a final judgment is entered in any private action, the court determines that all or part of the share of the judgment of the covered person is not collectible against that covered person, and is also not collectible against a covered person described in paragraph (2)(A), each covered person described in paragraph (2)(B) shall be liable for the uncollectible share as follows:

"(i) PERCENTAGE OF NET WORTH.—Each covered person shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

"(I) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net worth of the plaintiff; and

"(II) the net worth of the plaintiff is equal to less than $200,000.

"(ii) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subclauses (I) and (II) of clause (i), each covered person shall be liable for the uncollectible share in proportion to the percentage of responsibility of that covered person, except that the total liability of a covered person under this clause may not exceed 50 percent of the proportionate share of that covered person, as determined under paragraph (3)(B).

"(iii) NET WORTH.—For purposes of this subparagraph, net worth shall be determined as of the date immediately preceding the date of the purchase or sale (as applicable) by the plaintiff of the security that is the subject of the action, and shall be equal to the fair market value of assets, minus liabilities, including the net value of the investments of the plaintiff in real and personal property (including personal residences).

"(B) OVERALL LIMIT.—In no case shall the total payments required pursuant to subparagraph (A) exceed the amount of the uncollectible share.

"(C) COVERED PERSONS SUBJECT TO CONTRIBUTION.—A covered person against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

"(5) RIGHT OF CONTRIBUTION.—To the extent that a covered person is required to make an additional payment pursuant to paragraph (4), that covered person may recover contribution—

"(A) from the covered person originally liable to make the payment;

"(B) from any covered person liable jointly and severally pursuant to paragraph (2)(A);

"(C) from any covered person held proportionately liable pursuant to this paragraph who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

"(D) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

"(6) NONDISCLOSURE TO JURY.—The standard for allocation of damages under paragraphs (2) and (3) and the procedure for reallocation of uncollectible shares under paragraph (4) shall not be disclosed to members of the jury.

"(7) SETTLEMENT DISCHARGE.—

"(A) IN GENERAL.—A covered person who settles any private action at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling covered person arising out of the action. The order shall bar all future claims for contribution arising out of the action—

"(i) by any person against the settling covered person; and

"(ii) by the settling covered person against any person, other than a person whose liability has been extinguished by the settlement of the settling covered person.

"(B) REDUCTION.—If a covered person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

"(i) an amount that corresponds to the percentage of responsibility of that covered person; or

"(ii) the amount paid to the plaintiff by that covered person.

"(8) CONTRIBUTION.—A covered person who becomes jointly and severally liable for damages in any private action may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

"(9) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—In any private action determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a covered person who was required to make an additional payment pursuant to paragraph (4) may be brought not later than 6 months after the date on which such payment was made.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) a covered person 'knowingly commits a violation of the securities laws'—

"(i) with respect to an action that is based on an untrue statement of material fact or omission of a material fact necessary to make the statement not misleading, if—

"(I) that covered person makes an untrue statement of a material fact, with actual knowledge that the representation is false, or omits to state a fact necessary in order to make the statement made not misleading, with actual knowledge that, as a result of the omission, one of the material representations of the covered person is false; and

"(II) persons are likely to reasonably rely on that misrepresentation or omission; and

"(ii) with respect to an action that is based on any conduct that is not described in clause (i), if that covered person engages in that conduct with actual knowledge of the facts and circumstances that make the conduct of that covered person a violation of the securities laws;

"(B) reckless conduct by a covered person shall not be construed to constitute a knowing commission of a violation of the securities laws by that covered person;

"(C) the term 'covered person' means—

"(i) a defendant in any private action arising under this title; or

"(ii) a defendant in any private action arising under section 11 of the Securities Act of 1933, who is an outside director of the issuer of the securities that are the subject of the action; and

"(D) the term 'outside director' shall have the meaning given such term by rule or regulation of the Commission.".

(b) AMENDMENTS TO THE SECURITIES ACT OF 1933.—Section 11(f) of the Securities Act of 1933 (12 U.S.C. 77k(f)) is amended—

(1) by striking "All" and inserting "(1) Except as provided in paragraph (2), all"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The liability of an outside director under subsection (e) shall be determined in accordance with section 38 of the Securities Exchange Act of 1934.

"(B) For purposes of this paragraph, the term 'outside director' shall have the meaning given such term by rule or regulation of the Commission.".

SEC. 202. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under the securities laws commenced before and pending on the date of enactment of this Act.

SEC. 203. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be deemed to create or ratify any implied private right of action, or to prevent the Commission, by rule or regulation, from restricting or otherwise regulating private actions under the Securities Exchange Act of 1934.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

"(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred; and

"(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement; the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

THOMAS BLILEY,
BILLY TAUZIN,
JACK FIELDS,
CHRIS COX,
RICHARD F. WHITE,
ANNA G. ESHOO,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL MCCOLLUM,
Managers on the Part of the House.

ALFONSE D'AMATO,
PHIL GRAMM,

ROBERT F. BENNETT,
ROD GRAMS,
PETE V. DOMENICI,
CHRISTOPHER DODD,
JOHN F. KERRY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

STATEMENT OF MANAGERS—THE "PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995"

The overriding purpose of our Nation's securities laws is to protect investors and to maintain confidence in the securities markets, so that our national savings, capital formation and investment may grow for the benefit of all Americans.

The private securities litigation system is too important to the integrity of American capital markets to allow this system to be undermined by those who seek to line their own pockets by bringing abusive and meritless suits. Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon government action. Such private lawsuits promote public and global confidence in our capital markets and help to deter wrongdoing and to guarantee that corporate officers, auditors, directors, lawyers and others properly perform their jobs. This legislation seeks to return the securities litigation system to that high standard.

Congress has been prompted by significant evidence of abuse in private securities lawsuits to enact reforms to protect investors and maintain confidence in our capital markets. The House and Senate Committees heard evidence that abusive practices committed in private securities litigation include: (1) the routine filing of lawsuits against issuers of securities and others whenever there is a significant change in an issuer's stock price, without regard to any underlying culpability of the issuer, and with only faint hope that the discovery process might lead eventually to some plausible cause of action; (2) the targeting of deep pocket defendants, including accountants, underwriters, and individuals who may be covered by insurance, without regard to their actual culpability; (3) the abuse of the discovery process to impose costs so burdensome that it is often economical for the victimized party to settle; and (4) the manipulation by class action lawyers of the clients whom they purportedly represent. These serious injuries to innocent parties are compounded by the reluctance of many judges to impose sanctions under Federal Rule of Civil Procedure 11, except in those cases involving truly outrageous misconduct. At the same time, the investing public and the entire U.S. economy have been injured by the unwillingness of the best qualified persons to serve on boards of directors and of issuers to discuss publicly their future prospects, because of fear of baseless and extortionate securities lawsuits.

In these and other examples of abusive and manipulative securities litigation, innocent parties are often forced to pay exorbitant "settlements." When an insurer must pay lawyers' fees, make settlement payments, and expend management and employee resources in defending a meritless suit, the issuers' own investors suffer. Investors always are the ultimate losers when extortionate "settlements" are extracted from issuers.

This Conference Report seeks to protect investors, issuers, and all who are associated with our capital markets from abusive securities litigation. This legislation implements needed procedural protections to discourage frivolous litigation. It protects outside directors, and others who may be sued for nonknowing securities law violations, from liability for damage actually caused by others. It reforms discovery rules to minimize costs incurred during the pendency of a motion to dismiss or a motion for summary judgment. It protects investors who join class actions against lawyer-driven lawsuits by giving control of the litigation to lead plaintiffs with substantial holdings of the securities of the issuer. It gives victims of abusive securities lawsuits the opportunity to recover their attorneys' fees at the conclusion of an action. And it establishes a safe harbor for forward looking statements, to encourage issuers to disseminate relevant information to the market without fear of open-ended liability.

PRIVATE SECURITIES LITIGATION REFORM

Section 101 contains provisions to reform abusive securities class action litigation. It amends the Securities Act of 1933 (the "1933 Act") by adding a new section 27 and the Securities Exchange Act of 1934 (the "1934 Act") by adding a new section 21D. These provisions are intended to encourage the most capable representatives of the plaintiff class to participate in class action litigation and to exercise supervision and control of the lawyers for the class. These provisions are intended to increase the likelihood that parties with significant holdings in issuers, whose interests are more strongly aligned with the class of shareholders, will participate in the litigation and exercise control over the selection and actions of plaintiff's counsel. The legislation also provides that all discovery is stayed during the pendency of any motion to dismiss or for summary judgment. These stay of discovery provisions are intended to prevent unnecessary imposition of discovery costs on defendants.

THE PROFESSIONAL PLAINTIFF AND LEAD PLAINTIFF PROBLEMS

House and Senate Committee hearings on securities litigation reform demonstrated the need to reform abuses involving the use of "professional plaintiffs" and the race to the courthouse to file the complaint.

Professional plaintiffs who own a nominal number of shares in a wide array of public companies permit lawyers readily to file abusive securities class action lawsuits. Floor debate in the Senate highlighted that many of the "world's unluckiest investors" repeatedly appear as lead plaintiffs in securities class action lawsuits. These lead plaintiffs often receive compensation in the form of bounty payments or bonuses.

The Conference Committee believes these practices have encouraged the filing of abusive cases. Lead plaintiffs are not entitled to a bounty for their services. Individuals who are motivated by the payment of a bounty or bonus should not be permitted to serve as lead plaintiffs. These individuals do not adequately represent other shareholders—in many cases the "lead plaintiff" has not even read the complaint.

The Conference Committee believes that several new rules will effectively discourage the use of professional plaintiffs.

Plaintiff certification of the complaint

This legislation requires, in new section 27(a)(2) of the 1933 Act and new section 21D(a)(2) of the 1934 Act, that the lead plaintiff file a sworn certified statement with the complaint. The statement must certify that the plaintiff: (a) reviewed and authorized the filing of the complaint; (b) did not purchase the securities at the direction of counsel or in order to participate in a lawsuit; and (c) is willing to serve as the lead plaintiff on behalf of the class. To further deter the use of professional plaintiffs, the plaintiff must also identify any transactions in the securities covered by the class period, and any other lawsuits in which the plaintiff has sought to serve as lead plaintiff in the last three years.[1]

Method for determining the "most adequate plaintiff"

The Conference Committee was also troubled by the plaintiffs' lawyers "race to the courthouse" to be the first to file a securities class action complaint. This race has caused plaintiffs' attorneys to become fleet of foot and sleight of hand. Most often speed has replaced diligence in drafting complaints. The Conference Committee believes two incentives have driven plaintiffs' lawyers to be the first to file. First, courts traditionally appoint counsel in class action lawsuits on a "first come, first serve" basis. Courts often afford insufficient consideration to the most thoroughly researched, but later filed, complaint. The second incentive involves the court's decision as to who will become lead plaintiff. Generally, the first lawsuit filed also determines the lead plaintiff.

The Conference Committee believes that the selection of the lead plaintiff and lead counsel should rest on considerations other than how quickly a plaintiff has filed its complaint. As a result, this legislation establishes new procedures for the appointment of the lead plaintiff and lead counsel in securities class actions in new section 27(a)(3) of the 1933 Act and new section 21D(a)(3) of the 1934 Act.

A plaintiff filing a securities class action must, within 20 days of filing a complaint, provide notice to members of the purported class in a widely circulated business publication. This notice must identify the claims alleged in the lawsuit and the purported class period and inform potential class members that, within 60 days, they may move to serve as the lead plaintiff. Members of the purported class who seek to serve as lead plaintiff do not have to file the certification filing as part of this motion. "Publication" includes a variety of media, including wire, electronic or computer services.[2]

Within 90 days of the published notice, the court must consider motions made under this section and appoint the lead plaintiff. If a motion has been filed to consolidate multiple class actions brought on behalf of the same class, the court will not appoint a lead plaintiff until after consideration of the motion.

The current system often works to prevent institutional investors from selecting counsel or serving as lead plaintiff in class actions.[3] The Conference Committee seeks to increase the likelihood that institutional investors will serve as lead plaintiffs by requiring courts to presume that the member of the purported class with the largest financial stake in the relief sought is the "most adequate plaintiff."

Footnotes at end of article.

The Conference Committee believes that increasing the role of institutional investors in class actions will ultimately benefit shareholders and assist courts by improving the quality of representation in securities class actions. Institutional investors are America's largest shareholders, with about $9.5 trillion in assets, accounting for 51% of the equity market. According to one representative of institutional investors: "As the largest shareholders in most companies, we are the ones who have the most to gain from meritorious securities litigation."[4]

Several Senators expressed concern during floor consideration of this legislation that preference would be given to large investors, and that large investors might conspire with the defendant company's management. The Conference Committee believes, however, that with pension funds accounting for $4.5 trillion[5] or nearly half of the institutional assets, in many cases the beneficiaries of pension funds—small investors—ultimately have the greatest stake in the outcome of the lawsuit. Cumulatively, these small investors represent a single large investor interest. Institutional investors and other class members with large amounts at stake will represent the interests of the plaintiff class more effectively than class members with small amounts at stake. The claims of both types of class members generally will be typical.

The Conference Committee recognizes the potential conflicts that could be caused by the shareholder with the "largest financial stake" serving as lead plaintiff. As a result, this presumption may be rebutted by evidence that the plaintiff would not fairly and adequately represent the interests of the class or is subject to unique defenses. Members of the purported class may seek discovery on whether the presumptively most adequate plaintiff would not adequately represent the class. The provisions of the bill relating to the appointment of a lead plaintiff are not intended to affect current law with regard to challenges to the adequacy of the class representative or typicality of the claims among the class.

Although the most adequate plaintiff provision does not confer any new fiduciary duty on institutional investors—and the courts should not impose such a duty—the Conference Committee nevertheless intends that the lead plaintiff provision will encourage institutional investors to take a more active role in securities class action lawsuits. Scholars predict that increasing the role of institutional investors will benefit both injured shareholders and courts: "Institutions with large stakes in class actions have much the same interests as the plaintiff class generally; thus, courts could be more confident settlements negotiated under the supervision of institutional plaintiffs were 'fair and reasonable' than is the case with settlements negotiated by unsupervised plaintiffs' attorneys."[6]

Finally, this lead plaintiff provision solves the dilemma of who will serve as class counsel. Subject to court approval, the most adequate plaintiff retains class counsel. As a result, the Conference Committee expects that the plaintiff will choose counsel rather than, as is true today, counsel choosing the plaintiff. The Conference Committee does not intend to disturb the court's discretion under existing law to approve or disapprove the lead plaintiff's choice of counsel when necessary to protect the interests of the plaintiff class.

The Conference Report seeks to restrict professional plaintiffs from serving as lead plaintiff by limiting a person from serving in that capacity more than five times in three years. Institutional investors seeking to serve as lead plaintiff may need to exceed this limitation and do not represent the type of professional plaintiff this legislation seeks to restrict. As a result, the Conference Committee grants courts discretion to avoid the unintended consequence of disqualifying institutional investors from serving more than five times in three years. The Conference Committee does not intend for this provision to operate at cross purposes with the "most adequate plaintiff" provision. The Conference Committee does expect, however, that it will be used with vigor to limit the activities of professional plaintiffs.

Limitation on lead plaintiff's recovery

This legislation also removes the financial incentive for becoming a lead plaintiff. New section 27(a)(4) of the 1933 Act and section 21D(a)(4) of the 1934 Act limits the class representative's recovery to his or her pro rata share of the settlement or final judgment. The lead plaintiff's share of the final judgment or settlement will be calculated in the same manner as the shares of the other class members. The Conference Committee recognizes that lead plaintiffs should be reimbursed for reasonable costs and expenses associated with service as lead plaintiff, including lost wages, and grants the courts discretion to award fees accordingly.

IMPROVEMENTS TO THE SETTLEMENT PROCESS

Restriction on sealed settlement agreements

New section 27(a)(5) of the 1933 Act and section 21D(a)(5) of the 1934 Act generally bar the filing of settlement agreements under seal. The Conference Committee recognizes that legitimate reasons may exist for the court to permit the entry of a settlement or portions of a settlement under seal. A party must show "good cause," i.e., that the publication of a portion or portions of the settlement agreement would result in direct and substantial harm to any party, whether or not a party to the action. The Conference Committee intends "direct and substantial harm" to include proof of reputational injury to a party.

Limitation on attorney's fees

The House and Senate heard testimony that counsel in securities class actions often receive a disproportionate share of settlement awards.

Under current practice, courts generally award attorney's fees based on the so-called "lodestar" approach—i.e., the court multiplies the attorney's hours by a reasonable hourly fee, which may be increased by an additional amount based on risk or other relevant factors.[7] Under this approach, attorney's fees can constitute 35% or more of the entire settlement awarded to the class. The Conference Committee limits the award of attorney's fees and costs to counsel for a class in new section 27(a)(6) of the 1933 Act and new section 21D(a)(6) of the 1934 Act to a reasonable percentage of the amount of recovery awarded to the class. By not fixing the percentage of fees and costs counsel may receive, the Conference Committee intends to give the court flexibility in determining what is reasonable on a case-by-case basis. The Conference Committee does not intend to prohibit use of the lodestar approach as a means of calculating attorney's fees. The provision focuses on the final amount of fees awarded, not the means by which such fees are calculated.

Improved settlement notice to class members

The House and Senate heard testimony that class members frequently lack meaningful information about the terms of the proposed settlement.[8] Class members often receive insufficient notice of the terms of a proposed settlement and, thus, have no basis to evaluate the settlement. As one bar association advised the Senate Securities Subcommittee, "settlement notices provided to class members are often obtuse and confusing, and should be written in plain English."[9] The Senate received similar testimony from a class member in two separate securities fraud lawsuits: "Nowhere in the settlement notices were the stockholders told of how much they could expect to recover of their losses. . . . I feel that the settlement offer should have told the stockholders how little of their losses will be recovered in the settlement, and that this is a material fact to the shareholder's decision to approve or disapprove the settlement."[10]

In new section 27(a)(7) of the 1933 Act and new section 21D(a)(7) of the 1934 Act, the Conference Committee requires that certain information be included in any proposed or final settlement agreement disseminated to class members. To ensure that critical information is readily available to class members, the Conference Committee requires that such information appear in summary form on the cover page of the notice. The notice must contain a statement of the average amount of damages per share that would be recoverable if the settling parties can agree on a figure, or a statement from each settling party on why there is disagreement. It must also explain the attorney's fees and costs sought. The name, telephone number and address of counsel for the class must be provided. Most importantly, the notice must include a brief statement explaining the reason for the proposed settlement.

MAJOR SECURITIES CLASS ACTION ABUSES

Limits on abusive discovery to prevent "fishing expedition" lawsuits

The cost of discovery often forces innocent parties to settle frivolous securities class actions. According to the general counsel of an investment bank, "discovery costs account for roughly 80% of total litigation costs in securities fraud cases."[11] In addition, the threat that the time of key employees will be spent responding to discovery requests, including providing deposition testimony, often forces coercive settlements.

The House and Senate heard testimony that discovery in securities class actions often resembles a fishing expedition. As one witness noted, "once the suit is filed, the plaintiff's law firm proceeds to search through all of the company's documents and take endless depositions for the slightest positive comment which they can claim induced the plaintiff to invest and any shred of evidence that the company knew a downturn was coming."[12]

The Conference Committee provides in new section 27(b) of the 1933 Act and new section 21D(b)(3) of the 1934 Act that courts must stay all discovery pending a ruling on a motion to dismiss, unless exceptional circumstances exist where particularized discovery is necessary to preserve evidence or to prevent undue prejudice to a party. For example, the terminal illness of an important witness might require the deposition of the witness prior to the ruling on the motion to dismiss.

To ensure that relevant evidence will not be lost, new section 27(b) of the 1933 Act and new section 21D(b)(3) of the 1934 Act make it unlawful for any person, upon receiving actual notice that names that person as a defendant, willfully to destroy or otherwise alter relevant evidence. The Conference

Committee intends this provision to prohibit only the willful alteration or destruction of evidence relevant to the litigation. The provision does not impose liability where parties inadvertently or unintentionally destroy what turn out later to be relevant documents. Although this prohibition expressly applies only to defendants, the Conference Committee believes that the willful destruction of evidence by a plaintiff would be equally improper, and that courts have ample authority to prevent such conduct or to apply sanctions as appropriate.

"Fair share" rule of proportionate liability

One of the most manifestly unfair aspects of the current system of securities litigation is its imposition of liability on one party for injury actually caused by another. Under current law, a single defendant who has been found to be 1% liable may be forced to pay 100% of the damages in the case. The Conference Committee remedies this injustice by providing a "fair share" system of proportionate liability. As former SEC Chairman Richard Breeden testified, under the current regime of joint and several liability, "parties who are central to perpetrating a fraud often pay little, if anything. At the same time, those whose involvement might be only peripheral and lacked any deliberate and knowing participation in the fraud often pay the most in damages."[13]

The current system of joint and several liability creates coercive pressure for entirely innocent parties to settle meritless claims rather than risk exposing themselves to liability for a grossly disproportionate share of the damages in the case.

In many cases, exposure to this kind of unlimited and unfair risk has made it impossible for firms to attract qualified persons to serve as outside directors. Both the House and Senate Committees repeatedly heard testimony concerning the chilling effect of unlimited exposure to meritless securities litigation on the willingness of capable people to serve on company boards. SEC Chairman Levitt himself testified that "there [were] the dozen or so entrepreneurial firms whose invitations [to be an outside director] I turned down because they could not adequately insure their directors .... [C]ountless colleagues in business have had the same experience, and the fact that so many qualified people have been unable to serve is, to me, one of the most lamentable problems of all."[14] This result has injured the entire U.S. economy.

Accordingly, the Conference Committee has reformed the traditional rule of joint and several liability. The Conference Report specifically applies this reform to the liability of outside directors under Section 11 of the 1933 Act,[15] because the current imposition of joint and several liability for non-knowing Section 11 violations by outside directors presents a particularly glaring example of unfairness. By relieving outside directors of the specter of joint and several liability under Section 11 for non-knowing conduct, Section 201 of the Conference Report will reduce the pressure placed by meritless litigation on the willingesss of capable outsiders to serve on corporate boards.

In addition, Section 201 will provide the same "fair share" rule of liability, rather than joint and several liability, for all 1934 Act cases in which liability can be predicated on non-knowing conduct.[16]

In applying the "fair share" rule of proportionate liability to cases involving non-knowing securities violations, the Conference Committee explicitly determined that the legislation should make no change to the state of mind requirements of existing law. Accordingly, the definition of "knowing" conduct in the Conference Report is written to conform to existing statutory standards, and Section 201 of the Conference Report makes clear that the "fair share" rule of proportionate liability does not create any new cause of action or expand, diminish, or otherwise affect the substantive standard for liability in any action under the 1933 Act or the 1934 Act. This section of the Conference Report further provides that the standard of liability in any such action should be determined by the pre-existing, unamended statutory provision that creates the cause of action, without regard to this provision, which applies solely to the allocation of damages.

The Conference Report imposes full joint and several liability, as under current law, on defendants who engage in knowing violations of the securities laws. Defendants who are found liable but have not engaged in knowing violations are responsible only for their share of the judgment (based upon the fact finder's apportionment of responsibility), with two key exceptions. First, all defendants are jointly and severally liable with respect to the claims of certain plaintiffs. Such plaintiffs are defined in the Conference Report as those who establish that (i) they are entitled to damages exceeding 10% of their net worth, and (ii) their net worth is less than $200,000. The $200,000 net worth test does not reflect a judgment by the Conference Committee that investors who fall below this standard are "small," unsophisticated, or in need of or entitled to any special protection under the securities laws. Second, if a defendant cannot pay their allocable share of the damages due to insolvency, each of the other defendants must make an additional payment—up to 50% of their own liability—to make up the shortfall in the plaintiff's recovery.

The Conference Committee recognizes that private parties may wish to allocate attorney's fees and costs according to a formula negotiated previously by contract. Accordingly, the Conference Report provides that where authorized by contract a prevailing defendant may recover attorney's fees and costs. The Conference Report does not change the enforceability of indemnification contracts in the event of settlement.

Attorneys' fees awarded to prevailing parties in abusive litigation

The Conference Committee recognizes the need to reduce significantly the filing of meritless securities lawsuits without hindering the ability of victims of fraud to pursue legitimate claims. The Conference Committee seeks to solve this problem by strengthening the application of Rule 11 of the Federal Rules of Civil Procedure in private securities actions.

Existing Rule 11 has not deterred abusive securities litigation.[17] Courts often fail to impose Rule 11 sanctions even where such sanctions are warranted. When sanctions are awarded, they are generally insufficient to make whole the victim of a Rule 11 violation: the amount of the sanction is limited to an amount that the court deems sufficient to deter repetition of the sanctioned conduct, rather than imposing a sanction that equals the costs imposed on the victim by the violation. Finally, courts have been unable to apply Rule 11 to the complaint in such a way that the victim of the ensuing lawsuit is compensated for all attorneys' fees and costs incurred in the entire action.

The legislation gives teeth to Rule 11 in new section 27(c) of the 1933 Act and new section 21D(c) of the 1934 Act by requiring the court to include in the record specific findings, at the conclusion of the action, as to whether all parties and all attorneys have complied with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

These provisions also establish the presumption that the appropriate sanction for filing a complaint that violates Rule 11(b) is an award to the prevailing party of all attorney's fees and costs incurred in the entire action. The Conference Report provides that, if the action is brought for an improper purpose, is unwarranted by existing law or legally frivolous, is not supported by facts, or otherwise fails to satisfy the requirements set forth in Rule 11(b), the prevailing party presumptively will be awarded its attorneys' fees and costs for the entire action. This provision does not mean that a party who is sanctioned for only a partial failure of the complaint under Rule 11, such as one count out of a 20-count complaint, must pay for all of the attorney's fees and costs associated with the action. The Conference Committee expects that courts will grant relief from the presumption where a *de minimis* violation of the Rule has occurred. Accordingly, the Conference Committee specifies that the failure of the complaint must be "substantial" and makes the presumption rebuttable.

For Rule 11(b) violations involving responsive pleadings or dispositive motions, the rebuttable presumption is an award of attorneys' fees and costs incurred by the victim of the violation as a result of that particular pleading or motion.

A party may rebut the presumption of sanctions by providing that: (i) the violation was de minimis; or (ii) the imposition of fees and costs would impose an undue burden and be unjust, and it would not impose a greater burden for the prevailing party to have to pay those same fees and costs. The premise of this test is that, when an abusive or frivolous action is maintained, it is manifestly unjust for the victim of the violation to bear substantial attorneys' fees. The Conference Committee recognizes that little in the way of justice can be achieved by attempting to compensate the prevailing party for lost time and such other measures of damages as injury to reputation; hence it has written into law the presumption that a prevailing party should not have the cost of attorney's fees added as insult to the underlying injury. If a party successfully rebuts the presumption, the court then impose sanctions consistent with Rule 11(c)(2).[18] The Conference Committee intends this provision to impose upon courts the affirmative duty to scrutinize filings closely and to sanction attorneys or parties whenever their conduct violates Rule 11(b).

Limitation on attorney's conflict of interest

The Conference Committee believes that, in the context of class action lawsuits, it is a conflict of interest for a class action lawyer to benefit from the outcome of the case where the lawyer owns stock in the company being sued. Accordingly, new section 27(a)(8) of the 1933 Act and new section 21D(a)(9) requires the court to determine whether a lawyer who owns securities in the defendant company and who seeks to represent the plaintiff class in a securities class action should be disqualified from representing the class.

Bonding for payment of fees and expenses

The house hearings on securities litigation reform revealed the need for explicit authority for courts to require undertakings for attorney's fees and costs from parties, or their counsel, or both, in order to ensure the viability of potential sanctions as a deterrent to meritless litigation.[19] Congress long ago authorized similar undertakings in the express private right of action in Section 11 of the 1933 Act and in Sections 9 and 18 of the 1934 Act. The availability of such undertakings in private securities actions will be an important means of ensuring that the provision of the Conference Report authorizing the award of attorneys' fees and costs under Rule 11 will not become, in practice, a one-way mechanism only usable to sanction parties with deep pockets.[20]

The legislation expressly provides that such undertakings may be required of parties' attorneys in lieu of, or in addition to, the parties themselves. In this regard, the Conference Committee intends to preempt any contrary state bar restrictions that much inhibit attorneys' provision of such undertakings in behalf of their clients The Conference Committee anticipates, for example, that where a judge determines to require an undertaking in a class action, such an undertaking would ordinarily be imposed on plaintiffs' counsel rather than upon the plaintiff class, both because the financial resources of counsel would ordinarily be more extensive than those of an individual class member and because counsel are better situated than class members to evaluate the merits of cases and individual motions. This provision is intended to effectuate the remedial purposes of the bill's Rule 11 provision.

REQUIREMENTS FOR SECURITIES FRAUD ACTIONS

Heightened pleading standard

Naming a party in a civil suit for fraud is a serious matter. Unwarranted fraud claims can lead to serious injury to reputation for which our legal system effectively offers no redress. For this reason, among others, Rule 9(b) of the Federal Rules of Civil Procedure requires that plaintiffs plead allegations of fraud with "particularity." The Rule has not prevented abuse of the securities laws by private litigants.[21] Moreover, the courts of appeals have interpreted Rule 9(b)'s requirement in conflicting ways, creating distinctly different standards among the circuits.[22] The House and Senate hearings on securities litigation reform included testimony on the need to establish uniform and more stringent pleading requirements to curtail the filing of meritless lawsuits.

The Conference Committee language is based in part on the pleading standard of the Second Circuit. The standard also is specifically written to conform the language to Rule 9(b)'s notion of pleading with "particularity."

Regarded as the most stringent pleading standard, the Second Circuit requirement is that the plaintiff state facts with particularity, and that these facts, in turn, must give rise to a "strong inference" of the defendant's fraudulent intent. Because the Conference Committee intends to strengthen existing pleading requirements, it does not intend to codify the Second Circuit's case law interpreting this pleading standard.[23] The plaintiff must also specifically plead with particularity each statement alleged to have been misleading. The reason or reasons why the statement is misleading must also be set forth in the compliant in detail. If an allegation is made on information and belief, the plaintiff must state with particularity all facts in the plaintiff's possession on which the belief is formed.

Loss causation

The Conference Committee also requires the plaintiff to plead and then to prove that the misstatement or omission alleged in the complaint actually caused the loss incurred by the plaintiff in new Section 21D(b)(4) of the 1934 Act. For example, the plaintiff would have to prove that the price at which the plaintiff bought the stock was artificially inflated as the result of the misstatement or omission.

DAMAGES

Written interrogatories

In an action to recover money damages, the Conference Committee requires the court to submit written interrogatories to the jury on the issue of defendant's state of mind at the time of the violation. In expressly providing for certain interrogatories, the Committee does not intend to otherwise prohibit or discourage the submission of interrogatories concerning the mental state or relative fault of the plaintiff and of persons who could have been joined as defendants. For example, interrogatories may be appropriate in contribution proceedings among defendants or in computing liability when some of the defendants have entered into settlement with the plaintiff prior to verdict or judgment.

Limitation on "windfall" damages

The current method of calculating damages in 1934 Act securities fraud cases is complex and uncertain. As a result, there are often substantial variations in the damages calculated by the defendants and the plaintiffs. Typically, in an action involving a fraudulent misstatement or omission, the investor's damages are presumed to be the difference between the price the investor paid for the security and the price of the security on the day the corrective information gets disseminated to the market.

Between the time a misrepresentation is made and the time the market receives corrected information, however, the price of the security may rise or fall for reasons unrelated to the alleged fraud. According to an analysis provided to the Senate Securities Subcommittee, on average, damages in securities litigation comprise approximately 27.7%[24] of market loss. Calculating damages based on the date corrective information is disclosed may end up substantially overestimating plaintiff's damages.[25] The Conference Committee intends to rectify the uncertainty in calculating damages in new section 21D(e) of the 1934 Act by providing a "look back" period, thereby limiting damages to those losses caused by the fraud and not by other market conditions.

This provision requires that plaintiff's damages be calculated based on the "mean trading price" of the security. This calculation takes into account the value of the security on the date plaintiff originally bought or sold the security and the value of the security during the 90-day period after dissemination of any information correcting the misleading statement or omission. If the plaintiff sells those securities or repurchases the subject securities during the 90-day period, damages will be calculated based on the price of that transaction and the value of the security immediately after the dissemination of corrective information.

SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS

The muzzling effect of abusive securities litigation

Abusive litigation severely affects the willingness of corporate managers to disclose information to the marketplace. Former SEC Chairman Richard Breeden testified in a Senate Securities Subcommittee hearing on this subject: "Shareholders are also damaged due to the chilling effect of the current system on the robust and candor of disclosure. . . . Understanding a company's own assessment of its future potential would be among the most valuable information shareholders and potential investors could have about a firm."[26]

Fear that inaccurate projections will trigger the filing of securities class action lawsuit has muzzled corporate management. One study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.[27] Anecdotal evidence similarly indicates corporate counsel advise clients to say as little as possible, because "legions of lawyers scrub required filings to ensure that disclosures are as milquetoast as possible, so as to provide no grist for the litigation mill."[28]

Technology companies—because of the volatility of their stock prices—are particularly vulnerable to securities fraud lawsuits when projections do not materialize. If a company fails to satisfy its announced earnings projections—perhaps because of changes in the economy or the timing of an order or new product—the company is likely to face a lawsuit.

A statutory safe harbor for forward-looking statements

The Conference Committee has adopted a statutory "safe harbor" to enhance market efficiency by encouraging companies to disclose forward-looking information. This provision adds a new section 27A to the 1933 Act and a new section 21E of the 1934 Act which protects from liability in private lawsuits certain "forward-looking" statements made by persons specified in the legislation.[29]

The Conference Committee has crafted a safe harbor that differs from the safe harbor provisions in the House and Senate passed bills. The Conference Committee safe harbor, like the Senate safe harbor, is based on aspects of SEC Rule 175 and the judicial created "bespeaks caution" doctrine. It is a bifurcated safe harbor that permits greater flexibility to those who may avail themselves of safe harbor protection. There is also a special safe harbor for issuers who make oral forward-looking statements.

The first prong of the safe harbor protects a written or oral forward-looking statement that is: (i) identified as forward-looking, and (ii) accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those projected in the statement.

Under this first prong of the safe harbor, boilerplate warnings will not suffice as meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those projected in the statement. The cautionary statements must convey substantive information about factors that realistically could cause results to differ materially from those projected in the forward-looking statement, such as, for example, information about the issuer's business.

As part of the analysis of what constitutes a meaningful cautionary statement, courts should consider the factors identified in the statements. "Important" factors means the stated factors identified in the cautionary statement must be relevant to the projection and must be of a nature that the factor or factors could actually affect whether the forward-looking statement is realized.

The Conference Committee expects that the cautionary statements identify important factors that could cause results to differ materially—but not all factors. Failure to include the particular factor that ultimately causes the forward-looking statement not to come true will not mean that the statement is not protected by the safe harbor. The Conference Committee specifies that the cautionary statements identify "important" factors to provide guidance to issuers and not to provide an opportunity for plaintiff counsel to conduct discovery on what factors were known to the issuer at the time the forward-looking statement was made.

The use of the words "meaningful" and "important factors" are intended to provide a standard for the types of cautionary statements upon which a court may, where appropriate, decide a motion to dismiss, without examining the state of mind of the defendant. The first prong of the safe harbor requires courts to examine only the cautionary statement accompanying the forward-looking statement. Courts should not examine the state of mind of the person making the statement.

Courts may continue to find a forward-looking statement immaterial—and thus not actionable under the 1933 Act and the 1934 Act—on other grounds. To clarify this point, the Conference Committee includes language in the safe harbor provision that no liability attaches to forward-looking statements that are "immaterial."

The safe harbor seeks to provide certainty that forward-looking statements will not be actionable by private parties under certain circumstances. Forward—looking statements will have safe harbor protection if they are accompanied by a meaningful cautionary statement. A cautionary statement that misstates historical facts is not covered by the Safe harbor, it is not sufficient, however, in a civil action to allege merely that a cautionary statement misstates historical facts. The plaintiff must plead with particularity all facts giving rise to a strong inference of a material misstatement in the cautionary statement to survive a motion to dismiss.

The second prong of the safe harbor provides an alternative analysis. This safe harbor also applies to both written and oral forward looking statements. Instead of examining the forward-looking and cautionary statements, this prong of the safe harbor focuses on the state of mind of the person making the forward-looking statement. A person or business entity will not be liable in a private lawsuit for a forward-looking statement unless a plaintiff proves that person or business entity made a false or misleading forward-looking statement with actual knowledge that it was false or misleading. The Conference Committee intends for this alternative prong of the safe harbor to apply if the plaintiff fails to prove the forward-looking statement (1) if made by a natural person, was made with the actual knowledge by that person that the statement was false or misleading; or (2) if made by a business entity, was made by or with the approval of an executive officer of the entity with actual knowledge by that officer that the statement was false or misleading.

The Conference Committee recognizes that, under certain circumstances, it may be unwieldy to make oral forward-looking statements relying on the first prong of the safe harbor. Companies who want to make a brief announcement of earnings or a new product would first have to identify the statement as forward-looking and then provide cautionary statements identifying important factors that could cause results to differ materially from those projected in the statement. As a result, the Conference Committee has provided for an optional more flexible rule for oral forward-looking statements that will facilitate these types of oral communications by an issuer while still providing to the public information it would have received if the forward-looking statement was written. The Conference Committee intends to limit this oral safe harbor to issuers or the officers, directors, or employees of the issuer acting on the issuer's behalf.

This legislation permits covered issuers, or persons acting on the issuer's behalf, to make oral forward-looking statements within the safe harbor. The person making the forward-looking statement must identify the statement as a forward-looking statement and state that results may differ materially from those projected in the statement. The person must also identify a "readily available" written document that contains factors that could cause results to differ materially. The written information identified by the person making the forward-looking statement must qualify as a "cautionary statement" under the first prong of the safe harbor (i.e., it must be a meaningful cautionary statement or statements that identify important factors that could cause actual results to differ materially from those projected in the forward-looking statement.) For purposes of this provision, "readily available" information refers to SEC filed documents, annual reports and other widely disseminated materials, such as press releases.

Who and what receives safe harbor protection

The safe harbor provision protects written and oral forward-looking statements made by issuers and certain persons retained or acting on behalf of the issuer. The Conference Committee intends the statutory safe harbor protection to make more information about a company's future plans available to investors and the public. The safe harbor covers underwriters, but only insofar as the underwriters provide forward looking information that is based on or "derived from" information provided by the issuer. Because underwriters have what is effectively an adversarial relationship with issuers in performing due diligence, the use of the term "derived from" affords underwriters some latitude so that they may disclose adverse information that the issuer did not necessarily "provide." The Conference Committee does not intend the safe harbor to cover forward-looking information made in connection with a broker's sales practices.

The Conference Committee adopts the SEC's present definition, as set forth in Rule 175, of forward-looking information, with certain additions and clarifying changes. The definition covers: (i) certain financial items, including projections of revenues, income and earnings, capital expenditures, dividends, and capital structure; (ii) management's statement of future business plans and objectives, including with respect to its products or services; and (iii) certain statements made in SEC required disclosures, including management's discussion and analysis and results of operations; and (iv) any statement disclosing the assumptions underlying the forward-looking statement.

The Conference Committee has determined that the statutory safe harbor should not apply to certain forward-looking statements. Thus, the statutory safe harbor does not protect forward-looking statements: (1) included in financial statements prepared in accordance with generally accepted accounting principles; (2) contained in an initial public offering registration statement; (3) made in connection with a tender offer; (4) made in connection with a partnership, limited liability company or direct participation program offering; or (5) made in beneficial ownership disclosure statements filed with the SEC under Section 13(d) of the 1934 Act.

At this time, the Conference Committee recognizes that certain types of transactions and issuers may not be suitable for inclusion in a statutory safe harbor absent some experience with the statute. Although this legislation restricts partnerships, limited liability companies and direct participation programs from safe harbor protection, the Conference Committee expects the SEC to consider expanding the safe harbor to cover these entities where appropriate. The legislation authorizes the SEC to adopt exemptive rules or grant exemptive orders to those entities for whom a safe harbor should be available. The SEC should consider granting exemptive orders for established and reputable entities who are excluded from the safe harbor.

Moreover, the Committee has determined to extend the statutory safe harbor only to forward-looking information of certain established issuers subject to the reporting requirements of section 13(a) or section 15(d) of the 1934 Act. Except as provided by SEC rule or regulation, the safe harbor does not extend to an issuer who: (a) during the three year period preceding the date on which the statement was first made, has been convicted of a felony or misdemeanor described in clauses (i) through (iv) of Section 15(b)(4) or is the subject of a decree or order involving a violation of the securities laws; (b) makes the statement in connection with a "blank check" securities offering, "rollup transaction," or "going private" transaction; or (c) issues penny stock.

The Committee intends for its statutory safe harbor provisions to serve as a starting point and fully expects the SEC to continue its rulemaking proceedings in this area. The SEC should, as appropriate, promulgate rules or regulations to expand the statutory safe harbor by providing additional exemptions from liability or extending its coverage to additional types of information.

This legislation also makes clear that nothing in the safe harbor provision imposes any duty to update forward-looking statements.

The Conference Committee does not intend for the safe harbor provisions to replace the judicial "bespeaks caution" doctrine or to foreclose further development of that doctrine by the courts.

The safe harbor and stay of discovery

The legislation provides that, on any motion to dismiss the compliant based on the application of the safe harbor, the court shall consider the statements cited in the complaint and statements identified by the defendant in its moving papers, including any cautionary statements accompanying the forward-looking statement that are not subject to material dispute. The applicability of the safe harbor provisions under subsection (c)(1)(B) shall be based on the "actual knowledge" of the defendant and does not depend on the use of cautionary language. The applicability of the safe harbor provisions under subsections (c)(1)(A)(I) and (c)(2) shall be based upon the sufficiency of the cautionary language under those provisions and does not depend on the state of mind of the defendant. In the case of a compliant based on an oral forward-looking statement in which information concerning factors that could cause actual results to differ materially is contained in a "readily available" written document, the court shall consider statements in the readily available written documents.

INAPPLICABILITY OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) TO PRIVATE SECURITIES ACTIONS.

The SEC has supported removing securities fraud as a predicate offense in a civil action under the Racketeer Influenced and Corrupt Organizations Act ("RICO"). SEC Chairman Arthur Levitt testified: "Because the securities laws generally provide adequate remedies for those injured by securities fraud, it is both necessary and unfair to expose defendants in securities cases to the threat of treble damages and other extraordinary remedies provided by RICO."[30]

The Conference Committee amends section 1964(c) of title 18 of the U.S. Code to remove any conduct that would have been actionable as fraud in the purchase or sale of securities as racketeering activity under civil RICO. The Committee intends this amendment to eliminate securities fraud as a predicate offense in a civil RICO action. In addition, the Conference Committee intends that a plaintiff may not plead other specified offenses, such as mail or wire fraud, as predicate acts under civil RICO if such offenses are based on conduct that would have been actionable as securities fraud.

AUDITOR DISCLOSURE OF CORPORATE FRAUD

The Conference Report requires independent public accountants to adopt certain procedures in connection with their audits and to inform the SEC of illegal acts. These requirements would be carried out in accordance with generally accepted auditing standards for audits of SEC registrants—as modified from time to time by the Commission—on the detection of illegal acts, related party transactions and relationships, and evaluation of an issuer's ability to continue as a going concern.

The Conference Committee does not intend to affect the Commission's authority in areas not specifically addressed by this provisions. The Conference Committee expects that the SEC will continue its longstanding practice of looking to the private sector to set and to improve auditing standards. The SEC should not act to "modify" or "supplement" generally accepted auditing standards for SEC registrants until after it has determined that the private sector is unable or unwilling to do so on a timely basis. The Conference Committee intends for the SEC to have discretion, however, to determine the appropriateness and timeliness of the private sector response. The SEC should act promptly if required by the public interest or for the protection of investors.

FOOTNOTES

[1] This certification should not be construed to waive the attorney-client privilege.

[2] The notice provisions in this subsection do not replace or supersede other notice provisions provided in the Federal Rules of Civil Procedure.

[3] See Elliott J. Weiss and John S. Beckerman, "Let the Money Do the Monitoring: How Institutional Investors Can Reduce Agency Costs in Securities Class Actions," 104 Yale L.J. 2053 (1995).

[4] See testimony of Maryellen Anderson, Investor and Corporate Relations Director of the Connecticut Retirement & Trust Funds and Treasurer of the Council of Institutional Investors before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, July 21, 1993.

[5] See The Brancato Report on Institutional Investment, "Total Assets and Equity Holdings," Vol. 2, Ed. 1.

[6] See "Let the Money do the Monitoring," note 3, supra.

[7] See generally Majority Staff Report, May 17, 1994 at page 81 et seq.

[8] See testimony of Patricia Reilly before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, June 17, 1993.

[9] See NASCAT Analysis of Pending Legislation on Securities Fraud Litigation, Hearing on Securities Litigation Reform Proposals: Subcommittee on Securities, Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995.

[10] See testimony of Patricia Reilly, note 8 supra.

[11] See testimony of former SEC Commissioner J. Carter Beese, Jr., Chairman of the Capital Markets Regulatory Reform Project Center for Strategic and International Studies, before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995 (citing testimony of Philip A. Lacavara before the Telecommunications and Finance Subcommittee of the House Committee on Energy and Commerce, hearing on H.R. 3185.)

[12] See testimony of Richard J. Egan, Chairman of the Board of EMC Corporation before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, June 17, 1993. See also testimony of Dennis Bakke, President and CEO, AES Corporation, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce, January 19, 1995.

[13] See testimony of Hon. Richard Breeden, former Chairman, Securities and Exchange Commission, before the Subcommittee on Telecommunications and Finance, House Commerce Committee, February 10, 1995. See also testimony of Daniel Gelzer, id at 274.

[14] See testimony of Hon. Arthur Levitt, Chairman, Securities and Exchange Commission, before the Subcommittee on Telecommunications and Finance of the House Commerce Committee, February 10, 1995, at 192. See also id at 116, 126 (testimony of Dennis W. Bakke, Chairman and CEO, AES Corporation); id. at 137–8 (testimony of James Kimsey, Chairman, America Online).

[15] The Conference Report makes no change in the law with respect to Section 11 claims against other types of defendants. Section 11 expressly provides for a right of contribution, see Section 11(f), and this right has been construed to establish contribution and settlement standards like those set forth in the Conference Report. This section has no effect on the interpretation of Section 11(f) with respect to defendants other than outside directors.

[16] See Section 16(b) (short-swing transactions) and Section 18 (liability for misleading statements).

[17] See, e.g., testimony of Saul S. Cohen, Rosenman & Colin, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce, February 10, 1995. ("In our experience, Rule 11 has been largely ineffective in deterring strike suits. As a general matter, courts rarely grant Rule 11 sanctions in all but the most egregious circumstances".)

[18] Rule 11(c)(2) limits sanctions to "what is sufficient to deter the repetition of such conduct or comparable conduct by others similarly situated".

[19] See testimony of John Olson, Chairman, American Bar Association Business Law Section, before the Subcommittee on Telecommunications and Finance, House Commerce Committee, February 10, 1995.

[20] See id.

[21] See, e.g., testimony of Saul S. Cohen, Rosenman & Colin, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce at 234–35 (February 10, 1995).

[22] See id.

[23] For this reason, the Conference Report chose not to include in the pleading standard certain language relating to motive, opportunity, or recklessness.

[24] The percentages of damages as market losses in the analysis ranged from 7.9% to 100% See Princeton Venture Research, Inc., "PVR Analysis, Securities Law Class Actions, Damages as a Percent of Market Losses," June 15, 1993.

[25] See Lev and de Villiers, "Stock Price Crashes and 10b–5 Damages: A Legal, Economic and Policy Analysis," Standford Law Review, 7,9–11 (1994).

[26] See testimony of Hon. Richard C. Breeden, former Chairman, SEC, before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, April 6, 1995.

[27] See testimony of the National Venture Capital Association before the Securities Subcommittee on the Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995.

[28] See testimony of Hon. J. Carter Beese, former SEC Commissioner, at *id.*

[29] The concept of a safe harbor for forward-looking statements made under certain conditions is not new. In 1979, the SEC promulgated Rule 175 to provide a safe harbor for certain forward looking statements made with a "reasonable basis" and in "good faith." This safe harbor has not provided companies meaningful protection from litigation. In a February 1995 letter to the SEC, a major pension fund stated: "A major failing of the existing safe harbor is that while it may provide theoretical protection to issuers from liability when disclosing projections, it fails to prevent the threat of frivolous lawsuits that arises every time a legitimate projection is not realized." See February 14, 1995 letter from the California Public Employees' Retirement System to the SEC Courts have also crafted a safe harbor for forward-looking statements or projections accompanied by sufficient cautionary language. The First, Second, Third, Sixth and Ninth Circuits have adopted a version of the "bespeake caution" doctrine. See, e.g., In re *Worlds of Wonder Securities Litigation*, 35 F. 3d 1407 (9th Cir. 1994); *Rubinstein* v. *Collins*, 20 F.3d 169 (5th Cir. 1994), *Kline* v. *First Western Government Securities, Inc.*, 24 F. 3d 480 3d Cir. 1994); *Sinay* v. *Lamson & Sessions Company*, 948 F.2d 1037 (6th Cir. 1991); *I. Meyer Pincus & Associates* v. *Oppenheimer & Co., Inc.*, 936 F.2d 759 (2d Cir. 1991); *Romani* v. *Shearson Lehman Hutton*, 929 F.2d 875 (1st Cir. 1991); *Luce* v. *Edelstein*, 802 F.2d 49 (2d Cir. 1986); In re *Donald J. Trump Casino*, 7 F.3d 357 (3d Cir. 1993).

[30] See testimony of Hon. Arthur Levitt, Chairman, SEC, before the Telecommunications and Finance Subcommittee of the House Commerce Committee, February 10, 1995.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

THOMAS BLILEY,
BILLY TAUZIN,
JACK FIELDS,
CHRIS COX,
RICHARD F. WHITE,
ANNA G. ESHOO,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL MCCOLLUM,
Managers on the Part of the House.

ALFONSE D'AMATO,
PHIL GRAMM,
ROBERT F. BENNETT,
ROD GRAMS,
PETE V. DOMENICI.
CHRISTOPHER DODD,
JOHN F. KERRY,
Managers on the Part of the Senate.

CLINTON'S CASE FOR SENDING IN THE TROOPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there is a remarkable column in today's Washington Times by its gifted editor/writer Wesley Pruden. It is titled "The Macabre Tribute to McNamara's Band." Some of us took to the floor here earlier this month to point out that Robert Strange McNamara was literally in Hanoi all but begging forgiveness and asking for a seminar on Vietnam in Vietnam where he could expiate his guilt on sending 58,700 American men to their death, 8 women, and try and go to his grave with some peace. He did this with Castro, a war criminal, down in Cuba, and now he wants to do it with the war criminals that prevail in Hanoi.

Listen to the opening of Mr. Pruden's column:

The man has no shame, but we knew that, and he is not talking about McNamara. He said:

Bill Clinton, who did everything but to defect to Hanoi to avoid doing his duty to his country 30 years ago, yesterday tried to make a case for sending young men to do their duty in Bosnia, and, being Bill Clinton, naturally he cast it as something else. In the afternoon, as an opportunity to immunize little children against childhood disease—this is an extraordinary opportunity, the President said, announcing $2 million for needles and serum for the children of all of that tragic area of the world.

It says that this man has a problem that others do not. If Mr. Clinton truly loathes the military, and he used that word in his infamous letter to Colonel Holmes that he wrote from England on December 3, 1969, there is no better way to show it than to send upwards of 20, 25; 40 is the better figure, Mr. Speaker, of our loathsome sons to a wintry nonholiday in the mountainous wilds of Bosnia where sniping at Americans or planting land mines under their feet will be the season's sport. Mr. Clinton enlists all the bromides and cliches, many weathered in antiquity, to make his case.

But as I listened to that case last night, Mr. Speaker, Vietnam, the killing fields of Cambodia and the tragedy of Laos kept going through my head. Clinton mentioned in his remarks that Americans will do good things in the face of defending freedom, and he mentioned World War I, which began in Sarajevo, by the way, World War II, Haiti, Iraq, the Middle East, Northern Ireland; he even mentioned Korea, but he studiously dodged paying tribute to the American sacrifices in Vietnam, a sacrifice he acidly scorned in the past, and when asked about Mr. McNamara's disgusting book of self vindication, Clinton told CNN reporter Wolf Blitzer that he, Clinton, felt vindicated by the war criminal McNamara's insidious book.

Mr. Speaker, I am going to do a 1-hour special order tonight. I hope my friends, the gentleman from Indiana [Mr. BURTON] and the gentleman from California [Mr. CUNNINGHAM], who is going to speak after me, will join me.

Here is the problem in the Balkans, and any one of these can be defeated singly. We have threatened and killed Serbs from the air. Now we are going to act as peacekeepers on the ground. We have trained the Croatian Army. I witnessed it myself in August. We have armed the Bosnian military through the airport at Zagreb with Iranian arms. One out of every three airplanes loaded to the gunnels with arms going to the Croats, the other two to the Bosnian Moslems. Now we have conducted peace negotiations, and we claim we are going to see through the indictment of the 53-plus war criminals, all but one a Croat, and he is a Serb, and the Croat is in custody, none of the Serbs are; that we are going to see through the war crimes trials going on at the Hague in the Netherlands. How can we do all of this together unless it is some complicated, incoherent mess that is going to get young American men, and now women. According to the Aspin, Halperin, Clinton plan, women will be going in harm's way, and I will bring to the floor tomorrow night the photograph and cowboy hat, working at home, of Randy Shugart, Medal of Honor winner from the streets of Mogadishu, along with a picture of my dad the day after the war in France with about 20 children. That war that started in Sarajevo, my dad was hit once with shrapnel, twice poison gas with mustard gas.

Mr. Speaker, I question and I want proof that Pope John Paul II, whose advice Clinton has not taken on the sanctity of human life; I doubt he asked Clinton to send our young men to Sarajevo so we would not end this century with a war there. I have a call in to the papal nuncio. I will give you a report on the veracity of that tomorrow night.

QUESTIONS ON DEPLOYING U.S. FORCES TO BOSNIA FOR CLINTON

1. What vital U.S. national interests are being threatened in Bosnia?

2. Have all options been used or considered before deploying U.S. forces?

3. Are you willing to extend the U.S. military commitment past one year to achieve success?

4. What do you consider a success in this operation?

5. What are the specific military and political objectives requiring deployment of 20,000? Why not more than 20,000 young American men and women?

6. If the aforementioned objectives change during the course of U.S. deployment, are you willing to provide our military with the adequate resources needed to meet the changed objectives?

7. Should U.S. forces be sent if the American people and Congress do not explicitly support such action?

8. Will it be guaranteed that the operational command of these forces be kept in American and allied hands?

9. Are you willing to ensure that U.S. personnel are always properly armed and trained to defeat any threat presented in Bosnia?

10. Are U.S. intelligence gathering operations properly sufficient in the Bosnia theater to maximize the security and protection of our troops and make their mission a success?

11. Will U.S. and allied intelligence be kept away from United Nations officials?

12. Are you ready to explain to American families why their son and daughter was put into harm's way?

13. If American air crews are shot down in the Bosnian Serb region, will U.S. forces be able to retrieve those forces and retaliate against those responsible?

14. What guarantees are you willing to make that every American will be accounted for in this operation?

15. Are you willing to increase resources and manpower significantly if that is what is determined to be needed to achieve success?

16. Volunteer reserve units are being called up for this operation. If this does not prove adequate, are you going to call into service various reserve units?

17. What are the specific rules of engagement for U.S. military personnel?

18. Will the rules of engagement include using force to protect civilian populations even when U.S. personnel are not threatened?

19. Does that include protecting civilian populations like ethnic Serbs in Croatia?

20. What will be the financial cost of this operation to U.S. taxpayers?

21. How do you intend to pay for these costs?

22. It is stated that an international conference will be held to discuss financing for the reconstruction of Bosnia, who will be a part of the international conference?

23. What kind of authority will these negotiators have in committing U.S. funds?

24. In Annex 1A, Article II of the Dayton Agreement, the parties to the agreement commit themselves to disarm and disband all armed civilian groups, except for authorized police forces. How will this be monitored to ensure all sides comply?

25. What will be the consequences of noncompliance?

26. In Annex 11, Article I of the agreement, a U.N. International Police Task Force (IPTF) will be created to carry out the program of assistance for law enforcement. Who will comprise the IPTF?

27. Will the IPTF be armed?

28. If so, will there be IPTF officers in the American protected region?

29. According to the agreement, the IPTF officers will only be able to notify higher officials of failure by the parties to comply with IPTF mandate. What good will that be if IPTF officers come across severe human right violations or other criminal activities?

30. NATO Army commanders had counted on a zone of separation 12 miles wide between the Serb and Muslim-Croat sides to keep Serb artillery as far away as possible. Why did U.S. negotiators agree to just a zone of separation 2½ miles wide?

31. The Bosnian Serbs will be required to reduce their military potential to the level where it is no longer a threat to the Muslim Croat Federation. How will it be determined if the Serb military potential is a threat?

32. If the Bosnian Serb forces do not comply, will U.S. forces be used to weaken the Bosnian Serb military potential or to strengthen the Muslim forces?

33. Will strengthening the Muslim forces include arming and training the Muslim forces?

34. Will the Croats consider such U.S. action a threat?

35. Will not the Bosnian Serbs consider the U.S. as its antagonist if we try to weaken their side or strengthen the Muslims?

36. Doesn't such a strategy place U.S. forces in the precarious position of being directly in between the Serbs and Muslims?

37. In Annex 1A, Article III, the agreement states that all foreign forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other states, shall be withdrawn from the Bosnian territory. How will this be carried out?

38. Will this require U.S. forces trying to prove every individual's true national identity in their sector?

39. How will it be determined who are foreign nationals in the Serb zone while there are no Implementation Forces in the Serb region?

40. Many officials in the region believe that without an accounting of the human rights abuses in the Balkans and just punishment for those acts, a long-term solution will not be achieved. Will U.S. forces be used to help account for the numerous violations?

41. Will U.S. forces be used to continue uncovering the evidence of mass killings in the Bosnian Serb regions?

42. The agreement states that 54 accused Serbian war criminals will not be allowed to hold democratically elected offices. What about the one Croatian accused war criminal General Tihomir Blaskic, now the top inspector in the Croatian army, indicted by the U.N. war crimes tribunal?

43. Will U.S. forces be used to chase down war criminals, like the failed Delta Force operation to arrest Aideed in Somalia, which resulted in the death of 19 Americans and the mutilation of five of their bodies?

44. There were 400,000 Serbs; 90,000 Muslims and 20,000 Croats displaced from their homes just in 1995. How will the NATO forces guarantee that these people can have safe passage back to their original homes in Bosnia?

45. What will be done to ensure that Serbs who had lived in Croatia will be guaranteed safe return back into Croatia?

46. Ethnic Serbs control the Eastern Slavonia region of Croatia around the devastated town of Vukovar and are supposed to cede control back to Croatia. What if that does not happen?

47. A wider Posavina Corridor in Northern Bosnia, which links the western and eastern regions controlled by the Bosnian Serbs, is supposed to be surrendered to Bosnian Serb forces by Croatian forces. Will U.S. forces be used to ensure Croat compliance?

48. Will U.S. forces be used to protect the Muslim enclave of Gorazde in Eastern Bosnia, which is totally surrounded by the Bosnian Serbs?

49. The Dayton agreement stipulates that each side will be allowed to maintain their own army and parliament. What will be the makeup of the Muslim-Croatian confederation parliament and what will be the structure of the Confederation Army?

50. What is the exit strategy for U.S. forces?

Mr. Speaker, again I submit for America the Weinberger-Dornan 10 principles for committing U.S. combat forces:

1. The U.S. must not commit combat forces unless the situation is vital to U.S. or allied national interests.

2. The U.S. must not commit combat forces unless all other options already have been used or considered.

3. The U.S. must not commit combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

4. The U.S. must not commit combat forces unless there are clearly defined political and military objectives.

5. The U.S. must not commit combat forces unless our commitment of these forces will change if our objectives change.

6. The U.S. must not commit combat forces unless the American people and Congress supports the action, therefore insuring that the American people have been represented.

7. The U.S. must not commit combat forces unless under the operational command of American commanders or integrated allied commanders under a ratified treaty, thereby having insured joint training.

8. The U.S. must not commit combat forces unless properly equipped, trained and maintained by the Congress.

9. The U.S. must not commit combat forces unless there is substantial and reliable intelligence flow including HUMINT (human intelligence).

10. The U.S. must not commit combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm's way.

[From USA Today, Nov. 27, 1995]

WEIGHING U.S. ROLE: ARGUMENTS FOR, AGAINST SENDING TROOPS

Key arguments for and against a U.S. military role in Bosnia-Herzegovina peace plan:

PRO

The United States has a moral obligation to try to end the genocide and random violence.

The United States, as a guarantor of the peace pact, must send troops to separate warring forces and establish clear borders.

U.S. forces will represent only a third (20,000) of the 60,000-person NATO force.

U.S. forces will operate under NATO, not United Nations, command, and have broader authority to respond to threats than they did in Somalia and Haiti.

The United States must lead the Bosnia peace effort to maintain its leadership role in NATO and Europe.

The United States cannot go back on the president's pledge to send troops without losing credibility internationally.

U.S. forces can withdraw if the peace agreement is violated.

Keeping peace in Bosnia keeps conflict from spreading.

Bosnian Serb leaders indicted as war criminals will have no role in the new government.

U.S. troops will not be required to track down war criminals or cope with refugees.

The firepower of Bosnian Muslims, long outgunned by Bosnian Serbs, will be improved, helping stabilize the situation.

For the first time, three warring parties, the Bosnians, Croats and Serbs, have initialed an agreement that divides land and agrees to a central government, signaling their interest in peace.

CON

There is no vital U.S. security interest in providing peacekeeping troops in Bosnia.

About 45,000 to 60,000 dissident rebel Serbs object to the accord. Operating in small groups, they could kill U.S. troops in retaliation.

The deployment will cost $1.5 billion at a time of budget constraints.

The peace pact is suspect because it would not have been reached without the U.S. commitment to send troops as enforcers.

Bosnian Serbs who have been bombed by NATO may view peacekeepers as the enemy.

An estimated 6 million land mines threaten U.S. troops.

U.S. troops will be required to settle local disputes over the treaty, which may give them the appearance of taking sides, and lead to retaliation.

The fighting in Bosnia is based on age-old disputes unlikely to be resolved in the 12-month period the U.S. peacekeeping force would be in the region.

Using NATO forces as peacekeepers is a mission for which the defense alliance is not designed and was not created.

The number of U.S. troops—20,000—is too small to effectively police the peace agreement and puts soldiers at risk.

[From the Washington Times, Nov. 28, 1995]

THE MACABRE TRIBUTE TO MCNAMARA'S BAND

(By Wesley Pruden)

The man has no shame, but we knew that.

Bill Clinton, who did everything but defect to Hanoi to avoid doing his duty to his country 30 years ago, tried yesterday to make a case for sending young men to do their duty in Bosnia and, being Bill Clinton, naturally cast it as something else—an opportunity to immunize little children against childhood disease.

"This is an extraordinary opportunity," the president said, announcing that he would commit $2 million for the needles and the serum.

"We have a very compelling responsibility," he said, stopping just short of announcing that Miss Hillary would accompany the troops as a Red Cross doughnut girl.

Anyone who objects to doing for Europe what European boys should be doing naturally despises children almost as much as the Republicans hate old folks, and probably roots for measles and chickenpox.

The bad news is that the commander-in-chief has the authority to send troops anywhere in the world, even to liberate Scotland from Di's daffy in-laws if such a notion pops into his head, and in the end Congress, skeptical or not, will have little choice but to stamp it "OK."

Once they're in place, there's not a man or woman among us—well, not many—who won't insist that they get everything they need to protect themselves and to make themselves as comfortable as possible.

Besides, if Mr. Clinton truly "loathes" the military, as he said he does, there's no better way to show it than to send upwards of 25,000 of our "loathsome" sons to a wintry holiday in the mountainous wilds of Bosnia, where sniping at Americans, or planting land mines under their feet, will be the season's sport.

Mr. Clinton enlists all the bromides and cliches, many well weathered in antiquity, to make his case: "We must not and we will not turn our backs on peace. The accord [signed in Dayton] offers the people of Bosnia the first real hope of peace in nearly four years. Now we have a responsibility to see this achievement through. That is who we are as a people. That is what we stand for as a nation."

This is remarkably like the fervent exhortations Lyndon Johnson employed to persuade young Bill Clinton three decades ago, and the mature Bill Clinton can only hope that it sounds better in a mock-sincere Arkansas drawl than in a tinny Texas twang.

From the snug comfort of their campaign headquarters, the president and his men, who were—in Mr. Clinton's youthful words—"too educated to fight," can live out the vicarious bang-bang enthusiasms they missed in Vietnam. Just as in Vietnam, the men the president sends to Bosnia will have to deal with the fierce ethnic rivalries and bitter suspicions that fragmented the countryside in the first place. In his speech last night, the president recited the scenes of other American attempts to do good in the face of fighting, in World Wars I and II, in Haiti, Iraq, the Middle East and even Northern Ireland. He studiously dodged paying tribute to the American sacrifice in Vietnam, a sacrifice he has acidly scorned in the past.

Mr. Clinton promises to go through the motions of seeking the support of Congress, and Congress will go through the motions of resisting. But in the end the troops will debark—unless the president changes his mind, and nobody is foolish enough to bet against that—and Congress will go along. How can it not, if we intend to redeem whatever shred of respect the rest of the world has for us three years into the Clinton era.

Bob Dole, who has seen the face of war up close and personal, understands this. "I want to be in a position to support the president," he says. "It seems to me, when it comes to foreign policy, if we speak with one voice, we're better off." He makes the point that the president "never thought foreign policy was important until now."

Congress has an obligation to the men and women it puts in harm's way to make it clear, since the president and his men won't, exactly who it is who's sending them there, and why. Defense Secretary William Perry, echoing Robert McNamara from the summer of '65, says the American role will be completed within a year. Warren Christopher, echoing Dean Rusk, dusts off the infamous domino theory ("the fighting could spread to Europe unless we act now").

Nicholas Burns, a State Department spokesman who will get no closer to Bosnia than Constitution Avenue, recites the "ironclad" assurances of the Serbians that they intend to be nice when the Americans arrive, and he scoffs at Radovan Karadzic's grim promise to make Bosnia "bleed for decades" as being meaningless because "his best days are behind him."

Perhaps. And perhaps Bill Clinton's, too, as his chickens from Saigon come home to roost on Pennsylvania Avenue.

RAIDING SOCIAL SECURITY TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I am going to begin a series of, I do not know if they can be called lectures, tonight; this is by way of introduction; but certainly a series of observations on what is ostensibly taking place tonight, which is presumably the first meeting with respect to balancing the budget.

Mr. Speaker, I have been on the floor here previously indicating to you and to my colleagues and to the American people that the budget that has been presented to us is not going to be a balanced budget, certainly not a balanced budget in the sense that most Americans understand it to be. This is because we are going to have a category called off-budget spending.

Now the average person and the average household who has to deal with their budget does not begin to accept this kind of terminology, and the fact is that Speaker GINGRICH has indicated over and over again that he wants to have a balanced budget in 7 years, and he wants honest numbers. Well, I am perfectly willing to deal with that situation. I would like to approach it from a different perspective, and I will be discussing that in the days to come as well as to what that might be as an alternative.

But what is before us now very frankly is not honest numbers, not honest numbers as people understand them. I hope that we will be able to get a much broader discussion under way throughout the Nation as to what constitutes this balanced budget. If the Speaker wants to have honest numbers, then I think he needs to come down here on the floor and indicate that he is going to take money from the Social Security Trust Fund in order to do this balancing. That is where it is going to come from.

I will use the figures of the Congressional Budget Office. This is not something that I am going to be making up because it suits me. There has been an insistence that the Congressional Budget Office figures be used.

Now, I will indicate to you, Mr. Speaker, that the Congressional Budget Office will confirm that in order for the budget, as presented by the majority, to be balanced that it must take from the Social Security Trust Fund upward of $636 billion plus interest, so that in the year 2002, 7 years from now, when the majority is saying that the budget will be balanced, those of you who expect to be able to draw on Social Security will find that there will be a gigantic IOU for almost $1 trillion.

Now I am only one person so far, but I believe, if you have the truth on your side, that it will out. Dozens and dozens and dozens of Members can come down on this floor and say they are going to balance the budget in 7 years, and I will maintain that unless they can explain how they are going to pay the almost $1 trillion that they have taken from Social Security to pay for it, they cannot do it.

You need only look at the budget document itself and it will show every year a deficit. The budget document of the House indicates that starting this year there will be a deficit, and each year that deficit has to be accounted for.

No. 4; this is from the conference report of the 104th Congress, first session, concurrent resolution in the budget proposal for that year, 1996, presented in June of this year. The fourth sequence, deficits. For the purpose of the enforcement of this resolution the amount of the deficits are as follows: Fiscal year 1996, $245 billion, listing on up to the year 2002, $108 billion.

How is it possible for the Speaker or anyone else presenting the budget formula for the press, for the American people, to say that the budget is going to be balanced if by the conference report itself there is a $108 billion deficit? Very simple. You take $115 billion from Social Security, from the trust fund, and wonder of wonders, you come up with a $10 billion surplus.

In the days to come, Mr. Speaker, I am going to be examining what this is all about and what it means.

Now the average family, when they are being told that the budget is going to be balanced in 7 years and told that that is a good thing for the United States, has no idea that Social Security is being attacked, and as I have indicated, Mr. Speaker, and I appreciate this opportunity to make this introduction, in the days to come I will detail for you and for my colleagues and the American public how there is no balanced budget, how we are raiding the Social Security Trust Fund to mask the deficit that will actually exist in 2002.

IS BOSNIA WORTH DYING FOR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, in 1961, President Kennedy said:

> We must face the fact that the U.S. is neither omnipotent nor omniscient—that we are only 6% of the world's population—that we cannot impose our will upon the other 94%—that we cannot right every wrong or reverse each adversity—and that therefore there cannot be an American solution to every world problem.

President Kennedy was right then, and his words are good advice today.

We should follow this advice in regard to the situation in Bosnia.

Last week, the cover of Time magazine showed an American soldier and asked the question: "Is Bosnia worth dying for?"

I believe the overwhelming majority of the American people would answer with an emphatic "no."

It should be for Bosnians because that is their homeland, but not for young Americans.

This is a limited ethnic conflict that has been going on for hundreds of years, and will continue unless we pour many billions in to stop it. And as soon as we stop pouring in billions, the situation will go right back like it was.

We should not send young American soldiers onto foreign battlefields unless there is a serious threat to our national security or unless there is a very real and very vital U.S. interest at stake.

Neither of these is present in Bosnia. Yet now, the President, regardless of how the American people feel, regardless of how the Congress votes, is going to send 20,000 troops into Bosnia.

We will then have another 20,000 in immediate nearby support in Croatia, the Adriatic Sea, and other places.

I had one veteran who called me last night who said that he was always told in Vietnam that it took seven troops in the rear to support one in the field.

We are making a tremendous commitment here. The worst thing is putting so many American lives at risk.

Then there is the huge money involved. We are told right off the bat that this effort will cost a minimum of $1.6 billion for the troops in the field.

We have promised another $600 million in direct foreign aid. That is an initial $2.2 billion and that is just the tip of the iceberg.

I now am told that the Bosnian leadership says they will need $35 billion in loans or aid from the World Bank or other sources to rebuild their country.

Most of this will end up coming from the United States.

B.J. Cutler, the foreign affairs columnist for the Scripps-Howard newspaper chain, wrote several months ago:

> If guarding people from the savagery of their rulers is America's duty, it would be fighting all over the world, squandering lives and bankrupting itself.

He was not writing about Bosnia, but his words are certainly applicable here.

There are at least 15 or 16 small wars going on around the world at any time. Some people say many more than that.

Why then are we trying to solve this insolvable problem.

Well, I think in part it is because our national media focused on this one.

But, I think the larger reason is that some people in high positions in this country are never satisfied with just running the United States.

They want to make a place for themselves in history. They want to be described as, or thought of as, world leaders.

That is why I believe there is such a class division on this.

Many upper-crust liberal elitist types—many NPR devotees, are all for this—because they want to prove to everyone that they care about foreign policy and are concerned about world affairs.

Horror of horrors, they certainly don't want to be associated with low-class, unintellectual isolationists. That would not be fashionable, that would not be politically correct.

But, Mr. Speaker, even one American life is too many and all these billions it will cost is to high a price to pay just so a few people in our Government can display world leadership and show their superiority to their unenlightened fellow citizens.

We should not get involved in this Bosnian quagmire.

The potential dangers and costs are simply too high.

The United States leads the world in humanitarian and charitable aid for those in other countries.

No other nation is even a close second.

Most Americans want to help out in international tragedies. We are already doing far more than our share. France, Germany, Sweden, Japan, and others are not even coming close.

We have no reason to feel guilty.

And, I repeat, Mr. Speaker, what I said at the beginning. We do not need to get involved militarily in Bosnia or anywhere else unless there is a real threat to our national security or a vital U.S. interest at stake.

Neither of these is present in Bosnia.

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THE CIRCUMSTANCES OF SENDING IN AMERICAN TROOPS

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, the people of this country are about to be subjected to a situation where 20,000 American troops will be sent into very difficult territory in the area that we know as Bosnia-Herzegovina. Let us take a look at the circumstances under which they will have to do that. I am holding the Proximity Peace Talks, which is an outline of the circumstances giving rise to the exact language of the peace talks. Listen to the country created by these peace talks.

"The country will be known as the Republic of Bosnia and Herzegovina, but the country will be split in two because it will also have two entities comprised of the Federation of Bosnia and Herzegovina and the Serb Republic. The Federation of Bosnia and Herzegovina will control 51 percent of the country."

I ask you, is that type of a situation tenable? Let me also throw something out here. There will not be one President on the new Constitution, there will not be two Presidents, it will be a troika, three Presidents, if that is correct. There will be three Presidents to run this country we know as the Republic of Bosnia and Herzegovina. That will be one Moslem, one Croat, and one Serb.

Do you really think that a troika comprised of these three who have been fighting essentially for the past 1,500 years can get along? But, Mr. Speaker, more important is the fact that American troops will be sent to Bosnia-Herzegovina for the purpose of killing, if necessary, to protect the peace. That is correct. The language in this report says that the troops should use "necessary force to ensure compliance."

What does that mean? That means they can use the gig guns to clear out the 2½-mile-wide demilitarized zone, but it means something else. American troops actually under the NATO command will try to do one of two things. They will try to keep the big guns away from the Serbs, and if that does not work, then they will try to arm the Bosnians to try to bring about military parity.

Mr. Speaker, this does not make sense. This is a peace agreement? A peace agreement means people shake hands, repent, reconcile, and say, "Let's go on with our lives, and put the war behind us." But what has happened here is the fact our President is going to put American troops in the position of fighting the war that the Bosnians have not been allowed to fight themselves. That is right. The United Nations, with the approval of the President, has steadfastly refused to allow the Bosnians to have the weapons with which to defend themselves. That has cased the tremendous amount of carnage in that country.

Now we have this great peace plan, the peace plan where Americans will be authorized to kill in order to enforce the peace. True peace in that area can only be brought about if the Americans leave the area, if NATO leaves the area, and we allow the Bosnians to arm themselves. I ask this question: Is it right for American blood to be spilled in Bosnia when the American President has not allowed the Bosnians to fight their own war?

CONCERNS REGARDING AMERICA SENDING PEACEKEEPING TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I know Members on both sides of the aisle are anguishing on whether we send troops or not to Bosnia. Let me give a few of this Member's concerns. First of all, I have had not one constituent walk up to me and say, "Duke, send our troops." Quite on the contrary, it has been overwhelmingly "Duke, try to stop it if you can."

Second, General Boyd and General MacKenzie, both in charge in that portion of the world in Bosnia-Herzegovina have stated: "Stay out. It will be a disaster." These are the two generals that headed up our forces in that particular part of the world.

I look at the cost. NATO has said that it is not $2.2, but by the end it will cost us $3 billion to $6 billion. The President just signed a balanced budget in 7 years agreement. Where is the money going to come from? Even if you have a supplemental, you have to offset it. You have to pay for it. We cannot do that.

NATO is broke today, billions of dollars. France said just 2 weeks ago that we can plan on a 20-year commitment with NATO in that portion of the world. Who is going to end up paying for that, Mr. Speaker? We are. The President said that the primary source of nation building will come from Europe. It also leaves a lot of room for the United States. We are looking at billions of dollars when we are talking about a time when balancing a budget, providing for Medicare, and a lot of other things that the other side is arguing against it.

I also look at the $4,000, much of it deemed. These are not the Bosnian Muslims, but primarily those from Iran, Iraq, Pakistan, Albania, that are the radicals. If they are allowed to stay in that portion of the world, these are the ones that have sworn a worldwide Jihad against Jews, Christians, and all nonbelievers. They will attack our troops, and they have got to go. We have got to demand equal treatment.

That has not happened in the past. Have Serbs and Croatians and Muslims committed atrocious acts? Absolutely, all three groups. But we need not to train one side. Can you imagine during this peace agreement, we go in and train any side or give arms to any side? If I was on any one of the other two, I would say that is an act of war. I think that is the plan.

Who would come in with arms? France, Iran, Iraq, Russia, and yes, Mr. Speaker, even the United States, to sell arms. I think that would be disastrous.

I have another concern. President Clinton is going to be in a campaign mode over the next year. During Desert Storm, President Bush was focused. Colin Powell was focused. Dick Cheney was focused on Desert Storm, not on political activities coming up. I feel that if you look at Secretary Perry, I think he is a fairly good Secretary of Defense, but with all due respect, he is not a tactician. He is a politician and a bean counter. He is not a Dick Cheney.

I look at the problems of what we could end up with, as we did in Vietnam with Johnson and McNamara, that we are ill-suited for the job of the defense of our kids. We could get bogged down in Bosnia. I also look at what could happen to Saddam Hussein, in North Korea, and other areas, and the terrorist activities that could pick up.

We are $200 billion below the bottom-up review in defense dollars. That is the bare-bone minimum to fight two conflicts. The GAO has said we are $200 billion. the Chairman of our Joint Chiefs said is our military ready; yes, we are, but it is a paper-thin readiness that will not last more than a few weeks. If we get bogged down there, Mr. Speaker, I am afraid we will be in big trouble.

I look at replies that we had from Turkey that said they would come in with 20,000 troops around Sarajevo, Russia would send in 20,000 troops to align themselves between the Croats and the Serbs, without a single U.S. soldier involved. Why has the President not taken them up on this, without committing our troops? We must not arm or disarm any party, we must not train or arm any party, we must not get involved in civil disobedience protests, we must treat all even-handedly.

We must demand that all Mideast radical 4,000 Mujahidin be eliminated, all foreign regular troops be eliminated. I would like to submit for the RECORD this article from the Associated Press on the death of an American citizen at the hands of the radical Muslims.

The material referred to is as follows:

AMERICAN SLAIN IN NORTHERN BOSNIA

SARAJEVO, BOSNIA-HERZEGOVINA.—An American man working for the United Nations has been murdered in Bosnia, and a U.N. official yesterday said Middle Eastern fighters backing the Bosnian government are suspected.

The body of the American citizen, whose identity was not immediately released, was found by Bosnian police Sunday evening near the town of Banovici, 10 miles northwest of Tuzla.

Tuzla is the biggest Bosnian government-held city in northeastern Bosnia, and would be the headquarters for U.S. soldiers taking part in a NATO peace mission in Bosnia.

A U.N. official said the body was found just 500 yards from where Norwegian peacekeepers were stopped last month by mujahedeen, fighters from Middle Eastern countries helping the Muslim-led Bosnian government. The official said investigators suspect the mujahedeen were responsible for the American's death.

These fundamentalist cutthroats must be out by the time our troops are in place.

CONCERN ABOUT DEPLOYING GROUND TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, I too am deeply concerned about the President's announced commitment to deploy 20,000 United States ground troops in Bosnia. I do not believe, Mr. Speaker, that document has articulated a compelling national interest in Bosnia worth the loss of American soldiers. We have no overriding national interest in Bosnia, and there is absolutely no reason American troops should be placed in harm's way as part of an ill-defined mission there.

Mr. Speaker, calling this mission a peacekeeping mission is a misnomer. This is a tenuous peace at best, and a potential quagmire for our troops at worst.

This is clearly not a legitimate peacekeeping mission, or 240,000 troops would not be required. Yes, I say 240,500, as the spokesperson at the Pentagon was quoted in Defense News today, counting the support troops. We hear the number 60,000, including 20,000 American servicemen and women, but the total number of troops, according to this statement today, is 240,000 troops.

Mr. Speaker, this mission goes way beyond peacekeeping to nation building. History should have taught us that we cannot build a nation from the outside.

Mr. Speaker, I ask, how much longer can the United States be denying a one-one number for the rest of the world? This is a European conflict, and using United States troops as a global peace force is neither a defensible function nor a practicing pragmatic reality for our military. Using our troops as a global police force in my judgment, and I say this respectfully, but I believe that it reflects a basic misunderstanding of our military's historic mission and capabilities.

□ 2030

Mr. Speaker, this situation is fraught with danger. Our troops will be sitting ducks, literally, physically, sitting ducks, positioned between the two warring factions.

Mr. Speaker, I think we have to recognize what is going on, what the political realities are in this part of the world. This is a war that has been going on for ethnic strife for 4,000 years. The present fighting has been going on for 40 years and longer.

Just today, just today, the Serb leader, Karadzic, and the mayors of the Sarajevo suburbs held a protest march; and some of the things they were saying, and I am quoting now, that the Dayton Agreement has created a new Beirut in Europe, referring of course to Lebanon's 15-year civil war, and that there will be bloodshed for centuries to come, that the ethnic Serbs will not be dominated by the Croats and the Moslems, that this is a Balkan powder keg.

We all know, Mr. Speaker, there are 6 million land mines waiting in the former Yugoslavia for our troops. Sixty thousand ethnic Serbs, according to Karadzic, will have grenades in their pockets. Well, Mr. Speaker, we have to be aware of these dangers.

The President mentioned the unspeakable human rights' violations. Certainly these crimes against humanity are as loathsome as any in the history of the world. But, Mr. Speaker, similar crimes have been documented by Amnesty International in 58 other countries. Why not Afghanistan? Why not go to Rwanda, to China, to Cuba, and all of the other countries in which similar crimes are being perpetrated against humanity?

Mr. Speaker, this mission is a logistical nightmare and will be extremely dangerous for U.S. troops who will be potentially under fire from all three factions.

Mr. Speaker, what is the solution here in this very complex and difficult situation? I would ask unanimous consent to submit for the RECORD, and I would commend all of my colleagues' attention to this editorial from today's Wall Street Journal, November 28, 1995, by two former Under Secretaries of Defense. Let me quote from this very provocative and profound piece:

> The goal of U.S. policy toward Bosnia should be Bosnian self-reliance. We should aim to make it possible for the Bosnian government to defend its own country militarily. Congress should oppose the deployment of U.S. forces to Bosnia unless the administration make clear and binding commitment to create, by arming and training Bosnian Federation forces, a qualitative military balance between Bosnian-Croatian and Serb forces in the former Yugoslavia.

Mr. Speaker, that criterion has not been met.

This article goes on to say, very wisely,

> Unfortunately, the Daytona Accords lack clear commitments to equip and train the Bosnian forces. Administration statements are disturbingly ambiguous on this point.

This piece concludes by saying,

If we are unable to help put the Bosnian government in a position to defend itself, the administration will find, when it wants to withdraw our forces after a year or so, that if cannot do so without triggering a catastrophe.

This piece is written by two people who served in previous administrations in the Defense Department who know about what they are writing.

Mr. Speaker, I hope and pray that the Congress will have its say on behalf of the American people before this deployment is made. I fear that we will not have such a voice in this deployment. I think each one of us here in this body, in the people's House, needs to examine our consciences, needs to listen to the people we represent and press this issue in the people's House. I know in Minnesota, in the Third District, my calls in the last 2 days have run 178 to 2 against this deployment.

Mr. Speaker, I offer for the RECORD the following article which I referred to earlier.

[From the Wall Street Journal, Nov. 28, 1995]

THE ARGUMENT CLINTON ISN'T MAKING ON BOSNIA

(By Paul Wolfowitz and Douglas J. Feith)

Having committed an armored division of American "peacekeepers" for Bosnia with little analysis and even less consultation, the Clinton administration now contends that Congress has no responsible choice but to concur. To be sure, if it repudiates the president's troop commitment, Congress would be blamed for bringing about resumption of the war, a collapse of American leadership in NATO and perhaps of the alliance itself, and a dangerous perception around the world of the U.S. becoming isolationist and unreliable.

But even worse than not backing the president's commitment would be for Congress to approve uncritically a flawed policy that could fail disastrously. Congress has a duty to try to force the administration to define sensible goals for the mission. Americans remember Lebanon and Somalia, where we managed to lose both men and credibility. we remain dubious of the operation in Haiti, which may succeed in restoring dictatorship rather than democracy. If U.S. troops end their Bosnia mission without having achieved what they came to do, especially if they take significant casualties, the consequences will be graver by far.

LITTLE GUIDANCE

The administration acknowledges the problem by stressing that U.S. troops will not be deployed unless there is a peace to enforce. But this rather sensible condition for getting in gives little guidance for how and when to get out.

There is one compelling rationale for U.S. participation in the international peacekeeping force: Bosnia has been the victim of international aggression and of crimes against humanity that the Bosnian Serbs, supported by the Milosevic regime in Belgrade, have committed against hundreds of thousands of predominantly Muslim Bosnians. The U.S. and our European allies and others bear a large measure of responsibility for these horrors because we have maintained an international arms embargo on Bosnia. The Bosnian government's troops have numerical superiority over their enemies, but, as a result of the embargo, they have remained inferior in equipment, especially heavy armor and artillery.

The goal of U.S. policy toward Bosnia should be Bosnian self-reliance. We should aim to make it possible for the Bosnian government to defend its own country militarily. Congress should oppose the deployment of U.S. forces to Bosnia unless the administration makes a clear and binding commitment to create, by arming and training Bosnian Federation forces, a qualitative military balance between Bosnian-Croatian and Serb forces in the former Yugoslavia.

If the peacekeeping force is conceived as a means of keeping Bosnia subject to unrealistic arms limitation schemes, and therefore doomed to remain a ward of NATO or the U.S., Congress should oppose it. But if peacekeepers are intended to deter aggression for the year or so needed for the Bosnian government to move toward self-reliance in the defense field, then the strategic and moral case for U.S. participation should be easier for Americans to credit.

Unfortunately, the Dayton Accords lack clear commitments to equip and train the Bosnian forces. Administration statements are disturbingly ambiguous on this point. U.S. officials say they have assured the Bosnians that federation forces will be equipped and trained, but that assurance itself is hedged by a misplaced faith that new arms control agreements might make it unnecessary. According to the accords, no weapons will be delivered for 90 days and no heavy weapons for 180 days, pending arms control talks. Also, U.S. statements make it clear that we will try to get others to do the equipping and training. (It is not reassuring that we still lack a good estimate of Bosnian requirements, even though for three years the Clinton administration said that it aimed to lift the arms embargo.)

These limitations imply that moving quickly or openly to arm the Bosnians would be destabilizing, but the opposite is true. To ensure a stable Bosnia and to be able to withdraw our troops on schedule, we must be committed, publicly and resolutely, to a rapid equip-and-train program. (Defensive systems not covered by the envisioned arms control regime, such as anti-tank missiles and counter-battery radars, are needed with particular urgency, given the precarious position of Sarajevo.)

The administration's hesitations seem to reflect a belief that equipping and training federation forces would be inconsistent with a "neutral" role for American peacekeepers.

It is important, however, to see clearly the purpose of the peacekeeping force: It must uphold the peace agreement generally, but it is intended also to deter the Serbs from taking advantage of their current (temporary) advantage in armaments. It is not correct or constructive to talk of the peacekeepers as "neutral." They do not have to be neutral to perform their mission any more than police have to be neutral as between shopkeepers and robbers. In fact, pretending to be neutral when none of the parties so regards us actually increases the danger to U.S. forces at a tactical level, by making it more difficult for them to decide how to respond to provocations or ambiguous situations on the ground. It was this posture that helped produce the inadequate security precautions taken by U.S. Marines in Beirut. The best way to shore up the peace is through a policy that deters Serbian aggression and secures Bosnian compliance through American support and cooperation.

EXIT STRATEGY

If the administration is to allay public and congressional skepticism about the troop deployment, it must make clear that arming and training Bosnian Federation forces is not only consistent with our role in the peacekeeping force, it is also the key to the "exit strategy" for our troops. If we are unable to help put the Bosnian government in a position to defend itself, the administration will find, when it wants to withdraw our forces after a year or so, that it cannot do so without triggering a catastrophe.

BOSNIA, MEDICARE, AND THE BUDGET

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, having just returned from a series of meetings in Georgia and meeting with a number of constituents during the work recess period, there are three predominant things that people have on their minds back home, and I think this is probably true all over America, and that is Bosnia, Medicare, and the budget.

I would like to speak very briefly on Bosnia, because we are now in a new phase where the President, our Commander in Chief, has officially decided to embark in a new phase of the debate by sending and committing to send 20,000 of our troops over there. We all want to support troops who are anywhere fighting in the world at the order of the Commander in Chief, and yet certainly in Bosnia we have a lot of questions.

The questions that we had debated 2 weeks ago when we had a very critical vote on Bosnia, which in that vote Congress decided against sending troops over there, and our questions were at the time: What is our peril? What is the timetable that we will be there? What is the plan? Who are our allies? How long will we be there? How will we get out of being there? And what is the exact mission?

These questions need to be answered. I think within the next couple of weeks the President will be answering these through his staff members to Congress. Senate hearings, I believe, began today, Mr. Speaker. So I think it is appropriate that we look at this and continue this debate.

Mr. Speaker, as the previous speaker, the gentleman from Minnesota [Mr. RAMSTAD] said, clearly the people of America at this point are not in support of sending troops to Bosnia; and I think, because of that, we need to define what the American peril is, and I have yet to hear what that peril is. It is very important for us to know before we send our sons and daughters over there.

Mr. Speaker, I was in Italy in August and had the opportunity to be briefed by NATO on the Bosnian situation. In August, when one talked about Bosnia, it was years and years away in terms of everything that has happened; and yet, in that discussion, one of the things that struck me was who are our allies. It is not just Bosnians and Croatians and Serbians. There are all kinds of subgroups and countergroups and local warloads and so forth.

I know often when we try to take humanitarian supplies into one section another group down the road or up the road from them would block the supply trucks, even though they all had the same label as being Bosnians. Yet they were different, because they were from a different territory. So one of my main questions is going to be that I hope to find out in the next couple of weeks who will our allies be.

Then a question that has come up more and more lately as we debate balancing the budget is what is this going to cost us? Will we really be able to get out of there in a year or is it going to be like so many other peaces that we have won worldwide?

The peace that we got in Somalia, the peace that we got in Haiti, the peace that we got anywhere is really purchased peace. It is a matter of the United States of America pulling out the checkbook and buying off the warring factions. I would like to know what those costs are. I know our taxpayers back home would like to know also.

Mr. Speaker, we are going to have debates and we are going to have hearings, and this is a good process. The War Powers Act has been debated since the inception of our great democracy, and yet the Congress and the President still view these things differently. Again, we do want to support the troops individually. It looks like at this point they are going to go over there, yet at the same time we have congressional duties of our own and we will begin immediately in due diligence to answer some of the questions that we have been asking on the floor of the House.

Mr. Speaker, on Medicare let me just say this. The gentleman from Connecticut [Mr. SHAYS], who is the budget expert, is down here. Our colleague, the gentlewoman from Connecticut [Mrs. JOHNSON] was able to come to Savannah this weekend and found the time to meet with a lot of our hospitals and nursing homes and home health care professionals and other health care providers, and we talked about the fact that in April the Medicare trustees said Medicare is going to run out of money in 2 years, it will be bankrupt in 6 years; it is the obligation and duty of the Congress to act to preserve and protect Medicare, which we have been doing.

We are trying to slow down the inflation rate of Medicare, the growth of it. It is right now at about 11 percent; regular medical inflation is more in the 4- to 6-percent range. We believe if we can get Medicare costs in that 4- to 6-percent range, we can save it. Yet at the same time, we are committed to increased spending per recipient from $4,800 to $6,700.

As I said that to the people back home, they said, well, that is not a cut. We said, well, yes, it is true. We are going from about $178 billion to $278 billion.

Mr. Speaker, let me yield back the balance of my time, and maybe the gentleman from Connecticut [Mr. SHAYS] would yield a few minutes to me to complete that thought.

BOSNIA AND THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes as the designee of the majority leader.

Mr. SHAYS. Mr. Speaker, I yield to my colleague, the gentleman from Georgia [Mr. KINGSTON] to complete his presentation.

INCREASING MEDICARE BENEFITS

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding. I will just say real quickly something that is very appropriate to the subject that the gentleman from Connecticut [Mr. SHAYS] is going to address, which is the budget, and that is that in Washington, a decrease in the anticipated increase is considered a cut, which means if you are wanting to spend $15,000 and you only spend $10,000 more than you did last year, then that is a $5,000 cut instead of a $10,000 increase.

Therefore, so much of the debate I think is tainted by the fact that we use what are normal, every day, commonplace words, but we change them into an illegitimate-type usage so that the word "cut" again is a decrease in the anticipated increase.

Again, Mr. Speaker, I will say in that context we are increasing Medicare benefits per recipient from about $4,800 to $6,700 over a 7-year period of time, and we are doing that by giving seniors more options than normal Medicare. We are going to opt to have Medicare Plus, we are going to have managed care options, health maintenance organizations options; we will have medical savings account options and physician service network options, preferred provider organizations, all kinds of things which I think are very exciting. I have discussed these options with my parents and other senior citizens that I know, and they are excited about it and they are glad that we are going to move to protect and preserve Medicare.

Mr. Speaker, I now need to yield back to the gentleman from Connecticut his time, and maybe we can have a good discussion on the budget.

Mr. SHAYS. Mr. Speaker, I thank the gentleman and I would encourage him to participate in this special order. We are joined also by the gentleman from Maine [Mr. LONGLEY].

Mr. Speaker, this is obviously a time that many of us are focused in on Bosnia, and whether or not we are going to be committing troops. We are going to devote most of this special order to the budget, not Bosnia. However, I just want to put on the record that the vote on what Congress does and decides to do on the issue of whether we commit troops to Bosnia is going to be not a partisan debate.

Each member of a vote like that is going to look to his own conscience, is going to be checking and talking with people in the administration and outside of the administration to know ultimately what is the proper vote. I know that if I had to vote today, I would not be sending troops to Bosnia, but I have pledged to have a very open mind about this issue.

The President has committed our Government to send 20,000 troops, has made it very clear that he intends to work with NATO, and that obviously has to count for a lot. He is the Commander in Chief. However, then we have to wrestle with whether or not there is a defined national interest, whether we know exactly what that mission is, and if we know what that mission is, how we are going to carry it out and ultimately what will be our exit policy. We cannot be there indefinitely, how do we ultimately exit Bosnia and leave it better off than it is.

□ 2045

I am tempted to suggest to my leadership that we invite the participants who signed the agreement to come to Washington and convince us that they truly want peace. Because if we are just going there sending our troops, 60,000 sounds like a lot, ultimately, 20,000 Americans, but spread over such a wide part, a large area, there will not be a heavy concentration of troops practically in any one area, our troops will be at risk if the warring factions are not committed to the concept of peace.

So I want to start out this special order by just being on record as saying that I intend to keep an open mind, though if I had to vote, I would vote no, that it is not a partisan kind of decision, that we know we are talking about the lives of Americans, men and women who while volunteering trust us to engage them when there is a national interest and not when there is not a national interest. I do not know if either one of you would care to comment.

Mr. LONGLEY. If the gentleman would yield, I just would add to what the gentleman from Connecticut has said, that the most serious decision that any President can make is the decision to send American men and women into harm's way, and that I know that every Member of this body feels a very heavy responsibility to evaluate honestly and fairly the decision that the Commander in Chief is now presuming to make. As speaking for myself, I have been very skeptical about what the benefit and certainly any number of risks that American service men and women would confront on the ground in Bosnia but I also feel that the President needs to be given every benefit of the doubt. Again, that does not necessarily mean that we may ultimately agree with him but again we respect the fact that this is about the lives of young American men and women and our role in the world.

But I think it is also important to mention Bosnia in the context of the budget, as two of the many very serious issues that we are dealing with, and I guess it is, for whatever purpose or reason at this point in time we are not only faced with the prospect of American ground troops in Bosnia but we are also debating how we might best balance this budget and finally get this country on the track to a balanced budget over the next 7 years. Frankly as we debate in this Chamber, we still do not know whether or not, even though the President last night spoke to the country about his need or his feeling that we needed to send American ground troops to Bosnia, we still do not have a decision as to whether he is willing to accept the defense budget that has been passed by this body and the Senate and sent to him for his signature. Again there is a strange irony in the fact that the President as Commander in Chief is now planning to commit American forces overseas in Bosnia, yet we are faced with the possible veto of the defense bill that was passed by this body. Again given the issues in Bosnia, given the significance of national defense and the fact that we may be asking men and women to risk their lives in pursuit of what the President deems to be our national interest, given the issues that are underlying the need, I feel, for once and for all finally getting Washington to accept the discipline of a balanced budget, I have no doubt that the public is watching us very closely, in fact, perhaps far more closely and with far more scrutiny than sometimes we may come to appreciate.

Mr. KINGSTON. One of the things that I think the gentleman from Connecticut [Mr. SHAYS] said that is extremely important and I wish we could really front-page bold-type your words about the warring factions asking for our troops to come there to help them keep peace. Because they are not asking. You had said that you were part of a group inviting them to come to Washington and assure us that it was their wish and desire to have American troops there as an integral part of them resolving their problems peacefully. They are not going to do that.

As you recall in Ohio last week, they would barely shake hands and they avoided eye contact. So I think you have really hit something very key to this whole debate. Are we thrusting our troops and our American, quote, good will on these folks, or are they saying, "We can't do it without you"? I am not sure. We need to find out.

Mr. SHAYS. The bottom line is that that is an important question to have answered along with what the President said, a well-defined mission after describing what our national interest is. That as yet has not been described to us. So, we are going to be doing everything possible to get answers to those questions and then ultimately to vote intelligently. It is an extraordinarily important vote.

It is just one of many votes obviously that are important in the days and weeks and months to come. I am happy my colleagues have joined me to just have a dialog about kind of what we have seen happen in the last year, and what we might expect ultimately to be the result of this effort.

It seems to me that we have had as a majority party three primary objectives: One is to get our financial house in order and balance our Federal budget within the timeframe of 7 years, or less. Ideally less.

The other is to save our trust funds, particularly Medicare, from insolvency and then ultimate bankruptcy, and ultimately to work on the long-term savings. We have a short-term crisis, then we have a long-term, when the baby boomers start to enter in as retirees in 2010 to the year 2030. By year 2030, all the baby boomers will be in. There will be a gigantic group from age 65 to 85. The third issue, and it is a little harder to define but is probably as important as the other two and maybe even more important, and I describe it this way. We are looking to transform our caretaking social and corporate welfare state into what I would describe as a caring opportunity society where American citizens feel that this is truly the land of opportunity. Instead of giving them the food to eat, we give them the seeds and teach them how to grow the seeds into food, ultimately has to be our biggest interest.

We set out last year with a Contract With America and it has been amply described and we do not need to get into all aspects of it but what I was so proud about was that this was a positive agenda of what we wanted, of what we were going to do as a majority party, a firm commitment to the American people. A number of reforms in the opening day of the session, meaningful reforms, and then a long-term, 100-day effort with 10 major bills.

Nowhere in the contract did we criticize Democrats in Congress, and nowhere did we criticize the President. It was interesting that the Contract With America was criticized. Yet if you analyzed it, we were doing something that they say politicians do not always do and, that is, instead of criticizing the other side, we said. "This is what we stand for, this is what we are going to do", and none of it was negative. It was all positive.

Mr. KINGSTON. I was in the State legislature before I got here. One of the things I have always heard about politicians is you make one set of promises on the campaign trail and then you vote a different set of philosophies once you are in elected office.

This was the first time in my knowledge in my political experience that Members of Congress, elected officials, actually kept the campaign brochure in their front pocket. And as you remember, it was even read each day, the first 1-minute of each day was to read the Contract With America.

Again as you are saying, this is what we are going to do, this is what we promised we would do, this is what we are doing, and now after the first 100 days, that is what we did.

Mr. SHAYS. I notice we have been joined by a new Member, the gentleman from Kansas [Mr. BROWNBACK]. We welcome you here. I think of how important the new Members have been as a catalyst, obviously one to give us the opportunity to be in the majority, but the second thing, a strong base of new Members that have been determined that we will fulfill the commitments that we made. I am happy to yield to my friend.

Mr. BROWNBACK. That is what I find out when I go home, that people are surprised that we are. That they go and say, "I really support and agree with what you guys are doing. You know what, I love it because this is what you said you were going to do and you're doing it." I even have had people that said, "I didn't vote for you but I'm going to this next time because you're doing exactly what you said you were going to do".

I do not know why this should be any great shock but it is in a political system that we are getting that done.

I would like to if, I could, compliment the gentlemen as well on the reform efforts we are getting done, gift ban passed 2 weeks ago, on the verge of lobby reform. Campaign finance next year. Those are key things that the gentleman from Connecticut [Mr. SHAYS] has done a tremendous amount of work on.

Mr. KINGSTON. If the gentleman would yield a second, putting Congress under the same laws as the American people, the Shays Act, from the gentleman from Connecticut.

Mr. BROWNBACK. An amazing thing to think that we were not under the same laws but we were not. But right now we are about to engage in one of the most historic things in re-shaping this Federal Government right now and that is balancing the budget. I do hope the administration is watching and going to participate in actually forming a 7-year budget that goes to balance, zero deficit in year 7, so that we can get rid of this deficit.

I get worried that the administration is not going to participate in this. I certainly hope that they are going to and that they are not just going to criticize the budget plan that we are putting forward. We have put forward a very specific budget plan and I hope the administration puts forward an equally specific budget plan of how we get to balance in 7 years. It is critical for our future, it is critical for our priorities, and we need to have a legitimate dialog and debate just about that.

Mr. LONGLEY. If the gentleman would yield, I would just like to point out again, we just celebrated the Thanksgiving holiday last week. Certainly all of us in our own way pause to give thanks for the great blessings that we have received as individuals, as families, and as a country.

I have been fortunate enough to live overseas for a year or two of my life, and it just really makes me realize how fortunate and how lucky we are as Americans to live in this country. But it also gives me an opportunity to kind of reflect back over the last 18 months, and one of the thoughts that came to my mind was, as important as the Contract With America was, the one aspect of the contract that really stood above all of the others is the need to get this country on the track to a balanced Federal budget.

I mention that because when I look at the 850 plus or minus votes that we have cast over the last 10 months, the dozens of issues that we have had very strong and maybe even very heated debates about, a lot of that has obscured the fundamental reason that many of us got into politics and decided to run for this office and to serve in this body, which is to get the country on the track to a balanced budget.

To pick up on what the gentleman from Kansas just said, I as a citizen, as a Member of Congress, as someone who is concerned about the welfare of this country, in listening to the President speak last night, in the back of my mind I am saying to myself, is the administration truly committed to balancing the budget in the 7-year timeframe?

Again, the President campaigned on the fact that he wanted to balance the budget in 5 years. We do not have an agreement to do it in 7 years. Given the fact that he has been in office for 2 years already, effectively what we have done is provided a mandate of a 9-year balanced budget when, in fact, the administration, the President, campaigned on a 5-year budget.

The only reason I mention that is that I want to be positive and I want to believe that we can count on the President and his administration to deliver on this commitment. I say I thought about that last night because one of the feelings that I know any American soldier or marine will have, and I have to confess that I felt that myself, having served during Desert Storm in northern Iraq, you always wonder. You realize that your fate is in the hands of powers far greater than you are.

I hope that the administration is serious about working with us. We are going to have policy disagreements. Republicans and Democrats can disagree, but we need to disagree within the context of balancing the Federal budget and taking no more than 7 years to do it.

In my view, the President's commitment to that objective is just as sacred a commitment as his duties as Commander in Chief when he orders American men and women into service overseas. I see a linkage between the two issues.

I will feel, frankly, far greater confidence in the administration's commitment to send troops to Bosnia if I know that they are also serious about keeping their commitments in other areas. Because if they are serious about keeping their commitment on the budget, then I know that they are going to be serious about keeping their commitment to act in the best interests of our men and women who may be called to duty over overseas.

I would yield back to the gentleman, but I wanted to pick up on the point he just made so very well.

Mr. BROWNBACK. I appreciate that very much from the gentleman from Maine.

I yield to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. We do not want to spend a lot of time eulogizing the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Do not spend any time. We do not have much left.

Mr. SMITH of Michigan. But I am proud to work with you, CHRIS. Everybody knows the guy that is just consistent, that is soft-spoken, that has good ideas and follows through on them. I am certainly proud to work with you on all of these issues, from campaign finance reform to balancing the budget.

See, we just need to shout out and say," Look, does everybody realize what a predicament this huge, overbloated Government has gotten us into and the imposition that it is placing on our kids and our grandkids"?

□ 2100

You know, we say balance the budget, but even at the end of 7 years we are still borrowing $100 billion from the trust funds. And yet the whining and the moaning and the criticizing about our going too far, we are hurting our economic future and we are putting this load on our kids. you know, we have got unfunded liabilities in Social Security and Medicare, Medicaid, promises we have made to retirees. We have now guaranteed that we are going to hold harmless all the private pension funds just in our overzealousness to try to do good things to people so we will get re-elected.

We have really made some commitments that are placing us in great jeopardy.

Mr. SHAYS. I thank the gentleman for how incredibly persevering he has been in waking us to the fact that we cannot continue to increase our national debt until we get our financial house in order, and this made an incredible difference making sure people recognize increasing the national debt is very much related to the deficit that we have every year. We have deficits because we spend more than we raise in revenue each year, and the end of each year they just keep getting added to the national debt.

I was thinking about my colleagues talking about Thanksgiving and how much we have to be grateful for. This is a very bountiful Nation, but we are mortgaging our children's future and we need to wake up to that fact.

Thirty years ago, as one of the documents that you gave us pointed out, we had a debt of only $375 billion, and as your document pointed out, we had World War I, World War II, the Korean War, Vietnam War that was financed by debt, and now, with no war basically, we have gone from $375 billion to $4,900 billion, a 13-fold increase in a short period of time.

Mr. SMITH of Michigan. If the gentleman will yield, the interest on our public debt subject to the debt limit now is almost $330 billion. You compare that with 1977 of a total Federal budget of $370 billion, it is disrespectful.

Mr. SHAYS. We have been joined as well by the gentleman from Arizona. I would like to get us to begin to focus on what we are trying to do. What we are trying to do is get our financial house in order and balance the Federal budget at least within 7 years. There is nothing that says we could not do it in 6 or 5. We can talk about whether this is a difficult task or not.

In one sense, the gentleman from Kansas was pointing out people have said, you know, you vote for the balanced budget amendment, and there were over 305 Members who did that; and we are voting to balance it in 7 years, which is the balanced budget amendment said do it within 7 years. We are doing it for a logical reason. We just want to care about our children.

Mr. KINGSTON. Let me ask the gentleman a question. I am on the Committee on Appropriations. You guys are the budgeteers. I want to ask you something many constituents ask me, and that is you look at the Bush tax deal in 1990, look at Gramm-Rudman, you look at all these grand crescendos we had in Washington followed by a lot of bipartisan hugging and kissing, backslapping, are we not great? Then we wait. The budget is never balanced.

Is this going to be the case? Why 7 years? Those of us who are here in this Chamber tonight, we may not be elected in 7 years. Now we may cut the budget and start it. What is going to make sure that in the year 1997, 1998, 1999, 2000?

Mr. SHAYS. I would like to take a first crack at that. Basically, there are two parts of this budget we are focused in on. One is the appropriations the gentleman is very much involved in. That is only one-third of our budget.

Congress, for so many years, attempted to control the growth of spending by focusing on one-third of the budget. By entitlements, you fit a title, you are given a certain sum of money, a certain benefit, whether it is Medicare, Medicaid, welfare, food stamps, and so on. You get that benefit. Those entitlements have been growing. Gramm-Rudman never focused in on entitlements.

This is the first Congress, and the gentleman from Kansas was talking about those who said, you know, good, you are following through, and the positive response. We are getting some negative response. We have to be very up front about it. We are taking on a lot of special interests. It mostly focuses in on the entitlement side. I do not think people realize we are cutting some programs. We are eliminating some programs. The vast bulk of programs, most of them entitlements, will grow at significant rates. Medicare is going to grow at 7.2 percent, Medicaid at over 5 percent.

In some cases, we are seeing a lot of expansion. We are still trying to ultimately have spending slow the growth of spending so it ultimately intersects with revenue by the seventh year, and no balanced budget.

I yield to my colleague, the gentleman from Arizona, who has joined us.

Mr. HAYWORTH. I thank my good friend from Connecticut. He raises a point that is absolutely valid and cannot be repeated too often. That is the fact in the span of little more than 40 weeks in a majority in this Chamber we are looking to reverse the course of 40 years of a philosophy predominated by the notion of bigger is better in a centralized government, in a centralized bureaucracy.

The gentleman from Connecticut is quite correct to point out that what we have decided to do at long last, after almost a half century, is to seriously evaluate the efficiency and the practicality of the entitlement programs in addition to discretionary spending.

I look in the well, I see my good friend from Michigan, and I know that he has been a watchdog on these issues. I know that at times he quite accurately, I believe, voices some frustration that we hear from many of our constituents saying it is not happening fast enough. What I would say, Mr. Speaker, to those who join us tonight here in this special order is we get the message.

But a journey of 1,000 miles, in this case a journey of $12 trillion, to mix metaphors here, begins not with a single step but in this single session dedicated to making the fundamental change necessary.

Mr. SHAYS. I did not answer the second part. Obviously, we have to be vigilant each and every year. We have to make sure we do the heavy lifting this year and next year and not ask the next Congress and the Congress after that one. But one thing that is quite significant, if we can make changes in entitlements, still allow them to grow but slow their growth, that becomes written in law and becomes an automatic process.

So if we can make some significant changes in entitlements today, they will be in law, not sunsetted. So that is our effort.

Mr. BROWNBACK. If the gentleman will yield for just a moment, I think there is another pressure point here. I do not know how many people caught what Chairman Greenspan said yesterday of the Federal Reserve in front of the Senate Banking Committee. He said if Congress fails to balance the budget in 7 years, interest rates are going up, they are going up. This is the chairman of the Federal Reserve saying to Congress there are many incentives and one of the key ones is what will happen to this economy if you fail and what will happen immediately and directly as a consequence of your failure.

To just hook onto one of the points of the gentleman from Arizona, we are talking spending $12 trillion over 7 years. This is $12 trillion in Government spending. This is a lot of money that we are going to spend for the Government, $12 trillion. It is enough to run this Government on.

Mr. LONGLEY. If I could just add something to that, you know, and I respect the comments of the gentleman from Arizona, but we have built this Government up over 40 years, and there is not a single vote that I do not cast that I am not concerned about what is the impact of this vote, if it is in changing the funding pattern for a program or possibly eliminating a program, and I respect the fact that many of these programs, much of the spending that Washington now engages in, was built up in good faith on the assumption that we were going to be able to make positive changes in society. But I think what we have come to realize is that the money is not the issue.

Yes, money is part of the issue. But it is not the entire issue.

What has happened is that money and Government have become ends in themselves in Washington to the detriment of the values that make this country what it is, and the lack of accountability, the distance that Washington has from what is going on in local and State Government, and I have no doubt in my mind that we are making the tough decisions that we need to make because money is not the only issue.

It is now recognizing that individuals and local government and State Government need to have the authority and the responsibility to be able to do what only they can do and that much of what we have pretended Washington could do has not worked, and we have got to find new ways to do it.

Mr. SMITH of Michigan. If the gentleman will yield further, I think, Mr. Speaker and colleagues, that the American people should know that we are now at a turning point. Will the President work with us in changing the welfare programs and the entitlements? Because those programs represent 60 percent of the savings that need to be made to finally achieve a balanced budget, and the President right now, I do not know if you heard the reports from leadership when they met with the White House, they are still discussing how CBO will do the scoring.

Is the President serious about having a balanced budget in 7 years? Will he work with Congress in developing the kind of changes for the welfare programs so that we no longer have welfare as we know it?

Mr. SHAYS. Maybe the gentleman would just explain the significance of what the Congressional Budget Office is, a nonpartisan office, not partisan office, that sets the economy, that determines where the economy is going to go. What is so significant about how CBO scores the budget?

Mr. SMITH of Michigan. The Office of Management and Budget works for the President of the United States, takes their directions from him, and so they are able to say, look, the economy is going to expand by 3 or 4 percent. They are able to present a rosy scenario and predict tremendous amount of revenues coming into the Federal Government so that the President or anyone else that wants to say it, look, with all of these revenues coming in, we do not have to cut any spending and we will still achieve a balanced budget. So the danger is having somebody that is bipartisan, that is impartial, developing the projections for those 7 years.

Mr. SHAYS. That partly answers the question the gentleman from Georgia [Mr. KINGSTON] raised about how come we failed in the past. I can speak from direct experience. I voted for the 1990 budget agreement. The part I liked in it that said if you expanded an entitlement you either had to come up with revenue or cut spending to pay for an expanded entitlement.

What I failed to fully grasp was the budget being presented and being scored by the Office of Management and Budget, a Republican administration at the time, projected a tremendously rosy scenario which said the budget would be balanced in no time without a lot of heavy lifting. They said the economy is going to grow at a rate it never came close to growing.

The challenge we had, and the President when he addressed it in the State of the Union Address 2 years ago, said let us use the Congressional Budget Office, a fair referee for determining how the economy will grow. Obviously, if the Congressional Budget Office scores it less than the Office of Management and Budget, we will have to do greater heavy lifting, we will have to make greater cuts to some programs and slow the growth in others, which I think we really have to do.

Mr. KINGSTON. If the gentleman will yield, if we look at a private sector example, the big motor companies, the tractor manufacturers who are out there, they have all in the last decade had to downsize, and as a result most large United States manufacturers can produce more now at less cost and at a higher quality than they could in 1980, and the Federal Government has to go through this process as well. But it is not easy.

You know, it has taken the fuel of the freshman class and the votes provided by the freshman class to get this through. But, you know, long-term players like you know that if this was easy we would have had a balanced budget since 1969, and, you know, I think the Speaker, has said nobody said that when you are going to start cutting the programs they are going to come up here and say this is great, you are cutting out my job but you are balancing the budget, I am so proud of you. That is just not happening.

Mr. LONGLEY. The gentleman has made an important point. The Federal Government is the least changed major institution in the United States, and as tough as the decisions have been that we have had to make, and we are going to be asked to make more of them and very serious decisions, the fact also remains that we need to succeed at what we are doing. We need to work with the President to make sure this happens because if we are not successful in making these kinds of changes, as modest as they are, and when I say modest, you know, the gentleman from Kansas referred to the $12 trillion that we are going to spend in the next 7 years versus the $12.8 trillion or $12.9 trillion that the other party would like to spend, or, if you will, the big difference between the mean, cold Republicans and the warm-hearted Democrats is that the mean Republicans are only going to let the Federal Government increase spending by $3 trillion, whereas the Democrats are going to have to increase by $4 trillion. But that $1 trillion, that trillion-dollar difference in a $12 trillion or $13 trillion budget is all the difference in the world between adding $1 trillion in national debt on top of the trillions of dollars of debt that we already have or finally getting to a balanced budget and starting to work towards eliminating our debt and not just adding to it.

Again, I remind myself I was barely two aisles away I was sworn in in January, and I had my 7-year-old daughter, Sarah, and my 11-year-old son, Matt, and while I am being sworn in, it is drawning on me this government today is spending the money that my 7-year-old and my 11-year-old will spend their working lifetimes paying back, just paying the interest let alone retiring any of the debt.

Mr. SHAYS. Which raises the question, where are we headed right now? What we have is an agreement with the White House, and I take them at their word that they will work within the parameters of balancing the budget within 7 years and also, very important, that they will use real numbers scored by the Congressional Budget Office, not the bipartisan office, the nonpartisan office.

□ 2115

So we have now the framework to have a meaningful dialog. We have presented our budget. Candidly, there are parts of that budget I do not like. I am proud of what we have done. I am in awe of what we have done. But there are parts I do not like.

Maybe some of the parts I like the gentleman from Michigan may not like or the gentleman from Georgia or the gentleman from Maine or Arizona. Even in that conference, we had our disagreements. Ultimately, we agreed as the majority party to do something no Congress has ever done, and that is take the initiative to balance the budget and get our financial house in order.

Now we have the right, and the President has the obligation to respond, we have the right to ask him where is his 7-year budget, where are your priorities, Mr. President, and then we will evaluate them and say we agree here and we disagree here. Candidly, I have some suggestions on how he could make our budget better. I would like to see it a little more friendly to urban areas. The gentleman from Michigan may want to see it more friendly to farming areas. We may be lobbying the White House to weigh in in a particular way.

Ultimately, if we can agree to balance the budget in 7 years, interest rates will not go up, they will go down. Maybe one of my colleagues would like to talk about the benefits of getting the balanced budget and what it means in terms of the interest rates.

Mr. SMITH of Michigan. Mr. Speaker, another situation I am sure that the people that want to spend more money have already started arguing is let us not have any tax cuts. So I think it is important to remind ourselves where we have been over the last 5 years, based on the tax increase over a 7-year span. In 1990, we had a tax increase of $235 billion. In 1993, a little over 2 years ago, we had a tax increase of $350 billion spread out over 7 years. Now the tax increase in this proposal is $222 billion. It is just a question that if you start increasing taxes too much, I mean, everybody knows and the economists all say that you start depressing the economy and depressing jobs. So the question is should we give some of those tax increases back.

Mr. LONGLEY. Mr. Speaker, is what the gentleman really saying is we are proposing a tax cut that is literally less than half of the two prior tax increases that were passed in this body?

Mr. SMITH of Michigan. That is correct. And the goal has got to be to expand business and jobs in this country, at the same time that we achieve a balanced budget, to say, just like the gentleman said, the wages that your kids have not even earned yet are going to have to pay for our overindulgence as a Federal Government living beyond our means.

Mr. HAYWORTH. Mr. Speaker, coming back off of break and spending time at home reminds me of the fact that on Saturday, John Micah Hayworth turns two, our youngest child. And if we do nothing to change the culture of taxing and spending, if we are somehow able to hold this remarkable experiment together with the legislative equivalent of chewing gum and bailing wire, postponing the decisions we need to make, John Micah Hayworth over the course of his lifetime as a working adult will pay over $185,000 in taxes to the Federal Government just to service the debt. Just to service the debt.

The President, to his credit, a couple of years ago, in sending his budget proposals up to Capitol Hill, included a page called generational accounting, measuring the effects of expenditures in governmental services, projecting it on the next generation of taxpayers.

The results were astonishing. Mr. Speaker, I do hope that those who join us are seated at home when they hear the figures, because they are mind boggling and terrifying. To maintain the current culture of spending and governmental services at all levels, the average taxpayer of the next generation would be looking at surrendering 82 percent of his or her income in taxes to provide those services.

Now, look at the steady increase. In 1948, an average family of four surrendered 3 percent of its income in taxes to the Federal government. By 1994, it was almost one-quarter of income, 24 percent. Clearly there is nothing ignoble, there is nothing selfish, in saying and recognizing that the people of this country, liberal and conservative, Republican and Democrat and Independent, all work hard for the money they earn. They should hang on to more of it and send less of it to the Government, because, as the gentleman from Michigan points out, it is a matter of allowing the market to flourish and to prosper and to rekindle the economic engines that have driven this country so dynamically.

That is the challenge we face. It is not a matter of downsizing; it is a matter of right sizing. What is right for the future? Good honest debate can take place. The gentleman from Connecticut mentioned it. I championed the fact that the gentleman at the other end of Pennsylvania Avenue, the President of the United States, has put his signature now on what is in effect a contract agreeing to the parameters of a balanced budget in 7 years with honest numbers.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, and I hate to stop his peroration. He is on a roll and sounding good, but I wanted to make a point that I think is very important. We do not discuss this as much when we talk about that middle class tax burden, which as the gentleman said, has gone from about 3 percent in the early 1950's to 24 percent now, and the gentleman from Maine points out how the middle class is just piling on more and more. The gentleman from Michigan talked about we got hit with new taxes under Bush, new taxes under Clinton, and this tax cut is less than those new taxes.

But the point is, there are also a lot of tax loopholes that this balanced budget bill actually stops. So often American people say, "You know, I don't mind paying my fair share, but I want to make sure everybody is paying their fair share." In many cases, there is a lot of fine print that it is stopping some of these loopholes in this balanced budget bill. A lot of this corporate welfare is stopped. But it never makes it into print or debate, but it is in there.

The gentleman from Connecticut talked about what the impact is on the middle class family of having a lower interest rate. If you have a $75,000 mortgage over a 30 year period of time, you save something like $39,000 with lower interest rates. That is big money for middle class America.

Mr. HAYWORTH. Will the gentleman repeat that? We have to amplify what is in effect a balanced budget bonus that will be there.

Mr. KINGSTON. This all comes back, and the gentleman from Michigan [Mr. SMITH] mentioned it earlier as to why, Alan Greenspan, the chairman of the Federal Reserve, when he testified to the Congress, and it was actually months ago, he said that balancing the budget could bring down the interest rate as much as 1.5 percent. Other economists have said 2 percent. Most everyone agrees it will be at least 1 percent. That is 1 percent, 2-percent lower, on a student loan, a house mortgage, a car payment, your Visa bill, your MasterCharge bill down the line. That is going to help the middle class of America.

Mr. SHAYS. Not to confuse the matter, it is really one point down. If someone was paying 8 percent, they would pay 7 percent. It is a significant drop in the total amount they would have to pay.

I was thinking about the gentleman raising the issue of taxes. We could even in this group here have argument or discussion as to when the tax cut should take place. But we all know that we pay for tax cuts with spending cuts. They amount to 1.5 percent of the total revenue we are going to raise in the next 7 years. So we are just reducing the revenue flow by 1.5 percent. One of those, the capital gains exemption in the minds of many will create revenue rather than cause a loss. We have to score it by the nonpartisan Congressional Budget Office as a revenue loss.

Mr. SMITH of Michigan. If the gentleman would yield, everybody should still understand that revenues from taxes significantly increase over this 7-year time period, so there are going to be more revenues coming in from taxes, even though we have a modest reduction in the rate of some of those taxes.

Mr. KINGSTON. I wanted to say one of the things that people are overlooking so often are the cuts for the rich. Seventy four percent of the people who benefit from the tax cuts have a combined household income of less than $75,000. Last week I was speaking to the AARP. I said, "You know who the rich are getting this tax cut? It is you, the senior citizens. You are going from $600,000 to $750,000 on your estate tax exemption, from $11,000 to $30,000 as the exemption for Social Security earnings limitation. You or your family will be getting a $500 tax credit for having a dependent senior living in your home." These are helping senior citizens as much as anybody.

Mr. LONGLEY. If I could interject, I think all of us would agree we need to provide tax relief, particularly to the middle class and to working families. I think that the public has been served a tremendous injustice to the extent to which they do not understand that some of the provisions in this tax cut that we are looking at are heavily geared towards working families. Radical ideas like eliminating or easing the marriage penalty, so a couple that gets married does not pay more tax to be married than they would pay if they lived together without being married. We are going to provide a tax credit for adoptions, to increase adoptions and the incentive to adopt, hopefully to make that an easier process for people. We are going to give people a deduction to take care of elderly parents in their homes. What an outrageous idea, that we could actually let a family try to take care of a loved senior in their own home.

We are going to be providing an increased health deduction for health insurance for the self-employed. Medical savings accounts. We are going to give spouses the opportunity to have a full IRA if they stay home to take care of the children. We are going to allow additional interest payment deductions on student loan repayments.

It is just outrageous to me that the public is not being told the full extent of the types of measures that we are targeting, that this is not some big tax cut for the rich. Frankly, anyone that suggests that is not paying attention to the facts.

Mr. SHAYS. If the gentleman would yield, more than half of the tax cut is a $500 tax credit to families who, if it is a single mother, would be any family under $75,000, and a dual family, husband and wife, father and mother, $115,000. Not above that income level. It is focused in on truly those most in need.

To illustrate the argument for it, it is a very clear one. You were talking about families in the 1940's. I was 1945 baby. My three older brothers were raised by my family in the 1940's and 1950's. My parents were given in today's dollars the equivalent of $8,200 per child tax deduction off their income, an equivalent of $32,800 off their total income in today's dollars. A family today is given $2,500 as a deduction. My family raised me when they paid less than 15 percent of their income in taxes. Today a family raising children are faced with anywhere from 25 to 40 percent of their income going to taxes. So there is just no question why we want to do it.

Someone asked me this question. They said, "Isn't the most important issue balancing the budget and getting the economy moving again?" The answer is yes, I say taxes would be second to that. But if we are going to balance the budget and take 7 years to do it, we can afford a tax cut. If we agreed that we could balance the budget in 4 years, maybe we could not do it with a tax cut. But that is not what is before us. It is a 7-year balanced budget effort. So we clearly can reduce the burden on taxpayers over that period of time.

Mr. HAYWORTH. If the gentleman would yield, some of the debate has been characterized, and indeed some have talked about letting people hang onto more of their hard-earned money as if it were the equivalent of free candy. I have heard that expression used by some who would try to envelop themselves in a populist mantra.

Again, this is money earned by working Americans. It is their money. And, again, we come back to the central realization: This Government does not create the wealth. In our free market economy, this Government does not create the wealth. The wealth and the economic well-being results from the fruit of labor and work.

So what we are simply saying is for working Americans, you deserve to hold on to more of your money, because you know best how to care for your family. You know best the dreams and the aspirations of your children. You know best the dreams that you have for your children. You should have that money to spend as you see fit, to save, to invest, because in doing so, you will not only be caring for your family, you will be caring for your community.

Mr. SMITH of Michigan. If the gentleman will yield, just the frustration so many Americans have felt that are working so hard for the dollars that they have to raise their families, and then if you go out to the check out counter at the grocery store, very often you see food stamps that are being misused for all kinds of non-nutritious food items. So as you look at the welfare recipients that may be have ended up with a snowmobile or whatever that you cannot afford, while you are paying taxes, you know part of your tax dollars are being wastefully spent in so many areas. So I think the only way we are going to achieve this is for the American people to say "Look, enough is enough. Just do it." I think that is what the American people are starting to say.

□ 2130

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield.

I am a Congressman in a car pool line. I have four kids. I drive a car pool every Monday before flying up to here. As I look at the other dads and moms in the car pool line and I think about that $500, I know where the money will go. It will go to buy new shoes, maybe a new book or two, maybe a downpayment on a computer or some software program. It will go to positive things.

And what happens is most of that money will be spent locally and it will be spent in small businesses. Those small businesses, as we all know, will expand, they will create jobs, and new people will be working. People will get off of public assistance benefits. And what will then happen? More revenue comes in.

I believe, Mr. Speaker, getting back to what the gentleman from Connecticut said, that the tax cut is very much in line with balancing the budget and will, in fact, grow the economy.

Mr. SHAYS. Mr. Speaker, if the gentleman will yield.

This was a commitment we made to the American people in our Contract With America and we are fulfilling it. We did not say before the election we will cut taxes and afterward forget that pledge. That is an important part of this whole effort.

We talked about the significance of balancing the budget, and as the gentleman from Michigan, NICK SMITH, has pointed out, in that wonderful document I keep referring to, he points out that 42 percent of all of our savings goes to pay for our national debt. Just think if some of that could go somewhere else, like investing in new plants and equipment. We know that when interest rates go down businesses say, I can be competitive, I can afford to buy this new plant and equipment because the cost of money is less.

If we could, I want to get into this one area, we have about 9 minutes left, and it is the whole issue of what are we doing; are we cutting earned income tax credit, are we cutting the school lunch program, are we cutting the student loan program, are we cutting Medicaid and Medicare?

I would love to go through this list because it has been such a difficult thing for me to hear some Members say, well, of course, everyone wants to balance the budget, then they tell us what they do not want to cut or they accuse us of cutting things we are not cutting.

On the table, when we talk to the President, we want him to know the earned income tax credit is going to go from $19 billion to $25 billion. Only in Washington when we go up 28 percent do people call it a cut. The school lunch program, just within a 5-year period, will go from $6.3 to $7.8 billion in 5 years. That is an increase, but in Washington they call it a cut. The student loan program, and this really gets me, it goes from $24 billion to $36 billion. We are going to spend in the 7th year $36 billion. That is a 50-percent increase, but in this place some people call it a cut. Medicaid will go from $89 to $127 billion. Clearly an increase in spending, not a cut. Medicare from $178 billion to $289 billion. That is a 7.2 increase each and every year.

So the bottom line is we are cutting some programs and we are actually eliminating some. We are consolidating the Commerce Department and we are making some tough decisions. But on some of these programs, that are basically entitlement programs, they are going to grow quite significantly. In fact, some people are embarrassed to admit how much they are growing, but at least we have to say to people these are increases.

Mr. Speaker, I hope the President realizes that, and I hope he focuses in on where his priorities are. He has a tax cut he would like. It is a tax credit for families who are paying to have their children go to college and are giving them some benefit. Maybe that is something to be on the table and we talk about taking one of our taxes off.

Mr. Speaker, I would be happy to yield to my colleague.

Mr. SMITH of Michigan. Let me mention that the Speaker tonight for the U.S. House of Representatives is the gentleman from Michigan, DICK CHRYSLER. The gentleman just mentioned the Department of Commerce. Mr. CHRYSLER led the way to make a consensus that we are now moving towards cutting the waste in that department out, abolishing it as a named institution. He has introduced legislation now also that gives that tax credit for education. So my compliments to the Speaker.

I throw that in and will yield to the gentleman.

Mr. HAYWORTH. I thank the gentleman from Michigan for saluting the other gentleman from Michigan, who tonight serves as our Speaker pro tempore, and who, indeed, led the way with a tangible action to right size the government borne of his experience in the working world.

Mr. SHAYS. And, I might add, saved about $7 billion in the process.

Mr. HAYWORTH. That is real money, and I thank the gentleman from Connecticut for making that vital point.

Mr. Speaker, I think it is important to note, and my colleagues here gathered on the floor on both sides of the aisle, I think it is worth noting that in the wake of this historic shift, with the changes that have taken place, there has been a great deal of heat generated on this floor. We recognize the fact that good people can disagree, but, Mr. Speaker, I do not believe it is too much to ask the American people to join with us now to take a look simply at the proposals which we have outlined; coolly, objectively, yes, compassionately, divorced from the venom and vitriol and exaggeration that so often takes the place of sound public policy discussion.

Indeed, what has happened here, tragically, has been almost the utilization of political theater instead of rational policy discussion.

So, Mr. Speaker, I simply have a challenge to the American people and, indeed, to our friends on the other side and, indeed, to our President at the other end of Pennsylvania Avenue, echoing what the gentleman from Connecticut has said. There are philosophical disagreements. There may be a different way of looking at what should happen in the future. We believe, in the new majority, that we have fashioned a plan that indeed complements very nicely, ironically, the path first endorsed by candidate Clinton in 1992, many of the objectives he said he had hoped to reach as a candidate.

Again tonight, Mr. Speaker, as we have done on so many occasions, recognizing that some things are nonnegotiable, the notion of balancing this budget in 7 years, the notion of providing adequate funding to reevaluate what transpires with entitlements to evaluate and better understand how to make sure that we have a safety net instead of a hammock in terms of social spending, but once again, Mr. Speaker, we would be remiss if we did not say again the hand is extended from this legislative branch to the executive branch, from the Congress of the United States to the White House. Again, Mr. Speaker, we would simply ask the President of the United States to join with us and govern, to set the stage for a balanced budget in 7 years, because the American people deserve nothing less.

Mr. SMITH of Michigan. Mr. Speaker, I would like to compliment the gentleman from Connecticut [Mr. SHAYS] for organizing this special order and would ask for his conclusion.

Mr. SHAYS. Mr. Speaker, I thank the gentleman. I know we have about 2 minutes left, and the bottom line is that what is not negotiable is getting our financial house in order within at least 7 years and to use real numbers scored by the Congressional Budget Office.

We are not saying the President has to accept our budget. We are eager to see his budget and then work out where our differences are. Obviously, we will have our differences. People have said to me this must be kind of tough being down in Washington, the polls are somewhat negative about what is going on both to the President and the Congress, even more so to the Congress. And I have responded in a like response to say we are doing some heavy lifting.

I am proud of what we are doing. If we just looked at the polls, I am reminded of thinking if Abraham Lincoln had looked at polls we would not be one Nation under God, indivisible, we would be two nations. When President Lincoln was bringing about change and fighting the great conflict, his poll ratings were, according to historians, practically nonexistent. He was considered a bumbler. He had to be snuck into the city. Ultimately, it was not until the fourth year people began to realize the significance of what was taking place.

The bottom line for us is we are going to get our financial house in order. We will do it ultimately, I think, on a bipartisan basis. We will do it with an extended hand, as the gentleman has pointed out, but we are determined. We have left the old world for the new world, and we are not going back to the old world. We burned our ships. We are either going to succeed or fail, but we are not going to return to business as usual.

With that I thank my colleagues who have joined us and thank you, Mr. Speaker, for your attention and your willingness to preside over this.

THE BUDGET NEGOTIATION PROCESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, as we have heard from previous speakers, the countdown has begun on the budget negotiation process. It is a countdown of greater significance than we have ever experienced probably in the history of the Nation. It is a countdown to the remaking of America.

We are not just talking about budgets and appropriations. We are talking about a drastic overhaul, a remaking of America. We are not just talking about reforms, we are talking about destruction. We are talking about the wrecking ball that has to precede any rebuilding that may take place.

As we move toward December 15, we have gone through a period where a gun was held at the head of the American Government. The Republican majority refused to allow a continuing resolution to go forward until it extracted certain promises from the Democratic President in the White House. That is a most unfortunate way to proceed.

The general way of proceeding is to have appropriations bills passed, the President acts on those, Congress reacts, and we go through an orderly constitutional process. But a crisis was created this time and we have gone through that, and now we have a new framework established. The new framework says that we have until December 15 to work out the budget process, and in the process we must adhere to certain parameters that have been established.

The framework is established. The environment for negotiations is set. We must negotiate within the parameters of the establishment of a balanced budget by the year 2002. In 7 years we must balance the budget. We must negotiate this. If we do not, we will not be able to continue the Government beyond December 15. The same kind of crisis that was artificially created a week ago will be recreated. So we are negotiating with a psychological bomb threat hovering over the process.

Is this a logical and scientific way to remake America? No, but it is the conditions that have been set by people who have enormous amounts of power, and the process goes forward. The engagement is on now. The engagement is between the Democratic President and a Republican controlled Congress. The crisis in a revolutionary atmosphere has been created artificially and does not improve the decisionmaking process. We cannot expect a better America to emerge under the kind of atmosphere that has been created, a kind of bomb threat hovering over.

I do not think the decisionmaking is going to be the best that we are capable of. I do not think the decisionmaking is going to be the kind of decisionmaking that the American people deserve, but that is the crisis and the revolutionary atmosphere that has been created.

Those that have created the crisis obviously do not trust a rational step-by-step decisionmaking process. They do not agree with the process. They think that we have to have a crisis, we have to have a bomb threat hovering over the process. They are intellectual cowards who have nothing but contempt for the deliberative process of democracy, but they are in power. They have created the situation. That is the way it has to go forward as we count down toward December 15.

Reform is not on the agenda of this controlling group. The Republican majority is not interested in reform. They talk about reform. They come to us in the clothing of reform, in the camouflage of reform, but what they really mean is they want to wreck and destroy. Wrecking and destroying is on the agenda of the Republican controlled Congress. They want to wreck what has been put together over the last 60 years. They want to wreck Franklin Roosevelt's New Deal. They want to wreck Lyndon Johnson's Great Society.

□ 2145

They want to wreck Medicare. They do not really want to save Medicare. There are quotes which clearly show that they never believed in Medicare. The Republican votes were never there.

Medicare was created 30 years ago. It is an infant program. In the life of nations, 30 years is a very short period of time. But now, Medicare must be slowly strangled. The reforms are not to save Medicare. It is hoped that Medicare, "would wither on the vine."

There are other people that felt that Medicare was an idea that never worked anyhow, so the fact that they are attempting to make drastic cuts in Medicare now should surprise no one. It is logical. They are wrecking and destroying.

The original Contract With America came camouflaged in the clothing of reform, but destruction is the objective. Destruction is the goal, and destruction is the mission of the present Republican-controlled Congress.

The framework has been established. The countdown has begun. But each American voter, each constituent out there is not condemned to merely be a spectator. They do not have to be merely a spectator in this process. Their common sense has a vital role to play. Their common sense is already having a profound impact here in the distorted world of Washington decisionmaking.

I want to thank the American people for raising their voices. I want to thank them for letting it be known that they can clearly understand the language of political used car salesmen. They can understand when they are being swindled. The public is far more intelligent than a lot of the professional decisionmakers here in Washington. I want to thank the American public.

There are people who say that, "Well, things are improving." Unfortunately, some within the Democratic Party. They say, "Things are improving, and the public is coming around to seeing things the way Democrats see them and, therefore, we should lower our voices and we should not be shrill."

Mr. Speaker, I do not understand that reasoning at all. I think that raising voices has led to American voters listening to each other. It has led to citizens out there waking up to the dangers that exist. It is not by accident that the polls now show that more than 60 percent of the American people do not want the cuts being proposed by the Republican majority in Congress. More than 60 percent. More than 70 percent do not want the Medicare and Medicaid cuts.

Common sense is prevailing. People raised their voices and they heard each other. I do not think anybody wants to be shrill unnecessarily. For God's sake, understand what is at stake here. For the sake of the American people, for the sake of our families and our children, and for the sake of the greatest Nation that ever existed in the history of the world, it is necessary to raise our voices, wake each other up.

Common sense is going to play a major role in what happens here. Common sense is going to be at the table in the White House, if it is kept highly visible and if the polls continue to record the truth of what the American people think out there.

We have a problem and common sense will help us with that problem. We have a collision of visions. I heard this phrase used on the floor by one of my Republican colleagues. I do not remember exactly who the gentleman is, I cannot attribute it to him properly, but I liked what he said. I wrote it down. Definitely, there is a collision of visions.

We heard the speakers before talk about their vision of America and one of them said that the government does not create wealth. The government has not created wealth. It has no role. Workers create wealth.

I am glad the gentleman gave workers some credit. That is the first time I have heard workers being praised by that side of the aisle. Well, I would like to think that it is great that workers are given credit for the creation of wealth, but wealth is created by a number of different forces, and where there is no government, there is no wealth. Government is the key component of the preservation of wealth.

Where would America be if there were no government to put the armies in the field to defend the principles of capitalism and the principles of democracy? Where would America be if we had no government to protect private property; if there were no government to maintain the kind of conditions which make it possible for some men to labor in the fields and sweat and others sit in their offices and earn their living by their ability to think of new kinds of ideas, and others to sit in offices and invest the money of other people?

There is a whole range of activities that would not go on unless we had the government. When we had no control over the process of investment on Wall Street, we had the Great Depression brought on by the collapse of the stock market which was the result of no government, no government properly controlling.

Of course, in all the wars that have been fought where American soldiers, ordinary people, sons and daughters of ordinary people have gone out to fight, if they had not gone out to fight those wars, we would have a different world. We would not have a world where America is basically economically in command and basically in a position of great privilege and advantage. That position is not there because some individual was able to use his mind and his advantages and his opportunities to create individual wealth. It all goes together.

The Constitution had the focus of the idea of promoting the general welfare. Had the Constitution not made a commitment to facilitate the pursuit of happiness, we would have a different kind of America and a different kind of government, and a lot of the wealth that exists would not exist.

The government also, in many other ways, has developed wealth. Science, technology, the organization and management of human resources; if there had been no American research and technology initiatives, if they had not been monumental, no individual corporation, no individual person could have financed and organized the kind of research and technology which went into the effort to win World War II and to maintain the edge, the technological and scientific edge on the Soviet Union following World War II.

That great effort, all the research that developed radar and computerization and miniaturization and all the kinds of things that private industry now uses as a matter of fact and takes advantage of, all that wealth would not exist if it were not for government.

So, the vision of those who say that government is in the way, and government is the problem, and government does not create wealth, that vision has to be challenged. Because if we do not believe that government is important, then we are saying that the great majority of the people who live in this society under the government are not important. Only those who can fend for themselves and are lucky enough to have reaped the benefits of all the previous efforts of government are worthy of existing. There is a collision of visions, definitely. And there is a collision of values.

There is definitely a collision of values. The values of the Republican Majority go in the direction of abstract, hypothetical children of the future. They say,

> We are going to save the children of the future from having to pay debts. We are going to crusade and pressure the present system. We are going to create a crisis. We are going to make children go hungry in the present, so that the hypothetical children of the future will not be saddled with hypothetical debts. We are not going to recognize the fact that wealth is increasing geometrically. We are going to focus, instead, on the fact that there are scarce resources and create an atmosphere where it is believed that resources are scarce and there is not going to be enough for everybody and, therefore, we must squeeze the system and certain people will be squeezed out and thrown overboard.
>
> There will not be enough for the elderly who need nursing homes and there will not be enough for all the children who need lunches. We are going to create a finite number of lunches available for poor children, and when that number runs out, then the rest will have to go hungry. We are going to subscribe to elitism.

The collision of values says that the Republican Majority believes that elitism is good for the country; a certain small minority has the right to control all the resources; they have a right to benefit from what is happening in America.

We have a great shift in wealth in America where a small percentage of the people control most of the wealth. That shift has gone on at an escalating rate. Great Britain used to be the place where the ratio of the wealthiest to the poorest was the greatest. They had this great divide between the wealthy and the poor. Now, America has taken over. It has surpassed all the other countries in that notoriety. The difference between the wealthiest Americans and the poorest Americans, their income, is greatest, and it is increasing at an alarming rate.

So, greed is good. If you have the value that greed is good and those that have the most should get the most and keep the most and not share and not even be bothered with a minimum amount of taxes; let the corporations continue to get away with paying the least amount of taxes, while individuals and families pay more and more taxes; then your value system certainly supports that of the Republican majority.

There is a collision. There are Democratic values which say we ought to have a minimum wage, as small as it may be. There are millions of people who are paid on the basis of that minimum wage and that minimum wage is way, way behind in terms of the cost of living. We only want to increase the minimum wage by 90 cents over a 2-year period and we cannot even get more than 110 cosponsors on the bill.

The Republican majority refuses to let it be discussed in committee. Increasing the minimum wage has not been discussed in my Committee on Economic and Educational Opportunities, which has jurisdiction. My Subcommittee on Workforce Protections has jurisdiction, but we cannot get the majority to even have a hearing on the minimum wage.

The value system is such that greed is great; those who have, let them have more. It has nothing to do with balancing the budget, by the way. Increasing the minimum wage does not impact on this great process of balancing the budget.

But, Mr. Speaker, the public is the savior of the situation, the American people, the voters out there. Their common sense should continue to be focused. They set their common sense against the monstrous blunders that continue to go on here.

Both Republicans and Democrats have to look over their shoulder and watch the polls. The polls reflect the common sense of the American people. As I said before, the polls have shifted. The polls show that the word is getting out. The double-talk is being understood. The used car salesmen are being exposed. The public's common sense will save us.

I urge those who are listening to continue to raise their voices and maintain a steady focus on the critical life-and-death situation that is taking place here. This is no ordinary congressional session. This is no ordinary year.

Keep focus on the budget. The Republican remaking of America is an appropriation and expenditure revolution. This is war without blood, but there will be many casualties through this process of the way we appropriate money and the way we expend money. Many people will suffer and die. The process is beginning to take place already.

So, Mr. Speaker, I say to those listening tonight, "Raise your voice and maintain your focus, because what is happening here is more important than anything else that is happening in America today, or anything else that is going to happen in a long time."

I think Bosnia is important and we must make some critical decisions about Bosnia, because our Government is a part of a world of governments and we cannot exist as if we were on an island by ourselves. We have to deal with that situation. I am not saying it is not important, but nothing is more important than the budget negotiation process that has begun now between the Democratic White House and the Republican-controlled Congress.

Let common sense lead us to keep our eyes on the prize, and we should refuse to yield to any diversions. Between now and November 1996, "It's the budget, stupid." "It's the appropriations process, stupid". "It's the expenditure process, stupid".

How we spend the taxpayers' money is the issue of the 1996 campaign. The campaign for Members of Congress, the campaign for the Presidency, the campaign for the other body. That is the issue. Do not let anybody divert us from that issue. Keep the focus. Do not let Bosnia be used as a diversion. Do not let affirmative action, set-asides, voting rights be used as diversion. Do not let them abuse religion.

□ 2200

Come with a hypocritical focus on family values. We must not allow at this critical moment anybody to move away from the focus of the budget, the use of the American taxpayers' funds to provide for priorities that are determined by the American people. This countdown is everybody's business, and you can place yourself at the negotiation table. That is what I am trying to say. Keep your voices up, understand that you belong there. If you are not there, then terrible things will happen that will affect you right away and will affect your children and grandchildren, posterity.

The framework is established, environment for negotiations is set. I am happy that the chief of staff of the White House hugged the chairman of the Committee on the Budget of the House of Representatives. I am happy that they hugged when this agreement was made and the parameters were set for the negotiations.

I wonder if we are not in a situation similar to that faced by the Greeks who made the Trojans happy when they said: Look, we are going to stop all this fighting and in order for us to show that we no longer have any animosity toward you, even though we came over here to take your gold and to plunder your fields and to do everything we could to enrich ourselves, we use family values as an excuse, somebody stole somebody's wife, so that was a great excuse, we did all that, we came over here. We have slaughtered your young people. We have killed your great hero, Hector. Now we have a stalemate. We would like to show you that we are no longer angry at you for all the terrible things you let us do to you. We want to give you a horse, and we have constructed a horse, and we will push it inside your walls.

So the Trojan horse was pushed inside the walls of the city of Troy. The Trojans who had fought against the awesome might of the Greeks for so long found themselves overcome by a situation where a few men slipped out, inside the Trojan horse slipped out, then locked the gates and all heck broke loose. Troy was sacked. Every male child was murdered, and so forth. The legend goes on and on.

I hope we understand that there is a danger that a Trojan horse is here, that the people who want to remake America are in a hurry to make a revolution and are not going to accept a mere balancing of the budget by standards that deal with accounting only. People who want to remake America want to destroy certain programs. They want to destroy aid to families with dependent children. They do not want to reform it.

The President came into office saying he wanted to reform welfare as we know it. But he did not say he wanted to destroy welfare. He did not say he wanted to destroy the part which deals with children. But we have now reached a point where the entitlement which says that every poor child who meets a certain criteria and shows that they are poor is eligible for Federal aid.

They have taken the entitlement away. Yes, the final has not been signed, it has not been, but on the President's desk, but the agreement was made. The agreement has been made by all who are concerned. We cannot bring back the entitlement for aid to families with dependent children. It is dead.

It is dangerous to expend a great deal of energy mourning for that entitlement because the entitlement for Medicaid is now on the table. I cannot stress it too much. The entitlement for Medicaid is on the table. The beast has devoured the entitlement for aid to families with dependent children. And now the beast is hungry. The taste of entitlements is too strong to resist. The beast wants to devour the Medicaid entitlement.

We have had discussions about trimming the budget and balancing the budget for the last 13 years. I have been in Congress for 13 years. Since my first year here, there was a classmate of mine named Tim Penny. His name has been used often in the last year. I saw his picture in the paper recently. Tim Penny is a part of a group that is trying to get together an independent run for the Presidency. So I take my hat off to Tim for his integrity. I take my hat off to Tim for his consistency. I take my hat off to him for his persistence, Tim Penny and the people who surrounded him and from the very beginning were pushing for more budget sense and wanting to trim the waste from the Federal Government and wanting to move toward a balanced budget.

Tim Penny always started his dialog by saying, we must trim the entitlements that are not means tested, the entitlements that are not means tested. He did not talk about the means tested entitlements. By means tested, I mean you have to show you are poor before you can qualify. You cannot get aid to families with dependent children unless you prove you are poor. You cannot get Medicaid until you have proven you are poor. Those are means tested entitlements.

I even think at one point our Budget chairman, Mr. KASICH, was a part of the same group. They always emphasized not going after the means tested entitlements. In the process of balancing the budget now and moving toward a balanced budget, all we hear about now is the destruction of the means tested entitlements, the destruction of aid to families with dependent children, an accomplished fact almost, and the destruction of the entitlement for Medicaid. We are not talking about the entitlement for farm subsidies, various farm credit programs, farmers' mortgage, all kinds of programs out there which go to farmers regardless of whether they are poor or not. In fact, there is no means test whatsoever.

On two occasions, Congressman CHARLES SCHUMER, a colleague of mine from New York, has offered amendments, and I supported those amendments which said: Look, let us take away the farm subsidies from any farmer who makes $100,000 or more. Farmers who make $100,000 or more should not be given a Government handout.

Each time that bill was on the floor, it went down to inglorious, inglorious defeat. I think we got less than 70 votes out of 435. Recently, the last time the agriculture appropriations were on the floor, several bills were offered to take away subsidies for tobacco and for mines and for a number of things. They went down to defeat also.

The means tested entitlements have been put on the chopping block. One has been devoured already, and the others are about to be devoured. But the entitlements which do not relate to means testing—and there are some others that have not been put on the chopping block at all. The corporate welfare programs have not been put on the chopping block. The subsidies to corporations, the corporate tax loopholes have not been put on the chopping block. They are not even under discussion. They refuse to discuss my chart.

The best way to destroy an idea and to defeat an idea is to ignore it. Here is the most ignored chart in Washington. Here is the most ignored chart which is definitely a part, could be a part of the solution to the budget balancing problem. Here is a chart which says that the revenue stream in America which flows primarily from income tax comes in two directions. It comes from families and individuals. And it comes from corporations.

Yes, there are other taxes which make up the revenue, but the income tax comes from families and from corporations. Here is a chart that shows what has happened over the last 50 years. In 1943, this chart shows that families and individuals were paying a very small percentage of the revenue of the taxes; 27.1 percent was being paid by families and individuals; 39.8 percent was being paid by corporations. In 1983, that is the blue line, that is the families and individuals. And the red line is the corporate, corporations.

In 1983, under Ronald Reagan's regime, the amount of money paid by families and individuals jumped all the way to 48.1 percent. This is from 27.1 percent in 1943 to 48.1 percent in 1983; at the same time watch the red bar. The red bar dropped all the way down to 6.2 percent; corporations, their income taxes dropped drastically.

Do you want to know why we have a deficit? Do you want to know where your taxes went? Do you want to know why people are angry about taxes? They ought to be angry. Individuals and families have been swindled. I said this before and I will say it again and again, but nobody wants to talk about it.

Finally, in 1995, is the situation drastically improved? No. Watch the blue bar and the red bar, and you still have 43.7 percent being paid by families and individuals and 11.2 percent being paid by corporations.

This is fact that nobody wants to discuss in Washington. This is a fact that everybody wants to ignore. I invite you, the American public, the voters, to use your common sense and interpret what this means, especially in 1995.

In 1995, individuals and families are suffering drastically from downsizing and streamlining. People who lost their jobs in industrial enterprises have gone to work in service enterprises at much lower salaries. Individuals are suffering but the economy is booming. The economy is booming. So corporations are making tremendous amounts of money as a result of their application of the science and the technology which has been developed by the American Government, building on telecommunications, radar, computerization, miniaturization, all the things which our space program and our military program helped to design. Corporations are able to take advantage of that. And nobody wants to begrudge them. Let them make money. That is what capitalism is all about, making money. Why do they not pay their fair share? Why do not corporations pay half the total revenue that is derived from income taxes? They are the one sector that could afford it. They are the one sector that would hurt the least if they were to pay.

So here is the kind of fact that is destroying the kind of idea that does not exist because it is ignored. I urge you, the American people, to use your common sense and put this back on the agenda. Ask the question. Ask the question everywhere. Ask the Congress the question. Ask the Members of Congress. Ask the President the question.

We are going into a situation now where the negotiations are going to take place within very narrow parameters. They will not even put this on the table. There are certain kinds of cuts that will not be on the table. The farm subsidies will not be on the table. The farm subsidies that go to people who are not poor, entitlements that go to people and they are not means tested, they will not be on the table.

In 1990, we had a similar situation where there was a gridlock between the Congress and the President. The President at that time happened to be a Republican, President Bush. And the Congress was controlled by Democrats. At that time you had the same kind of negotiations initiated at the White House.

On May 24, 1990, I entered into the CONGRESSIONAL RECORD the following extension of remarks, and I find it so relevant at this moment that I am going to bore you by reading part of it.

In Extension of Remarks I submitted the following.

Mr. Speaker, the White House budget summit now underway is a process saturated with pitfalls. These discussions generate great fear among those Americans who have been repeatedly neglected or violated by similar deal making.

Since 1981, under the cloak of sweet reasonableness, we have watched the Democratic leadership being swindled. Tax reform gave more breaks to the rich while payroll taxes increased, resulting in the poor paying a greater percentage of their income than the rich.

Let us not forget also that the Gramm-Rudman conspiracy almost drove a life threatening dagger into the heart of certain vitally needed, low-income safety net programs.

Remember Gramm-Rudman? Senator GRAMM is still around, Gramm-Rudman.

Vigilance by the Congressional Black Caucus thwarted the vicious intent of the Gramm-Rudman conspiracy. It was through the efforts of the Congressional Black Caucus that seven low-income programs were exempted from the budget cutting axe of Gramm-Rudman: AFDC, school lunch and dependent care food program, commodity supplemental food program, food stamps, Medicaid, SSI, and WIC. They were all exempted from the Gramm-Rudman cuts.

Remember the Gramm-Rudman cuts went across the board and cut everything equally, but we will manage to exempt these safety net programs.

□ 2215

Thank God for Tip O'Neill and his wisdom. He responded positively to our requests that the safety-net programs which are now under attack, which are now being destroyed, that they be exempt from Gramm-Rudman and not cut drastically.

Mr. Speaker, these same crucial low-income programs are now in danger.

This I am reading from my May 24, 1990, entry into the CONGRESSIONAL RECORD:

> White House spokesmen have announced that they want to "close the Gramm-Rudman loopholes." Our interpretation of this threat leads us to believe that a tradeoff will be offered. Defense cuts will be on the table in exchange for low-income program cuts. Beggars will be robbed and all who are present will be pressured to accept this goal as a reasonable exchange.
>
> Mr. Speaker, the fear of the budget summit process in the streets of my district is very real. I would like to use the language and the attitude of a street constituent to sum up this deeply felt concern.

And it is at this point that I entered a rap poem into the RECORD, a poem that I wrote from the point of view of a constituent in the street out there watching the process.

THE BUDGET SUMMIT

At the big white D.C. mansion
There's a meeting of the mob
And the question on the table
Is which beggars will they rob.
There's a meeting of the mob
Now we'll never get a job.
All the gents will make a deal
And the poor have no appeal.
Which housing for the homeless will they hit?
School lunches they will cut all the way to the pit.
There's a meeting of the mob!
Big bailouts they will cheer
Cause the bankers they all fear.
Closing loopholes is their role
But never mind the S and L hole
There's a meeting of the mob!
Medicaid is against the wall
Watch health care take a fall
There's a meeting of the mob!
These good fellows won't be frisked
But welfare children are being risked
There's a meeting of the mob!
Not a cent will be left for AIDS
When they finish with their raids
Let addict babies remain with their pain
This gang will deal a budget that is certainly insane
There's a meeting of the mob!
These bosses lack logic but they all have clout
Old folk's COLA's will rapidly get rubbed out
There's a meeting of the mob!
At the big white D.C. mansion
There's a meeting of the mob!
Now we'll never get a job
All these gents will make a deal
And the poor have no appeal
There's a meeting of the mob!

This was in May 1990. History has gone slowly, in unfortunate circles, and we are right back to where we were in May 1990, only the situation is far worse.

An agreement has been made already that the budget will be balanced in 7 years, and it is required that the beggars must be robbed. Nobody is talking about taking away anything from the entitlements that exist for the middle class. It is the beggars who must be robbed.

In my district right now there are poor people who are on welfare, home relief. The constitution of the State of New York requires that they take care of poor people, and home relief cannot be abolished, so there are people on relief, home relief, who are being forced to work for their welfare check. I have no problem with having anybody work for their check, their income. It is altogether fitting and proper that everybody should work who can work. There are able-bodied people who cannot find jobs and for various reasons are on welfare, and the workfare that has not been thrust upon them would be appropriate if they were being paid the minimum wage. But they are being made to work more hours than are necessary if they were making minimum wage to generate the equivalent of their welfare check.

What does that mean? That means they are working for less than the minimum wage, they are moving toward a situation which you might call semislavery. When you are forced to work for your food and your basic necessities, and arbitrarily you are told that you must do a certain amount of work, even if it is inconsistent with the minimum wages that would be paid for that amount of work, then you are in a very serious situation, and that is a situation that exists in New York City right now. We have no problem with the workfare programs; the streets are cleaner, there are a number of things that are going on as a result of people being put to work. It should have happened a long time ago, but why not compensate them to the level of minimum wage, minimum wages? It is so slow anyhow.

We are fighting to get minimum wages on the agenda here in the Congress. The President has stamped his approval on a minimum-wage bill, an increase of 90 cents per hour over a 2-year period, 45 cents 1 year and 45 cents the next year. The minority leader, the gentleman from Missouri [Mr. GEPHARDT], is the sponsor of the legislation, and yet we can only get 110 people signed on.

There is suffering already as a result of the double-barreled agenda which has a lot to do with more than balancing the budget. New York hospitals are suffering already as a result of the atmosphere that has been created. They know the cuts are coming. The mayor has moved to drastically overhaul the hospital system; privatization is on the agenda. Whether it improves health care or not is of no concern. It will save money, so large numbers of administrators and supervisory personnel of hospitals are bailing out. They are leaving the system already. We have a lot of chaos and confusion in the city's hospitals now that could be avoided if we did not have this revolutionary atmosphere created that frightens everybody at various levels of government.

Cost of Federal Government is a primary ingredient in the income of these hospitals. They are thrown into panic almost by the fact that so much change over such a short period of time is being projected.

Schools are crumbling literally. There was an editorial in the New York Times yesterday which talked about every time it rains New York City schools get washed away or a little bit more. That is on the editorial page, and you think, well, what kind of joke is this? You look at the article more closely, you read more carefully, and they are literally describing a process whereby every time it rains and the rain runs through the crevices of the bricks and washes away the remaining dry cement, the bricks begin to fall off, and they have falling bricks. At a lot of schools you have ceilings falling, you have literally brigades of people in New York City schools carrying buckets and various newly fashioned aluminum vessels that collect rain.

It is the truth described in the pages of the New York Times. Schools are crumbling, and there is no relief in sight in terms of new construction.

At one time we had a bill that was passed here that called for the Federal Government to begin a program of physical assistance to exist in the physical plants of schools. It was a small program by Federal standards. The authorization, and Senator CAROL MOSELEY-BRAUN and I worked on it, and we had an authorization of $600 million to begin a process of emergency repairs in various schools that had emergencies; $600 million, a small amount of the total Federal budget. Well, that was cut down in the appropriations process to $100 million, and when the rescission bill came, it was cut down to zero.

So the Federal Government might have stimulated a process, might have kept a process going and encouraged the State government and the city government to approach the physical plants of school buildings in New York differently, but it provided no stimulus. I cannot blame the Federal Government for what New York is failing to do or the State and city are failing to do, but the Federal Government certainly in education has been a stimulus and lost a great, we lost a great, opportunity.

In this crisis and revolutionary atmosphere no one is willing to make any decisions about building new schools. There is nothing on the drawing board of consequence. As I said before, the crisis and revolutionary atmosphere does not approve of decisionmaking. It panics people not only here in Washington, but at the local level and at the State level, the panic sets in, and we are not having the best government at any level as a result of the kind of crisis atmosphere that has been created.

Reform is not on the agenda. If it was reform, it would go at a slower pace. There would be a more deliberative situation. I am all in favor of getting rid of waste as fast as possible. It is the duty of every elected official, everybody who is in Government at any level, to constantly try to get the maximum output for every dollar that is put into any program.

We are in favor of reform, but reform is not on the agenda. It is wrecking and destroying that is on the agenda. If we wanted to reform, we would not have to throw programs down to the level of the State government. One of the ways to destroy programs for the poor is to block grant them to the State level. The States had the responsibility before the Federal Government assumed that responsibility for most of the history of the United States of America. States have had the responsibility for programs for poor people. States have had the responsibility for health care. States have had the responsibility for nutrition programs.

When World War II came along and they had to enlist large numbers of men over a short period of time, they found thousands of American males not fit for the process of training to go into combat. They were malnourished, they were weak, they were undeveloped as a result of the tremendous crisis in feeding programs throughout the country. The States had ignored the fact that their populations were not receiving proper nutrition. The States had produced a situation which endangered the security of the Nation because you did not have healthy bodies to deal with the crisis created by World War II. The States were in charge, the States have been in charge of health care, and their charity hospitals kept us going for a long time, but we know there were great gaps in services provided by charity hospitals or by the Hill-Burton Act which later came on from the Federal Government level and offered funds. The States had had responsibilities before, but they are now being handed back, and States have done a very poor job.

Now if we really wanted to make some improvements and to reform, we would not have this blanket determination that give it to the States and let them handle it. If you want to destroy programs, then give it to the States, and let them handle it. It is an ideological decision, not an administration decision. It is understood that the States will let Medicare wither on the vine. It is understood that the States will ignore large numbers of poor people, and welfare as we know it will certainly be gone in 5 to 10 years if the States are in charge. States have made monumental blunders. States have been guilty of horrific corruption.

I served in government at all three levels. I was commissioner in New York City government for 6 years. I was a State senator for 8 years. I have been in Congress now for 13 years. And I will tell you that the level of government which is the least efficient, the level of government which is most unreal, the level of government where you have the greatest amount of waste, is at the State level, not the municipal and local level where people in the government have to meet face to face with the people they are serving, not at the Federal level where you are forced to a process of competition. Believe it or not, 435 people from all over the country do generate a kind of creative competition in working out programs, and oversight, and a number of other things that we do right, but at the State level, this sort of in between, they have a lot of power and no responsibility, and if you want to cut out one level of government and save money, you find the State is a level you could cut out, and you would not miss it. Just give the money directly to the local governments, and you save a lot of money, but States have moved in to use their powers, the Governors are using their powers to grab a great segment of the American Treasury. We have a Balkanization of America about to take place. It is very dangerous when you start dividing up the responsibilities at the Federal Government and giving them to the States. You set in motion a process where States will begin to compete with each other, and in the case of services to the poor, Mr. Speaker, they will all strive to reach the lowest common denominator most rapidly.

In other words, the State which provides the least amount of services to the poor, the worst Medicaid that is provided will become the norm because every other State will be moving in a way to prevent citizens from one State which provides lower levels of service from moving to their State.

□ 2230

You will have a situation where Mississippi, which is at the bottom of the rung in so many ways, will set the level for the rest of the country. The States right around Mississippi in the South will be pushed into a situation where they have to lower their standards to keep Mississippians from moving out of their States, and then those States in the South, the surrounding States that surround them, will lower their levels, and it will go right across the country, where everybody will have the lowest possible level of service in order to defend themselves against people seeking better health care services trying to survive.

You may even have tremendous tension created between the States. There was a time in our history shortly following the Emancipation Proclamation and the 13th, 14th, and 15th amendments, where slaves were moving across the country, not wanted in any State or city, and large amounts of people were driven out with violence, large amounts were murdered, from one locality to another. They pushed them around because nobody wanted to take responsibility for poor people who had nowhere else to go. You may have that kind of situation. You may even have a situation which results in the largest States using their muscles to force the smaller States to not drop their people off on them.

You have a situation now where the United States of America is one America. You have a situation now where FDR, or Franklin Roosevelt, who started the New Deal, looked at the richest on the east coast. Franklin Roosevelt was a New Yorker. He clearly understood that New York is much richer than Georgia or Tennessee or Mississippi. He clearly understood if you create a new deal, if you have a Federal Government taking revenue from the richest States and you need to supply funds for programs in the poorer States, that it is going to come from the richest States and go into the poorer States.

Franklin Roosevelt was not stupid, not naive. He clearly understood that America is one America, and where there are riches and surplus, where people can give, they should not mind assisting the rest of America. That is what happened. It even endures until today, the unevenness in the distribution of Federal funds I have talked about previously.

There is a study that is done every year by the Kennedy School of Government and Senator MOYNIHAN, who originated the study in his own office. Jointly Senator MOYNIHAN and the Kennedy School of Government do a study of how the revenues of the Federal Government are distributed throughout the States. They list States which give more than they receive. They list States that receive more than they give also.

The pattern is shown, and I read from that booklet from this podium, and the pattern is clear. It is the Northeast States, it is the Midwestern States, the Great Lakes States, which even until today are giving much larger amounts of money to the Federal Treasury than they receive from the Federal Treasury.

The pattern is clear at the other end, the Southern States, all of them except Texas, and whether that is Southern or Western, it is not clear which category they fall in, but all of the Southern States are recipient States. They receive large amounts of Federal money, much more than they pay into the Treasury.

New York State, almost $19 billion in 1994, almost $19 billion more flowed from New York State taxpayers to the Federal Government than went back to the New York State people in terms of Federal services and expenditures; $19 billion.

Now, if you have a balkanization of America and every State is allowed to reclaim some of what they pay in, if you had a revenue justice program, a revenue justice act, maybe the New York legislators ought to join me in creating a revenue justice act, where every State will get back at least half of what it overpays.

New York would be receiving, if it got half of $19 billion, they would be receiving $9.5 billion. $9.5 billion would balance the budget of New York State. We could solve all of our budget problems if we had $9.5 billion. If we had the whole $19 billion, New York State would be a paradise. Prior to that, there was $16 billion more paid by New York State the year before than they received back. Prior to that, $23 billion more was paid into the Federal coffers than New York received back.

So, the question is, who benefits by the balkanization of America, if you start giving the States the power, if the States are going to run it. Where does it lead to? The Southern States receive $68 billion. The collective Southern States receive $68 billion more from the Federal Government than they pay into the Federal Government. The Southern States, they lose if you balkanize America.

What is the great advantage of this process of handing it down to the States with the hope that the States are going to destroy the programs? It is dangerous precedent. It is not needed to accomplish the process of balancing the budget, but it is part of the destruction of programs.

The framework has been established, the countdown has begun. But, as I said before, each American, each constituent out there, is not condemned to be merely a spectator. Common sense has a vital role to play. Your common sense is already having a profound impact.

Stop and consider what some of the commonsense impacts are. If you or your child who is a sophomore in high school, or maybe they are just in the fourth grade, were to take out a pencil and paper and look at the options, take a look at the chart that I showed you before, would you not consider that it makes a lot of sense to help balance the budget by lowering the level of income taxes for families and individuals while you raise the level of income taxes paid by corporations? Would not your common sense tell you that ought to be one of the answers to increase the amount of money paid by corporations into the Federal coffers? Corporations are making all the money. Let them pay more in revenue as a part of the way to solve the problem.

Using your common sense, would you not say that even though there has been an agreement to do all of this in 7 years, that there is no magic to 7 years? If you have to, in order to do it in a more humane way and lessen the suffering, if you have to do it in 10 years or 9 years, why not do it in 9 or 10 years? Your common sense would tell you that.

Yes your common sense has told you over the years that something is wrong in Washington. You wanted to eliminate the high price toilet seats that the military was putting in their planes. You want to eliminate the $600 coffee pots.

Common sense has always been against waste. Medicaid waste, Medicare waste, food stamp waste, Embassies abroad wasting money, all of that waste, your common sense tells you to eliminate. So, let us bring our common sense into this debate, keep it focused.

Look at the CIA. The CIA has blundered and is now a danger to our foreign policy, a danger to America. It makes so many blunders, until we would be better off if we did not have a CIA. Yet the CIA goes on.

Recently the CIA was exposed as having a petty cash slush fund that nobody knew about, the Director of the CIA did not know about it, the President did not know about it. It was at least $1.5 billion .

We have proposed on this floor several times that you cut the CIA budget by just 10 percent a year. If you cut it by 10 percent a year over a 7-year period, take out your pencil and paper, and you will see that the CIA cut by 10 percent a year, and the admitted amount is at least $28 billion, 10 percent is $2.8 billion a year, times 7 years, you will end up with $19 billion in 7 years. The CIA would still exist, but it would only be cut 10-percent a year over that seven-year period.

If you take that $19 billion that you get from the CIA cut of 10 percent over a 7-year period, and you add to that the $1.5 billion slush fund that the CIA discovered that it had and nobody knew about, you would have $21 billion, and $21 billion is more than you need to make up for the education cut. Education is being cut by $4 billion next year.

$21 billion is not quite enough. Take the B-2 bomber and add that. The B-2 bomber over the period of its life will cost about $33 billion. One-third of that is $11 billion. You add the $11 billion of the B-2 bomber to the $21 billion of the CIA, you have $32 billion. Education cuts are going to be $4 billion left over, if you take out your pencil and paper and use common sense and get rid of real waste. But nobody is discussing a cut of the CIA. The CIA goes on blundering and nobody cuts it.

We must raise our voices, maintain a steady focus on the critical life and death target here in Washington. It is the budget. The Republican re-making of America is an appropriation and expenditure revolution. This is a war without blood, but there will be casualties. The common sense of the American people is necessary to minimize the casualties and to save America. We must raise our voices. We must maintain a steady focus. Do not let anybody tell you to lower your voice. Scream and scream loud.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members to direct their remarks to the Chair and not to the viewing audience.

NEW YORK TO BE DISPROPORTIONATELY HURT BY CUTS IN MEDICARE AND MEDICAID

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, I believe we have the greatest health care system in the world and New York City has many of the Nation's best hospitals to support that great system, hospitals that have the enormous responsibility of caring for the citizens of America's largest city, that train a disproportionate number of our next generation of health professionals, that conduct the cutting edge research to save and improve our lives. Yet many of these hospitals will be decimated by Republican Medicare and Medicaid cuts that will cost these great New York City hospitals billions in reduced payments.

Where will these institutions be forced to make up these cuts? Conservative estimates put the New York City job loss at 107,000 health care positions, more than 2.3 percent of the city's total employment.

Doctors will be cut, nurses will be cut, janitors who keep our hospitals clean and sanitary will be cut. New York medical technology will not be purchased. Yes, this will hurt seniors; yes, this will hurt the poor; yes, this will hurt the health care of every New Yorker and every American.

The House of Representatives voted to cut Medicare spending by $270 billion over 7 years and to cut $170 billion to the Medicaid Program. There are several unique features of the New York City health care system which make it especially vulnerable to the type of targeted cuts in the spending contained in the Republican legislation.

The New York City metropolitan area trains 15 percent of the medical residents for the entire Nation. The New York biomedical system is a recognized world center of advanced science, medicine and education. New York hospitals reach these heights while simultaneously serving a high percentage of patients with special needs far exceeding the national average. These patients include the elderly, the disabled, the chronically ill, and the poor, and it is not only the health care we all receive that will be affected by the proposed cuts. New York's economy will also be hard hit due to the State and city's dependence on its large and complex health care system.

Cuts in the formulas for Medicare, graduate medical education, and disproportionate share payments, would create unacceptably severe reductions in payments for New York's hospitals. This is because indirect medical education and disproportionate share payments are based on percentages of overall medical payment rates. As the overall Medicare payment rates are reduced as a result of smaller inflation adjustments, payments for graduate medical education and disproportionate share are automatically reduced and their rates of growth are slowed. Thus, further reductions in graduate medical education and disproportionate share would amount to double cuts, which our hospitals, most of which are operating below the break-even point, simply cannot withstand.

Changes in Medicaid will also have a drastic impact on New York's health care providers, especially those providing long-term care. New York has received one of the lowest rates of Medicaid payment increases among the States. New York's nursing homes could lose 25 percent of the money necessary for their survival by 2002.

According to the Health Care Association of New York, New York State, with 7 percent of the Nation's population, would take 11 percent of the cuts in Medicare and Medicaid. New York City, with 2.9 percent of the Nation's population, would absorb 6.5 percent of these cuts, more than double its fair share. Over 7 years, cuts in Medicare and Medicaid payments to hospitals would cost New York State $20 billion and New York City $12 billion. Funding for long-term care and personal health services would decline by $11 billion in New York State and $7 billion in New York City.

The proposed cuts will dangerously damage health care services, but that is not all. The cuts would wreak havoc with New York's many health care workers, their employment and their income. New York City will lose 107,000 jobs, and New York State may stand to lose well over 200,000 jobs. Any budget plan must include everyone having to do their part to balance the budget, but I argue that any budget plan must treat all States equally.

I think the cuts to Medicare and Medicaid and the impact on hospitals and health care systems across the country is deeply disturbing. The disproportionate impact of these cuts on New York State and New York City is unacceptable. Protecting New York State's and New York City's hospitals, health care providers and medical educators helps to safeguard the health of our Nation while preserving the health and economic well-being of one of our country's most densely populated cities and States.

□ 2245

As the budget negotiations continue, I ask my colleagues to join me in fighting to reduce these cuts. I am proud to have voted against the reconciliation bill and I will oppose any future budget that cuts with the injustice and scope of the Republican proposal.

Mr. Speaker, I yield back the balance of my time.

JUSTIFICATION FOR SENDING UNITED STATES TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening to discuss an issue that is going to confront us for the next several weeks in regard to the President's intention to send 20,000 to 25,000 of America's sons and daughters to the Balkans to participate in living up to the terms of the agreement just recently initialed in Dayton, OH.

Mr. Speaker, like many Americans across the country, I sat before my television set last evening and listened intently as President Clinton gave his justification to the American people for sending ground troops into Bosnia. Mr. Speaker, 2 weeks from tomorrow I was invited to the Pentagon, where I had breakfast with Secretary Perry and the leadership of the Joint Chiefs, including General Shalikashvili, where they made a personal case to me and other Members of the Committee on National Security as to why we should commit our troops to Bosnia in light of the pending peace agreement, which had not yet been initialed.

Mr. Speaker, I rise tonight to respond, first of all, to President Clinton's speech, because parts of it bothered me greatly, and to lay the foundation for a hearing which our committee will hold on Thursday when again Secretary Perry, General Shalikashvili, and Secretary Christopher will come before the House Committee on National Security and again make the case to us to support the President's efforts.

Mr. Speaker, as someone who has been on the Committee on National Security for 9 years and who chairs the Research and Development Subcommittee, I am vitally interested in any place or any time that we send our troops into harm's way, whether it be the time that we sent them to Desert Storm, or Haiti, or other operations around the world.

Mr. Speaker, I was taken aback by some of the comments President Clinton made in the speech yesterday evening and I have to respond to them, and this is the only opportunity where I can deal with them in a lengthy and involved format. I want to respond to three specific points that the President made to the American people and to Members of this body.

I want to, first of all, respond to his assertion that those who disagree with him are isolationists and want us to come back into our own borders and not be a part of the world community. The second issue I want to take exception to is the way that he characterized the moral argument involved in getting involved in Bosnia. And the third is the President's comparison of Bosnia and our potential involvement there to Haiti and Somalia as well as Desert Storm. Then I want to get into my own specific concerns relative to a potential vote that we may take in this body a week or two from now.

First of all, Mr. Speaker, let me respond to the contention made by President Clinton that those who may oppose his policy here are isolationists. Mr. Speaker, the fact is that for the past 3 years, a strong bipartisan voice in this body and the other body have voted repeatedly, have signed letters, have sent messages to the White House and the administration that we want to be a part of the process of helping achieve peace in the Balkans. And, in fact, Mr. Speaker, I, like many of my colleagues in this body today, would support the presence of the United States in a somewhat limited way in the Balkans, as we have done repeatedly over the last 3 years.

After all, Mr. Speaker, there were many Members of both the majority and minority parties that supported the President's use of our Air Force in terms of the air strikes. Many of us have supported logistical support to provide food and clothing and humanitarian support and relief to the people of the Balkans. So time and again over the past 3 years Members of this body and the other body have made it clear that we want to be involved.

And, in fact, Mr. Speaker, as I said to the Secretary of Defense 2 weeks ago, I am prepared to support American troops in Bosnia tomorrow, but not on the ground. And, Mr. Speaker, that is the key issue that President Clinton completely ignored last evening. He made it appear as if we are in disagreement with him on his policy; that, therefore, we must not want the United States to be involved at all, and that is absolutely totally wrong. I think it was really shortsighted of the President to make that statement to the American people.

In fact, what I proposed to Secretary Perry, I think, would be supported by many of our colleagues in this body; and that is, why should America have to put 20,000 to 25,000 ground troops in between three warring factions that have been at war not for 4 years and not for one decade but for decades and decades and centuries and centuries? Why should the European countries, who are the bordering nations to Bosnia, not step up with that ground support force and let the United States involvement be what we do very well; airlift, sealift, air strikes, command and control, intelligence gathering and monitoring, and all the other ancillary support to make this mission a success?

In fact, Mr. Speaker, when the President talks about a U.S. commitment of 20,000 to 25,000 troops, he is not being realistic with the American people nor is he being realistic with our colleagues in this body. As a matter of fact, right now, Mr. Speaker, we have an estimated 15,000 troops who are providing support services in the theater around Bosnia.

These services range from airlift and sealift to intelligence gathering, to all kinds of functions that they have been assigned by the Pentagon, just to name a few of the assignments that our military is currently involved in in the European theater, and this is, by the way, not complete. We have Operation Able Sentry going on right now. We have Operation Deny Flight. We have Operation Provide Province, Operation Sharp Guard, and Operation Provide Comfort. All of those operations are, today, involving American troops in the theater that the President is talking about sending ground troops in.

In fact, along with the ground troops that President Clinton is proposing, we are going to have a carrier, the America, off the coast. We are going to have Navy pilots and Navy personnel available. So our total support forces, besides the 20,000 to 25,000 ground troops, is going to be somewhere between 13,000 and 17,000.

When I met with the Secretary 2 weeks ago, I tried to pin him and General Shalikashvili to a specific number, and I will do that again this Thursday. I asked them, how many other U.S. troops will be involved in this effort? They would not give me a specific answer. To the best of my ability, I have determined that number will be somewhere above 15,000. So when the President goes before the American people as he did last night and says, "I want to send 20,000 troops in, that is our commitment", what he should have said is, "I want to have 35,000 or perhaps 40,000 U.S. troops involved in the theater of operation that includes, as our overall mission, Bosnia and the maintaining of the peace agreement that was initiated in Dayton".

Now, many of us in this body feel that what the President should have done is said we will provide that support in the form of airlift and sealift and use of our aircraft for attacks, if necessary, on selected sites, and command and control and intelligence gathering, but should not have had American troops placed in harm's way in an area of the world so far away from our shore and in which many of us feel that we do not have a direct national interest. Many of us feel that it is unconscionable that those countries that directly surround the Balkans are only putting in small tokens of troops.

Now, Mr. Speaker, we have not been able to get exact counts. These numbers have varied. But I went through the foreign media, through our FBIS reports we get, that we can request in our offices, to try to get a feel for what other countries are committing in the way of troops to this operation. I think it is important for our colleagues and for the American public to understand exactly what those commitments are and what, if any, strings are being attached, so that, when the President speaks about 25 nations being involved, we know really what he means and what these countries are actually saying.

Great Britain, the United Kingdom, always our staunch ally, is in fact going to put up the largest complement of troops besides the United States. The Most recent number we have is about 13,000 troops compared to our 20,000. Now, Great Britain is very close to the Balkans, certainly much closer than the United States, and is obviously a part of the European theater. So you would expect them to put in place a large presence of military forces.

Let us go to Germany. Here I have a problem, Mr. Speaker. The United States and the President are committing 20,000 ground troops and the ancillary support troops that I have just talked about numbering at least 15,000. The Germans have said that, and get this, Mr. Speaker, subject to the Bundestag's approval. In other words, we do not have to approve what the President wants to do in our Congress. He can send the troops on his own, which he said he would do with or without our vote of approval. But in Germany their commitment to send their troops will be predicated upon the support of the Bundestag.

And how many troops are the Germans going to send in? Not 13,000, not 10,000, not 5,000, but 4,000. So Germany, right next to the Balkans, is going to send a total of 4,000 troops to the Balkans as their part of this operation.

Now, quoting the minister in a German publication, the defense minister, who spoke on November 22, he went on to say that these 4,000 troops would be involved, and I quote, in terms of being logistical units, engineers, medical orderlies, transport units, helicopters, and aircraft to secure the airspace. Where is the commitment for the ground troops in the middle of the hostile parties? This is Germany's commitment.

Then we go on to France. I remind our colleagues, Mr. Speaker, that France has a very real threat from the spread of the Bosnian operation, and France is very near and close to the proximity of the Balkan conflict and you would expect would be willing to put up a sizable amount of soldiers for this operation. France's commitment is currently listed in a most recent French publication of November 22 as 7,500 soldiers. This would be a part of the overall NATO deployment, but 7,500 soldiers. This is the same France that is only putting up 7,500 soldiers to our 20,000 that denied the United States the ability to fly our planes over France when we were going after Mu'ammar Qadhafi when Ronald Reagan was the President, in response to attacks he had made on American citizens. So France's commitment right now is listed at 7,500.

Let us go to Spain, another European country. Let us see what Spain is talking about committing. This is from a radio network in Spanish in Madrid. Mr. Suarez Pertierra said it would be a tactical group of some 1,250 soldiers. So, while America is putting in 20,000 to 25,000 ground troops, Spain in talking about sending 1,250 soldiers to this operation.

Let us look at Sweden. Sweden, another European country that obviously has an interest in seeing peace in that part of the world, has said that it will be part of a Nordic brigade that would have 900 Swedes. Now, Sweden also has a condition placed on its commitment.

□ 2300

And that condition is that the United Nations shall be financially responsible for this operation. So, Sweden is saying, "Yes, we will go, but you pay our bill." I did not hear that said on the part of our commitment. We are going to pay the entire bill.

Mr. Speaker, my guess is that this will end up much like Haiti. We not only paid for our expenses, but we will end up paying for the housing costs, the feeding, and logistical support for a number of other countries, all of which will be borne by the American taxpayers. But Sweden's troop commitment is right now 900.

Then we go to Austria, and I will quote a news source from Vienna Television Network, November 21, where there is a quotation from the leadership of Austria about their commitment. Their consideration is for sending a force of 200 to 250 men. It goes on to say, quote, "Volunteers, of course. No one is going to be forced to go into this." Mr. Speaker, 200 to 250 are going to be volunteers and they will not serve as combat troops. They will be there as a transport unit.

Let us go on and talk about Italy, another European country that is expected to be a part of this operation. Look at what Italy's contribution will be. Initially, Italy balked when the press said that they heard rumors that 2,100 men would be sent, but now there is confirmation that the form will be 2,100. But Italian news media sources also go on to say that actually, and I quote, "Parliament still has to give its approval to send out Italian troops."

So, the United States Congress will not have the ability to approve the President's sending of not 20,000, but perhaps 35,000 troops into that theater;

we will have the German Bundestag approve the German troops going in, and the Italian Parliament approve the Italian troops going in, but we will not have that ability in this country. The total commitment of Italy will be 2,100 men.

The Netherlands, another European country. The Netherlands, according to its population, is perhaps contributing a larger element that we would expect. The Netherlands Cabinet wants to make a decision about sending 2,000 troops to help with the peace accord.

Then we have Denmark. A Danish battalion is set to leave on January 8 as part of the NATO operation and they are talking about 807 men going from Denmark.

Mr. Speaker, these are not my reports. These are all sources that I will provide to anyone in this body in terms of what our European allies in NATO are going to commit to this operation.

Our point, Mr. Speaker, is not one of isolation. We want to be the leader of NATO, and we know we are. We continue to help our NATO allies every day. We have a strong presence in the European countries I have just mentioned. We have military bases there and Navy units deployed in the vicinity of those countries. We will be there for them.

But, Mr. Speaker, Bosnia is largely a European problem and many of us in this body feel that while the United States must play a role, and that role can be air strikes, air support, sea life support, command and control, intelligence gatherings, and all the other logistical help that we should not have to go beyond that and put 20,000 young American sons and daughters in the middle of what could be a very hostile environment; what certainly has been a very hostile environment.

So when the President talks, as he did last night, about isolationism, the President is totally, absolutely wrong. It is a slap in the face to every Member of this body that he would say his opponents are isolationists. In fact, many of us have said all along that we want us to be involved; we just do not want the United States to go it alone. That is what we think this President has gotten us into.

My opinion is the President, to some extent, put his foot in his mouth earlier this year when he said to the NATO allied leaders, "I will put ground troops in Bosnia if we get a peace agreement". What he should have said is, "I will make a commitment", and left that up to the final negotiations in Dayton. He did not do that.

Mr. Speaker, while the negotiations were going on, all of us in this body knew what was going to come out of those negotiations, and that was going to be taking the President up on his word, and that is to send 20,000 ground troops into Bosnia. That should never have been the negotiating position of this country in terms of our NATO involvement.

It certainly is not the position of this Member, and I know many of my colleagues, that we should not be involved, nor should we be isolationists.

The second issue I want to take up with the President is the way he characterized the morality argument here. He somehow tries to make the case that the Members of Congress who perhaps question what he wants to do here are not concerned about babies being killed, about ethnic cleaning, and about women being raped.

Mr. Speaker, nothing could be further from the truth. As a member of the Human Rights Caucus since I have been in this body, I have tirelessly, again and again, spoken out on behalf of human rights abuses. In fact, Mr. Speaker, in at least three votes in this body over the past 2 years, we have overwhelmingly told the President to lift the arms embargo so that the Bosnian people could defend themselves, so that they, in fact, could have a level playing field, so that we could stop the abuses and stop the ethnic cleaning and stop the rape and torturing.

Every time this Congress, in a strong bipartisan manner, told the President to lift the embargo, the President said, "no." Yet last night on national TV, the President tells the American people that he is really that one concerned about these kids being killed and these women being raped and the ethic cleaning.

Well, Mr. Speaker, what were we doing the past 2 or 3 years with all of these votes and these letters and these issues where we came forward and said, "You have got to do something, Mr. President, about what is happening in the Balkans," and he did nothing. Now, all of a sudden the solution to all of these problems is to spend 20,000 of our kids into the Balkans on the ground in the middle of this controversy.

Mr. Speaker, there is absolutely no justification for the President to make the statement that he made last night that he is the only one concerned with the moral issue of why we should be involved. There are steps that we could have and should have taken over the last 2 years to help even the playing field in the Balkans and we did not do it. Not because the Congress would not act, but because the President would not listen.

These were not just Republicans speaking. These were Republicans and Democrats. Some of the most eloquent leaders on lifting the arms sanctions and the arms embargo were on the minority side of the aisle; not just on the Republican side.

What really bothered me about the speech that the President made last night, at the end, Mr. Speaker, was when he alluded to a conversation that he had with the Pope. I really though it was grasping for straws when President Clinton basically said, The Pope told me to do it.

Mr. Speaker, I have the highest respect for the Vatican and for the Holy Father and for the leadership he provides for the world's Catholics. But, Mr. Speaker, to use a comment that supposedly have been attributed to the Pope as the political justification boggles my mind.

As one of our colleagues on the House floor said today, perhaps the President will tell us that he is going to change his stand on abortion, because I am sure the Holy Father talked to him about the sanctity of life, but I do not see President Clinton following the advice of the Pope on that issue, yet quoting the Pope in terms of taking this action in the Balkans.

The third issue I want to take exception with the President last night, Mr. Speaker, deals with his trying to compare the Balkans to what happened in Desert Storm and what happened in Haiti and Somalia.

First of all, Mr. Speaker, there are few, if any, similarities. In Desert Storm we have a figure who was destined to take over a major part of the world and threaten the security of not just one country but a freedom-loving people in the Middle East, including the State of Israel, and threatening to create anarchy in that part of the world.

President Bush went to great lengths to line up allied support. Mr. Speaker, remember, that the cost of Desert Storm was not just in American lives and dollars, because as every Member, every one of our colleagues knows, the entire cost of Desert Storm, over $52 billion, was borne by those nations that benefited from our involvement. It was not a case where the United States went over and paid the bill and enticed people to come in by saying, "We will pay your soldiers and provide them food and give them shelter, just be a part of the team."

Mr. Speaker, in Desert Storm the parties who benefited most provided the dollars. And, yes, we did have an interest and, yes, we responded. And, yes, President Bush came to this Congress and asked for us to have an up-or-down vote in both bodies.

I might add, Mr. Speaker, not one Member of the Democratic leadership at that time stood up and spoke for nor voted for the effort to send our troops into Desert Storm. Not one. Yet I am sure when we have a debate on this floor, every one of those Members will get up and support President Clinton's actions. There is irony in that statement.

The President compared it to Haiti. Mr. Speaker, Haiti is not turning out to be the success that he promised. What has happened is we have spent about $2 billion of the U.S. taxpayers' dollars, and while the President has boasted about the other countries being involved, when he fails to tell the American people is that we paid for the bulk of their housing, their food, and their allowance support, subsistence support, to come to Haiti to be a part of that operation.

□ 2310

So basically they were brought in because America agreed to foot the bill. The U.S. taxpayers agreed to foot the bill. And whether or not we have been successful in Haiti is still undetermined. There have been killings and assassinations down there on a regular basis. And many of us predict Haiti will go right back to the way it was once we have our presence totally removed from that country.

Let us talk about Somalia, because perhaps here is what scares me the most, Mr. Speaker. Somalia is probably that area where we have been involved militarily that I think causes certainly me and many of our colleagues to feel most uncertain and concerned about what President Clinton wants to do in Bosnia. I remember well, Mr. Speaker, a meeting in mid-September, held in one of the largest meeting rooms in the basement of this building, when Secretary of Defense Aspin and Secretary Warren Christopher came into a meeting room filled with Members of Congress only. There were about 300 House and Senate Members there, after we had lost 18 young Americans who had been shot down over Mogadishu and had their bodies dragged through the streets because we did not have the backup troop support to go in and rescue them. When Les Aspin was asked why this happened, he eventually acknowledged that the commanding officer of the Somalian operation had in August requested additional backup support for our troops in that theater but that he and the administration denied that support. When asked why, Secretary Aspin said it was because of the hostile political environment inside the beltway, the first time since Vietnam that a political armchair decision in Washington affected military action in another part of the world.

Mr. Speaker, I can guarantee you this, as a member of the Committee on National Security, President Clinton is not going to repeat what he did in Somalia. If he, in fact, is successful in sending 20,000 ground troops into Bosnia, which I am certain he will be, whether or not we have a vote, he has already said he is sending the troops in, we are going to be very careful and we are going to be strident that this President is not going to call the political shots of what our military officers do in that theater. Because if our troops are committed by this Commander in Chief, then those calls have to be made by the commanding officer in charge of the theater of operation in Europe. Commander Joulwon who has the highest respect of most every Member of this body who knows him and the military leadership who serves under him should and will be making those calls. And the one thing that we will be focusing on, since we will probably not be able to stop the President from asserting troops in Bosnia, will be to make sure that General Joulwon gets every bit of support that he needs to maintain the safety of our troops. We want to make sure that there is no second guessing at 1600 Pennsylvania Avenue, as there was in Somalia, saying, "General Joulwon, we cannot send in more troops, we cannot send you more equipment, because it is not the right political climate in Washington". If this President follows through on his commitment to send 20,000 ground troops into Bosnia, then this President better be prepared to let General Joulwon call the shots in terms of what support he needs to protect our troops, even though many of us in this body, including myself, have great hesitation with any ground troops going into Bosnia whatsoever.

Mr. Speaker, as I said a moment ago, most of us have resigned ourselves to the fact that we cannot stop the troops from being sent over there. The President is in fact the Commander in chief of our military. I acknowledge that. He has that function. He has the ability to commit our troops to any part of the world, even though twice in my lifetime, it has been this Congress, under Democrats, who have cut off funding for our military as a way to bring our troops back home from Vietnam and from Somalia. So this President will in fact send our troops. Whether we have a vote or not here will not matter. He has already ignored the will of the Congress in terms of lifting the arms embargo over the past 2 years, and he has already ignored the will of the Congress three times in the last 2 months. Because three times since August, Mr. Speaker, this body and the other body have taken specific votes to say to the President, "Do not commit ground troops. Aerial support, logistical support, other types of aerial attacks and other types of support that we can provide, OK, but do not commit ground troops".

And those votes were overwhelmingly bipartisan. They were not Republicans. There were Democrats and Republicans together. What did President Clinton do? For the past 3 months he has ignored those votes. Even last week, the week before, before the agreement was initialed in Dayton, OH, this body again went on record saying, "Mr. President, do not commit ground troops". He is going to send ground troops whether we have another vote or not. But what we will do in this body is, we will make sure that we do not have a repeat of the Clinton Somalia debacle where American kids who were sent to a foreign country are allowed to be put at risk and, in the case of Somalia, 18 of them coming home in body bags after their bodies were dragged through the streets of downtown Mogadishu.

With every ounce of energy in my body, Mr. Speaker, that is not going to happen this time. The President may have his way in sending the troops in, but we who are on the Committee on National Security and those of us in the bipartisan manner in this Congress will work to make sure that our troops are given every possible means of support that they need with no second-guessing coming from the bureaucracy inside the Beltway here, letting our military leadership that has been assigned to this operation, in this case General Joulwon, make those decisions and have the full support he needs.

Mr. Speaker, there are many other articles that I want to put in the RECORD and will do so either tonight or in special orders I will be taking out this week from news sources around the world where those people inside of the Balkans are questioning this agreement. We have to be aware of what the leadership in those countries are saying, not just what the three signatories to that agreement out in Dayton said, because they are three individuals. The question is, do they, in fact, represent the majority of the people in the Balkans? Are the people going to adhere? Are they going to cooperate with this peacekeeping force? If you read some of the FBIS articles that have come out over the past several days, I have grave concerns.

Mr. Speaker, I would ask to enter into the RECORD an article that was printed in the Belgrade Nasa Borba in Serbo-Croatian, its November 22 edition, relative to the political parties and the peace accord and statements specifically that Serbian Radical Party President Vojislav Seselj exclaimed, and I quote, "The biggest betrayal of the Serbian nation has just been committed."

In stark opposition to the prevailing positive reactions to the agreement, Serbian Radical Party President Vojislav Seselj, according to BETA, exclaimed that "the biggest betrayal of the Serbian nation has just been committed."

I ask to include in the RECORD articles, again from FBIS reports, quoting a leading Bosnian Serb official Momcilo Krajisnik in terms of his refusal to sign on to the accord and explaining his opposition and how this agreement is a sellout of the Serbs.

[FBIS Transcribed Text, Nov. 21, 1995]

PLAN "NOT ACCEPTED" BY SERBS

SARAJEVO (AFP).—A senior Bosnian Serb official warned late Tuesday [21 November] that the peace accord agreed in Dayton, Ohio does not satisfy "even a minimum" of their demands.

Quoted by the Bosnian Serb official media, "parliamentary speaker" Momcilo Krajisnik said: "The agreement that has been reached does not satisfy even a minimum of our interests. Our delegation has not accepted the plan and we were unanimous on that."

I also ask to include articles, again from the FBIS reports, from the Banja Luka Srpska Televizija, a TV station in Banja Luka, relative to the explanation of the accord and saying that, "The people, the Serbs are not intimidated by the Dayton agreement, they are not intimidated by the Dayton agreement in terms of what it is going to do to their nation."

Further go on to quote in the same article, "We will never give up Sarajevo, dead or alive, let everyone know that". If I were able to talk to both Clinton and Christopher like our delegation that went to negotiate, I would tell them not to play with the Serbs.

It goes on to further say, there is no Serb who would leave this and leave the Serb land behind. And it further goes on to say, they will not be frightened of the signatures from Dayton, speaking of the Serbs in Bosnia.

[FBIS Translated Text, Nov. 23, 1995]

SERBS IN SARAJEVO AWAIT "EXPLANATION" OF ACCORD

(Report by Draga Grubic)

The signing of the Dayton peace agreement has recently engrossed the citizens of Serb Sarajevo as the event on which they pinned their hope and survival. Now that the results of the talks have been revealed, the people of Sarajevo expect official explanation of the agreement that is to determine their destiny as well as the future of the second largest Serb town in former Yugoslavia. Neither the joint Croat-Muslim enemy, NATO jets, nor rapid reaction mortars managed to send the locals into exile and they are not intimidated by the Dayton agreement either.

[FBIS Translated Text, Nov. 23, 1995]

EXCERPT FROM "SARAJEVO SERBS OPPOSE DAYTON PEACE PLAN"

[Unidentified woman] "What, to give them Sarajevo? It is Serb, and no one else's. We will never give up Sarajevo, dead or alive, let everyone know that. If I were able to talk to both Clinton and Christopher, like our delegation that went to negotiate, I would tell them not to play with the Serbs".

* * * * *

[Unidentified man] "There is no Serb who would leave this, and leave the Serb land behind. I have buried 11 of my dearest here over the last year, and now I am expected to leave them behind. No way, God forbid".

[Correspondent] "The population of the second largest Serb town in former Yugoslavia has not been driven away by the combined Muslim-Croat enemy, by NATO aircraft, or Rapid Reaction Force shells. And they will not be frightened of the signatures from Dayton". [end recording]

Then going on to an article that appeared in the November 27 FBIS report dealing with NATO, warning Karadzic about his bloodbath threat and NATO having to threaten him if, in fact, Karadzic was arrested for war crimes.

(Report by Angus MacKinnon)

BRUSSELS, Nov. 27 (AFP).—NATO on Monday [27 November] warned Bosnian Serb leader Radovan Karadzic that any attempt to intimidate the peace force the alliance plans to send to Bosnia would be greeted with an "extremely robust" response.

Finally, Mr. Speaker, another editorial, written by Bela Jodal, "Compulsory Hope", in a Budapest publication. This is a very important question he asks.

"Will it be the U.S. troops who left Somalia due to difficulties which were smaller than what can be expected in the Balkans?"

[FBIS Translated Text, Nov. 23, 1995]

EDITORIAL DOUBTS FUTURE OF BOSNIAN PEACE ACCORD

* * * * *

Will it be the U.S. troops who left Somalia due to difficulties which were much smaller than what can be expected in the Balkans?

Mr. Speaker, the key question we have to ask is, is what we are about to do and what this President is about to do in America's best interest? More importantly, Mr. Speaker, we, as elected Representatives of approximately 600,000 people each across this country, have to be able to ask ourselves the ultimate question: Can we go into that family's home when their son or daughter or mother or father or brother or sister are sent home as a casualty of this conflict and be able to justify the job and the mission that they did?

□ 2320

I am a strong supporter of our military, Mr. Speaker, and proudly so, and I will be a strong supporter if the President deploys them there. But I do not support the President's policy, and I do not believe he has made the case.

Let me say in closing, Mr. Speaker, in coming to my conclusions 2 weeks ago I had to rely on a friend of mine who has been in Sarajevo for 3 years. His name is John Jordan. He is a Rhode Island volunteer firefighter. He went over to Sarajevo because he heard that the fire and emergency services personnel were being abused by the military even though they were trying to serve the Croats, Serbs, Muslems, all factions. He went over to volunteer to help them. He ended up staying 3 years.

Mr. Speaker, he was featured by ABC–TV as their person of the week for the work that he did as a volunteer. He brought 50 other Americans over with him to help the Serbian fire brigade with Keenan Slimmick, who was the fire chief before he was assassinated.

John Jordan was shot twice while he was in Sarajevo. He was beaten in the chest with the blunt end of a rifle. He had concussions, shrapnel wounds, but stayed there helping all of the various people in Sarajevo get decent medical protection and protection from fires and disasters.

We sent an airlift of supplies over to him a year and a half ago., We sent three or four fire trucks, rescue equipment that had been donated from around the country, to help him perform this mission in Sarajevo of humanitarian aid to these people during the time this President did nothing to satisfy those concerns he spoke of last night.

I asked John Jordan to come down to Washington to tell me what he thought we should do. John Jordan, American citizen, after 3 years in Sarajevo, gave me the following quote, Mr. Speaker, which appeared in an AP wire story on October 22 in regard to what we are going to face in Bosnia. Every one of us in this body have to understand in a context of the quotes I have given what John Jordan said will occur there:

"We're going to face some very, very ugly, heavily armed, prone-to-violence people who are totally unafraid of the United States", he said. "I've had more than one Serb commander say to me, 'I really wish the U.S. instead of the French were running the airport. If we can just get enough of you in one place at one time, we can kill 200 or 300 of you, you'll be out of this war forever, and you won't be a problem anymore. You'll leave just like you left Beirut.'"

Mr. Speaker, that is a question we have to wrestle with. Are our kids heading for another Beirut? I hope not, Mr. Speaker, and while I would like to think that this Congress would have the same ability that the Bundestag is going to have, that the other parliaments, like Italy, are going to have in approving of sending in of their troops, we are not going to have that because our President said our troops are going with or without the support of this Congress and with or without the support of the American people.

But, Mr. Speaker, I can assure you of one thing. He may send the troops, but we will make sure that we do not have a repeat of the debacle that occurred in Somalia because our kids are not going to be shortchanged, there is not going to be some political decision determining what we will or will not send once they are over there. If the commitment is made and the troops are sent, then they are going to get every bit of support that this body and our committees in Congress can muster to make sure that our troops are protected.

Mr. Speaker, I would ask our colleagues to consider what is about to confront us both this week and next week if, in fact, we have a vote. I am considering legislation right now that I may offer as an amendment if, in fact, we have an up-or-down vote on Bosnia, but again I would close by saying the vote is not really going to matter, Mr. Speaker, because the dice have already been rolled, and the President has already made up his mind, the troops have already been committed, and those of us who have concerns are not isolationists, we are not people who are immoral, and we are not people who think that there is not a proper role for America to help provide security throughout the world. We just question the way that we got to where we are and the decision of this President to put 20,000 kids in harm's way between these warring factions that have been at each other's throats not for 4 years, and not for one decade, but decade after decade and century after century.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEFNER (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mrs. FOWLER (at the request of Mr. ARMEY) for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JOHNSTON of Florida) to revise and extend their remarks and include extraneous material:)

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

(The following Members (at the request of Mr. HUTCHINSON of Florida) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day, today, and on November 29 and 30, and December 1.

Mr. DORNAN, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CUNNINGHAM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. TRAFICANT, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,472.)

(The following Members (at the request of Mr. JOHNSTON of Florida) and to include extraneous matter:)

Mr. WYNN.

Mr. STOKES.

Mr. SCHUMER in two instances.

Mr. TRAFICANT.

Mrs. MALONEY.

Mr. KILDEE in two instances.

Ms. NORTON.

Mr. TOWNS.

Mr. JACOBS.

Mr. LAFALCE.

Mrs. MEEK of Florida in two instances.

Mr. BERMAN in two instances.

Mr. WILSON.

Mr. MURTHA.

Mr. STARK.

Mr. GEPHARDT.

Mr. POSHARD.

(The following Members (at the request of Mr. HUTCHINSON) and to include extraneous matter:)

Mr. SOLOMON.

Mr. MOORHEAD.

Mr. WOLF.

Mr. BEREUTER.

Mr. BASS.

Mr. BRYANT of Texas.

(The following Members (at the request of Mr. WELDON of Pennsylvania) and to include extraneous matter:)

Mr. BAKER of California.

Mr. OWENS.

Mr. BRYANT of Tennessee.

Mr. KIM.

Ms. MCCARTHY.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 29, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1716. A letter from the Under Secretary of Defense, transmitting the Secretary's Selected Acquisition Reports [SAR's] for the quarter ending September 30, 1995, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

1717. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the United Kingdom for defense articles and services (Transmittal No. 96-16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1718. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Belgium for defense articles and services (Transmittal No. 96-15), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1719. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. C-96 which relates to enhancements or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1) AECA certifications 91-03 of June 11, 1991 and 94-017 of February 28, 1994, pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 33. A bill to transfer the Fish Farming Experimental Laboratory in Stuttgart, AK, to the Department of Agriculture, and for other purposes (Rept. 104-357). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 255. A bill to designate the Federal Justice Building in Miami, FL, as the "James Lawrence King Federal Justice Building" (Rept. 104-361). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 395. A bill to designate the U.S. courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, NV, as the "Bruce R. Thompson United States Courthouse and Federal Building" (Rept. 104-362). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 653. A bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse" (Rept. 104-363). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 840. A bill to designate the Federal building and U.S. courthouse located at 215 South Evans Street in Greenville, NC, as the "Walter B. Jones Federal Building and United States Courthouse" (Rept. 104-364). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 869. A bill to designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building and U.S. Courthouse", with amendments (Rept. 104-365). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 965. A bill to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, KY, as the "Romano L. Mazzoli Federal Building" (Rept. 104-366). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1804. A bill to designate the U.S. post office-courthouse located at South 6th and Rogers Avenue, Fort Smith, AR, as the "Judge Isaac C. Parker Federal Building" (Rept. 104-367). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2636. A bill to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes (Rept. 104-368, Pt. 1). Ordered to be printed.

Mr. BLILEY: Committee of Conference. Conference report on H.R. 1058. A bill to reform Federal securities litigation, and for other purposes (Rept. 104-369). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 418. A bill for the relief of Arthur J. Carron, Jr. (Rept. 104-358). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. H.R. 419. A bill for the relief of Benchmark Rail Group, Inc. (Rept. 104-359). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. H.R. 1315. A bill for the relief of Kris Murty (Rept. 104-360). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on Nov. 24, 1995]

H.R. 1122. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT of Nebraska:

H.R. 2679. A bill to revise the boundary of the North Platte National Wildlife Refuge; to the Committee on Resources.

By Mr. JOHNSON of South Dakota:

H.R. 2680. A bill to authorize a land conveyance at the Radar Bomb Scoring Site, Belle Fourche, SD; to the Committee on National Security.

By Ms. NORTON:

H.R. 2681. A bill to amend the act of incorporation of the American University to reduce the minimum number of members of the university's board of trustees from 40 to 25; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON:

H.R. 2682. A bill to amend the Clean Air Act to provide for additional reductions in emissions of sulfur dioxide and oxides of nitrogen in regions contributing to acid deposition in the Adirondacks; to the Committee on Commerce.

By Mr. WOLF (for himself, Mrs. MORELLA, and Mr. DAVIS):

H.R. 2683. A bill to amend title 5, United States Code, to extend to employees of the Federal Bureau of Investigation certain procedural and appeal rights with respect to certain adverse personnel actions; to the Committee on Government Reform and Oversight.

By Mr. ISTOOK (for himself, Mr. BACHUS, Mr. BAKER of California, Mr. BALLENGER, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARTON of Texas, Mr. BLILEY, Mr. BONILLA, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. COBLE, Mr. COBURN, Mr. COLLINS of Georgia, Mr. CONDIT, Mr. COOLEY, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Mr. EMERSON, Mr. EVERETT, Mr. FORBES, Mr. FUNDERBURK, Mr. GRAHAM, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HAYWORTH, Mr. HEFLEY, Mr. HEINEMAN, Mr. HERGER, Mr. HILLEARY, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON, Mr. JONES, Mr. KASICH, Mr. KIM, Mr. KINGSTON, Mr. LARGENT, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. LIVINGSTON, Mr. LUCAS, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCHUGH, Mr. MCINTOSH, Mr. MCNULTY, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NORWOOD, Mr. OXLEY, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. POMBO, Mr. RADANOVICH, Mr. RAHALL, Mr. ROBERTS, Mr. ROHRABACHER, Mr. ROTH, Mr. SCARBOROUGH, Mr. SKEEN, Mr. SMITH of New Jersey, Mrs. SMITH of Washington, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TIAHRT, Mr. TRAFICANT, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WHITFIELD, Mr. WICKER, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska):

H.J. Res. 127. Joint resolution proposing a religious liberties amendment to the Constitution of the United States to secure the people's right to acknowledge God according to the dictates of conscience; to the Committee on the Judiciary.

By Ms. NORTON:

H.J. Res. 128. Joint resolution making further continuing appropriations for the District of Columbia for fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. TIAHRT (for himself, Mr. HOKE, Mr. MILLER of Florida, Mr. SOUDER, Mr. EVERETT, Mr. ZELIFF, Mr. CALVERT, Mr. FOLEY, Mr. HERGER, Mr. BUNNING of Kentucky, Mr. CHABOT, Mr. HAYWORTH, Mr. LEWIS of Kentucky, Mr. NEUMANN, Mr. BURTON of Indiana, Mr. BASS, Mr. BARR, Mr. DORNAN, Mr. MCINNIS, Mr. ARCHER, Mr. HUNTER, Mr. FORBES, Mr. JONES, Mr. CANADAY, Mr. SALMON, Mr. ENSIGN, Mr. MCCOLLUM, Mr. COOLEY, Mr. SOLOMON, Mr. BROWNBACK, Mr. BAKER of Louisiana, and Mr. CUBIN):

H. Res. 283. Resolution expressing the sense of the House of Representatives relating to certain activities of the Secretary of Energy; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 52: Mr. BRYANT of Texas.

H.R. 104: Mr. WICKER.

H.R. 491: Mr. ANDREWS.

H.R. 704: Mr. YATES.

H.R. 1023: Ms. BROWN of Florida, Mr. BACHUS, and Mr. LINDER.

H.R. 1078: Mr. ORTIZ and Mr. BONIOR.

H.R. 1193: Mr. YATES.

H.R. 1234: Mrs. MORELLA.

H.R. 1297: Mr. MARTINI.

H.R. 1458: Mr. BROWN of Ohio.

H.R. 1484: Mr. WILLIAMS.

H.R. 1591: Mr. PAYNE of New Jersey.

H.R. 1735: Mr. FOX.

H.R. 1972: Mr. LAUGHLIN, Mr. GOODLING, Mr. FLANAGAN, Mr. ROYCE, Ms. FURSE, and Mr. CLINGER.

H.R. 1993: Mr. TORKILDSEN.

H.R. 2027: Mr. VENTO.

H.R. 2089: Mr. SENSENBRENNER, Mr. NETHERCUTT, Mr. BUNN of Georgia, Mr. NORWOOD, and Mr. METCALF.

H.R. 2247: Mr. DELLUMS, Ms. LOFGREN, Mrs. LOWEY, Mr. OLVER, Mr. RAHALL, and Ms. WOOLSEY.

H.R. 2275: Mr. CRAMER, Mrs. MYRICK, and Mr. TATE.

H.R. 2407: Mr. FILNER, Mr. COLEMAN, Mr. BEILENSON, Mr. OLVER, Mr. YATES, Mrs. MALONEY, Mr. BROWN of California, Mr. FRANK of Massachusetts, and Mr. BROWN of Ohio.

H.R. 2435: Mr. BARR, Mr. RIGGS, Mr. FROST, Mr. DAVIS, and Mr. CALVERT.

H.R. 2443: Mr. WELLER and Mr. MANZULLO.

H.R. 2463: Ms. FURSE.

H.R. 2506: Mr. BREWSTER and Mr. PICKETT.

H.R. 2508: Mr. BREWSTER, Mr. HANSEN, and Mr. BONILLA.

H.R. 2540: Mr. HUTCHINSON.

H.R. 2551: Mr. YATES.

H.R. 2555: Mr. HASTINGS of Washington.

H.R. 2582: Ms. FURSE and Mr. CALVERT.

H.R. 2585: Mr. NADLER.

H.R. 2627: Mr. ABERCROMBIE, Mr. BALLENGER, Mr. BARTLETT of Maryland, Mr. BEILENSON, Mr. BERMAN, Mr. BOEHLERT, Mr. BONILLA, Mr. BOUCHER, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BUNN of Oregon, Mr. BURR, Mr. CALVERT, Mr. COBLE, Mr. DE LA GARZA, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mr. EDWARDS, Mr. EMERSON, Mr. FALEOMAVAEGA, Mr. FORBES, Mr. FRELINGHUYSEN, Mr. GEJDENSON, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HEFNER, Mr. HILLIARD, Mr. HOUGHTON, Mr. JONES, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LARGENT, Ms. LOFGREN, Mr. MANZULLO, Mr. MENENDEZ, Mr. MONTGOMERY, Mr. MYERS of Indiana, Mr. OBEY, Mr. POMBO, Mr. QUILLEN, Mr. QUINN, Ms. ROYBAL-ALLARD, Mr. ROEMER, Mr. ROSE, Mr. RUSH, Mr. SAWYER, Mrs. SCHROEDER, Mrs. SEASTRAND, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SMITH of Washington, Mr. SOLOMON, Mr. STARK, Mr. STENHOLM, Mr. TAYLOR of North Carolina, Mr. TORRES, Mr. WISE, Mr. WILSON, and Mr. YOUNG of Florida.

H.R. 2651: Mr. TAYLOR of Mississippi, Mr. FIELDS of Louisiana, and Ms. DANNER.

H.R. 2654: Mr. YATES, Mr. MCDERMOTT, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. DELLUMS, Mr. FILNER, Mr. HINCHEY, and Mr. SCOTT.

H.R. 2661: Mr. DAVIS.

H.R. 2664: Mr. GENE GREEN of Texas, Mr. BOUCHER, Ms. BROWN of Florida, Mr. CRANE, Mr. LEWIS of Georgia, Mr. COOLEY, Mr. DEAL of Georgia, Mr. FUNDERBURK, Mrs. SEASTRAND, Mr. WATTS of Oklahoma, Mr. FALEOMAVAEGA, Mr. HEFNER, Mr. LAUGHLIN, Mr. BARTLETT of Maryland, Mr. HALL of Ohio, Mr. BORSKI, Mr. ENSIGN, Ms. WATERS, Mr. PALLONE, Mr. FROST, Mr. SANDERS, Mr. WAXMAN, Ms. RIVERS, Mr. SCHAEFER, Mrs. MEEK of Florida, Mr. CRAMER, Mr. ORTIZ, Mr. OXLEY, Mr. FILNER, Mr. SMITH of New Jersey, Mr. RIGGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Mr. HASTINGS of Florida, Mr. SANFORD, Mr. FORBES, Mr. MCCRERY, Mr. PASTOR, Mr. HANCOCK, Mr. BREWSTER, Mr. HERGER, Mr. HAMILTON, Mr. PICKETT, Mr. DOYLE, Mr. UNDERWOOD, Mr. CALLAHAN, Mr. GONZALEZ, Mr. MATSUI, and Mrs. LOWEY.

H.R. 2668: Mr. CLINGER, Mr. DEAL of Georgia, Mr. LAHOOD, Mr. BUNN of Oregon, Mr. BURR, Mr. NETHERCUTT, Mr. SOLOMON, Mr. FRISA, Mr. BALLENGER, Mr. FRELINGHUYSEN, Mrs. MEYERS of Kansas, Mr. METCALF, Mrs. KELLY, Mrs. MORELLA, Mr. TALENT, and Mr. WELDON of Pennsylvania.

H.J. Res. 114: Mr. LAFALCE.

H.J. Res. 117: Mr. JACOBS.

H. Con. Res. 50: Mr. NADLER.

H. Con. Res. 102: Mr. DELLUMS, Mr. WAXMAN, Mr. SABO, Mr. DEUTSCH, and Mr. BURTON of Indiana.

H. Res. 220: Ms. BROWN of Florida, Mrs. SCHROEDER, Mr. WILSON, Mr. BERMAN, Mr. SERRANO, Mr. FARR, Mr. STARK, Mr. LEWIS of Georgia, and Mr. MEEHAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1788

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 1: Page 5, after line 14, insert the following new section:

SEC. 104. TRACK WORK.

(a) OUTREACH PROGRAM.—Amtrak shall, within one year after the date of the enactment of this Act, establish an outreach program through which it will work with track work manufacturers in the United States to increase the likelihood that such manufacturers will be able to meet Amtrak's specifications for track work. The program shall include engineering assistance for the manufacturers and dialog between Amtrak and the manufacturers to ensure that Amtrak's specifications match the capabilities of the manufacturers.

(b) ANNUAL REPORT.—Amtrak shall annually report to the Congress on progress made under subsection (a), including a statement of the percentage of Amtrak's track work contracts that are awarded to manufacturers in the United States.

EXTENSIONS OF REMARKS

RETIREMENT OF THE GENTLELADY FROM KANSAS, THE HONORABLE JAN MEYERS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. LaFALCE. Mr. Speaker, it is with sincere regret that I learned today that the gentlelady from Kansas, JAN MEYERS, would not seek reelection to the 105th Congress next year.

I have served with Mrs. MEYERS on the Small Business Committee since her election to the Congress in 1985. In the current Congress, she serves as Chair of the committee and I am the ranking Democratic member. This is a role reversal from the last Congress, and one which I certainly wish had not occurred. But if it had to occur, then I am pleased that the chairmanship passed to Mrs. MEYERS.

During the time that I have served with her, we have had our philosophical differences, but she always personified the term "gentlelady."

For the most part, however, we approached the needs of the small business community on a bipartisan basis. The 103d Congress, 1993–94, is an example of what can be done legislatively to assist small business.

It was in this Congress that we finalized the legislation to convene a White House Conference on Small Business. This most important conclave of individual small business owners prioritized their needs and provided us with a blueprint for action which will see us into the next century.

It was also last year, that with her strong support, we were able to enact a major Small Business Administration reauthorization act. This bill, enacted as Public Law 103–403, contained many provisions of vital importance to various segments of the small business community. There are, however, two provisions of particular note.

The first is recognition that Federal spending can be reduced without necessarily reducing assistance to small business. The bill demonstrated this by mandating the delegation of additional decisional responsibility to financial intermediaries who deliver assistance through the certified development company loan program.

The second is reemphasis of the role of small businesses owned by women by establishment of an Interagency Committee on Women's Business Enterprise. This committee, consisting of high-level Government officials, will coordinate Federal programs to assist the establishment and growth of women's business enterprises, and work with the private sector National Women's Business Council.

Congressional elections last November sent many new Members to the Congress and has resulted in many different policies being presented for consideration. Some of these ideas have merit and deserve to be pursued; others are of questionable value; and still yet others, I strongly oppose. But, under our system of government, we must consider all of them, a requirement which presents a herculean task to those who chair our committees.

Mrs. MEYERS has faced this task and performed it with distinction as the Chair of the House Small Business Committee. I am pleased that we still consider small business needs on a bipartisan basis.

Among our major accomplishments this year is legislation to strengthen the Regulatory Flexibility Act which we enacted some 15 years ago. This law requires Federal departments and agencies to consider, and minimize, if possible, any adverse small business impact from proposed regulations. As a result of this year's amendment, however, agencies which ignore small business impact can be brought before the courts which are authorized to enforce this protection.

Possibly the most important item of note is what did not happen—the Small Business Administration [SBA] was not eliminated.

Some new Members of Congress, and even some with experience, do not fully appreciate the ultimate results of the benefits which SBA provides to assist small businesses. In addition, these programs enhance competition, provide employment, and contribute substantial tax income to all levels of government.

At the start of this Congress, I was very apprehensive that this lack of understanding might cause a clamor for the elimination of SBA in order to achieve a minimal amount of budget savings. There has been no such cry, however, and I believe that this has been largely due to the effort of Chairman MEYERS to educate the new Members. She certainly deserves our thanks and support for this very important effort.

I am very sorry that Mrs. MEYERS has announced her departure. She will be greatly missed, particularly by the small business community. I am well aware of the time demands placed upon Members and I too regret the things which I simply cannot do. Thus I sympathize with her decision.

On behalf of her colleagues on the Small Business Committee, I wish her well.

TRIBUTE TO THE 1995 RATTLER FOOTBALL TEAM

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, I rise today to pay tribute to the Florida A&M University Rattler football team, who have had a truly remarkable year. Florida A&M's play this year is reminiscent of its glory days when Jake Gaither was coach and the Rattlers routinely ran roughshod over their opponents.

Coach Billy Joe, in only his second season at the helm of Florida A&M's football fortunes, and his Rattlers this year have captured the Mid-Eastern Athletic Conference Football Championship with a perfect 6–0 conference record and earned a berth in college football's Heritage Bowl. The Rattler football team also finished the regular season with a 9–2 record, ranked 2d in the Sheridan Black College Poll, and 15th in the Sports Network NCAA Division I–AA Poll. This was their best season since going 12–1 and winning the Inaugural NCAA Division I–AA National Championship 17 years ago.

This is truly a remarkable feat for a young Rattler football team. And, for the first time in 17 years there's renewed talk of football championships on the highest of Tallahassee's seven hills. For the record, the Florida A&M Rattlers have won 11 national championships since 1938.

Florida A&M not only produces championship football teams and great marching bands but also great minds. In 1992, Florida A&M University won another national championship of sorts by edging out Harvard to become the favorite destination of National Achievement Scholars, the Nation's most sought-after high school graduates. Florida A&M has finished among the top five in the recruitment of these academically gifted students in each of the last 5 years.

Mr. Speaker, I join with Floridians everywhere in extending my congratulations to the 1995 Florida A&M University Rattler Football Team, the MEAC Champions, on a job well done. I know that my colleagues join me in honoring the Rattlers and wish them continued success.

TRIBUTE TO HOWARD WELINSKY

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BERMAN. Mr. Speaker, my colleagues and I are honored to pay tribute to Howard Welinsky, a close friend of ours, a great friend of Israel's, and one of the most active, passionate Democrats we have ever known. This year Howard is being given an award by AIPAC for his many activities on its behalf. It is a richly deserved honor.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Indeed, Howard is legendary for his active support of candidates and causes in which he believes. The world could do with a few more people like Howard Welinsky.

His energy is astounding. As senior vice president of administration at Warner Brothers, Howard oversees all the branch personnel operations in the United States and Canada for Warner Brothers distribution. He regularly arrives at the office before dawn and works well into the evening.

Yet somehow Howard manages to appear at more than his share of after-hours events, and to assume a leadership role in numerous organizations. For example, he is the current Chair of the Israel Commission of the Los Angeles Jewish Community Relations Committee; the current Chair of the Jewish Public Affairs Committee; a member of the board of trustees at UCLA; the current Chair of Democrats of Israel and a member of the regional board of the Los Angeles Hillel Council.

This list represents only about half of all the organizations and associations lucky enough to benefit from Howard's participation. He is truly devoted to his community, and redefines the phrase "civic-minded."

Mr. Speaker, we ask our colleagues to join us today in saluting Howard Welinsky, whose life's work consists of helping others. He is an inspiration to all of us.

TRIBUTE TO BERNARD LEVINE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. SCHUMER. Mr. Speaker, on Friday evening, December 1, 1995, the Men's Club of Kew Gardens Anshe Sholom Jewish Center, Kew Gardens, NY, celebrates the life of past president Bernard Levine. Bernie was a graduate of the Anshe Sholom Hebrew School and was barmitzvahed in the same synagogue.

Most of his adult life was spent working and then taking over his parents' neighborhood candy store which was aptly named Bernie land. The store was opened from early morning to late evening and was patronized by as many as three generations of families. It was the place to go and hear what was going on in the neighborhood as well as to enjoy a real New York egg cream prepared by his darling wife Claire. Bernie's business ethic was to please his customers and he went to great lengths to achieve that result. During inclement weather it was not uncommon to see him delivering newspapers to his aged and infirmed customers.

Upon his what we would call retirement, Bernie became active in our synagogue with the same fervor that he had exhibited in his business. He chaired many functions at the center including publicity and ran a Bernie-Mobile transporting members who needed transportation to and from temple affairs, meetings, and services. He served as president of the men's club with a special flair and introduced many activities for the children of our Hebrew school.

Bernie loved Jewish music and attended countless concerts. He was our neighborhood historian and somehow found time to work on the election board.

Bernie was a mensch in the true sense of the word. He served his family, temple, and community. His unparalleled devotion and goodness will be missed by all.

TRIBUTE TO PAUL DENI

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Paul Deni, who has served Waterford Township, MI, as an elected official at the local level for the past 19 years.

Trustee Deni moved to the township over 36 years ago. He served with the U.S. Marine Corps in Korea and is a disabled American veteran. He has been a member of the Waterford Township Lions Club for 12 years, a member of the Pontiac/Waterford Elks, member of the Board of Community Activities, Inc., and a delegate representing the township on SEMCOG for the past 12 years. Professionally Mr. Deni has been in the grocery business for 30 years as the owner of a market in Waterford. During his 10 years as a member of the township board he has served for 12 of those years as a trustee, and the last 7 as the treasurer.

Although our township board will experience a great loss in service from one who has been there for so long; it is fortunate the community will still have the benefit of his presence and caring as he and his wife Eleanor plan on remaining residents of Waterford Township.

RESOLUTION TO GRANT DISTRICT OF COLUMBIA AUTHORITY OVER ITS OWN LOCALLY RAISED REVENUE

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Ms. NORTON. Mr. Speaker, I rise today to introduce a continuing resolution which would give the District the authority to obligate only District revenues to carry out activities authorized in fiscal year 1995 at a rate of operations capped at $4.994 billion, the spending level agreed to by conferees on the fiscal year 1996 D.C. appropriation bill. Specific oversight by the Financial Authority to monitor obligations and spending would also be required.

In the midst of a serious financial crisis, the District has been particularly damaged by the Federal Government shutdown and would continue to be destabilized by a series of short-term continuing resolutions. Short-term CR's would place the CFO in a particularly untenable position. He is required to avoid overobligation at the same time that he would have to apportion obligations in small amounts to fit very limited continuing resolution authority. Faced with unfunded Federal mandates, for example, AFDC, Medicaid, and the complexity of payments that a city must make, a series of short-term CR's would only lead to disarray. I am particularly concerned that hard-hit District residents, who have endured this serious fiscal crisis, will be put through additional hardship because of a struggle within the Federal Government. It has already become difficult to hold on to D.C. taxpayers.

With an already crippling fiscal crisis, the last thing the Congress should do is to make it worse. Passing a continuing resolution for D.C. is the appropriate thing for Congress to do.

THE WELFARE SYSTEM AS WE KNOW IT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. JACOBS. Mr. Speaker, how about a dose of reality? The following article by Prof. Fran Quigley was published by the Nuvo Newsweekly in Indianapolis.

P.S. If the present welfare system as we mistakenly know it is so bad, ask yourself this question: Why did President Ronald Reagan sign it into law in 1988?

The Reagan budget, the Reagan revolution, was essentially adopted and became law especially during his first term. Those budgets did not triple the entire accumulated national debt by overfeeding poor children.

[From the Nuvo Newsweekly, Nov. 2-9, 1995]

CONFRONTING THE MYTHS

(By Prof. Fran Quigley)

"Welfare as we know it" is coming to an end. True to the campaign promises of both President Clinton and the Republican Congress, our country's system of providing guarantees of federal income assistance to poor families through the program of Aid to Families with Dependent Children is being dismantled. In its place will be state-run programs of assistance, including strict time limitations on the receipt of benefits, mandates that parents work outside the home and potentially a blanket denial of assistance to children of teenage mothers.

In Indiana, the changes to "welfare as we know it" are even more radical. In June of this year, most Indiana recipients of AFDC were notified that they would be subject to new rules that limit their lifetime enrollment on the program to two years and would be subject to a "family cap," where the state refuses to provide any additional benefits to families for new children conceived while the mother was enrolled in the AFDC program. In light of the conventional wisdom that has the Democratic party as the defender of the nation's poor, the irony of these stricter state provisions is that Democratic Governor Evan Bayh has sponsored and defended the two-year limitation and the family cap, while many Senate Republicans recently rejected these same provisions as too onerous for the poor.

All of these changes have come as a result of immense popular support for elected officials to change "welfare as we know it." But what exactly is welfare as we know it? It turns out that once the programs and the people enrolled in them are examined beyond rhetoric about "lazy deadcats" and "welfare queens," the actual data show that many of the assumptions of the welfare debate are incorrect.

Some of these assumptions are so prevalent that they have taken on the status of myths. It is a dangerous situation when these myths have a place at the center of the welfare debate and now the dismantling of the family safety net. In order to take an informed position on the changes in our government's role in assisting the poor, these myths need to be confronted by the cold, hard, statistical truth:

Myth #1: If poor people would just get jobs, they would no longer be poor.

Truth: In 1990s America, poverty is now a problem for working people and their families. In 1969, full-time employment at a minimum-wage job provided enough income to keep a family of three out of poverty. In 1992, full-time minimum-wage employment provided only 76 percent of the income needed to keep that same family above the federal government's estimate of the poverty level, and only 50 percent of the income estimated to be necessary for a three-person family to live a safe and healthy lifestyle in Indianapolis.

Implicit in this "get a job" myth and much of the anti-welfare rhetoric is the notion that poor people are poor because they are too lazy to work. However, noted welfare and poverty researcher Joel Handler describes empirical studies showing that poor people, including people receiving welfare, usually have a well-developed work ethic and, in fact, most do work at jobs that simply do not pay enough salary to keep their families out of poverty.

Those who do not work outside the home usually are raising families, and the financial difficulties of maintaining employment, child care, transportation and health care are often responsible for forcing single parents out of the workplace. Also, any description of AFDC recipients as not "working" ignores the reality that raising children is both difficult and important work: Anyone who has raised children must reject the "lazy" description for a single mother who is raising kids in an environment of substandard housing, violence and constant financial uncertainty.

Myth #2: Once a person receives welfare benefits, his financial needs will be met.

Truth: Receipt of Aid to Families with Dependent Children in Indiana provides a family with less than one-third of the income needed to meet the federal government estimate of the poverty level. A disabled adult's Supplemental Security Income provides a little over 54 percent of the estimated income necessary to meet the poverty level for a two-person family. AFDC benefit levels vary among states, but the median state AFDC maximum monthly benefit level for a family of three was only $366, which is barely more than a third of the federal poverty line. The grim implication of these figures is that our streets and shelters are full of families with children who are homeless and/or hungry, yet are receiving the maximum welfare benefits allowed.

Myth #3: Women have babies in order to receive larger welfare checks.

Truth: Since Indiana's average AFDC monthly increase totals only $65 per additional child, as contrasted with the federal government's quite modest estimate of a $200-plus increased monthly cost of living per child, Indiana's welfare recipients do not have any financial incentive to have babies. In fact, most welfare mothers do not have a large number of children: 73 percent of all AFDC recipients have only one or two children. AFDC recipients with more than three children constitute only 10 percent of the total number of families enrolled in the program.

Myth #4: Most welfare recipients are African American, longtime dependents and teenage parents.

Truth: All of these descriptive adjectives are incorrect as applied to AFDC recipients. African-Americans only make up 37 percent of all AFDC recipients (down from 45 percent in 1969), over half of all recipients leave the AFDC program within one year, and only 8 percent of recipients are under the age of 20.

Myth #5: Programs to help the poor are too expensive for state and federal government budgets.

Truth: Don't blame the poor for budget deficits without looking in the mirror first: All the direct aid to the poor (AFDC, Medicaid, Food Stamps, and SSI) together does not equal three of the tax breaks benefiting the middle class and wealthy (deductions for retirement plans, home mortgage interest deductions, and exemptions for employer-paid health insurance premiums). Put another way, the AFDC program consumes only 1 percent of the federal budget and 2 percent of the average state budget.

Also, government investments in the well-being of our nation's poor, especially poor children, are cost-effective because of the programs' prevention of future social costs. For example, every dollar spent on Head Start programs is estimated to save $4.75 in later special education, crime, welfare and other costs. Similar estimates have every dollar spent on childhood immunization or drug treatment saving $10 in later medical costs or social costs.

Myth #6: Housing assistance is widely available to poor people.

Truth: There is often at least a two-year waiting list for public or subsidized housing in Marion County if the housing unit is even accepting applications, and these existing programs are at risk of reduction or elimination by the current Congress. Subsidized housing is vital to poor people because the federal government's recommendation that people pay 30 percent of their income on housing and utilities is an otherwise impossible goal for most AFDC recipients. For example, the 1993 fair market value for an Indianapolis two-bedroom apartment is $523, which represents 156 percent of the monthly income of a three-person family receiving AFDC.

In fact, most poor people in Indianapolis pay over 50 percent of their income in housing costs. Some of the hypocrisy of the anti-welfare rhetoric based on allegations of budget-busting is demonstrated by the government's commitment to providing significant housing benefits for the decidedly non-poor. For every dollar spent by the federal government on low-income housing assistance, $3 of housing assistance is provided to high-income persons (incomes in the top 20 percent) through homeowner tax deductions.

Myth #7: Private charities can replace government programs to help the poor.

Truth: Private charitable programs currently spend only about 1 percent as much as state and federal governments on social services, and many of those private services are provided by agencies heavily dependent on government funds. The major charitable providers of social services, including Salvation Army, Catholic Charities USA and Feed the Children, have taken the position that government has a necessary role in helping the poor. Leaders of these organizations predict disastrous consequences for the poor if the government significantly reduces its role in providing a social safety net.

Myth #8: The United States provides the opportunity for persons in poverty to simply pull themselves up into the middle class.

Truth: For most poor people, 1995 America is not the land of opportunity. The gap between the rich and poor in our society is the largest of any industrialized nation, and the percentage of poor people who are able to move out of poverty has steadily decreased in the last several decades. Even though current efforts to solve the United States' poverty problem focus on reducing or eliminating government programs, it is the more generous and pervasive family benefit programs that are generally cited as the source of the greater amount of class mobility and lower amount of poverty in comparable countries.

Dire consequences are predicted as a result of changes to our current welfare system, with poverty experts and service providers predicting everything from widespread rioting to a future where children sleeping on sidewalk heating grates will be a common sight. The lesson to be taken from exposing the fallacy of the myths that motivated these changes is that the very survival of our country's poor families is put at risk based on misconceptions and prejudices, rather than clear-eyed examination of the effectiveness of the current welfare programs. While it may not yet be clear what the consequences of changing welfare will have for the poor and for the rest of us, it is clear that we have eliminated "welfare as we know it" when we did not really "know it" in the first place.

TRIBUTE TO JOHN TAKOVICH

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, I have the distinct honor in extending my warmest congratulations and best wishes to Mr. John Takovich on this retirement, which Miami-Dade Community College is celebrating this Sunday, December 3, 1995. Having served as an integral member of the College Division of Physical Education and Athletics since 1964, he also served as director of the north campus intramurels program.

During his 32-year career, John held chairmanships of the department of prescribed physical education and the department of leisure services, was coordinator of athletic facilities. In 1986 he returned to full-time teaching duties and involved himself in a myriad of classes ranging from soccer, wrestling, health analysis, and improvement to sports officiating.

He has demonstrated an enviable versatility in spearheading sportsmanship and teamplay through his unrelenting efforts as event coordinator for numerous intercollegiate activities held at the north campus including the Sunshine Open National Tournament, the NJCAA Soccer Tournament, the NJCAA judo events, the College Celebrity Golf Annual Event and the college open house.

Countless students and parents from the South Florida community are deeply thankful for the longevity of his dedicated service in buttressing the college's challenge for academic achievement and athletic development.

A native West Virginian, he has become a permanent fixture in the Miami-Dade community through his constant advocacy and exemplary commitment to the cause of making the college the best in the Nation. He and Patricia, his wife of 32 years, have been blessed with three children and everyone is looking forward to this longed-for retirement.

TRIBUTE TO NETTIE BECKER

HON. HOWARD L. BERMAN
OF CALIFORNIA

HON. HENRY A. WAXMAN
OF CALIFORNIA

HON. ANTHONY C. BEILENSON
OF CALIFORNIA

HON. JANE HARMAN
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BERMAN. Mr. Speaker, my colleagues and I are honored to pay tribute to Nettie Becker, who this year is being given an award from AIPAC for her long history of efforts on its behalf. Nettie has proven countless times over the years that she is, indeed, a great friend of Israel. AIPAC is lucky to have her talents and energy.

So are many other organizations, associations, committees, and commissions. Nettie is one of those special people who makes a point of being active and involved with the community. She is a member of the executive committee of the Anti-Defamation League; a member of the California Women's Political Summit; a board member of the Odyssey Theatre in Los Angeles; a board member of the Jewish National Fund and a Governor Wilson appointee to the Seismic Safety Commission.

Nettie's accomplishments have not gone unnoticed. The Los Angeles County Commission for Women honored her in 1993 for dedicated service to the community, while in 1990 she was given the first Women of Achievement Award from State of Israel Bonds.

Through it all Nettie has managed to run a business, Nettie Becker Escrow, Inc., of Beverly Hills. Since its founding in 1979, it has become one of the most successful escrow companies in California. The Los Angeles Business Journal named Nettie Becker Escrow as 1 of its top 100 woman owned businesses since 1989.

Mr. Speaker, we ask our colleagues to join us today in saluting Nettie Becker, whose selflessness, dedication, and work ethic is an inspiration to us all.

TRIBUTE TO TRUMAN F. MARSHALL

HON. CHARLES WILSON
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. WILSON of Texas. Mr. Speaker, I rise before my colleagues today to pay a special tribute to Mr. Truman F. Marshall, a dedicated public servant who will soon retire from the U.S. Army, Corps of Engineers, Fort Worth District, after 40 years of distinguished service. I ask that the House join with me to thank Mr. Marshall for his contributions to the Corps of Engineers, his local community, and our country.

Truman Marshall began his Federal service with the U.S. Air Force on October 6, 1955. Since that time, Mr. Marshall has distinguished himself as a man of dedication, innovation, and personal accomplishment. In 1963, he transferred to the Corps of Engineers, Fort Worth District, and took a position as an engineer draftsman. Over the next 32 years, Truman Marshall moved his way up the ladder. At the time of his retirement, Truman Marshall served as program analyst in the Programs and Project Management Division. During his career, Truman Marshall received numerous awards and letters of appreciation. Among these awards, Mr. Marshall has received the Commanders Award and the Southwestern Division Award for Programmer of the Year. Mr. Marshall serves his community well and is a member of the Vestry for St. Johns Episcopal Church. He is an assistant Scout Master for the Boy Scouts of America and has served in this capacity for the past 23 years; receiving the District Award of Merit from the Boy Scouts. He is a former member of the Board of Directors for the Fort Worth District, Corps of Engineers Employees Federal Credit Union. Mr. Marshall has made numerous monetary contributions to the Mexico earthquake; Oklahoma City bombing; and numerous local charities and has donated leave to fellow workers through the Leave Share Program.

Mr. Speaker, Truman Marshall is a remarkable individual whose 40 years of personal competence, unwavering commitment, and selfless sacrifice is a model for public servants. I ask my colleagues to join me in congratulating him for his service in the U.S. Army, Corps of Engineers, the Southwestern Division, and the Fort Worth District.

As he begins his retirement, may he and his family fully enjoy all the best in the years ahead.

TRIBUTE TO LOUIS GALINSKY

HON. CHARLES E. SCHUMER
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. SCHUMER. Mr. Speaker, I rise today to honor an outstanding citizen whose contributions to the educational advancement of New York City school children go unsurpassed. It is a special privilege to pay tribute to Mr. Louis Galinsky; a teacher, leader, and mentor to thousands of students attending New York public schools. His teaching skills coupled with a keen understanding of his student's emotional and academic needs, earned the highest respect and trust among his pupils, parents, colleagues, and fellow academics. This outstanding member of our community deserves recognition of his achievements.

Mr. Galinsky began his successful career as a social studies teacher at Junior High School No. 3 in Manhattan. After working there for over 7 years, he became a guidance counselor at Junior High School No. 71. Galinksy's commitment to his students became clear as he remained at this post for 8 years. He then worked for the Committee on the Handicapped for 2 years and soon after became the assistant principal at P.S. 99. Galinsky was later promoted to head principal of this school and fulfilled that role until his retirement. His hard work and dedication solidified his superior reputation as one of the top educational leaders in New York.

The people of our city owe a moment of thanks to Mr. Galinsky for his tireless hard work and countless contributions to the success of New York's students. I am honored to salute him upon his retirement and wish him well in his future plans.

TRIBUTE TO BISHOP ODIS A. FLOYD

HON. DALE E. KILDEE
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to Bishop Odis A. Floyd of New Jerusalem Full Gospel Baptist Church on his 26th pastoral anniversary.

During the 26 years of service, Bishop Floyd has presided over a growth in membership from 450 to the current membership of 3,000. Bishop Floyd, although not born in Flint, came to our community in 1948. He entered the U.S. Army in 1958. Bishop Floyd has attended Monterey College, Pensacola Junior College, Mott Community College, Toledo Bible College, and the United Theological Seminary from which he received his DD degree in 1990. In 1964 he accepted a call to ministry; which all of us in the Flint community are forever grateful for. In 1965 he began assisting his grandfather, the Rev. L.W. Owens in the organization of the New Jerusalem Missionary Baptist Church. Bishop Floyd was ordained in 1969, and became pastor later in 1969 when his grandfather retired. In 1991 the church's name was changed to the New Jerusalem Full Gospel Baptist Church. In 1993 he was consecrated to the office of Bishop by Paul S. Morton, Presiding Bishop of the Full Gospel Baptist Fellowship.

Our community is truly enriched by the teaching and leadership of the Bishop Floyd. Although he has received many recognitions and awards over the years, and served the community through membership on many boards; it's the missionary work that he carries out on behalf of New Jerusalem Missionary Baptist Church and in particular his involvement at Community Alliance, Resource, Environment [CARE] Drug Rehabilitation and Prevention Center that makes him a giant in our community.

BILL TO REDUCE MINIMUM NUMBER OF AMERICAN UNIVERSITY TRUSTEES

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Ms. NORTON. Mr. Speaker, I rise today to introduce legislation which would reduce the minimum number of Board of Trustees of American University from forty (as defined in the University's Act of Incorporation) to twenty-five. American University President Benjamin Ladner and the Board of Trustees have asked me to introduce this corrective measure.

American University was incoportated by Act of Congress on February 24, 1893. Its charter contains a provision setting the minimum number of the Board of Trustees at forty. On May 5, 1995, the Board of Trustees of the University passed a resolution authorizing the Board Officers and the President of the University to obtain the necessary approval from the General Board of Higher Education, the United Methodist Church and the U.S. Congress to reduce the number of trustees to twenty-five. Both the General Board of Higher Education and the United Methodist Church have approved this change. Only approval from the Congress remains.

The Board of Trustees believes that a board minimum size of twenty-five will permit the University to fully engage in its fiduciary responsibilities and grant greater flexibility to hold meetings and conduct business as a fully constituted board. It has simply become too cumbersome for the University to conduct its business while retaining forty trustees on the Board.

I urge my colleagues to support this corrective measure.

THE FUTURE OF MEDICARE AND MEDICAID

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. MURTHA. Mr. Speaker, as we continue to debate the future of the Medicare and Medicaid programs, I'd like to ask my colleagues to consider the views of Ms. Carolyn Scanlan, president and chief operating officer of the Hospital Association of Pennsylvania. Pennsylvania's hospitals would be particularly hard hit by the Medicare and Medicaid provisions we are considering because of the high percentage of senior citizens who live in Pennsylvania, but her concerns reflect those of hospitals all across the Nation. We will not improve the Medicare and Medicaid programs by forcing hospitals, particularly hospitals in rural areas, to close. Downsizing may look good to accountants and bookkeepers, but it's not an encouraging concept for senior citizens when it means closing hospitals. We've got to work to improve availability, access, and affordability in Medicare and Medicaid, and we can do it without forcing seniors to accept care that is anything but the best.

The text of Ms. Scanlan's letter follows:

THE HOSPITAL ASSOCIATION
OF PENNSYLVANIA,
Harrisburg, PA, November 16, 1995.

Hon. JOHN P. MURTHA,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN MURTHA: I have reviewed the U.S. House/Senate Conference Report and am deeply disappointed that the proposal does not sufficiently address the issues of health care restructuring, patient access and beneficiary choice. I must therefore ask that you oppose the conference report when it comes before you for a vote.

For the past several months we have communicated to you, and House and Senate leadership, the message driving our efforts to help Congress achieve a balanced budget while preserving Medicare and Medicaid and improving health care delivery:

Inclusion of House provider sponsored network provision.

Inclusion of the lower House Medicare spending reductions.

Reduced and capped House Medicare "failsafe" provision.

Guaranteed Medicaid coverage for children, pregnant women and the disabled.

Inclusion of House language on medical malpractice, antitrust, fraud and abuse and self-referral provisions.

Inclusion of House trust fund for Graduate Medical Education (GME) and Indirect Medical Education (IME) and lower IME reductions.

Inclusion of Senate carve out for medical education and Disproportionate Share (DSH) and lower DSH reductions.

The conference report falls far short of meeting these goals, which are essential to ensure that the more than 250 hospitals and health systems in Pennsylvania can better address community health needs and offer beneficiaries health care coverage with a local focus.

As the process moves forward, the hospital community remains available to work with you to craft a budget reconciliation bill that includes these critical elements. Your "no vote" will provide us with an opportunity to work together toward a better bill that will ensure our ability to continue to provide appropriate and necessary services to our senior citizens, the disabled, children and low-income families.

HONORING HOSPICE CARE

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. KIM. Mr. Speaker, I rise today to recognize hospice care, which is considered one of the more humane traditions of health service delivery in the United States; providing palliative medical care and supportive social, emotional, and spiritual services to the terminally ill, as well as support for the family.

Hospice care involves a team of professionals, including physicians, nurses, therapists, home care aides, social workers, counselors, and volunteers who help terminally ill patients and their families, primarily at home, share the final days in peace, comfort, and dignity. Hospice offers an effective alternative to hospitals and nursing homes employing more than 33,500 full-time professionals and approximately 11,000 volunteers who together served more than 280,000 individuals last year alone. These hospice caregiving teams help patients, as well as their family members with one of the toughest transitions in life. They are able to do so by eliminating the physical pain associated with an illness, as well as supplying necessary psychological, spiritual, and emotional support in a program primarily based in the home that treats the person, not the disease; focusing on the family, not the individual; and emphasizing the qualify of life, helping patients and their families the opportunity to reclaim the spirit of life.

It is an honor to pay tribute to these dedicated professionals who demonstrating their caring, compassion, and charity on a daily basis.

A SPECIAL TRIBUTE IN HONOR OF THE MEMORY OF EDWARD A. SMITH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Ms. McCARTHY. Mr. Speaker, I rise today to pay tribute and to honor the memory of one of Kansas City's outstanding business and civic leaders, Edward A. Smith. Mr. Smith died tragically November 20, the victim of a hit and run accident.

Ed Smith leaves a legacy of outstanding achievements and selfless contributions to the community he called home, Kansas City, MO. He worked tirelessly within both the business and civic communities, quietly direct many high level philanthropic efforts and helping to shape important businesses and foundations. Ed Smith gave a lifetime commitment to making Kansas City a better community for all of us.

In his eulogy to the more than one-thousand mourners who gathered to say farewell last week, Rabbi Alan Cohen said of Ed Smith, "He was a mentor to a great many people. He was a visionary. He truly left his mark." I join with his many friends and family members in describing Ed Smith as an "uncommon person." Rabbi Cohen added that although Mr. Smith loved the law, his fiercest loyalty was to his family. "His loyalty extended to everything he did" according to Rabbi Cohen. "He was always ready to give back to people and places that had been a part of him."

Henry Block of H & R Block has said that Ed Smith is largely responsible for the success of H & R Block, where Smith was a long time director. According to Henry Block, "Whenever we had a problem, we said, 'let's call Ed.' He was a man of superior intellect, but not ego."

Close friends have described Ed Smith as someone who worked tirelessly and was passionate about philanthropy. Many have noted that he was one of Kansas City's most effective behind-the-scenes leaders, never seeking recognition for his work, but focusing instead on getting things accomplished.

In the late 1970's Mr. Smith attended a dinner party with several other civic leaders. They agreed to form a community foundation, passing the hat and amassing just over two-hundred-dollars that night. That group has since become the Greater Kansas City Community Foundation and Affiliated Trusts which now manages assets of $270-million in 450 charitable funds. It also owns the Kansas City Royals baseball team.

Among the many awards Edward Smith received: the University of Missouri, Kansas City, Chancellors Medallion in 1991; the Charles Evans Whittaker Award in 1992 given by the Lawyers Association of Kansas City; the National Conference of Christians and Jews Citation award in 1993; Ingram's Magazine named Edward Smith one of their "Local Heroes" and "Hall of Famers" in 1994–1995.

Ed Smith was very active in the Jewish community. He was a member of the Beth Shalom congregation and a past director of the Jewish community Center. He also held a directorship with the Beth Shalom Foundation. In 1986, Mr. Smith received the Civic Service award from the Hyman Brand Hebrew Academy.

Edward Smith was born January 20, 1918 in Worcester, MA. He attended Clark University in Worcester where he graduated with honors in Economics in 1939. He went on to Harvard Law School where he graduated in 1942. A founder of one of Kansas City's most prominent law firms, Smith, Gill, Fisher and Butts, Ed Smith was instrumental in building its success and in facilitating its recent merger with the Bryan Cave law firm.

Edward Smith leaves his wife, Beth K. Smith, with whom he has celebrated 50 years of marriage, and four children: Sarah S. Malino, Judith E. Smith, Deborah M. Smith and James D. Smith. He also leaves eight grandchildren. Beth Smith shared her husband's commitment to civic, cultural, and social causes, and her leadership is revered in the community.

Today Mr. Speaker, I ask that my colleagues join with me and with the people of Kansas City, who keenly feel the loss of Edward Smith. Our thoughts and prayers are with his family at this sorrowful time. Edward Smith was an outstanding individual who took a special interest in helping young people develop their abilities and leadership skills. The void he leaves in our community will long be felt by all who had the privilege of knowing and working with him. The legacy of leadership he leaves will live on in future generations whose lives he has touched in the most remarkable way.

MEDICARE HMO MARKETING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. STARK. Mr. Speaker, the Nation's seniors and low-income citizens are starting to be hit with a tidal wave of sales pitches for managed care health plans.

Some of the information is helpful. A lot of it is just old-fashioned boiler room high-pressure sales pitch.

I've just received the following letter from Dr. Harley Schultz of San Leandro, CA, which explains some of the dangers of this marketing.

Mr. Speaker, before a lot of seniors and disabled and low-income people are hurt by gross sales practices, we need to establish some standards so that people can make rational, careful choices on their health plans—after all, it could be a matter of life and death.

The letter follows:

> DEAR CONGRESSMAN: Recently I had the experience where a Medicare/MediCal patient of ours was marketed and sold an HMO plan. Neither the patient or family understood that the plan resulted in a limitation of their choice of hospital, home health service, would result in a co-payment for office visits, and possibly limitations in service available. The salesman told them that since MediCal patients would soon be enrolled in managed-care plans, that they should sign up early instead of later.
>
> Several other patients have commented to me that they signed up for various plans because they eventually succumbed to persistent telemarketing, and didn't know any other way to stop the phone calls from coming.
>
> Many of our elderly citizens are clearly no match for sophisticated insurance salesmen who work on commission.
>
> Inasmuch as you have a long record of interest in fraud and abuse, I would suggest to you that you may wish to direct some of your attention to marketing practices in the health care industry. Specifically, the Federal Government may wish to set certain guidelines for the plans with which they contract with regard to the information that is presented, the way it is presented, and the amount of aggression that can be used in pursuing a potential client.

TRIBUTE TO DR. WILLIAM ALHEIM

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, I would like to rise in recognition of the upcoming retirement of one of the great institutional leaders at Miami-Dade Community College, Dr. William Alheim. He is retiring on December 3, 1995 after some 35 years of superlative service to countless students and the community, transforming it into the topmost community college in the Nation.

Dr. Alheim virtually epitomized the demonstration of utmost excellence and dedication of the college's athletic department, exemplified by the countless awards his teams garnered during his 25-year tenure as basketball coach. Throughout this period he won 560 games while losing only 176 contests for an excellent .759 lifetime winning percentage. His hoopsters won four State championships, and claimed three State runner-up trophies, while participating 17 times in trips to State championship tournaments. To his tribute, he coached seven junior college all-Americans.

For this enviable record, Coach Alheim was voted Coach of the Year three times in 1968, 1982, and 1984. His finest hour came in 1982 when he led his team to a perfect 33–0 record and the No. 1 national ranking before losing an overtime decision in the national championship. Despite this loss Coach Alheim garnered the Kodak National Coach of the Year, becoming the first junior college coach to be so honored.

He was enshrined into the Florida Community College Activities Association Hall of Fame, the Florida Community College Basketball Hall of Fame, and the National Junior College Association Hall of Fame. Since retiring from active coaching, Dr. Alheim has served as division chairman of the department of exercise science and sports medicine.

This well-deserved retirement will certainly allow him to spend more time with Helen, whom he married 42 years ago. The Alheims are blessed with two sons, along with one granddaughter.

TRIBUTE TO ISRAEL COHEN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MORELLA. Mr. Speaker, I rise today to pay tribute to a most distinguished member of the Washington community, Israel Cohen, who died last week at the age of 83. For over 60 years, Izzy, as he was known, helped guide Giant Food, which his father had cofounded in 1936, into the area's largest chain of supermarkets and into one of the most community-oriented businesses in the Nation.

As we honor the memory of this most successful businessman, we must remember him also for his keen interest in the families, schools, and neighborhoods his supermarkets served. His sense of social responsibility and community service is exemplified by Giant's establishing stores in underserved innercity neighborhoods, by sponsoring "It's Academic" TV competitions for our teenagers, by helping area schools purchase needed computer equipment, and by assisting in the fundraising efforts of countless educational and community groups.

The people of the Washington metropolitan area mourn the loss of a great businessman and a great and good neighbor. His commitment, dedication, and generosity will always be remembered. Mr. Speaker, please join me in extending condolences to his family.

IN SUPPORT OF CHARITABLE GIFT ANNUITY RELIEF ACT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. GEPHARDT. Mr. Speaker, I rise today in support of H.R. 2525, the Charitable Gift Annuity Relief Act, and H.R. 2519, the Philanthropy Protection Act. These proposals will provide needed clarity to our securities and antitrust laws, and their relation to gift annuities, one of the oldest and most common fundraising methods used by charities throughout the United States.

Presently, one isolated lawsuit in Texas against a charity has been broadened to a class-action suit that has certified over 2,000 nonprofit defendants nationwide. Without this legislation, these nonprofit organizations are vulnerable to lawsuits based on a perceived violation of Federal antitrust and securities laws. This litigation, and the range of nonprofit defendants involved in the lawsuit, underscores the need to draw a distinction between annuity arrangements offered by commercial entities and those offered by charities.

St. Louis University is one of these charitable organizations. Planned giving programs, such as charitable gift annuities, account for roughly 50 percent of its fundraising efforts. The pending lawsuit has jeopardized its ability to offer potential donors these types of programs. Other nonprofit organizations are alarmed as to how they will fund their programs in the future. In addition to S.L.U., the Salvation Army of St. Louis, The Boys and Girls Town of Missouri, and the Cardinal Glennon Children's Hospital are just a few of the nonprofit groups in my district affected by this issue. The legal defense fees for the defendants in the pending suit is over $1 million a month, draining charities of precious dollars that could be used to meet their worthy goals.

Mr. Speaker, the donors who enter into charitable gift annuities do not act to make a profitable return on an investment. Rather, they are acting because they support the mission of the charity, and donate their money to that end. I am concerned with cuts in Federal spending that threaten the ability of our Nation's nonprofit organizations to continue their philanthropic programs. We should not compound their situation by failing to respond to the legal vulnerability they face under laws intended to regulate commercial securities. This legislation, supported by the Securities and Exchange Commission, will protect charities from securities and antitrust-based lawsuits, and allow them to raise funds in the years to come. I strongly urge passage of these bills.

SIDE WITH THE DOCTORS AND SCIENTISTS, NOT THE DOPE SMOKERS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. SOLOMON. Mr. Speaker, I would urge all of my colleagues to oppose legislation—H.R. 2618—to allow marijuana for medical use.

The FDA has repeatedly rejected marijuana for medical use because it adversely impacts concentration and memory, the lungs, motor coordination, and the immune systems. A recent evaluation of the issue by scientists at NIH concluded, after carefully examining the existing preclinical and human data, there is no evidence to suggest that smoked marijuana might be superior to currently available therapies for glaucoma, weight loss associated with AIDS, and nausea and vomiting associated with cancer chemotherapy.

The simple truth is that organizations promoting this bill—normal/drug policy foundation—are intentionally exploiting the pain and suffering of others as part of their back door attempt to legalize marijuana.

Marijuana weakens the human immune system. That is why, oncologists reject the idea of prescribing smoked marijuana for cancer chemotherapy. Crude marijuana contains over 400 different chemicals. Marinol—oral THC—is available for the treatment of nausea associated with chemotherapy. Yet, safer and more effective medications are preferred by physicians.

While marijuana and several other substances can lower intraocular eye pressure associated with glaucoma the medication must be carefully tailored to prevent further eye damage. Besides numerous adverse side effects of smoking marijuana, the dose cannot be controlled.

There are also misconceptions about the use of marijuana in treating treat the wasting syndrome associated with AIDS. It is ineffective in increasing weight gain and further compromises the immune system. It also puts AIDS patients at significant risk for infections and respiratory problems.

For these reasons the American Cancer Society, the American Glaucoma Society, and the American Medical Society all oppose using marijuana for medicinal purposes. Oppose H.R. 2618 and reject those who make empty promises to patients with chronic illnesses.

When you hear from the conspiracy theory dope smokers, who spend most of their time flooding the internet with prodrug messages aimed at kids, keep in mind that the physicians and other health care professionals who care for AIDS, cancer, and glaucoma patients overwhelmingly oppose this ill-advised legislation.

ST. NICK'S 20TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MALONEY. Mr. Speaker, I rise to honor the St. Nicholas Neighborhood Preservation Corporation's 20th Anniversary. One of the corporation's projects is Jennings Hall, a 150-unit residence for senior citizens, which was once a vacant nurses' residence which had been abandoned when St. Catherines Hospital closed its doors in the early 1970's. Jennings Hall is just one of many successes brought forward by the St. Nicholas Neighborhood Preservation Corporation—St. Nicks.

St. Nicks opened its doors for business in the rectory of St. Nicholas Roman Catholic Church on May 12, 1975. Three of the original staff members were on hand on May 12, 1995 to present awards to St. Nicks' five founding advisors. Mr. Speaker, the founding advisors deserve special recognition, they are: Erica Forman, Cathy Herman, Jan Peterson, Ron Shiffman, and Brian Sullivan. They were presented with the Founding Members' Award for the creative and forward-looking planning and technical assistance they provided to St. Nicks at its inception and throughout the years. I join Marion Wallin and Marie Leanza in recognizing them for "the invaluable contributions they had each made to the organization and the neighborhood in their unique ways during the past 20 years."

St. Nicks Board Chair, Louis Pellegrino called the commemorative events for the 20th Anniversary of the St. Nicholas Neighborhood Preservation Corporation just one more effort "to bring together all those who contribute their time, effort, and support to make the community a better place in which to live and work." Mr. Speaker, I am proud to add my voice to those who recognize the significant contributions of all the St. Nicks members and staff to our community. Groups like St. Nicks galvanize our neighbors and provide the spark necessary to stop the all too common deterioration of communities, neighborhoods, and cultures. Mr. Speaker, in conclusion, I can only hope that the 20th Anniversary of the St. Nicholas Neighborhood Preservation Corporation will inspire others to follow their lead in making our communities better places to live and work.

IRANIAN REGIME PROVEN TO BE MAJOR VIOLATOR OF HUMAN RIGHTS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. TRAFICANT. Mr. Speaker, the Iranian regime has proven to be a major violator of human rights, particularly those of women in Iran. The present regime of Iran is the world's leading state-sponsor of terrorism, has adamantly worked to subvert the peace process in the Middle East, is vigorously pursuing an ambitious nuclear program, and has used every opportunity to interfere in the internal affairs of other nations. This has gone on for 15 long years. There must be an end to this misery for the people of Iran and relief for the rest of the world.

Experience has shown that change must come from within. The Iranian people have demonstrated that they seek a different course than their rulers. Demonstrations, riots, and strikes in Iran within the past year further testify to their reality. Meanwhile, the National Council of Resistance of Iran, as the only alternative to the present regime, has declared that it seeks a democratic, pluralistic and secular Iran.

In March, on the anniversary of International Women's Day, I stated in this chamber that the clerics' number-one enemy is a woman: Maryam Rajavi. She was elected by Iran's parliament-in-exile as the future president of Iran. The unprecedented participation of women in the resistance is the best testimony to the movement's democratic nature.

Recently, Mrs. Rajavi, whose headquarters are in Paris, paid a visit to Norway, where she was warmly received like a head of state. She met with leaders of all major parties, spoke at the Foreign Relations Committee of Norway's parliament, and attended a Sunday prayer service at Oslo's most famous church, where she was received by a high official of the Norwegian Church. She also attended an enthusiastic gathering of 1,500 of her supporters in Oslo, and addressed dignitaries at the City Hall. In this speech, she outlined the goals and objectives of the Resistance she leads, and eloquently spoke of her vision for a democratic and peace-seeking Iran of tomorrow.

Mr. Speaker, I think it is extremely important for our leaders and citizens to better acquaint themselves with her views. In addition, Norway must be lauded for its firm stance against the Iranian regime, and its support for Maryam Rajavi. I, therefore submit a copy of the text of Mrs. Rajavi's speech, to be printed in the CONGRESSIONAL RECORD.

TEXT OF THE REMARKS BY MRS. MARYAM RAJAVI, THE IRANIAN RESISTANCE'S PRESIDENT-ELECT, OSLO, NORWAY, OCTOBER 31, 1995

Ladies and gentlemen, dear friends, I would first of all like to thank Mr. Lingas, Mrs. Nybaak and all those in the Committee in Defense of Human Rights in Iran for all the work they have done to defend the rights of the Iranian people.

It is a source of great pleasure to be among the leading thinkers, intellectuals and representatives of a nation which for many years heroically resisted against foreign occupation and the reign of Hitler's fascism, liberated itself and instituted a society which is doubtless one of the most advanced democracies in the contemporary world. It is a society wherein women have a leading role in guiding its affairs, in and of itself the most realistic and best hallmark of democracy in today's world.

I am therefore confident that I am speaking to an audience which well understands the suffering of an enchained nation of 70 million, who for the last 16 years have been subjugated by a brutal religious fascism that has eliminated all vestiges of democracy and popular sovereignty. Norway's policy of distancing herself from the conventional conciliatory approach to the Khomeini regime, and paying heed to human rights and the resistance in Iran, assures our people that democracy and justice have an adamant advocate in today's world. The formation of the Norwegian Committee in Defense of Human Rights in Iran itself best reflects this commitment to and respect for the principles of human rights and justice by Norway's political, cultural, social, artistic and literary personalities.

Allow me to use this opportunity to outline the issues which, in my view, must be considered by the international community. What is transpiring in my fettered country, Iran, namely the reign of the mullahs' medieval religious dictatorship, not only represents a national catastrophe for all Iranians, but is also a source of a global problem and danger threatening stability and peace the world over.

Firstly, the mullahs have extended their state-sponsored terrorism across Asia, Africa, the United States, and Europe, including Germany, Switzerland, Italy, France and Norway.

Secondly, the clerics are exporting the cultural and political dimensions of fundamentalism, especially to Islamic countries and various Muslim societies. This is followed by an expansion of the fundamentalist extremist networks.

Thirdly, they oppose peace and advocate turmoil everywhere, as reflected in their regime's enmity to the Middle East peace process.

Today, virtually everyone is aware of the crimes perpetrated by Khomeini's anti-human regime within and without Iran. You know that the clerics have executed 100,000 of the best youth of my country purely for political reasons, for opposing the ruling dictatorship, and for defending freedom and democracy. The names and particulars of 16,000 of them have been compiled in this book. The victims include intellectuals, university students and faculty, high school students, teenage girls, pregnant women, elderly women, businessmen, merchants and even dissident clerics. In many cases, several members of a single family have been executed. Many more have been subjected to the most barbaric, medieval tortures.

Nor is the appalling predicament of women under the mullahs' rule a secret. Inconceivable atrocities are committed against women on the pretext of combating improper veiling. Everyday, thousands of women are lashed, sent to prisons or viciously assaulted and insulted. These crimes are unprecedented in other areas of the globe. The rulers of Iran brazenly carry out hideous crimes under the banner of Islam. According to Khomeini's fatwa, virgin girls are raped by the Revolutionary Guards prior to execution to prevent them from going to heaven. Those condemned to death have their blood drained before execution.

The export of terrorism, fundamentalism and belligerence of this regime, under the banner of Islam and revolution, is another well-established fact. It is evident in the regime's insistence on perpetuating the unpatriotic war with Iraq, which lasted some eight years and left millions dead or wounded and $1000 billion in economic damages on the Iranian side alone; in its enmity to Middle East peace; in its interference in the affairs of Islamic countries; in its decree to murder foreign nationals; and in its more than 100 terrorist operations throughout the world. The echo of these despicable-criminals' bullets still lingers in this city.

And it is clear to everyone that the regime has adopted policies of setting up intelligence, propaganda and terrorist networks in other countries; allocating astronomical funds to procure conventional arms, and biological and chemical weapons of mass destruction; and especially of endeavoring to obtain nuclear weaponry—all to back up the export of fundamentalism and to secure the survival of the religious dictatorship.

I shall refrain from further elaborating on the regime's crimes and conspiracies. In the time that I have, I wish to address a pivotal issue: How to confront this regime and the fundamentalism and terrorism it fosters. This issue is key, because on the international level, all approaches and policies vis-a-vis the mullahs' religious, terrorist dictatorship have proven futile. Indeed, in many cases they have been taken advantage of by the regime, which has been the only party to benefit from them.

For many years, particularly following Khomeini's death, Western countries indulged in a guest for a moderate current within the regime. They pinned their hopes on improving the regime's behavior through economic engagement. Simultaneously, a number of big powers invested in a policy of appeasement in an attempt to ingratiate themselves with Tehran, and prevent the export of terrorism to their own countries. Consistent with this approach, the official European policy toward Iran today is one critical dialogue. The experience of the past 16 years has confirmed, however, that none of these policies has borne fruit. They have failed to have any impact on the conduct of this international outlaw.

A symbolic and quite fitting example is the inhuman and anti-Islamic fatwa against Salman Rushdie. About seven years have passed since the decree was issued. All European efforts to change the status quo through dialogue, discussion and economic and political incentives have proven futile. Khomeini's successors have time and again reiterated that the decree must be implemented. For seven years, the regime has used the Rushdie affair as a bargaining chip in seeking more concessions from the West. The atrocities that this regime perpetrates against its own citizens are beyond description. Needless to say, the moderation of such a regime is but a mirage.

It is ironic that when even the Khomeini regime's first prime minister, Mehdi Bazargan, acknowledged in an interview with the German daily Frankfurter Rundschau in January that the mullahs have the support of less than five percent of the Muslim people of Iran, and lack both religious and social legitimacy, the international community nevertheless allows Tehran to promote their evil anti-Islamic, anti-human objectives among Muslims elsewhere, turn Western countries into hunting grounds for their opponents, and blackmail European countries by staging terrorist operations on their soil to promote their evil anti-Islamic, anti-human objectives among Muslims elsewhere, turn Western countries into hunting grounds for their opponents, and blackmail European countries by staging terrorist operations on their soil. Indeed, the extensive economic and political support provided by a number of countries, coupled with the kowtowing by certain circles to the terrorist mullahs' political blackmail, have been instrumental in prolonging this regime and delaying the establishment of democracy in Iran by the Iranian people and Resistance.

MISPERCEPTIONS ABOUT MULLAHS, SOURCE OF APPEASEMENT

In my view, beyond economic interests or fear of terrorism—which in many cases justify and give impetus to them—these misguided policies and drastic miscalculations stem from the lack of a correct, objective understanding of the nature of the Khomeini regime, and of the roots and extent of its fundamentalist, backward outlook. For precisely this reason, these countries lose sight of the regional and international implications of their approach. This misperception of the regime's durability is compounded by a comparable deficiency in objective appraisals or knowledge of the legitimate, democratic alternative to this regime, which is capable of bringing democracy to Iran.

Although there are fundamental differences between the Khomeini regime and Hitler's fascism, in terms of their political, economic and military capabilities, a parallel may nonetheless be drawn with the conciliatory treatment of Germany by some European countries in the years preceding the Second World War. This policy of acquiescence, embodied in the Munich agreement of 1938 or the relations between the Soviet Union and Hitler's Germany until even the first or the second year of the war, stemmed from the notion that certain concessions at the expense of other countries, who were abandoned in their Resistance against fascism, would stop German expansionism. Hitler benefited greatly from the policy, which enabled him to advance his goals.

Today, due to the experience of the past 16 years, a more profound understanding of the clerical regime's nature has emerged and, in a few cases, a more realistic policy has been adopted. Here, allow me, on behalf of a Resistance movement which for 16 years has waged an all-out cultural, ideological and political struggle against this regime, to briefly share with you our knowledge and awareness of this regime. This understanding and our consequent principled policies have enabled us to resist against the most ruthless dictator of contemporary history and prevent him from casting us aside. In fact, we have experienced continuous expansion and growth.

Misperceptions of the regime have not only led to mistaken policies by the international community. For the same reason, many Iranian political parties and groups regrettably failed to stand up to this religious, terrorist dictatorship, surrendered to it, or were eliminated altogether from the Iranian political landscape.

THE NOTION OF THE VELAYAT-E FAQIH

In reality, the outlook and conduct of Khomeini and his regime neither belong to our age, nor compare to most dictatorships that have emerged in the twentieth century. This regime represents the most retrogressive form of medieval, sectarian dictatorship. Having failed to alleviate any of Iranian society's problems or needs, it is attempting to impose itself under the guise of Islam on the people of the world, especially Muslims.

The mullah's religious dictatorship is based on the philosophy of Velayat-e Faqih, presented in its present form for the first time by Khomeini. He explains his views in his book, "Islamic Rule or Velayat-e Faqih," written in the 1960s. His theory is based on the one hand upon imposing absolute authority over the populace, and on the other upon extending this authority to all Muslims, i.e. "exporting revolution."

In his book Khomeini states: "The Velayat-e Faqih is like appointing a guardian for a minor. In terms of responsibility and status, the guardian of a nation is no different from the guardian of a minor." These are Khomeini's exact words. During his reign, he repeated several times that if the entire population advocated something to which he was opposed, he would nevertheless do as he saw fit.

He went as far as to write: "If a competent person arises and forms a government, his authority to administer the society's affairs is the same as that of Prophet Muhammad. Everyone (meaning Muslims everywhere) must obey him. The idea that the Prophet had more authority as a ruler than His Holiness Imam Ali [the first Shi'ite Imam], or that the latter's authority exceeded that of the Vali is incorrect."

With these words, Khomeini granted himself the same authority as the Prophet of God, but he did not stop there. Twenty some years later, in 1988, he wrote an open letter, published in the regime's dailies, lashing out at some views suggesting that "government authority is contained within the bounds of divine edicts." Khomeini wrote: ". . . The Velayat takes precedence over all secondary commandments, even prayer, fasting, and the hajj. . . . The government is empowered to unilaterally abrogate the religious commitments it has undertaken with the people. . . . The statements made, or being made, derive from a lack of knowledge of divinely ordained absolute rule. . ."

In this way, Khomeini propagated the notion of the Velayat-e Motlaqeh Faqih (absolute rule of the jurist), something which his heirs and theoreticians within the regime went to extremes to stress. Mullah Ahmad Azari-Qomi, one of the most authoritative theoreticians of the Velayat-e Faqih notion, wrote: "The Velayat-e Faqih means absolute religious and legal guardianship of the people by the Faqih. This guardianship applies to the entire world and all that exist in it, whether earthbound or flying creatures, inanimate objects, plants, animals, and anything in any way related to collective or individual human life, all human affairs, belongings, or assets. . ."

This world view, as practiced by Khomeini and his regime, culminates in absolute ruthlessness and oppression when dealing with the issue of women. Azari-Qomi writes about the marriage of virgin girls thus: "Islam prohibits the marriage of a virgin girl without the permission of her father and her own consent. Both of them must agree. But the Vali-e Faqih is authorized to overrule the father or the girl." In other words, the Vali-e Faqih can forcibly marry a girl without her own or her father's consent. In this way, this regime not only applies maximum political suppression on the citizenry, but interferes in the most personal affairs of their lives, from compulsory veiling to varied forms of discrimination against women, to banning smiles and stoning women to death.

Misogyny is the most fundamental feature of the Velayat-e Faqih, and the structure of the clerical regime's system rests upon dehumanizing women. As far as women in the work force are concerned, their opportunities are less than 10% of those of their male counterparts. This ratio decreases as the quality of the job or its political nature increases. No women manage the affairs of the society, particularly its political leadership. The regime's constitution absolutely and unequivocally bans women from judgeships, the presidency and leadership.

All evaluations and laws within this regime are based on the precept that women are weak and the property of men, for which reason they have no place in leading or managing the society. A woman must stay at home, rear children and cook, the tasks for which she has been created.

The official, legal deprivations and restrictions, and even statistics represent only a small part of the gender apartheid. Its more significant aspect is in the spirit of the anti-human relationships emanating from this regime, to the extent that one woman wrote in a state-controlled daily that it makes women regret that they were created as women in the first place. Indeed, it is these relationships which force women, especially young women, to set themselves on fire in utter despair under the mullahs' reign.

The mullahs' misogyny has given rise to horrifying crimes. The wholesale execution of thousands of women, even pregnant women, is unique to this regime. The flogging and torturing of women in public, execution methods such as firing bullets into their wombs, the "residential quarters" in prisons designed to totally destroy these defenseless women, and the multitudes of tortures and atrocities invented by the mullahs, demonstrate the unparalleled savagery of their enmity toward women. Why does the regime so barbarously and relentlessly suppress women? What explains the clerics' misogyny?

The foundations erected by Khomeini's religious despotism and the installation of the regime's suppressive institutions and forces have been fortified by promoting and reinforcing gender-based distinctions and discrimination. In the name of religion and such pretexts as improper veiling, the clerics suppress women, eliminating them from the social scene.

This enmity toward women is not, however, merely a by-product of the mullahs' reactionary beliefs. If the clerics show the slightest laxity in their misogyny and gender-apartheid, allowing women to enter the social arena free of the reactionary restrictions unique to this regime, the mullahs' suppressive organs and institutions throughout society would lose their raison d'être. The clerical regime, a religious dictatorship, would subsequently lose its vitality, because the dynamism and conduct of the repressive forces in defending the theocracy is, before anything else, rooted in safeguarding gender-distinctions under the pretext of defending "Islamic rule."

As far as the regime's foreign policy and the export of terrorism are concerned, both Khomeini and his successors pursue specific goals, unequivocally defined. Following Khomeini's death, Rafsanjani stressed: "Islamic Iran is the base for all Muslims the world over," adding that Khomeini "truly and deeply hated the idea that we be limited by nationalism, by race, or by our own territory." Elsewhere he says: "Iran is the base of the new movements of the world of Islam . . . The eyes of Muslims worldwide are focused here . . ."

The book Principles of Foreign Policy of the Islamic Republic of Iran, published by the Iranian regime's foreign ministry, states: "Islam recognizes only one boundary, purely ideological in nature. Other boundaries, including geographic borders, are rejected and condemned."

After Khomeini's death, his son Ahmad said: "Islam recognizes no borders . . . The objective of the Islamic Republic and its officials is none other than to establish a global Islamic rule . . ."

The mullahs ruling Iran dream of a global Islamic caliphate, much like the Ottoman Empire. They say the Islamic revolution will suffocate within Iran's borders and cannot be preserved without the export of revolution. Mohammad Khatami, Rafsanjani's former Minister of Islamic Culture and Guidance, who is also known as a moderate within the regime, writes: "Where do we look when drawing up our strategy? Do we look to bast (expansion) or to hefz (preservation)?" Particularly after the collapse of the Soviet Union, the mullahs refer to the split between Trotsky and Stalin in the 1930's, noting that developments in the Soviet Union proved the validity of Trotsky's theory of a "permanent revolution," and that the only way to preserve the Islamic regime is to foment Islamic revolutions in other countries. The slogan of "liberating Qods (Jerusalem) via Karbala," with which Khomeini continued the Iran-Iraq war for eight years, reflected the strategy of "bast."

Ali-Muhammad Besharati, the current Interior Minister and former Deputy Foreign Minister, stresses that "the third millennium belongs to Islam and the rule of Muslims over the world." By Muslims, of course, he means none other than the mullahs. Mohammad-Javad Larijani, a key foreign policy advisor to Rafsanjani, said: "The true Velayat-e Faqih is in Iran. This Velayat is responsible for all of the Muslim world. . . One of its objectives is expansion. . ." Larijani is one of the regime's roving ambassadors who engages in a great deal of posturing for the Europeans. Rafsanjani recently sent him to Europe for some deceitful maneuvers concerning the Rushdie case. Khamenei's latest emphasis that the Jews must be expelled from Israel and Israel annihilated are also an extension of this policy.

I must emphasize here that the mullahs' outlook and theories about government and Velayat-e Faqih cannot be viewed as an interpretation of Islam. They are the first to offer such a criminal reading of Islam. This is unprecedented in Islamic history. Even many traditional clerics, more senior than or on par with Khomeini in Qom and Najaf seminaries, were strongly opposed to the Velayat-e Faqih perspective. In reality, the mullahs interpret Islam solely in terms of the needs and interests of their dictatorship.

The fact is that Khomeini and his clique lack any historical or political ability to govern a big nation with several thousand years of history and a rich culture. To stay in power, they see themselves as increasingly compelled to employ repression and religious tyranny insider the country, and export terrorism and fundamentalism, in an effort to expand the geographic sphere of their influence. For this reason, after Khomeini's death, contrary to all expectations that his heirs would pursue a "moderate" path, they were forced to fill the void of Khomeini's charisma, the unifying element which gave the regime religious legitimacy, with greater suppression and export of fundamentalism. The Rafsanjani regime's record of terrorist activities abroad and interference in Islamic countries and the affairs of Muslims elsewhere is far worse than when Khomeini was alive.

HOW DID KHOMEINI BECOME A NATIONAL & GLOBAL THREAT

Allow me to also refer to how the regime is taking advantage of Iran's cultural, political, human and geo-strategic potential in pursuing its evil objectives:

For 14 centuries, since the advent of Islam, Iran and Iranians have always played a key role in shaping and advancing the policies and cultural identity of the Islamic world. Iranians wrote most books on Shi'ite and Sunni *Figh* and *Hadith*, on Arabic grammar and on interpreting the Quran. In philosophy, logic, mathematics, medicine, astronomy, chemistry and other sciences of the era, Iranian scientists led the Islamic world. The books of Avecina, the renowned 11th century philosopher and physicians, were translated into many languages and taught in Western universities until recently.

With an eye to Iran's vast land mass, geopolitical position, population and many other factors, the country enjoys an exceptional position in the Islamic world. In the last 14 centuries, it has had a tremendous impact on Islamic countries. The mullahs have made maximum use of this potential to export their fundamentalism and advance their objectives. In other words, if a regime much like Khomeini's has assumed power in any other Islamic country, it would not have enjoyed such stature. It is not without reason that Larijani says Iran is the only country capable of leading the Islamic world. This explains why the clerical regime in Tehran serves as the heart of fundamentalism throughout the world, just as Moscow did for communism.

Many fundamentalist currents existed in Iran or elsewhere before Khomeini's ascension to power, but they were nothing more than isolated religious sects. With the establishment of an Islamic reign in Tehran, they were transformed into political and social movements, and into serious threats to peace, democracy and tranquility.

In fact, the Khomeini regime uses propaganda, political, financial, military and ideological assistance, and beyond all these, its status as a role model and as a regional and international source of support, to direct Muslims' religious sentiments toward extremist and undemocratic trends. The mullahs exploit Islam's spirit of liberation and its call for justice and freedom, to further their medieval rule. Instead, consistent with the experience of the Resistance, the sentiments of Muslims and Islam's freedom-seeking spirit could have been and can translate into a modern and democratic movement which, while respectful of Islam, aspires to a secularist, pluralist form of government.

WHAT'S TO BE DONE?

So far, I have referred to the internal and international conduct of the Khomeini regime. Now, I wish to address the solution.

On the basis of our 16-years of experience in the struggle for democracy, the only solution is to offer a political and cultural alternative to the Khomeini regime. I say political because this alternative must overthrow the regime and replace it with a democratic, secular government. The head of the viper is in Tehran and unless crushed there, there is no hope of uprooting fundamentalism.

I say cultural because this alternative must present a democratic Islam, with a peaceful, tolerant culture compatible with science and civilization, to confront the mullahs' Velayat-e Faqih theory. Only thus can it prevent the mullahs from imposing themselves as the representatives of Islam in the minds of the people of Muslim countries.

Even before Khomeini's rule, we understood the danger of the Velayat-e Faqih, because we knew the mullahs and Khomeini intimately. While in prison in the final months before the shah's fall, the Mojahedin leader, Mr. Massoud Rajavi, repeatedly pointed to backward religious currents as the main threat to the democratic anti-shah movement and warned against the dangers of religious fascism. In 1979, Khomeini succeeded in usurping the leadership of the Iranian people's antidictatorial revolution, relying on *marja'iat* (religious leadership) for religious legitimacy, deceit and the people's lack of experience and awareness. The shah's widespread clamp down on organizations fighting for freedom, including the arrest and execution of their leaders, assisted Khomeini along the way. Relying on the overwhelming support of the people, who longed for freedom and independence, he became a dangerous force which destroyed everything in his path.

From the onset, the Mojahedin, as a democratic Muslim force, saw it incumbent upon themselves to expose Khomeini's demagoguery and false portrayal of Islam. They thus represented a cultural, ideological and political challenge to the ruling mullahs, and embarked upon a relentless campaign to explain the facts to the people. For the first time, there was a cultural alternative to the Khomeini regime.

What we knew of Islam, the Quran and the life of the Prophet of Islam (peace be upon him) was totally contrary to the behavior of the new rulers. Like all great religions, Islam is the religion of compassion, tolerance, emancipation and equality. The Holy Quran often states that there is no compulsion in religion. In so far as political and social life are concerned, it stresses consultation, democracy and respect for other people's views. Islam seeks social progress, and economic, social and political evolution.

Fourteen centuries ago, when people in the Arabian peninsula were burying their girl children alive, Islam accorded women equal political, social and economic identities and independence. The Prophet of Islam profoundly respected women. The first Muslim was a woman, and four out of the ten original Muslims were women.

After two and half years, the Resistance's endeavors paid off. Cracks appeared in Khomeini's religious legitimacy, and his use of the weapon of Islam began to lose its effect. No longer did the people view Khomeini and the ruling mullahs as infallible. To prolong his rule inside the country, Khomeini had resorted to a blatant crackdown. Everyone knew that the Mojahedin, the largest opposition force seeking freedom, were Muslim themselves and that Khomeini's quarrel with them was not over Islam, but over preserving his dictatorial rule. Our message defended political freedoms and the people's individual and social rights, and opposed dictatorship and the regime's misuse of Islam.

Mr. Rajavi lectured on Islamic teachings in one of Tehran's largest universities in 1980. 10,000 university students and intellectuals took part every week, and tapes and transcripts were distributed in the hundreds of thousands. The discourses exposed Khomeini's reactionary views promulgated under the banner of Islam, discrediting him among the religious youth. In a ruthless onslaught to curb the extensive influence of the Mojahedin in all universities, in spring 1980 Khomeini closed down all universities for the years to come on the pretext of a cultural revolution. For our part, we have continued our efforts in this respect as one of our primary tasks.

Another of the fundamental aspects of this cultural struggle has been to target the heart of the clerics' Velayet-e Faqih culture, namely the issue of women and mullahs' ultra-reactionary, misogynous treatment of them. In this regard, we did not stop at simply exposing the clerics. In other words, our women, in diametric opposition to Khomeini's culture, advanced through unprecedented effort and activities and assumed heavy responsibilities at the highest levels of the Resistance.

With its unique perspective on this issue, the Iranian Resistance succeeded in incorporating women in the front lines of the movement and in the highest levels of military command, as acknowledged by most observers. In the political arena as well, we are witnessing the ascension of women to important political positions. At the organizational and management levels, the highest positions are occupied by woman who have shown that when given the opportunity, they can excel in assuming responsibility. Today, 52% of members of the Resistance's parliament are women. Women fill the majority of positions within the National Liberation Army's high command. The leadership of the Mojahedin consists of a 24-member, all women council. The women of the Resistance have thus proven that, just like men, before all else it is their human qualities and consequent social and political abilities which count. They have righteously overcome all obstacles in performing their duties.

Hence, a glance at the regime and the Resistance quickly reveals two distinctly opposite cultures. Diametrically opposed to the Khomeini regime, whose very existence depends on their suppression and elimination of women, the victory and advancement of the Resistance would have been impossible without woman and their role in the leadership and command. The first to attest to this fact are the male activists, combatants, and commanders, who are best aware of the glorious path that has been traversed.

It is also significant that the Resistance's elimination of the most persistent and profound form of discrimination against the most oppressed sector of society, namely women, and its fostering of relationships among people which allow women to attain their legal and social rights, is the best guarantee for democracy and pluralism in the future Iran.

A DEMOCRATIC ALTERNATIVE

Obviously, we did not stop at introducing a cultural alternative, we also gradually established a political alternative. In 1980, during the first presidential elections, Massoud Rajavi was a candidate for president. All religious and ethnic minorities, the youth, women, and opposition groups and parties supported Mr. Rajavi's candidacy. Sensing the danger, Khomeini issued a fatwa a few days before the election, banning him as a candidate because he had not voted for the Velayat-e Faqih constitution. Several months later, during the elections for parliament, the Mojahedin and other democratic forces announced a joint slate. This time, despite the many votes cast for them, the regime prevented even one of the Mojahedin candidates from taking office through widespread rigging. In each of the election rallies of the Mojahedin in Tehran and other cites, hundreds of thousands took part.

In the first two and a half years of Khomeini's rule, the *Pasdaran* (Revolutionary Guards) killed 50 supporters and members of the Mojahedin in the streets. They arrested several thousand, subjecting them to brutal torture. The regime also dispatched gangs of club-wielders into the streets to clamp down on dissidents. In contrast, the Mojahedin did not fire a single bullet, relinquishing their legitimate right to self-defense to prevent more violence and bloodshed. The Mojahedin's goal was to resolve the political problems through peaceful means.

On June 20, 1981, in protest to the repression, the Mojahedin organized a peaceful demonstration. In a short span of time, some 50,000 Tehran residents joined the march. Khomeini issued a fatwa to suppress the demonstration. Guards opened fire indiscriminately, and hundreds were killed or wounded. Thousands were arrested and executed the same night in groups of several hundred.

Khomeini and other officials of his regime had realized early on, even before the overthrow of the shah, that the Mojahedin could stand against both a religious and political dictatorship, due to their freedom-seeking and tolerant interpretation of Islam and their popularity and social base. In other words, the Mojahedin were the antithesis to the clerics. In summer 1980, several days after Mr. Rajavi spoke to 200,000 Tehran residents in Amjadieh sports stadium, condemning the slaughter of the Mojahedin and dissidents in other cities, Khomeini reacted by saying that the enemy was "neither in the Soviet Union, nor in the United States, nor in Iranian Kurdistan, but right here—in Tehran."

In reality, the religious dictatorship was trying to portray democracy and popular sovereignty as contrary to Islam. In consequence, it could suppress any democratic initiative on the charge of being anti-Islamic. The mullahs relied in this tactic on the people's unawareness. Khomeini was, however, well aware that the Mojahedin would thwart his pretenses about Islam and religious legitimacy. Thus, he spared no effort against the Iranian Resistance, because he knew that if could eliminate us, he could overcome his other problems and stabilize his rule. Among the crimes the Khomeini regime perpetrated to destroy its main enemy, I can mention his order for the mass execution of all members and supporters of this Resistance, purely for being affiliated with the movement, his declaration that their lives and properties are fair game, and the assassinations of the Resistance's activists abroad.

In this way, Khomeini, who in 1979 was welcomed as a religious and political leader by millions in Tehran, continued after June 20, detested, only through the force of the bayonet, torture and execution. The people, meanwhile, were chanting death to Khomeini. As such, the only avenues which remained for the freedom-seeking and patriotic people and forces was to rid themselves of the mullahs to establish democracy.

In order for the Resistance for freedom to achieve maturity, a political alternative—a vast coalition of opposite groups—was needed. Although the basis for such a coalition had taken shape in the first presidential elections and the parliamentary elections, after the start of the extensive, all-embracing suppression, this coalition had to be formalized and transformed into a political alternative. Thus, on July 21, 1981, the National Council of Resistance was formed with the objective of establishing democracy in Iran.

After 14 years, the Council, the longest lasting democratic, political coalition in Iran's contemporary era, has 560 members. A significant number of other committed personalities, whose membership has recently been approved, will soon join it. The Council encompasses the democratic opposition, the representatives of ethnic and religious minorities, nationalist figures, and Muslim, secular and socialist leaders. It acts as the Resistance's Parliament.

The Council's 25 committees will serve as the basis for the future coalition government following the mullahs' overthrow. In office for a maximum of six months, the Provisional Government's primary task is to hold free elections for a Legislative and Constituent Assembly. According to the Council's ratified decisions, in tomorrow's Iran, elections and the general vote will constitute the basis for the legitimacy of the country's future government. Freedom of belief, press, parties and political assemblies is guaranteed, as are the judicial security of all citizens and the rights stipulated in the Universal Declaration of Human Rights.

All privileges based on gender, greed, and beliefs will be abolished and any discrimination against the followers of different religions and denominations will be banned. No one will be granted any privilege, or discriminated against, on the basis of belief or non-belief in a particular religion or denomination.

In tomorrow's Iran, the national bazaar and capitalism, personal and private ownership and investment toward the advancement of the national economy will be guaranteed. As for foreign policy, Iran will advocate peace, peaceful coexistence, and regional and international cooperation.

According to the Council's ratified plans, in tomorrow's Iran, women will enjoy equal social, political, cultural and economic rights with men. They will have the right to elect and be elected in all elections, and the right to freely choose their occupation, education, political activity, travel, and spouse, Equal rights to divorce and freedom of choice in apparel will be guaranteed for them.

THE REGIME'S CURRENT STATE

In this way, 16 years after the mullahs' rule, the overwhelming majority of people, from women to workers, to employees to university faculty, intellectuals and even the bazaar merchants and clergy, who were hitherto considered the traditional basis of the regime, are deeply disaffected. Unemployment grips 50% of the labor force. With an inflation rate of over 100%, some 80% of the people live below the poverty line. Corruption and astronomical embezzlement by the regime's officials, some of which has been exposed, have eliminated any credibility the regime might have had.

In a word, the abysmal economic, social and ethical record of the regime and 16 years of resistance by a democratic alternative against it, have left no legitimacy or popular base for this regime. In the eyes of the Iranian people, the regime and its leaders are a bunch of criminals, thieves and corrupt individuals. Khomeini's death and the death of the last remaining grand ayatollahs; the lack of the minimum qualifications in Khamenei as the regime's religious leader; and the absence of an acceptable Marjá-e Taqlid (source of emulation) who would support the regime have either eliminated or seriously undermined the last vestiges of the regime's religious legitimacy among the most retrogressive sectors of the society and the most traditional forces supporting it.

Today, religious fundamentalism does not exist as a social issue or problem in Iran. We are, rather, facing a form of fascism under the guise of religion which holds the reins of power. It is not without reason that today only 30% of the regime's Revolutionary Guards, its main suppressive arm, are volunteers, whereas at the end of the Iran-Iraq war in 1988 and Khomeini's death in 1989, more than 70% were volunteers ideologically loyal to the regime. Even those remaining are receiving greater material incentives, and continue essentially because it is a well-paying job. In short, they have been transformed from a volunteer army to a suppressive mercenary force which fights against the people for its own survival.

On the international scene, however, the situation is very different. Although word of the regime's difficulties and internal crises and crimes against the people has inevitably reached the outside world, the policies of other countries toward the regime have not allowed the Iranian people's all-out Resistance and more importantly, that Resistance's cultural and ideological challenge to the mullahs to extend beyond Iran's borders.

For this reason, the regime has done its utmost to tarnish the image of the Resistance at the international level and forestall its advances, through dirty deals and agreements. This is one of the primary issues of discussion between the regime and its foreign interlocutors. The regime pursues its policies and prevarication against the Resistance in international arenas and foreign countries through its own operatives or through persons who have acquiesced but pose as oppositionists.

The regime's extreme sensitivity and hysteric reactions to the international successes and political relations of the Resistance with other countries, governments and parliaments confirm that this is its Achilles heel. This also explains the repeated appeals by the regime's leaders and diplomats to other governments to prevent the presence of the members and sympathizers of the Resistance. By the same token, the economic relationships between Western countries and Tehran's rulers, and the resultant petro-dollars are used only for domestic suppression, weapons purchases and the quest to obtain nuclear arms and export terrorism and fundamentalism. A significant portion of the revenue has also been diverted into the mullahs' foreign bank accounts. For their part, the Iranian people have received nothing but suppression and greater destitution.

The extensive economic ties with this regime have not only failed to contain fundamentalism, but have also emboldened the regime to continue these policies. Experience has also shown that the clerics use these connections as a cover to undertake more terrorist and fundamentalist activities abroad.

In a word, the 16-year experience of the Iranian Resistance in dealing with the fundamentalist rulers of Iran and the experiences of international politics regarding Iran under the banner of the mullahs demonstrate that:

Any policy based on appeasing this regime is doomed to failure. Laws governing a religious dictatorship are different from the experiences and laws applying to the world community as we approach the end of the 20th century. This regime's laws emanate from the Middle Ages. Decisiveness is the only language with which one can and must communicate with this regime.

Any notion that would equate the conduct of the Khomeini regime with Islam is a strategic and dangerous mistake from which only the mullahs benefit. By publicizing, supporting or recognizing the democratic alternative, which has the greatest respect for Islam as the religion of the majority of the Iranian people, and which at its core encompasses a Muslim democratic movement, is the only way to deny the mullahs the means of characterizing and exploiting opposition, hostility and decisiveness on the international level toward them as enmity to Islam.

In this way, the world community and Western countries will not be compelled to surrender to the blackmail of Khomeini's anti-human regime under the banner of Islam, to accept its double-talk on the cultural and religious distinctions of Iran and Islamic countries, or to tarnish the universal principles of human rights by giving concessions to this anti-human regime. Regrettably, the regime has recently received such concessions in a number of cases.

Furthermore, the people of different countries, especially Muslims, will to a great extent obtain the objective understanding of the Khomeini regime that the people of Iran have arrived at, and few will be beguiled by the regime's Islamic posturing and demagogic slogans.

In other words, exercising decisiveness against the regime and support for the Iranian Resistance constitute two fronts against fundamentalism. On the one hand, by standing firm against the regime and supporting the Resistance, the pace of change by the people inside Iran toward democracy and peace will be expedited. Thus, the material and spiritual source of support for fundamentalism will be eliminated and its heart will stop beating. On the other hand, by exposing the anti-Islamic nature of the mullahs in Western and Islamic countries and introducing the democratic alternative to this regime, the fertile grounds for the growth of fundamentalism will dry up. We have gained this experience with 100,000 martyrs.

Norway has more than once demonstrated that on the international level, it does not take yield to routine political and economic considerations in defending democracy and human rights. The courageous actions by your country to assist liberation movements and its pioneering role in resolving international issues, have given Norway a special stature among the people of different countries. In the same way, your firm stance vis-à-vis the religious, terrorist dictatorship ruling Iran has aroused enormous friendship and respect among the people of Iran.

On behalf of the Iranian people and their just Resistance for peace and freedom, I see it incumbent upon myself to call on the government and the people of Norway to impose comprehensive sanctions on, and sever diplomatic relations with, the mullahs and put the issue of Iran and the Resistance on the agenda of their foreign policy, and to convince especially the European countries to adopt a decisive policy and recognize the right of the Iranian people to resist against this anti-human regime.

And here, I want to address Norwegian women in general and those supremely qualified women in particular who have held positions of enormous political and social responsibility in your country for many years. I call upon you to rush to the aide of your sisters in Iran, who have ably resisted against the misogynous clerical regime and for their part have demonstrated that a woman is equally a human being. Of course, in this path, they have made great sacrifices and endured intolerable prisons and torture.

I also call upon the Norwegian youth, whose decisive role in the political life of Norway I have witnessed during my stay in your country, to come to the aid of the Iranian youth who are suffering from the most extreme pressures.

The Iranian people are determined to bring democracy and peace to their homeland. Doubtless, a democratic Iran is indispensable to the return of tranquility and lasting peace to the entire Middle East region and the uprooting of terrorism throughout the globe.

I again thank our dear friends, particularly the members of the Committee in Defense of Human Rights in Iran. I hope to soon be your host in the democratic Iran of tomorrow.

THE FBI DUE PROCESS IMPROVEMENT ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. WOLF. Mr. Speaker, I have learned some Federal Bureau of Investigation [FBI] special agents are accorded Merit System Protection Board [MSPB] appeal rights and others are not. This discriminatory policy offends traditional notions of fairness and should change. It is not fair that some agents receive MSPB appeal rights while others do not.

Because of my concern about this policy, today I will introduce legislation, the FBI Due Process Improvement Act, a copy of which appears at the end of my statement. This simple legislation would amend 5 U.S.C. §7511(b)(8) by striking "the Federal Bureau of Investigation," thereby extending certain procedural and appeal rights with respect to certain adverse personnel actions to all employees of the FBI. This legislation corrects the current disparate treatment of nonveteran special agents regarding their ability to appeal adverse personnel actions and ensures the due process rights of all employees of the FBI.

Special agents of the FBI are loyal civil servants dedicated to protecting Americans from the worst kinds of crime. Their jobs are difficult, demanding, and sometimes dangerous. They are often transferred to posts far from home which demands considerable sacrifice by FBI families. FBI agents are on the front line of the fight against crime. They endeavor to reunite mothers and fathers with their kidnaped children; they work to maintain the high integrity of the American political system by investigating public corruption; they protect all Americans from foreign and domestic terrorism; they risk life and limb infiltrating and thwarting the scourge of organized crime; they help keep drugs out of the hands of America's most vulnerable citizens; they investigate white collar crime, pornography, and a host of countless other Federal criminal offenses. In short, FBI agents are the often unseen but indispensable protectors of tranquility and freedom within the United States. The FBI motto—fidelity, bravery, and integrity—accurately characterizes the manner in which agents approach their important work.

These duties are performed by all agents, veteran and nonveteran alike. However, these two categories of agents receive disparate treatment when charged with misconduct. Military veterans are permitted full due process rights including the ability to appeal adverse personnel actions to the MSPB. In other words, veteran agents, who are in the excepted service, receive the same due process rights that employees in the competitive service receive. Nonveteran agents, also members of the excepted service, do not. This means that a veteran agent will receive an outside, independent, objective review of his/her case while a nonveteran agent will not. Is this fair? I maintain that it is not. Furthermore, female special agents are particularly hit hard by this policy because few have served in the military; thus they are not eligible to receive the MSPB appeal rights that veteran agents, who are predominantly men, do. Also, FBI agents should have the same MSPB appeal rights as Federal law enforcement agents who work for the Bureau of Alcohol, Tobacco and Firearms, Drug Enforcement Administration, Customs Service, and Border Patrol.

The Congress should eliminate this discriminatory policy because it serves no rational or useful purpose. The Congress should have rectified this disparity in 1990 when it enacted legislation (P.L. 101–376) which granted appeal rights to members of the excepted service affected by adverse personnel actions. The Committee on Post Office and Civil Service, in its report on the bill (H. Rept. 101–328), preserved the disparate treatment between preference eligible veteran agents and other agents because of the FBI's "sensitive mission." However, this conclusion was not supported by any concrete examples about how MSPB appeal rights would adversely affect the FBI's sensitive mission. In fact, if the denial of MSPB appeal rights is so vital to the sensitive mission of the FBI, the prudent course would have been to deny those rights to all agents, including preference eligible agents. Obviously, the grant of MSPB rights to all agents would not adversely impact the FBI's mission. The Bureau has long experience with the MSPB process used by its preference eligible agents, and there have been no reports of abuse of the system. Furthermore, there is no evidence that it has compromised the FBI's sensitive mission.

Mr. Speaker, there is no reason to maintain the distinction between preference eligible veteran and nonveteran agents. All agents, whether veterans or not, should be treated in a fair and equitable manner. As I have already stated, the FBI has considerable experience with the MSPB process available to veteran agents. I am not aware that there has been any particular abuse of the MSPB process by preference eligible agents. Likewise, I do not anticipate that expansion of MSPB rights to all agents would be burdensome on the FBI. There is no room in the modern FBI for discriminatory personnel policies; therefore, nonveteran agents should receive all the rights and enjoy all the privileges accorded to their preference eligible veteran counterparts.

Mr. Speaker, I urge our colleagues to cosponsor this important legislation. I also urge Congressman MICA, chairman of the House Civil Service Subcommittee, to move this legislation as expeditiously as possible. Finally, I ask unanimous consent to include a copy of this bill and a letter from the FBI Agents' Association in support of this legislation in the record immediately following my statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Due Process for FBI Agents Act".

SEC. 2. EXTENSION OF RIGHTS.

Section 7511(b)(8) of title 5, United States Code, is amended by striking "the Federal Bureau of Investigation,".

SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to any personnel action taking effect after the end of the 45-day period beginning on the date of the enactment of this Act.

FEDERAL BUREAU OF INVESTIGATION
AGENTS ASSOCIATION,
New Rochelle, NY, November 28, 1995.

Hon. Frank R. Wolf,
House of Representatives, 241 Cannon House Office Building, Washington, DC.

Re Due Process For FBI Agents Act.

DEAR CONGRESSMAN WOLF: This letter is to inform you that I have reviewed and the FBI Agents Association fully and enthusiastically supports your bill, the "Due Process For FBI Agents Act."

It is time to end all vestiges of disparate treatment by extending MSPB rights to all FBI agents.

Thank you for you willingness to take the lead on this most important matter.

Very truly yours,
ED BETHUNE,
General Counsel.

TRIBUTE TO BARBARA KERCHEVAL

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, I take this privilege of paying homage to a distinguished colleague of mine, Barbara Kercheval, who came to make a name for herself at Miami-Dade Community College, north campus, some 32 years ago. A very articulate gogetter, Ms. Kercheval came to the college, armed with an array of excellent academic background and heady recommendations from the University of West Virginia. Barbara's father, the well-known Dr. Kercheval, was a mainstay of the West Virginia football team for many long years.

Serving first as a departmental advisor, she came to be known on campus as the caring counselor who made it her duty and obligation to ensure that students were given the best advice possible in juggling their academic schedules to achieve timely excellent grades in the midst of their work outside the campus. For this effort she has been recognized by many professional organizations, which saw to it that Barbara's crucial and excellent contributions to the academic achievement of the students under her tutelage did not go unnoticed.

She also served as faculty advisor to the Alpha Chapter of Sigma Delta, taking her student-athletes to compete in various intercollegiate athletic events. She is known primarily as a first aid course consultant extraordiniare for many years, setting high standards for students training in cardiopulmonary resuscitation techniques. She later became the supervisor for the Campus' CPR teacher training program and developed the recertification procedure for all personnel in the division.

For over 20 years Barbara represented her department as faculty senator, serving as a member of the executive committee in the college faculty senate. Her committee work indicated collegewide student activities as a campus representative.

Needless to say, Barbara's greatest contribution to her field has been a positive influence on countless students at Miami-Dade Community College who remember her nononsense advocacy on behalf of both their academic achievement and athletic development. Her standards of commitment and service have now become legendary. Indeed, Barbara has genuinely represented the dignity and nobility of public service to the hundreds of students she mentored and who are now our Nation's productive and responsible citizens in their respective fields of endeavor.

THE 10TH ANNIVERSARY OF AREAWIDE SERVICES LIMITED

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. WYNN. Mr. Speaker, I rise today to pay tribute to Areawide Services Limited and its founder, Mr. Weldon "Mac" Howard.

Areawide Services is located in Camp Springs, Maryland, which is in my 4th Congressional District, and it is one of the true small business success stories in the country. Founded in 1985 with just 3 employees, many dreams and lots of bills, Areawide has grown into a company of nearly 700 employees with dreams fulfilled and a $11 million dollar enterprise. According to Mr. Howard or "Mac" as I and many of his friends call him, Areawide's success is attributed to their strategic market analysis, planning, and their continued vision to provide quality business. These are fine attributes for a small business person to describe itself. I know, however, that Mac and his employees are just simply dedicated to this company and have out hustled their competition. This is what it takes to survive as a small minority business person and Mac has done just that.

Since its inception, Mac has served as the company's president and Chief Executive Officer. Over the past ten years they have provided outstanding uniformed protection services to federal, state and private sector commercial facilities throughout the Washington Metropolitan area and Baltimore. Not surprisingly, during their ten year growth Mac has watched over the day to day operations of the company serving not only as the boss, but also as an instructor at the company's training school. This is the sign of an individual that does not just stand on the sidelines, but one that puts on the helmet and gets involved in the game.

If you look at the distinguished resume of this Lancaster County, Virginia native, you know that anything less than perfection is second best. Mac is a respected veteran of the Vietnam War and has received an Associates degree in Police Science from Northern Virginia Community College in Virginia and a Bachelors of Science Degree in Administration of Justice from American University in Washington, DC. Having educated himself overseas and in the States, this proud man went on to serve his government in another capacity. As a 15 year civil servant, Mac served in a number of capacities with the General Services Administration as a Federal Police Officer, Security Specialist, Chief of Field Operations, Chief Inspector, Chief of Contracts Guards Section and as a Contracting Officer. He also served with the U.S. Information Agency as a Limited Foreign Service Officer and as a Chief of Domestic Security. He culminated his distinguished career as Director of Security at the Federal Energy Regulatory Commission. I guess there was no surprise when he made the decision to open a security business.

I know Mac best from his service to the community, particularly the small business community. As the former president and current member of the Board of Directors for the National Business League of Southern Maryland, he has worked with many minority entrepreneurs to bring small business into Prince George's County. In addition to his work with NBL, Mac sits on the Prince George's County Maryland Private Industry Council's Board of Directors. In his continuing effort to serve the community, Mac began a scholarship program in his home county of Lancaster. This program awards a $1,000 scholarship to a high school senior.

It is clear to see that Mr. Howard's vision for excellence is demonstrated by his past service to his country and his service in the federal government as a civil servant. His vision continues to grow today through his excellent leadership in operating Areawide Services and his commitment to minority small business in Prince George's County.

On behalf of myself and all members of the U.S. House of Representatives I wish to congratulate Mac, his wife Rita and daughter Kathy on ten wonderful years of service.

RETIREMENT TRIBUTE TO LEVANDER LILLY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. TOWNS. Mr. Speaker, I am immensely pleased to acknowledge the retirement of Levander Lilly and to introduce him to my House colleagues. Like me, Levander is a native North Carolinian. He was raised in Albermarle and Badin, NC. Levander graduated from West Badin High School and received his undergraduate degree from Livingstone College, and his M.S. in social work from Adelphi University.

Mr. Lilly's career was a reflection of his commitment to his community and to providing assistance to those who needed it most. His first job was with the New York City Youth Bureau as a social worker for inner city youth. He maintained those duties for some 13 years, subsequently being named borough administrator for Brooklyn. After resigning from the bureau, he was appointed as the director of alcohol and drug prevention in School District 19. Four years later, the City chancellor of education appointed Levander to serve as the city-wide coordinator for drug and alcohol prevention programs; a program which serves over one million students and their families.

Building upon his career successes, Levander was appointed by the school chancellor to be his special assistant. However, always yearning for self-improvement, Mr. Lilly pursued an advanced degree in school administration from Fordham University. In 1987 he was appointed as school superintendent of School District 19 in the East New York section of Brooklyn. Levander retired from that post on August 22, 1995. I am honored to recognize his numerous and noteworthy achievements.

RECOGNIZING MARY LOU OLIVER

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BAKER of California. Mr. Speaker, public service is the hub of good government. Working for the common good, listening to all sides, exercising sound judgment: these are the principles by which a free republic functions.

These are also the principles by which Mary Lou Oliver has brought to her 12 years on the San Ramon City Council. As a three-time mayor and long-term member of the city council, Mary Lou has demonstrated the kind of selfless public service the people of the East Bay of San Francisco and our country at large demand and deserve from their leaders.

Mary Lou's leadership has led to funding for the San Ramon Community Center, the San Ramon Senior Center Park and Gardens, and the San Ramon Library. Her efforts in negotiating business development throughout the San Ramon area has yielded much fruit for the people in my district. From her work with the San Ramon Chamber of Commerce, the Dougherty Regional Fire Authority Board, and the Contra Costa General Plan Congress, to her love of the out of doors as shown in her commitment to the preservation of open space and trails for horses, Mary Lou has been one of the pioneers of effective, life-enhancing development in my home region.

Mary Lou Oliver merits the thanks of all who understand that no community can thrive without dedicated leadership. Mary Lou has provided that leadership, and has my best wishes as she moves into what Harry Truman called the highest calling any American can have—that of private citizen.

CONGRATULATIONS TO SATURN

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, 10 years ago, General Motors decided that the American automobile industry needed something new, something innovative, something which would sell more American cars in the marketplace. That something new was what is now known as the Saturn Corp., and it has forever changed the American auto industry for the better.

Dubbing itself as "A different kind of company," the Saturn Corp. has set the standard for customer service and satisfaction. Their television commercials tell their successful tale. How many other car companies can boast that over 10,000 of their customers converge on a small, rural community to eat bar-b-que and corn-on-the-cob and talk about the value and satisfaction of their car?

From replanting the trees uprooted in the process of building their Spring Hill, TN plant, to harvesting an 800 acre soybean crop, to creating the Citizen Environmental Council, to helping Spring Hill build a new high school, the Saturn Corp. has re-enforced its commitment to quality not only on the job but in their community as well. It's no wonder that nearby Columbia, TN, was recently rated by Business Week magazine as one of the fastest-growing rural communities in the Nation. This commitment to quality has certainly shown, in more ways than one.

When the first medium-red Saturn sedan was driven off the assembly line—following years of research and development and some 27 U.S. patents—Popular Science magazine named it one of "The Year's 100 Greatest Achievements in Science and Technology." This award was the first of many to follow, including the 1991 "Design and Engineering Award" from Popular Mechanics, the 1991 "Easy Maintenance Car of the Year" from Home Mechanix, and the 1991 AAA "Best Car" award.

But the Saturn Corp's success story certainly did not end there. Saturn vehicles have been named "Best in Class," "First for Safety," and "Tops in Resale Value" in the 1995 New Car Guide as contained in Kiplinger's Personal Finance Magazine. And while Saturn has pioneered the concept of producing affordable, quality vehicles, they astoundingly beat out such luxury cars as Infiniti, Cadillac, and Lexus, based on the results of the 1995 Sales Satisfaction Survey conducted by J.D. Power and Associates. It comes as no surprise, then, that Saturn's 1,000,000th care rolled off the assembly line earlier this year.

While the customer comes first with the folks at Saturn also prides itself in employee involvement. If there ever was a model for a hands-on approach in the workplace, then Saturn certainly is that model. The roughly 9,000 men and women who work for Saturn each have important roles and duties, whether that be designing an innovative motor to drive their latest model or making such that the wash rooms are clean for the next shift, everyone's job is important. For them, they are producing more than a mere car—indeed they view their work as a reflection of what the rest of America ought to be like. That is, functioning as one unit, as a team, and working together to produce the best product they can while always remembering that somewhere, somebody just like them is going to own and drive that car.

Mr. Speaker, there are many lessons for each of us to learn coming from the Saturn Corp., lessons that can't be taught at school or bought in a self-help book. I'm proud to say that I represent many of the good people who work there.

TRIBUTE TO FRANK THURBER

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, it gives me great honor to congratulate a distinguished colleague of mine, Frank Thurber, who has become one of the important pillars of Miami-Dade Community College for some 30 years. Beginning his stint in 1965, Mr. Thurber was deeply immersed in both his teaching role and coaching expertise as a distinguished member of the College's Division of Human Performance and Intercollegiate Athletics.

Under the tutelage of nationally-known baseball coach, Dr. Demie Maineri, he served with distinction from 1965 to 1969, honing the skills of many young players who went on to become prominent members in both the American and National Baseball Major Leagues. Promoted to take the helm of the Lady Falcon Softball Team for 11 years hence, Mr. Thurber brought his team for the Annual State Softball Championship in 1987 to 1989. During his coaching tenure, the program underwent a metamorphosis from slow to fast pitch softball.

Well liked for his pragmatic approach to combining the art of teaching academics and athletics, he developed several innovative techniques in a variety of classes verging from First Aid-CPR to Health Analysis and Improvement, Nautilus and Archery, along with the pioneering of Sports Officiating. The numerous awards and accolades with which he has been honored by various organizations in our State represent an unequivocal testimony of the utmost praise and deep gratitude he enjoys from so many people in our community.

A graduate of the University of Miami, Frank was the main cog at second base for the nationally-ranked Hurricanes Baseball Team with an impressive .324 hitting average for four seasons. As he now draws to a close his distinguished career, he will look forward to enjoying the fruits of a well-deserved retirement with his wife, Cyndy, along with their three children.

IN HONOR OF DANIEL WEBSTER COLLEGE'S 30TH ANNIVERSARY

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BASS. Mr. Speaker, I rise today to pay tribute to Daniel Webster College in Nashua, NH, as it celebrates its 30th anniversary. This outstanding institution of higher learning has been recognized nationally as a leader in providing quality educational opportunities for thousands of young people.

Daniel Webster College was founded in 1965 by former U.S. Senator, Warren B. Rudman, James N. Tamposi, Sr., and Harry B. Sheffield. Originally named the New England Aeronautical Institute, the school was christened Daniel Webster College in 1978. Its mission is to provide career-oriented education, integrating academic instruction with the development of professional competencies in the areas of aeronautics, business, computer sciences, and engineering.

This fine school opened in September 1965 with 25 students. The ensuing years saw tremendous growth in the number of programs and students as well as its physical size. In 1981, the college opened its own flight center. Innovations in its aviation curriculum have allowed Daniel Webster College to offer the first college-based flight training program integrating motorized gliders and advanced aerobatic trainers with standard and complex training aircraft.

Advances in the college's business program led to recognition by Newsweek as one of the top undergraduate business programs in the country, a distinction the college has maintained every year since.

Daniel Webster College has contributed to the lives and educational progress of many people in its last three decades. Hard work and dedication by the college's teachers and students have made it a valued resource in southern New Hampshire and all of New England.

Mr. Speaker, I ask all of my colleagues to join me in congratulating Daniel Webster College on 30 years of excellence and in wishing them many more years of success well into the next century.

CRIMINAL PENALTIES FOR CRACK COCAINE POSSESSION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on November 25, 1995.

Good reasons exist for the courts to punish crack cocaine possession more severely than possession of a comparable amount of powdered cocaine. Some of the reasons haven't received the emphasis they deserve.

Crack is a form of cocaine that has been processed to allow it to be more easily ingested. Federal sentencing guidelines make it a more serious crime to push crack than to push a comparable amount of cocaine powder even though the chemical composition of the two is the same. Because crack trafficking is mostly a black crime, some people claim that the longer sentences are racially discriminatory.

Crack is by far the more dangerous product because it fuels gang warfare, drive-by shootings and the breakdown of inner-city families. Cheap and potent crack is ripping apart black neighborhoods in Omaha and elsewhere across the country.

Crack is less expensive and is easier to use. It causes a quicker "high." It is more readily addictive. The toll in human suffering is therefore greater. The punishment for selling and distributing crack is greater, too, as it should be.

The crack debate is like some other matters in which race has been illogically inserted. Activist lawyers have taken to arguing that any law is discriminatory if it doesn't produce results that are perfectly colorblind. In New York, a subway fare increase was recently struck down on the grounds that it discriminated against black people. It did nothing of the kind. But the plaintiffs' lawyers argued that more black people used the subways and therefore to raise the fare was discriminatory.

Melanie Kirkpatrick, a Wall Street Journal writer, has written that such thinking is a "perversion of the Equal Protection Clause of the Constitution." She said, "Under this philosophy, it doesn't matter who did what to whom and for what reason; all that matters is outcome."

More should matter. In the case of crack cocaine, it matters what the pushers do to their families, their neighborhoods and their communities. Of course the criminal laws should be colorblind. But that doesn't mean they should be twisted to produce a racially perfect mix of defendants. The idea is to punish people the most who are doing the most harm to society. That shouldn't change.

A POINT OF LIGHT FOR ALL AMERICANS: MARIA OTTO

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. OWENS. Mr. Speaker, I rise to honor Maria Otto—whose work has greatly enriched the profession of child care. She has touched the lives of hundreds of children, parents, and aspiring day care providers. Her dedication and compassion have rendered her a worthy candidate to entrust the care of our most precious—the children. Furthermore, her competence has rendered her fit to train the future day care provider of the Nation. Maria Otto is an outstanding and caring citizen who deserves recognition as a great Point of Light for all Americans.

In 1967, Mrs. Otto began her career in family day care as a family day care provider. In this capacity, she was responsible for the care and development of more than 200 children, under the sponsorship of the Wake-Eden Center in the Bronx. Maria Otto continued her career as a family day care specialist-trainer in 1986 when she joined the staff of Child Care, Inc. Here she assumed the challenging task of training hundreds of New York City family day care providers.

Mr. Speaker, as commissioner of the New York City Community Development Agency responsible for the Community Action Program and the Headstart Program I had the honor of launching the Nation's largest family day care program utilizing unspent funds from the Headstart budget. Since that time family day care has expanded and improved steadily. As a New York State senator I participated in several successful efforts to achieve greater statewide recognition and support for family day care as an effective option for child care. At each step of the way Maria Otto was one of the leaders of the great grassroots army of family day care advocates.

Throughout her career, Mrs. Otto has worked tirelessly to improve the professional status and recognition of thousands of family day care providers in New York City and State, and across the Nation. She organized the first Family Day Care Provider Associations in New York City and State, and is the founder of the current Family Day Care Citywide Association. As one of the cofounders of the National Association for Family Day Care, Mrs. Otto also assisted in organizing providers in Pennsylvania and many other states.

Nationally recognized as one of the earliest experts in the field of family day care, Maria Otto served as a member of Governor Cuomo's Commission on Child Care. In recognition of her exceptional professional achievement on behalf of children, Maria Otto is a recipient of the New York State 1993 Decade of the Child Award.

It is apparent that Mrs. Otto welcomes some continuity in her life. She is a current resident of the Bronx, NY, where she was born, living in the same house for 68 years. The daughter of immigrants from the Virgin Islands who arrived and settled in the Bronx in 1920, Mrs. Otto is a graduate of Jane Adams High School. She holds an A.A. degree from the College of New Rochelle-Bronx campus.

Maria Otto's consistency is not only evident in her place of residence. She has consistently served the children in her care, their parents and her protegees exceptionally well. Mrs. Otto is as dedicated and committed today as she was decades ago when she first embarked on a career so vital to the American working family. Without a doubt, her work has led to the professional and respectful character of the modern family day care profession. It is an honor to salute Maria Otto as a Point of Light who continues to brighten lives for all to cherish.

DR. KATHERINE GABEL; AUTHOR-EDUCATOR-RESEARCHER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mr. MOORHEAD. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues in the U.S. House of Representatives the many accomplishments and contributions of Dr. Katherine Gabel of Pasadena, CA.

Dr. Gabel, who has a BA, and M.S.W. and a law degree, is president of Pacific Oaks in Pasadena, which was founded by seven Quaker families in 1945 and is celebrating its 50th anniversary this year. Pacific Oaks, a source of considerable community pride, includes the college, the children's school and the research center.

As president of Pacific Oaks, Dr. Gabel established the research center to support community outreach and faculty research. She routinely works with a consortium of other colleages—Bank Street, Wellesley College, Erikson Institute—on issues relating to family and community.

Prior to Pacific Oaks, Dr. Gabel was dean of Smith School of Social Work. She also directed the building of the Adobe Mountain School, a juvenile correctional facility under control of the Arizona Department of Corrections, and served as its first superintendent.

While in this capacity, she assisted the warden of the Farmingham Women's Prison by entering the prison as an inmate. It was these unique experiences which enabled Dr. Gabel to coauthor an important book entitled, "Children of Incarcerated Parents." As Dr. Gabel points out, parents in prison face some especially difficult problems in maintaining meaningful relations with their children.

Mr. Speaker, I am pleased to honor before my colleagues in the House of Representatives the life, endeavors, and contributions of Dr. Katherine Gabel. Her school, her community, and her Nation have all benefited from her learning, dedication, and commitment. Mr. Speaker, we are all grateful.

TRIBUTE TO MARY DAGRAEDT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 28, 1995

Mrs. MEEK of Florida. Mr. Speaker, I am deeply heartened by this great moment as I pay tribute to a colleague of mine, Mary Dagraedt, who is retiring from Miami-Dade Community College after a 35-year distinguished career. As the premier golf coach, Mary is one of the most outstanding professionals who have immensely contributed to making the college the Nation's most prestigious community college in the fields of both academics and athletics.

Mary led the Lady Falconettes College golf teams from 1963 to 1981 during which her teams went undefeated in match plays in junior intercollegiate competitions. In fact, she was instrumental in garnering 18 consecutive junior college State championships. From 1970 to 1977 the Falconettes competed in the senior college national collegiate events, and in 1975 her team was honored the No. 1 collegiate team in the Nation.

Voted in 1981, the first National Coach of the Year by the Ladies Professional Golf Association, Mary was also selected as the National Junior College Athletic Association Women's Golf Coach of the Year in 1980 and 1981. Throughout her career, she has been named to five different sports hall of fame.

More than 60 of her students, including Pat Bradley, have now become the mainstays of the LPGA. Her commonsense approach to personal responsibility and discipline has earned her the utmost respect of her hundreds of students and the praise of her colleagues.

In fact, she was recently recognized with an endowed teaching chair for faculty excellence by the college and was subsequently honored this year as 1 of 10 faculty members by the National Institute for Staff and Organization Development at a ceremony in Texas for achieving preeminent "educational excellence and superior leadership."

HOUSE OF REPRESENTATIVES—*Wednesday, November 29, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. ALLARD].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 29, 1995.

I hereby designate the Honorable WAYNE ALLARD to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, from whom we have come and to whom we shall return, we pray for fortitude in our personal lives that our actions will blend with our words and our words will harmonize with our prayers. May we express in our lives an authenticity of spirit that resists the pressures that come from a complicated world and conflicting loyalties. Remind us each day, O God, to follow the road that leads to justice for every person and to hear anew Your words of reconciliation and peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. PALLONE] come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

WHAT DOES A BALANCED BUDGET MEAN TO THE AVERAGE CITIZEN?

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, during the next 2 weeks we will make the most serious attempt at balancing the budget that we have had in the last three decades. An average citizen probably says, "What is in it for me? So what if you balance the budget? I am doing OK in many ways." Here is what is in it. It is not just balancing the budget, it is doing fair and compassionate spending levels to meet the basic needs of this country as we have in saving Medicare.

What is in it for the average citizen was well said by Mr. Greenspan, Chairman of the Federal Reserve Board, in testimony before a committee of the Senate yesterday. What he said several months ago was in essence; if we can balance the budget, interest rates in America will be reduced 2 percent for the average mortgage on a house, for the average consumer loan, for the average automobile loan.

To summarize, here is what he said yesterday on the subject. It is something we should realize, that if we continue this commitment that we have to balance the budget, we will have the story of a prolonged growth in our economy versus a spurt that might not last. This is important to get this economy going.

We will keep that commitment to balance the budget, Mr. Speaker. We will keep that commitment.

PROTECT THE ENVIRONMENT

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, right now the budget negotiations have begun, and I was very pleased to see that President Clinton over the last few weeks specifically identified the environment and protection of the environment as one of the key issues or one of the key priorities that must be maintained and strengthened during these budget negotiations.

Today, Mr. Speaker, we have an opportunity to vote on the appropriations conference report that contains the budget for the EPA. Unfortunately, inconsistent with the President's priorities and concern for the environment, this Republican leadership measure would actually reduce funding for the EPA, the Environmental Protection Agency, by 21 percent over last year. And specifically for enforcement, the amount of money that is appropriated is even less; and for the Superfund Program, very important to my State and many parts of the country, the funding is reduced by 19 percent.

The President has already said that he intends to veto the EPA appropriations bill, and well he should.

THE REPUBLICANS WILL BALANCE THE BUDGET

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, the last 11 months here in the House have been an object lesson on keeping promises. At least on this side of the aisle. Last year, Republicans promised the American people that if we were given a majority here in the House, we would put all our energies into balancing the budget—something that Democrats failed to do even though they had the Presidency, and control of Congress.

Republicans made a commitment in the Contract With America and we kept that commitment. We passed a balanced budget. Even our opposition and liberal news media know that we are doing the right thing for America's economy and America's children.

Mr. Speaker, over 3 years ago, Bill Clinton said he would present a balanced budget. He never did. The American people deserve more than self-promoting politicians who promise, but never deliver. And that is why they voted for a Republican majority. We are doing what we said we would do, and we will balance the budget.

REPUBLICANS ARE SINGING THE SAME OLD SONGS ON THE BUDGET

(Mr. GUTTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, we keep hearing the same old songs in this House.

It wasn't long ago that many of my Republican colleagues were singing the gospel of Voodoo Economics—that tax cuts for the rich and more money for defense that would magically add up to lower deficits.

The result?

A budget deficit that more than quadrupled during the 12 years Ronald

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□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Reagan and George Bush ran our Nation.

But now, many of my colleagues who stood in this Chamber and voted for 12 years to burden working Americans with 300 billion dollars' worth of deficits and now singing loudly in the choir of fiscal responsibility again.

They have a plan for getting our deficit under control.

But it is the same old song, with a new twist.

Tax cuts for the wealthy, more money for defense and devastating cuts in education, Medicare, and the programs that most Americans rely on every day.

I think it is time to change our tune to supporting a responsible budget that puts our children, our students, our families, and our seniors first.

My Republican friends might not know the words, but that would be a song that more working Americans could sing along to.

AMERICANS WORK HARD FOR THEIR MONEY AND OUGHT TO BE ABLE TO KEEP MORE OF IT

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I have a great deal of personal affection for the gentleman who preceded me here in the well, but the simple fact is when you talk about genuine cuts, about the only real cut we have seen is my good friend, the gentleman from Illinois, shaving off his trademark mustache.

The fact is, for all the venom and vitriol about incredible cuts and draconian measures taking place, that simply is not the case. Rather, we are slowing the rate of growth of Government. To my friend who says, Mr. Speaker, that we are affecting seniors and students and families, I say he is right; we are affecting them in a positive way. We are making sure that the American people hang onto more of their hard-earned money. Indeed the tax cut, the $500 per child tax credit, goes to help 80 percent of families in this country.

Certainly there is a problem with facts and rhetoric. The fact is we are helping working Americans by this very simple premise: They work hard for the money they earn, they ought to keep more of it and send less of it to the Federal Government here in Washington, DC.

THE CONSTITUTION CALLS FOR THE SEPARATION OF CHURCH FROM STATE, BUT NOT OF GOD FROM THE AMERICAN PEOPLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Brittney Settle, a Tennessee ninth grader, wrote a paper about Jesus Christ. The teacher flunked her. The teacher said Jesus Christ is not an appropriate topic for a public school.

Appropriate? Other students are allowed to write about devil worship, reincarnation, the whole gamut; witchcraft. The Supreme Court, by the way, says Jesus Christ is not an appropriate topic. They sided with the school.

Mr. Speaker, is there any wonder our schools are so screwed up when the only time you can hear God's name is when it is taken in vain? Wake up, Congress. The Constitution may separate church and State, but the Constitution never intended to separate God and the American people. In God we trust. It would not be all over our buildings and all over our currency. Something is wrong in our public schools when the only time you can hear God's name legally is when it is taken in vain. Let us take a look at some issues here, Congress.

THE PRESIDENT NEEDS A PLAN TO BALANCE THE BUDGET

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, last week the Republican leadership here in Congress sent a letter to the President asking for specifics on exactly how the Clinton administration would balance the budget in 7 years as they agreed to do on November 19.

This is what the administration sent back—a set of talking points. No specifics, no numbers.

In his talking points, the President had the unmitigated gall to ask that Congress provide a legislative plan. Well excuse me, but it seems we have already passed the Balanced Budget Act of 1995. In that we spell out exactly how we will balance the budget in 7 years, including numbers, amounts, and specifics.

Mr. Speaker, it is understandable that the Clinton administration would have a problem with specifics. It already had huge problem keeping promises. The President totally lacks any plan to balance the budget with honest numbers. Without a plan, really, all they can do is provide talking points, and, of course, more hot air.

INTRODUCTION OF THE HEALTH EQUITY ACT

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, today I will introduce the Health Equity Act legislation that will address the problem of environmental discrimination.

Mr. Speaker, there is a growing recognition that people in poor and working class communities, and particularly people of color, are forced to live and work in areas contaminated by opportunistic polluters that target these communities. Whether it is in the form of incinerators, industrial production facilities, pesticides, or radiation—exposure to such contamination represents a death sentence for black and Latino Americans throughout this country.

My legislation, which applies title VI of the 1964 Civil Rights Act to the Federal environmental regulatory process, will allow minority communities to halt potentially dangerous action, before harm comes to them. Our society has slowly taken steps to end the burden of discrimination in areas ranging from employment to housing. This will give communities of color a chance to fight against this form of discrimination.

I would encourage my colleagues to cosponsor this legislation and help end one of the most neglected forms of discrimination in America.

BALANCING THE FEDERAL BUDGET AND HOPE

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, this Congress is dedicated to restoring traditional values in our society. Common sense tells us this means living within our means. This means a balanced Federal budget.

These past few weeks we've finally reached one of the ultimate questions separating conservatives and liberals: Do we want to continue sacrificing our childrens' chances at achieving the American Dream? Or do we want to do the principled thing and balance our Federal budget?

The President doesn't think our children deserve a chance at this opportunity. My colleagues and I believe that this is wrong. We are willing to do whatever it takes to give them their chance.

To hear my Democrat colleagues talk, one would suspect that they oppose job creation, lower interest rates, and a brighter future for all.

To hear them talk, a balanced Federal budget is little more than a myth, a mirage, a Xanadu.

To hear them talk, saving money for future generations is a bad thing, but we can do it.

Mr. Speaker, this is a nationwide drama with the President and Democrats using our children as the stakes. This is wrong. I believe our Nation deserves better. America is about hope and the potential for prosperity, and America's leadership should lead us in this direction. Let us balance the budget and help restore this hope.

AMERICANS WANT STRONG ENVIRONMENTAL PROTECTION

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, the public is finally becoming aware of what the antienvironmental extremists in this Congress are doing. Under the Republican leadership, clean water, clean air, and public health are being sold to the highest campaign contributor. While we are struggling to cut the budget, Republicans want to subsidize logging in the Nation's last rain forest. They want to continue the 1872 mining law that gives away millions to private companies, and to allow oil drilling on Alaska's true wilderness.'

The American people want strong environmental protection. Instead, the Republicans are jeopardizing the rivers we fish, the beaches we swim in, and the very air we breathe for the benefit of special interests. There truly is a contract with the American environment. That contract is becoming a bill of sale.

DEMOCRATS, START TELLING THE TRUTH

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, in a cynical ploy to distort reality for political gain, the minority party continues to decry the so-called student loan cuts in our budget. It is time to start telling the American people the truth.

My Republican colleagues understand the importance of helping low-income students pay for college. That is why we protect student aid in our budget.

Contrary to the battle cry of the minority, there are no student loan cuts in the Balanced Budget Act of 1995. In fact, total student loan volume will grow from $24 billion this year to $36 billion in 2002. And more loans will be available next year than ever before.

Student loans are preserved. No student will be cut off. And no student will be required to pay more for his or her loan.

Mr. Speaker, it doesn't take a Harvard professor to figure out what's going on. Democrats are trying to regain power by scaring the American people with imaginary spending cuts. This is downright dishonest.

□ 1015

PRIORITIES FOR A BALANCED BUDGET

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I was not planning to follow the other speaker, and I appreciate the changes that my Republican colleagues have made in the education funding, because they have come a long way. He is right. There have been some funding cuts restored, but the House Republicans do not deserve the credit. The Senate Democrats and Republicans deserve the credit for insisting that House Republicans not decimate education funding.

We have an opportunity over the next few weeks to work bipartisanly on a balanced budget bill. We have a responsibility to make sure the values and the priorities of the American people are maintained and that we balance the budget while protecting education, and Medicare, the environment, and veterans.

Our priorities should be, No. 1, to protect Medicare and Medicaid. We must maintain the high quality of health care we currently enjoy. No. 2, protect students and children. We must maintain current levels of education funding so that students, including those from Aldine High School in my congressional district who are here today from the Close-up program get the education they need to succeed in the 21st century. It is our obligation to make sure that those students have the opportunity to obtain a student loan or Pell grants. They are the future of our country and have a responsibility to make sure they are prepared. Finally, we need to protect tax fairness in the tax system. We do not need to punish low-income Americans by increasing their taxes.

I hope we will give serious consideration to a bipartisan effort to balance the budget. The time has come to get our fiscal house in order while maintaining the values and priorities most important to the American people.

UNITED STATES BOSNIA POLICY

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of Nebraska. Mr. Speaker, the House will soon debate a resolution of support for the President's decision to deploy up to 20,000 United States troops into Bosnia.

The President has placed himself and Congress into a lead box. If we decide to support the President, we'll be supporting a costly policy that won't be finished in a year—Bosnia, after all, isn't another Haiti. If Congress rejects the President's decision, our European allies, and others around the world, will come to doubt the United States resolve and commitment. The next time there is a Persian Gulf crisis, they may not answer our call for cooperation.

And so, no matter where we turn, we find our lead box sinking deeper and deeper into the Bosnian bog. This debate won't provide the right answers, nor will it provide an acceptable alternative, since the decision has already been made.

But, I must strongly object to the President's decision. I encourage my colleagues to join me in opposing that decision.

TRICKLE-DOWN ECONOMICS HAS FAILED

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, I find wearisome this continual Republican litany that claims only Republicans want to balance the budget and somehow Democrats are opposed to it.

I have served here 17 years. In my early years here Ronald Reagan was President, and by count, no President, with the exception of Franklin Roosevelt, ever got more of his economic policy agreed to by the Congress than did Ronald Reagan. Mr. Speaker, you remember it. It was called trickle-down economics. What happened to the deficit? It tripled. It tripled under Reaganomics.

Under President Clinton, the deficit has come down every year of his Presidency, and this is the first time that has happened since Harry Truman was President. If the Republican balanced budget attempt passed and was put into effect, it would not decrease the deficit in its first 3 years of operation as much as Clinton's economics has reduced the deficit in the last 3 years.

LINE IN THE SAND ON SPENDING

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the magic number is $730 billion. In this morning's congressional article, it said $730 billion is what the President wants to spend in excess of what the Congress has passed. We both want balanced budgets, but they want to use different numbers to get there.

We are preparing to spend $2.6 trillion more in the next 7 years than we spent in the last 7 years, a total of $12.1 trillion. It seems to me that we can fight on priorities within that number, but we should put the line in the sand: $12.1 trillion and no more.

If the assumptions that the President wants to use are correct and we do wind up with $730 billion more in revenues or less in spending, we can apply that to our children's debt. However, we should draw the line in the sand: $12.1 trillion and not a dollar more.

BREAK THE TIES WITH SPECIAL INTERESTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 11 months ago, a new Republican majority promised to drive special interest lobbyists from the halls of Congress. What they did not tell us was that the lobbyists would be out of the halls and into their offices.

In fact, instead of ending the cozy relationship between the corporate special interests and lawmakers, Speaker GINGRICH has elevated it to an art form. An article in Monday's Washington Post revealed how the Republican leadership has boasted of twisting arms to raise campaign contributions and rewriting legislation for the highest bidder.

The Republican Campaign Committee even keeps this book on what they call friendly and unfriendly PAC's. The unfriendly PAC's are those that contribute to Democrats. Simply put, those groups are told to give more to Republicans or else.

It is time to break the ties with special interests. This is the people's House. Let us return it to the people today by passing a clean lobby reform bill.

NO GROUND TROOPS IN BOSNIA

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, our side needs a leader or leaders with the courage to say clearly that we should not send ground troops into Bosnia. It is not in America's vital national security interests. And there is absolutely nothing to be achieved for America, but much to be lost. We will lose lives and a year later if we leave—which is questionable—full scale ethnic war will resume as during the previous 600 years. Thus nothing will be accomplished but a year-long experiment of the President to gain macho credentials and leadership demonstration.

Bosnia is the latest in Bill Clinton's foreign misadventures. There was Somalia and there was Haiti. And what was gained in those places. In Haiti under the not-so-democratic Aristide, the so-called peace is unraveling.

And America cannot afford in dollars or lives, what NATO and the Europeans have been unwilling to do. It is Europe's turn to look out for its backyard.

With the onset of winter in the mountains of Bosnia and Herzegovina and over a million land mines in place, we do not need American lives sacrificed before Christmas for some artificial creation called Bosnia. In the Congress, let us assert our authority and not fund the latest unwise, tragic foreign misadventure of an aspiring leader named Bill Clinton. No money to send United States ground troops to Bosnia, period.

SAY NO TO GOP DOPE

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, both Democrats and Republicans agree that the American worker is in need of relief. Stagnating wages, longer hours, corporate downsizing, and NAFTA have all taken their toll on what was once the world's highest living standard.

By contrast, the stock market is breaking new records, corporate profits are going through the roof, and corporate executives are making 30 times more than their lowest paid employees.

Yet the Republican solution to these inequities is to cut taxes for wealthy corporations, reduce worker safety, and increase funding for star wars and B-2 bombers.

This trickle-down strategy, Mr. Speaker, is the crack cocaine of bad economic policy. I urge my colleagues to just say no to GOP dope.

AMERICANS NEED BUDGET PLAN FROM THE PRESIDENT

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, it has been over a week since President Clinton committed in writing to an honest balanced budget in 7 years. The Republican majority has a specific plan—we have passed it in both the House and the Senate—now where is the President's plan.

But, the President has not submitted a specific plan. Sure, he sent us 22 pages of general talking points this summer, 10 of which were charts and graphs. And last week, his Chief of Staff, Leon Panetta, sent us a 2-page list of general principles that contained no numbers or specifics whatsoever. The American people have heard enough talk about general goals—they want action now. They want the President to put his plan on paper.

Mr. Speaker, it is time to do what is right for our children's future. Let us sit down, work together, no more rhetoric—no more excuses. Both the Republican majority and the President have promised to balance the budget. Let us keep our promise and let us do it now.

REPUBLICAN PLAN OFFERS TAX RELIEF TO AMERICAN FAMILIES

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Mr. Speaker, I appear here today as a Member of Congress, but more importantly, I speak as the father of four children. I know firsthand what it costs to raise a family in middle America and I am glad that the Balanced Budget Act includes tax relief for families.

Tax relief for families should not be looked at as a cost to Government. Instead, we should consider it as a way to keep money in the hands of those to whom it belongs in the first place: America's working families.

Cutting taxes is also fiscally responsible. America's families deserve tax relief and Federal spending should be reined in and controlled. Reducing the growth of Federal spending is the way to get to balance, not by taking more money from families.

The bipartisan agreement to balance the budget in 7 years using honest numbers is a step in the right direction. The Government's constant deficit spending must be stopped. I also strongly support tax relief which allows American families to keep more of their own money.

Our Democrat friends claim that they want to balance the budget too. They say that deficit reduction is their goal and we agree.

Let us work together to reach a balanced budget with tax cuts and no new spending.

PRESIDENT SHOULD SIGN DEFENSE APPROPRIATION BILL

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I have learned that the President of the United States has taken the defense appropriations bill to Europe with him and he will decide whether he will sign the bill or not sign the bill. I certainly hope he will sign it. If he does not sign it, I hope he will not veto the defense appropriation bill. I think it is a reasonable approach.

We have military forces all around the world today. We need as much money as possible to keep these forces in the different places. The President is talking now about Bosnia. So certainly I hope the President of the United States would sign this legislation and the money needed to take care of our troops.

About the only thing that we need in this country, to be sure, is that we have a strong military defense. If we have a good defense, we can just about do everything in this great country.

BALANCED BUDGET WILL RECHARGE OUR ECONOMY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, our Nation needs a balanced budget, not because it's a good accounting device, but because it will help every American.

A balanced budget will recharge the economy. It will cause interest rates to drop. And reduced interests rates mean lower mortgage payments, lower car payments, lower student loan payments.

As part of the Republican plan to balance the budget in 7 years, there are income tax cuts for families. And there is a capital gains tax cut for job growth. This will generate more investments, more business expansion, and more jobs.

Before he was elected, President Clinton said he could balance the budget in 5 years. After the election he said it wasn't necessary. Now he says that he wants to balance the budget in 7 years but he still has not presented a plan.

The Republicans do have a plan. Let's balance the budget, cut taxes, and create jobs now.

AMERICANS WANT MORE INFORMATION ON BOSNIAN TROOP DEPLOYMENT

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I have profound reservations about the participation of United States forces in a Bosnian peacekeeping mission. So do the people I represent. Of the many calls I have received on this matter over the past several days, not one has favored United States involvement.

At the same time, I also recognize the dangers that are inherent in a policy of noninvolvement.

If the United States abandons NATO's peace efforts in Bosnia, we could weaken and even destroy an alliance that has helped deter multinational conflicts for half a century. The current peace initiative would surely collapse. And if this ghastly slaughter ever spreads beyond the borders of the former Yugoslavia, our country's economic and military security would be critically threatened.

Americans know that our own security requires a secure peace in Europe. When necessary, they support deployment of our troops as peacekeepers—but not as targets. They want more information about the military plan, troop security, the mission's goals, and the plan for withdrawal. So do I.

□ 1030

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. LARGENT. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Commerce; Committee on Government Reform and Oversight; Committee on Resources; and Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. ALLARD). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROPOSED AGREEMENT FOR COOPERATION IN PEACEFUL USES OF NUCLEAR ENERGY BETWEEN UNITED STATES AND EUROPEAN ATOMIC ENERGY COMMUNITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–138)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) with accompanying agreed minute, annexes, and other attachments. (The confidential list of EURATOM storage facilities covered by the Agreement is being transmitted directly to the Senate Foreign Relations Committee and the House International Relations Committee.) I am also pleased to transmit my written approval, authorization and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and other attachments, including the views of the Nuclear Regulatory Commission, is also enclosed.

The proposed new agreement with EURATOM has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. It replaces two existing agreements for peaceful nuclear cooperation with EURATOM, including the 1960 agreement that has served as our primary legal framework for cooperation in recent years and that will expire by its terms on December 31 of this year. The proposed new agreement will provide an updated, comprehensive framework for peaceful nuclear cooperation between the United States and EURATOM, will facilitate such cooperation, and will establish strengthened nonproliferation conditions and controls including all those required by the NNPA. The new agreement provides for the transfer of nonnuclear material, nuclear material, and equipment for both nuclear research and nuclear power purposes. It does not provide for transfers under the agreement of any sensitive nuclear technology (SNT).

The proposed agreement has an initial term of 30 years, and will continue in force indefinitely thereafter in increments of 5 years each until terminated in accordance with its provisions. In the event of termination, key nonproliferation conditions and controls, including guarantees of safeguards, peaceful use and adequate physical protection, and the U.S. right to approve retransfers to third parties, will remain effective with respect to transferred nonnuclear material, nuclear material, and equipment, as well as nuclear material produced through their use. Procedures are also established for determining the survival of additional controls.

The member states of EURATOM and the European Union itself have impeccable nuclear nonproliferation credentials. All EURATOM member states are party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). EURATOM and all its nonnuclear weapon state member states have an agreement with the International Atomic Energy Agency (IAEA) for the application of full-scope IAEA safeguards within the respective territories of the nonnuclear weapon states. The two EURATOM nuclear weapon states, France and the United Kingdom, like the United States, have voluntary safeguards agreements with the IAEA. In addition, EURATOM itself applies its own stringent safeguards at all peaceful facilities within the territories of all member states. The United States and EURATOM are of one mind in their unswerving commitment to achieving global nuclear nonproliferation goals. I call the attention of the Congress to the joint U.S.-EURATOM "Declaration on Non-Proliferation Policy" appended to the text of the agreement I am transmitting herewith.

The proposed new agreement provides for very stringent controls over certain fuel cycle activities, including enrichment, reprocessing, and alteration in form or content and storage of plutonium and other sensitive nuclear materials. The United States and EURATOM have accepted these controls on a reciprocal basis, not as a sign of either Party's distrust of the other, and not for the purpose of interfering with each other's fuel cycle choices, which are for each Party to determine for itself, but rather as a reflection of their common conviction that the provisions in question represent an important norm for peaceful nuclear commerce.

In view of the strong commitment of EURATOM and its member states to the international nonproliferation regime, the comprehensive nonproliferation commitments they have made, the advanced technological character of the EURATOM civil nuclear program, the long history of extensive transatlantic cooperation in the peaceful uses of nuclear energy without any risk of proliferation, and the fact that all member states are close allies or close friends of the United States, the proposed new agreement provides to EURATOM (and on a reciprocal basis, to the United States) advance, long-term approval for specified enrichment, retransfers, reprocessing, alteration in form or content, and storage of specified nuclear material, and for retransfers of nonnuclear material and equipment. The approval for reprocessing and alteration in form or content may be suspended if either activity ceases to meet the criteria set out in U.S. law, including criteria relating to safeguards and physical protection.

In providing advance, long-term approval for certain nuclear fuel cycle activities, the proposed agreement has features similar to those in several other agreements for cooperation that the United States has entered into subsequent to enactment of the NNPA. These include bilateral U.S. agreements with Japan, Finland, Norway and Sweden. (The U.S. agreements with Finland and Sweden will be automatically terminated upon entry into force of the new U.S.-EURATOM agreement, as Finland and Sweden joined the European Union on January 1, 1995.) Among the documents I am transmitting herewith to the Congress is an analysis by the Secretary of Energy of the advance, long-term approvals contained in the proposed U.S. agreement with EURATOM. The analysis concludes that the approvals meet all requirements of the Atomic Energy Act.

I believe that the proposed agreement for cooperation with EURATOM will make an important contribution to achieving our nonproliferation, trade and other significant foreign policy goals.

In particular, I am convinced that this agreement will strengthen the international nuclear nonproliferation regime, support of which is a fundamental objective of U.S. national security and foreign policy, by setting a high standard for rigorous nonproliferation conditions and controls.

It will substantially upgrade U.S. controls over nuclear items subject to the current U.S.-EURATOM agreement as well as over future cooperation.

I believe that the new agreement will also demonstrate the U.S. intention to be a reliable nuclear trading partner, and thus help ensure continuation and, I hope, growth of U.S. civil nuclear exports to EURATOM member states.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act of 1954, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 29, 1995.*

REQUEST FOR PERMISSION TO ADDRESS HOUSE FOR 5 MINUTES

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes and to revise and extend my remarks.

The SPEAKER pro tempore. The Chair will not entertain that request at this point.

LOBBYING DISCLOSURE ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2564.

□ 1032

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, November 28, 1995, the amendment offered by the gentleman from Illinois [Mr. WELLER] had been disposed of and the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the votes yesterday on this bill are very explicit. The committee has the steam and the power to turn back amendments.

Lobby disclosure, the field that I have been interested in for 5 years, our foreign interests, individuals from our Government and individuals who represent the interests of foreign entities, the law has been so vague and so weak that two out of every three agents representing foreign interests do not even bother to register.

Now, this bill addresses that to some degree, but there are still fines and penalties that are so huge it is like shooting a flea with a bazooka. As a result, the Department of Justice does not enforce it. We have many foreign interests lobbying the Congress of the United States. That basically goes unchecked, and when you try and change it, there is always a good reason why it should not be now.

I am not impugning the work of the fine chairman here, nor his intentions, but I would like to say this. Here is, in essence, what we are doing here in the Congress. To make a bill as good as it could be, maybe even make a bill great, that bill has no shot. If you want to pass it, send a mediocre bill to the other body who all of a sudden is the big decisionmaker on what our legislation should be.

Let me inform Congress that the first Senate was appointed by State legislatures to protect the interests of the States. The House of Representatives, the House of Commons, was to protect the people of the country. I think it is unbelievable to me that we would have these foreign agents running around, not even registering, and we have taken token steps to clamp down on that. I think it is time to change that.

In essence, I am taking a little bit of time away from the gentleman from Massachusetts [Mr. FRANK] to be here, and I am hoping somebody else is here to offer an amendment. I am not going to offer my amendment first unless there is nobody else and this committee rises.

If it is going to be defeated, then so be it, but here is what the Traficant amendment says: You will have to register. If you do not register, you will be subject to fines, anywhere from $2,000 to $1 million. You could be prosecuted. You could be subpoenaed in. To register and to extend, you will do so January 31 and July 31. You will have known dates to do it. And we will know who you are. The American taxpayer should know who represents foreign interests.

Technically in the past, when this law was written, it dealt with Nazi Germany. We were interested in spies. Well, now we have foreign agents whose interest is trade. Commercial interests. I would submit that that is a greater problem in this country today than anything else we deal with, with a trade deficit of $170 billion.

Who represents China, folks? Who represents Japan? Who represents the European interests? Who represents any foreign interest that has an interest in the legislation today or an interest in the legislation dealing with Bosnia or dealing with appropriation matters of defense? That is what the issue is about.

I am hoping that the Members of Congress will take a look at this. I think the committee has brought enough Democrats together to carry the load, that in fact they will accept no amendments because if there are amendments, the Senate just is not going to accept it.

Well, as one Member of Congress, let me say this to the Senate. Quite frankly, Scarlett, I think the Congress should draft only the best legislation and that is the legislation to be signed into law.

With that, it is good to see the venerable chairman here. I do not question the intentions of former Chairman FRANK and Chairman CANADY. I think you have done a fine job. I hope the Members realize that there are foreign interests that lobby the Government, and we are dealing with lobby disclosure, and we are not doing the best job we can with foreign interests.

Maybe the Members might just decide to do something about it.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 37, line 11, strike "AMENDMENT" and insert "AMENDMENTS", in line 13 insert "(a) REPORTS.—" before "Strike" and insert after line 21 the following:

(b) DEFINITIONS.—

(1) AGENT OF A FOREIGN PRINCIPAL.—

(A) IN GENERAL.—Section 1(c) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(c)), is amended—

(i) by striking "agent of a foreign principal" each place it appears and inserting "representative of a foreign principal";

(ii) in paragraph (1)(iv), by striking "and" after the semicolon at the end;

(iii) in paragraph (2), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(3) any person who engages in political activities for purposes of furthering commercial, industrial, or financial operations with a foreign principal.

For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(B) FURTHER DEFINITION.—Section 1(d) of that Act (22 U.S.C. 611(d)) is amended to read as follows:

"(d) The term 'representative of a foreign principal' does not include—

"(1) any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3685 of title 39, United States Code, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 percent beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in subsection (b) of this section, or by any representative of a foreign principal required to register under this Act; or

"(2) any incorporated, nonprofit membership organization organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States that is registered under section 308 of the Federal Regulation of Lobbying Act and has obtained tax-exempt status under section 501(c) of the Internal Revenue Code of 1986 and whose activities are directly supervised, directed, controlled, financed, or subsidized in whole by citizens of the United States.".

(2) POLITICAL PROMOTIONAL OR INFORMATIONAL MATERIALS.—Section 1(j) of that Act (22 U.S.C. 611(j)) is amended—

(A) in the matter preceding clause (1), by striking "propaganda" and inserting "promotional or informational materials"; and

(B) in clause (1), by striking "prevail upon, indoctrinate, convert, induce, or in any other way" and inserting "in any way".

(3) POLITICAL ACTIVITIES.—Section 1(o) of that Act (22 U.S.C. 611(o)) is amended—

(A) by striking "prevail upon, indoctrinate, convert, induce, persuade, or in any other way" and inserting "in any way"; and

(B) by striking "or changing the domestic or foreign" and inserting "enforcing, or changing the domestic or foreign laws, regulations, or".

(4) POLITICAL CONSULTANT.—Section 1(p) of that Act (22 U.S.C. 611(p)) is amended—

(A) by inserting "(1)" after "any person"; and

(B) by inserting before the semicolon at the end the following: ", or (2) who distributes political promotional or informational materials to an officer or employee of the United States Government, in his or her capacity as such officer or employee".

(5) SERVING PREDOMINANTLY A FOREIGN INTEREST.—Section 1(q) of that Act (22 U.S.C. 611(q)) is amended—

(A) by striking "and" at the end of clause (ii) of the proviso; and

(B) by inserting before the period at the end the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) SUPPLEMENTAL REGISTRATION.—Section 2(b) of that Act (22 U.S.C. 612(b)) is amended—

(1) in the first sentence by striking ", within thirty days" and all that follows through "preceding six months' period" and inserting "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,"; and

(2) by inserting after the first sentence the following new sentence: "Any registrant using an accounting system with a fiscal year which is different from the calendar year may petition the Attorney General to permit the filing of supplemental statements at the close of the first and seventh month of each such fiscal year in lieu of the dates specified by the preceding sentence.".

(d) REMOVAL OF EXEMPTION FOR CERTAIN COUNTRIES.—Section 3(f) of that Act (22 U.S.C. 613(f)) is repealed.

(e) LIMITING EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of that Act (22 U.S.C. 613(g)) is amended by striking "or any agency of the Government of the United States" and all that follows through "informal" and inserting "or before the Patent and Trademark Office, including any written submission to that Office".

(f) NOTIFICATION OF RELIANCE ON EXEMPTIONS.—Section 3 of that Act (22 U.S.C. 613) is amended by adding at the end the following:

"Any person who does not register under section 2(a) on account of any provision of subsections (a) through (g) of this section shall so notify the Attorney General in such form and manner as the Attorney General prescribes.".

(g) CIVIL PENALTIES AND ENFORCEMENT PROVISIONS.—Section 8 of that Act (22 U.S.C. 618) is amended by adding at the end the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file when such filing is required a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay for each violation committed a civil penalty of not less than $2,000 and not more than $1,000,000. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation regarding any violation of paragraph (1) of this subsection or of section 5, the Attorney General may, before bringing any civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

"(B) Civil investigative demands issued under this paragraph shall be subject to the applicable provisions of section 1968 of title 18, United States Code.".

(h) Change in Short Title of the Act.—Section 14 of that Act (22 U.S.C. 611 note) is amended by striking "Foreign Agents Registration Act of 1938, as amended" and inserting "Foreign Interests Representation Act".

(i) References to Agent of a Foreign Principal.—The Foreign Agents Registration Act of 1938, as amended is amended—

(1) by striking "agent of a foreign principal" each place it appears and inserting "representative of a foreign principal";

(2) by striking "agents of foreign principals" each place it appears and inserting "representatives of foreign principals";

(3) by striking "agent of such principal" each place it appears and inserting "representative of such principal"; and

(4) by striking "such agent" each place it appears and inserting "such representative".

(j) References to Political Propaganda.—

(1) The paragraph preceding section 1 of the Foreign Agents Registration Act of 1938, as amended is amended by striking "propaganda" and inserting "political".

(2) The Foreign Interests Representation Act (other than the paragraph amended by paragraph (1) of this subsection) is amended by striking "propaganda" each place it appears and inserting "promotional or informational materials".

(k) References to the Act.—

(1) Section 207(f)(2) of title 18, United States Code, is amended by striking "Foreign Agents Registration Act of 1938, as amended," and inserting "Foreign Interests Representation Act".

(2) Section 219 of title 18, United States Code, is amended—

(A) in subsection (a) by striking "agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended," and inserting "representative of a foreign principal required to register under the Foreign Interests Representation Act"; and

(B) in subsection (b)—

(i) by striking "agent of a foreign principal" and inserting "representative of a foreign principal";

(ii) by striking "such agent" and inserting "such representative"; and

(iii) by striking "Foreign Agents Registration Act of 1938, as amended" and inserting "Foreign Interests Representation Act".

(3) Section 5210(4) of the Competitiveness Policy Council Act (15 U.S.C. 4809(4)) is amended—

(A) by striking "agent of a foreign principal" and inserting "representative of a foreign principal"; and

(B) by striking "subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611)" and inserting "section 1(d) of the Foreign Interests Representation Act (22 U.S.C. 611(d)),".

(4) Section 34(a) of the Trading With the Enemy Act (50 U.S.C. App. 34(a)) is amended by striking "Act of June 8, 1934 (ch. 327, 52 Stat. 631), as amended" and inserting "Foreign Interests Representation Act".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, November 16, 1995, the gentleman from Ohio [Mr. Traficant] and a Member opposed each will be recognized for 15 minutes.

Mr. CANADY of Florida. Mr. Chairman, I rise in opposition to the amendment and claim the 15 minutes in opposition. I yield 7½ minutes of that time to the gentleman from Massachusetts [Mr. Frank] and ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. Canady] and the gentleman from Massachusetts [Mr. Frank] each will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

As I discussed, every year foreign interests spend hundreds of millions of dollars to influence our Government. They employ topnotch representatives. Many times they are former staff members of key committees, counsel to Ways and Means. Sometimes they are Members who chaired the most powerful committees in the Congress.

That evidently is a way of life, and the bill attempted to deal with that by banning for a lifetime U.S. Trade Representatives and Deputy Trade Representatives. We felt that did not go far enough.

But the bottom line is there are several General Accounting Office reports, and they basically say that only one out of every three, maybe only one out of every four agents who represent foreign interests take the time to register. The Traficant amendment deals with the registration of these agents dealing with foreign interests, and, in fact, penalties to stop such abuse.

Since that 1990 report was released by the General Accounting Office, the GAO wrote, neither the Justice Department nor Congress has adequately rectified this breach of security.

I submitted a bill dealing with the issue. The bottom line is with the end of the cold war, our whole dynamic on foreign interest lobbying has switched from sinister underground spy networks to trade and global competition. Many individuals and law firms who represent interests in these areas are exempt from registration under the act.

Now the bill deals with that, but not enough. The Traficant amendment would make them come in and submit in writing the reasons why they should qualify for an exemption.

In addition to that, the bill basically, and the focus, is changed from foreign agent representation act to foreign interest representation act, and that is where it should be.

Any person who engages in political activities for the purpose of furthering commercial, industrial or financial operations of a foreign interest would no longer be exempt. In addition, representatives of foreign interests will now be required to notify the Attorney General. Moreover, any person relying on an exemption under the act must notify the Justice Department of their intention to do so.

The amendment also establishes a test to determine what constitutes foreign control. Entities that are more than 50 percent foreign owned would be presumed to be foreign controlled, and be required to register. Entities with a 20 to 50 percent foreign ownership would also be considered foreign controlled.

But the timeliness of foreign agent registration now becomes an issue. Of the 28 registration statements reviewed in the GAO report, 70 percent had not even registered on time, for those who had registered.

Now one out of four is registering, and 70 percent of the one out of four is registering late. No one is really looking into them. We are talking about lobbying. We are worried about everybody lobbying Congress. I am talking about foreign interests that lobby the Congress of the United States. I could hear the talk. I have great respect for the gentleman from Texas [Mr. Bryant] and the gentleman from Massachusetts [Mr. Frank]. "Yes, it's right, Traficant, you're right, but not now." Beam me up here.

The penalties that are under law right now are so great the Justice Department shies away. The Traficant amendment puts reasonable penalties on. From a $2,000 civil fine up to $1 million with repeated abuse or significant facts.

The Justice Department would be given the authority to subpoena individuals for testimony and their records. The bottom line here is, even though I am preaching to the wind, we are now worried about Bosnia, with a $40 billion trade deficit with China.

Who represents China? We do not know. I guarantee you that. A $70-plus billion trade deficit with Japan. Whom all of those are, we do not know. We have gone from a $2 billion surplus with Mexico to a $20 billion deficit projected this year. Who represents the Government of Mexico? Who represents interests in Mexico?

☐ 1045

Mr. Chairman, Canada, $16 billion surplus. Who represents all those interests? Here we are with North American free trade, Congress; we have a $36 billion deficit in our own hemisphere. We have chased our workers out of the country, chased our factories out, and we do not even require the people who represent those interests to register.

The Senate, the Senate said, "If you add this on, it is gone, boy." Let me tell you what, any Senate that would reject this commonsense amendment is a Senate that the American people can do without.

I do not know how much time I have left, Mr. Chairman, but I want to retain some of my time to hear these illustrious rebuttals.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the interest of the gentleman from Ohio on this issue. I have offered to work with the gentleman from Ohio on his concerns.

I believe that the bill that is before the House addresses the concerns that the gentleman has in a very substantive way. I believe that the bill takes a big step forward in improving the information that will be available concerning foreign agents as well as persons representing foreign business interests.

As I have said before on the floor, I believe that this whole issue of the representation of foreign interests is something that we need to look into with greater detail. I am committed to doing that in a comprehensive way early next year in the Subcommittee on the Constitution.

I am concerned that, in some ways, the gentleman's amendment would actually weaken what we have in the bill. I think that that is a point that needs to be made and understood by the Members.

But I want to work with the gentleman from Ohio. I would urge the gentleman from Ohio to withdraw his amendment so that we can move forward with this important legislation, put this legislation on the President's desk, and break the 40-year gridlock. I understand what the gentleman has said, and I respect his perspective on this.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Would the gentleman articulate where the Traficant amendment weakens his bill?

Mr. CANADY of Florida. I will, Mr. Chairman. For instance, H.R. 2564, the bill before the House now, eliminates the domestic subsidiary exemption which is currently in the law for foreign corporations. Your amendment would restore that exemption. Now, I think that is a weakening of the bill.

Mr. TRAFICANT. Notification would allow it. We have to know the reasons, sir. Let us be honest about that. Right now that exemption goes without notice.

Mr. CANADY of Florida. Reclaiming my time, I urge the Members of the House to focus on the issue here. We debated this at great length yesterday or earlier and at some length yesterday. The point here is that we have a bill dealing with lobby disclosure reform. This is an issue that has been tied up in the House and the Senate for more than 40 years. We have seen 40 years of gridlock.

We have a historic opportunity today to send a bill to the President to sign that will ensure that the public has access to information concerning lobbying activities here in Washington. I think it is time we do that.

There is bipartisan consensus that that is what we should do. There is bipartisan support for this bill that passed the Senate 98 to zero.

I do not claim that this is a perfect bill. But I do know that if history repeats itself, we will not get anything done on this issue, and I think the American people want something done and they are tired of excuses. They are tired of delay. They are tired of games that are played, and it is time that we ended that.

So I would urge opposition to the amendment, the well-intended amendment, offered by the gentleman from Ohio.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT], a major sponsor of this legislation on our side.

Mr. BRYANT of Texas. Mr. Chairman, I would like to say first to the gentleman from Ohio [Mr. TRAFICANT] that what you are asking for in this amendment is, in my opinion, the right thing, as were several of the amendments asked for last night, and I think I can speak with more credibility perhaps than many of the Members of the House about this because of the fact that over the last years I have introduced and on occasion passed legislation to require disclosure of foreign ownership, sponsored and voted for legislation to force disclosure of the lobbying connections between our former Cabinet members and their clients after they leave and to prohibit them from being able to lobby for or advise foreign nationals or foreign companies. I agree with you.

It is not the amendment that you have here today that is the problem. It is the fact that any amendment in this setting is a problem.

As you know, the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Florida [Mr. CANADY] are going to introduce legislation which I intend to cosponsor that will take these amendments and put them into law. We will get to vote on this again.

The Senate has not said that if you put the Traficant amendment on we will kill this bill or if you put the Istook amendment on we will kill this bill; they have not said they are going to kill the bill at all.

What we know, though, is if this bill goes to conference, as opposed to being passed and going to the President, it is going to be tied up and killed as it has been every time it has been attempted for 40 years.

Here we have a historic opportunity to pass this bill and see it signed into law and watch a major bipartisan accomplishment improve this process. Any amendment offered today, no matter how good it is, standing alone, is going to endanger this process.

For that reason I ask Members to vote "no" and then to cosponsor the Canady-Frank bill that will come after it.

I want to say the gentleman from Florida [Mr. CANADY] has played this straight from the beginning. He played it straight last year when we were in the majority, and I was chairman of the Committee of jurisdiction, and he has played it straight this year as subcommittee chairman. I accept his commitment to do just what he said; that is, to have hearings and move this bill out of here that contains many of the things we would like to see done.

For the time being, please vote "no" on the amendment today so we can pass the bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Let me say the gentleman from Ohio has brought this to our attention before. I agree with most of his amendment.

This is a complex issue, and as the gentleman from Florida pointed out, there is one point the gentleman from Ohio acknowledges, and I appreciate it, that the legislation here would strengthen regulation of foreign agents. He makes the point that we can strengthen it further. We agree with him.

But there are two points that are relevant. First, and I think what happened was he quite sensibly drafted his amendment to the existing law. This bill, as it came to us, changed the existing law. So, while his amendment does, in fact, strengthen the regulation of foreign interests in most instances, there is one instance, because of the kind of problem that happens with drafting, where he drafted to the original law and then the bill about came in after that, and there is one provision here, domestic subsidiaries of foreign interests, which now have an exemption in the law, and the bill, as presented, would abolish that exemption. Domestic subsidiaries would have no exemption. What they have now is a too generous exemption.

The gentleman from Ohio understandably tightens up the exemption. What he could not have known when he was drafting his bill was this legislation would do away with the exemption altogether. So, through no fault of anyone's, in fact, in this one case his bill weakens the scheme. In general, it strengthens it. His amendment, in general, strengthens it. In this one instance, it weakens it because it modifies an exemption we abolished altogether.

I would note I mentioned yesterday we have, and I am holding a bill here that includes as cosponsors myself, the gentleman from Texas [Mr. BRYANT], I hope the gentleman from Ohio [Mr. TRAFICANT], the gentleman from Connecticut [Mr. SHAYS] on the other side, and others. Not the chairman of the subcommittee, because he quite understandably wants to preserve his ability to look at the whole thing. But he promised us yesterday—and I have worked with him for years and he is a man who has kept every promise he has ever made to other Members—there would be a hearing and markup of legislation that would focus specifically on tightening foreign agents' registration.

Here is our problem. As my friend from Texas said, it is not anyone in the Senate has said if you change it we will kill the bill. It is worse than that. If we had such a public threat, then the gentleman would be correct, the gentleman from Ohio, and political pressure could be brought against them. But as the gentleman from Ohio understands as well as anyone here, this bill has a lot of enemies who do not want to admit they are its enemies. If we were dealing with someone who stood up and said, amend it and I will kill it, we could deal with that.

This bill is not likely to be shot head on. It is likely to be nibbled at from all sides. It will disappear. There will be quicksand here. There will be a bend in the road. We have a crowded legislative calendar.

It took a lot of energy to get this bill up even today. If it has to go to conference with everything else going on, with Bosnia, with the budget, with all the other major items, there is a strong likelihood of it being held up.

The problem is not if you go to conference and someone stands up and says, "I hate this bill," but people who want to kill it say, "I like this bill better than you do. I want to do it this way. I want to do it that way." We have no way to resolve it.

So we believe, and we appreciate the gentleman acknowledging this, we have a bill that improves the scheme of regulation of foreign interests. We agree it does not go far enough. Our hope is that we would get this bill passed, which we can do. If we get by this amendment without it being adopted, this bill goes to the President's desk, in my opinion, and we then immediately thereafter begin to tighten it. We tighten it in ways where I think we have a consensus.

The only change we would want to make in the gentleman's bill, I want to make, would be one I think he would agree with, we would want to continue to wipe out that exemption rather than to restore it.

With that, I hope the gentleman from Ohio would understand we say this in a cooperative spirit and want to get this bill to the President's desk.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself 2 minutes.

Under the bill, section 8, lobbying contact, under exceptions, B, the term "lobbying contact" does not include a communication that is made on behalf of a government of a foreign country or foreign political party and disclosed. I have heard all of this talk about how it is so much stronger.

Let us talk about what your bill does not do here, folks. Your bill does not empower the opportunity of the Justice Department to subpoena foreign agents to appear, testify, or produce records at administrative hearings concerning their violation of registration. Your bill does not impose administrative fines for minor violations against those who, after being directly informed of their obligation to report, still fail to do so. So, as a result, the General Accounting Office says this is meaningless. The Department of Justice is not going to go after these gnats with an MX missile.

Now, if there is some delineation and clarification of exemption, I would submit I would have to see in writing where the strength of your language is that much stronger. But, given that, given that, when is it that there are minor matters that deal in these issues that cannot be rectified in the conference with the U.S. Senate? Have we started to become subservient to the House of Lords or what?

Let me say, I do not have that much time. You guys are going to defeat the amendment. I want to say this to you: We have allowed foreign interests to run around this country lobbying our Government, and if not this bill today, then, damn it, when? That is what this bill is about. You are telling me you are going to bring another bill back. It is going to go to the other body. They are going to like it then, and the President is going to sign it.

What I am hearing today is: If it is great legislation, it has no shot; if it is mediocre, send it over, boys.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the remainder of my time.

•I am disappointed in my friend. We are trying to work this out. You want to posture and wave your arms, fine.

You asked me where is your bill weaker. We, in our bill here, page 26, line 13, letter D, striking subsection (q), subsection (q) of the law is an exemption granted to domestic subsidiaries of foreign agents. We abolish that exemption. Your bill merely amends it.

Yes, your bill tightens this in some ways. But here is the specific case, page 26, line 13.

Second, we are not being subservient to the Senate. We are recognizing what you yourself understand. There are enemies of this bill who, if it goes back into the parliamentary thicket, will make it less likely it emerges.

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That is why we want to get this thing done, and then move beyond that. But I will say at this point, there is a very specific area, page 26, line 13, where we strike an exemption for domestic subsidiaries of foreign interests, a pretty significant one, and you leave it in there and modify it. That is the difference.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, under my amendment, and listen to the language, "Any person who engages in political activities for the purpose of furthering the commercial or financial operations of a foreign interest would no longer be exempt. In addition, representatives of foreign interests will now be required to notify the Attorney General" if they would even seek any technicality to have such an exemption.

The only thing that I do is, I ban it too, but I make sure that at least those have an intention of trying to get around the registration have to show their hand here. I think that that speaks well of it. If there could be any more clarifying language, I would be glad to accept it.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

The gentleman had just said, first of all, he abolishes the exemption; but, second, he makes you tell the Attorney General if you are going to get it. That is like saying, "I didn't take the bicycle, and it was fixed when I gave it back to you, but it was broken when I took it."

The fact is that the gentleman, inadvertently perhaps, restores an exemption that this bill repeals, and saying that the Attorney General has to tell us does not change the facts. That is why this would benefit from being able to be worked on, as we will do in January or February.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are so close. We are about this close from passing real lobby reform legislation, the length of the pen that the President of the United States can use to sign this into law. We have done it in a very contentious Congress, on a bipartisan basis, with people who said "Yes, let us have a gift ban, and a strong gift ban," and who now, after almost 50 years, five decades, are this close, the length of a pen, to signing this into law and to make it the law of the land that we are reforming this Congress and regulating the lobby.

Yes, I am very concerned about the lack of registration of foreign agents. There are some that are not registered. But for every one of them, there are dozens or hundreds of people that are domestic agents that are not registered under our laws today. I am concerned about the loss of jobs to other countries, but I am also concerned about the loss of the public interest from this Capitol building. Let us do what is right today: Defeat these amendments, place this on the President's desk, sign it into law this year, and then move on to reform our campaign finance laws, on a bipartisan basis also.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentleman from western Pennsylvania [Mr. ENGLISH], replacing the big shoes of Tom Ridge, and he has done a fine job.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding me the time, and for his handsome comments.

Mr. Chairman, the gentleman's amendment, I think, provides fundamental reform of the registration of foreign agents. I think it is timely and necessary, given that this aspect of the law has not been modified for many decades and is demanding of reform. It is an obscenity right now that most representatives of foreign interests do not register. They are not in the public domain. The public is not protected from them and is not provided with the information that they need about the level of foreign interest representation.

Mr. Chairman, let me say, there is no controversy here. The managers of this bill have conceded, despite some technical arguments, that generally this amendment would strengthen this bill. That clearly is not in question here. I think the managers of this bill have made one real argument against this amendment, that somehow it impedes the progress of the legislation. However, I would repeat my earlier argument on previous amendments, like the English-Traficant amendment that was defeated last night by a very narrow margin, that we need to do our business.

It has been conceded here that this bill, this underlying bill, should be stronger. I would submit that we will feed public cynicism if we do not go forward and produce, here and now, the strongest possible bill, and have the discipline to follow through and get a conference passed by both houses. I do not think we can jump start this by simply passing the Senate version which, as has been conceded, does not go far enough in some particulars.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this has been one of the few issues that has been bipartisan in the extraordinary leadership of the gentleman from Florida [Mr. CANADY] and the gentleman from Massachusetts [Mr. FRANK], Republican and Democrat coming together for the first time in 49 years to pass meaningful lobby disclosure.

The Senate wants the bill of the gentleman from Ohio [Mr. TRAFICANT] to pass. They want this bill to be sent back to the Senate. Some do not like the Simpson amendment in it; some do not like for the first time the fact that Senators will have to disclose their blind trusts, the full amount. They want it to come back to them so in conference they can take out the parts they do not want. Others want to send the President a bill that he will veto, to embarrass the President.

Mr. Chairman, we have the opportunity to have for the first time since 1946 meaningful lobby disclosure pass this Congress and be signed by the President. When they passed meaningful lobby disclosure in 1946 it was gutted by the Supreme Court in 1954. We have a meaningless law right now on the books. It is the reason that only 6,000 people register as lobbyists, when it is estimated that 60,000 to 80,000 people actually lobby Congress and lobby the executive branch. We have an opportunity to have these individuals lobby, and to disclose that they lobby, to disclose who pays them, to learn how much they are paid and to learn what they do.

The gentleman from Ohio [Mr. TRAFICANT] has a good concept. I believe that will pass. I believe that we can bring out a bill on its own, combined with a few others that have come forward in the course of this debate, but I urge my colleagues to recognize we are so close. We have the opportunity to defeat this amendment, maybe defeat one more, and then send it to the President and have it become law.

I would just conclude by congratulating the gentleman from Florida [Mr. CANADY] and congratulating the gentleman from Massachusetts [Mr. FRANK], and to tell them that it is refreshing to participate, and to the gentleman from Texas [Mr. BRYANT] and others, to participate in a bipartisan effort to get true lobby disclosure.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, No. 1, I do not want any of my comments taken to in any way cast any shadow of competency and/or address to duty on behalf of the gentleman from Massachusetts [Mr. FRANK], one of the most intelligent Members of this body, who has shepherded a lot of these bills in the past, and the gentleman from Florida [Mr. CANADY], his effort, the gentleman from Connecticut [Mr. SHAYS], both of them extremely well qualified and do an excellent job. They have worked with the gentleman from Massachusetts [Mr. FRANK] and we probably have the best brain trust involved in the bill. When you talk about the gentleman from Texas [Mr. BRYANT], we talk about one of our more solid Members who understands the Constitution and can interpret law.

Saying that, Mr. Chairman, I agree with everything the gentleman said. I have some concerns with loopholes in your language. In section 3 under definitions, the definition of lobbying contact calls for, in subsection B, under subsection 8, the term "lobbying contact" does not include a communication that is made on behalf of a government of a foreign country or a foreign political entity.

Mr. Chairman, there is some real technical language in here that people can run with. Everybody says no, that does not apply, the other section applies. A court of law is a funny place. The only thing I would like to say is this: that the Traficant amendment gives reasonable fines for reasonable offenses. It provides a date certain when individual agents representing foreign agents must register, and they have no more than a 30-day grace period, January 30–July 30.

The point I am making is, I listen to these arguments but here is what troubles me. We all agree that this is strengthening. If there is one question on the exemption language which, quite frankly, I believe the intent of my legislation prohibits any exemptions for commercial trade issues and, in fact, further makes notice that anybody who misreads that section must notify the Attorney General that they think they may have an exemption, make sure there is a process, before they could even consider having an exemption. My bill specifically in fact denies any exemption. I will read it: "Any person who engages in political activities for the purpose of furthering commercial or financial operations of foreign interests would no longer be exempt."

Yes, the trouble that we have is most people do not know the law. There is no notification, which the Traficant bill provides. There is no reasonableness in the fines. As a result, there is no enforcement. There are no subpoena powers. It is like saying we are going to enforce the law, but we cannot subpoena your records.

I have been here for a number of years and, quite frankly, I am absolutely sickened by foreign interests who rip us off. Let me say this: We might be concerned about the Senate's blind trust today, but I am concerned about foreign interests' blindsiding of the American economy. I think that is a hell of a lot more.

However, I am going to do this. I am asking the chairman, because I have a commitment by the gentleman from Massachusetts [Mr. FRANK], will he include the Traficant language with that one minor clarification, in another piece of legislation, and does that have a shot to come out of this Congress?

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, as I have told the gentleman before, I want to work with the gentleman on this issue. We are going to consider the specific language that he has proposed here today, any changes he wants to make on it, any other suggestions he has on this general subject. I want to move forward with as strong a piece of legislation on this subject on this legislation as we possibly can.

Mr. TRAFICANT. I would ask the gentleman, Mr. Chairman, is that a yes?

Mr. CANADY of Florida. Yes.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I can guarantee to the gentleman, knowing the way this place functions, that we will have a new bill come out, his language will be in it in some form, and if he does not like that form, we will have a vote on the floor on his language, because we need a vote on this and other issues, and I can guarantee he can have a vote on this floor and I will be supporting it.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I would like to point out, there are a number of others of us who would like to speak in favor of such effort.

Mr. TRAFICANT. With that, Mr. Chairman, I think we have at least made our case. The blind trusts of the Senate are important, but there is the blindsiding of our economy by individuals trying to operate and get around it. I agree, the gentleman's intentions are honorable.

Mr. Chairman, I ask unanimous consent that my amendment, which in text and in substance will be included in further legislation, from what I have heard, now be withdrawn and there be no labor of a vote.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. REED. Mr. Chairman, I am pleased that today, the House of Representatives is considering H.R. 2564, legislation that will make long-overdue lobbying reforms. By approving this measure, the House will make real changes in the lobbying process, and take an important step toward restoring the American people's faith in their government.

Too often in the past, Congress has failed to effectively address the problems plaguing the lobbying process. Last year, for example, the House worked in a bipartisan manner to approve meaningful lobbying reform legislation, only to see the maneuvers of a few Republicans in the Senate block its enactment.

Throughout this year, Democrats have called upon the Republican majority to move forward with similarly meaningful lobbying reform legislation. By bringing H.R. 2564 to the floor, the Republicans have at last heard and answered this call. This bill would require professional lobbyists to identify their clients and disclose how much they are paid for their efforts. It would also guarantee the American people full access to this information.

Earlier this month, the Judiciary Committee, of which I am a member, recognized the importance of real lobbying reform and unanimously approved H.R. 2564. This impressive, bipartisan support offers great promise for today's debate on the measure.

Two weeks ago, the House demonstrated its commitment to reform by approving tough, new gift rules. Today, the House can take another step on the path toward needed reform and restored public faith in Government. I urge my colleagues to choose this path by passing real lobbying reform. I urge my colleagues to support H.R. 2564.

Mr. QUINN. Mr. Chairman, I rise today in support of H.R. 2564, the Lobbying Disclosure Act of 1995. This historic legislation imposes new disclosure requirements for lobbyists who contact legislative and executive branch officials and their staffs.

Lobbying reform legislation is long overdue. In fact, Congress has failed to agree to comprehensive legislation on this issue for 49 years. I have served in this body for almost 3 years and I am relieved to finally have the opportunity to vote for genuine lobbying reform.

Today, when the House adopts a rule to ban lobbyists from giving, and Members from receiving, unnecessary gifts, such as meals and vacations, it will be amending the 1946 Federal Regulation and Lobbying Act.

The 1946 act is seen as having broad deficiencies: among other weaknesses, it does not cover executive branch lobbying, grassroots lobbying, or the lobbying of congressional staff. These deficiencies have diminished the public's trust in Congress and its actions.

This issue should concern all Americans, because it indicates where the sympathies of their own Representatives lie, with them and their neighbors or with special interest groups based in Washington.

Polls clearly show that citizens continue to believe that special interests control the outcome of legislative debate. It is time for the House of Representatives and all of its Members to answer to the public's demand for lobbying reform.

The Lobbying Disclosure Act of 1995 reforms the way special interest groups and lobbyists unduly influence legislation on Capitol Hill. The legislation holds lobbyists responsible and if they break the law, they will be punished with tens of thousands of dollars in fines. I urge all my colleagues to support H.R. 2564.

Mr. FAWELL. Mr. Chairman, I rise in support of H.R. 2564, the Lobbying Disclosure Act of 1995. Unfortunately, current lobbying disclosure requirements are riddled with loopholes, which may lead public officials to enact policies that benefit special interests, rather than the public good. Building on Republican efforts to end business as usual in Washington, H.R. 2564 would impose strict registration and disclosure requirements for lobbyists who contact legislative and executive branch officials or their staffs. The bill would impose civil penalties on lobbyists who fail to file or who report false information, prohibit former U.S. trade officials from representing foreign entities, and expand financial disclosure requirements for Members of Congress.

In order to ensure that individuals who petition their congressional and Government representatives are not unfairly burdened with disclosure laws, H.R. 2564 defines a lobbyist as any individual who is employed or retained for compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a 6-month period.

There is strong bipartisan support for this legislation. In fact, the Senate passed an identical version of this legislation—S. 1060—on July 25, 1995, by a vote of 98 to 0.

Justifiable concerns were raised that if the Senate-version of this legislation were amended, the bill would become mired in a House-Senate conference, and the possibility of enacting any significant lobbying reform legislation would be substantially reduced. Therefore, although I find merit in many of the amendments which are being offered during floor consideration of H.R. 2564, I am voting against all changes to the underlying bill to avoid sending the legislation into a protracted House-Senate conference. This scenario would result in delay and disagreement between the two Chambers, which has in fact undermined previous attempts at lobbying reform.

Mr. Chairman, improvements in our outdated lobbying registration and disclosure requirements are long overdue. By promptly passing H.R. 2564 without amendment, we can send this important measure to the President's desk for signature into law. I am hopeful that the House will consider separate legislation relating to the issues raised through the amendment process in the coming months.

Mr. Chairman, I urge my colleagues to approve this legislation in the same form as passed by the Senate. H.R. 2564 is an important reform bill which is worthy of strong bipartisan support.

Ms. PELOSI. Mr. Chairman, I rise today to urge my colleagues to support this legislation. It is a bill worth passing and one which should be enacted without further delay.

If passed by the House without amendment, the bill would be cleared for the President's signature. If amended however, the legislation must be returned to the Senate for further consideration. This delay will effectively kill lobby reform legislation for the rest of the 104th Congress.

This bill expands the registration requirements for lobbyists and requires more disclosure regarding lobbying activities. Specifically, the bill requires those who lobby congressional staff, senior executive branch officials, and Members of Congress to register as lobbyists.

In addition, lobbyists must identify their clients, the general issues on which they lobby, and how much they are paid for their efforts.

While we must ensure that the constitutional right of the people to petition their government is protected, we must also make certain that paid lobbying activities are adequately disclosed. This bill protects both of these principles and deserves our support.

I urge all of my colleagues to support H.R. 2564 without amendment and pass these much-needed lobbying reforms.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALLARD) having assumed the chair, Mr. KOLBE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, pursuant to House Resolution 269, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 828]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Cox
Crane
de la Garza
Fattah
Flake
Hefner
Riggs
Roth
Towns
Tucker
Waters

□ 1134

Mrs. LINCOLN and Mr. OWENS changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COX of California. Mr. Speaker, on rollcall No. 828, I was necessarily detained due to official business. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 828, I was unavoidably detained on other legislative business and was not able to cast my vote within the allotted time. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 2564, the bill just passed.

The SPEAKER pro tempore (Mr. ALLARD). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 269, I call up the Senate bill (S. 1060) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) EMPLOYEE.—The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.—The term "foreign entity" means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) LOBBYING ACTIVITIES.—The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) LOBBYING CONTACT.—

(A) DEFINITION.—The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term "lobbying contact" does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(9) LOBBYING FIRM.—The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) LOBBYIST.—The term "lobbyist" means any individual who is employed or retained

by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) MEDIA ORGANIZATION.—The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) MEMBER OF CONGRESS.—The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) ORGANIZATION.—The term "organization" means a person or entity other than an individual.

(14) PERSON OR ENTITY.—The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) PUBLIC OFFICIAL.—The term "public official" means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.—The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—

(1) GENERAL RULE.—No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Secretary of the Senate and the Clerk of the House of Representatives.

(2) EMPLOYER FILING.—Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $5,000; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $20,000,

(as estimated under section 5) in the semiannual period described in section 5(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this Act; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $10,000 toward the lobbying activities of the registrant in a semiannual period described in section 5(a); and

(B) in whole or in major part plans, supervises, or controls such lobbying activities.

(4) the name, address, principal place of business, amount of any contribution of more than $10,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE CONTACTS.—A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) TERMINATION OF REGISTRATION.—A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Secretary of the Senate and the Clerk of the House of Representatives and terminate its registration.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—No later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 4, each registrant shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific executive branch actions;

(B) a statement of the Houses of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest, if any, of any foreign entity identified under section 4(b)(4) in the specific issues listed under subparagraph (A).

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, estimates of income or expenses shall be made as follows:

(1) Estimates of amounts in excess of $10,000 shall be rounded to the nearest $20,000.

(2) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses totaled less than $10,000 for the reporting period.

(3) A registrant that reports lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may satisfy the requirement to report income or expenses by filing with the Secretary of the Senate and the Clerk of the House of Representatives a copy of the form filed in accordance with section 6033(b)(8).

SEC. 6. DISCLOSURE AND ENFORCEMENT.

The Secretary of the Senate and the Clerk of the House of Representatives shall—

(1) provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules, and procedures for compliance with this Act;

(2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;

(3) develop filing, coding, and cross-indexing systems to carry out the purpose of this Act, including—

(A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this Act;

(4) make available for public inspection and copying at reasonable times the registrations and reports filed under this Act;

(5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;

(6) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

(7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this Act; and

(8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this Act, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (6).

SEC. 7. PENALTIES.

Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this Act; shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.

SEC. 8. RULES OF CONSTRUCTION.

(a) CONSTITUTIONAL RIGHTS.—Nothing in this Act shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

(b) PROHIBITION OF ACTIVITIES.—Nothing in this Act shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this Act.

(c) AUDIT AND INVESTIGATIONS.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Secretary of the Senate or the Clerk of the House of Representatives.

SEC. 9. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by striking subsection (j);

(B) in subsection (o) by striking "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting "any activity that the person engaging in believes will, or that the person intends to, in any way influence";

(C) in subsection (p) by striking the semicolon and inserting a period; and

(D) by striking subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking "established agency proceedings, whether formal or informal." and inserting "judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 3 (22 U.S.C. 613) by adding at the end the following:

"(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) if the agent is required to register and does register under the Lobbying Disclosure Act of 1995 in connection with the agent's representation of such person or entity.";

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) in the matter preceding clause (i), by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "(i) in the form of prints, or" and all that follows through the end of the subsection and inserting "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking "political propaganda" and inserting "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a) by striking "and all statements concerning the distribution of political propaganda";

(B) in subsection (b) by striking ", and one copy of every item of political propaganda"; and

(C) in subsection (c) by striking "copies of political propaganda,";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2) by striking "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking subsection (d); and

(9) in section 11 (22 U.S.C. 621) by striking ", including the nature, sources, and content of political propaganda disseminated or distributed".

SEC. 10. AMENDMENTS TO THE BYRD AMENDMENT.

(a) REVISED CERTIFICATION REQUIREMENTS.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3) by striking all that follows "loan shall contain" and inserting "the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) REMOVAL OF OBSOLETE REPORTING REQUIREMENT.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 11. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 12. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 3 of the Lobbying Disclosure Act of 1995)" after "an agent for a foreign principal".

(b) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Section 219(a) of title 18, United States Code, is amended—

(1) by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(7) of that Act" after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938"; and

(2) by striking out ", as amended,".

(c) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 3(7) of the Lobbying Disclosure Act of 1995)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

SEC. 13. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 14. IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.

(a) ORAL LOBBYING CONTACTS.—Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this Act and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 4(b)(4) that has a direct interest in the outcome of the lobbying activity.

(b) WRITTEN LOBBYING CONTACTS.—Any person or entity registered under this Act that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this Act, and state whether the person making the lobbying contact is registered on behalf of that client under section 4; and

(2) identify any other foreign entity identified pursuant to section 4(b)(4) that has a direct interest in the outcome of the lobbying activity.

(c) IDENTIFICATION AS COVERED OFFICIAL.—Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official.

SEC. 15. ESTIMATES BASED ON TAX REPORTING SYSTEM.

(a) ENTITIES COVERED BY SECTION 6033(b) OF THE INTERNAL REVENUE CODE OF 1986.—A registrant that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would be required to be disclosed under such section for the appropriate semiannual period to meet the requirements of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 3(8) of this Act, consider as lobbying activities only those activities that are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.

(b) ENTITIES COVERED BY SECTION 162(e) OF THE INTERNAL REVENUE CODE OF 1986.—A registrant that is subject to section 162(e) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would not be deductible pursuant to such section for the appropriate semiannual period to meet the requirements of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 3(8) of this Act, consider as lobbying activities only those activities, the costs of which are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.

(c) DISCLOSURE OF ESTIMATE.—Any registrant that elects to make estimates required by this Act under the procedures authorized by subsection (a) or (b) for reporting or threshold purposes shall—

(1) inform the Secretary of the Senate and the Clerk of the House of Representatives that the registrant has elected to make its estimates under such procedures; and

(2) make all such estimates, in a given calendar year, under such procedures.

(d) STUDY.—Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under subsections (a) and (b) and report to the Congress—

(1) the differences between the definition of "lobbying activities" in section 3(8) and the definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of the Internal Revenue Code of 1986, as each are implemented by regulations;

(2) the impact that any such differences may have on filing and reporting under this Act pursuant to this subsection; and

(3) any changes to this Act or to the appropriate sections of the Internal Revenue Code of 1986 that the Comptroller General may recommend to harmonize the definitions.

SEC. 16. REPEAL OF THE RAMSPECK ACT.

(a) REPEAL.—Subsection (c) of section 3304 of title 5, United States Code, is repealed.

(b) REDESIGNATION.—Subsection (d) of section 3304 of title 5, United States Code, is redesignated as subsection (c).

(c) EFFECTIVE DATE.—The repeal and amendment made by this section shall take effect 2 years after the date of the enactment of this Act.

SEC. 17. EXCEPTED SERVICE AND OTHER EXPERIENCE CONSIDERATIONS FOR COMPETITIVE SERVICE APPOINTMENTS.

(a) IN GENERAL.—Section 3304 of title 5, United States Code (as amended by section 2 of this Act) is further amended by adding at the end thereof the following new subsection:

"(d) The Office of Personnel Management shall promulgate regulations on the manner and extent that experience of an individual in a position other than the competitive service, such as the excepted service (as defined under section 2103) in the legislative or judicial branch, or in any private or nonprofit enterprise, may be considered in making appointments to a position in the competitive service (as defined under section 2102). In promulgating such regulations OPM shall not grant any preference based on the fact of service in the legislative or judicial branch. The regulations shall be consistent with the principles of equitable competition and merit based appointments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 2 years after the date of the enactment of this Act, except the Office of Personnel Management shall—

(1) conduct a study on excepted service considerations for competitive service appointments relating to such amendment; and

(2) take all necessary actions for the regulations described under such amendment to take effect as final regulations on the effective date of this section.

SEC. 18. EXEMPT ORGANIZATIONS.

An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, contract, loan, or any other form.

SEC. 19. AMENDMENT TO THE FOREIGN AGENTS REGISTRATION ACT (P.L. 75-583).

Strike section 11 of the Foreign Agents Registration Act of 1938, as amended, and insert in lieu thereof the following:

"SECTION 11. REPORTS TO THE CONGRESS.—The Attorney General shall every six months report to the Congress concerning administration of this Act, including registrations filed pursuant to the Act, and the nature, sources and content of political propaganda disseminated and distributed.".

SEC. 20. DISCLOSURE OF THE VALUE OF ASSETS UNDER THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) INCOME.—Section 102(a)(1)(B) of the Ethics in Government Act of 1978 is amended—

(1) in clause (vii) by striking "or"; and

(2) by striking clause (viii) and inserting the following:

"(viii) greater than $1,000,000 but not more than $5,000,000, or

"(ix) greater than $5,000,000.".

(b) ASSETS AND LIABILITIES.—Section 102(d)(1) of the Ethics in Government Act of 1978 is amended—

(1) in subparagraph (F) by striking "and"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) greater than $1,000,000 but not more than $5,000,000;

"(H) greater than $5,000,000 but not more than $25,000,000;

"(I) greater than $25,000,000 but not more than $50,000,000; and

"(J) greater than $50,000,000.".

(c) EXCEPTION.—Section 102(e)(1) of the Ethics in Government Act of 1978 is amended by adding after subparagraph (E) the following:

"(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102(a)(1)(B) and 102(d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.".

SEC. 21. BAN ON TRADE REPRESENTATIVE REPRESENTING OR ADVISING FOREIGN ENTITIES.

(a) REPRESENTING AFTER SERVICE.—Section 207(f)(2) of title 18, United States Code, is amended by—

(1) inserting "or Deputy United States Trade Representative" after "is the United States Trade Representative"; and

(2) striking "within 3 years" and inserting "at any time".

(b) LIMITATION ON APPOINTMENT AS UNITED STATES TRADE REPRESENTATIVE AND DEPUTY UNITED STATES TRADE REPRESENTATIVE.—Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON APPOINTMENTS.—A person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, United States Code) in any trade negotiation, or trade dispute, with the United States may not be appointed as United States Trade Representative or as a Deputy United States Trade Representative.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to an individual appointed as United States Trade Representative or as a Deputy United States Trade Representative on or after the date of enactment of this Act.

SEC. 22. FINANCIAL DISCLOSURE OF INTEREST IN QUALIFIED BLIND TRUST.

(a) IN GENERAL.—Section 102(a) of the Ethics in Government Act of 1978 is amended by adding at the end thereof the following:

"(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.".

(b) CONFORMING AMENDMENT.—Section 102(d)(1) of the Ethics in Government Act of 1978 is amended by striking "and (5) and inserting "(5), and (8)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to reports filed under title I of the Ethics in Government Act of 1978 for calendar year 1996 and thereafter.

SEC. 23. SENSE OF THE SENATE THAT LOBBYING EXPENSES SHOULD REMAIN NONDEDUCTIBLE.

(a) FINDINGS.—The Senate finds that ordinary Americans generally are not allowed to deduct the costs of communicating with their elected representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that lobbying expenses should not be tax deductible.

SEC. 24. EFFECTIVE DATES.

(a) Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on January 1, 1996.

(b) The repeals and amendments made under sections 13, 14, 15, and 16 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

The SPEAKER pro tempore. Pursuant to House Resolution 269, the previous question is ordered. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2564) was laid on the table.

MAKING TECHNICAL CORRECTIONS IN ENROLLMENT OF S. 1060, LOBBYING DISCLOSURE ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 116) directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1060, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida to explain the purpose of his unanimous-consent request.

Mr. CANADY of Florida. I thank the gentleman for yielding.

Mr. Speaker, the concurrent resolution directs the enrolling clerk to correct solely technical errors in the Senate bill, especially with respect to some erroneous cross references. It makes no substantive changes in the bill. The concurrent resolution is necessary so that the bill that will be sent to the President will be technically correct.

Mr. FRANK of Massachusetts. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 116

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill S. 1060, to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 6(8), strike "6" and insert "7".

(2) In section 9(7), insert "and" after the semicolon, in section 9(8), strike "; and" and insert a period, and strike paragraph (9) of section 9.

(3) In section 12(c), strike "7" and insert "6".

(4) In section 15(a)(2), strike "8" and insert "7".

(5) In section 15(b)(1), strike ", 5(a)(2)," and in section 15(b)(2), strike "8" and insert "7".

(6) In section 24(b), strike "13, 14, 15, and 16" and insert "9, 10, 11, and 12".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

Mr. LEWIS. Mr. Speaker, pursuant to House Resolution 280, I call up the conference report on the bill (H.R. 2099) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 17, 1995, at page H13249).

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2099 as well as the Senate amendments reported in disagreement, and that I may include charts, tables and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us H.R. 2099, which is a very, very complex bill dealing with diverse agencies such as veterans, housing, EPA, NASA, and a variety of other independent agencies and commissions.

Mr. Speaker, I would first like to start my comments by expressing my deep appreciation for my colleagues within the subcommittee who have worked so hard to bring this package together in a successful fashion. Beyond that, Mr. Speaker, I want my colleagues to know that this work would not have been able to be done successfully without the assistance of very fine staff, headed by my chief of staff within the committee, Mr. Frank Cushing, and his colleagues.

I would also like to mention, Mr. Speaker, that within my personal staff a great deal of assistance was provided for me, I would like to extend my appreciation particularly today to David LesStrang, Jeff Shockey, and one of my key staff people who will be leaving us shortly, Mr. Doc Syers.

Mr. Speaker, it is with a combination of pleasure and pain that I bring this bill to the floor today, and I would suggest first that the pleasure is there because I am very proud of the fact that this subcommittee has led the way in putting Uncle Sam on a diet. This bill represents $10.1 billion as a down payment toward balancing the budget by 2002.

I must say, Mr. Speaker, up until now we have been talking about moving toward balancing the budget. This, however, is where the rubber meets the road. It is one thing to talk. It is another thing to make the very, very tough decisions.

Let me suggest that the pain that I mentioned earlier involves that very fact. Unfortunately, the spirit of bipartisanship among the committee members that has long been a hallmark of the Committee on Appropriations has suffered as a result of our taking a different turn in the road regarding this country's spending habits. Even as we continue to travel on that road to balance the budget, I pledge to do all that

I can, Mr. Speaker, to bring this subcommittee back to that bipartisan spirit that we have lost this year.

This conference report reflects a willingness to make the very tough decisions and to meet the spending targets necessary to balance the budget in 7 years. As I have suggested, out of 13 appropriations subcommittees, the VA-HUD bill makes the single largest contribution toward balancing the budget. It does not wait until year 5 or year 7 or year 10. We are making the tough decisions today. No longer will we tolerate paying lip service to the goal of deficit reduction.

This conference report of $61.3 billion in new discretionary spending represents a reduction in budget authority of 13.1 percent, and it is about $9.25 billion below the administration's requested spending level for fiscal year 1996.

To say the least, the decisions that led to these reductions were certainly not easy ones to make. The work of the Subcommittee on VA, HUD and Independent Agencies has changed dramatically from last year. No longer do we simply compare the agency account on the basis of what they received last year, then add on a certain amount for inflation and maybe tack on some more there to establish a new base level.

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We have now completed a bottom-up review of all of our agencies. This is all part of a process of justifying each program's existence and examining how taxpayer dollars are being used. I intend to continue this approach next year so that every program within every agency under our jurisdiction receives the kind of necessary scrutiny to find appropriate savings.

The subcommittee began working on this bill on January 24 when we held the first of over 20 separate hearings. When our bill passed the House in late July we showed a reduction from the 1995 enacted level of $9.7 billion, while the Senate showed a reduction of $8.4 billion in budget authority.

As I noted, the conferees essentially split the difference for a net reduction of over $9 billion.

However, during the process we were also able to take advantage of an additional 1 year's legislative savings, a provision at HUD, thus giving us an additional $1 billion, with which to better fund housing programs.

Let me at this time take a moment to share some of the positive actions recently taken by the House-Senate conference meeting. We provided an increase of $400 million over the 1995 level for VA medical care and were able to do away with the so-called incompetent veterans' legislative savings provision that was of concern to many. We provided some $24.4 billion for HUD programs. While this is a reduction from the budget request, it actually represents a program level of $1 billion over the earlier House-passed bill.

Most importantly, this increase would achieve for 1996 without adversely impacting our outlay problems in 1997 and beyond.

In the bill we terminated four Federal agencies for savings of $705 million, including the Office of Consumer Affairs, the Chemical Safety and Hazards Investigation Board, Community Development Financial Institutions, and the Corporation for National Community Service.

We fully funded the space station and space shuttle programs, even though NASA took its fair share of downsizing like every other department and agency under this subcommittee's jurisdiction.

We provided over $1.1 billion to continue the Superfund Program at EPA and over $2.3 billion for wastewater, drinking water, and various categorical grants to the States so they can adequately meet Federal environmental mandates.

We also created a performance partnership program between the EPA and the States so that these funds can be used where the States believe they are most needed.

Finally, we have not included any of the EPA legislative provisions as passed by the House and only four passed by the Senate. Of those, three were included in last year's bill signed by the President.

Mr. Speaker, please allow me to digress for just a moment with respect to the HUD programs. As I mentioned, we were able to do a little more this year than we first thought. However, each successive year will get more and more difficult with respect to HUD outlays as payment for some of the budget authority approved in past years finally comes due.

The choices we make this year will go beyond fiscal year 1996. Indeed, they set the foundation for the years ahead. One specific area of special note in this regard is the renewal of section 8 subsidy contracts. Over the next 2 years, the cost of renewing section 8 expiring contracts will increase from $4.35 billion in 1996 to $14.4 billion by 1998. This will occur despite the fact that we have passed legislation which actually lowers HUD spending levels from past years.

The challenge facing the subcommittee in the coming years will be difficult, but we have made great progress this year, and I look forward to working with my colleagues to find reasonable solutions to complex issues like this section 8 issue.

Mr. Speaker, I am including in the RECORD a table illustrating the aforementioned section 8 problem.

SECTION 8—RENEWAL OF EXPIRING CONTRACTS

[Dollars in thousands]

	Units	1996 Budget authority	Units	1997 Budget authority	Units	1998 Budget authority
Certificates	241,206	$2,993,597	213,590	$2,709,631	579,193	$7,517,923
Vouchers	58,798	729,739	100,389	1,273,548	242,256	3,095,473
LMSA	120,587	475,354	126,591	1,637,370	227,794	2,835,182
Property disposition	4,464	35,194	12,738	103,439	17,351	156,649
Moderate rehabilitation	8,016	99,486	18,232	231,294	30,409	394,709
New construction/substantial rehabilitation	1,957	17,492	15,667	144,233	45,208	436,083
Total	435,028	4,350,862	487,207	6,099,515	1,142,211	14,436,019

Note.—Totals may not add due to rounding. Budget authority in 1997 and 1998 reflects LMSA contract renewals with one-year terms calculated from assumptions contained in HUD's 1996 estimates.

Mr. LEWIS of California. I would like to make an additional observation with regard to HUD. My experience in working with HUD Secretary Henry Cisneros and NASA Administrator Dan Golden illustrate how valuable partnerships can be when faced with tough spending decisions. Both have reached out and been helpful in outlining their specific priorities.

I had hoped such a partnership would be possible in working with President Clinton's chief of staff Leon Panetta to fashion a bill President Clinton would support. To date it appears we are far from any final agreement.

It is important to note to my colleagues for the record that the administration fully expects to veto this bill. At a meeting almost 2 weeks ago, Mr. Panetta informed Chairman BOND, Senator MIKULSKI, the gentleman from Ohio, Mr. STOKES, and me that this bill would be vetoed regardless of what we did to address the President's priorities. If this is correct, then the true losers will be the millions of Americans who counted on the many programs that would be continued and properly funded under this agreement.

I might mention, Mr. Speaker, at this point that for those of you among my colleagues who care about veterans' medical care programs, who care about housing programs, who are concerned about EPA, it should be noted that the only money those programs will receive in the coming year will be as a result of this conference report successfully being signed into law. To do otherwise will leave them with a base of funding considerably less than available in this bill.

So I would suggest my colleagues on both sides of the aisle make note of that. This is your chance to provide funding that is needed for veterans' programs and housing and the like.

Mr. Speaker, this conference report strikes a careful balance in caring for our veterans, housing people in need, protecting the environment, ensuring America's future role in space, and meeting many other critical needs. This is a good, tough, fair bill, and it deserves the bipartisan support of this body. I strongly urge adoption of the conference report and urge your support.

Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no one in this House for whom I have greater respect or higher regard than the chairman of our subcommittee, JERRY LEWIS of California. He brings before the House a tough bill and I am aware of the long hours and how much personal time and sacrifice he has committed to this effort. I also want to recognize all of the subcommittee staff for their tireless work on this bill, along with my own staff persons.

I regret having to rise in opposition to the conference report on H.R. 2099, the Fiscal Year 1996 Appropriations Act for the Departments of Veterans Affairs, Housing and Urban Development, and Independent Agencies. My opposition to this legislation is predicated upon the fact that the lives of millions of Americans will be devastated if this measure is passed in its current form.

Mr. Speaker, we have witnessed during this Congress, a new leadership with an ambitious plan to implement its Contract With America. While my Republican colleagues laud their discipline in terms of advancing the contract, I worry that they have shown a blindspot to the high cost in human suffering and damage to this country's precious resources that this legislation will extract. This is certainly the case with the conference report on H.R. 2099.

Having previously served as chairman of the VA-HUD Subcommittee, I am acutely aware of the complexities of the subcommittee's bill. I am also aware of the problems with the Federal deficit and the call for Government reform which have heightened the problems of providing funding for essential needs, many of which are under the subcommittee's jurisdiction. I believe, however, that there is considerable opportunity to try to meet these basic and pressing priorities upon which millions of Americans depend—even in this budget climate.

When this bill first came before the House in July, I argued then against drastic funding cuts and harmful legislative provisions in housing, the environmental, and veterans programs. I think my colleagues on this side of the aisle can take tremendous credit for having heightened awareness about these negative actions to the extent that the conference report before us has made some important positive steps to correcting some of these concerns. Unfortunately, not enough has been done and therefore I must still oppose this measure.

In fact, the President agrees with my position and has already indicated that he will veto this bill if it is presented to him in its present form. In his statement on H.R. 2099, the President stated and I quote:

> The bill provides insufficient funds to support the important activities covered by this bill. It would threaten public health and the environment, and programs that are helping communities help themselves, close the door on college from thousands of young people, and leave veterans seeking medical care with fewer treatment options. This bill does not reflect the values that Americans hold dear.

Let me take a moment to explain to you why this bill is so unacceptable to the President and those of us who care about the people dependent upon the programs in this bill.

For veterans programs, this bill is still almost $1 billion below the President's request. You know how misguided this bill must be when programs serving those brave men and women who sacrificed and protected our national interest are not adequately funded. Further, there are unprecedented retaliatory limitations placed on the Secretary of Veterans Affairs because he spoke out strongly against the cuts in these programs for these veterans. According to the majority they are sending him a message. The message clearly is that they don't tolerate free speech.

Housing programs, which already suffered under the $6.3 billion cut to HUD in the 1995 rescissions bill earlier this year, face another $4 billion in reductions in fiscal year 1996. This constitutes a wholesale assault on those individuals and critical programs that provide safety net and human service programs through Federal housing. Hardest hit are those programs that provide affordable and decent housing for the elderly and poor, like section 8 incremental rental assistance and public housing.

Now, my colleagues on the other side will claim that these actions are fair; that HUD is mismanaged and an unwieldy bureaucracy that has gotten out of control. Well, I don't think that our elderly, our families with children, and our poor would agree that these cuts are fair. I am certain that threatening them with homelessness and hopelessness is not a price worth paying to satisfy the Republican Contract With America.

But my Republican colleagues did not stop here. Added to these reductions are nearly 20 pages of extensive legislative changes—legislation that clearly falls within the jurisdiction of the authorizing committee. Like many other provisions the majority party has adopted this year, this legislation showed up in the chairman's mark of the bill. While certain provisions have been deleted, just as many others have been added and are now in the conference report before us. These damaging changes come at a time when affordable housing is at a record short supply.

Mr. Speaker, as if there are not enough problems, not enough reasons for the President to veto this piece of legislation, there remains the undisguised attack on the environment that this bill represents. As all of us remember, this bill as passed by the House included an assortment of antienvironment riders that the Republican leadership insisted the bill carry. To no one's surprise, Members from both sides of the aisle joined in saying that these extreme legislative changes should have no place in this bill. And so most, but not all, have been removed.

Does this make this bill an environmentally sound measure? Does this mean that the majority leadership's assault against the environment is over? Does this mean that my friends from across the aisle who fought so hard with me on my various motions to strip the rider may now vote—with a clear conscience—for this bill? The answer is a resounding no.

This bill makes a huge, unpredented cut in EPA's operating budget. This cut of more than 20 percent is intended to and will devastate the Agency's ability to protect public health and the environment.

And let us be clear here. These cuts go far beyond what is necessary to balance the budget. That is the smoke screen. If the Republicans really favored protecting the environment, they would find a way to ensure that EPA receives adequate funding even under a balanced budget plan. Instead they have targeted a huge, disproportionate, arbitrary reduction, that belies any claim that Republicans are interested in protecting the environment.

Furthermore, contained within the details of the big cut are other attacks to the environment.

At a time when Americans continually indicate their support for increased environmental enforcement, this measure targets EPA's environmental enforcement activities for extra cuts. Last year, EPA investigated over 500 cases of criminal misconduct, including cases involving loss of life, tainted food, and falsified laboratory data.

Last year EPA brought over 2,200 administrative and civil cases resulting in reductions in hundreds of thousands of pounds of pollutants and over $740 million in remediation efforts to clean up damage caused by violations of the environmental laws. What number of civil and administrative actions can we expect this fiscal year?

Right now the Center for Disease Control has told vulnerable Americans—the elderly, cancer and AIDS patients and others—to boil tap water due to the danger from microorganisms in much of the Nation's drinking water. The Republicans respond by cutting safe drinking water funds in half from the President's request. Not money for regulations, mind you, but money that would be used by local communities to build and improve their water purification equipment.

The Republicans also cut hazardous site cleanups by 25 percent and sewage treatment funds by 30 percent. With these actions, the bill undermines the capacity of EPA and States to clean up toxic sites and keep raw sewage out of our streams, lakes, and oceans.

And let us not forget about the riders. While most have been eliminated from the bill language itself, the conference report still bluntly pressures EPA into making exceptions and exemptions for natural gas processors, oil refineries, pulp and paper facilities, and cement kilns that burn hazardous waste. The special interests will not be disappointed by this bill.

One rider, that is still in, cuts EPA out of wetlands permitting so that the permitting can proceed without the environmental experts allowed a voice.

The conference on H.R. 2099 also terminates the Corporation for National and Community Service [Americorps], the Community Development Financial Institutions Program, the Council on Environmental Quality, and the Office of Consumer Affairs. These programs and agencies are of highest priority to the administration.

I do not think that this is a close vote for anyone who believes in meeting our obligations to our Nation's veterans, providing affordable and decent housing for all Americans, protecting the environment, and rewarding community service. I urge my colleagues to vote "no" on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. METCALF] for purposes of a colloquy.

Mr. METCALF. Mr. Speaker, I wonder if my friend, the gentleman from California, the chairman of the Subcommittee on VA, HUD and Independent Agencies, might help clarify the intent of the conferees with regard to the language contained in the Senate report accompanying the fiscal year 1996 VA, HUD and independent agencies appropriations bill.

Mr. LEWIS of California. If the gentleman will yield, I will be happy to do so.

Mr. METCALF. As the gentleman knows, the Senate report addressed a particular site on the national priorities list, the Tulalip landfill in Marysville, WA. The Senate language requires EPA to complete the comprehensive baseline risk assessment at the site and to then conduct an alternative dispute resolution procedure in order to achieve a remedial act plan based on sound science all parties agree on.

Mr. Speaker, that direction to the agency represents the views of the majority of those Members from the Washington State delegation. The site involves over 300 large and small businesses in my home State. It is critical to all of them that EPA follow this direction at the site.

Ms. DUNN of Washington. Mr. Speaker, will the gentleman yield?

Mr. METCALF. I yield to the gentlewoman from Washington.

Ms. DUNN of Washington. I thank the gentleman and rise in strong support of the request of the gentleman from Washington [Mr. METCALF] that the EPA be required to complete a comprehensive baseline risk assessment at the Tulalip landfill in Washington State.

Many of us from Washington State represent constituents who have been severely impacted by EPA's handling of this site. The Senate report language was very clear in its direction the agency, and the chairman's support of this directive is appreciated.

Mr. METCALF. I thank the gentlewoman.

Mr. LEWIS of California. If the gentleman will yield further, let me, by way of responding to both of my colleagues from Washington, say that I want to assure you both that the presence of that particular language in the final conference report in no way diminishes the intent of the conferees that the Senate language serves as the clear and final direction to the EPA at the Tulalip site during the fiscal year.

My recollection is that both Washington State members of the Committee on Appropriations, one from each side of the aisle, have strongly supported this language, and it is certainly my intention to see that the agency conducts a comprehensive baseline risk assessment and responds to your request. So I appreciate my colleague raising the question.

Mr. METCALF. I thank the gentleman.

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Mr. STOKES. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished ranking minority member of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, this is an outrageous bill. I rise in strong opposition to the conference report on H.R. 2099. I urge my colleagues to reject it.

I hope all Americans know what is in this bill, because it reveals the real essence of the Republican vision for this country.

In a budget where sacrifices had to be made to protect tax breaks for the wealthy and Republican pet projects, something had to give. Here is what gave.

One group that is being forced to give is our Nation's veterans, their widows, and their children. This bill reduces funds for VA construction and improvement projects by 62 percent. It cuts $400 million from the Administration's requests for veterans' health care.

What does this mean? By the year 2000, cuts mandated by this Republican budget plan will require 41 veterans' hospitals to close their doors. More than 1 million veterans will be denied health care. The Republican plan will force the elimination of about 60,000 health care positions and the cancellation of 40 construction projects for the VA.

More shockingly—and one of the really spiteful things that I have seen done by the Republicans in this Congress, and that is an extraordinary event—because Secretary Jesse Brown dares to speak his mind about this bill and Republican budget priorities, the majority has added to the conference report provisions aimed at stripping huge sums and personnel out of his office. As a matter of fact, they totally eliminated his travel budget. The question then is how will he travel about the country to look at VA facilities, VA projects, and to talk to the veterans? So much for free speech and so much for the veterans in this legislation.

Mr. Speaker, this bill is going to also cut 20 percent off of EPA's budget. It is going to see to it that cleanup of Superfund sites and the dirty waters of this Nation will be set back enormously. So much for the environment.

This is also the worst attack on housing since the Hoover administration. Housing programs face $4 billion in reductions. These cuts are on top of more than $6 billion cut in last summer's rescission bill. Wrongheaded provisions are also included to undercut enforcement of fair housing and antiredlining requirements.

I urge my colleagues to reject it.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG] for purposes of a colloquy.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I seek the time just to engage our chairman, the gentleman from California [Mr. LEWIS], in a colloquy. I would like to reserve a serious reservation that I have with respect to the statement of the manager's language regarding amendment No. 58. Section 223(D) of the administrative provisions was intended to address HUD's pattern of regulation regarding property insurance. My problem is simply this: The language does not precisely reflect the compromise that was reached with the gentleman from Ohio [Mr. STOKES] and others. I want to address that.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I would say to the gentleman from Michigan [Mr. KNOLLENBERG], his concern is appropriately addressed. I share his reservation. The House bill, which contained a spending limitation in the bill language, was rather clear. Unfortunately, I think the final manager's language goes beyond what the gentleman attempted to develop, and he is the author of the provision. It was carefully worked out with the staff on the other side.

Mr. KNOLLENBERG. I appreciate the gentleman's comments. Can I get the chairman's assurance that the offending language will be removed if this bill is vetoed and if negotiations on H.R. 2099 are resumed for any other reason?

Mr. LEWIS of California. If the gentleman will continue to yield, I can assume the gentleman, Mr. Speaker, that if we have another opportunity to go back at this language by way of a separate bill, or a bill to follow one that is vetoed, the gentleman's voice will be very clearly heard.

Mr. KNOLLENBERG. I thank the gentleman.

Mr. STOKES. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ], the distinguished ranking member of the Committee on Banking and Financial Services.

Mr. GONZALEZ. Mr. Speaker, I strongly oppose this mean-spirited and draconian HUD–VA appropriations conference report for fiscal year 1996. This will victimize people who are helpless—they have neither money nor power, which are commodities that seem to get attention these days. H.R. 2099 slashes one fifth of the budget for the Department of Housing and Urban Development. It starves all efforts to expand, preserve, and rehabilitate all kinds of public, assisted, and affordable housing. And through the legislation that is included in this appropriations report, housing policy has shifted and changed course dramatically.

But bad as it is, this conference report is much better than the bill that left the House in July.

Let me tell my colleagues what will happen if this conference report becomes law. If we pass this bill, we virtually ensure that affordable housing will continue to decrease and deteriorate; we will lose our $90 billion investment in public housing; and hundreds of thousands more families will become or remain homeless.

Public housing residents in the more than 3,400 local housing authorities throughout the Nation are at risk of seeing their everyday maintenance requests go unanswered for lack of operating funds, which are set at only $2.8 billion, some $400 million below this year's HUD funding request.

Inevitably, housing that is good will fall into ruin, and the eyesores of deteriorated and dilapidated housing in many of our urban centers will remain vacant and crumbling, further destroying neighborhoods.

Because nearly one-third of the modernization funds and 50 percent of the urban revitalization grants for severely distressed public housing projects will be lost if this conference report passes.

Under this bill there will be no new public housing funded and no incremental or new section 8 certificates available for the first time in 20 years. There will be only certificates for replacement housing—even though there are more than 5.6 million families today who pay more than 50 percent of their incomes for rent, or who live in substandard housing. The number of families who need help grows each year by more than ten times the number that would be assisted under this bill. During this fiscal year 88,400 units of affordable housing were financed through the various Federal housing programs but—next year there will be fewer than 15,000 units.

The conference report leaves two of the core programs untouched—HOME and CDBG. That's good; however, don't be surprised when the mayors and the Governors are here begging for more money. Why? Because, the deep, deep cuts in public housing and section 8, and the increases in the cost of that housing inevitably will mean trouble for our cities and States—more deteriorated housing and more homelessness—more people with nowhere safe and sound to live.

What this conference report does, make no mistake, is place the burden on cities and States, while the Federal Government takes a walk and abrogates its responsibilities.

I have watched these programs work for poor and working families, for the elderly and for the disabled throughout my public career. One of my jobs in my home city of San Antonio before I came to Congress was with the San Antonio Housing Authority. Public housing worked; and despite the problems in some places, public housing in most areas is safe, decent, and sound. But this bill by the Republican majority will devastate the lives of thousands of families currently residing in public and assisted housing and those who wait, sometimes for years, for such housing.

The Republicans talk about their historic balanced budget bill. They talk about their willingness to make hard decisions about discretionary spending to control spending. Despite what our colleagues on the majority contend, these are not hard decisions, they are merely heartless attacks on those too poor and too inconsequential to count on the scales of political calculations. The insistence and desire to provide foolhardy tax breaks for the wealthy at the expense of America's poor and working families drives this bill just as it drives the whole budget process. That is the thrust of this massive and mean assault on our most vulnerable citizens.

I urge a "no" vote on this conference report, which merely victimizes further the victims of poverty.

Mr. LEWIS of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the committee.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, the conference report of H.R. 2099 shows a real commitment to our future and our citizens. While it takes a major step toward eliminating our Nation's deficit, it does so while providing medical care to our veterans, housing for the poor, and preserving the challenges to be explored in space. One might call it a balancing act—but it is a skill that Chairman LEWIS and his excellent staff have refined. I commend them on their fine work. I would also like to give thanks and a wish of good luck to Doc Syers of the chairman's staff, who will be leaving the Hill to boldly go where no man has gone before. Doc has been a great friend over the years and we will miss him.

Returning to the matter at hand, our veterans represent one of our Nation's finest resources. This conference report appropriates $37.7 billion for the Department of Veterans Affairs, of which $16.5 billion is included for medical care. After listening to the concerns of many veterans groups, the subcommittee determined the controversial incompetent veterans language should be deleted. Our commitment to our veterans is unwavering and I believe this bill is proof of this fact.

The conference report also provides $19.3 billion for housing programs to help our poor, our homeless, and to give homebuyers a chance to reach the American dream of owning their own home.

In this time of fiscal restraint, the conference report takes strong action in eliminating programs which are ineffective or duplicative, such as the AmeriCorps Program and the Health and Human Services Office of Consumer Affairs.

When faced with the tough challenges of a decreasing budget, the subcommittee made effective decisions. This is a conference report in which we can all be proud and I urge my colleagues to vote in favor of this essential legislation. A yea vote is a vote in favor of our veterans and our commitment to our Nation's future.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in very strong opposition to the conference report. Although admittedly an improvement from the draconian version originally passed by this body a few months ago, this bill still is a glaring indication of wrong-headed priorities.

In addition to slashing funding for housing and veterans programs, this appropriations bill severely curtails the Government's historic role in ensuring the most basic guarantees of clean air and clean water. It cuts the Environmental Protection Agency by 21 percent, including a 19-percent cut in the program that cleans up hazardous waste sites. It also cuts hundreds of millions of dollars from wastewater treatment grants that provide critical assistance to local communities in keeping drinking water safe and beaches swimmable. In the area I represent, these funds are critical to helping to clean up Long Island Sound.

This legislation is premised on the false assumption that a strong economy and a clean environment are natural enemies. The authors of this bill try to polarize the debate as a choice between jobs and environmental stewardship.

Well, my colleagues, do not be fooled. A strong environment and a strong economy go hand in hand.

My constituents and I know from our experience with Long Island Sound that pollution-based prosperity is shortsighted and costs more—financially and otherwise—in the end.

There is no denying that these environmental rollbacks will cripple the EPA's ability to protect the quality of our air and water.

Let us not turn back the clock on environmental protection. Defeat the conference report.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to thank Chairman LEWIS, Congressman STOKES, and the subcommittee staff for all of their hard work in producing this compromise agreement.

This conference report contains funding for many vital programs for our Nation's veterans, protects and preserves our environment, helps house the needy and disabled, and moves scientific research and discovery forward.

As Chairman LEWIS has said it has been a difficult task balancing these needs against the critical need to balance our Federal budget. I believe that it has been done responsibly.

In total, this report provides $80.6 billion for these important programs. That number is $9.6 billion less than last year and $894 million more than the House-passed bill. This action shows that we have truly compromised in order to produce a sound piece of legislation.

Specifically, Mr. Speaker, I am pleased that we were able to increase the Superfund program by $163 million for a total of $1.16 billion. In addition, this agreement removes the December 31 "drop dead" date for the Superfund program. By removing this provision, we will be allowing this important program to operate while the authorization committee acts on reforming the Superfund law.

Representing a State with more Superfund sites than any other, I want to thank Chairman LEWIS for these actions and for realizing the importance of keeping work at all current Superfund sites moving forward. This funding increase brings the total number very close to what the program received last year.

This conference agreement also removes the controversial 17 EPA riders that were included in the House-passed bill. I am particularly happy that the clean water riders were removed. As I have always said, these riders should not have been included in this bill. We should give the authorization committees a chance to fine-tune the Clean Water Act, instead of prematurely halting many of the programs that have been working under this Act.

While I do not agree with all the reductions in this conference agreement, I do believe that it is time to stop throwing good money after bad and start focusing our limited resources toward programs that work.

Three such programs are at HUD, section 202, Senior Housing, and 811, Disabled Housing, and HOPWA, Housing Opportunity for People With AIDS. These programs have a proven track record and have worked. While the House-passed bill consolidated these three programs under one account, the conference agreement keeps these accounts separate allowing each of them to run independent of one another. This is something I supported and worked in conference to achieve. I would have liked to provide more funding, however, the committee agreed to freeze all these accounts at the current level.

As regards scientific research and development, I am pleased that this agreement recognizes that our Nation's future depends on properly educating all Americans so that we can continue to be number one in developing and producing various technologies. New Jersey is already the home to the brightest and best in both the public and private sector. This report dedicates itself to renewing our Nation's commitment to science by providing new resources, both fiscal and physical.

This report also funds the Department of Veterans Affairs. Nearly half of our allocation supports these activities and the committee increased medical care above the current year by $337 million. This should be adequate funding to keep all our veterans who rely on the VA for medical care fully supported.

I would also like to comment on the behavior of VA Secretary Brown who has politicized this budget process. Under the guise of so-called "free speech" he has needlessly alarmed veterans throughout the Nation. As a veteran myself, I am insulted by his actions.

Mr. Speaker, we have drafted a sound agreement and I urge my colleagues to support this conference report.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, before the Thanksgiving holiday, we came to an agreement on a framework to work toward a balanced budget. Within this framework, we agreed to a set of priorities to guide our actions. We agreed to preserve Medicare, strengthen our educational system, and protect the environment for our children and our future.

Well, today we have the opportunity to stand up for one of the priorities we outlined over a week ago. It is time to stop this Congress from rolling back existing environmental protections. In the VA-HUD appropriations bill before us now, most of the infamous regulatory riders have disappeared, but the EPA has still been put on a starvation diet.

This bill radically cuts the EPA's budget, from the $7.2 billion appropriated last year, down to only $5.7 billion, a reduction of $1.5 billion, or 21 percent. The EPA enforcement budget is specifically targeted for an even larger 25 percent cut. Make no mistake, Mr. Speaker, taking the environmental cops off the beat by slashing their budget is just another way to gut strong environmental laws.

The GOP cuts slash $270 million from the Superfund program. The EPA Administrator, Carol Browner, has testified that this will delay cleanups of toxic waste sites at hundreds of communities around our Nation.

And at the same time this Congress is cutting the budget for environmental protection, we just sent the Defense Department $7 billion the Pentagon did not even ask for.

Mr. Speaker, this all comes down to a question of priorities. Should we be giving tax cuts to the wealthy and buying more B-1 bombers, which we do not need? Or, should we be ensuring that our children have clean air and clean water and that toxic waste sites in our communities get cleaned up?

We cannot say 1 day that we believe the preservation of our environment is a national priority, and then 10 days later turn around and agree to radical cuts in environmental enforcement and cleanup programs. It is wrong, Mr. Speaker, and I urge my colleagues to vote against this proposal.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Michigan [Mr. KNOLLENBERG], a member of the committee.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the bill, and I commend the gentleman from California [Mr. LEWIS] and the staff for all their hard work. Without the chairman and, obviously, the staff, we would not be here today.

Mr. Speaker, the VA-HUD bill has never been an attractive piece of legislation. Never. It contains funding for a wide variety of programs that represent different and often conflicting priorities. What we have before us is the product of this task, and it is a good one. The bill does not simply spread the pain throughout all of the programs in its jurisdiction, it makes the tough choices which are necessary, but it also preserves funding for those programs which work well.

There are some who will complain that the spending cuts in our bill are just simply too deep.

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Mr. Speaker, let me make one point. We spend over $5 billion for environmental protection and over $20 billion for affordable housing in this bill. Just a few days ago, as my colleagues know, during the Government shutdown only 4 percent of EPA's 18,000 employees were considered essential and, I repeat, only 1 percent of HUD's employees were considered essential. So it seems to me that it would be much easier to say that perhaps these cuts are not deep enough; they should be deeper.

Mr. Speaker, I am sure that every Member of this body, given the chance, would draft a different VA-HUD bill. I would like to make a few changes myself. But to use an often-heard quote, we cannot allow the perfect to be the enemy of the good.

Mr. Speaker, this is a good bill, and I urge my colleagues to support it.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong opposition to this bill. What is wrong with this bill is what is wrong with the priorities. There is no consideration or deliberation, much less public awareness, of votes on these topics. Wholesale policy changes are made without consideration, Mr. Speaker, all of this, of course, under the mantra of a balanced budget.

The impact of the GOP spending cuts priorities for the poor, the environment, the homeless, the veterans. It is not fair, and it is not right. The fact is that it is bad policy. A Congress that creates and bloats the human deficit, the environmental deficit, but claims to balance the budget is out of balance; out of balance with the common sense and values of the people we represent.

Mr. Speaker, the shortest distance between legislation and law is to get the President to sign this. I suggest we defeat this conference report, send it back to conference committee, and get on with the job of making compromises and reflecting the values of the people that we represent that stand for a sound environmental policy, sound policies and fairness to the poor and the programs that are important to them. I suggest we send this back to conference and a "no" vote on this measure.

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 2099, the VA, HUD, and Independent Agencies appropriations bill. This conference agreement has positive modifications from the radical bill passed by the majority party of the House earlier this year, but it remains wholly out of step with people, priorities and shared sacrifice which should characterize reductions in spending necessary to achieve a sound fiscal result.

On the whole, the agreement cuts housing programs by 21 percent, guts homeless programs by almost 30 percent, reduces Environmental Protection Agency spending by 21 percent, eliminates a number of community programs, and subsumes many into larger block grants thereby diluting the funds and in the end, atrophying the programs. These cuts are represented as being necessary for deficit reduction, but what is proposed in this measure is a fundamental retreat from proper Federal responsibilities and support. The conference agreement cuts housing on the ground by $4 billion from the administration request, but manages once again to provide over $2.1 billion for the latest version of the questionable space station. This VA, HUD, and Independent Agencies conference agreement continues to balance the budget on the backs of those least able to support cuts: the poor, the homeless, and our seniors. Our congressional priority should be to help those unable to help themselves but this measure reneges.

As I mentioned, the conference agreement cuts homeless funds, both at HUD and the Federal Emergency Management Agency. The statement of managers indicates that the funds should be used as localities see fit under the rubric of options available under the McKinney Act programs. I cannot agree that any one HUD homeless assistance program should receive any priority over another such program as the statement of managers suggests. If demand were any indicator, the supportive housing program would be the likely model program, not the shelter plus care program emphasized in this agreement. The record should further reflect the reality that in shifting these reduced funds—a shell and pea game—in no way alters the loss and adverse impact on the homeless. In fact, it only compounds and complicates the use of the programs.

I am also concerned about the great number of authorizations rewriting policy in this appropriations conference agreement. The Banking Committee today continues to cede its authority and role to the Budget and Appropriations Committees and in the process jeopardizes the integrity of important housing and community development programs.

Frankly, the committee process in this Congress is in a shambles. The new Republican majority has adopted an authoritarian posture. Through the budget and appropriation scheme the GOP leadership has dictated without consideration, much less public awareness and votes on the topics, wholesale policy changes under the guise of fiscal crisis and the mantra of balancing the budget. They—the majority Gingrich Republicans—rationalize and gloss over the fundamental impact of the GOP spending priorities that cut programs for the poor, the environment, the homeless, and the veterans in this measure for example. This isn't fair and it isn't right. We can and should balance the budget but how we do it is the key to our role as policy makers. A Congress that creates and bloats the human deficit and the environmental deficit but claims to balance the budget is out of balance with the common sense and values of the American people we represent.

What it all comes down to is that despite the changes in this HUD-VA appropriations legislation from the House-passed version and at least two round trips to the House and Senate conference table, the priorities and the funding levels guarantee that we will see more people denied housing opportunities in public and assisted housing, fewer people receiving homeless assistance in order to get back on their feet, veterans excluded from needed service, and more chances for polluters to desecrate our precious air and water. All this by virtue of this deficient appropriations measure.

Mr. Speaker, I do not oppose every aspect of this measure. However, because the cuts and sacrifices are not balanced, I must strongly oppose this conference agreement. I urge my colleagues to heed the President's concerns with regards to this measure and vote against this report. By defeating the conference report today and addressing the serious deficiencies in a House/Senate conference report we can attain the shortest distance from legislation to law. We do not have to experience a certain veto that will force us to start all over again.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEINEMAN] for the purpose of a colloquy.

Mr. HEINEMAN. Mr. Speaker, will the distinguished gentleman from California [Mr. LEWIS], the chairman of the Subcommittee on VA-HUD and Independent Agencies of the Committee on Appropriations engage me in a brief colloquy?

Mr. LEWIS of California. Mr. Speaker, If the gentleman will yield I would be happy to.

Mr. HEINEMAN. Mr. Speaker, let me first say that I very much appreciate the support of my good friend, Chairman LEWIS, over the past several months regarding plans to construct a new consolidated facility for the EPA and the Research Triangle Part in North Carolina.

As the chairman knows, the EPA is currently scattered in 11 separate buildings which are privately owned and in bad shape. The chairman made this freshman Member aware that previous Congresses have not dealt with this problem.

After studying the matter and after touring these existing facilities, I learned that recent studies show that renovating the existing buildings and signing new leases would cost $400 million. For only $232 million, a brandnew, consolidated facility can be built, making this the most realistic, cost-effective plan available to further the important mission of the EPA.

I know that the gentleman from California [Mr. LEWIS] has pledged his support to find the additional funds necessary in the next fiscal year to make this new facility a reality, and I want to thank the gentleman for that support.

Mr. LEWIS of California. Mr. Speaker, reclaiming my time, let me express my appreciation to the gentleman from North Carolina [Mr. HEINEMAN] for bringing to our attention in such an effective manner the importance of this research facility, and the committee does very much want to be of assistance.

As I indicated in the earlier colloquy, the Research Triangle Park facility is one of the three major infrastructure projects requested for the EPA. Funding was not available for the current fiscal year, but I have pledged my support to the gentleman to do my very best to find funds necessary for the project in the next fiscal year.

It is my understanding that the Committee on Transportation and Infrastructure is currently updating the authorization for this project, and I look forward to addressing this in the years ahead.

Mr. HEINEMAN. Mr. Speaker, I thank the gentleman from California.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to this conference report.

Once again, we are witnessing an all out assault on the quality of our Nation's water, air and land. The Republican Party is trying to accomplish through funding cuts what they failed to do through an open debate on environmental policy.

Time and again this year, and the last several years, Democrats and Republicans have come together in a spirit of bipartisanship to protect the environment. This conference report will cut enforcement of environmental laws, cut funding for safe drinking water, cut funding for wastewater treatment, and cut hazardous waste cleanup.

Slashing EPA's budget by more than 20 percent, will cripple the EPA's ability to ensure that our water is safe to drink, our food is safe to eat, and our air is safe to breathe.

I urge my colleagues to vote against this conference report.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, this conference report will roll back 25 years of environmental protection and it should be defeated.

This bill slashes the funding for the Clean Water Act. It slashes the funding for Superfund. It slashes the funding for EPA to even conduct an effective management and enforcement program.

EPA, will be barred from any role whatsoever in decisions on development of our Nation's most valuable wetlands.

It is absolutely incredible that we can give the Pentagon $7 billion more than the President of the United States wanted but, unbelievably, we can't find the money for the Environmental Protection Agency to enforce the laws that protect our water and our air.

Mr. Speaker, in the Philadelphia region, there have been and will be cancellations of numerous Superfund inspections, leaving potentially dangerous toxic waste undiscovered at sites that threaten the community.

The conference report means no new Superfund priority cleanups, whether or not there is a toxic threat to drinking water.

Mr. Speaker, the American public does not want less environmental protection. They want more protection of their water and their air.

This bill does not give them that protection. It should be defeated and sent back to conference.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, there are a lot of reasons to vote against this bill, but the truth of the matter is, whether we are concerned about the fouling of our air and our water and our streams or whether or not we are concerned about the cuts in the veterans' health care budget, what is the most egregious in this budget is what we have done to the housing of our Nation's poor and our Nation's senior citizens.

We see cuts in this budget that will decimate our housing programs. We see politicians constantly marching before public housing projects and condemning them for the condition that they are in, and yet what this housing budget does is gut the very provisions that are necessary to improve those housing projects. At the same time, we turn around and cut the homeless budget of our country by 40 percent. So what we are going to do is we are going to gut our public housing, we are going to come in and hurt our assisted housing projects, and once our senior citizens and our poor are not able to live in those projects, we then are going to turn them to the streets where we then gut the homeless budget of this country. It is a crying shame, and we ought to do better than this.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just might mention, in responding to the gentleman's comments, that, indeed, the assisted housing, for example, in this country has increased in terms of budget by 50 percent in the last 4 years. All one has to do is look across the country at boarded-up buildings in housing projects everywhere to know that it is time for us to rethink where we have been in terms of those programs. Clearly, this side is very concerned about those future programs in terms of their effectiveness, and it is time for us to take some new direction.

I said in my opening remarks the Secretary Cisneros has publicly said on many occasions it is time to rethink where we are going on housing. Money is one way to do it; but, indeed, it is important to make sure that the House recognizes that it has a positive role to play in terms of the change as well.

Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in opposition to the bill primarily because of the impact on the environment. No other agency faces the type of cuts in this House that the EPA does in this conference report.

It has already been mentioned that EPA funding is cut by approximately 20 percent, with enforcement being the hardest hit in terms of cuts, almost 25 percent. We all read in the New York Times last week that the EPA has had to cut back on inspections and enforcement already. This will only make it worse.

In addition, more than half of the original 17 antienvironmental riders have been included either directly or through report language in this conference report. Since agencies often have to follow the dictates of the appropriators, this shift to report language in my opinion does not mean that the damage to the environment will be any less. So I ask once again that we oppose this bill and that it go back to conference to improve in particular the funding for the EPA.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, two-and-a-half weeks ago we celebrated Veterans Day, and we told the veterans of America how much we respect them and how grateful we are for the sacrifices that they have made for this Nation. Well, two-and-a-half weeks have come and gone and how quickly we have forgotten.

This bill cuts $43 million from the VA programs, a larger cut than the House version, but that is just the beginning. The Republicans' 7-year budget, which begins with a funding bill we are discussing today, cuts entitlements for veterans by $6.7 billion over 7 years. Under the Republican budget, many veterans would pay more for their prescription drugs. In some cases, the cost that veterans pay for prescription drugs would double, and the cuts do not stop there.

The Republican budget demands that, in addition to the $6.7 billion veterans' cuts, all discretionary spending, including veterans' programs, be reduced by 20 percent over the 7-year combined period.

Let us defeat this bad bill. It is unfair to our veterans.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Ms. VELÁZQUEZ].

Mr. VELAZQUEZ. Mr. Speaker, I rise in strong opposition to this draconian conference report. This conference report is nothing more than a cruel attack on our children, the elderly and the poor. These cuts are not about arbitrary numbers of the elimination of port barrel projects. They are about human beings. Behind every dollar of this reduction, there is human tragedy.

Mr. Speaker, by gutting the MCKINNEY program, hundreds of thousands of Americans will be forced to live in the streets. As we begin the coming winter months, the action taken on the floor today will constitute a death sentence for many.

These cuts mean less security services and the elimination of critical social services. For the 500,000 public housing residents in the New York City area, this reduction translates into deteriorating buildings, greater insecurity and fewer opportunities for economic advancement. This is shameful. It is not enough that Republicans have slashed education, cut Medicare, and eliminated job training programs. Now they are planning to throw poor people out on the street. Enough is enough.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Ohio for yielding to me at this time.

Mr. Speaker, this is a more-than bill. This is more than what we had before, but what is that? I certainly applaud the assurance that has been given to the space program, but where are we in research and development dollars, far less than needed. Then when we begin to look at the Department of Housing and Urban Development we see that this bill cuts 17 percent, the Environmental Protection Agency is almost gutted with cuts of 21 percent, and our Federal Emergency Management Agency is cut 17 percent. What will occur if disasters occur in our States.

Then we look at the Community Development Bank initiatives which were designed to revitalize economically distressed areas that program is being absolutely eliminated. The housing assistance under section 8 which helps house poor Americans is being cut. Homeownership grants, wherein we in this Congress have stood on the House floor and said we want Americans to own homes, is being cut by 48 percent.

□ 1230

Public housing modernization programs are being but by 32 percent. Then the one-for-one replacement program to restore public housing is being cut. Also when we talk about negotiations in my city regarding a final solution to APV, located in the 18th Congressional District in Houston, intrusions to prevent us from considering historic preservation issues and the repeal of the Frost-Leland amendment which does not take into account the need for a local master plan for public housing being completed, are not helpful. This is not a good bill. This is an intrusive bill in some areas and it takes away the money from the people who need it most. More-than is simply not good enough.

Mr. Speaker, I include my complete statement on the conference report for the RECORD, as follows:

Mr. Speaker, I rise today to express my opinion regarding the conference report on the VA–HUD appropriations bill. I applaud the conferees for appropriating $13.8 billion for NASA. This funding is more than the amount contained in the House bill. The Space Agency will receive full funding for the space station. Funding for other programs such as human space flight, mission support and science, aeronautics and technology is slightly below current level.

While there are still challenges that remain with respect to the space program, I believe that NASA will continue to provide leadership to the rest of the world.

The Department of Veterans' Affairs also receives funding that is only slightly below the current level, with the major spending reductions relating to the construction of VA facilities. Our veterans have made numerous sacrifices on behalf of our country and we must ensure that the needs of veterans remain a top priority.

Some of the provisions of the bill, however, trouble me, particularly funding for the Department of Housing and Urban Development and the Environmental Protection Agency. The bill reduces spending for the Department of Housing and Urban Development by 17 percent and for the Environmental Protection Agency by 21 percent. The Federal Emergency Management Agency's funding has been cut by 17 percent.

Furthermore, the conference report eliminates funding for the AmeriCorps Program, which is providing numerous opportunities for young people to contribute to their communities. The Community Development Bank initiative is also eliminated. The Community Development Banking Program was designed to revitalize economically distressed areas by providing grants, loans, and technical assistance to financial institutions and community development organizations in such areas.

With respect to housing, the conference report eliminates funding for section 8 rental assistance contracts and hope homeownership grants. Low-income assisted housing programs are cut by 48 percent, public housing modernization programs by 32 percent, section 202 elderly housing by 39 percent, section 811 disabled housing by 40 percent and homeless programs by 27 percent.

I do not believe that it is necessary to make these drastic cuts in spending. We have now learned that the economic projections provided by the Congressional Budget Office on the level of the budget deficit need to be revised.

Other housing reforms include the suspension of the one-for-one replacement rule, which requires local public housing authorities to replace each public housing unit it demolishes with a replacement unit. Affordable housing should be a major priority for our country.

In connection with the issue of public housing, I am concerned that the conference report contains language that states:

> That historic preservation is an admirable goal, but that it is not good policy to require the preservation of buildings unsuitable for modern family life at the expense of low-income families in need of affordable housing.

I believe that it is necessary that we clarify the issue of the importance of historic preservation to the cultural heritage of our country. Historic preservation guidelines contained in current law and regulations have not delayed the process of rehabilitating facilities such as Allen Parkway Village in Houston. Let me also add that many officials in my hometown of Houston also recognize the role of historic preservation in providing affordable housing to the citizens of Houston.

I also believe it was unnecessary to include language in the conference report, at this time, that repealed the Frost-Leland provision, which prohibited Federal funds from being used to demolish Allen Parkway Village in Houston. This repeal is untimely because all interested parties in the effort to rehabilitate and build new housing at the Allen Parkway Village facility met yesterday to reach an agreement to move the process forward and to create a master plan. I recognize, however, that it is important that municipalities have the ability to make the best use of taxpayers funds by being able to seek reimbursement from the Federal Government when some of the structures within a housing facility must be demolished. At the appropriate time with the establishment of an inclusive master plan to restore housing for needy and working families such a repeal should be implemented.

The provisions of the bill that relate to the Environmental Protection Agency greatly concern me since the bill reduces overall funding for the Superfund Program by 13 percent. There are several communities in my congressional district that have experienced problems with toxic waste areas such as Pleasantville and Kennedy Heights. This is not the time to reduce funding for the Superfund Program.

I am concerned about the reduction in funding for State loan funds relating to upgrading facilities to provide safe drinking water and infrastructure repair such as possibly Houston's own wastewater project. And spending cuts for programs that enforce other environmental and public health standards.

The VA–HUD appropriations bill is a comprehensive bill and a controversial bill. As we debate the various provisions contained in this bill, I hope that my colleagues will carefully consider the policy assumptions that were involved in drafting the bill and the potential impact of such policies on millions of Americans.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to my very effective colleague from Florida [Mr. WELDON].

Mr. WELDON of Florida. I thank the kind gentleman for yielding me the time.

Mr. Speaker, I rise in very strong support of this conference bill and urge all my colleagues on both sides of the aisle to vote in favor of this.

I was particularly pleased that the conference was able to fully fund the shuttle and the space station at near the request level of the President, and I am particularly pleased that the conference restored $100 million that the Senate had cut from the shuttle program.

It allows NASA's vital field research centers to remain open so that they can continue to perform the important research work, and I am particularly pleased that there is $25 million for a VA medical clinic in my district. The veterans in my district have been waiting 12 years for a medical facility. This will allow these veterans to begin to receive good quality medical care that they have long deserved and they have long been waiting for.

I would again urge all my colleagues to put aside their partisan differences and vote in favor of this bill. It is a good bill. It is good for veterans. It is good for NASA. I would encourage its support.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT]

Mr. DOGGETT. I thank the gentleman for yielding me the time.

Mr. Speaker, this bill should be properly entitled the Unilateral Disarmament Act of 1995 because what it is all about is unilaterally disarming our capability to provide for clean air and clean water. It just returns to the old Gingrich-ite philosophy of the environment, "Polluters know best."

Well, we do not think they know best, and we think it is essential that this Nation have the capability to provide for clean air and clean water.

This is a bill for unilateral disarmament. It says to those who would police the polluters that they will not have the resources to get the job done. This is the same group that tried to tie up and bind and shackle with 17 different binders the right to protect against the environment, and even some elements of their own party rebelled against it and said it would not stand. So now they have come back and they have tried every way they can to cut the power of our law enforcement officers to protect and preserve our environment. It needs to be rejected.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. President, you should veto this bill. It kills a program that evokes the spirit of a national service program, the AmeriCorps.

There are many other bad aspects of this bill but eliminating AmericCorps is penny-foolish. It is a program that benefits the very heart of our communities.

In my district in California, we have AmeriCorps workers involved in the Boys and Girls Clubs, in Big Brothers and Sisters, in the Food Bank of Monterey.

We have 20 AmeriCorps volunteers involved in the Senior Companion Program. I happened to swear in as a former Peace Corps volunteer new AmeriCorps workers. The pledge of office is something this Congress ought to learn. The pledge of office to be AmeriCorps is to get the job done. The job that they are doing is essential to make our communities get back on their feet both socially and economically.

I suggest that to eliminate that program is not a very wise thing to do. Mr. President, if this House cannot reject the bill, then veto it.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. I thank the gentleman for yielding me the time.

Mr. Speaker, this bill is an awful bill and I hope it is defeated. Let us look at what it does. It cuts housing programs by 21 percent. It cuts environmental protection by 21 percent, the Superfund by 19 percent, homeless programs by 27 percent.

The Republicans give our veterans an amendment against burning the American flag, but what do they do to veterans' needs? They cut construction or improvement at VA facilities by 62 percent and slash all kinds of other help to our veterans. It is nothing but a sham and a shell game that is being perpetrated on our veterans. The AmeriCorps Program, the community development bank initiative and dozens of housing programs are eliminated. All of the original 17 EPA riders which the House instructed to drop were removed from the bill.

We are talking about America's future here. What we are doing is we are slashing all these good programs to pay for a tax cut for the rich. It is really a disgrace.

Mr. LEWIS of California. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. BOEHLERT] for purposes of a colloquy.

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding me the time.

I appreciate the work the chairman has done to ensure that the bill and the managers' language reflect the House concerns about environmental riders. As the chairman knows, I am still a bit uncomfortable with the managers' language. I just want to ask the gentleman to make clear that report language does not have the force of law. So am I correct in saying that the managers' language is not binding and should not be interpreted by the courts as having the force of law?

Mr. LEWIS. If the gentleman will yield, bill language has the force of law, managers' language does not, especially when recognizing the way the agency the gentleman is concerned about relates to the Congress.

Mr. BOEHLERT. I thank the gentleman for his response.

Mr. STOKES. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking member of the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, when I first came to Congress and later joined the Committee on Appropriations as a very young Member of Congress, in fact the youngest Member of Congress at that time, I was asked why I had tried so hard to get on the Committee on Appropriations rather than some of the other committees around here. I said at that time that the reason I did that is because I thought that, more than anything else that Congress does, our budgets define what it is that we value.

I think this bill tells a very sad story about what this Congress apparently values because, as the previous speaker on our side of the aisle indicated, this bill makes huge reductions in housing, it makes huge reductions in our ability to enforce environmental cleanup legislation. In that sense I think it will leave this country much poorer, both in terms of the housing stock available to low-income people in this society and most especially poorer in terms of the quality of the air, the quality of the water, and the quality of the living environment that our kids and our grandkids will be living.

This bill is going to be vetoed and it should be vetoed because it is, I think, an abdication of our responsibilities to be stewards of the environment and to be stewards of the entire ecosystem.

I also think it abdicates in many ways the responsibilities that we have to our veterans. It cuts $900 million from the VA request.

It eliminates, it is true it eliminates 17 anti-environment riders which were earlier attached to this bill and then later stripped out by a motion on the House floor, and that is good. But as the previous colloquy indicated, many of those riders have found their way back into the statement of managers.

While those riders in the statement of managers do not have the force of law, they certainly do place a considerable burden on the agency, in that they require the agency to try to take into account the opinion of the committee when they drafted that statement on the part of the managers. When we are dealing with an agency such as EPA, which has tended to follow guidance provided in statements of the manager in years past unless they are forbidden to do so by law, I think that what it really does is put the Congress on record in support of a good many anti-environmental positions which I do not believe the Congress wants to do, given its vote on those riders just a few weeks ago.

Let me also note with respect to veterans that despite the fact that this bill had about $1.5 billion more to work with in reality than the bill had when it left the House, that despite that fact, veterans' medical care is funded $213 million below the amount originally contained in the House bill. I think that is wrong.

Let me state that again. Despite the fact that the committee and $1.5 billion more to work with than the House bill, veterans got $213 million less than they would have gotten in the House bill for veterans' medical care.

I congratulate the committee for dropping its plan to reduce benefits for what are known as incompetent veterans. That was also mentioned by one of our friends on the Republicans side of the aisle earlier. I congratulate the committee. As Members know, we offered an amendment on this side of the aisle to try to require that that provision be eliminated. It was not accepted on the floor. I am happy it was accepted now.

But nonetheless, I do not think that we can justify cutting veterans' medical benefits by $213 million. My motion to recommit will eliminate that reduction and would restore that $213 million. I would urge that Members vote "yes" on the motion to recommit and then "no" on the bill.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LAZIO].

Mr. LAZIO of New York. Mr. Speaker, I rise today in support of this conference report with some resesuations. We need to pass this bill to move the process forward. Although I have the greatest respect for the chairman of the Appropriations Subcommittee, Chairman LEWIS, and I agree with him more often than not, I hoped the result of the House-Senate conference on H.R. 2099 would be better.

As chairman of the Subcommittee on Housing and Community Opportunity, I have worked hard to make sure this legislation established appropriate funding levels for programs and policies and did not create new programs without the direction of authorizing committees.

I remain convinced that the original House funding levels for housing programs supporting vulnerable populations should be maintained. Section 202, which provides housing support for elderly families, and section 811, which assists disabled families, are programs we should strongly support. We need to do better.

Section 202 represents hope for many of our seniors seeking a decent home. These are our parents and grandparents, people whose lives were spent contributing to their community and who deserve our support now.

Section 811 allows families trying to raise children with disabilities or disabled adults looking for supportive housing to get the assistance they need and the support they deserve. Again, this is the type of program this House must protect.

Mr. Speaker, there are improvements in the conference agreement. The authorization committees are aware of the problems the appropriators face. In fact, we donated over a billion dollars from a change to the FHA assignment program inserted by the House Banking Committee to assist the Appropriations committees in their work. We realized the difficult pressures on the Appropriations Committee, and therefore we allowed them to claim a portion of the savings from our reconciliation package to benefit housing programs, to ensure that low-income families would not face higher rents, so that public housing authorities would not face new reductions in their operating subsidies without giving time for new reforms and deregulations to take effect.

Obviously, we must include some provisions to alleviate difficult budget pressures. These provisions are good policy choices as well. Removing disincentives that prevent low-income tenants from going to work is a great step forward for this Congress and I applaud Chairman LEWIS for working with me to correct this for fiscal year 1996. But I would stress that the real work of drafting policy reforms is not to be found here in an Appropriations bill, rather it is the subject of the hard work of the Subcommittee on Housing and Community Opportunity is currently engaged in.

I intend to work with my very distinguished colleague and chairman of the Appropriations Committee, Mr. LIVINGSTON, as well as with my friend, Mr. LEWIS, to ensure that the House position on these areas that remain in conflict are maintained when the bill comes back to this House.

I would ask my colleagues who vote to support this legislation today to withhold their support of any future bill unless changes are made to shift priorities back to deserving low-income families and to eliminate unnecessary legislative provisions.

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Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first, I want to strongly support the motion to recommit which has been offered by the gentleman from Wisconsin [Mr. OBEY].

I think it is important that we recommit this bill, and, therefore, I urge my Members and our colleagues to support it

Mr. Speaker, it is unusual for a bill to be so bad that none of the Democratic conferees on the House side would sign the conference report. It is a bill which the President has told the conferees is so bad that he will veto it in its current form.

The conference agreement eliminates funding for the President's AmeriCorps service program, the community development bank initiative, the FDIC affordable housing program. It also eliminates several other housing programs.

I can understand why the chairman of the Subcommittee on Housing and Community Opportunity has just said to the House that he is voting for it with some very severe reservations in light of the cuts in these programs. I can understand why he made that statement.

It also cuts the office of consumer affairs.

There are provisions in the bill which will act to raise rents for families living in public housing, in section 8 housing.

In a letter received from the Administration, the President expresses concern about the $162 million reduction in funds that were requested to go directly to the States and needy cities for clean water and drinking water needs. He cites the more than 50 percent cut for the Council for Environmental Quality. He also cites the failure of the bill to provide funding for economic development initiatives.

Finally, in his letter or communication to us, the President says, and I quote, "Clearly this bill does not reflect the values that Americans hold dear." He urges the Congress to send him an appropriations bill for these important priorities that truly serve the American people.

This bill, in its present form, does not adequately serve the American people. The President is going to veto it.

I urge my colleagues to defeat this conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker and my colleagues, this is a very, very important vote.

I would mention one more time to the House that any funding that is made available to very important programs—such as those serving veterans, those serving housing, those programs that involve the EPA, a variety of other agencies—any funds that go in the coming fiscal year to those programs will be voted for up or down on this vote. So if you are for supporting veterans, then you should be voting "aye" on this measure.

Having said that, Mr. Speaker, the most important challenge that we have during this Congress, the people have said very clearly that we must move toward balancing the budget. The President has signed on. The House has committed by way of its budget actions we will move toward balancing our budget at least in a 7-year period.

Beyond the rhetoric of balancing the budget, this is a time to begin voting. This bill, of all appropriations bills, makes the single largest reduction in a pattern of ever-increasing Federal spending. Because of that, I suggest my colleagues take a hard look at saving $9.2 billion below the President's request.

This bill is an important bill because it does make a difference if you believe in balancing the budget.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in opposition to Conference Report 104–353 for the VA–HUD and independent agencies appropriations bill for fiscal year 1996.

According to a November 9, 1995, article in the Honolulu Star Bulletin:

> The Honolulu median price among existing houses and apartments changing hands, $350,000, was one-third higher than the next-highest city, San Francisco, where the median was $263,300, according to a report today by the National Association of Realtors.

H.R. 2099, appropriates a mere $19.3 billion for the Department of Housing and Urban Development. This is less than either the House or Senate-passed versions of the bill. It is a $5.3 billion reduction from the fiscal year 1995 appropriation and it is $6.2 billion, or 24.3 percent, less than the administration budget request.

H.R. 2099 would permit the Secretary to manage and dispose of multifamily properties owned by HUD and multifamily mortgages held by HUD without regard to any other provision of law. Provisions established to protect the needy will be ignored.

Assistance for homeless programs would be cut by $297,000, dropping funding in this area from $1.1 billion in fiscal year 1995 to $823 million in fiscal year 1996.

Finally, opportunities for tenant-sponsored organizations, nonprofit organizations, and others, to purchase the buildings they reside in, would be eliminated. H.R. 2099 sunsets preservation programs after October 1, 1996. The Emergency Low Income Preservation Act of 1987 and the Low Income Housing Preservation and Resident Homeownership Act of 1990 would be eliminated by this time next year. These programs help tenant-sponsored organizations, nonprofit organizations, and many others acquire buildings for their low-income residents.

These cuts are not slowing growth, but deliberate and undeniable reductions in program funding.

In addition to all of these cuts in the VA–HUD appropriations bill, the budget reconciliation bill contains further reductions and will eliminate the low-income housing tax credit which encourages investment in housing for low-income families.

Mr. Speaker, I urge a "no" vote on this conference report.

Mr. FARR of California. Mr. Speaker, this is a bad bill camouflaged by the military uniforms of our former service men and women. Not only will this bill hurt veterans, the environment, and tenants in low-income housing, but it eliminates funding for AmeriCorps, the national service program.

In my district, there are tens of thousands of veterans and military retirees who rely on medical assistance and quality medical facilities. Unfortunately, the cuts in this bill will threaten the quality care they depend on. For example, it cuts nearly $400 million in medical care from the administration's request and eliminates educational help for those who agree to work at VA facilities.

Many veterans and military retirees are willing to make a sacrifice in the effort to end the deficit, but we should not target them unfairly—and, unfortunately, this bill does just that.

This bill will also hurt the environment by cutting the EPA's funding by over $1.5 billion from this year's budget. In my coastal district, less money will be given to help local communities keep the Monterey Bay clean and healthy. This bill will also hurt the public by preventing EPA from expanding its list of the toxic chemical releases that companies must make public. Finally, this bill hurts our young people.

As we approach a new millennium, we need to renew the spirit of our Founding Fathers. A program that evokes that spirit is the national service program, AmeriCorps. It is a volunteer program that works—it should not be arbitrarily cut. It is an investment in our future—according to IBM for every dollar AmeriCorps invests, the community will realize a return of $1.60 to $2.60 or more in direct benefits. AmeriCorps workers are involved in every aspect of our communities, teaching in schools, feeding the homeless, and counseling troubled youth.

In my district in California, we have AmeriCorps workers involved with the Boys and Girls Club, Big Brothers and Sisters, and the Food Bank of Monterey. We have 20 AmeriCorps members involved in the Senior Companion Program which has low-income seniors assisting other seniors, allowing them to lead independent lives.

Several weeks ago I had the privilege of swearing in two AmeriCorps volunteers in Hollister. They will be working on developing a new youth center and administering the city's housing rehabilitation program. Unfortunately, this bill terminates funding for AmeriCorps.

As a former Peace Corps volunteer, I know the benefits of volunteer service. No one can quantify the benefits an AmeriCorps worker gives to his or her community. Unfortunately, the communities of Hollister and Monterey will notice the loss of this valuable volunteer service benefit.

This is yet again another example of Republican budget-cutting that is penny-wise and pound-foolish.

Mr. HOYER. Mr. Speaker, I rise in opposition to the conference report on HUD–VA.

This bill contains some of our Nation's most important priorities, and I was pleased that the conference agreement protects space research. Nevertheless, the overall cuts which were sustained by the EPA and Superfund are unacceptable. Preserving our environment is too important to be traded off for other priorities. Therefore, I oppose this bill.

I commend the conferees for providing funding to NASA to continue important work on space science and move the space station forward. I especially want to thank the conferees for providing $1.26 billion for mission to Planet Earth. The research this sponsors will greatly enhance weather forecasting, and allow us to protect lives and property by giving better advance warning before severe weather such as hurricanes. I am pleased that today, this bill reaffirms the importance of the work that is done at the Goddard Space Center.

Nevertheless, the funding cuts for EPA in this bill are an unacceptable attack on our environment.

Funding for Superfund cleanup has been cut by 19 percent. This leaves no flexibility to take care of sites which will be identified as problems in the upcoming year. The Fifth District of Maryland has five areas which are currently being considered for Sueprfund cleanup assistance. All five contain pollution which threatens the health and well-being of Fifth District residents. It is unfair to limit clean up progress to currently identified sites. This bill will exclude many dangerous areas from getting clean up help

I am also concerned about the impact of EPA cuts on our ongoing efforts to clean up the Chesapeake Bay. Under this conference report, EPA funding would be cut more than one-fifth. This means that available funding will be directed to dealing with crises. Long-term restoration efforts will bear the brunt of the cuts. For example, we recently discovered that as much as 30 percent of the nitrogen pollution in the bay is due to airborne, not waterborne, contamination. The cuts in this bill will force the EPA to stop much of this type of research. Likewise, our ongoing programs to reintroduce rockfish and other species to the bay may also be put on hold.

I am pleased that the Chesapeake Bay program has been funded under this bill. However, as any fisherman will tell you, our efforts to restore the bay and its oyster population are dependent upon the quality of the water that flows into the bay. The ultimate success of our efforts to restore the economic and environmental vitality of the bay depend on cleaning up the Patuxent, Anacostia, and Potomac Rivers. These are precisely the sorts of long-term projects which are most likely to be delayed as scarce funding turns to short-term emergency responses and crisis management.

These cuts show the folly of attempting to cut taxes while balancing the budget. I believe we must balance the Federal budget, for the sake of our children and grandchildren. But I do not believe that spending $245 billion to give tax breaks to our wealthiest Americans is a wise use of taxpayer funds. These cuts are not to balance the budget—they are paying for the tax cut. How will our grandchildren judge us if we fail to preserve our Nation's environmental and economic viability? Will giving a tax cut be an adequate defense? I believe not, and I urge my colleagues to join me in voting against this bill.

Ms. PELOSI. Mr. Speaker, I rise today in opposition to the conference report on H.R. 2099, the fiscal year 1996 VA–HUD appropriations bill. While the measure before us is slightly better than the one passed by the House, it has a long way to go before it is acceptable. I am particularly concerned about the 26 percent cut in housing programs, the 27 percent cut in homeless programs, and the 21 percent cut in the programs of the Environmental Protection Agency [EPA].

I would like to thank the chairman of the committee and the conferees for continuing to fund the Housing Opportunities for People with AIDS [HOPWA] program as a separate program. The $171 million provide for HOPWA, the same level as the post-rescission funding in fiscal year 1995, will help communities across the Nation as they develop local solutions to problems confronting people with HIV/AIDS. Because new communities qualify for HOPWA funds this year, the level of funding to communities already receiving HOPWA grants will be reduced. This problem could have been resolved by providing a higher level of funding. However, I am pleased that HOPWA is being maintained as a separate program and will, therefore, not have to compete with housing for the disabled and the elderly.

I would also like to commend the conferees for their efforts to address the continuing threat to the affordable housing stock posed by prepayment. This conference report provides $624 million for a modified preservation/prepayment program. Although I am concerned that the funds are insufficient to meet the needs, I am pleased that the conferees recognized that there is a serious problem and are interested in developing a solution to it.

Despite these provisions, I oppose this bill because it reneges on our Federal commitment to help this Nation's families. Strong families make our communities strong and strong communities make our Nation strong. For families to be strong, they must have access to the basics—employment, education, healthcare, and housing. This bill dramatically decreases the ability of local communities to provide access to decent, safe, and affordable housing for America's families.

The costs to our society of homelessness are significant and they are long-term. At the simplest level, the costs are financial. It costs more to return homeless people to the mainstream of society than it costs to prevent them from becoming homeless in the first place. But, the costs to society of homelessness go far beyond financial ones.

Children growing up homeless in the streets today will carry the scars of their childhood experiences and the memories of society's indifference to them into their adulthood. We are being willfully blind if we refuse to see that society's indifference today will cost us tomorrow.

The conference report to H.R. 2099, like so many of the pieces of the agenda of this Republican-controlled Congress, targets its hardest hits at the most vulnerable. In the case of housing, those hit the hardest are the poorest residents in public and assisted housing and poor working families, too many of whom live on the streets. The median income of households receiving Federal housing assistance is $8,000. These households simply have no additional resources with which to pay for increases in housing costs.

Currently, more than 5.6 million very-low-income households in this country pay half or more of their incomes for rent or live in substandard housing. Between 1989 and 1993, this group grew by 600,000 households—a growth rate which will be dwarfed by the one ahead of us if this bill becomes law. More than 8 percent of our Nation's children—our future—live in these households.

In this Nation, we already have at least 4.7 million fewer affordable rental units than we need, and more than 1.5 million households are on waiting lists for public or assisted housing. This number will increase dramatically and quickly if this bill becomes law. Under the funding levels contained in this bill, no additional families will receive Federal housing assistance, and for those families who have been on waiting lists, sometimes for years, their hopes for decent housing grow even dimmer.

These cuts would be bad enough if they were being done on their own. They are not. Coupled with the dismantling of the Federal safety net and draconian cuts in Federal programs contained in other legislation passed by Congress—including cuts in welfare, food stamps, the Earned Income Tax Credit, Medicaid, education and job training—the cuts in housing and homelessness programs in this bill add up to disaster. These cuts create insurmountable odds for America's struggling working lower income families and increased demand for local community assistance, with no hope of Federal assistance. The needs do not go away because Congress has taken the money away. In many cases, the needs will grow. This bill is cruel and cold-hearted. It does not reflect American values.

I also oppose the provisions in this conference report which would cut the funding levels for the Environmental Protection Agency by 21 percent.

These provisions not only severely limit the agency's ability to protect our lands, air, and water; but they also continue the full-scale assault on the environment that began on the first day of the 104th Congress.

Poll after poll has indicated that the American people favor strong environmental laws. We should not be willing to sacrifice the health and safety of our children. For the families, children, and citizens of America, I urge my colleagues to oppose this conference report.

Mr. EWING. Mr. Speaker, I would like to raise some strong concerns I have with language contained in the conference report on H.R. 2099 concerning the ongoing efforts in the Department of Housing and Urban Development to move toward Federal regulation of so-called redlining within the property insurance industry, an area of regulation traditionally left to the States.

The VA–HUD bill approved by the House earlier this year contained language requested by me, Representative KNOLLENBERG, and a number of other Members from throughout the country which would have reestablished the States' right to regulate the insurance industry and address rules dealing with any redlining problems in their respective States, and prohibited HUD from spending fiscal year 1996 dollars on promulgating redlining regulations and funding projects by activist groups. I commend and thank Chairman LEWIS for working to include this language in the House bill.

HUD has no statutory authority to be involved in this area, and under the McCarran/Ferguson Act regulation of insurance is properly handled by the States. The States are exercising that authority to address redlining problems where they exist, and there is absolutely no reason for HUD to get involved.

The House of Representatives clearly endorsed this view when it voted 266 to 157 against an amendment to strike this section from the bill. The Senate bill did not contain similar language when it went to conference.

I am deeply distressed that the conference committee not only deleted this section, but replaced it with report language which takes a position directly opposite of the House-approved language prohibiting redlining regulation. In particular, the language calls for congressional committees to take action "so that a clear statutory basis of regulation can be provided, and effective antidiscrimination regulation of insurance activities enforced" with respect to redlining. This is a position with which I vehemently disagree and which is diametrically opposed to the position taken earlier by the House.

I have every confidence that if this bill is vetoed by the President, as is expected, this matter will be addressed again by the Appropriations Committees. I thank Chairman LEWIS for his support and look forward to working with him in the future to include the previously adopted language to prohibit HUD for regulating property insurers in any future version of this legislation.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to the VA–HUD appropriations conference report.

This bill makes dangerous and unnecessary cuts in programs protecting the health and welfare of our Nation.

It decimates important environmental protection programs by cutting EPA funding by 21 percent—the largest targeted cut for any single Federal agency.

It also slashes public housing programs by 21 percent and homeless programs by 27 percent, at a time when public housing needs are rising, not falling.

The impact of these cuts will be felt in urban and rural areas throughout the Nation. For example, in Los Angeles County alone, reductions in the incremental section 8 housing program will deny rental assistance to 40,000 individuals and families currently on the county's waiting list.

I urge my colleagues to reject the flawed funding priorities reflected in this bill by defeating the conference report.

Mr. MILLER of California. Mr. Speaker, my colleagues on the other side of the aisle are playing an increasingly dangerous game with public health and the environment.

Every poll shows that Americans oppose the weakening of environmental standards. In fact, an ABC/Washington Post poll showed that 70 percent of respondents felt that the Federal Government has not done enough to protect the environment. If you ask questions about the protection of communities and employees from hazardous industries and substances, the public support is even higher.

And yet the Republican leaders of this Congress, beginning with the blatant efforts to repeal much of the Clean Water Act as part of the Contract With America, have unleashed an unprecedented assault on the safety of America's communities. That assault has been promoted, drafted, and financed by the very industries and special interests that are benefiting from the Republican revolution.

This conference report is a startling example of this capitulation by the Republican Congress to the special interests who have long challenged the authority of public entities to regulate the safety of the workplaces, the safety of their products, and the safety of their operations. Provisions in this report hamstring the ability of the Environmental Protection Agency to enforce the laws that keep our water clean, our air safe, and our communities free from toxic dangers.

This conference report bars EPA from protecting wetlands, limits EPA's authority to list new hazardous waste sites, and bars the issuance of new standards to protect the public from drinking water contaminated by radon.

As a representative of a heavily industrial district where constituents have often been subjected to health hazards both on the job and in the community, this legislation contains unacceptable waivers from basic laws intended to protect the public from serious threats to health and safety. Instructions buried in the legislative history of this conference report direct EPA to: Exempt the oil and gas industry from requirements to develop accident prevention plans; excuse the oil and gas industry from reducing toxic air pollution from refineries; and infringe on the public's right to know by limiting the kinds of information about air and water pollution that industries must report for the Toxic Release Inventory.

The Seventh District of California—like much of the San Francisco Bay area—has had a long and unhappy history with industries that have leaked, spilled, spewed, emitted, discharged, and released up to 40,000 tons of hazardous materials, with serious results on our community. Indeed, our region has been affected by dozens of releases of hazardous chemicals and other substances into our water, our air, and our lands.

The San Joaquin River, which discharges into the fragile Sacramento-San Joaquin Delta, dumps the following loads every year into that estuary: arsenic, 12 metric tons; chromium, 66 tons; lead, 51 to 55 tons; and nickel, 51 tons.

In 1993, the General Chemical Co. of Richmond, CA, released a huge amount of oleum into the air, forcing 24,000 people to seek medical attention. General Chemical was charged with numerous violations of civil and criminal law, including failure to maintain equipment, failing to provide adequate employees training, failure to provide employees with protective equipment, and negligently emitting an air contaminant.

The General Chemical crisis illustrates the accuracy of the principle: prevention pays. General Chemical was required to pay $1.18 million in fines to the Government agencies and recently agreed to a $180 million settlement with thousands of its victims. For a small amount of that money, General Chemical could have had in place the safety policies and technology that would have prevented the release, and the subsequent damage and costs, in the first place.

There are those who believe that industry will act to minimize risks to its employees, the community, and the environment without the compulsion of safety regulations. They are sadly naive. Time and again, in my community and around this country and indeed the world, we have learned the lesson that removing safety regulations invariably leads to short cuts and practices that endanger thousands of lives. Those who seek, in this legislation, to pare back the important work of the Environmental Protection Agency, or elsewhere attack the Occupational Safety and Health Administration or the Mine Safety and Health Administration, would do well to consider this record.

The Shell refinery in Martinez, CA, like other local refineries, discharged large amounts of selenium into local waterways, with potentially serious results on waterfowl and other marsh wildlife. Shell, like Unocal and Exxon, failed to meet a 1993 deadline to reduce selenium discharges. Some also charge the refineries with the release of dioxins that have been linked with cancer and other serious health problems.

Earlier this year, a pipeline leak at the Dow Chemical plant in Pittsburg, CA, released dissolved chlorine hydrochloric acid and carbon tetrachloride, affecting nearby residents. The examples go on an on: Unocal of Rodeo dumped 200 tons of toxic chemicals onto surrounding communities over a 16-day period. Although plant managers were aware of the leak and workers informed their supervisors, the leak was permitted to continue for 16 days before the damaged unit was finally shut down, leaving hundreds of people with longstanding illnesses.

There are a lot of people in this House who obviously do not believe our communities, our constituents, or our employees need or deserve the protection of their Government from the contamination and poisonings associated with industrial actions. I do not know if they are misinformed, naive, or swayed by the special interests who are behind the weakening of the EPA and behind this legislation. But the effect is the same.

Laws written to protect our citizens and our communities are being trampled by special interest money and influence and, quite literally, people are going to die as a result of this capitulation to corporate interests.

I recognize everyone in this House can point to some example of another of bureaucratic overstepping, and we need good faith efforts to minimize that kind of obstructionism and redtape. But protecting our constituents from the well-documented cases of industrial contamination and poisoning by undercutting the EPA is irresponsible and condemnable. We should vote against this legislation and stand up for the men and women who work in our factories, live in our communities, and look to their Government to provide them with a basic amount of protection and security.

I urge the House to reject the conference report.

Mr. KILDEE. Mr. Speaker, last month I had the honor to host in my district one of the finest public servants who has ever served the combat veterans of this Nation—the Honorable Jesse Brown.

Secretary Brown did not just talk to the veterans at the VFW hall in Davison, MI—he took the time to carefully listen to the concerns of each veteran who attended the town hall meeting. He talked individually to literally dozens of the veterans that day.

But now some Members of Congress want to muzzle Secretary Brown because he has become a real advocate for the veterans and their needs.

In yet another attempt to stifle opposition to their agenda, these Members of Congress want to severely cut funding for the veterans Secretary's office as a means of sending Jesse Brown a message.

These cuts in the Secretary's personal office are in addition to the harsh cuts already contained in the appropriations bill.

Mr. Speaker, such behavior should be beneath the dignity of this House.

I urge Members to join me in opposition to this attack on the Secretary of Veterans' Affairs—and oppose this appropriations bill.

Mr. LARGENT. Mr. Speaker, I support passage of the VA–HUD conference report to H.R. 2099. I want to thank Chairman Lewis and the conferees for their diligence on this bill, and their willingness to work with me and members of the Oklahoma delegation, to incorporate report language compelling the EPA to properly notify corporations or persons as a potentially responsible party [PRP] for facilities on the Superfund's national priorities list.

I know that the House Commerce and Transportation and Infrastructure Committees are currently in the process of reauthorizing and reforming the Superfund Program which is in critical need of improvement. However, for some unfortunate parties, Superfund reform may be a case of too little—too late.

Presently, there are policies which the EPA should be implementing that would save a great deal of time, money, and legal maneuvering in the context of reform and good government. Superfund's overreaching, illogical, and unfair liability snarls have deflected the program from its intended function: to protect human health and the environment in a realistic cost-effective manner. Despite the expenditure of at least $25 billion in Federal and private funds over the past 15 years, cleanup construction has been completed at only 291 out of nearly 1,300 sites—a whopping 12 percent success rate.

I wholeheartedly concur with the conference report language which states,

> Potentially responsible parties [PRP's] have a reasonable expectation to be notified by the EPA in a timely manner and within a

time frame that permits participation in remedy selection and execution. In particular, it is inequitable and unconscionable for the agency to identify a PRP without the means to effectively participate in remedy selection and execution and then, after the remedy has been substantially completed, to attempt to identify other parties to pay for remedial activity.

Additionally, the report language makes clear that the EPA should review all of its activities to determine the extent to which such situations have occurred and, in conjunction with the Department of Justice, make every effort to remedy such actions in a nonconfrontational, nonlitigious manner.

I strongly encourage EPA Administrator Browner to abide by the spirit of this language and not take any premature actions which may lead to innocent corporations or persons expending unnecessary legal costs for a problem they did not have any association with and/or did not create.

Mr. HUTCHINSON. Mr. Speaker, as a staunch defender of both veterans and the balanced budget, I want to set the record straight on how veterans are being treated under the GOP's 7-year plan.

Under the conference agreement for VA/HUD appropriations, VA Medical Care is increased by $400 million over last year's level. Medical Research is increased by $5 million over last year's level and the Minor Construction Program is increased by $37 million over last year's level. Through responsible deficit reduction measures, we seek to preserve the dignity of veterans and the standard of living for future generations.

The VA/HUD Appropriations Act is very generous to veterans' programs. In fact, the VA/HUD act reflects cuts in nearly every other agency program or account except VA's Medical Care Account. This increase comes at a time of a declining population and declining utilization of VA hospitals. It might interest you to know that on any given day between 23 percent and 50 percent of all beds in VA hospitals lie vacant. The money used to staff, and heat empty beds could be better used in the actual delivery of services to veterans.

According to GAO, if the VA were to analyze the President's budget using the same assumptions the Department used when it analyzed the budget approved by the Congress, the VA would find that veterans are better off under the congressional budget than under the President's own plan. When the Secretary of Veterans Affairs was asked if veterans would suffer more under the Clinton administration's plan he said, "that's absolutely right."

The Republican plan will preserve and fund VA health care at a level that ensures the quality that veterans have come to expect. But it also tasks the system to become more efficient and deliver care in a more cost-effective manner. VA spends more than $5,000 per patient per year. This is $1,800 more than Medicare and a whopping $3,800 more than the private sector. Looking at these numbers, there must be ways for the VA to become more efficient.

Health care is changing rapidly and VA must be part of that change.

We need to question the need for more buildings and instead look for ways to provide more care. VA has historically been an institutionally based system that now is forced to support an aging network of 173 hospitals, 376 outpatient clinics, 133 nursing homes, and 39 domiciliaries. We need to seriously examine what, where, and if VA needs to build in order to better serve veterans. The approach taken by this conference bill is a step in the right direction by asking the VA to assemble a long-term plan for its infrastructure and construction needs. The VA, must begin to plan strategically like the private sector, taking into consideration such factors as an increasingly constrained budgetary environment, a declining veteran population, shifting demographics, and the rapidly changing health care market. Today, when 9 out of 10 veterans have access to private health insurance, and 10 percent of current VA users are leaving the VA system to use Medicare, we seriously have to question the need for more facilities. The major construction level of $136 million and the minor construction level of $190 million reverse the historical trend of anchoring the VA in bricks and mortar. Today's health care is becoming less and less institutional. The VA must be part of that trend. It must have the flexibility to go to the veterans instead of requiring the veteran to travel long distances to procure health care in often aging and obsolete facilities.

I believe that veterans and taxpayers will be better served by a VA that is more efficient and provides more accountability to those who provide the basis of its support. This bill is pro-veteran. It shows that Republicans are committed to putting veterans first.

Ms. BROWN of Florida. Mr. Speaker, I rise in opposition to the conference report on the VA–HUD appropriations bill. President Clinton has announced his intention to veto this bill because it funds veterans programs at $900 million less than what he requested in his budget.

Right now, nearly 2 million veterans live in Florida, nearly 60,000 in my district alone. More veterans live in Florida than in any other State except one. And 100 veterans move to Florida every day. These men and women are growing older and need medical care.

Mr. Speaker, this bill is a slap in the face to Florida's veterans. The President requested $154 million for the Brevard County Hospital which would serve Florida's veterans in and around my district. But the Republicans in Congress took away that money. That hospital so desperately needed by veterans will not be built.

Where do sick veterans in Florida go for hospital care? For the last few years, hundreds of Florida veterans who have developed psychological problems are shipped out of State. That is right. They get shipped off to Mississippi and Alabama for their care. Two beautiful States, indeed, but far away from their loved ones in Florida. I think this is wrong. To me, there is nothing more compelling than the need to care for veterans who suffer the effects of fighting our wars. That is why Florida needs the Brevard County Hospital.

According to the Department of Veterans Affairs, with this bill, almost all renovation and construction of veteran's health facilities will terminate. A funding freeze would lead to a sharp reduction in the number of employees who counsel veterans and decide claims for benefits. The VA's award-winning medical and prosthetic research program would be cut in every year under the freeze.

Mr. Speaker, balancing the budget is a top priority. And I am committed to doing just that. The President is also committed to a balanced budget. But in balancing the budget, a shared sacrifice is necessary. And I share the President's view that we must not balance the budget on the backs of our Nation's most fragile citizens—seniors, veterans, poor women, children, and the disabled.

Our Nation's veterans earned their benefits through service and sacrifice. It should be America's highest priority to honor our commitment with our veterans. I believe it is wrong to abandon our veterans who have gone in harm's way to serve our country. We need to take care of our U.S. servicemen and women—when they are fighting our wars, and when, as veterans, they need health care. I urge my colleagues to vote against this bill.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore. (Mr. EMERSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. That is safe to say, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the conference report on the bill H.R. 2099 to the committee of conference with instructions to the managers on the part of the House to insist on the House position on Senate amendment numbered 4.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 208, not voting 8, as follows:

[Roll No. 829]

YEAS—216

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop

Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burr
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Foglietta
Ford
Fox
Frank (MA)
Franks (CT)
Frost
Funderburk
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefley
Hilleary
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—208

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Fattah
Flake
Hefner
Roth
Seastrand
Towns
Tucker
Volkmer

□ 1311

Messrs. LINDER, SALMON, FOLEY, LEWIS of Kentucky, RIGGS, and BILBRAY changed their vote from "yea" to "nay."

Mrs. KENNELLY, Messrs. ROEMER, BARCIA, FUNDERBURK, HAYES, GOODLATTE, FOX of Pennsylvania, MURTHA, MANZULLO, GOODLING, HILLEARY, and STOCKMAN, and Ms. ROYBAL-ALLARD changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. SEASTRAND. Mr. Speaker, on rollcall No. 829, I was unavoidably detained. Had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, today because of inclement weather and airport delays, I was delayed on two votes.

For H.R. 2564, I would have voted "yes"; and for H.R. 2099 I would have voted "yes."

□ 1315

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I would ask my friend, the gentleman from Texas [Mr. ARMEY], to explain the schedule this afternoon and for tomorrow. If we are going on Amtrak tomorrow, I would ask the gentleman, why can we not do it today? It is 1 o'clock in the afternoon and we have a good part of the day left.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, this last vote is the last vote of the day. The Committee on Rules will be meeting at 2:30 or later this afternoon to write a rule on the Amtrak legislation that we intend to bring up tomorrow. We do not anticipate any vote on Friday or Monday.

Mr. BONIOR. Mr. Speaker, if I can reclaim my time, I ask unanimous consent that we bring the Amtrak bill up today. There would not be any objection on this side of the aisle. We would be happy to take it up today. We do not need a rule, unless the gentleman plans to close the rule. We do not need a rule.

The SPEAKER pro tempore (Mr. EMERSON). The Chair is unable to recognize the gentleman for that unanimous-consent request.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would ask the gentleman to yield for the purposes of inquiring of my good friend, the gentleman from Texas, the distinguished whip on the majority side, are we going to bring up the securities reform legislation?

Mr. DELAY. Mr. Speaker, if the gentleman from Michigan will continue to yield, we intend to bring up that piece of legislation sometime next week.

Mr. DINGELL. Next week, not tomorrow or Thursday, Friday?

Mr. DELAY. Sometime next week.

Mr. DINGELL. Would it come up Monday or Tuesday of next week?

Mr. DELAY. We have not set the schedule for next week, but it would be sometime next week.

Mr. DINGELL. I thank the gentleman.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOMMITTING THE VA-HUD APPROPRIATIONS CONFERENCE REPORT WILL ALLOW FOR THE GREATER PROTECTION OF THE ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I was very pleased to see that the VA-HUD appropriations conference report, which, of course, includes funding for the Environmental Protection Agency, was recommitted to conference today, primarily because of two provisions related to the Environmental Protection Agency. One is that the amount of money that is appropriated to the EPA is probably one of the lowest amounts for any agency, and specifically with regard to enforcement, there is a 25-percent cut in terms of the EPA's enforcement.

Already we know that the EPA has cut back significantly on inspections and on enforcement because of the level of funding that they have received pursuant to the continuing resolution. In other words, as we proceed in trying to put together an appropriations bill for the EPA, less money can be spent on a monthly basis since October 1, because we have not had an appropriations bill signed into law.

Mr. Speaker, the point I was trying to make is that this conference report, which fortunately was sent back to conference today, cuts back on EPA's enforcement ability by about 25 percent. Since we are already into fiscal year 1996 and we are operating on a continuing resolution which significantly cuts back the amount of money available to the EPA, already inspections and other enforcement actions have been reduced at the Environmental Protection Agency. This 25-percent cut in enforcement will simply magnify that problem.

What it means essentially is that, although we have good environmental laws on the books, they cannot be enforced. Polluters will go free, and there will not be the ability for the EPA to go in and even know exactly what is going on, whether someone, for example, is violating their discharge permit into waters.

In addition to the problem with enforcement, this House has several times, at least on two occasions now, voted to take out riders that were in the EPA appropriations bill which I characterize as anti-environment, because they prohibit the agency from actually enforcing certain actions pursuant to the current law. Yet, we know that of the 17 House riders that were in the EPA appropriations bill, two of them remain in the conference report, and at least half of them have been placed into what we call report language. They are not actually in the law, but they are placed in the conference report, and normally Federal agencies have some sort of requirement to try to go along with what the report, what the conference report language says.

Specifically, there are two provisions, two of the riders that are still in the bill and I hope will be taken out when this bill goes back to conference. One of the two would essentially say that the EPA has no ability to enforce wetlands protection. Right now the EPA has the authority under certain circumstances to permit the filing in of wetlands where the agency feels there has been substantial or will be substantial detriment to the environment. That has been taken out; that rider is still in the bill, but that prohibits the agency from providing any kind of wetlands protection.

The other rider that still is in the bill is one that would prohibit the designation of new Superfund sites. Again, if we are supposed to use a scientific basis, which we traditionally have, for deciding whether or not a hazardous waste site would be put on the national priority list for Superfund status, then there is no reason why an appropriations bill, or a conference report in this case, should specifically say that no new Superfund site can be designated.

In addition, through, Mr. Speaker, there are at least another eight or nine riders that are put into what we call report language. These are essentially loopholes that are created to provide special treatment; for example, utilities and other industries seeking to prevent the EPA from expanding its disclosure program under the Community Right To Know Act, refineries facing compliance with air toxic emission standards, cement kilns that burn hazardous waste, air permitting programs for the State of Virginia, bioengineering plants, State audit shields for polluters, natural gas processors. In each case there is conference language requesting the EPA to create loopholes or other special treatment in these various categories.

Essentially, Mr. Speaker, I believe very strongly that since agencies are supposed to follow the dictates of the appropriators, this shift to report language, taking the riders out of the statute but putting in the report language, really means that a lot of the damage will still be done to the environment. I hope that the conferees, when this bill goes back to committee, will make some additional changes so we have more money for environmental protection.

THE OCCUPATION OF BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I want to spend some time this afternoon and talk to us about the occupation of Bosnia. The President has already decided that we are going to be sending troops into Bosnia, approximately the number of 20,000, under the alleged peacekeeping mission. However, I think as we see the events of Bosnia unfold, we are starting to realize that there are many questions unanswered, in that the direction of those questions and the partial answers that we are receiving is saying that this is not a peacekeeping effort, and that this is a peacemaking effort which will probably result in an occupation unless we take some drastic changes of direction now.

Mr. Speaker, this is a big concern, I think, to every American. If it is not on their thoughts today, it should be. It will be tomorrow. I think it is a well-known fact now in the media and in Congress that the President is going to send troops to Bosnia. He has the constitutional authority to send those troops. He has thought this out. It has been planned in the Pentagon. There will be troops before the end of the year in Bosnia.

It is very frustrating for a Member of Congress, because we are unable to stop this action. We have repeatedly voted to stop from sending troops to Bosnia, yet every effort on the part of the Congress has been met with disdain, with the turning from our advice, and the President has not yet come to us with the arguments, with the right ideas, with the right plan in order to gain not only the support of Congress, but the support of the American public.

Some of the questions that are arising out of this tragic mistake that we are about to make are, No. 1, the President says there will be casualties. There are risks involved. I think this Member of Congress and others would like to know what is the acceptable level of casualties in Bosnia. Is it 1,300 troops per day? Is it the loss of 250 young men and women each day we are over there? Is that acceptable?

I can tell you what is acceptable in Kansas, in the Fourth District of Kansas. It is zero. No casualties. But that is not what we have heard. There will be casualties, but we do not know how many.

□ 1330

Another thing is that we were told that it is going to be 20,000 troops, but now we are finding out that it may be 30,000, maybe 35,000. There will be some held in float. There will be some stationed nearby. According to the War College, it takes seven troops to support one combat troop. So if it is 20,000, that means it is 140,000 with support personnel. If it is 30,000, it goes up to 210,000. Pretty soon, we are talking about a quarter of a million people, and they are in there for the alleged duration, which is supposed to be 12 months.

Will there be a rotation? If there is a rotation, where will the training take place? Does that mean that there is now a half a million troops involved? If so, what would happen if North Korea should cross the border and what would happen if Saddam Hussein again crosses another border? What would happen if a conflict occurs in Yugoslavia or some other place like Macedonia?

This country is not funded in the Department of Defense to handle a two-scenario conflict. Regardless of what the leadership in the administration has said, it is simply not there. Members of the Pentagon know that.

If this is an occupation, which it appears to be leaning towards, 20,000 is not enough. Probably 200,000 is more like what it will take, just ground troops. What is the mission here?

Another question is, what is the geographical area that we will be required to defend? Is it near the hottest area? Near the Serbs? Mr. Speaker, we have already had air strikes on the Serbs. There are some 40,000 to 60,000 rogue Serbs who do not agree with the peace agreement, and we will be near there. Our troops are planned to land at Tuzla, which is just about a mile from the Serb current locations. A mortar round can travel a mile.

Other questions are, is the duration of 12 months enough? We have had a century's old conflict and we think we can solve it in 12 months? What firepower will we have there? What is the funding level? It started out at $1 billion. It is now up to $3 billion. Would it not be more economical in terms of human lives to offer to rebuild the entire country with this $3 billion instead of spending it on troops, putting them in harm's way and accepting some level of casualties?

There are many more questions. One is the question of leadership. Will America not be a leader if we back away from this? There are many ways to lead, through NATO and through other ways. We can lead through air power, through intelligence, through strategy, through logistical support. We have many ways that we can lead. But to send troops into harm's way without the support of the American public, without the support of the America people, the Congress, the answer is no, Mr. President.

BUDGET RECONCILIATION BILL LIMITS OPPORTUNITIES FOR AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, we are in the midst, during these next couple of days, of making a recommitment to the American people that we are now serious about a budget reconciliation process that takes away the stridency and the gross imbalance that the present bill has offered.

I voted against the Budget Reconciliation Act that has been proposed by the majority in this House. This is not to say that the consequences of not balancing a budget is not of great concern.

I have been to my district. I have discussed the issue with a myriad of constituents: working Americans, also individuals who are looking to become independent, transitioning themselves maybe from public housing, from being recipients of welfare. But as they look to become independent and as working families are looking to become stronger, the Budget Reconciliation Act says to them that we will not join you in partnership.

This bill drastically cuts housing opportunities for affordable housing. This bill drastically cuts opportunities for poor working families to receive an earned income tax credit. What we may be saying sounds like a continuous recording sound, droning on and on. But what it actually does is impacts the lives of working and living Americans. It jeopardizes the fragile relationship of survival, whether they survive today or whether they do not survive tomorrow.

We find that when we cast aspersions and criticisms on those who receive welfare, this Budget Reconciliation Act, along with the proposed welfare reform plan, cuts child care, cuts job training, and disregards the opportunity for encouraging businesses and others to employ now present welfare recipients by providing a tax incentive to hire such persons. We find in the Budget Reconciliation Act that the job program that helped youth be employed during the summer the last number of years is simply nothing but a baby-sitting job or a baby-sitting activity. How egregiously wrong that perspective is.

In my district, in the city of Houston, we will lose some 6,000 summer jobs. Across this Nation, we will lose millions of dollars that have helped young people be directed away from activities that would cause criminal results to more constructive activities that have exposed them to career activities.

There have been accusations, for example, that the monies have been misused. I am not sure of the extensiveness of any hearings that have suggested that cities that have been, and quasi-public agencies that have been in partnership with the business communities throughout this Nation have not effectively utilized youth summer program money.

We have been able to hire 6,000 youths in my community. All of them have managed to be exposed to unique experiences. Whether it was with NASA and the space station, whether it was with city government, or whether it was with one of our major energy companies in the community, they have learned independence, self-sufficiency, self-esteem.

In fact, Mr. Speaker, I had a young person who worked in my office when I was a local elected official who did real work, by the way, this young intern, who, when she got the offer to be an intern under the summer jobs program, called with excitement but yet sadness and said, I cannot accept, because I do not have the proper clothes and I would be embarrassed to show up. I said to that young person, if you have to wear a paper bag, come to this office to know what you can do, how you can be challenged and what the opportunities are for you in the future.

The Budget Reconciliation Act must give to the American people hope. It must give to them a direction. It must give to them focus. What we have now is an ill-spirited and misdirected opportunity.

So I would ask, as the process continues, that we begin to look at where this country wants to go in the 21st century. Do we want to turn back the clock on environment with respect to clear water, clean air, and would you believe, food safety inspections? How outrageous when we have come so far that now we would deny citizens the adequacy of food safety inspections.

We have a responsibility, Mr. Speaker, to fairly strike a chord of reason in the Budget Reconciliation Act process. I will participate. I ask my colleagues to participate.

BALANCED BUDGET REQUIRES ELIMINATING AND TRIMMING PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I want to address the House today on the budget and on the process of balancing the budget.

I have listened to a number of our colleagues on the other side of the aisle today and in the weeks past on the budget, and I really think that maybe an honest step would be for them to say that we do not want to balance the budget, just get it over with. Because what we are hearing is, well, not here and not there, and do not do this, and do not do that.

Federal jobs programs, for example. Mr. Speaker, as you know, we have 163 different Federal jobs training programs. Is it possible that some of those could be trimmed back, some could be consolidated, and perhaps, oh, do not say it too loudly around Washington, but maybe some could be eliminated? Is that not what the American people actually want?

Ms. JACKSON-LEE. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I would be happy to yield to the gentlewoman from Texas.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for his perspective.

The gentleman from Georgia mentioned several job training programs. I would only raise an inquiry for what I hear my colleagues on the other side of the aisle trying to do and what I would hope that we could do together, and that is to turn this country around to a level of self-sufficiency. Part of that comes from our youth. If I can just separate out your comments to focus on the summer jobs programs that have been effective in our communities, because, in fact, they have been a partnership between the public and the private sector.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, one of the things that is very important to remember is that the AmeriCorps Program, which the gentlewoman has been discussing, for example, is $26,000 per child. Well, I would say to my colleague, we can produce a heck of a lot of great opportunities for kids at that rate.

The problem, as the gentlewoman knows, is that if we want to do something for kids, we have to reduce the deficit. We cannot pass them our bankrupt legacy, the $200 billion debt that we have year after year, the $4.9 trillion that is eating away at these things.

Now, the gentlewoman and I know that when we were kids, an old trick used to be to go to the corner drugstore and charge a Coca Cola or an ice cream to your dad's account down there. Well, at the end of the month your father would find out, well, you charged something to me, and I am going to make you pay that back.

Well, now what is happening is we parents are going down and we are charging things for our kids to pay, but these are 4- and 5- and 6-year-old children who for years and years are going to be paying.

Ms. JACKSON-LEE. Mr. Speaker, will the gentleman yield? I thank the gentleman for his thoughts.

Mr. Speaker, I will be very quick on this point. If we have analyzed the $26,000 on AmeriCorps, we have not yet juxtaposed or compared that against the investment or resources that they provide to the community which balances off, because they are giving labor for free, in essence, and the summer jobs exposes children to opportunity.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, that is important, but out of 163 job training programs I would challenge the gentlewoman from Texas [Ms. JACKSON-LEE] to say, let us cut these. We are in agreement that maybe we need 100 job training programs, or maybe we need 2, or maybe we need 50. Where I think the Democrat Party is being somewhat disingenuous is you all are saying, let us cut the budget and let us balance it, but not here, not now, not in my area.

These are good programs. I would say to my colleague that, in each case, many of them are good programs, yet we are still in debt. So why do we not try to take the good ones that are good and consolidate them together and reduce it and, most importantly, cut out the Washington bureaucrats who are the middle people who are sucking up so much of the money that should go?

I want to make one more point. Mr. Speaker, it is already November, almost December. We keep hearing, balance the budget, but not here, not now. We want to work in a bipartisan fashion. To my knowledge, the only serious plan that has come from you all has been on the Blue Tick Hounds or the Hound Dog Democrats or whatever you call them, and I know that the gentleman from Mississippi has been a part of that. That is a great counterpunch to the debate, and I applaud it. But it is still a minority group within the Democrat Party.

We do not have a serious Democrat proposal to balance the budget yet. So as long as my colleagues on the other side of the aisle are going to say, not here, not now; I would say, get in the arena with us. I mean, it is difficult to balance the budget. If it was not, we would have had one in the last 25 years.

Let me yield to the gentleman from Mississippi. If we can get more time, I will continue this debate, because the lady from Texas has been a very positive person in this debate process.

Ms. JACKSON-LEE. Mr. Speaker, I think there is more that we can do, the gentleman from Georgia, and I appreciate it. I think we have tried to meet on different issues. I wish that the budget now before us was not so strident.

I thank the gentleman for yielding.

REQUEST TO EXTEND SPECIAL ORDER TIME

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a unanimous-consent request. I would like to extend the gentleman's time by 3 minutes so that he could yield to me so that I could have the opportunity to answer the question that he asked of me.

The SPEAKER pro tempore. The Chair is unable to recognize that unanimous-consent request. The gentleman is limited to 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, how many additional people are there on the list, sir?

The SPEAKER pro tempore. Approximately 15.

PARLIAMENTARY INQUIRY

Mr. KINGSTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. KINGSTON. Mr. Speaker, in keeping with going back and forth between Democrat and Republican, is it not true that a Democrat can ask for unanimous consent for 5 minutes to speak out of order and then the gentleman from Mississippi can get 5 minutes if no one objects?

The SPEAKER pro tempore. The gentleman is correct.

□ 1345

A BALANCED BUDGET?

The SPEAKER pro tempore (Mr. GANSKE). Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, parliamentary inquiry before we go on.

I understand what is at stake here. But is the ruling of the Chair about continuing because, if we start this process, that means those who have signed up will have to wait a longer time? Is that the reason for proceeding this way?

The SPEAKER pro tempore. The Chair cannot recognize Members for extensions of 5-minute special orders.

Mr. ABERCROMBIE. I understand. I thank the Chair.

I have the time, Mr. Speaker, is that correct?

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. I thank the gentleman from Hawaii for his courtesy.

Mr. Speaker, I would just like to point out to my friend from Georgia, and I do consider him my friend, that what the coalition and what I hope every Member of this body is asking for is honesty in budgeting.

I did some checking yesterday from the Congressional Budget Office, and even the Republican budget for 1996 would run up a $296 billion annual operating deficit; $118 billion of that would be taken from trust funds.

I have continually heard that bill being referred to on the floor of the House of Representatives as the Balanced Budget Act of 1995. Sir, that is not a balanced budget. I think the gentleman knows that, and I know that, I think the people of America ought to know that.

Mr. ABERCROMBIE. Reclaiming my time, Mr. Speaker, following up on Mr. TAYLOR's comment, as you know, yesterday I started what I said would be a series of discussions as to what constitutes a balanced budget in the context of the Speaker's admonition to us that we use honest numbers.

I invited the Speaker to come down and discuss that if he wants. He is not here today. I do not know whether he will be here tomorrow. I am going to be here right through the 15th. He may be in negotiations right now, I do not know, about this so-called balanced budget. But every time we see on television or hear on radio or read in the newspaper the Speaker talking about a balanced budget in 7 years and using honest numbers, I submit to you and I submit to him and would be very happy to have a discourse with him that this is illusionary. This is entirely illusory in nature. These numbers do not reflect an honest balanced budget.

As the gentleman from Mississippi [Mr. TAYLOR] indicated, every single budget proposed from the years 1996 through 2002 has a massive deficit attached to it in the Republican plan. Every single one of those budgets is going into the Social Security trust fund. It is stated right in the budget documents of the Republican proposals, and I do not object at any time to someone coming forward with the idea of saying let us get to a balanced budget as I indicated yesterday.

In time to come, I will come on this floor and propose the kind of alternatives that some of us are putting together and are willing to get behind that which will achieve that in an honest way. This is dishonest in the sense that you are putting forward, or we are having put forward to us by the majority the idea that somehow they have exclusive claim to a balanced budget.

I will indicate that this year alone, and I may be off $1 or $2 billion, a couple of billion dollars depending on what the final figures come out to be, but the proposal is that they take $63 billion from a so-called surplus in the Social Security system.

Mr. KINGSTON. Will the gentleman yield?

Mr. ABERCROMBIE. I will yield briefly because I have got a long way to go and you folks are on the floor every single day with this line and you have hundreds of people saying the same things, and we are just a couple of us here right now. But I will yield for the moment.

Mr. KINGSTON. I would say this to my friend from Hawaii whom I know to be a learned and honest gentleman. This is an 18-inch ruler, and what is unbelievable to me that over here 18 inches may be different, if we were talking money on the other side of the aisle, and I agree with what you and the gentleman from Mississippi [Mr. TAYLOR] and the gentlewoman from Texas [Ms. JACKSON-LEE] are saying, let us use the same ruler when we debate this so that balance really is balance. No deficit really means no deficit.

So I would say to you in the spirit of let us get to the bottom of it, I am with you 100 percent on what your assertion is. I appreciate the gentleman yielding.

Mr. ABERCROMBIE. To enter into a dialog with you on this, then, is it your position that the budget as put forward by the majority at the present time is not going to balance the budget if at the end of 2002 we have almost $1 trillion owing to the Social Security trust fund?

Mr. KINGSTON. If we are making by a ruler that is the same ruler that we measure all plans on and that is the case, then we need to look at it.

Mr. ABERCROMBIE. If you could be so kind, would you try and answer my question. Is it the Republican budget position that in the year 2002 when you have ostensibly balanced the budget that you will owe the Social Security trust fund $636 billion plus interest, approximately $1 trillion will be owing to the trust fund?

Mr. KINGSTON. Let me say this. Last night was the first night that I listened to what you are saying and it raised something that I want to go back and do my homework on. But I can assure you that I would be happy to answer that question afterwards and continue a dialog in an honest manner.

Mr. ABERCROMBIE. Reclaiming my time, Mr. Speaker, do I have time?

The SPEAKER pro tempore. Ten seconds.

Mr. ABERCROMBIE. I very much appreciate the honesty of the gentleman from Georgia. I will indicate to him and to the rest of the House that if they go back and do their homework as he suggests, they will find that in the year 2002 we will owe almost $1 trillion to the Social Security trust fund, and in the time to come, Mr. Speaker, over the next couple of weeks I am sure we can explore this issue at greater depth. I thank the Speaker very much and the gentleman from Georgia.

BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

BALANCING THE BUDGET

Mr. SCARBOROUGH. Mr. Speaker, just to follow up briefly, I was going to be talking on Bosnia but to follow up briefly on what the gentleman said before, anybody that comes up with a plan that does more to balance the budget than what the Republican plan has done this year is fine with me. But I am hearing conflicting signals.

The first thing I am hearing is that the Republican budget does not go far enough to balance the budget. And then we turn around the next day and hear how savagely the Republican budget cuts everything. The fact of the matter is that is a falsehood.

Student aid goes up 49 percent under the Republican plan, goes from $24 billion to $36 billion. But now we are hearing a new line. Now the line is that the Republican budget does not go far enough. If the gentleman from Hawaii would like to get into the debate and figure out a way to balance the budget plus handle it, $1 trillion dollars, 7 years from now, if you say we are $1 trillion short, I welcome him. Again, I want to talk about Bosnia. But I will just say this with a footnote.

Mr. ABERCROMBIE. Will the gentleman kindly yield a moment.

Mr. SCARBOROUGH. Let me just finish this. Any plan you come up with if it goes even further than the Republican plan in making the savings that we are doing is going to have to add about $750 billion to what your President and your party is willing to do.

I yield to the gentleman before going into Bosnia.

Mr. ABERCROMBIE. That is very kind because I will focus on Bosnia. I realize what you are saying. Obviously if this moves forward we have to find more money to deal it. That is one of the problems with Bosnia.

My point is that there are alternatives. I will not take the gentleman's time tonight. It includes capital budgeting, and I do not consider it Republican or Democrat in that context. I am considering it in the context of America, the way the rest of American Government and business and families run their budgeting.

We separate capital budgeting from operating expenses and I think we can get to a balanced budget. We do not have to put a timetable right now but I would be happy to discuss with the gentleman and my good friend from Georgia ways that we can deal with honest numbers. I appreciate the gentleman yielding.

Mr. SCARBOROUGH. Mr. Speaker, I appreciate the comments of the gentleman from Hawaii. Certainly it has nothing to do with the Republican or Democratic Party. It has to do with being honest with budget figures. Obviously the Republicans in the early 1980's engaged in rosy scenarios just as Democrats have in the past.

But moving on to Bosnia, I know the gentleman from Hawaii certainly has some opinions on this which I look forward to hearing, also, I have just got to tell you. I hear so many people calling my offices, and I have answered a lot of the calls myself, and I have talked to other Members across the country.

The fact of the matter is, and I do not care what a CNN poll says, the overwhelming number of Americans today do not want United States men and women to put their lives on the line for a 500- or 600-year-old civil war in Bosnia. The fact of the matter is that we as a country appear to have learned a lot from the mistakes we made in Vietnam.

In fact, the Pentagon put forward a doctrine that would prevent us from getting involved in future conflicts that would lead into Vietnam-style quagmires. It was called the Weinberger doctrine. It came out in the mid 1980's, and it seemed to make a lot of sense. The first requirement was that before the President sent one young American to die in a war across the sea, he clearly stated a vital American interest that was at stake.

I have sat on the Committee on National Security for the past few months. I have heard testimony from the Secretary of Defense, Secretary of State, General Shalikashvili, and they have failed to come forward, and not them personally. They are representatives of the administration. The administration has failed to set forth a clear, vital American interest that is worth the spilling of blood of young American men and women to end a civil war that has been going on for 500 or 600 years, to end a civil war that is much more complex than even the conflict we got involved with with Somalia.

Remember the need to go to Somalia because it was the right thing to do? We had to stop the hunger, we had to stop the clans from fighting each other.

The fact of the matter is, we went to Somalia, we spent $3 billion, it cost us over 20 American lives, and today the warlords continue to fight each other. We did not make a difference in Somalia, and Somalia is nothing compared with what we go to when we start talking about sending troops to Bosnia. It makes absolutely no sense.

The President spoke a few nights ago and tried to define a vital interest, but unfortunately his vital interest had to do with securing a Bosnian peace treaty. The fact of the matter is that right now that Serbs in Sarajevo said they will fight to the death. I have got to tell my colleagues, until we clearly define a vital American interest that is worth the death of Americans, I respectfully have to reject the President's reasoning to send young Americans to Bosnia to die.

BALANCED BUDGET DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, Members on both sides of the aisle feel very passionately about their positions in the budget debate, and we should feel passionately about this issue because in fact what we are debating is the future of our country. The debate is about far more than numbers. It really, in essence, is about the values and the priorities of the American people.

Democrats are concerned about the level of cuts that this budget makes in Medicare, in education, and in environmental protection. We believe that the cuts that are currently there, the cuts in this budget, go too far and too fast and will hurt too many people.

We are also very concerned about the tax package that is contained in this budget. Because of that tax package, we think that it is wrong to impose higher taxes on those who can least afford it while lowering the taxes on those who can in fact most afford it. That seems to have the priorities of this Nation out of whack.

We are not alone in thinking that the budget has its priorities upside down. If you take a look at what the American people are talking about, and there are recent surveys that have discussed this issue, the surveys indicate that 60 percent of the public today would like to see the President veto this budget as it currently stands.

I think that there are a number of us here who concur that that is what the President should do if Republicans refuse to lessen the blow on our seniors, our students, and on our environment.

Congress should not force its priorities on the American people. It is time to start to listen to them, to compromise on a balanced budget that protects the priorities of the American people. No one disagrees about getting our fiscal house in order, about achieving a balanced budget. There is a right way to do it and a wrong way to do it.

What we want to try to do is to protect those principles and those priorities that the American public has asked us, in fact, to protect. That means protecting educational opportunity, environmental protections, and it means protecting Medicare.

As it currently stands, the Republican budget, and this number has not budged in all these months, cuts $270 billion from Medicare to help to finance a tax cut for the wealthiest Americans. Over 50 percent of the tax cuts go to the richest 1 or 2 percent of the people in this country.

□ 1400

The cuts go too far too fast and will devastate a health care system that is serving 37 million seniors.

It is not only the seniors who are going to be hurt, and it is not just Democrats who are warning about the impact of the deep and the dangerous Medicare cuts. The most recent issue of Money magazine, there is an article. It tells families, actually, in the article, to hold on to their wallets because health care costs are going to go up if this budget passes. In fact, because of the cuts in Medicare payments to hospitals under this plan, administrators say that they will have to raise health care costs for the rest of the population in order to have to make up the difference.

According to a recent article in the New York Times, the Medicare cuts will shift more than $11 billion in costs onto small businesses and American workers. That is because if people wind up having additional people wind up with not having insurance, once more, as our current situation indicates to us, that those people who are without insurance, if they do get health care, and they will, that those costs do not just fall into an abyss, into a vacuum. Those costs get picked up by all those who, in fact, are currently paying health care costs. We will just add to the number of those who are uninsured, and those additional costs will have to be borne by those who are currently picking up health care costs today.

That is a burden on individuals, and it is a burden on our businesses today and our workers that they simply cannot afford.

The GOP Medicare proposal is fundamentally flawed by controlling spending, but, by not controlling costs, it ensures seniors will be forced to pay more out of pocket while health care costs continue to rise. That would mean a giant step backward for America's seniors. That is not the way to balance the budget. That is not the American way.

CLAIMS VERSUS TRUTH

The SPEAKER pro tempore (Mr. GANSKE). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, the last few months the congressional Democrats have tried to scare the American people, using all kinds of scare tactics and disinformation with twisted rhetoric.

I would like to point out to you a typical example of how wrong it is. First one Medicare, my golly, I just heard the story that this is gutting Medicare cuts, and the dangerous Medicare cuts, et cetera. Let us take a look because I would like to have the American people make their own judgment.

It seems like the argument is Medicare part B. Part B is to pay for a doctor's bills, et cetera, long-term care. The way it is right now, senior citizens pay about one-third, $46.10. They cost Government three times more than that.

So what happens right now, one-third is paid by the senior citizens, two-thirds paid by the other taxpayers, younger generation. The other ones subsidize senior citizens by this ratio.

Take a look at this. Starting next year, our friends want to do this one-quarter paid by the senior citizens, three-quarters by the other taxpayers. We said "no" because in good time perhaps, maybe, but we do not have any money. We would like to keep it one-third, two-thirds relationship, continuing the next 7 years so we can balance the budget.

Where is the cut? This is what they call a cut. They would like to spend this much. We said "no." Let us maintain present situation. They call that a mean-spirited cut, deep cut, all kinds of rhetoric.

Now, even though maintaining this relationship, because hospital costs have gone up anyway, everybody has to pay a little more. Senior citizens have to pay a few bucks more a month, and their younger generation has to pay a few dollars more to subsidize.

Let us take a look at the next chart. Starting $46.10 a month, eventually at the end of 7 years it is going to go up to $87 a month. Mr. Clinton's plan is $83 at the end of seventh year. Strangely enough, next year, did it to less payment, I do not know why, perhaps election year, then go up. Eventually we are talking about $87 versus $83. The American people knows this. That is what is the difference in the Part B premium than what the Republicans propose and what Mr. Clinton proposes. It is about the same.

Let us take a look at the next one. I mean, hearing this rhetoric that we are trying to put all of this poor working family out in the cold, they are talking about earned income tax credit. Many people do not know what is earned income tax credit. What it is, if you make money, you have a family, but not enough to support family, then Government pays you money. Look at what happens. This time, about this year, the Congress passed a law so you do not have to have children. Anybody can be eligible to receive the Government paychecks without having any children. That was different than original intent. Guess what happened here? Zoom, thousand percent increase.

What we are trying to do is slow down a little bit. The blue line here, slow down by eliminating waste and fraud, and also we are trying to go back to the original intent that if you do not have any kids, if you do not have any children, you are not going to receive any EITC paychecks anymore from Government. That is all we are trying to do.

Where is the cut? Where is the mean-spirited cut here?

Let us take a look at the next example. Next one is a lunch program, taking food away from the mouths of children. What a grotesque twist of rhetoric. Actually, we are spending more money, to be exact, 37 percent more, from $4.5 billion in 1995 to $6.17 billion in the year 2002. Is that the cut? 37-percent increase is a cut?

All we are trying to do is, there are so many programs right now, we are trying to consolidate into one program, also eliminate the middle man—in this case, Federal bureaucracy—so the local school district can get more money, in a sense, the children can get more money for their school lunch program.

Tell me where the cut is.

Finally, now they are trying to scare students. My God, they say we are cutting student loans and other educational aid.

Let us take a look at this. Starting from 1995, continue going up at the end of the seventh year the budget shows student loan, $36.4 billion, 48-percent increase. The student gets 48-percent increase in student loans.

Is there a cut? I think we should stop this rhetoric.

SIESTA FOR CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, today we gain new insight into what this new Gingrich-ite majority meant when they said they would give us a new Congress, and we can see it right here on the floor today. They have brought an entirely new institution to this Congress, not new to other countries of the world. It is known as a siesta.

You see, at a little after 1 o'clock today, when most Americans were out working hard trying to make ends meet, the Gingrich-ite leadership declared a siesta in the Congress. They said at 1 o'clock, after they had paid to bring back Members of Congress from all of the 50 States to pass a bill this morning that could have been approved last night with ease, to suffer a major defeat today on a piece of legislation that would take money away from veterans' care, they said at 1 o'clock, "We do not have any more business today. We do not want to work any more." And unlike some of our friends in other countries in the world who might take a 2- or 3-hour siesta around noontime, this new Gingrich-ite majority proposes to extend its siesta until midnight and well into tomorrow.

It is as if they did not hear the message of the American people that I heard over the Thanksgiving break, a message that said, "Stop your antics. Get to work." The message that said, "We do not appreciate Speaker GINGRICH wasting somewhere between $500 million and $800 million, so zealous with his extremist agenda that he would pay Federal workers not to even work for a week, at the expense of the American taxpayer."

But instead of coming back to work and actually working through these appropriations bills, they declare a siesta.

And is there work left to be done? Well, indeed, if they had not been sleeping on the job or something, we would never have had a Government shutdown in the first place. You see, they had a responsibility to pass some 13 appropriations bills by September 30.

Did they do it? No. They passed 2 of 13, a failing grade where I come from down in Texas. Have they done it today? Have they even gotten half of these bills passed? Well, now, as we begin to approach Christmas, having completed Thanksgiving, they have yet to send to the President's desk almost half of the appropriations bills.

Let me review what pends here as these Republicans enjoy their siesta today:

The Commerce, Justice, State, and Judiciary appropriations bills have not been presented to this House for action.

The District of Columbia appropriations bill, it says in the latest report that conference was continued on November 17, and it is still continued. We do not have the bill out here to act on.

The Committee on Foreign Operations, the latest report says the conference deadlocked on November 15. That means that the Senate Republicans and the House Republicans cannot agree on the same bill. So it is not out here for us to act on.

The Interior bill, that is the one we defeated just before the Thanksgiving break because of that giveaway that the Gingrich-ite majority wanted to give to the mining companies to take public property and use it for private gain.

The Labor, Health and Human Services, and Education bills, they failed to begin floor debate over in the Senate at the end of September. It has not even passed the U.S. Senate.

Then the Veterans' Affairs, Housing and Urban Development legislation which was taken up and defeated today, recommitted for the second time, the second time that this House has recommitted that bill, the first time because our Republican colleagues wanted to bind and destroy law enforcement against pollution with some 17 binders, and so it was rejected. They came back kind of with their tails between their legs, saying, "We really did not mean to do so much damage to the environment as we did."

Today this House said "yes," but you are doing damage to the veterans that secured this country. You are taking $213 million out of their health care that ought not to be taken out of that health care, and this House soundly rejected and recommitted that bill.

We have got half the business and well over half of the appropriations of the Government of the United States that have not been signed into law, and these folks take a siesta for the rest of the day.

They say they want a balanced budget. Well, they do not have much balance to the way they are getting that budget. The problem is they do not have any balance in the budget that they propose.

I believe in a budget that is balanced. I come from the pay-as-you-go approach of Texas. I want those figures to balance so that we do not leave our grandchildren with debt upon debt.

But how about a little balance for the people that are affected by that budget? Oh, yes, they say we have got to sacrifice. They said this morning that those veterans had to sacrifice to the extent of $213 million out of their health care.

But what sacrifice do they demand of the most wealthy of our citizens? They said, "Could you, please, pretty please, take a tax break at the same time we cut the rest of America?"

That is wrong, and so is this siesta.

BALANCING THE BUDGET IN 7 YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I did not rise to defend this Congress. But I can vouch personally for the fact that the overwhelming majority of Members of this body are working quite hard, thank you.

I did want to speak and address some of the remarks that were made by the gentleman from Hawaii [Mr. ABERCROMBIE] because I think he has raised a very important point relative to the role and interaction of the Social Security trust funds with the deficit. I do not have the precise numbers, and I am sure I am going to be looking forward to the Members' discussion over the next several days and weeks. But I would be interested to know the extent to which the Social Security trust funds actually comprise a significant percentage of our $5 trillion national debt.

I would suggest that there are clear implications to that which relate to how, in fact, we are dealing with balancing the budget and whether, in fact, we are using the type of honest numbers we have come to expect.

I have confess that, having spent the Thanksgiving weekend, frankly, with two of the most important people in my life, my two children, I have got maybe a little bit of a different perspective of what we have been doing over the past several months, particularly as it relates to the deficit. Again, I think we all agree there is no issue that is more important than balancing this country's budget once and for all.

I for one was very pleased to see that the President agreed just about 2 weeks ago to the concept that we are going to work together, Republicans and Democrats, to come up with a 7-year plan to finally once and for all balance the Federal budget.

But I have to confess that I think the public expects an awful lot more of the Members of this body on both sides of the aisle with respect to how we work toward that objective, and specifically I was very distressed to know that barely was the ink dry on the agreement when the President's chief of staff made the comment that, well, he was not sure we were really going to balance the budget in 7 years, that it might take 8 years or longer.

□ 1415

Then over the weekend, Mr. Carvel, the President's chief political strategist, made the comment that from his perspective, the President might just as well drive a hard line that would result in a continuing resolution or even a Government shutdown until November of 1996, almost over a year from today.

I have got to say there is no more important issue in this body than our once and for all coming to grips with many of the petty, partisan differences that stand in the way of our doing the work that the people elected us to do, which is to find a way to honestly get the Government spending under control so that we can move in the direction of a balanced Federal budget.

Again, I respect the points that are being made by the gentleman from Hawaii [Mr. ABERCROMBIE], and I would suggest that they are very much factors that need to be considered in how we go about doing it. But the bottom line is that we need to work toward balancing the budget, and that means making tough decisions relative to cutting spending.

Yesterday, again, the chief of Staff of the White House made the comment that the White House was not going to be willing to agree to any 7-year plan to balance the budget unless we obtained the support of 100 Members of the Democratic side of this House. While as laudable a goal as that is, I think what it is suggesting to me is that, frankly, we may be wasting our efforts, Republicans and Democrats, attempting to work with the White House, and perhaps it is the responsibility of this party, this body, to come to grips together as Republicans and Democrats, to finally get the heavy lifting done on the budget, because I interpret the Chief of Staff's comments yesterday as a suggestion that the White House, frankly, is not really serious about working together to get to a balanced Federal budget.

When we cannot even agree on the number of people who are participating in the negotiations, I would suggest that this is a major embarrassment on everybody involved in the process. As I said, I think the public expects an awful lot more than they are receiving. When we have a government that over the next 7 years is going to spend in excess of $12 trillion, some $3 trillion more in the next 7 years than we spent in the last 7 years, and that is using the numbers from the Republicans budget, then I think that we need to take serious stock of where we are and how seriously we are committed to making the tough decisions that need to be made.

I was pleased this morning to be part of a group from my side of the aisle of Republican Members who are going to be trying to work with Democratic Members, with the Coalition, to try to find a common ground that we need to finally get the type of accommodation, the type of agreement, that will allow us to make the serious decisions we need to make.

With respect to the comments of the gentleman from Hawaii [Mr. ABERCROMBIE], and I think it is an important issue that we need to address, the fact that some percentage of our $5 trillion deficit actually consists of funds loaned by workers who were paying into the Social Security trust fund, again we have some serious issues. We need to address it. But first of all, we need to work together to finally get Government spending under control.

BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, our budget should reflect our values.

We now have a chance to achieve that important goal. Before Thanksgiving, we voted to return all government employees to work—ending the false distinction between those referred to as essential and those as nonessential.

In addition, the President and leadership from the majority in Congress reached an agreement, in principal, to balance the budget, to use reliable revenue projections, and to protect vital social programs.

As part of that agreement and our action, in the House and in the Senate, we are aiming at December 15th to deliver on those commitments. The American people expect us to reach that target. Another Government shutdown will not be tolerated.

How can we reach that target, what are the obstacles to reaching that target, and what are the values of America? We can reach that target by putting principal and people above politics and party. We can reach that target by discovering our similarities and overlooking our differences.

Now the obstacles, admittedly, are many.

But this Nation and this Congress have faced obstacles before. And we have overcome those obstacles by holding to our values.

We believe in equality. We believe in fairness. We believe in justice. And, we believe in family. Those are values held by every Member of this Chamber.

And, since those are our similarities, there is really no reason for our differences to prevent us from enacting a long-term, balanced budget bill by December 15.

If all of us believe in equality, fairness, justice, and family—and we do—why should achieving a balanced budget in 7, 8, 9 or 10 years be an obstacle? It should not.

If all of us believe in equality—and we do—why should there by any distinction in tax relief between those making $100,000 dollars a year or more and those making $28,000 dollars a year or less?

Doesn't fairness require that we treat our seniors, our children, and the poor with the same concern and respect as we treat the able-bodied and the well-to-do?

And, what does justice require?

Is it just to insist upon a rigid set of numbers and a rigid time frame that have been subjectively selected?

Is it justice to increase spending by $245 billion on a tax cut, while reducing spending on medicare by $270 billion or on Medicaid by $175 billion or while reducing spending on education and the environment?

Can we not agree that justice requires that if we must spend a dollar to help some, we should not take a dollar and hurt others?

And, family—one of our most important values.

Family is more than a strong father and a sturdy mother.

Family is a healthy grandfather and grandmother.

Family is fit children who can count on and look forward to educational and economic opportunities.

Family, in the larger sense, is a community of friends and neighbors who have jobs at liveable wages, who have safe and sanitary housing, and who can breathe free and drink safe water.

Not one Member in this Chamber will deny those values.

And, the budget we enact, before December 15, should reflect each of those values.

If it does, we would have reached our goal.

If it does not, we have surrendered our values.

And, so, I challenge the Speaker, the majority leader, others with authority in the majority, the leaders on this side of the aisle and all Members of this and the other body—hold fast to your values—put people first—advance a budget bill, but do not retreat from equality, do not shrink from fairness, do not withdraw from justice, and do not wince from family.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker,

HAITIAN POLICY SUCCESSFUL, BUT MORE NEEDS TO BE DONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, there have been several explosive developments in Haiti in the last few weeks. The wisdom of President Aristide, no matter what course these developments take, is still the greatest asset of Haiti. The wisdom of Jean-Bertrand Aristide is still necessary for this country to have a new birth. Recent statements by President Aristide and recent behavior by President Aristide are clearly understandable in the light of certain recent developments.

It is important for us to remember that the liberation of Haiti still represents one of the moral and humanitarian mountain tops of United States foreign policy. This Nation took a giant step forward and we did the right thing. Americans set new standards for the hemisphere, and we set new standards for international law and order. Criminals will not be allowed to seize control of a nation, take over its legitimate government, oppress its people, and terrorize its people. Criminals aided by the United States and an army set up by the United States will not be allowed to do this in one of the countries in this hemisphere. We clearly established that policy.

The policy has already succeeded. I congratulate the Clinton administration. But, still, so much more can be done to facilitate democracy, peace, and progress in Haiti. So much more can be done without any great costs, additional costs.

The most basic needs of Haiti right now are judges, jails, and electricity. We have the capacity, the United States and the United Nations forces which are still in Haiti have the capacity, to deliver those three items, those three basics: judges, jails, and electricity.

Haiti needs jails because there are many wrongdoers from the previous regime who are moving about with impunity. They have no fear of the government whatsoever. There are many that have been seized and many that have been judged and put in prison who just walked away because they do not have decent jails or stockades. One thing the U.S. Army or military force can do is build some jails and stockades, but we have refused to do that. It would not cost very much.

Haiti needs an improved criminal justice system. The judges were run out of Haiti. They are spread out among the world; 1 million Haitians are in France, the United States and Canada. They will come home if a clear system is set up with the backing of the United Nations and United States. We can give them judges and jails.

And Haiti needs electricity. That is the basic necessity for industry in Haiti. We promised to do that when we went in there. We have not delivered on that capacity.

Understand if we have these basics in place, you would have an atmosphere and environment established which would create trust between the Haitian people and the United Nations that are trying to help the people. Instead of those few basics being met, what we have is the kind of situation where the United States is withholding documents that it seized from the Haitian military criminals, documents which show who committed the murders of 3,000 people, documents which show who armed the groups that drove our forces away from the pier in Haiti when we first went to Haiti peacefully. All those documents show who the perpetrators are, who financed the coup.

Yet our army, which seized those documents, is refusing to share them with the Haitian Government. It is a kind of racism. I know of no other situation where a country has gone in to liberate and help another country, seized documents which would lead to the prosecution of those people who are guilty of committing serious crimes in the country, and claimed those documents as their own. The Haitian people are suspicious. Jean-Bertrand Aristide is suspicious. The cousin of Jean-Bertrand Aristide, who is a member of parliament, was recently assassinated in broad daylight.

When you add up these kinds of situations, our Government refusing to share documents which would prosecute the wrongdoers, and then a resurgence of violence so strong and so bold as to shoot down the cousin of the President, who is a member of parliament, then you can see what great suspicion sets in, where the Haitian Government under Aristide is wondering what is happening now.

The CIA in the past has not seemed to be operating hand in hand with the White House. The White House and the people there would say one thing, and the CIA would do another. The organization called FRAP, which created so much havoc in Haiti just before the return of Aristide, was financed by the CIA as it turned out.

These kind of contradictions and strange happenings lead to a bewildering array of activities that raise suspicion and eliminate what trust did exist. We can return that trust by providing judges, jails, and electricity, and giving back to the Haitian Government any documents which rightfully belong to that government.

☐ 1430

INTRODUCTION OF THE WASHINGTON, DC, FISCAL PROTECTION ACT

The SPEAKER pro tempore (Mr. GANSKE). Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, this is day 17 of the countdown to December 15. I am here every morning to try to see to it that if you shut down Federal agencies on that date, you do not shut down an entire city, the District of Columbia.

This, of course, was one of the all-time unintended consequences of the last shutdown. If we shut Federal agencies, the District of Columbia automatically shuts down. Mr. Speaker, these are apples and oranges. The District is a living, breathing city that delivers vital frontline services. A Federal agency is a creature of the Federal Government that delivers services that local communities find important but not vital to their day-to-day survival. Please, let us delink these two entities.

I have yesterday introduced an independent CR for the District of Columbia, so that if on December 15 another shutdown should occur, the District would be free from it. I have spoken to the Speaker, who appeared to be sympathetic to my concerns; the chair of the subcommittee, the gentleman from Virginia, Mr. TOM DAVIS, has cosponsored this special CR for the District of Columbia.

The shutdown of the District of Columbia was particularly galling and unnecessary, because 85 percent of the money in our appropriation was raised in the District of Columbia from District taxpayers. It should not be up here in the first place. But if it happens to be up here and caught in a shutdown, the very least that the Congress can do, in all decency, is to say, "Here, District of Columbia, you are entitled to spend your own money to keep your own city open." That is all I am asking. As to the Federal payment, some of it would remain, of course, locked up here, and yet we need that cash very much. Bear in mind that the Federal payment is a PILOT, a payment in lieu of taxes, thank you, no gift from the Federal Government, but a payment owed us. Nevertheless, that would be treated in the normal way.

Remember the city which I represent. It is second per capita in taxes paid to the Federal Government, yet it is the only jurisdiction that flies the American flag that does not have full home rule and full self-government.

All of you, wake up and read the morning papers. You know about the condition of the District of Columbia. You know it now has a control board just to borrow, and that it is virtually insolvent. Surely the Congress does not mean to do more damage to the capital city of the United States. What is that damage? Imagine, the District of Columbia, of course, has to pay employees even though they do not work, because they are forced into administrative leave. There is that lost productivity, some of it completely irrecoverable.

These 3- or 4-week CR's do not allow a complicated city to operate, because a city cannot overobligate. If you are obligating on a basis of one-fourteenth, because you have a 14-day CR, and yet you have unfunded mandates like Medicaid or AFDC, you are put in an untenable position. And of course, if the District were overobligated, as we have seen, the Congress would be the very first to object and to criticize.

The District of Columbia has taken its hits and it knows it deserves its licks for what it has not done to keep its city in good shape. The very least the Congress, which has been profuse in its criticism, should do is to make sure it does no further harm to the District.

I have a D.C. Fiscal Protection Act, in addition to the CR for December 15, that would mean that whenever we get to the end of a fiscal year, the District could spend its own money until an appropriation cleared the Congress. Our appropriation is stuck up here on provisions added undemocratically by Members unaccountable to the voters of the District of Columbia. We may not be able to get it out for weeks and weeks.

Do not hold the District hostage. I represent a lot of innocent bystanders. Whatever you think of the Mayor or the city council or the delegate, remember these are high taxpaying citizens who deserve a whole lot better. The last time the District got lost in the shuffle, even though the District was right here "in your face." This time, you will not be able to miss us, because I will be here every day on the countdown until December 15.

HONESTY IN DISCUSSING A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, a few minutes ago, the gentleman from Hawaii [Mr. ABERCROMBIE] extended me the courtesy of giving me one of his minutes. I would like to return that courtesy.

THE SOCIAL SECURITY TRUST FUND AND BALANCING THE BUDGET

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Mississippi for yielding to me.

Mr. Speaker, the gentleman from Mississippi [Mr. TAYLOR] raised the issue of whether there is, in fact, a Balanced Budget Act before us. I had spoken about the fact that, and I say "the fact" that the budget proposed by the majority, by the Republican majority, by Speaker GINGRICH, is going to take $636 billion from the Social Security trust fund in order to so-called balance the budget. I want to quote at this point, so it is not just coming from me, but from Senator HOLLINGS in the other body:

> You will expend another $636 billion of the Social Security trust fund. We said we were raising the Social Security taxes to make certain there was trust in the trust fund through the year 2050.

That is why the FICA taxes, your Social Security tax, was raised previously, to make sure the trust fund was solvent. Now we are taking it.

Again, quoting Senator HOLLINGS:

> When you put together the borrowing from the trust funds that must be replenished, you get the real deficit, the gross Federal deficit, and the gross interest costs.

Finally, again from Senator HOLLINGS:

> Wait a minute. When you take the revenues in, the outlays out, and you look at that figure, that is too high for me to run on in the next election, so we will take an amount of money out of the right pocket, put it into the left pocket, we will take $636 billion from Social Security in this budget that we have under consideration, and put it in the general fund to make it appear we are balancing the budget. You will have to pay back Social Security with interest and at the end of the 7-year budget period, you will owe. At the end of the 7-year period, we will all have to pay back supposedly over $1 trillion into the Social Security trust fund, and no one has any idea, not any Senator or House Member, who is going to introduce the increase in taxes to refund the Social Security trust fund.

Mr. Speaker, I wish the Speaker would come here and answer that question.

Mr. TAYLOR of Mississippi. Reclaiming my time, Mr. Speaker, it came as quite a surprise to me yesterday in researching the Republican budget plan that was much touted on the floor of this House as being the balanced budget plan of 1995, said repeatedly, that the annual operating deficit for this Nation will actually increase by $33 billion in fiscal year 1996 over this year. I think people need to know that. The budget deficit will increase from $263 billion on an annual operating basis to $296 billion on an annual operating basis.

Part of this, Mr. Speaker, will come from the trust funds that the gentleman from Hawaii [Mr. ABERCROMBIE] just mentioned: The $118 billion that people paid into things like the Social Security trust fund will be used to disguise the true nature of this debt.

The gentleman from Ohio [Mr. KASICH] is for a balanced budget. I am for a balanced budget. Let us be honest with the American people. Let us not tell them we can spend more in spending, we can receive less in taxes, that we are already $5 trillion in debt, paying $1 million in interest payments every 2 minutes, 2 minutes, and somehow all of this is magically going to work without pain.

The gentleman from Ohio [Mr. KASICH] is my friend, but let us be honest with this. Let us be honest with the American people. This morning you told me you were willing to borrow $75 billion so you could give people a minuscule tax break. They have to pay that back. That is not a gift. That is just loan sharking. You are taking money from them, you are giving them a little bit back, and they are going to have to pay back a whole heck of a lot more of the time they pay the interest. Let us be honest with the American people.

The second thing I want to mention, Mr. Speaker, is I have had a number of calls from home. I want to assure the people of south Mississippi that I was one of the first members of this body to be against putting American troops on the ground when President Bush asked me to do it, and I will remain opposed to that when President Clinton asks me to do it.

I traveled to that part of the world a few weeks ago, traveled up to the border posts in Macedonia, had the privilege with having lunch with some fellow Mississippians, a young man from Tupelo in particular, and from four-star officers to sergeant majors. Every one of them privately told me we should not get involved there. That is not our fight.

These people have been fighting each other for 700 years. The only peace they have known recently was the 45 or so years when Tito was in charge there, using the iron fist of communism, and he got the Bosnians to quit killing Muslims and the Muslims to quit killing Serbs and the Croatians to quit killing the others. As soon as the iron fist of communism was gone, they went back to killing each other.

Mr. Speaker, I want to close by saying that they told me that the smart weapons that worked so well in Desert Storm will not work in the cold, wet fog of Bosnia. We are going to send those kids on the ground, a bunch of them are going to die, and nothing good will come of it.

COMMON SENSE AND THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

Mr. GRAHAM. Mr. Speaker, I think a good way to start is to echo what the gentleman from Mississippi [Mr. TAYLOR] just said. I agree with his analysis of Bosnia, and I hope that we can bring some common sense to bear on that issue.

Let us talk about the budget and see if we can get some common sense and a level of agreement on what we are trying to do up here in Congress. A lot of people have said they want to balance the budget. I hope they are sincere. My gut instinct is that some mean it and some do not. The best way to judge whether a person means what they say is to look at what they do.

When I was a prosecutor in the Air Force and a defense attorney, I had this as my guide. I never quite believed everything my client told me as a defense attorney, and when the accused said he did not do it, I did not stop the investigation there. I looked behind what people say, and you judge their actions by their deeds.

So when somebody comes up here and tells you they want to balance the budget, the first question you need to ask them is are they willing to spend within the revenues generated, because if you want to spend more than you take in, you are not going to balance the budget. Does anybody have any idea how much the Federal Government has grown since 1969? I do not have that answer right now, but I have been told it has been several hundred percent. I am trying to find out how much the Federal Government has grown since we last balanced our Federal budget. I think the number is going to be shocking.

We have some folks visiting here today, and those that are listening at home, what is your estimate that the Federal Government spends per person to run the Federal Government, on Federal Government programs? How much do you think we spend per person to operate the Federal Government? Let me tell you what it was for the last 7 years. Over a 7-year period, we spent $145,962 on a family of four. We spent $9.5 trillion over the last 7 years to run the Federal Government.

We have come up with a new budget that balances, that has been certified to balance. Guess how much we spend as Republicans, the mean old Republicans who want to devastate everything? Guess how much money we have spent? Twelve trillion dollars. Where does that $12 trillion come from? It comes from you, the taxpayer; it comes from you, the senior citizen. It is hard to make the money, it is far too easy to spend the money up here, but over the next 7 years we are going to take $12 trillion of your money and run this Federal Government.

I ask one simple thing of my colleagues: Let that be enough. Twelve trillion dollars is enough to spend in Washington, DC. We can argue about how to spend it, we can rearrange the $12 trillion pie, we can move money around, but for the sake of future generations, for the sake of fiscal sanity, please do not spend more than $12 trillion of hard-earned taxpayer money.

Do you know what that equates to, for a family of four over a 7-year period? It is $184,373 that will be spent by your Federal Government on a family of four. It is hard to make that much money and it is far too easy to spend it. If you do not like the tax cuts, fine. If you think we have spent too much money on defense, fine. If you think we have not spent enough money on Medicare, fine. Just agree with me and evey other American who knows the facts. Rearrange the $12 trillion pie, and do not go into our pockets any deeper. We do not have much of a picket left as it is. This is not a shoestring budget. Twelve trillion dollars is unimaginable. They tell me that if you spend $1 million a day from the time of Christ to the present, you would not have spent $1 trillion.

Mr. Speaker, I ask the people who are listening here, Members of Congress, to agree on one simple fact: That we can run an efficient nation on $12 trillion, we can satisfy legitimate needs on $12 trillion, and that any politician who wants to spend more than $12 trillion has a problem. They do not need to be up here.

THE IMPACT OF THE CUTS IN EDUCATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. GENE GREEN] is recognized for 60 minutes as the designee of the minority leader.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague, the gentleman from South Carolina, when he talks about $12 trillion. That is what, for the next hours, the members of the Committee on Economic and Educational Opportunities will talk about. I wish we had $12 trillion to spend on education, but we do not. That is why our committee members are joining today in this special order to highlight the spending cuts that will happen.

Mr. Speaker, I do not know about $12 trillion over the next whatever number of years it is, but I know the impact the education cuts are having on my own district from the rescission bill, and the potential for the budget that we will ultimately end up passing, and the lost opportunity we will have, not just for the students who are there this year or next year, but for the next generation that we hope will be the ones who are taking our place here on this floor and taking our place all over the country in the medical schools and in the professions.

□ 1445

In the name of deficit reduction, the Congress is cutting the Federal money available for education programs, and I believe we need to balance our budget. However, I do not believe that we must balance it on the backs of those children.

The purpose of the deficit reduction is to make America stronger, and we agree with that on a philosophical basis. How can we make America stronger if we are not willing to invest in education? Education is talking about the strength of America, again, not for this year, Mr. Speaker, but for the next 5 and 10 years, and even after that. We should not stand by while the Republican majority destroys the educational system that we have all worked hard to achieve.

Mr. Speaker, I know in Houston we have made a solid investment in education and have a lot of individual students who are being successful, part of it because of the Federal funding that goes to the schools in our own district. A good example is Franklin Elementary School in my district, which was recognized by the U.S. Department of Education for its educational improvement.

The students at Franklin made exemplary progress in the Texas Assessment of Academic Skills last year. In 1994, only 35 percent to 59 percent of the student body passed the TAAS test as we call it, Texas Assessment for Academic Skills. In 1995, due to innovative teacher methods and a significant Federal investment in Franklin and the freedom that we had last year under title I, that school was classified as a recognized school where 75 percent of those children, at least up to 80 percent, are passing their TAAS testing. So we have a three-quarter success rate in an inner-city school that is eligible and receives both bilingual funding from the State, but also title I.

The students at Franklin are especially hurt by the cuts in title I from the rescission bill this year. Currently, Franklin receives about $200,000 in Federal title I funding. If the House-passed Labor-HHS appropriations bill becomes law, Franklin will lose 17 percent or $34,000 of those funds.

Harris County in the State of Texas receives $81.1 million in title I funds now. Under the House-passed bill originally, Labor-HHS, Harris County would lose $13.8 million, and under the President's budget proposal, Harris County will receive $8 million more. So what we are seeing is a loss, if we add those together of the cuts, plus the potential of $21 million, $21.9 million in loss of Federal funding.

We are having great success in our district. I have visited almost every elementary school in my district. I still have a few left that I go into, and I read, like a lot of Members of Congress do, and I see the success every day. I have an inner-city district that people say, oh, how can you have education success there? We have it every day, and it is because of the dedicated teachers and parents and administrators and people involved in the community.

Mr. Speaker, do not take that success away in the name of tax cuts, and that is what I am pleading. I think today the members of the committee will join in that.

Other educational programs hit hardest are the basic math and reading programs, efforts to promote safe and drug-free schools, and resources for State and local officials to implement higher standards in educational technology. Cuts in these vital programs will cause irreparable harm to students in our local community and as well around the country.

We will be spending $4.5 billion less in 1996, almost a 20 percent of the total Federal aid cut in 1996 than we did in 1995. At the same time, local and Statewide and Nationwide enrollment trends are up. Again, using my own district as an example, our enrollment is up in the Houston Independent School District and in the Aldine School District and the Galena Park School District. We are not seeing declining enrollment. Yet we are saying, okay, you have more students, but we are giving you less money.

The Republican budget eliminates also the Goals 2000 funding, severely undermining State and local efforts to reform elementary and secondary education. In the State of Texas alone, we would lose $29.2 million in the Goals 2000, and we have already completed our planning and begun implementation of comprehensive reforms, as provided by Goals 2000.

The Republican budget cuts Federal support for drug-free schools and community programs to the tune of $266 million, or about 60 percent, sharply reducing drug abuse and violence prevention activities serving students in 97 percent of our Nation's schools. In Texas, we would lose $18.9 million.

The House would cut funds to States ready to implement school-to-work programs by $20.6 million, or by 18 percent.

Mr. Speaker, I could go on and on. I intend to as we proceed during this hour, but I would like to yield time to the gentleman from Rhode Island [Mr. REED], my colleague.

Mr. REED. Mr. Speaker, I thank the gentleman for yielding.

I have come to the floor today to join my colleagues in addressing the serious issues of the Republican budget and the draconian cuts to education. The American public understands the importance of education. They understand now more than ever that we have to prepare the best educated young people for the challenges ahead. They want overwhelmingly to invest more resources, both Federal resources, local resources, in good, solid education for their youngsters and for the whole community.

Unfortunately, this budget takes exactly the opposite track. It disinvests in good, solid, well-established, innovative education programs.

Last Congress, we tried to move forward with an agenda of education reform and support that would truly represent a sound investment in the future of this country, particularly at a time when the old industrial age is yielding to the new information age.

Years ago, 20 years ago, 30 years ago, it would not be unreasonable for a young person to think that with a high school education he or she could leave that high school, find an adequate job, make a living to support a family, and, in fact, spend a whole career with those skills learned in high school. Today, every American understands that this is not the case, that today, in order to be an effective worker in almost every level of endeavor, you have to have postsecondary skills, either college or some technical training. The thrust and the consequence of this Republican budget is that those opportunities for higher education will be diminished.

We also understand, and the American people understand, that we have to have a solid basis in order to start our young people off on a solid path to educational achievement. That is why last year we spent a great deal of time on a bipartisan basis in developing the Goals 2000 program. Goals 2000 is an attempt, I think a very worthy attempt, to act as a catalyst from the Federal level for school reform at the local level, to provide the kind of resources, the directions and the standards that would be very necessary to move our elementary and secondary education system forward.

We also in the last Congress understood that in too many schools the education process is sacrificed to a climate of violence and intimidation, a climate that is too often indicated by pervasive drug use, and, as a result, we passed a Safe and Drug-Free Schools Act.

These legislative measures at the elementary and secondary level were important steps forward, but sadly, too, because of this budget, those initiatives will not receive the resources that are necessary to carry on that important work.

At the level of higher education, understanding, as the American people understand, the need for advanced skills, we sought to strengthen those existing programs, like the Pell grant and the Stafford loan program to make access to higher education something that would be available and affordable for all of our citizens. It makes sense, particularly as we move from this industrial age to the new information age which demands higher skills for everyone in our society.

Again, sadly, the thrust of this Republican budget is to undercut significantly the resources that will be available for higher education. This budget would cut student loan programs by more than $5 billion going forward for those young people that want to go on to higher education, postsecondary education.

This is going to be a tremendous burden on their lives and the lives of their families, because one of the persistent complaints, one of the persistent concerns that I hear from my constituents in Rhode Island, those working people which we all claim to represent, those working families, is that they have one or two youngsters in college and the cost of college is outrageous, and without adequate Federal assistance, they cannot send their children to the schools they want.

In some cases, they cannot send them to school at all or, in other cases, they have to make the very difficult choice of which child will be favored with a college education and which will be told, well, you have to fend for yourself in the job market without that education. That is a very, very cruel choice which I thought that we had basically prevented in the last 30 years by providing a strong Federal commitment to higher education. But, sadly, we seem to be going back to a point in time when those cruel choices were all too common.

All of this impacts mightily in the localities, the districts and the States that we represent. In my State alone, in Rhode Island, we estimate that next year we will lose about $14 million in resources for education, and that over the next several years, the next 7 years of this budget, we will lose more than $90 million.

Where will these cuts go to? First, I mentioned the Goals 2000 program. This is really the only money for reform and restructuring of our educational system that is available in my home State. It has been eagerly embraced by the commissioner of elementary and secondary education in my State, by all of the districts.

There is an active process, an exciting process of change that is being sponsored by this program; and, sadly, we will lose about $1.4 million roughly all of the money that has been committed. This will affect as many as 71 schools who are participating directly as schools in the program. This is going to set back reform which is necessary and which every American citizen recognizes is necessary. It will set it back perhaps fatally.

In terms of student loans, the budget cuts would raise the cost of a college education by more than $2,000 for over 36,000 college students and more than $9,400 for over 5,000 graduate students in Rhode Island.

Pell grants. Changes in the Pell grant program will reduce support to students in Rhode Island by nearly $2 million. An estimated 1,600 students in 1996 alone will be denied Pell grants as a result of this cut.

Title I program, another program very important to elementary and secondary education that provides compensatory education for low-income American. Under this budget, the funds would be cut by a total of about $3.5 million, and this has a real impact, not only again in the lives of these students but in the tax rolls in local communities. Because as the city of Providence and the city of Central Falls and the city of Pawtucket copes with these cuts, they have to turn, once again, to their very, very strained tax rolls to make up the difference, if they can make it up at all.

So this is not just a problem for the beneficiaries of the program. It is a problem for the fiscal health of our cities and towns in Rhode Island.

I mentioned before the Safe and Drug-Free Schools Act which was so important last Congress, which directed resources to a problem that is gnawing at the heart not only of our educational system but of our society as a whole. That, too, is going to lose funds. These budget cuts result in about a $1 million loss in these funds, which are helping to keep programs going, to show young people that drugs are not anything but the path to destruction and that we have to choose another path.

I would also mention one other program which touches upon the issue of education and opportunities so importantly, and that is the national service program. Americorps in Rhode Island is a shining example of a program that is inspired perhaps by legislation but embraced by the business community and the local community as a whole. The director of Americorps in our State, Larry Fish, is the chairman of one of our largest financial institutions. We are very lucky to have every category of Americorps activity funded in Rhode Island.

We have a City-Year program, which young people are spending a year helping out all through the community. We have programs that are helping through the Children's Crusade to mentor young people in schools to help them get through school and get on into college. A wonderful program, but, once again, even though this is supported strongly with corporate contributions and corporate leadership in Rhode Island, this program, too, is being affected mightily, basically almost zeroed out, if not entirely. It would deny 450,000 young people in Rhode Island the chance to serve.

This program is so useful, too, because it embodies in my view the ethic that we should all have as Americans: serving our country, and by that serving getting a chance to go to school and educate yourself so that you can be better prepared as a citizen, as a worker, as an American. Sadly, again this program is being jeopardized by this budget.

□ 1500

Mr. Speaker, when we look at this budget and we look at the reality of the world, something is sadly wrong. At a time when we have to invest in education, at a time when our economic future is at stake and education will be the key to our success as an economy, as a society, as a world power, and as a source of opportunity for all of our citizens, we are turning our back on funding education.

This is a sad mistake which I hope we can rectify in the days ahead.

Mr. GENE GREEN of Texas. I thank my colleague from Rhode Island with whom I enjoy serving on our committee.

Mr. Speaker, I will just sum up what he said and what the concern a lot of us have is that balancing the budget requires tough choices, but we should not let the majority balance the budget on education.

The proposed budget cuts make only a tiny part in the size of the deficit. Yet they have a tremendous devastating impact on the future of America's children.

I yield to the gentlewoman from California [Ms. WOOLSEY]. We serve together on the Committee on Economic and Educational Opportunities and we actually sit together and have gotten to know each other over the last 3 years serving on that committee.

Ms. WOOLSEY. I compliment the gentleman from Texas, Mr. GENE GREEN, and the members of the Committee on Economic and Educational Opportunities for organizing this special order tonight.

Mr. Speaker, it is hard to believe that it was just last year when I convinced this body to approve a landmark resolution, which put us on our way to making our schools the best in the world.

Yes, it is true.

Last year, the House approved my resolution which called on Congress to increase our investment in education by 1 percent a year, until the education budget accounts for 10 percent of the budget in 2002.

At the time, I said that the resolution would send a clear message to those who decide how our Federal dollars are spent. The appropriators received the message that this Congress was serious about improving education.

Well, guess what, folks? Times have changed. We have got a new majority in Congress. And, instead of going forward, we are going backward. Fast.

The new majority in the House blatantly ignored the pledge we made last year to improve our children's education, and has passed some of the most antieducation legislation this Nation has ever seen.

Just take a look at the education budget for 1996 which the House has approved.

This terrible bill cuts: Head Start, chapter one, safe and drug-free schools, school-to-work, and vocational and adult education.

In all, it cuts education by 13 percent in 1 year alone; 13 percent.

But that is nothing compared to what they want to do to our education system over the next 7 years.

The new majority's 7-year budget plan would deny Head Start to 180,000 children by 2002.

It eliminates Goals 2000, which helps schools meet higher national standards and increases parental involvement.

It kills AmeriCorps, which has provided thousands of Americans with college tuition assistance in exchange for community service.

And, it cuts in half, the President's program aimed at helping schools bring technology into the classroom.

Under their budget, my State of California alone will lose, among other things, $1 billion for the School Lunch Program, and over 181,000 Californians will be denied participation in the cost-effective direct Student Loan Program.

My friends, that is the wrong direction, and that is not the way we are supposed to be taking care of our children and their education.

You see, I believe, as do my colleagues here today, that our Nation's greatest responsibility is to provide a quality education for everybody in this country.

We believe this because education is absolutely central to solving the problems facing our Nation.

When we strengthen education, we prepare our children and workers for jobs that pay a livable wage; we get people off welfare and prevent people from having to go on welfare in the first place; we actually prevent crime and violence in our communities; and, we increase respect for our health, respect for our environment, and respect for each other.

That is why, for the life of me, I cannot understand why the new majority is cutting and gutting our education system.

You see, we can balance the budget, but it does not have to be on the backs of our children and their education.

It is time to stop this assault of education.

It is time to pass a budget that invests in education, and reduces the deficit by cutting wasteful military and Government spending; closing tax loopholes; and ending corporate welfare.

It is time to make our Nation's No. 1 special interest our children, and not the fat cats and lobbyists in Washington.

Mr. GENE GREEN of Texas. Mr. Speaker, I yield the balance of my time to the gentlewoman from Hawaii [Mrs. MINK].

The SPEAKER pro tempore (Mr. GANSKE). The gentlewoman is recognized for 39 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I appreciate very much the time being yielded to me and I appreciate the ranking member of our Committee on Economic and Educational Opportunities taking the time to schedule this special order.

Mr. Speaker, the discussions that the House and the Senate have been having recently with regard to the reconciliation budget is a 7-year plan to bring the Government eventually to a balanced budget, or a zero deficit in 7 years. In discussing the budget reconciliation proposal, which is a 7-year plan, there are so many larger issues, such as the $270 billion reduction in Medicare, $162 billion cuts in Medicaid, and other programs of that enormity.

In the course of the debate in the budget reconciliation measure last week, we did not hear much about the impacts on education, and so I appreciate the time that is being allotted this evening to discuss the impacts on education, because in my estimation it is probably the most far-reaching and devastating of all the cuts that we are making.

I know that the majority feels very strongly about reallocating the functions of Government, to the idea specifically of returning many of the functions that have been assumed by the Federal Government, many of the priorities that have been expressed by the Federal Government over the last 20 or 30 years, and trying to reassemble them and make them State priorities, under the assumption that the States know best how to govern their constituents and are more directly responsible one to the other.

While that is an excellent political philosophy, it seems wholly inappropriate in the field of education because education, after all, is really tooling one generation to the next generation for leadership, for the ability to assume responsibility, to maintain our quality of life, our ability to compete in the world market, and to discover those things that make our economy and our business and so forth much more competitive.

So in the educational system rests the future of this country, not just individually, for the sake of the child or the family or their prosperity, but truly the whole nature of our society and the success of our country lies in our ability to educate our children well. We know that in recent years, compared to other countries, we have been falling by the wayside.

I look at such things as national security as being, indeed, important. But what is more important than the national domestic security of our citizens through adequate education? That is what the forfeiture of funding in education means to me and why I feel that this is a very, very dangerous decision.

If all States were equal in their ability to educate and to provide quality education to their children and adults that need training and education, then perhaps our concerns can be mitigated somewhat by the idea that the States have the capacity and the will to perform in accordance to the national expectations. But we all know that our States are very widely differing in their ability to fulfill this function. One cannot, as a Nation, exercise the luxury of happenstance in terms of the States' abilities to perform. Therefore, the presence of the Federal Government in this important field of education seems to me the most important responsibility that we have to our country and to our future.

So when we see this reconciliation, 7-year balanced budget plan calling for cuts amounting to $45 billion over the next 7 years, it troubles me deeply that we are sacrificing the future capacity of our children and our adults who are being trained under these programs to meet the challenges of the future. I think that this is a mistaken notion of reversion to State responsibilities.

Even within a State, one can recognize that there are differences in capacities of local communities to assume their responsibilities, and we hear States having to come up with ways in which they can balance out their support for education by giving certain localities additional funds with which to function, because the basis for funding education is the local real property tax, and we know that the values of property differ even within one State. Of course, they differ widely all across the country.

If we are going to put the future of our country in terms of our ability to compete with the rest of the world on this notion of equity distributed by real property taxes, that seems to me wildly off the mark. Therefore, the idea of the Federal interest in supporting educational opportunities in our 50 States is so important.

To see programs like title I, for instance, being cut back, even this 1 year, fiscal year 1996, we are apt to lose almost $2 billion if we follow the rate of reductions between the House and the Senate versions. These bills are still in conference and the final figures have not been reconciled.

We have a moment in our legislative discussions to rise to the occasion, and to call attention to the House and the Senate and to the conference committees about this dangerous course that we are embarked upon.

Title I, as we know, is a program that allocates funds to our local school districts that have high concentrations of poor people, youngsters that are educationally disadvantaged through economic circumstances or because of other disadvantages that may surround them in their environment and in their community.

Why is it important that the Federal Government support these communities with large concentrations of disadvantaged children? Well, because if we do not, then we will have large blocks of our children in various places throughout the country ill-educated and ill-equipped to perform in this highly technological society. If they are ill-equipped to compete and they are not properly prepared, they will constantly be a cost factor not only for the local communities but also for the Federal Government, so it is important that we target this money in these special communities.

So one would have thought, of all the programs in education, that this would be the last place that there would be any significant cuts. Yet we see nearly a billion, probably a $2 billion reduction in just 1 year of that program.

For my State, just by State, we only have two Members in the House of Representatives, so that illustrates comparatively the size of my State. Even my State is going to suffer somewhere between a $1.7 million loss as in the Senate version and a $3 million loss if it followed the House version.

That is a very big cut for my State to have to endure in a very, very important program which has been successful. One only has to look at the reports that have been written. The criticisms are not from the funding, the criticisms are because it has not been adequately targeted. The maximum bang for the buck has not been achieved because the requirements of the Federal Government have not been as stringent as they should have been.

□ 1515

But nowhere in these reports and critiques is there a suggestion that the Federal Government funding ought not to go. It still is considered a very, very important program.

Addressing the whole subject of quality education and meeting the expectations of the Nation in terms of what education ought to mean to our society, it was important that the Governors convened some years ago a task force on trying to find ways in which the States could direct their resources and come up with a higher quality of education. So they set this Goals 2000 concept. It was brought to the Congress by President Bush, and now implemented by President Clinton, and yet we find that this is one of the programs that the House has chosen to zero out, and that is a shame because one looks to the Federal Government, it seems to me, for leadership. And here we are taking up the recommendations of the Governors' conference and doing precisely what the Governors conference has suggested, putting the Governors themselves really on the governing board of this group called Goals 2000, and yet the House of Representatives majority party has seen fit to zero out this function. It seems to me this is an absolutely appropriate area for the Federal Government to be involved in.

The next one is also equally disturbing, the safe and drug-free schools. The letters that I receive, the critique that has come to my attention from all over the country because I am a member of this committee, suggest that this program is working very, very well. For a small amount of money that the schools receive, they have been able to do a monumental job of trying to instill in our young people the dangers of drug addiction and drug use and how simple it is to develop an attitude and a philosophy of simply rejecting this intervention in your life. So to see this program cut back so drastically, the fiscal year 1995 allocation was $466 million. The House allocated only a $200-million figure, and in the budget resolution which came up and which we approved, it zeroed it out, and I think that that is a serious mistake.

So as we look at this whole thing, we see any number of areas which are truly regrettable. Vocational education, as my colleague from California mentioned, an area which is so vital in this dynamically changing technological environment, we need to have vocational programs that constantly train and retrain our workers and adapt them to changing circumstances; the vocational education ought to be retained at its high level of Federal participation.

When we look at education, what do people usually say? The teacher is the central focus of the success of the school or the child or the programs, and so we rest our case upon the quality of teachers, the quality of our educational system, the ways in which our teachers are better equipped to handle their classes, and yet here again we find that the programs have been cut back very drastically.

The President, in the fiscal year 1996 budget, asked for $735 million for the Eisenhower professional development program. The House only allocated $500 million. So that is a terrible cut, one that I know will be felt throughout the system.

There is a lot more to be said about the impacts of these cuts, but I notice that my colleague from New York is here, and I would invite him to make his comments at this point, and I yield to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. I thank my colleague and friend, the gentlewoman from Hawaii.

You know, I certainly agree with everything that she said, and what is really just so shocking about this is that only a year ago it would have been unthinkable to have these kinds of draconian cuts to education.

If you asked the American people how can we best fulfill the future promise of America, they certainly would say that we need to invest in our children's future, that we need to invest in education, that we need to invest in programs for the future, and while we may have some disagreements in Congress over which programs are important and which programs are more important than others, I do not think that there should be any question that we should be increasing funding for our children's future or our Nation's future for education.

If this appropriations bill is enacted, the education cut would be the largest setback to education in United States history. Education would be cut under the Republican plan by 17 percent, while defense spending is increased by 5 percent, and yet we are still giving the $270-billion tax break for the rich.

I do not see where the priorities are straight when we are cutting education. Now, this House, 1996 Labor, HHS, Education bill, in my opinion, many, many of these appropriations bills are horrendous, and to me this is the most horrendous of all the bills. We are cutting education funding by $4 billion. The budget reconciliation package cuts student aid by $5 billion over 7 years. My State of New York will lose $319 million next year and $2.5 billion over the next 7 years.

Major cuts in education are certainly unwise, and unwise as an economic policy as well, and this legislation, amongst all the terrible things it does, as my colleague from Hawaii points out, this legislation eliminates $1 billion from Medicaid funds from more than 1 million children with disabilities. New York City will lose $85 million of that money, and the legislation denies Head Start to 180,000 children in the year 2002 as compared to 1995.

Just last year we were fully funding Head Start, and in a bipartisan approach we were all patting each other on the back to say Head Start is really a program that works. Everyone agreed, and here we are cutting it.

My colleague from Hawaii mentioned we eliminate Goals 2000, the Eisenhower professional development program, the Safe and Drug-Free Schools Program. What could be more important than a program to ensure that we have safe and drug-free schools? Certainly those of us in urban areas know that we have a problem in our schools, and we should be trying to eradicate the drug problem, not cutting back funds to try to eradicate it.

The legislation cuts bilingual education, vocational education, $9.5 million in New York State in vocational education, and title I. Title I, in my district, is very, very important because there are a lot of children with low income and the schools rely on title I funding.

We have a 17 percent cut of $1.1 billion in 1996 in title I funding. Title I funding was put there so that schools that were in poorer areas could get the enrichment, the children in those schools could get the enrichment they deserve. What we are doing is we say we do not really give a darn about the poor and we are just going to cut those funds.

I think in the long run I could go on and on about the things, the terrible things that this bill does, but it is just basically, I think, the wrong approach.

There is fat in the Federal budget. We need to downsize the Federal Government. We need to cut out fat. We need to put programs that work ahead and fund programs that work, and we need to change programs that do not work. But we do not need cuts to education. We do not need the orientation of mortgaging the future of our country by saying that we are not going to continue to expand.

Mr. HOKE. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, I just wonder how you define the word "cut." How would you define the word "cut"?

Mr. ENGEL. Let me just say to my colleague, we have had this discussion not only in this bill but in Medicaid and Medicare, and you can play with numbers, you can say, well, we are really giving it a small increase or we are cutting back on what we were going to have. To me, the bottom line is this, because we can all play with numbers and can all show statistics, the bottom line is what kind of programs do we have now in 1995–1996, if I just might answer your question, and what are we going to have under this bill in the year 2002?

Mr. HOKE. You are using specific language, I say to the gentleman from New York [Mr. ENGEL]. You are using the word "cut." If you are going to use the word "cut," it seems to me it is very confusing to the public. When a family says they are going to cut their spending for the next year, they are spending $2,000 a month now, next year they are going to spend $1,850 a month, that is a cut. Is it not true in every single one of these education appropriations we are talking about, the spending goes up from 1996 to 1995?

Mr. ENGEL. No. That is not true.

Mr. HOKE. I will grant you it might not be true in absolutely every case. Certainly, overall the appropriations bill for education is substantially more in 1996 than it is in 1995 and substantially more in 1997 than in 1996, more in 1998 than in 1997. It goes up every single year.

If you want to say we are reducing the rate of increase, if you want to say that we are not spending as much as CBO has said we would be spending a year ago, you are absolutely right. But to suggest we are cutting spending and spending less this year in this education appropriation than we were last year is absolutely wrong.

Mr. ENGEL. Let me just answer the gentleman again. Let me say the bottom line is that we know how much funding we need to keep American education looking forward, to increasing the funding for education that we know our children are going to need so that this Nation is going to have a future, and what I see here when I look at this bill, I look at the Republican plan, is that in each and every aspect that the gentlewoman from Hawaii [Mrs. MINK] and the gentleman from Texas [Mr. GENE GREEN] and I have mentioned, we are not going to be able to provide the kinds of services that we set as a priority in the last Congress on a bipartisan basis.

Mr. HOKE. You are absolutely right, I say to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Let me just answer you. When we are going to deny Head Start to 180,000 children in the year 2002, to me, anyway you play with numbers, that is a cut. If we are going to say that children who have disabilities are not going to be able to get the funding, that is a cut. If we are going to eliminate or sharply curtail the Safe and Drug-Free Schools Program, that is a cut, and we can point to several more instances whereby it is a hard cut, and even if it is not a cut, it is a cut in the services that we will be able to provide for our children because of inflation and because of what we have learned and where we know we have to provide the funds. There is no denying that. There will be a cut in education services to millions of American children, and I personally cannot see that at a time when we are increasing defense spending, giving a huge tax break to the rich. I cannot see us sacrificing education funding for our children.

Mrs. MINK of Hawaii. Reclaiming my time at this point, I still have others to yield to. But let me say that on all of the items that I mentioned, there is a cut in funding for fiscal year 1996 based upon fiscal year 1995.

I am not talking about reductions in anticipated funding. But I want to make sure that everyone understands that in fiscal year 1995, title I was funded at $6.7 billion. The House-passed bill provides for only $5.5 billion. If that is not a cut, I cannot understand what a cut is.

Goals 2000, we had $361 million. The House-passed bill has zero funding. That is obviously a cut.

Safe and drug-free schools in fiscal year 1995 was funded at $466 million. The House-passed bill was funded at $200 million. That is a cut, no matter how you look at it.

Bilingual education, we were funded in fiscal year 1995 at $157 million. The House-passed bill for fiscal year 1996 provides only a $53 million. That is a cut.

Vocational education in fiscal year 1995 was $1.1 billion. The House-passed bill provides $903 million. That is a cut.

The Eisenhower professional development was funded at $598 million for fiscal year 1995. In fiscal year 1996 the House provided $500 million.

So all of the programs that have been mentioned here in the special orders, there are clear cuts in the appropriation bills that have cleared this House. Obviously, they are still pending in the Senate.

The point of this special order is to call attention to these cuts, over $4 billion in total as against fiscal year 1995 spending, and it is not the idea of what more is coming in the future, 7 years. It is what is being done now to the educational support by the Federal Government in all of these important areas.

□ 1530

I am glad my colleague has raised this point, because it gave me the opportunity to clearly point out that we are talking about cuts in current funding.

I am very happy to yield to my colleague from Texas, SHEILA JACKSON-LEE.

Ms. JACKSON-LEE. Mr. Speaker, I appreciate the gentlewoman from Hawaii yielding, and I particularly appreciate the pointed focus of her presentation relating to education. I was in a meeting and then at my office, and I heard the discussion ongoing, and am sorry that the gentleman has offered to not continue to wait on some time to have this discussion, because you were clearly responding to what I think has been misrepresentations about the direction that our Republican colleagues are taking us, and also their arguments there have not been cuts.

I met with a group of educators in the North Forest Independent School District, which is a school district that has brought itself out of both near bankruptcy, but as well out of the doldrums of poor test scores in and around the city of Houston. Clearly the programs that have been drastically cut are the very programs that these educators have utilized to assist their children in excelling. We already know we can tell our children that they can succeed, but these have been bridges that have helped them.

The Goals 2000 programs are particularly unique when it relates to inner city and rural school children, where they do not have the necessary resources. It is well documented that Head Start provides that extra step, if you will, for many of our children who do not have the privileges of preschool education that is paid for by the private sector because of the economic development level of their parents.

The schools also have had a margin of victory with the Safe and Drug-Free Schools Program. I do not know why anyone would call that a waste of money. And the $4 billion cuts overall clearly tell our educators as well as our children that the successes that they have had are not valuable.

The Budget Reconciliation Act that cuts these proposals is misdirected. Vocational education, the school-to-work programs that have been so successful for some of our youngsters who are not directly interested and or prepared for a liberal arts college education.

I heard earlier the Democrats were being accused of supporting a myriad of job training programs; we do not know which ones we want. I might tell my colleague, the gentleman who was on the floor previously, that we have already consolidated job programs. We have already done an inventory of the effective ones and the noneffective ones, and we can be assured that we have programs that have proven to be successful.

The gentlewoman has been a stalwart spokesperson for real welfare reform. How do you reform welfare if you do not give that dependent mother or father an opportunity for job training and for work?

So when we begin to talk about cutting, I am wondering whether my Republican colleagues understand the word "investment," because when you invest in job taining, education, then you prepare yourselves for the diminishing of welfare rolls, you prepare yourself for people to be tuned into the work force of the 21st century, you prepare yourself for work.

Mr. Speaker, I would compliment the gentlewoman, and I would thank her for allowing me to bring this to a point of acknowledging the drastic and devastating impact that this will have in my local community.

I close simply by saying part of the cuts that have come about in the education cuts and the job training cuts comes I think as one of the most telling and also the most destructive cuts, because of the negative discussion around it, and that was summer youth jobs that many of us have seen work, because they are partnerships between the public and private sector.

I was on the floor earlier talking about that, because it hurts so much to tell a youngster it is only a baby-sitting job, you were not learning anything from being exposed at an energy company or in a local government office or in the parks department or somewhere else where you have seen that work counts and work is important.

I think and hope that in this budget reconciliation process, even as short as it is, that we give life to the idea that we can balance the budget in a better way, less mean spirited, but we can invest in our people so that we will not have this occurrence as we move into the 21st century.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentlewoman from Texas for her contribution. It is very important that we have this kind of focus on the significance of the cuts in education.

I am pleased to yield the balance of my time to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentlewoman for yielding and for her taking this time on this important matter.

Mr. Speaker, I join this debate to point out some impacts that are now starting to be felt in the State of California, and that is with our superintendent of public instruction. Delaine Easton has written to our delegation explaining her very deep concern with the cuts in the education budget, both those which are in the Health and Human Services appropriations bill and the budget cuts.

California stands to lose some $260 million under the budget now being considered in the conference discussions with the administration. In her words, this is catastrophic for our State. Our State, which has the obligation to educate a very diverse school population that is beset with the whole series of problems that confront many of our large States, are simply not going to be able to do that job in an adequate fashion. When I say in an adequate fashion, I am simply talking about people having the ability to perform at grade level in the basics of education, in reading and writing and mathematics and critical thinking skills.

The growing evidence is that a growing number of students across our State and across this country are simply not becoming proficient in those very basic skills, those skills which are necessary if these students are going to be able to take their place in the American economy and if they are going to be able to adapt to the changing economy once they have their place in the job market.

We see evidence of this now in the State college system. In the State of California, some 60 percent of the entrants in the State college system are in need of remedial education. The frightening part is this is from I believe the top 30 percent of the students who graduate from high school in our State. So now we find ourselves spending money on some of the highest paid professors to deal with remedial education problems that should have been dealt with quite properly at the 4th and 5th and 6th grade of education. But as our superintendent of public instruction tells us, the likelihood of that now happening with these budget cuts is placed in jeopardy.

That is not to suggest that this is a problem of money alone, because it is not. But it is also to strongly suggest, as she does in her communications to the members of our delegation, that the corrective actions necessary in terms of school reform, in terms of accountability, in terms of teacher proficiency, in terms of reducing the administrative bureaucracy, are all placed in jeopardy by these budget cuts. They make all of the tasks of our educational system in California far more difficult.

This does not even begin to speak to the problem of the capital assets of our elementary and secondary education systems in the State of California, where we now find our children, the children that we keep claiming are so important to the future of this country, that we believe are the most important asset of the future of this country, we are now sending them to schools that are dilapidated, that are run down, that are not capable of being properly wired for new technologies, for computer access for these students, where students are constantly confronted with water coming through the ceiling.

That is a whole other issue. But as the State struggles with that, if it loses this kind of program money, if it loses this kind of assistance that generates additional assistance at the State level and at the local level to provide for extra reading help and mathematics tutoring, computer equipment, special training for teachers, all of which every independent report in assessing the American education system and the California education system, done by the California Roundtable, done by our business community, to look at this educational system, none of them have suggested that resources to that system should be reduced. They have all suggested that resources going to that system should be reorganized and should be used more efficiently. But the monies that you gain from the efficient use of that reorganization should be plowed back into that system so that we can better educate a larger number of the children.

Those are not the conclusions that I have reached. Those are not the conclusions that the California Teachers Association has reached or the school principals have reached. Those are the conclusions of independent blue ribbon commissions, dominated in many instances by the business community, who have looked at these systems, have looked at these institutions and said we have a major problem simply in the sufficiency of the resources available to these institutions.

So when we see budgets that are passed by the House of Representatives that are talking about a 17-percent reduction over 7 years in these budgets, we are talking about a trickle down of a critical problem for local education.

Interestingly enough, we find that people in my home community of Martinez and many other communities that I represent in my congressional district, they are voting to try to raise what resources they can in the community to improve school facilities, to try to provide technological improvements to the education system. But at the same time they are making this effort, that they are voting with their pocketbook, what they see is a reduction in resources from the Federal Government. It is not only unwise, but I think it flies in the face of what parents have said they want for their children. I think we have an obligation to take these programs that have been highly successful and make sure that they in fact are delivered to the students of our State and of our Nation.

Mr. Speaker, I want to thank again the gentlewoman for taking this time, and I just want to say that I think superintendent Delaine Easton makes a very forceful case to the Members of the delegation to give very, very strict scrutiny to the cuts that have been made in the education budget and to understanding the impacts as they drift down to the local district level in the State of California.

We have a huge obligation and responsibility to our students to make them world class graduates, and to be proficient at a world class level in the basics of education and in critical thinking. All of the evidence suggests we will not meet that responsibility and obligation to our students with the educational budget and the trendlines that are put in place by the budget adopted by the House and the Senate.

I would hope that the President would reject it. Should we eventually get to the Health and Human Services appropriations bill, I would hope that Members of Congress would vote against that, I would hope that the President would veto it, and I would hope that we sustain his veto so we can negotiate decent levels of education funding for our children and for our families who have such high aspirations and hopes and desires for their children's education and for their ability to provide for their economic wherewithal in the American economic system.

I thank the gentlewoman for yielding.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for his contribution in this debate. I concur with the gentleman absolutely that if the conference bill in this area comes back anywhere near what I have just described, the only thing that is left for us to do is to defeat that bill and hope that the Congress concurs with our opinion. If not, if it should pass, I certainly hope that the President will veto it, and the House will surely sustain that veto.

This is an area of critical importance. I cannot emphasize our feelings about this in any stronger terms. I believe fervently that we represent the majority of people in this country that are committed to the Federal participation in education. If we could have a referendum, I am sure that our point of view would be more than supported. I hope that point of view will be recognized by the Members who are conferees on the conference committee, and that we will have an opportunity to restore this funding.

Mr. MARTINEZ. Mr. Speaker, I rise today to protest the proposed cuts in education.

I have listened to Member after Member come to the well and say time after time that we must protect the future of the children of tomorrow and their children.

In reality, Members on the other side of the aisle are jeopardizing our children's future.

How can you guarantee the future if you don't take care of the children of today?

The new majority is cutting education so it can give tax breaks to the rich and spend more on defense.

If the Members on the other side of the aisle were really serious about balancing the budget to ensure the prosperity of future generations, they would do it responsibly.

They would not slash the programs that help the young, the old, the poor, and the middle class.

If they truly wanted to help our kids succeed, they would make an investment in education, not eliminate the support that schools depend upon.

In fiscal year 1995, California received $2.5 billion from the Federal Government for education.

Under legislation crafted by the new House majority, California would lose $392 million in fiscal year 1996, and stands to lose a total of $2.59 billion over 7 years.

In fiscal year 1996, there would be $42.4 million less for Pell grants for college, $42.1 million less for local school reform, $122.3 million less for services for disadvantaged children, $26.4 million less for safe and drug-free schools, $18.4 million less for vocational education, and $5 million less for teacher training.

Come on now, who's taking care of whom. The new majority is taking care of the rich and ignoring the children of today.

If they're worrying about the children of tomorrow then they would take care of the children of today.

GENERAL LEAVE

Mrs. MINK of Hawaii. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the special order just presented.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

☐ 1545

THE IMPORTANCE OF A BALANCED BUDGET

The SPEAKER pro tempore (Mr. GANSKE). Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, we are going to talk this afternoon about the budget, about some of the things we have just heard regarding that, about what the importance is of a balanced budget, and I want to recognize a great fighter pilot, former, a great American, great Member of the Committee on Economic and Educational Opportunities, and a Californian as well, because I know that he has some important things to say about education, and education particularly in California.

Mr. Speaker, I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman, Mr. Speaker. I serve on the Committee on Economic and Educational Opportunities.

Mr. DORNAN. Mr. Speaker, there is no such thing as a former fighter pilot.

Mr. CUNNINGHAM. And I still am flying fighters, so there is no such thing as a former fighter pilot.

Mr. Speaker, I want to comment on some of the things my colleagues on the other side of the aisle have said. I agree with one thing they said, there are some very, very good schools out there. I have some of the finest schools in Torrey Pines and San Dieguito, all up and down in my particular area. They would compete with any school in the Nation. But across the board our schools are not.

We pour billions of dollars into that but, Mr. Speaker, less than 12 percent of our classrooms have even a single phone jack for fiber optics or computers or software or the programs we need to put in there.

What my colleagues on the other side of the aisle are really talking about is power. Washington-based power in education. When they say we are cutting Goals 2000, the Federal power of Goals 2000 has been cut to zero. Absolutely correct. But we send the money, block grant it to the States, and the Governors have told us that they can run those programs more efficiently than letting the Government talk about it with their rules and regulations.

We only control about 7 percent of the funding for our schools in this Nation out of the Federal Government. Seven percent. But with that 7 percent comes over 50 percent of the regulations and 75 percent of the paperwork to the States. We are eliminating that, Mr. Speaker, and we are giving that power to the State.

If the State wants to run a Goals 2000 without all the bureaucrats in Washington, without having to file all the reports, without having to go through all the paperwork, they can do it, and they have the funds to do it and it is much more efficient. To say we cut Goals 2000 is not a fact. It is there. It is at the State level.

Second, let us look at the perspective of California. We have less than 12 percent of our classrooms across the Nation, as I mentioned, that have a single phone jack. Seven percent of education, again, comes out of the Federal Government. We get less than 25 cents on the dollar back down into the classroom because of all the bureaucracy. What we are doing is eliminating that bureaucracy and absolutely on the Federal level we are cutting it and taking that power out of Washington and the Democrats' ability to spend money so that they can get reelected, so that they can have the power, and we are giving it back to the States.

Mr. Speaker, I think there would be a legitimate complaint if the Republicans were taking that power and shifting it over to themselves, but they are not. They are shifting it back to the people where Government is closer to the people and more effective. But we hear time and time again from the other side of the aisle that the States do not know how to manage their own problems, only the liberals here in the Congress know best for what is good for the individual States. We will hear it over and over again, but we feel differently, Mr. Speaker.

I look at the State of California, and look at how they have destroyed education. One example. The liberals voted to cut defense $177 billion. California is one of the leaders in defense. We have lost a million jobs with base closures and defense cuts. Ninety-three percent of education is paid for out of the tax dollars of the State. That is a million people. Say that half of them got jobs, probably not as good as they were in the defense industry, but take that out of the budget in Sacramento. How many jobs have we lost?

Let us take just one governmental regulation, meant with good intentions but ruled by extremists. The Endangered Species Act, and how it applies to education. How many jobs have we lost to the gnatcatcher in California? Construction jobs. How many jobs to the spotted owl, where we could not even go in and cut timber that the beetles had destroyed, that are totally dead trees, just to keep the industry surviving? How many jobs in California have we lost in the tuna industry because of the porpoise? How many jobs have we lost in the Central Valley Water Project, that the gentleman from California [Mr. MILLER] supported, with the farmers, or the salmon with the farmers? And over and over again they have cut jobs.

Now, let us take illegal immigration, Mr. Speaker. We spend $1.2 million a day on the school meals programs for illegals, because there is 800,000 K through 12 illegals in the California State system, Mr. Speaker. Let us take half of that so they cannot dispute the numbers. That is $1.2 million a day at $1.90 a meal. And let us not even take the three meals, let us just take two meals, 185-percent below the meals program. That is $1.2 million a day out of education.

It takes $4,750 to educate a child K through 12 per year, Mr. Speaker. That is $2 billion a year out of the education system, but yet we cannot get help from the other side of the aisle on immigration reform.

I look at the other things that cost us. We have 18,000 illegals in our prison system. When they talk about cuts, we are cutting the Federal bureaucracy, Mr. Speaker. We are sending that money and the extra money down to the States. The rest of the education funding that was taken out of the Federal Government, do my colleagues know what we put it in, in the committee, some of it against my wishes? We put it in NIH for medical research, which we also feel is a national level interest.

I thank my good friend for letting me have 5 minutes here but I wanted to set the record straight.

Mr. NORWOOD. Mr. Speaker, if the gentleman will yield for just a second.

Mr. HOKE. Sure, go right ahead.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman from Ohio [Mr. HOKE] and the gentleman from California [Mr. CUNNINGHAM]. I wanted to join with the gentleman for just a minute, because I, too, serve on the Committee on Economic and Educational Opportunities.

Mr. Speaker, it is rather amazing that Mr. CUNNINGHAM and I serve on the Committee on Economic and Educational Opportunities, and then we have the gentleman from California, Mr. MILLER, and the gentlewoman from Hawaii, Mrs. MINK, on the other side of the aisle, and we go to the same meetings and we do not seem to hear the same things at all. Basically, my recommendation is that if education is our friend's top priority, running for State Senate might be a thought, because education is the priority of the State.

The State, the folks at home, the parents, the teachers at home should run education, yet we send 10 percent of the money from the Federal Government to our States and we insist on making all the rules. Well, we are, indeed, trying to cut back our costs. We are trying to balance our budget. If students want to be unhappy, I think they should be very unhappy that we only reduced the cost in education by $4 billion. Our committee started out trying to reduce it by $10 billion over 7 years. We ended up, after the Senate, only reducing it $4 billion. This had nothing to do with the students or harming the students or harming education, this was simply a mechanism.

Mr. HOKE. Mr. Speaker, if I could reclaim my time for a minute, because we have been talking about—and I thank the gentleman from California for his comments very much. DUKE, thank you.

Excuse me, Mr. CUNNINGHAM. I was admonished by the Speaker once that we should not be using first names. But we had all this talk about education——

Mr. CUNNINGHAM. You can call me DUKE and I will call you MARTIN.

Mr. HOKE. Mr. Speaker, we have had all this talk about education, and it seems to me that there are an awful lot of people in this Congress who could use an education about the use of the word cut. The fact is that there really is an opportunity to debate the priorities that are important to this country in this Congress and that there may be a whole bunch of different views regarding that, but we should agree on the ability to use language and that certainly requires a little bit of education.

I have here from the Webster Merriam dictionary the definition of the word "cut." The first one is to reduce in amount. That is the most wisely used definition of the word "cut." It means to be less, to reduce in amount, to be less in the next year than it was in the current year.

In fact, let me ask my colleagues a question, if I may. Are we cutting, using this definition of the word cut? Are we cutting the amount of money that is being allocated to education in this budget?

Mr. NORWOOD. No, we are increasing the spending. If the gentleman will yield, we are increasing the spending in education considerably.

What they are talking about is this imaginary made-up number that is placed out there 7 years from now that nobody knows what is. We are in fact, going to balance our budget by spending less than they project, but we are increasing the spending from 1995 considerably.

Mr. HOKE. Less than was predicted by whom? By Federal bureaucrats at the CBO or OMB, by people who are hired at a staff level to make these things, but not certainly by Members of Congress. Projections that were not made, and amounts that are projected off of baselines that do not exist except in somebody's imagination or in somebody's mental calculations.

The fact is that, and I want to get into this later, because I want to really explore this in detail, because it seems to me it is impossible, Mr. Speaker, for us to have the kind of debate that the American people deserve, that they should have so that they can genuinely ferret out, make decisions for themselves about what is going on here, what is being increased, what is not being increased, what is being cut, if anything, because there are some things being cut, although one would never know it from the kind of rhetoric we hear on the floor. But as long as we abuse language the way that language is abused all the time on this floor, it is going to be very difficult for the American people to get the information that they need in order to make decisions about their representives and who they ought to have representing them.

Mr. Speaker, I think that at the bottom of all of this, more so than anything else, more so than anything else in this Congress, I believe that we need to define our terms so that we are all speaking the same English language, so that we are all on the same page and we are not going to be arguing about how we define words. I will get into that more in detail.

I want to yield a couple of minutes to the gentleman from Illinois [Mr. WELLER], who has asked me for some time, and I see the gentleman has a bag with him.

Mr. WELLER. I do have a plastic bag, which I will point to in just a few seconds.

Mr. Speaker, first I want to thank my friend from Ohio, Mr. HOKE, for bringing this issue to the attention of the House. I think it is extremely important when we talk about some of the changes that need to be made here in Washington. I am one of the freshmen, one of the new guys, and I heard time and time again from the voters of my district, which is the south suburbs and part of the city of Chicago and a lot of farm towns, about how we need to change how Washington works and how we need to send representatives to the Congress who are going to vote for change.

I have with me something I carry, just like my other colleagues do, and that is our voting card. This piece of plastic that has a little computer chip in it, -I believe. We walk into the House chamber when it is time to cast a vote, slide it in that box and push a red or green button if we are going to vote yes or no. The most important and significant thing about this card is that for the last 26 years Members of the House of Representatives have used this card just like a credit care. In fact, I labeled this voting card the world's most expensive credit card, because for the last 26 years, in fact, since Neil Armstrong walked on the Moon, Members of Congress have used this card, their voting card, to run up a $4.9 trillion national debt.

Now, Mr. Speaker, when we think about our own families and our own households, we all know the pain that everyone feels if someone in the family uses a credit card and runs up a huge debt. It is tough to pay that off. Today we have a $4.9 trillion national debt. That is four times our operating budget for the Federal Government.

This bag that the gentleman alluded to that I brought with me has $19,000 in play money in it. The reason that $19,000 is so significant is because every person's share of the national debt today is $19,000. So every man, woman, and child in the State of Illinois, my home State, the land of Lincoln, if we were to pay off the national debt today would have to write a check for $19,000. The interest alone on that debt is $430 a month for a family of four. That is more than the average car payment.

Well, Mr. Speaker, I think it is time that we worked to address the fiscal problems of our Nation. For 26 years this country has operated on deficit spending, running up a huge, huge national debt. Now it is time to balance the budget, and there is a lot of benefits for my State, as well as Ohio, and Kansas, and Georgia, and this great country we all live in. We have made a little progress in the last couple of weeks. In fact, even Bill Clinton says now he wants to balance the budget. The President's agreed with the Congress that we can do it and do it in a responsible way over a period of 7 years.

Now, we are still waiting to hear from the President regarding his specific plan on how he would do it and what the fine print is. In fact, we are also still waiting for the Democratic leadership to see their plan to balance the budget over 7 years.

□ 1600

Conservative Democrats and the moderate Democrats, like Republicans, believe that we can balance the budget over 7 years. They have offered a plan and I give them credit for that.

The Republican plan, our plan, does a lot of good things. We balance the budget over 7 years and reform welfare by emphasizing work and family and responsibility. We save our Medicare system from bankruptcy. In fact, we are increasing funding for Medicare by 50 percent over the next 7 years and we are also providing tax relief to working families.

The President says he does not like our plan that saves Medicare and provide tax relief for working families, but has failed to show leadership, I believe, by offering his alternative.

In the early 1980's there was a fast food ad where that one gal said, "Where's the beef?" I think it is time to say, "Mr. President, where's the beef? Where's the beef? Where's your specific plan?"

It is time to stop governing with opinion polls and press releases. We need to actually see specific plans. If we think about it, what are the real benefits for my State if we balance the budget? Our balanced budget plan will increase student loans, the volume of student loans, by 50 percent. Medicaid funding, which is health care for the poor, will go up 55 percent over the next 7 years. School lunch funding will increase more than the President asked for. Medicare spending for the average Illinoisan will go from $4,800 to $7,100 per senior citizen in Illinois over the next 7 years, even while we are balancing the budget.

Those are real benefits, if we think how much money we spend shows compassion. But also there are some real benefits to working families and that is by eliminating the deficit, the dividend is a reduction in interest rates. The Federal Reserve, the Chairman of the Federal Reserve has said if we balance the budget and are no longer borrowing money to finance deficit spending, interest rates will go down. For the average family of four, they will save $2,800 a year on a home mortgage. On a car loan, they would save over a thousand dollars a year in interest costs for lower interest rates. And for students going to college, at the end of that 4 years, an undergraduate student would save about $1,900 on their student loan. Mr. Speaker, those are real savings.

USA Today highlighted the fact that overwhelmingly almost every American would directly benefit from lower interest rates. We have a commitment from the President to balance the budget over 7 years. We know the benefits of doing that. We in the Congress have put a plan on the table for the last several weeks which offers specific proposals which will balance the budget over 7 years. I think it is time for the President to show leadership.

That is why I am so disappointed he is going to leave the country for 6 days. Before he leaves, I think he should show us his plan on the table which balances the budget and shows us how he is going to do it over 7 years, and then we can work out the differences and come up with a bipartisan plan.

Mr. Speaker, I thank the gentleman from Ohio [Mr. HOKE] for the time and commend the gentleman for his leadership in making sure that the American people know that the bottom line is we are going to provide a better economic future for our children, free of debt. We have to balance the budget.

Mr. HOKE. Reclaiming my time, I thank the gentleman from Illinois [Mr. WELLER] for his comments and for bringing these things to our attention.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HOKE. I will yield to the gentleman from Indiana for a moment, and then I am going to open up a free-for-all debate.

Mr. BURTON of Indiana. Mr. Speaker, I want to congratulate the gentleman from Ohio [Mr. HOKE], who is the chairman of our Theme Team here, for bringing to the attention of the body some very important facts.

The earned income tax credit, our Democrat colleagues have been saying that we are going to cut that. The fact is, and the American people need to know this, we are increasing it by almost $6 billion over the 7-year period.

The school lunch program, which they said we are going to cut, in fact is going to be increased by almost $2 billion over the 7-year period. Student loans are going to be increased by $12 billion, not a cut like they have said.

Medicaid is going to go up by almost $40 billion over the 7 years, which is contrary to what the Democrat leadership has been telling us. Medicare is going up by over $110 billion over the 7-year period and they have been trying to scare the American seniors to death by saying that we are going to have Medicare cuts.

I appreciate the gentleman for pointing this out. The American people need to know we are increasing all of these things; we are just slowing the rate of growth, and that is going to be good for the country.

Mr. HOKE. Reclaiming my time, I want to take 5 or so minutes, and then I see that my good friend from Kansas is here. But I have to say, and I thank the gentleman from Indiana [Mr. BURTON] for bringing these things to the attention of the Speaker, because for me it is so exasperating that we hear the abusive language day after day after day after day on the floor. I can only believe that this is an attempt to obscure the real issues, to confuse the American people, and to make it impossible to really define what the differences are in the debate.

The reality is there are differences in the debate. We really do want to zero out Goals 2000. We want to zero it out because we do not think that the Federal Government ought to be involved and we have a real problem with the kinds of mandates that are being placed on local school systems. But it does not have to do with money in the sense that it is being portrayed on the other side.

Mr. Speaker, I put together here, just for the edification of the Speaker, a graph that shows, and maybe we can see this on television, it shows the total Federal spending from 1995 to the year 2002. We can see we have $1.53 trillion in 1995. This is according to the Republican budget plan that we have passed in the House, that we have passed in the Senate, and that we have passed in conference. This is the plan that is now, but for the President's signature, and remember the President has promised that he is going to sign into law before December 31, 1995, he is going to sign into law a budget that will be in balance by the year 2002. But this is what we have done.

We have passed this with every degree of detail that is necessary. We are going from $1.53 trillion in 1995 to $1.875 trillion in the year 2002. Obviously, not a cut if the definition of "cut" is to reduce in amount. Not a cut.

It goes up from $1.5 trillion to $1.875 trillion, a tremendous increase. I want to go over some of the specific areas, just as the gentleman from Indiana did. We increased spending in education; we increase spending on school lunches; we increase spending on student loans; we increase spending on Medicaid and Medicare.

We have genuine differences of opinion about how we ought to do that and what we ought to be doing. But it seems to me, Mr. Speaker, that when the American people listen to this and they constantly hear this scare tactic and abusive language that would have them believe that we are cutting when we are, in fact, increasing spending, that it makes it difficult, if not impossible to make the kinds of considered, thoughtful decisions about what their representatives are saying, what their representatives believe, in order to really know about what the future of our country ought to be and who they ought to have representing them. I think that this is right at the bottom, right at the foundation of the problem that we face in this Congress.

Let me talk a little bit about some of the benefits that will come from this, and then the reason I wanted to have the opportunity speak on my own for just a few minutes was that it seems to me that there is one benefit that is really rarely talked about in the Congress. I hope that we will have an opportunity to talk about some of the economic benefits of the balanced budget, because it will increase job creation, economic development. It includes more disposal income, real disposal income, consumable income; more cars being build; construction, et cetera, et cetera. But there is something we will get with a balanced budget that we do not have today that is critically important to our future, and that is the ability to define as a Nation what we believe Government ought to be doing; what we believe the role of Government should be; what the parameters of its extent in our society and in our lives are.

The way that we will do that, on an economic basis, is by what we are willing to pay for on a pay-as-you-go basis. It is a fundamental concept. It is crystally clear and critically important. That is that we not spend more than we are willing to tax ourselves for.

The problem that we have now is that we do not really know as a society, as a people, as an American culture, what it is that our Government, what the limits of our Government should be, because we, right now, are willing, and have for 25 years, spent more than we have raised in revenue.

So, the point is that when we get to this balanced budget where we are saying we are not going to spend more than we take in, then we are going to be making the tough decisions about how those resources get allocated. The fact is that there is more reality to the debate that goes on in the city councils around this country, and more reality to the debate that goes on in the State legislatures around this country, because that is where when one person wins, another person loses. When one interest group gets funding, another interest group does not, because it is a zero-sum game.

We do not have a zero-sum game at the Federal level of Government. We just keep spending and spending and spending. It is one of the reasons that, as I say, I get so exasperated and so, frankly, disgusted with the rhetoric that we hear in the body when we are told that we are cutting programs that are absolutely not being cut.

There are certain programs that are being cut completely. The Goals 2000 in the House budget was cut out completely; not in the conference report, it is not cut out. But in the House budget it was. Why? Because it is an honest difference regarding policy decisions that we ought to be making in the U.S. House, in the Congress. We should be doing these things. It is clear. But we should not be abusing language and talking about phenomenal increases in spending, in the case of Medicare, for example, we are going from $178 billion in 1995 to $289 billion in 2002. From $4,800 per beneficiary this year to $6,700 per beneficiary in 2002. Yet, we are hearing from the other side, and we will hear from the President himself, that this is a cut.

Mr. SCARBOROUGH. Will the gentleman yield on the education point? What we hear time and time again is that we are cutting education and that we are cutting student loans, and we are doing all of these horrible things. The fact of the matter is that we have an honest difference of opinion on goals 2000, and whether we want a bureaucrat in Washington, DC, to decide how to educate our children or not. But on student loans, there is an honest difference of opinion on how we handle student loans. We are not cutting student loans. Our student loans increase 50 percent.

Mr. HOKE. From $24 billion to $36 billion in 2002.

Mr. SCARBOROUGH. But we do have a difference of opinion on how we get the money to those students to go to college.

The President of the United States, swimming against the tide of history and swimming against the tide of popular support, believes that what we should do is take all the money for student loan, round it all up, and bring it to Washington, DC, in what he calls his Direct Student Loan Program plan, and give Washington, DC bureaucracies a total monopoly. So, every time a student, whether that student be in Ohio or in Florida, or in Kansas or anywhere across this country, any time they want student loan money, they have to go crawling and kowtowing to a Federal bureaucracy in Washington, DC. We believe that we should let the communities continue to have say so in helping students.

Mr. HOKE. The gentleman is completely correct. What the President passed, or what was passed in this House in 1993, called for a tremendous increase in direct student loans, which essentially means that the Government got into the banking business.

Mr. SCARBOROUGH. Let the Department of Education, one of the most inefficient bureaucracies in the Federal Government, totally monopolize it and take it out of the hands of the community. Because we want to empower the communities, and because we want to increase funding for education for these loans 50 percent over 7 years, they are saying that we are cutting.

Now, I must admit, I did not go to Oxford and I did not go to Yale, but the schools that I went to, and we did not learn this new math stuff, but if we go from $24 billion to $36 billion in student loans, at least in the schools I went to in the Southeast, that was called a spending increase. I do not know what Rhodes scholar's math is like, but in my neck of the woods and outside of the Beltway, going from $24 billion to $36 billion is a spending increase.

If I could cite some quotes, because we were just talking about Medicare, I do not think any of us could say it any better than what the Washington Post said. And I see the quotes there, but let me give a couple of other Washington Post quotes before you get into that. This came from last week by Matthew Miller, who used to work in the Clinton administration.

The Washington Post article, and he was talking about the GOP's proposal for Medicare, and he wrote:

> Though many of the President's advisors think the GOP premium proposal is sensible and believe it differs little from the President's own plan, the President fired sound bites from the Oval Office yesterday taking the low road in ways that only Washington pundits could recast as standing tall.

For that reason, so the President could gain in the polls, the President sent home 880,000 workers saying that he opposed the Republican plan and he was going to shut down the Federal Government because of it.

☐ 1615

The secret is out. The President's plan is just like the Republican plan.

Mr. HOKE. Mr. Speaker, I hope the secret is out. The one thing that I get concerned about is that we hear so much of this rhetoric and demagoguery and medigoguery, as the Post has said, and mediscare and scare tactics about all these things. And we just heard it from the other side that we are cutting, cutting, cutting. I just hope and pray that the American public is not being fooled by this rhetoric.

My friends at home tell me that people are buying into this notion that, in fact, we are slashing Government, that senior citizens are actually being manipulated and exploited and being frightened. And I have two parents that are Medicare beneficiaries themselves, that that is really what we are about here.

I get concerned that maybe we have sunk to such a low level of power hungriness that we are willing to sell out any group, claiming and scare them into believing that they are somehow going to suffer, that the sky is going to fall and particularly those that are the most vulnerable, of course, the senior citizens, to this kind of tactic. It does concern me. The truth is that we ought to be talking about the very legitimate and real differences between the world views, and they are real and they are deep. They deserve to be heard and thought about and not obscured for the American people but, in fact, made clear.

I believe that the clearer that they are made, the more that people will be attracted to them, and they will say, yes, I do believe in the values of limited government. Yes, I do believe in the values of family and faith and hard work and education and personal responsibility. And, yes, the government should not be the institution that we look to in our society first. It should be the institution that we look to last as a genuine safety net for those who truly cannot provide for themselves. But it should not be the first resort. It should be the last resort.

These are real, these are deep differences between the parties. But they get obscured with this language.

Mr. SCARBOROUGH. Mr. Speaker, if the gentleman will continue to yield, one thing that he left out, when he is talking about personal responsibility and family and faith, all these other things that we stand for, one thing he left out was freedom. That is what is so great about the Medicare Program. Once again, our program, at about the same price as the President's program, allows senior citizens to make the decisions with their physicians and their own doctors on what their plan should be instead of having a 1964 Blue Cross/Blue Shield plan codified into law and run by bureaucrats. It has been shameless how they have done it.

If I could just briefly quote the Washington Post from November 16 on Medicare, I think this is one of the most important editorials of this political season.

Mr. HOKE. The Washington Post, they are generally on the Republican side; right? There are two newspapers in Washington? The Times and the Post?

Mr. SCARBOROUGH. The Washington Times obviously is a conservative newspaper. The Washington Post has long been the nemesis of, considered to be a nemesis of the Republican Party and of conservative plans. But I will tell you by reading the Washington Post the past few most months, it is obvious that they are even turned off by the President's demagoguery.

Mr. HOKE. When one reads these editorials, what is obvious is that there is a level of integrity at the Post. The Post is clearly liberal. They love government in a way that conservatives never will, but there is a level of integrity at the Post that I frankly respect, particularly on the editorial page. They have recognized that the demagoguery of the President and of the Democrat leadership in Congress is really shameful and should end. They have been very clear about this. They are as exasperated as I am, as the gentleman is, and as others in this House regarding the confusion and the obfuscation and obscuring of these issues.

I think I know what the gentleman is going to read.

Mr. SCARBOROUGH. If I could, let me say that the Post has been, I think, extremely responsible this entire year, even though they are more liberal than——

Mr. HOKE. Even though they are the paper we love to hate.

Mr. SCARBOROUGH. Let me read this, the most important editorial, I think, of the year:

> Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of the congressional Republican plan to balance the budget over 7 years. Some other aspects of that plan deserved to be resisted, but the Republican proposal to get at the deficit partly by confronting the cost of Medicare deserved support. The Democrats, led by the President, chose instead to present themselves as Medicare's great protectors. They have shamelessly used the issue, demagogued on it, because they think that is where the votes are and the way to derail the Republican proposals generally. The President was still doing it this week; a Republican proposal to increase Medicare premiums was one of the reasons he alleged for the veto to shut down the government, and never mind that he himself, in his own budget, would countenance a similar increase.
>
> We have said it before; it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving.

Who could say it better than that? Again, if I could just say personally before wrapping up, I was extremely frustrated with the press coverage of this entire Government shutdown because I thought that many were trivializing it. I said I wish one major publication would step forward and tell the truth. The Washington Post had the medigoguery editorial a month or two back and did it then. They stepped forward this time, cut through it all. Because of the influence the Post has, I believe this message is going to start sinking in.

We are not cutting Medicare. We are saving Medicare. We are not restricting senior citizens access or rights. We are empowering senior citizens. We are empowering medical providers to do what is best for senior citizens and not do what is best for bureaucrats.

Mr. HOKE. And, Mr. Speaker, we are changing the nature of the program itself so that, instead of being top down, it is being bottom under, where the senior citizen, the beneficiary himself or herself, actually has power and control.

In fact, if you are like me, the most important aspect of our plan is the ability for a senior to participate in a medical savings account, the medisave plan, which is an integral part of the Medicare reform. It is one of the Medicare Plus things.

Mr. SCARBOROUGH. And the provider service networks where physicians can actually get together with their patients and make the decision, what type of plan do we want to put forward for the senior citizen? What is the best option for them. Let us cut out the insurance companies. Let us cut the Federal Government.

Mr. HOKE. Attacked by insurance companies, by the way.

Mr. SCARBOROUGH. Just you, the senior citizen, and I, the physician, will sit down and decide what is best for you. And if insurance companies and if the Federal Government does not like it, too bad. We have been empowered by this plan.

Mr. HOKE. I see that my friend from Kansas has been waiting patiently to dive in and has some things that he wants to add to this debate.

Mr. TIAHRT. Mr. Speaker, I am in agreement with what you are saying on Medicare.

Mr. HOKE. What are you in disagreement with us about?

Mr. TIAHRT. What I would like to do is move on to the 7-year commitment that the President has signed.

Mr. HOKE. Could I read this? This is the commitment to a 7-year balanced budget that the President signed into law just last week and this was in the continuing resolution. Here is what it says. It says: The President and the Congress shall enact legislation in the first session. When does the first session of this Congress end?

Mr. TIAHRT. We are currently in the first session of the Congress.

Mr. HOKE. And it will end on the last day of December 1995.

Mr. TIAHRT. And then we will start the second session of the 104th Congress. So that gives us just a short amount of time to implement legislation that gets us on the path to a balanced budget by fiscal year 2002.

Mr. HOKE. Continuing the rest of this, it says that we shall enact, the President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than the fiscal year 2002 as estimated by the Congressional Budget Office. This is law, signed into law by the President, passed by the Senate, passed by the House.

Mr. TIAHRT. Mr. Speaker, the reason I wanted to move on to that is because I heard a startling statement that came from the White House press secretary just yesterday.

It was in response to a question that a reporter asked that said, asked whether or not the White House would prefer to put off this larger budget debate and instead operate on continuing resolution into next year so that we could carry out this kind of thing during the Presidential campaign.

The response from the White House press secretary was, "There are big differences between the President and Congress, and I suspect that those kinds of issues will have to be settled in November of 1996."

And he went on to say some other things about averting a shutdown, but I think there is a real move to avoid a written, signed contract with the American public that this commitment indicates. If you read it again, it says, the President and Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office.

This is very important because it is a signed document. The President has signed this. Words mean something. I think one thing that we have discerned here with the American public, we saw it with the Contract With America, that words mean something, that we are trying to convey to people that we are very serious about this. The President has agreed to it. This was something that was confirmed in 1994 during the election. We ran on the Contract With America. It was a signed document that we would do things which have been accomplished by this Congress.

Then this year we are talking about something that has been signed, but yet the White House is already hedging on this signature. They are hedging on this agreement, wanting to move it off to the Presidential campaign where they can use 20-second sound bites instead of open and honest debate about what is really important to the American public.

Mr. HOKE. I could not agree with you more. I want to follow up on this with the statement from Mr. McCurry.

Mr. Speaker, I think the gentleman from Kansas is absolutely right. I think that what we are saying here is not withstanding the fact that the President of the United States, pursuant to very, very long, arduous, difficult, tough, detailed, grueling negotiations between his chief of staff, Mr. Panetta, the Speaker of the House, the majority leader of the Senate, the President himself and the minority leader of the House, the minority leader of the Senate and the chairs of the Budget Committees, they worked out this language, they worked and worked and worked. They fought hard over every single word, and these were the words that they came up with that we shall enact legislation in the first session of this Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office.

And not a week later, before the President's signature is barely dry, his press secretary is saying:

> There are big differences between the President and the Congress. I suspect that those are the kinds of issues that will have to be settled in November 1996, but in the meantime, we can avert the crisis and then have our debate next year during a national election campaign, when we should, as Americans, have that kind of debate. We can avert the shutdown and get on with orderly business.

He is talking about using continuing resolutions, not entering into a balanced budget. That is why, as Mr. WELLER said earlier, that is why the question that we raise is, What exactly is your budget. There are now, what is today, today is the 29th?

□ 1630

Mr. Speaker, we have got about 30 days left before this session of this 104th Congress, this first session, ends.

Mr. TIAHRT. If the gentleman will yield, I think this Congress is heading toward a second shutdown this year, and if it does occur, it will reflect that we are unable to come to an agreement that has been signed by the President. It will be that he has violated his signature to balance the budget in this, achieve a balanced budget, not later than fiscal year 2002 by enacting legislation this session, the first session of the 104th Congress. I do not think that anyone in America is going to accept a violation of this signed contract because you know we have seen some tremendous gains in our economy, and I want to just quickly go over what every person knows in their heart, what most businessmen practice daily, but it is that you must have a balanced budget, and I just want to quote someone that goes beyond myself, who came out of the aerospace industry, someone who is involved in the financial markets, and it is Alan Greenspan, who is the Federal Reserve Chairman, and I want to quote his testimony to the Senate Banking Committee which was November 27, just 2 days ago.

He said that I have no idea what the actual proportion of the 2-percentage-point decline in long-term interest rates is that is attributed to the expectation of a balanced budget, but it is a significant part. He says that he believes interest rates will drop 2 percent if we can balance the budget, 2 percent, and what that means to the average household, American household, is somewhere around $2,300–$2,400 per year less money, a lower interest rate on their mortgage, lower interest rates on their credit cards, lower interest rates on their student loans, on their car loans, any time-borrowed money. It also means more jobs because companies will have more, but he went on to say subsequently, if there is a shattering of expectations.

Now I want to diverge here a minute. There is so much involved in expectations in the financial markets with just the anticipation of a balanced budget. We saw the market rates soar over 5,000, we saw bond, a strong bond market, strong financial markets, because of the anticipation of what we are trying to do here with this signed agreement between the President and Congress, but he says if there is, and I quote again, consequently if there is a shattering of expectation that leads to the conclusion that there is indeed an incapability on the part of the Government to ultimately redress the corrosive forces of debt, I think the reaction could quite—could be quite negative, and I am fearful that were it to happen there would be a sharp increase in long-term interest rates. He is talking about an increase in interest rates.

Now we know, I know, from the economy in Wichita, KS, in my home district, that when interest rates dropped, housing starts increased dramatically. We saw expansions in both ends of Wichita, a real strong economy. So here is the Chairman of the Federal Reserve saying that, if we can balance the budget, which the President has signed to and agreed with this Congress, if we can do this in fact and not have the violation of a written agreement, then he sees a drop of 2 percentage points in the interest rates, and the corollary, quote oppositely, if it does not occur, if for some reason we are incapable, then we see an increase in interest rates.

Mr. HOKE. Let me reclaim my time for a minute. I also see it is 4:30, and I know we are late for a meeting that I am supposed to be at, chairing as a matter of fact, and I am going to give the balance of my time to the gentleman from Indiana [Mr. BURTON]. But let me just read a couple of factual things from a report that was just released by the Heritage Foundation on what a balanced Federal budget with tax cuts would mean to the economy.

The gross domestic product will grow by $10.8 billion more than under current law. In the year 2002 we will have an additional $32 billion in real disposable income over the period, an additional $66 billion in consumption expenditures, and an additional $88.2 billion in real nonresidential fixed investments, a decrease of four-tents of 1 percent in the conventional mortgage rate, the additional construction of 104,000 new family homes than would have been built otherwise, the additional sales of 600,000 automobiles, and a decrease of seven-tenths of 1 percent in the growth rate of the CPI.

Mr. Speaker, the other thing that this study points out, and I think it points it out very clearly, and it is important to point it out to the American people because they will hear the litany over and over, as though it is some kind of Sanskrit mantra, that these are tax cuts for the rich, in order to pay for tax cuts for the rich. Well, you tell me when 89 percent of all of the $500-per-child tax credit go to middle-class families earning below $75,000, family households under $75,000, 89 percent, you tell me are those tax cuts for the rich? Only 4 percent of those tax cuts on the child credit go to families earning above $100,000.

The other thing that I would point out is that, as the gentleman from Indiana will recall, we did in fact raise taxes on the quote so-called rich in the summer of 1993. We changed the marginal tax rate with a 10-percent surtax on the rich, people making a million dollars or more with a 10-percent surtax, so it went from 36 to 39.6 percent.

Now let me ask a rhetorical question. If we wanted to cut taxes on the rich, if that is really what Republicans were all about, then would it not make sense that we would repeal that 10-percent surtax? Would that not be the first thing that we would do? I would think that somebody that wants to cut taxes on the rich, it would be. Did we do that? Is that in this plan? Is there any repeal of that 10 percent, notwithstanding the fact that it was a stupid thing to do in the first place? We should not have raised that tax. We should not have done it because it actually—it works perversely. It does not increase revenues. It actually discourages working, but nonetheless did we do that?

No, we did not do that. We clearly did not do that, and we are not going to do that. It is a middle-class tax cut. What it does is it puts more money in the hands, in the pockets, in the wallets and the purses of the men and women who earn it for their families, and it is for families.

Mr. Speaker, at this time I yield the balance of my time to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I want to thank the gentleman from Ohio [Mr. HOKE] for this special order. I think it has been very enlightening, and I know many Americans watching it had a lot of their questions answered.

Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman is recognized for 8 minutes.

Mr. BURTON of Indiana. That should be sufficient, Mr. Speaker.

You know one of the problems you have when you are in public life is sometimes you are misquoted, and yesterday I was on CBS' morning show along with Senator MCCAIN, and I was on CNN "Talkback Live," and last night I was quoted on NBC News, Tom Brokaw's news report, talking about my opposition, unequivocal opposition, to sending our troops to Bosnia. But one of the reporters from the AP wire service took one line out of my statement on CBS news which said, you know, "He's hell-bent"; I was referring to the President, "He's hell-bent to send our troops there, and, if he does that, we must support them," is what I meant to say, but we were running out of time, and I said "him." And so they put that on the AP wire, and it went all over the country, and in every major newspaper in the country I was quoted as saying, "He's hell-bent to do this, and, if he does, we must support him." Mr. Speaker, it made it look like I was in favor of sending our troops to Bosnia, which is 180 degrees from the truth. I am absolutely and unequivocally opposed to sending our troops to Bosnia, and I want to tell you, Mr. Speaker, and the people who may be paying attention to this special order exactly why.

I met today with the Prime Minister of the Bosnian Moslem Republic, Mr. Silajdzic, and we had a nice long talk with other members of the Committee on International Relations talking about whether or not there were perils involved for our troops in Bosnia. I also had an intelligence briefing along with members of our committee, some of which I cannot go into here tonight because it was a closed briefing, and it was an intelligence briefing, and it is not for public consumption. But the bottom line is, things that I can say that need to be reported to my colleagues and to the American people, is there are 6 million land mines over there, and a number of our troops are going to be blown apart, or lose their arms and legs by stepping on these mines. They cannot be detected by metal detectors, many of them, because they are made out of plastic, they are very cheap, and they blow off the feet, and some of them jump up and will blow of legs and even kill people, but they are designed to maim. Six million of them. They only know where there are about 100,000 to 1 million of them. That means that at least 5 million of them are not known where they are, so that is a real peril to our troops.

Our troops are going to be on a corridor that runs many, many, many miles, probably from around Sarajevo up to Tuzla, and we are going to have troops in a 2½ mile wide corridor, and they will be subject to terrorist attacks, a terrorist, a Bosnian Serb, a Moslem from Iran, a number of people who are disenchanted with the peace accord, maybe some people who live around Sarajevo who fear they are going to lose their homes when the Bosnian Moslems return. These people may perpetrate a terrorist attack on our troops. They could put a truckload of dynamite, just like they did in Beirut back in the early eighties, and drive it through a barrier and blow up a lot of our young men and women. They are being put in harm's way with no end in sight.

The President said they will be brought home in 1 year, but in 1 year will we resolve this problem? After having talked to the leaders of these various countries and these various sects over there, I am convinced that there is not going to be a solution to this. These hatreds go back hundreds of years, and these people do not like each other at all, and it is my feeling that in 1 year we will still be mired down in this quagmire. The only difference is we are probably going to have an awful lot of our young men and women maimed or killed unnecessarily.

I do not think anybody knows for sure how many are going to be lost, but make no mistake about it, there will be many. All those land mines, all of these age-old hatreds, putting our troops in between warring factions, hoping that things will work out even though some people who were supposed to be included in the negotiations have not yet agreed to them. As a matter of fact, the Bosnian Serb leaders are still trying to renegotiate part of the agreement that deals with Sarajevo and the property around that.

So, Mr. Speaker, I am very concerned about sending our troops. I oppose sending our troops. Every time I get more information from the intelligence community or from the leaders of that part of the world, the former Yugoslavia, I become more concerned about the safety of our troops and am more convinced that this will not be a solution to these age-old hatreds.

The solution is to embargo products that are going into the warring factions, to force them to the conference table, to make them sit down and work out an agreement without outside forces being involved because, if they really reach an agreement and they really want peace, they are going to work it out and have troops there of their own to be a barrier between the warring factions. To put our troops, the British troops, and other troops in between all these warring factions is a recipe for disaster, and I think the President is making a very, very major mistake.

I see my colleague from California here who shares my views. He is going to be taking, I believe, the next hour to talk about this issue. But I wanted to make very, very clear to AP and to the people across this country who may have been misled by that AP story that I am unalterably opposed to sending our troops, I think it is a tragic mistake, I think the President is leading us down the road to a real possible disaster, and I think that the American people ought to know there is a better way to skin this cat than putting American young men and women at risk.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1788, THE AMTRAK REFORM AND PRIVATIZATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–370) on the resolution (H. Res. 284) providing for the consideration of the bill (H.R. 1788) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina) laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
Washington, DC, November 16, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR NEWT: Pursuant to the provisions of the Public Buildings Act of 1959, I am transmitting herewith the resolutions approved today by the Committee on Transportation and Infrastructure.

Sincerely,
BUD SHUSTER, *Chairman.*

There was no objection.

WHY WE SHOULD NOT BE IN BOSNIA

The Speaker pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. I did not realize your time was wrapping up, Mr. BURTON. I just wanted to, in a colloquy with you, underscore what you said about the targeting of Americans by people from outside Bosnia. The MOIS, the secret police of Iran, have people in all the areas in Bosnia and around there. They are the security for shipping arms to the Moslem Bosnians through Zagreb with the complicity, the tolerance of the Croatian Government, all the way up to President Franjo Tudjman. They have targeted Americans for over a year.

Mr. BURTON of Indiana. And they are having Americans killed, you might add.

Mr. DORNAN. Yes.

Now here is what adds a dimension to this today. Someone who has told me who I trust—now this makes it hearsay and puts it in the category of rumor for our friends in the dominant media culture. The liberals will go wild here, but a meeting took place at the White House, all the key players from Defense and from the State Department and security agencies, and Clinton himself expressed concern and asked many questions about the mujaheddin from Iran, the bad mujaheddin, just like we had good and bad in Afghanistan—the Hamas, some of the groups you have named, and the secret police, the terrorist secret police of Iran. He asked about them targeting Americans. He has known about this for a year.

□ 1645

The President is purported to have said, looking at Leon Panetta, my classmate from 1976, "Do not let the Congress get fired up on this. Downplay this when you talk to the Congressmen and the Senators."

In other words, instead of telling the American people the danger that we are in, and, to quote his own words which I will do in a minute, he is asking them to downplay the threat to our Americans.

Mr. BURTON of Indiana. If the gentleman will continue to yield, the fact of the matter is we know there are hundreds, perhaps thousands, of Moslem terrorists from Iran who are in the Bosnia area right now. We do not know how many. We have no idea. The fact of the matter is that some of those people were involved in such tragedies here in America as the World Trade Center bombing. They do not like our policies, they do not like America very much.

When you put troops, American troops strung out between, say, Sarajevo and Tuzla, that long corridor 2½ miles wide, you are leaving them open for an attack anyplace among that line. That means that you are probably going to have, anyplace along that corridor for Sarajevo to Tuzla that there could be a bomber, there could be a mortar attack, there could be any kind of attack on our troops and they will not know when it is coming.

I remember when President Clinton had a number of us in the White House when we were in Mogadishu, in Somalia. The President came up with a new policy. He said he was going to billet our troops on the tarmac at the airport there in Mogadishu. He said they would be safe. They would be there as a security measure, but they would not be involved in any combat or other operations. This was after we started nation building, we quit the food handling over there.

Two days later the Aideed forces, the terrorist tribal leader over there, lobbed mortars into the exact spot where our soldiers were going to be billeted. That was not anything like Bosnia, yet if we had had troops in that area where the President said they were going to be, and they found out about it, there would have been many of them killed. Think about that when you talk about a corridor between Sarajevo and Tuzla, 2½ miles wide with 25,000 American troops in there. They could pick any spot along there, any time day or night, attack our troops and kill hundreds, maybe thousands of them. This is a recipe for disaster.

I appreciate the gentleman for yielding to me. The President should reconsider, and he should come clean with the American people. If he said what you alleged he said to Leon Panetta, you know, we do not let the Congress get into this thing, then he should be taken to task. I do not know if he said it or not.

The American people need to know the risks. There are going to be young women lose their legs, their arms, their eyes from these land mines, but even a greater risk is the possibility of a terrorist attack from possibly Bosnian Serbs who are going to be upset about losing their homes and the problems around Sarajevo, or possibly Moslem terrorist from Iran. There are a number of people who do not like what is going on over there. They do not like anybody very much. I think our troops are really at risk. It is a mistake to get into this quagmire.

Mr. DORNAN. DAN, stay with me just a minute here, because I have been to Central America with you several times, we have both been to Haiti and been very concerned about what is happening there. We both have taken a personal interest in the calls that are coming into our offices from families of men who are in active duty in Germany and who resented Clinton referring to them as volunteers.

One mother said to one of my staffers,

My son is not a French legionnaire or a mercenary, he did not join the military to fight under any flag, he joined and took an oath to defend the Constitution of the United States against all enemies, foreign and domestic.

And he did take a follow-on order that we do not take as Congressmen NEWT would like this probably at this point, that we will obey all lawful orders of our commander. But it is coming down to the word "lawful."

Because you suffered through Mogadishu and spoke so forcefully and eloquently on the floor, I want to share something with you. When I was in my thirties I produced my own TV show. We had, the year I started, just gotten state-of-the-art close-up lenses where we could go in on an ant on the set and fill someone's television screen at home with that ant. Here we are, 27 years later, since I first started in December of 1967, 28 years later, and we cannot call for a close-up with these good Americans down in the control room a couple of floors below us, and it is too bad. I think the day is going to come, just like some day we will have color in the CONGRESSIONAL RECORD.

Mr. BURTON of Indiana. I would like for them to see this map.

Mr. DORNAN. If they can see this Posavina corridor that we are supposed to widen by the Dayton-Wright Patterson treaty, widen and enforce——

Mr. BURTON of Indiana. If the Americans could see the corridor we are supposed to try to defend——

Mr. DORNAN. Hold that steady and maybe the camera here in the southeast corner of the House could come in, point with your finger——

Mr. BURTON of Indiana. It is going to run all the way this way.

Mr. DORNAN. Take it from there at the top. The little pink strip there, between the part of Serb-held Bosnia that is against Milosevic's Bosnia-Serbia proper and Montenegro, and this huge glob in the northern part of what is Bosnia, this little, tiny Posavina corridor, 2½ miles, is supposed to be expanded to five.

Keep in mind the Israelis were properly always exercised about the distance from the furthest west point of the West Bank, Judea, from Natanya, by the sea, was 18 miles. They say that is an artillery-lobbed shell. This is 2½. Our men——

Mr. BURTON of Indiana. You have been in the military you might tell our colleagues how far a mortar will go, how far they can stay back from that 2½-mile-wide corridor to hit American troops if they wanted to lob something in there.

Mr. DORNAN. The mortars that hit the marketplace in Tuzla when I was in Zagreb the 28th of August, and threw bodies every which way, killed 60 or 70 people and maimed 150; when I look at that "maimed," I always think "Who is blind? Who has no legs there? Who lost all their fingers there?" We always put the death toll in bigger caps than the maimed. That is lives changed forever. A person will never earn the same income. Those mortars could be 5 or 10 miles from the corridor and lob these shells into the corridor.

Mr. BURTON of Indiana. The point is they could get within a half a mile and be more accurately targeted in. That is the problem.

Mr. DORNAN. I wish almost, like in every television show, we had a monitor buried in the table here so we could see. I don't know how close they can come in on this picture, but I am going to walk over there and give it to you so you can look at this handsome young American soldier's face, First Sergeant Randall Shughart. I visited his grave 2 weeks ago in Carlisle, PA. His parents sent me this picture because they did not like the standard Army picture. They said, "This is more what Randy looked like when he was helping us on the farm." I am sure that as close as they can get, it is just a color picture of a handsome young fellow with a closely cropped beard and a cowboy hat, in his barn. Take a look at this while I tell you this story.

Randy Shughart, together with Gary Gordon, begged the headquarters at Mogadishu International Airport to let them go down and disembark from their helicopter, because they could see movement in the cockpit of Michael Durant's crashed Blackhawk helicopter. Three times they were told no. They were, in a sense, because they knew the odds, begging to die for their friends. St. John the Evangelist 15:13, "Greater love no man has than he died for his friends."

They saved Durant. Durant hugging me, and both of us crying, told me that he owes his life to Randy Shughart and Gary Gordon. All four men had spine injuries when that helicopter made a hard landing. The helicopter that he disembarked took a direct hit of a rocket-propelled grenade and blew out one of the door posts and tore the leg right off one of the door gunners.

I talked to the young Corporal Hall who jumped in and took over the door gun, and they flew back to Newport and crashed the helicopter, totaling it out. So that day we lost Wolcott's helicopter, Cliff Wolcott, killing him and his pilot, and then we lost this one, Durant's, and then we lost that one to a total accident after they were out of it.

They held off for about 30 minutes. I have asked the Army for their last transcriptions. Durant told me the last thing Gordon or Shughart said to him was "Good luck, pal. I hope you make it." Went around the front of the helicopter, heard him take a couple of shots, heard him grunt with pain. Hopefully they died with the rifle shots as the crowd overwhelmed the helicopter and captured Durant.

Durant told me another man was lying on the ground, and I will not give his name because of his parents, and he was taken alive with Durant. They beat him to death. Then they began to so abuse their bodies that now that it is 2 years and 2 months later, a former Congressman said to me tonight, "Congressman, these men are owned by America. Why don't you tell the country what happened to them?"

I will not, but I will go further than I have ever gone before. These five men, including the two that won the Medal of Honor and including Randy Shughart's picture you have there, they did not just mutilate their bodies and drag them through the streets and stick rifles and poles into every bodily orifice, including their mouths, and have women and children dance upon them in the streets for Canadian Broadcasting, the guy won a Pulitzer Prize for his video and film coverage, Paul something, they cut their arms off the bodies. We never got those limbs back. They dumped their burned remains on the steps of the United Nation every 2 days until we had gotten back——

Mr. BURTON of Indiana. If I may interrupt, that was never reported to the American people?

Mr. DORNAN. Never. Look at Randy's handsome face, and he was born in Lincoln, NE. I showed this to our Medal of Honor winner, the Senator from Nebraska, BOB KERREY, and he started at him intently, and I said, "This guy is from Lincoln." And he said, "Are you sure?" and I said yes, I thought he was buried there. And then the Army told me where, so I went to his grave, because the week before when I was at a presidential forum in Bangor, ME, and I had asked where the other Lincoln was, in Lincoln, ME, where Gary Gordon is from. "Two Young Men from Lincoln" is the story I would like to write.

They said, "50 minutes north of here," and I took my son and drove up this first week of November to Gary Gordon's grave. I said to Mark, "I want to see Randy Shughart's grave." His dad, that man there, his father is the one who refused to shake Clinton's hand in the East Ballroom of the White House, and BOB KERREY, Senator, told me he was at this ceremony and remembers it vividly. I said, "How is it BOB, the press never reported that story, that it only came out on talk radio?"

Mr. Shughart, a basic American farmer type, retired in Carlisle near his son's grave. He told me that he said to Clinton, "Why did you fly Aideed down to Addis Abbaba days after those people killed and multilated my son's body?"

Mr. BURTON of Indiana. He was the dictator and tribal terrorist over there that was responsible for that.

Mr. DORNAN. Another Fidel Castro, another General Jopp, another Aristide, the same mold, all of them.

He said Clinton told him, "I did not know about that operation."

Mr. BURTON of Indiana. If the gentleman will yield, that is a ludicrous statement for anybody to make, because the administration had their Ambassador over there, negotiating with Aideed during a lot of this stuff that was going on. They knew entirely, from intelligence sources, what was going on. It is absolutely unbelievable that they would make a statement like that.

Let me just add one more thing.

Mr. DORNAN. It is Clinton making the statement to the father of a dead, murdered, Medal of Honor winner.

Mr. BURTON of Indiana. I just cannot believe that is the case. The President said in his speech——

Mr. DORNAN. He meant the operation, taking Aideed down to Addis Abbaba.

Mr. BURTON of Indiana. The President said, "I take full responsibility for whatever might happen over there." The fact of the matter is he should take full responsibility for what happened in Mogadishu to those men who got killed. They did not send proper equipment there, they did not send M-1 A-1 tanks, they did not send Bradley armored vehicles. He knew they should have sent those over there. The men trapped there, they did not get to them in that little town for 40 or 50 minutes because they could not get through the crowds.

Mr. DORNAN. Eleven and one-half hours before they relieved the Rangers.

Mr. BURTON of Indiana. The fact of the matter is we lost some of those men because we did not get there quick enough.

Mr. DORNAN. Four or five died during the night.

Mr. BURTON of Indiana. The fact of the matter is we are going to lose more young men and women, many more times, 40 or 50 more times in Bosnia. I think the President is making a terrible mistake.

Mr. SCARBBOROUGH. Will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. I thank the gentleman from California for yielding, and thank him for all of his service on the Committee on National Security, where we have worked together. I certainly appreciate the comments you have made about the horrible treatment that American soldiers have to go through, and humanizing this process.

Let me tell you something that really has disturbed me during this debate. There have been three falsehoods. The first is that we should blindly fall in line behind our Commander in Chief, regardless of what he suggests. We should send out troops, whether we know if there is a vital American interest, a time line, or all of the things we need to make this successful.

I remember back in the mid-1990's, before I was in Congress, and you were here, maybe you can expand on this in a minute or two, just to remind Americans that there can be a loyal opposition. I remember when we were trying to remove Communists, when Ronald Reagan was trying to remove Communists from Central America, there were actually Members of this body that wrote Communist leader Ortega in Nicaragua and apologized for our support of the freedom fighters. These same people tell us that we cannot even debate this openly, so America can decide whether they want young American men and women killed in Bosnia?

Let us make no mistake of it, we have sat through the briefings on the Committee on National Security. Everybody that comes in says, "Young Americans will die if they go to Bosnia and get involved in a civil war that has been raging for over 500 years." What have we kept asking? We have kept saying, "What is the vital American interest?"

□ 1700

They have set up straw men and tried to knock them down, saying that if we did not get involved that somehow our credibility in NATO would be greatly diminished. That is a joke. The fact of the matter is, we are NATO. We have protected NATO countries for a generation from the threat of communism, and we will continue.

Mr. DORNAN. A generation and a half.

Mr. SCARBOROUGH. A generation and a half. We are NATO. So that is a straw man.

Then they talk about it expanding and starting World War III. I heard the Vice President make that statement. That is blatantly false. It will not expand. The testimony that we have heard in the Committee on National Security clearly shows that that will not happen.

I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just say that I remember when the other side, when we were in Vietnam, and they were talking about the domino theory, they pooh-poohed that. Of course, now the same people who are doing that are saying, oh, my gosh, this may be a world war. The fact of the matter is, this war is not going to spread unless everybody decides that they want to let it spread.

Mr. SCARBOROUGH. Is it not ironic that the very same people during the Vietnam war that were protesting in the streets and on campuses across this country were saying, we cannot be the world's policeman. These are the same people, 30 years later, who are saying, let us sacrifice young Americans because it will make us feel good about ourselves.

The fact of the matter is, there is no vital American interest. The Secretary of Defense admitted as much, and it was in Time magazine, that there is not a vital American interest. But what is disturbing to me is, now we are seeing people saying, well, maybe, since we are beyond the cold war, maybe we do not need a vital American interest.

I hear that we have a volunteer army. You notice that is what they are saying. It is a volunteer army, they signed up for this, so we can send them off. It does not matter whether there is a vital American interest, and we spend all of this money on the military, so let us use our military. That is obscene.

Mr. BURTON of Indiana. Mr. Speaker, it is.

Mr. SCARBOROUGH. That is why I thank the gentleman from California and the gentleman from Indiana for talking about the harsh realities of war.

Does it mean that Americans are gun-shy and that we do not believe that any American troops should ever be sent into harm's way? No. But is it asking too much to say, let there be a vital American interest so when the President of the United States picks up the phone and calls a parent and says, your son was just blown apart in Bosnia, but he did it for a good reason. He did it because, and that is where they start to fade out. Because, maybe the NATO people will feel better because we have sacrificed, had human sacrifices in Bosnia.

I do not want to trivialize this point, but it is so central to this argument, we have to define what a vital American interest is.

We have heard the Secretary of Defense, we have heard the Secretary of State, we have heard General Shalikashvili, we have heard a lot of good military men and women come before our Committee on National Security, and all have failed to state that vital American interest. I do not fault them; I fault the Commander in Chief.

Mr. DORNAN. Let my good colleague from Florida pause for a moment while I show the gentleman from Indiana [Mr. BURTON] and the gentleman from Florida [Mr. SCARBOROUGH] another photograph, and a series of photographs starting on the cover of Paris Match magazine that you are not going to forget. I guarantee you that you will be bringing this up at town hall meetings.

First of all, I hand to Mr. BURTON a picture from a war that has great personal significance for me that started in Sarajevo, Bosnia and Herzegovina, on June 28, 1914, when a Bosnian Serb murdered Archduke Ferdinand and his wife, Carlotta, the heir to the throne of the Austro-Hungarian empire, and changed Europe for this whole century and began the bloodiest war in its time, 11 million killed, the flower of European youth, and it set us up for World War II where 55 to 60 million died, and it set up Stalin and Lenin and communism where 100 million more died, including China.

Mr. BURTON of Indiana. And your dad was there.

Mr. DORNAN. I do not have but one studio photograph of my father from World War I.

A gentleman called me from North Carolina last fall and said, "I bought for 100 bucks in a garage sale a bunch of postcards from World War I." He asked my staff, "Does the Congressman have a father who was a lieutenant in World War I?" Yes. I called him back. Send me the photograph.

He sends it, and it is a photograph of my dad with about 15 French children and another young captain. My dad had suffered poison gas, mustard gas twice, shrapnel in his face under his eye, three-wound chevrons turned into Purple Hearts in a ceremony that I witnessed in the Seventh Armory in New York.

If my dad were still alive, he went to his reward in 1975 at 83 years of age, he would be saying to me, in the last 4 years of the bloodiest century in all of history, "We are going back to the hills around Sarajevo where this killing started?"

Now I want to show you both something. I am going to read the text while Dan looks at this and then he gives it to you. I have been on the French Embassy for months to get photographs of the two French pilots in a double seat Mirage 2000 that were shot down while I am at Aviano greeting our pilots back on August 30.

They said, "Uh-oh, we have lost an airplane." My heart starts pounding. Is this guy going to be as lucky as young Captain Scott O'Grady? Is he coming down on our side of the line like a British Harrier pilot 2 years earlier? Is he going to come down into Serb hands?

Then they come in. I was talking to my wife on the phone. You cannot talk on the phone, but it is a French airplane. We take a two-seater. Then we hear there were good shoots. I am supposed to greet the squadron commander. He bends around in the air, goes back to the tanker and goes back to cover him.

On the evening news here you saw their two good parachutes come down. That was August 30. Fifty-two days later, an indicted war criminal indicted at The Hague in the Netherlands by an international war crimes tribunal, Radovan Karadvic, says, "Oh, the two French pilots were kidnapped from the hospital. What were they doing in a hospital 52 days after? They had good parachutes."

I am about to show you their pictures the day of capture.

The French embassy calls me about Frederique Chiffot, C-H-I-F-F-O-T. I misspelled it when I said it on the floor last. The other one is Souvignet, Jose, J-O-S-E. Let me spell his name, S-O-U-V-I-G-N-E-T. These two pilots are in captivity here. One of them looks like he has a sprained ankle, no cuts on their faces. The French Foreign Minister thinks that they have been murdered, beaten to death.

When Karadzic says they were kidnapped he says, maybe by Moslems; Moslems would not do that, not with the support we are giving them; and he said, or by some band of a rogue brigands for a hostage reward. There has been no asking for money.

Look at these pictures. Look at this man's face. The lieutenant, probably the back-seater; well, not necessarily, maybe the captain was the back-seat radar intercept officer. Turn the page. Look at how, like our pilots first captured in Vietnam, he is making this mean grimace into the camera like, I am resisting and I am okay. They are mature men. They are in their mid 30's, you can tell.

Why at Dayton, at Wright Patterson, did not somebody say to Milosevic, by the way, all of this is predicated upon the return of these two French allied pilots who are our friends and comrades in arms? The whole deal is off, and here we are on day 82, 30 days after they announced they were kidnapped from a hospital that they should not have been in, and that could be two Americans in a heartbeat.

Mr. BURTON of Indiana. Bob, it is probably going to be more than two. We are going to have 25,000 there, plus support troops, in that 2½-mile-wide corridor, and they will be able to attack at any point along that corridor, at any time, day or night, with mortars, land mines, or they can use a terrorist attack with a truck bomb. I am telling you, you are probably going to see, and I hope I am wrong, but you are probably going to see a lot more Americans than two or three.

Mr. DORNAN. Look at the faces of the Serb fighters there. How old do you think they are?

Mr. BURTON of Indiana. They are probably in their 20's and 30's.

Mr. DORNAN. And some in their 40's. Are they tough-looking, warrior-class people?

Mr. BURTON of Indiana. Oh, of course.

Mr. DORNAN. Have you ever seen tougher looking guys in your life?

Mr. SCARBOROUGH. I saw a 60-year-old gentleman in Sarajevo, a Serb, with an assault rifle on the evening news saying, I will kill anybody that comes in here to protect my family. We are getting involved in a three-way civil war that we cannot begin to fathom, the emotions and the hatred. It is just like Mogadishu that you talked about before.

We are going even beyond the original U.N. charter where we were only supposed to get involved when the sovereign state was attacked. Why are we putting Americans in the middle of a three-way civil war with what you talked about, war-hardened criminals, for the most part, that will kill Americans as soon as look at them?

Mr. BURTON of Indiana. Let me just say something here.

Mr. Speaker, this administration has a history of blunders in foreign policy decisions. Haiti, we are now finding out, is costing us hundreds of millions of dollars, and all hell is breaking loose down there. There are a lot of political killings that have been instigated in part by Aristide's own rhetoric. He is now saying he may not leave power, and he is using almost $2 million of American taxpayers' money to lobby Congress for more money.

We have Mogadishu and Somalia and the tragedies that occurred there, and now we are going to do the same thing or worse in Bosnia? It makes no sense.

This administration needs to get a foreign policy compass. They need to get some direction in their foreign policy, get some experts up there that know what they are doing and know what they are getting us into.

Mr. DORNAN. But where was Clinton this morning? Speaking to the British Parliament, instead of over here counseling with us and figuring out how we can contribute to this.

Now, let me bounce off of both of you my notes from Clinton's remarks on Monday night.

First of all, he did take you on with that first question of yours and me. Because I put 50 questions to him in the Congressional Record just yesterday and put in the Cap Weinberger-Bob Dornan principles, the 10 things that you must satisfy before you put men, and now, thanks to Les Aspin, women, in harm's way.

He said, this is Central Europe. It is vital to our national interests. So he used the word. He said so.

This House, by a vote of 243 to 171 says no, and it shows you that if there is ever a constitutional power that does not involve the purse, the President can send people anywhere in this world.

Wilson asked for a declaration of war. So did Roosevelt. But Harry Truman got into Korea and did not know how to get out and it cost him his Presidency.

LBJ, thanks to Kennedy, got into Vietnam, did not know how to extract himself, threw his hands up on March 31, 1968, and said, I am out of here. I will serve out and try and conduct the war. He did not do anything except keep a bombing pause on for all of 1968 that he made even more severe to try and throw the election to Humphrey and destroyed his Presidency.

Listen to what Clinton says. They, that is you, Mr. Scarborough, Mr. Burton, and me, and a majority of this

House and Senate, they argue America can now step back. As young people would say, excuse me. Step back? We have almost 500 men in Macedonia. We have air power, sea power. We lost that French airplane and lucked out with our American air crew. We threw 90 percent of the strikes that cost those two Frenchmen 82 days of freedom. Please, God, that they are still alive and being moved from village to village.

He says, we are going to end the suffering. How much money are we pouring into that area with airlift and sealift? You men should walk through the hospital at Zagreb at the airport. You should look at the U.N. facilities and the U.N. personnel there who are all overpaid, and every nickel they get is tax-free, all the bureaucrats.

Mr. BURTON of Indiana. Let me just say, he said he is going to end the suffering and we are going to be there 1 year. In 1 year we are going to be in and out, we are going to end the suffering, and this is a civil war, civil strife that has been going on, as you said, for 500 years or more. I am telling you, you are not going to change these people's attitudes, take away their homes and give them to somebody else, solve all of these problems in a year and make this country whole. It is just not going to happen.

Mr. SCARBOROUGH. To expand on that briefly, getting back to the testimony we heard from the Committee on National Security, and I am sure you were there. When a retired U.N. general from Canada talked to us about the folly that you were just talking about, about us believing that we can send in one division in 1 year and bring peace to Bosnia for the 21st century, he said that he was responsible for surveying the crimes against humanity, being a monitor for what the Serbs did.

One morning he was on the roadside and had to go out and look at a slaughter. The Serbs had slaughtered Moslem children, they had slaughtered women, had slaughtered elderly people. As he was looking at, surveying the scene, a Serb came up to him and he said, well, it serves them right. And the U.N. general turned and said, it serves them right for what? And the Serb responded, it serves them right for what they did to us in 1473.

Mr. BURTON of Indiana. In 1473.

Mr. SCARBOROUGH. And then the general was silent for a moment, and he looked at the committee. A smile went across his face, and he said, and you Americans believe that you can send in one division for 1 year and make a difference? You are kidding yourselves. You had better stay out.

That comes from a man who had been there a lot longer than anybody in the administration and who understands it a lot better than anybody serving in this administration.

□ 1715

Mr. BURTON of Indiana. Let me just say one thing, there is an old statement, "Those that don't profit from history are destined to make the same mistakes over and over and over again." This administration in its foreign policy decisions has not looked at history. They do not have the underpinning, the background necessary to be making these decisions. Yet they are going right ahead, hell-bent for leather, making these decisions, putting our young people in harm's way.

Mr. SCARBOROUGH. The irony is, I know this is sort of the electrified third realm, we do not want to get into it because he is our President, our Commander in Chief. I will just talk about the administration generally.

The irony is that the people that are sitting in this administration now are the same people 20 years ago, 30 years ago protesting the Vietnam war. Not only have they not learned from European history, they have not learned the lessons of Vietnam that they taught the country: that unless the American people are solidly behind a military action, and unless there is an immediate vital interest, we do not get involved in other people's civil wars.

I thought that is what the Vietnam protests were about. I thought that is what the President and many others in good conscience protested about during the Vietnam war, that this was not our war, that there was not a direct American interest, that America had to leave that civil war to Vietnam.

If they wanted to protest that 25, 30 years ago, I am not going to second-guess them or challenge them. That was their right. But why are these same people 30 yeas ago who were telling us that we cannot be policemen of the world and get involved in other people's conflicts, why are these same people, now that they are in charge 30 years later, asking us to do the same exact thing?

Mr. DORNAN. Try just 26 years ago, this very week. Clinton himself, ditching class at Oxford, left for Oslo, Stockholm, Helsinki, Leningrad, 2½ days in Moscow, in Prague, on a tour to help secure victory for Hanoi. It had nothing to do with peace or ending the war in some sort of neutrality respecting the DMZ at the 17th parallel. It was to secure a victory for Hanoi.

Here is an article in the current Insight magazine, the one that has NEWT on the cover. It says, "McNamara met the enemy and it turned out to be him." On Bosnia, "There is a chilling McNamara-like rhetoric" coming from administration people. "Perry's assertion," Secretary of Defense Perry, "is the same guff that McNamara tossed off during Vietnam."

It says, "Only industrial strength arrogance can account for Robert Strange McNamara's visit to Hanoi on Veterans Day. The former defense secretary at least is unchanging in the lack of sensibility that characterized his Pentagon tenure during the Vietnam War."

This is the man, McNamara, that said that we cannot use college men in the Vietnam struggle; they are our future. Clinton told his draft board, "I'm too educated to go."

Now we have, just as you pointed out, JOE, the very same people making sure Clinton does not make any reference to Vietnam in his speeches about suffering, I am looking at my notes again from Monday night, he says 250,000 people have been killed. In Cambodia it was 2 million, 8 times that.

He says 2 million are on the road. They are alive. Because the road in the South China Sea meant sharks, pirates, and the death of 750,000 people, 68,000 who worked with us executed. And always the one order, the one order from Ho Chi Minh that they pursued even after he died in September 1969 was kill Americans.

Are they thinking that when Haitians that we talked about on the docks were jumping up and down and saying, "We're going to give you Somalia," at the end of October, referring to the man who was killed on the 6th, Matt Rearson, they had a dud land at the feet, 5 feet away from a two-star General Garrison. He told me about it himself. The 18 Rangers and helicopter pilots and Delta commandos like Randy Shugart and Gary Gordon, they are yelling about this on the docks of Haiti, 10, 12 days later, and turned around the Norton Sound.

Do you not think that these people in Sarajevo who have constant TV, CNN, probably watch some of our C-SPAN debates, are not aware that the key to get Clinton to bug out is Clinton's next words? "We must expect casualties," he said.

Of all people, who is he to say that?

Mr. BURTON of Indiana. Let me just say on the front page of the New York Times this week they quoted a gentleman from Sarajevo who lives, one of the 60,000 Bosnian Serbs that live around Sarajevo, and he said, "What you're going to see is what you saw in Somalia when you saw that American dragged through the streets dead."

Another lady who lives in one of those suburbs said, "I'll kill myself and my kids before I'll let them take over my home and my property here." And those people are going to be coming back. I am telling you, when people say that they will even kill themselves and their kids, what do you think they are going to do to somebody else who tries to take their property?

Mr. SCARBOROUGH. If the gentleman will yield, once again drawing comparisons between Bosnia and Vietnam, I remember after the war was over listening to the words of the generals for North Vietnam. They said "We knew we could not win the war in the jungles of Vietnam, but we knew we would win this war on the streets and the college campuses of America."

Mr. DORNAN. In the Halls of the Congress.

Mr. SCARBOROUGH. "That is why we kept fighting." The same thing is going to happen now. That is why the Weinberger doctrine, which the gentlemen from California [Mr. DORNAN] also worked on, that is why one of the key components was support from the American people. We have to have a campaign that Americans support. It is the President's responsibility to step forward and explain what the vital American interest is.

Let me just say this. I will tell you this. A lot of people will say, "Well, why are you all talking about Bosnia in such strident terms," and I will tell you, this is my feeling. We have to do it now. It is our responsibility. Because once those young men and women get in Bosnia, at that point I shut my mouth, I follow the Commander in Chief. I will not do what Members of this Congress did in the 1960's and play politics with the lives of American troops.

So now is the time that we have to voice our opposition to this, because once the President makes that move, and I can only speak for myself, at that point I believe we as a country fall in line behind the Commander in Chief if he chooses to do that. But until that time comes, I think we need to point out that this is the most misguided foreign policy decision not only that this administration has made but any administration in this country has made since Vietnam. We have to do all we can to draw the line in the sand and tell the President, do not send young Americans.

I already have men and women from my district over there. I have NAS Pensacola, Eglin Air Force Base, Hobart Field. I have got a lot of other bases.

These are not just the military. It is not abstract terms. We are talking about men and women and the children of people I know, and also my own peers who have children that go to school with my 7-year-old boy in Pensacola, FL, talking about how their father is going to be going to Bosnia. We are talking about killing real people.

Mr. BURTON of Indiana. Human beings. Real people. The gentleman has said it very well. I do not think anybody could have said it better.

The fact of the matter is that I think everybody in this Chamber, once our troops are on the ground, are going to say, "Hey, we didn't want them there. They shouldn't be there, but they're there and we're going to support our American young men and women who are over there to do a job."

But the fact of the matter is, I will be supporting our troops, but I certainly will not be supporting this President and this policy that he has adopted because I think it is going to get a lot of them killed.

Mr. SCARBOROUGH. What frightens me is this: The fact of the matter is that this has been a very emotional decision by this administration and it has been a decision based, I believe, on emotion.

Because I watch TV. I talked about my 7-year-old boy. I saw on ABC News several months back a young 7-year-old Muslim boy was blown off his bicycle, and the boy was screaming and crying, and it looked just like my son. He said, "Please don't cut off my leg. Don't cut off my leg." And the ABC reporter said "Well, the 7-year-old boy's leg was not cut off but he did die 3 hours later."

That hit me, and I said I know what the President has to be saying at times. We have got to do something. We have got to stop the killing. That is what my immediate response is, and that is what a lot of Americans think.

But then you step back and you think through this process, and you are not run totally by emotion, and you say, "Wait a second, it won't be young Bosnians that we are going to be seeing killed on TV 2 months from now, 3 months from now, if we go over there. It is going to be young Americans."

We better make sure that it is a cause worth dying for, to make sure we do not repeat the same mistakes we made in Somalia, where we made an emotional decision to go over there. Then Americans were slaughtered, drug through the streets. Americans then made an emotional decision to bring them back. Let us not make that mistake again. Let us not base it on emotion. Let us base it on sound foreign policy.

Mr. BURTON of Indiana. Let me just say one thing about Somalia. When President Bush sent our troops over there initially, it was to feed the hungry masses, and those people welcomed us with open arms and treated our troops very well. It was not until President Clinton made the decision to get into nation-building, which is what he is leading us into in Bosnia, that we started losing troops and ended up having to pull out of there and leaving that dictator Aideed back in power.

Mr. SCARBOROUGH. This is what is so frightening. I have heard testimony again before the Committee on National Security and I actually had somebody with a straight face tell me, from the administration, that we needed to go into Bosnia to, quote, reknit the fabric of the Bosnian society, close quote.

That, my friend, is extremely frightening. It is extremely naive, and it is going to be young Americans' blood that will be spilled because of that naive view of geopolitical realities.

Mr. DORNAN. Mr. Speaker, some of the members of the dynamic freshman class of the gentleman from Florida [Mr. SCARBOROUGH] have joined us.

I want to put one set of figures into the RECORD and make one comment, because Clinton at least heeded the warnings of this Congress not to put our men and women under the United Nations. I would ask people to please save their Reader's Digest. I will put this in the RECORD following our remarks, Dale Van Atta's article commissioned by Reader's Digest on "The Folly of U.N. Peacekeeping." It begins thusly.

"Sonja's Kon-Tiki Cafe is a notorious Serbian watering hole 6 miles north of Sarajevo. While Serb soldiers perpetrated atrocities in all the Bosnian villages, local residents reported that U.N. peacekeepers," and it hurts me to read these names, "from France, Ukraine, Canada, and New Zealand regularly visited Sonja's, drinking and eating with these very same soldiers" committing the atrocities "and sharing their women."

However, the women of Sonja's Kon-Tiki Club were actually prisoners of the Serbs. These are Muslim and Croatian women.

"As one soldier, Borislav Herak, would later confess, he visited Sonja's several times a week, raping many of the 70 females present and killing two of them" because he felt like it.

Then I go down to Haiti and I see white U.N. vehicles, this wonderful dream that grew out of the League of Nations in my father's war, see white U.N. vehicles lined up at the houses of prostitution in Haiti, and wondered why the United Nations is so disrespected. Well, here is what we are doing, and these figures come from the U.N. peacekeeping ops office up in New York.

At this time, when Clinton says we are going to pull back, we have 2,267 people in Haiti.

I did not know we had 30 in the western Sahara. The gentleman from Indiana [Mr. BURTON] is the African expert. I did not know that. The part of Africa that Morocco has taken over. In Macedonia we have 494. When I was there it was 530.

We already have three in Bosnia, an advance team is arriving as we speak in Tuzla, where that rocket hit on August 28 when I was up in Zagreb, could not believe the imagery on the news that night. We have 361 already in Croatia. I do not know if that includes all the hospital people.

We have four in ex-Soviet Georgia. What kind of a Christmas are they going to have? We have 15 still on the Iraqi-Kuwaiti border, and 11 in Jerusalem. Grand total, 3,185.

And not spending Christmas with their families will be 17,000 support troops all around Bosnia that are there now, air power, sea power, airlift, sea lift, hospitals, intelligence, more than they know how to use, and Clinton has the gall to say we are pulling back and not helping, and we are going to close out this century with American kids dead in the tinderbox of the Balkans?

Let me share some time, and thank you for staying, DAN. I really appreciate it. My wife is calling me all day long, why are you discussing all these mundane things, when for the first time in American history a leader is saying not "They will be home by Christmas" but saying "I think we can have them all in place by Christmas." The opposite of MacArthur, of Truman. I have never heard of such a thing in my life.

Here is the way I want to allocate some time. Mr. Speaker, how much time do I have left on my hour?

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman has 13 minutes.

Mr. DORNAN. Then let me share this, and let me cut it just a bit, then STEVE CHABOT of Ohio, I will give you 4 minutes, STEVE, because CYNTHIA MCKINNEY missed her opportunity, and I want all of her people in Georgia waiting for her special order to know she is still here and going to talk about the problem of gerrymandering in Georgia. But, STEVE, I will give you 4 minutes, MARK NEUMANN 4 minutes, SAM BROWNBACK 2 minutes, MARK SANFORD of South Carolina 2 minutes, and JACK METCALF 4 minutes, and that ought to do it. Then on to CYNTHIA.

I yield to the gentleman from Ohio [Mr. CHABOT].

☐ 1730

Mr. CHABOT. I thank the gentleman for yielding. I thank the gentleman for using the French pronunciation of my name, which I do not hear very often. Thank you very much.

I have been listening to the arguments and points made by my colleagues here. I think they made some very good, some very persuasive arguments.

I would just like to reiterate some of the things they have made and make some new ones myself.

First, I think it is important for us to always remember that these people in that very, very dangerous area of the world have been fighting with each other for centuries now, for hundreds of years. They have been battling each other, and, unfortunately, our President is now talking about and pushing forward with a plan which will put young Americans, both men and women, on the ground in Bosnia right in the middle of that bloody mess. I am very concerned that, rather than fighting and shooting at each other, in the very near future they are going to be shooting at Americans, and I hope and I pray that I am wrong. But I am very concerned that many, many Americans are going to come back to the shores of this country in body bags.

There are many other dangers besides the snipers and rogue Serbs or rogue folks on either side lobbing mortars, mortar shells, artillery shells into our U.S. troops. There are 6 million mines in Bosnia. Many of those mines, nobody has a clue as to where they are at. People can be out on a routine patrol just walking down the street and could very easily set off a mine, could be mangled and mutilated or killed, and I am very concerned we are going to lose a lot of people to those very lethal instruments. That is the 6 million estimated mines there are throughout the Bosnian area.

In addition, I think we really have to recognize that, whereas the Serbs have certainly been the most aggressive and have performed the most atrocious acts and have killed the most innocent people, that none of the parties really have clean hands in this incident. The Moslems, the Bosnian Moslems, and the Croats have also allegedly committed a number of atrocities themselves. All three parties have done some very awful things in the past couple of years in that very, very dangerous part of the world. Certainly, the Serbs have been the worst.

In addition, the President is talking about our troops will be out in an estimated 1-year period of time. Again, go back to the point that these people have been fighting for hundreds of years now. How anyone can predict that our troops will have solved the problems over there, kept the peace and then pulled out in a year's period of time, I think that there is no way in the world that is going to happen. If our troops are pulled out, it is very likely that in a very short period of time the atrocities will start again, the fighting will start, and we are going to have the same type of chaos and death that we have over there now. So the 1-year period of time, I think, is a period of time that has been grabbed out of the air, and some would argue that it has to do with the fact that there is an election a year down the road. Who knows why the President picked 1 year.

But I do not think there is any way we are going to be able to go over there and then suddenly peace is going to break out in that very dangerous part of the world after we have been there for a 1-year period of time.

This is in Europe's backyard. It is very, very difficult for anybody to make the argument that this is in the vital interests of the United States. We have an interest to the extent that I think we think it was a good idea for the President to get the parties together. I think it is appropriate for us to play a role in getting people to talk about peace. I think we can play a role in supporting the Europeans through our air power, which we are able to project without great loss of life to American citizens. But I do not think that a legitimate argument can be made that it is necessary for U.S. troops to be at risk on the ground, and it does not take very long for anybody to pick out a couple of examples of the type of things which could very well happen in the very near future in that very dangerous part of the world.

Look what happened in Lebanon. You know, it was something as unsophisticated as a truck filled with explosives to blow up a building and kill over 200 United States Marines in Beirut, Lebanon. In Somalia we went in with the best of intentions to feed people, and then mission creep set in. The goal got expanded. We were trying to build democracies over there. We got in the middle of the warlords. Our helicopters got shot down. American lives were lost, and the bodies of young Americans were dragged through the streets of Mogadishu.

What we are trying to do here is to prevent the President from making a very, very tragic mistake. He certainly has not convinced me that this is in the vital interests of the United States to put United States troops on the ground in Bosnia. From the calls that I am receiving in my office every day, he certainly has not convinced the people of Cincinnati, the people that I represent, that this is the right action. The calls are overwhelmingly coming in that we should not put United States troops on the ground in Bosnia.

I have talked to many, many of my colleagues here on both sides of the aisle, both Democrats and Republicans, and the calls are coming in from people all over this country, "Don't do it. Don't put United States troops on the ground in Bosnia."

The President apparently is determined to move ahead with this venture. I think he is making a terrible mistake. I wish he would listen to Congress, and I wish he would listen to the American people and, please, prevent this tragedy from happening. We do not need to lose American lives in Bosnia. I beg the President to reconsider this effort that he seems to be determined to make. I think it is a very tragic event. I hope I am wrong. I hope and pray that my concerns are unfounded and things will go well.

But I am very, very concerned that I am right, and if that happens, we are going to have many, many Americans who lose their lives in that very dangerous part of the world.

Mr. DORNAN. I thank the gentleman for his excellent remarks. I yield to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. I thank the gentleman for yielding.

I just want to start out by saying this is under no circumstances a partisan issue. It makes no difference whatsoever and would not ever make a difference to me whether the President was Republican or Democrat on this kind of an issue.

I listened really carefully to President Clinton's' speech, and I re-read the speech word for word just so I was certain what he said. The vital United States interests the President laid out in his speech were broad, universal interests and would apply to any trouble spot in the world. This is not satisfactory.

I have said since I ran for Congress that I would support committing American troops only if vital, specific U.S. interests were involved, and the interests that he gave were not.

Militarily, U.S. troops are not needed. Our own Chairman of the Joint Chiefs of Staff stated that Europe can handle the military aspect themselves. European powers have direct interest in Bosnia, and they should step up to the plate on this. Britain and France have done so and will be part of the operation as it is planned.

You know, it is interesting, Germany had not pledged troops until today. I guess Germany remembers World War II, when they occupied that area for several years during World War II. They understand the problems there of an occupying nation, and it just seems to me that maybe their reason for not joining until today is that they understood better than we do some of the problems that are involved.

The President promised that the troops in Haiti would be home in a year. Remember? It has now been 16 months, and the troops are still there. Why should we believe that Bosnia is different?

One of the things that the President did say was he said he would provide a clear mission statement, a specific operational plan, what are the objectives, how will these troops accomplish the objectives, and what is the exit strategy. Thus far, and he said he would present that, and I assume that that is still coming. I am not being critical at all. We just do not have it yet. We certainly need it before we can make the judgment as to whether or not troops should be sent.

Also we do not have the money to engage this operation. That is another very critical factor. We fight and work very hard to cut $2 million here or $12 million there from the budget. The estimate of the cost of this is $2.1 billion at the present time. Judging from all previous estimates that I have seen, you should multiply it at least by 2, so we are talking about, I believe, close to a $4 billion cost. Remember, this is money that we do not have. This is money that will have to be borrowed if we move into Bosnia.

The idea of balancing the budget is absolutely critical, and there are circumstances certainly where we would go ahead and even if we had to borrow the money, but only if we are certain of what is going to happen, what is the vital U.S. interest that is involved, what is the plan to actually achieve the kind of peace we are looking for and set up the conditions by which we can exit.

Those are the points that I see, and we will try to have an open mind and watch what the President comes up with for these things.

As of now, from what I have seen, my vote would be an absolute "no." I certainly hope and will do everything I can to see that we do get a vote on this in the House of Representatives.

I think the Senate should also vote on whether or not to authorize troops, ground troops in Bosnia.

Mr. DORNAN. I say to the gentleman from Washington [Mr. METCALF], I want to recommend a book to you on Mogadishu. On the cover is the picture of Durand's helicopter crew, the ones that were killed, Ray Frank, three full combat tours in Vietnam, big, handsome, blond David Cleveland, William, his mother called him David, the men called him William, like his father. He was one of the door gunners, and Tommy Fields, another door gunner. It is just called "Mogadishu." It tells a story of a tragedy in the Clinton administration that he just put behind him.

Let me ask you something, I say to the gentleman from Washington [Mr. METCALF], there is a report from my district office today. The calls dropped to 100 for the first time. It is usually 200. Not a single person calling my district office, oh, they will call now, detractors and stuff. We are going to ignore their calls, and I have every right to be as tough as I want on this because I am the one who went to Mogadishu less than 10 days after the last man was killed there, to photograph this whole area. They are saying 100 calls a day in my office without one saying "Go; we should go."

How are they in your office from the great Pacific Northwest?

Mr. METCALF. Our calls are running more than 30 to 1 against sending troops to Bosnia, and there comes a time certainly that you should listen to the American people.

Mr. DORNAN. I yield to the gentleman from South Carolina [Mr. SANFORD].

Mr. SANFORD. I do not know how much more actually can be added between my colleague, the gentleman from Florida [Mr. SCARBOROUGH], my colleague, the gentleman from California [Mr. DORNAN], and the gentleman from Indiana [Mr. BURTON], go down the list, and therefore I mean you have touched on this idea of 200 American men, best-case scenario, dying. You have touched on the idea of spending $1.5 billion. You have touched on the idea we do not have a clearly defined exit strategy. You touched on the idea of 37,000 American boys being directly involved.

Mr. DORNAN. I have run out of time. We did not give you gentlemen enough heads-up over here.

The documents referred to are as follows:

[From the Reader's Digest, October 1995]

THE FOLLY OF U.N. PEACEKEEPING

(By Dale Van Atta)

Sonja's Kon-Tiki cafe is a notorious Serbian watering hole six miles north of Sarajevo. While Serb soldiers perpetrated atrocities in nearby Bosnian villages, local residents reported that U.N. peacekeepers from France, Ukraine, Canada and New Zealand regularly visited Sonja's, drinking and eating with these very same soldiers—and sharing their women.

The women of Sonja's, however, were actually prisoners of the Serb soldiers. As one soldier, Borislav Herak, would later confess, he visited Sonja's several times a week, raping some of the 70 females present and killing two of them.

U.N. soldiers patronized Sonja's even after a Sarajevo newspaper reported where the women were coming from. Asked about this, a U.N. spokesman excused the incident by saying no one was assigned to read the newspaper.

The U.N. soldiers who frequented Sonja's also neglected to check out the neighborhood. Less than 200 feet away, a concentration camp held Bosnian Muslims in inhuman conditions. Of 800 inmates processed, 250 disappeared and are presumed dead.

Tragically, Sonja's Kon-Tiki illustrates much of what has plagued U.N. peacekeeping operations: incompetent commanders, undisciplined soldiers, alliances with aggressors, failure to prevent atrocities and at times even contributing to the horror. And the level of waste, fraud and abuse is overwhelming.

Until recently, the U.N. rarely intervened in conflicts. When it did, as in Cyprus during the 1960s and '70s, it had its share of success. But as the Cold War ended, the U.N. became the world's policeman, dedicated to nation building as well as peacekeeping. By the end of 1991, the U.N. was conducting 11 peacekeeping operations at an annual cost of $480 million. In three years, the numbers rose to 18 operations and $3.3 billion—with U.S. taxpayers paying 31.7 percent of the bill.

Have the results justified the steep cost? Consider the U.N.'s top four peacekeeping missions:

BOSNIA

In June 1991, Croatia declared its independence from Yugoslavia and was recognized by the U.N. The Serbian-dominated Yugoslav army invaded Croatia, ostensibly to protect its Serbian minority. After the Serbs agreed to a cease-fire, the U.N. sent in a 14,000-member U.N. Protection Force (UNPROFOR) to build a new nation. (The mission has since mushroomed to more than 40,000 personnel, becoming the most extensive and expensive peacekeeping operation ever.)

After neighboring Bosnia declared its independence in March 1992, the Serbs launched a savage campaign of "ethnic cleansing" against the Muslims and Croats who made up 61 percent of the country's population. Rapidly the Serbs gained control of two-thirds of Bosnia, which they still hold.

Bosnian Serbs swept into Muslim and Croat villages and engaged in Europe's worst atrocities since the Nazi Holocaust. Serbian thugs raped at least 20,000 women and girls. In barbed-wire camps, men, women and children were tortured and starved to death. Girls as young as six were raped repeatedly while parents and siblings were forced to watch. In one case, three Muslim girls were chained to a fence, raped by Serb soldiers for three days, then drenched with gasoline and set on fire.

While this was happening, the UNPROFOR troops stood by and did nothing to help. Designated military "observers" counted artillery shells—and the dead.

Meanwhile, evidence began to accumulate that there was a serious corruption problem. Accounting procedures were so loose that the U.S. overpaid $1.8 million on a $21.8 million fuel contract. Kenyan peacekeepers stole 25,000 gallons of fuel worth $100,000 and sold it to the Serbs.

Corruption charges were routinely dismissed as unimportant by U.N. officials. Sylvana Foa, then spokesperson for the U.N. Human Rights Commission in Geneva, said it was no surprise that "out of 14,000 pimply 18-year-olds, a bunch of them should get up to hanky-panky" like black-market dealings and going to brothels.

When reports persisted, the U.N. finally investigated. In November 1993 a special commission confirmed that some terrible but "limited" misdeeds had occurred. Four Kenyan and 19 Ukrainian soldiers were dismissed from the U.N. force.

The commission found no wrong-doing at Sonja's Kon-Tiki, but its report, locked up at U.N. headquarters and never publicly released, is woefully incomplete. The Sonja's Kon-Tiki incidents were not fully investigated, for example, because the Serbs didn't allow U.N. investigators to visit the site, and the soldiers' daily logbooks had been destroyed.

Meanwhile, Russian troop commanders have collaborated with the Serb aggressors. According to U.N. personnel at the scene, Russian battalion commander Col. Viktor Loginov and senior officer Col. Aleksandr Khromchenkov frequented lavish feasts hosted by a Serbian warlord known as "Arkan," widely regarded as one of the worst perpetrators of atrocities. It was also common knowledge that Russian officers directed U.N. tankers to unload gas at Arkan's barracks. During one cease-fire, when Serbian matériel was locked in a U.N. storage area, a Russian apparently gave the keys to the Serbs, who removed 51 tanks.

Eventually, Khromchenkov was repatriated. Loginov, after finishing his tour of duty, joined Arkan's Serbian forces.

Problems remained, however, under the leadership of another Russian commander, Maj. Gen. Aleksandr Perelyakin. Belgian troops had been blocking the movement of Serb troops across a bridge in northeastern Croatia, as required by U.N. Security Council resolutions. Perelyakin ordered the Belgians to stand aside. Reluctantly they did so, permitting one of the largest movements of Serbian troops and equipment into the region since the 1991 cease-fire.

According to internal U.N. reports, the U.N. spent eight months quietly trying to pressure Moscow to pull Perelyakin back, but the Russians refused. The U.N. finally dismissed him last April.

CAMBODIA

In 1991, the United States, China and the Soviet Union helped broker a peace treaty among three Cambodian guerrilla factions and the Vietnamese-installed Cambodian government, ending 21 years of civil war. To ease the transition to Cambodia's first democratic government, the U.N. created the U.N. Transitional Authority in Cambodia (UNTAC). In less than two years, about 20,000 U.N. peacekeepers and other personnel were dispatched at a cost of $1.9 billion.

Some of the Cambodian "peacekeepers" proved to be unwelcome guests—especially a Bulgarian battalion dubbed the "Vulgarians." In northwest Cambodia, three Bulgarian soldiers were killed for "meddling" with local girls. One Bulgarian was treated for 17 different cases of VD. The troops' frequent carousing once sparked a mortar-rifle battle with Cambodian soldiers at a brothel.

The Bulgarians were not the sole miscreants in Cambodia, as internal U.N. audits later showed. Requests from Phnom Penh included 6500 flak jackets—and 300,000 condoms. In the year after the U.N. peacekeepers arrived, the number of prostitutes in Phnom Penh more than tripled.

U.N. mission chief Yasushi Akashi waved off Cambodian complaints with a remark that "18-year-old hot-blooded soldiers" had the right to enjoy themselves, drink a few beers and chase "young beautiful beings." He did post an order: "Please do not park your U.N. vans near the nightclubs" (i.e., whorehouses). At least 150 U.N. peacekeepers contracted AIDS in Cambodia; 5000 of the troops came down with VD.

Meanwhile, more than 1000 generators were ordered, at least 330 of which, worth nearly $3.2 million, were never used for the mission. When U.N. personnel started spending the $234.5 million budgeted for "premises and accommodation," rental costs became so inflated that natives could barely afford to live in their own country. Some $80 million was spent buying vehicles, including hundreds of surplus motorcycles and minibuses. When 100 12-seater minibuses were needed, 850 were purchased—an "administrative error," UNTAC explained, that cost $8.3 million.

Despite the excesses, the U.N. points with pride to the free election that UNTAC sponsored in May 1993. Ninety percent of Cambodia's 4.7 million eligible voters defied death threats from guerrilla groups and went to the polls.

Unfortunately, the election results have been subverted by the continued rule of the Cambodian People's Party—the Vietnamese-installed Communist government, which lost at the ballot box. In addition, the Khmer Rouge—the guerrilla group that butchered more than a million countrymen in the 1970s—have refused to disarm and demobilize. So it was predictable that they would repeatedly break the ceasefire and keep up their killing. The U.N. has spent nearly $2 billion, but there is no peace in Cambodia.

SOMALIA

When civil war broke out in this African nation, the resulting anarchy threatened 4.5 million Somalis—over half the population—with severe malnutrition and related diseases. U.N. Secretary General Boutros Boutros Ghali, the first African (and Arab) to hold the position, argued eloquently for a U.N. peacekeeping mission to ensure safe delivery of food and emergency supplies. The U.N. Operation in Somalia (UNOSOM) was deployed to Mogadishu, the capital, in September 1992. It was quickly pinned down at the airport by Somali militiamen and was unable to complete its mission.

A U.S. task force deployed in December secured the Mogadishu area, getting supplies to the hungry and ill. After the Americans left, the U.N. took over in May 1993 with UNOSOM II. The $2-million-a-day operation turned the former U.S. embassy complex into an 80-acre walled city boasting air-conditioned housing and a golf course. When U.N. officials ventured out of the compound, their "taxis" were helicopters that cost $500,000 a week.

The published commercial rate for Mogadishu-U.S. phone calls was $4.91 a minute, but the "special U.N. discount rate" was $8.41. Unauthorized personal calls totaled more than $2 million, but the U.N. simply picked up the tab and never asked the callers to pay.

Meanwhile, the peacekeeping effort disintegrated, particularly as warlord Mohammed Aidid harassed UNOSOM II troops. As the civil war continued, Somalis starved. But U.N. peacekeepers—on a food budget of $56 million a year—dined on fruit from South America, beef from Australia from frozen fish from New Zealand and the Netherlands.

Thousands of yards of barbed wire arrived with no barbs; hundreds of light fixtures to illuminate the streets abutting the compound had no sockets for light bulbs. What procurement didn't waste, pilferage often took care of. Peacekeeping vehicles disappeared with regularity, and Egyptian U.N. troops were suspected of large scale black-marketing of minibuses.

These losses, however, were eclipsed in a single night by an enterprising thief who broke into a U.N. office in Mogadishu and made off with $3.9 million in cash. The office door was easy pickings: its lock could be jimmied with a credit card. The money, stored in the bottom drawer of a filing cabinet, had been easily visible to dozens of U.N. employees.

While the case has not been solved, one administrator was dismissed and two others were disciplined. Last summer, UNOSOM II itself was shut down, leaving Somalia to the same clan warfare that existed when U.N. troops were first deployed two years before.

RWANDA

Since achieving independence in 1962, Rwanda has erupted in violence between the majority Hutu tribe and minority Tutsis. The U.N. had a peacekeeping mission in that nation, but it fled as the Hutus launched a new bloodbath in April 1994.

Only 270 U.N. troops stayed behind, not enough to prevent the butchery of at least 14 local Red Cross workers left exposed by the peacekeepers' swift flight. The U.N. Security Council dawdled as the dead piled up, and a daily horror of shooting, stabbings and machete hackings. The Hutus were finally driven out by a Tutsi rebel army in late summer 1994.

Seven U.N. agencies and more than 100 international relief agencies rushed back. With a budget of some $200 million, the U.N. tried unsuccessfully to provide security over Hutu refugee camps in Rwanda and aid to camps in neighboring Zaire.

The relief effort was soon corrupted when the U.N. let the very murderers who'd massacred a half million people take over the camps. Rather than seeking their arrest and prosecution, the U.N. made deals with the Hutu thugs, who parlayed U.N. food, drugs and other supplies into millions of dollars on the black market.

Earlier this year the U.N. began to pull out of the camps. On April 22 at the Kibeho camp in Rwanda, the Tutsi-led military opened fire on Hutu crowds. Some 2000 Hutus were massacred.

Where was the U.N.? Overwhelmed by the presence of nearly 2000 Tutsi soldiers, the 200 U.N. peacekeepers did nothing. A U.N. spokesman told Reader's Digest, meekly, that the U.N. was on the scene after the slaughter for cleanup and body burial.

With peacekeeping operations now costing over $3 billion a year, reform is long overdue. Financial accountability can be established only by limiting control by the Secretariat, which routinely withholds information about peacekeeping operations until the last minute—too late for the U.N.'s budgetary committee to exercise oversight.

In December 1993, for example, when the budget committee was given one day to approve a $600-million budget that would extend peacekeeping efforts into 1994, U.S. representative Michael Michalski lodged an official protest: "If U.S. government employees approved a budget for a similar amount with as little information as has been provided to the committee, they would likely be thrown in jail."

More fundamentally, the U.N. needs to reexamine its whole peacekeeping approach, for the experiment in nation building has been bloody and full of failure. Lofty ideas to bring peace everywhere in the world have run aground on reality: member states with competing interests in warring territories, the impossibility of lightly armed troops keeping at bay belligerent enemies, and the folly of moving into places without setting achievable goals.

"It has been a fundamental error to put U.N. peacekeepers in place where there is no peace to keep," says Sen. Sam Nunn (D., Ga.), ranking minority member of the Senate Armed Services Committee. "We've seen very vividly that the U.N. is not equipped, organized or financed to intervene and fight wars."

[From the Paris Match, Oct. 5, 1995]

OUR PILOTS ARE PRISONERS OF THE SERBS

(Translated by David Skelly)

Two tiny points in an incandescent sky. These images have been holding us in cruel suspense for nearly a month. The two points are two French officers, a captain pilot and a lieutenant navigator, shot down on August 30 in their Mirage 2000-K2, almost directly above Pale, the capital of the Bosnian Serbs, during the first NATO raid. Three exfiltration missions according to the CSAR (combat, search and rescue procedure), which had succeeded in rescuing Captain O'Grady, failed. The Serbs have confirmed that they are holding two men alive, but no one, not even the Red Cross envoys has actually seen them. These photos reached us from Pale. Here are the faces of the two prisoners whom France has been anxiously waiting to see. The first scenes of their captivity.

Peasants turned the lieutenant over to the 'special forces commandos'.

Being helped to walk by two Serbs from their special forces, Lieutenant Jose Souvignet seems to be suffering from a leg wound. Peasants turned the two airmen over to the "specijali," who have been hiding them from the whole world ever since.

The captain, Frederique Chiffot, snarls at his guards.

Contrary to what happened with the American pilot, ours were brought down in broad daylight, above a mountain in an area with a high density of Serbian soldiers. Militiamen in the city of Pale were able to be there when they came down, and so it was impossible for the Frenchmen to escape. As soon as they hit ground they were captured and stripped of their warning, location, and survival equipment. Since these unique photos were taken, probably very shortly after their capture (in the foreground, a militiaman is still holding their helmets), they have probably been moved from their place of captivity, making it very difficult to exfiltrate them.

According to rare Serbian information, it was thought that only Lieutenant Jose Souvignet had a leg wound. But here, Captain Frederique Chiffot, grimacing at the camera, also seems to be supported by members of the militia.

Three attempts already: NATO is doing everything possible to free them.

From September 5th to the 8th, three times over, NATO commandos have flown off in search of the two Frenchmen. These very complicated missions make use of airplanes and helicopters which have taken off from different bases, from Italian territory or the aircraft carrier "Theodore Roosevelt." On board this ship, the Admiral Smith's general staff is coordinating, second by second, the delicate precision engineering of this warriors' ballet. The first attempt was completely American, but the weather was not on our side. The second and third attempts were French and American. Only the latter enabled the commandos to set down on a meadow near Pale. In vain. They had to withdraw under fire from the Serbs before having found the prisoners. When they were taken back up in the helicopter, two had been wounded.

In the control room of the "Theodore Roosevelt" operations are being followed in real time. It was in an identical Mirage 2000 that the two pilots were brought down. Photos of the debris from the crash were widely disseminated in the press by the Serbs.

□ 1745

CHINA'S TOP DISSIDENT CHARGED 20 MONTHS AFTER DISAPPEARANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise to call attention to the House of Representatives and indeed further attention of our country to a recent event that happened in China. Last week, the Chinese Government formally charged Wei Jingsheng with trying to overthrow the Government of China. This is a source of very serious concern to all of us who care about human rights in China.

As you may recall, Mr. Speaker, Wei Jingsheng is China's foremost democracy advocate. He has been called the Sakharov of China. Many years ago, over 15 or 16 years ago, he was arrested by the Chinese Government for his pro-Democracy Wall activities.

Early on he spoke out for democracy, the need for democracy in China. He had been a soldier and an electrician and was sentenced to 15 years in prison. He served most of that sentence, and about 6 months ago, the Chinese released him when they were trying to put on a good face in order to attract the Olympics to China. You may recall that campaign.

Six months later, he was quickly rearrested after speaking openly for democracy and human rights, granting interviews to foreign reporters, meeting, indeed, with our own Secretary of State, Assistant Secretary of State for Human Rights, John Shattuck, and writing essays for overseas publications, including the New York Times.

He was taken into custody on April 1, 1994, and has not been seen or heard from since. His family has not been allowed to see him, and requests from foreign governments and international rights groups for information on his case have gone unanswered.

After repeated inquires by his family, the Public Security Bureau acknowledged in April that Wei was under a form of house arrest. Since then the Chinese officials have merely referred to him as a criminal and have said that, without elaborating, he was under investigation. Now the Chinese Government has acted. They have officially charged him with a capital offense, trying to overthrow the Government.

This is, of course, ridiculous. However, the charge is of such seriousness and the nature of the Chinese judicial system of such concern that I call this to our attention. Trials in China are usually swift, in secret, and behind closed doors. The verdict is usually predetermined and severe. Attempting to overthrow the Government, as Wei Jingsheng is mistakenly charged with, is considered a political crime which can be punished by death.

Many of our colleagues in this body and in the Senate, indeed parliamentarians throughout the world, nominated Wei Jingsheng earlier this year for the Nobel prize. We were proud to do so.

I am calling this to the attention of the House of Representatives because I hope that we will have a resolution out of this body condemning the charges against Wei Jingsheng and calling for his immediate and unconditional release and demanding that if indeed he does go to trial, that foreign media and diplomatic observers be allowed to attend.

I mentioned that Wei Jingsheng had met with Assistant Secretary of State John Shattuck in April, and since then he has been, as I say, detained, and now charged. This is very serious for the United States, because our Government has said that we will not use certain methods to improve human rights in China, we would not use economic sanctions, but we would do other things, and right now this administration has not spoken out strongly enough against the charging of Wei.

I recently wrote to the Vice President, Vice President Gore, asking him for a strong statement from the Clinton administration. Only strong public expressions of concern and interest at our highest levels will be read by the Chinese leadership as a true indicator of American policy regarding Wei and other democracy advocates. If we do not raise the issue of Wei's charges, it could be read as tacit consent by the United States of whatever fate China has chosen for Wei Jingsheng.

The public intervention of the Clinton administration is most important in establishing United States policy regarding the treatment of Wei Jingsheng, clearly and unequivocally. The need for public and strong statement at the highest levels, I repeat, of the Clinton administration is critical given China's foreign ministry statement last week that the United States stop its confrontation with China at the U.N. Commission at Human Rights in Geneva. Such a statement, coupled with Wei's charge, is a challenge to the United States we must answer.

Mr. Speaker, I am very hopeful that the Clinton administration will indeed speak out. They were very, very strong in sending a message to the Chinese about Harry Wu. I commend them for their actions. That was responsible for Harry Wu's release. I hope they will do the same thing in the case of Wei Jingsheng and look forward to working with them and the Members of this body to free Wei Jingsheng.

INJUSTICE IN REDISTRICTING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Georgia [Ms. McKINNEY] is recognized for 60 minutes as the designee of the minority leader.

Ms. McKINNEY. Mr. Speaker, I feel compelled to at least make a statement about what we have heard over the last hour. I would just like to say that George Bush proclaimed a New World Order, but Bill Clinton is making one.

Bosnia is not about war, it is about peace. In the ethnically diverse community of Dayton, OH, three warring ethnic groups came together, sat down at a table, and made peace. I really do not understand how people can advocate pouring billions of dollars into a defense establishment to make war, and at the same time they can deny sick kids Medicaid, they can raise taxes on the working poor, but they are not willing to make peace. I do not understand that.

Also, I would just like to say a few words about an announcement that I heard about today, about the retirement of one of our leaders, the gentlewoman from Colorado [Mrs. SCHROEDER]. I would just like to say that she is a trailblazer, a role model for all of us, and a real leader. Her leadership in the 105th Congress is sorely going to be missed. But because of her leadership I do not know how many Congresses before, she has made a way for me and other women who now serve in Congress, and her outspokenness on issues affecting families and children and women and men alike, really, has been really a beacon I guess, for all of us.

Ms. PELOSI. Mr. Speaker, if the gentlewoman would yield, I thank her for the opportunity to join in paying tribute to our colleague, PAT SCHROEDER. It cannot be said better than you have done commending Representative SCHROEDER for her leadership. It is a sad day for us in the House of Representatives on the day that she announced she would not be seeking reelection.

Whether they know it or not, women across America, and, as you say, indeed men too, owe PAT SCHROEDER a great debt of gratitude. Through her leadership on issues relating to families and children, she has changed the public policy in that regard. It is our most important issue in fact that we deal with here, the issue of children.

But on this day in this House of Representatives, when on the one hand we are talking about the possibility of sending our young people to keep the peace in Bosnia, and at the same time we are talking about human rights throughout the world and talking about family and children, there is a person who served us here with great leadership, an articulate spokesperson for children, for human rights, for peace, and, at the same time, a strong, strong voice on the Committee on National Security, now called I think the Committee on National Security. So her expertise and her voice was heard across the spectrum of issues in our budget priorities. She has led us well. I hope she will continue to outside of Congress. I know she has plenty of wonderful options open to her, but, nonetheless, as happy as we are for her on her decision, it is a sad day.

I speak for myself and my constituents when I say that her presence in this Congress for this country will be sorely missed.

Ms. McKINNEY. Mr. Speaker, I do want to say one thing. I would like for Congresswoman SCHROEDER to come to this floor and tell the story, because I know she can tell it much better than I would ever be able to tell it, but she came to this Congress at a time when you just did not have women serving on the Committee on National Security and women serving in this Congress. She tells the story of how the chairman had she and the gentleman from California, RON DELLUMS, share a single chair. Those are the kinds of stories that this leader had to endure in order to make sure that I could get a full seat in the U.S. Congress. Her story is a wonderful story that needs to be told, and her leadership has benefited us all.

Ms. BROWN of Florida. If the gentlewoman will yield, I would just like to associate myself with those remarks about our leader. She has certainly been a role model for the women in Congress. Her leadership not only will be missed, but it is going to make our work extremely hard, because she has been just a Trojan for women's issues, for children's issues, and more national security issues. So this is truly a sad day for all of us.

Ms. McKINNEY. It certainly is.

Mr. Speaker, changing our focus a little bit, I would like to ask a question, and the question is, what happens to a jogger, someone who strategizes, maps out a fitness routine, and the regime that is mapped out is done so that a target heart rate can be reached; and, unbeknownst, to our jogger, without any knowledge at all of our jogger, the wrong target heart rate has been given. Then the folks who gave the wrong heart rate allow the jogger to go out and jog. What happens? The jogger could die.

The issue that I am about to talk about is a real issue of life and death, political life and political death. In my opinion, we have a few southerners who have conspired to orchestrate the political death of blacks, Latinos, and women. I have a transcript of a Florida hearing that just took place.

Ms. BROWN of Florida. It was a response to a pretrial hearing on Monday, October 19.

Ms. McKINNEY. It reads, "At the time the Degrande court drew the districting lines for the State of Florida, it engaged in a good faith effort to adopt a politically neutral redistricting plan that would enhance the voting opportunities for African-American and Hispanic voters. The Degrande court closely followed the dictates of the Voting Rights Act and traditional redistricting principles throughout this process. This court must now reexamine the redistricting lines drawn by plan 308 and decide whether the contours of District 3 are unconstitutional in light of Shaw versus Reno and Miller."

What this means is that in Florida the legislature did not draw the current congressional lines, the court did it, and when the court drew the lines, the court was operating in good faith, trying to do things that were beneficial to all of the people of the State of Florida. Now, because of what happened in North Carolina and what happened in Georgia, all of that is subject to change.

Joining us is the gentlewoman from Florida [Mrs. MEEK]. But let me give you just a brief history.

First of all, the Florida legislature could not pass a plan, so the courts had to intervene so that we could have elections in Florida. Now, there are many reasons why the Florida legislature could not pass a plan, but basically it was politics, politics, and more politics.

□ 1800

Everyone that was in charge of redistricting was running for Congress.

It is hard to take the politics out of politics.

Ms. BROWN of Florida. You cannot take the politics out of politics.

However, the courts drew the plan for Florida, and, basically, we are now at the stage where there was a ruling last Monday in that the courts ruled, with a dissent, that the Third Congressional District was racial gerrymandering but still could be constitutional, and we will go to a hearing or a trial early next year to determine based on Shaw versus Reno and the case of Georiga.

Ms. McKINNEY. I have a question to ask the gentlewoman, before she gets into her remarks, and it is my understanding that her district, the district that she represents, is 50 percent black and 50 percent white.

Ms. BROWN of Florida. Yes.

Ms. McKINNEY. How can race be the predominant factor in a 50–50 district?

Ms. BROWN of Florida. Well, it is not quite 50–50. It is 50.1 or 2.

Ms. McKINNEY. 50.1. So that makes it race-predominant.

Ms. BROWN of Florida. Well, the fact is my district is one of the most integrated districts in Florida, if not in the country.

Ms. McKINNEY. If not in the country.

Ms. BROWN of Florida. If not in the country. So race was a factor, but just one of many factors.

In fact, I am very proud of the Third Congressional District of Florida. Many of the people I represent were disenfranchised before my election. If we go back and just look at the way the voter participates in these districts, for example when we come out of an area and we are getting 80 percent of the vote, black and white, what does that tell my colleagues? That tells me that there is balance in my district. I have one of the most Democratic districts in the State of Florida.

Ms. McKINNEY. But the gentlewoman's district was challenged.

Ms. BROWN of Florida. Challenged, that is correct, and we are headed to court.

Ms. McKINNEY. I am sure that this is costing the taxpayers of Florida an inordinate amount of money.

Ms. BROWN of Florida. And time, and also the frustration on the people of the Third Congressional District. Often my constituents come to me and say what are they trying to do to our district? Why is it that the voters from the Third Congressional District and other districts in Florida have to wrestle with the question of whether or not we are going to have our district?

Ms. McKINNEY. Well, Mr. Speaker, we have been joined by the gentlewoman from Florida [Mrs. MEEK] who served illustriously in the Florida legislature and probably knows more——

Ms. BROWN of Florida. If I may ask the gentlewoman to yield just for a moment to let me say one thing about the gentlewoman from Florida [Mrs. MEEK].

Ms. McKINNEY. Certainly.

Ms. BROWN of Florida. Mrs. MEEK served in the Florida House, but when she was elected some 13 years ago to the Florida Senate, it was the first time in over 100 years that we elected a black to the Florida Senate, and she was the first black female ever elected to the Senate. So we do not have a long history in Florida of inclusion.

And, in fact, before our election in 1992, it was the first time in over 100 years, I am sorry, 120 years, that an African-American came to this Congress to represent Florida, even though Florida's population, as far as minorities is concerned, is over 40 percent. Good-old-boy politics has controlled how the districts have been drawn throughout Florida.

I do not know about any other place, but I can tell my colleagues about the history of Florida, and I know the gentlewoman from Georgia wants to yield to Mrs. MEEK.

Mrs. MEEK of Florida. Mr. Speaker, I want to thank my colleagues and compliment and commend them for having called this special order to talk to the country about some of the things that have happened in reapportionment.

I am reminded of a saying that the more things change, the more they remain the same. The gentlewoman from Georgia [Ms. McKINNEY] has been on the forefront of this, and so has the gentlewoman from Florida [Ms. BROWN] but I want to say to them that it is just amazing and also ironic that after all of these years we are still fighting for the same thing that many had to fight for years ago.

I need to say to my two colleagues that their efforts will be rewarded, as well as all the rest of us. We must raise the consciousness level of the country as to what is happening in the reapportionment and apportionment fight. As everyone knows, every 10 years the census is taken, and then comes the reappointment process.

I am reminded of the struggle that I have undertaken in this for 10 or more years, and I am reminded of what the poet, Robert Frost, once wrote about; these woods are lovely, dark and deep, and I am tempted to sleep; but I have promises to keep, promises to keep, and miles to go before I sleep.

That is what has happened to my colleagues here. They know this has been a fight from the very beginning. I can recall when I went to the Florida legislature in 1979. There were only two blacks in the Florida legislature, and they were certainly not treated, Ms. McKINNEY, the way we are treated today. They were treated as blacks, and they pretty much were isolated from the other people there.

When I went, in 1979, I was able to participate in the reapportionment of the Florida legislature, and because of that we were able to bring on Ms. BROWN and all of my other colleagues who came after me.

Ms. McKINNEY. If the gentlewoman would allow me to reclaim my time for a moment. The tool that the gentlewoman used was the Voting Rights Act.

Mrs. MEEK of Florida. Yes, I did, and it was under attack even then. The most amazing thing is that we were able to bring Ms. BROWN and five other people there in the House but we were unable to get a congressional seat. We had the numbers then. There were enough African-American inhabitants in the population of Florida, but my colleagues would be surprised to know that every congressperson from this body, from Florida, had either a paid consultant or someone there to be sure that their influence could be felt in the reapportionment process.

Ms. McKINNEY. So, actually, what the gentlewoman is saying is that the Members of Congress and the legislators were picking their voters before the voters had a chance to pick their representatives.

Mrs. MEEK of Florida. Absolutely. My colleagues would be surprised at how they utilized the black populace, in that they really fought hard to get the African-Americans, particularly the Democrats, because what they wanted to do was to be sure they had enough African-Americans in their district, in their congressional district, to be sure that they came back to Congress. Because, naturally, it was sort of traditional and fully accepted during that time that if an individual were black, they were Democrat and they would vote for a white Congressman who represented their district.

I want to give my colleagues another example of what happened, and I am surprised that they are looking at the gentlewoman from Florida's district and talking about gerrymandering, because hers certainly is not nearly as gerrrymandered as the district that sent me to the Florida Senate. When I came from the house, I was on the reapportionment committee and I could see what was happening to us in the Florida house. I lived in Liberty City. My representative in the Florida Senate lived across Biscayne Bay, a body of water, all the way over on Miami Beach. He represented 103,000 African-Americans. Yes, he was our representative in the senate.

It shows my colleagues that this gerrymandering, that I am a living example of what happens. So I insisted that that seat be removed from over on that side and we be given the representation that we so direly deserved and needed, and that is how I got to the Florida Senate, by doing what the gentlewoman from Georgia and the gentlewoman from Florida are doing now, fighting for the representation that I knew that we needed to have.

Ms. McKINNEY. Congresswoman, there is an article here that I have from the Florida Times Union of November 24 where a noted political scientist from the University of Georgia is quoted as saying if a white Congressman has a 10-percent or 20-percent minority constituency, they might not have a person who votes 100 percent of the time with the black agenda but they will get those votes from him some of the time. So, apparently, representation some of the time is Ok.

Mrs. MEEK of Florida. It was OK because what they were doing was using us as mayonnaise on the sandwich to be sure that they got a chance to come back to Congress instead of utilizing us and using us to represent us.

I really feel very emotional about this situation, and to see now that my young sisters have picked up this battle and they are running hard and winning it, it just gives me such pleasure to see when the gentlewoman from Georgia and the gentlewoman from Florida stand up and talk about this.

We did not have the technology available that my colleagues have now. I had to draw my maps with a piece of crayon to try to quickly show, because we were not allowed on the computers at that time, and the computers were just coming in, and they had these maps already drawn. But I think with the two of my colleagues, their maps and their legal representation, they have it all.

Ms. McKINNEY. We have everything except the Supreme Court.

Mrs. MEEK of Florida. Everything but the Supreme Court, that is right.

And what Mrs. Bethune would say, when she saw the kind of fight that the gentlewoman from Georgia and the gentlewoman from Florida have put up, she would say what hath God wrought. So God has wrought that these two sisters here would keep up this fight, which we have had all these years, and to stand here tonight and to see how the two of my colleagues are pushing forward to be sure that we do not get misrepresented again, and that the people that we represent will have representation in Congress and in the statehouses and all over this country.

I have been in several legal fights for reapportionment, and even though I am a little beyond the age that these young women are, I expect to continue to do so. But it is good to be here in the Congress and to know that, Ms. McKINNEY, there are people in this country who know that the gentlewoman from Georgia and the gentlewoman from Florida and the rest of us have served notably here in the Congress, and it was not because of the color of our skin but the content of our character.

Ms. McKINNEY. Oh, you are wonderful.

We also know that this cold wind that has blown across the South did not start in Georgia and it did not stop in Florida. Actually, I think it probably started in North Carolina. And we have the subject of the North Carolina redistricting fight on the floor with us.

And we also know that it swept through Texas, and we have the gentlewoman from Dallas with us; and we hope that Alabama will be spared, but we have the gentleman from Alabama with us, and I will yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I thank the gentlewoman for yielding, and I thank and applaud the gentlewoman from Georgia and the gentlewoman from Florida for organizing this special order this evening so that we can highlight the issue of voting and the issue of democracy in this country, really.

I came in when my colleagues were all paying tribute to our colleague, the gentlewoman from Colorado, PAT SCHROEDER, who has indicated that she is not planning to run again after serving out this term, and I want to join with them first in paying a special tribute to her and join in expressing the sentiments that others have expressed, that she will be missed very much by those of us who have admired her and followed her lead on many issues.

Second, I want to say that tomorrow, in Durham, NC, there is an opening of a traveling exhibition which is called "The long road up the hill. African-Americans in Congress." I was on the phone before I came over here talking to a newspaper reporter in Raleigh-Durham about that exhibit, and I pulled out the press release that had been issued about that exhibit. It catalogs the history of African-Americans in the Congress of the United States, and I thought it might be helpful to take a minute or two, if the gentlewoman would allow me, to put this in a historical context.

Ms. McKINNEY. I certainly will.

Mr. WATT of North Carolina. The gentlewoman says this hurricane started in North Carolina in 1993 or 1992. It really started in the South more than 100 years ago.

□ 1815

And I think we really need to keep that in perspective. So, if I could, let me talk a little bit about the historical context that we are dealing with.

Between 1870 and 1897, after the 13th, 14th, and 15th amendments had freed the slaves and granted them citizenship and the right to vote, Southern States actually elected 22 black men to Congress. And this is not a sexist thing. It just happened that all of them were men at that time. Some had been slaves; other had been born free. All of them, ironically, during that period from 1870 to 1897, were members of the Republican Party, which was the party at that time that most black people associated themselves with.

In 1870, a black minister was tapped to fill Confederate President Jefferson Davis' unexpired Senate term. Hiram Revels of Mississippi became the first American of African descent to serve in the Senate. That same year, Joseph Rainey was sworn into office in the House of Representatives; Jefferson Long of Georgia was sworn into the House 1 month later. Rainey went on to serve five terms, often speaking in favor of civil rights legislation, outlawing racial discrimination in juries, schools, public accommodations and transportation.

Many of the early African-American Congressmen introduced bills calling for education and land ownership for blacks and removal of what was called cotton taxes. Most of those bills died in committee because their sponsors often lacked the support of their white colleagues. That might sound familiar to some of us in this day and time.

During the chaotic Reconstruction years, defeated white politicians disputed the elections of blacks to Congress 21 times. So, this is not a new phenomenon that we are dealing with. Congressmen whose elections were challenged often were not sworn in until a House committee had reviewed the evidence and found in their favor. Several black lawmakers were not seated for many months. Some were not sworn in until a short time before the end of their terms. Two duly elected Congressmen who were elected, black Congresspeople, never, ever got to serve.

Finally, a story that I can relate to, by the time we got to the late 1800's, there was only one black African-American left in the Congress of the United States. He was a gentleman from North Carolina. His name was George H. White, and he was the last former slave to serve in Congress. He took the oath of office in March 1897, and after an election in 1898, in which the evidence indicated that even in precincts where there were only 200 or 300 people registered, in some cases 700 or 800 people voted and he was voted out of office. He took to the floor of the House of Representatives in 1901 and made a historic speech in which he professed to be speaking on behalf of the outraged, heartbroken, bruised and bleeding, but God-fearing people. He went on to predict that someday, someday, black representatives would rise up and come again to this House of Representatives. That was in 1901.

His prophesy did not become a reality that we would have another black Representative in Congress until 28 years later, Mr. Speaker, 28 years later.

Ms. McKINNEY. But how many years from North Carolina did it take?

Mr. WATT of North Carolina. That was the next point I wanted to make. It was not until the gentlewoman from North Carolina, EVA CLAYTON, my colleague, and I were elected in 1992, 91 years later, that an African-American was elected to Congress from the State of North Carolina.

So, the point I am making, and I will yield back to you all to carry this on, is this is not a new phenomenon. We have been fighting this battle since years and years and years ago, and we fought it in the face of literacy tests, where people were required to read and interpret documents before they were allowed to vote; grandfather clauses, which prohibited people from voting unless their grandfathers had voted, keeping freed slaves from casting ballots; poll taxes which kept poor people, blacks and whites alike, from voting;

lynchings, which were flourishing throughout the South, and now in that historical context, the Supreme Court would ask us to be color-blind as a Nation and go back to a situation where we are absent minority representation in Congress.

Ms. BROWN of Florida. Will the gentleman yield just for 1 minute?

I have my horror story that I want to put in. Florida's horror story. At the time Josiah Wells was the first Member of Congress from Florida. He was elected to the House of Representatives in 1879 from Gainesville, FL. I represent Gainesville, FL, which is in the Third Congressional District. Josiah Wells' election was challenged and he lost his seat after only 2 months in office. However, by that time he had already been reelected to a new term. But listen, believe it or not, his next victorious election was challenged after the ballots were burned in the courthouse fire, ending the first congressional career of Florida's first black Representative. It took Florida 120 years to elect another African-American.

Mr. Speaker, I submit the following for the RECORD.

Next week, the Supreme Court will hear arguments in yet another round of reapportionment cases; it has an opportunity to end the mischief started in 1993 when it announced its decision in Shaw versus Reno. In the Shaw case, the Court ruled that white voters can state a claim under the equal protection clause of the 14th amendment if they allege that a district is so irregular or bizarrely shaped that it could only be understood as a racial gerrymander. Last term, in reviewing a Shaw-type attack on the congressional redistricting plan in Georgia, the Court went a step further. It ruled that where race is the predominant factor in redistricting that has resulted in the substantial disregard of traditional redistricting principles, then a district is presumed to be unconstitutional.

When Shaw was first handed down, a number of civil rights groups and political observers felt that the decision would have minimal impact. But the Shaw decision has taken on a life of its own. Cases attacking congressional districts as alleged racial gerrymanders are pending in Florida, Texas, North Carolina, Louisiana, State legislatures, and local governments.

Of course, it troubles me a great deal that the end result of all these cases may return us to the pre-voting rights days when the Halls of Congress were reserved for white males. In those days, congressional districts drawn to protect white incumbents, no matter how bizarre or irregular they looked, and regardless of the all-white racial composition, the districts were viewed as politics. Eliminating districts where minority voters comprise a bare majority of the voters will return us to the days of segregation when Congress resembled an all-white club.

As troubling as all this is, I am equally concerned that the Supreme Court has refused to look at facts. The Court has consistently overlooked that in each of the States where the challenged majority minority districts were drawn, racially polarized voting patterns existed. What this means is that before the majority minority districts were drawn, a factual basis existed that minority voters were politically cohesive, that is, they supported minority candidates, and whites usually voted as a bloc to defeat the minority voters' preferred candidate. This is important because not only is the creation of majority minority districts necessary to overcome the effects of the white bloc vote, but the Supreme Court itself has consistently recognized in decisions spanning the last 20 years that such racial bloc voting has been the principal cause of minority vote dilution.

What is especially troubling about this is that the Court seems to have accepted racial bloc voting as a fact of political life, but chooses to ignore the reality of its impact. Thus, in the Georgia case, the Court said that the deliberate creation of majority minority districts may increase the very patterns of racial bloc voting that majority minority districts are said to counteract. In fact, the developing evidence that the opposite may be true, that creation of majority minority districts may be reducing, not increasing, bloc voting.

Consider, for example, the majority minority congressional district in Mississippi created in the 1980's. The district was barely majority black and in 1986, Congressman Mike Espy was elected. In his first election, Espy generated only 21 percent of the white vote. In Espy's reelection bid in 1988 and 1990, nearly half of the white voters in the district voted for him. Other members of the Congressional Black Caucus have reported similar increases in white support after their initial reelection. We attribute this increase in crossover voting in two circumstances: First, our decision to represent all our voters regardless of race; and second, a reduction in white fear and harmful stereotyping that may have predated our initial election.

The creation of minority opportunity districts comprised of a majority black voting age population does not entrench racial bloc voting. Although, there is a need to study the evidence that is available on this point, what evidence there is suggests that the creation of majority-minority districts promotes a political system in which race does not matter as much as it did before.

Along with a number of African-Americans, I was elected to Congress in 1992 in a district that was one of the most integrated in my State. My district is roughly 50 percent black and 50 percent white in voting population. Does that sound segregated or gerrymandered? All of my constituents are important to me, whether they are black or white. That would be true whether my district was 50 percent black or 99 percent black. My district is one of the most Democratic districts in the State of Florida. Many of my voters had been disenfranchised.

Redistricting since the 1990 census has marked tremendous gains for women and minorities. 1992, the year I was elected to Congress, was very historic for Florida. For the first time in over 120 years, an African-American was elected to Congress from Florida. At the same time I was elected to represent the Third Congressional District, my colleagues, Representative CARRIE MEEK and Representative ALCEE HASTINGS, were also elected to represent Florida in Congress. Sixteen new African-American Members, most from the South, were seated in the House of Representatives and one African-American Senator, CAROL MOSELY-BRAUN, was seated, expanding the number of Congressional Black Caucus Members to 40, the largest ever. There are now 57 women, 19 Hispanics, 8 Asians, and 1 American-Indian. This is the highest number of minorities to ever serve in the history of the U.S. Congress. Despite these gains, less than 2 percent of the elected officials in this country are black. We still need the Voting Rights Act, we still have a long way to go. I, and others, would not have the privilege of serving in Washington if it were not for the courage and sacrifice of those great leaders who led the way before us.

Let me tell you a little bit about a great leader, Josiah Wells, who was Florida's first Member of Congress. Josiah Wells was first elected to the House of Representatives in 1879, from Gainesville, FL, which is in the Third Congressional District. Josiah Wells' election was challenged and he lost his seat after only 2 months in office. However, by that time, he had already been reelected to a new term. Believe it or not, his next victorious election was challenged after ballots were burned in a courthouse fire. And thus ended the congressional career of Florida's first Black representative.

Once Reconstruction began, 21 black Congressmen were elected from the South between 1870 to 1901. However, after 1901, when Jim Crow tightened his grip, no black person was elected to Congress from the South for over 70 years. It is more timely than ever, to study what happed to black representation during Reconstruction. This period may seem like ancient history, but what happened then seems to be happening all over again.

The court would do well to consider these facts, rather than assuming the worst about the body politic and African-American Members of Congress. Integrated districts like mine are good for minority voters because they provide for electoral opportunities where none previously existed. They are also for democracy in the sense that they help to break down racial isolation and polarization.

When a minority group like African-Americans, who were denied a representative in the Florida delegation for 120 years before my election in 1992, are able to elect their candidate to Congress, it makes our Government more legitimate because it is more inclusive and less prone to bias. I cannot understand why the Supreme Court would want it any other way, yet their decisions up to now are leading us precisely down that path. Because I have faith in the system and in the rule of law, I remain hopeful that the Court see these truths to be self-evident.

Mr. WATT of North Carolina. The point is that there were funny things going on in that time, and there are funny things going on now; all designed to assure that the minority community does not have representation in this body.

White I do not want to dwell on the historical context, I do think it is important to get it into a historical context so that people understand that this is not something that we come to complain about just because it is happening in 1990. This has been going on for well over a hundred years, and for us, it has been going on in this country ever since we came to these shores.

Ms. MCKINNEY. I think the gentleman's point about the historical context in which this whole drama that is not being played out must be viewed is very important. To reiterate, 21 times blacks had their elections challenged, blacks in Congress had their elections challenged. Right now, we are looking at challenges that have been filed or are planning to be filed in Virginia, North Carolina, South Carolina legislative districts, Georgia, Florida, Louisiana, Texas, Mississippi, New York, and Illinois. You are absolutely right, that this is not anything new.

Mr. WATT of North Carolina. If the gentlewoman would yield just for 1 more minute, because I am going to have to leave and I do want to put this in a slightly different context also, in addition to the historical context, because the Supreme Court has suggested that all of the sudden we should wave a magic wand and will that the Nation and its voters be color-blind and this problem will be solved.

Often, in talking about this and getting people to understand how ridiculous that notion is, I make reference to what has recently transpired in South Africa where they had a very small white minority controlling that country for years and years and years. Then they had a miraculous historic transition to a real Democratic government.

The question I ask is, "Do you think that the United States of America would have been satisfied if the black majority in South Africa had come forward with a proposed democracy that said we are going to be color-blind; we are not going to take race into account at all; we are not going to assure the white minority in South Africa representation in this new Democratic government?" Do you think that the United States of America would have stood still for that kind of thinking?

My answer, obviously, is no, because it would have been ridiculous to think that all of those years of history could have just been wiped out and we could have created a color-blind society, a color-blind democracy in South Africa. It could not happen.

If the white minority in South Africa was going to have any chance of having a fair shot at representation and having its views reflected in that democracy, the only way it was going to happen was to set up a system that allowed them to have representation.

Yet, if we take that scenario and we reverse the roles, our Supreme Court essentially is suggesting that exactly what we would have rejected in South Africa is what we should be doing in our democracy here in the United States.

It is outrageous. It makes no sense in terms of fairness. It makes no sense in terms of the political and historical realities of the situation.

So, I applaud the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON and the gentlewoman from Georgia, Ms. MCKINNEY and the gentlewoman from Florida, Ms. BROWN. I applaud all of these gentlewomen for doing this this evening, and bringing this issue back into focus. Especially, since on Tuesday of this coming week, the Supreme Court is, again, hearing oral arguments in the North Carolina case and in the Texas case.

Our Nation and our people need to be focused on this issue and why it is important to have every segment of our society represented if we are to have an effective democracy in this country.

Ms. BROWN of Florida. Will the gentleman yield just for one moment before he leaves? Can the gentleman from North Carolina shed some light on what the Supreme Court will be reviewing as far as Shaw versus Reno?

Mr. WATT of North Carolina. I think there is a real substantial question about what they will be reviewing. They set up a series of criteria in the original Shaw versus Reno decision. Many of those criteria were not even mentioned when the Supreme Court decided the Georgia case. They seemed to change the criteria.

So, the North Carolina case has been tried under criteria that we do not know whether are applicable criteria any more or not. I am hoping that they will evaluate the case on the criteria that they set up in the North Carolina case. But even if they do not, if they evaluate it on the criteria that they set in the Georgia case, that race cannot be the predominant factor, I still am confident that even on that standard, the districts can and should be upheld both in North Carolina and in Texas.

□ 1830

Ms. MCKINNEY. The gentleman, with respect to his South Africa comments, raises an interesting question that I am glad you answered.

We have with us a gentleman from Alabama, who is a strong fighter, always has been a strong fighter, and now he comes to the floor of this House to make sure that what happens in this whole redistricting arena is not something that catches people off guard. We want to make sure that folks are not asleep while this quiet counterrevolution takes place.

Mr. HILLIARD. Mr. Speaker, I was very interested in the historical analysis that both Members gave dealing with the State of Florida as well as North Carolina. We also have a history in Alabama. I am the first African American to represent African Americans or anyone else in the State of Alabama in 117 years.

I, too, come, being the fourth from the State, the fourth African American. But let me tell you about the second and the third. They never served. They were elected, but they never served, because their elections were a challenged, and that is a tragedy. But it is all reflective of what our country has undergone during our short history.

Unfortunately, there are those in the majority that believe in democracy but do not believe in diversity. They will use such terms as equality, such terms as colorblind society to justify why there are not nor should not be African-Americans in Congress or in the State houses or in city halls anywhere in this country.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, what is colorblind? Does that mean we are invisible?

Mr. HILLIARD. I would think in the context that it is used by those who are against diversity, against African-Americans participating in the democratic process in this country, it means invisible, yes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the gentleman.

Mr. HILLIARD. Mr. Speaker, that means that you do not participate.

The point I was making is a very simple point. Throughout history, those persons who have been in the majority always seek ways and vehicles to protect their majority status in every respect, if you look at any country.

Ms. MCKINNEY. Mr. Speaker, protecting majority status, there is nothing wrong with that. Our presence in this body does not threaten the majority status.

Mr. HILLIARD. Well, it does not threaten it from the standpoint, from your standpoint. That is because I am sure you believe in diversification. You believe in participation by everyone. But protection of the majority status to those persons that I have come in contact with and, as I say, I am from the South, means that everything has to be the way of the majority, which means they do not appreciate diversity. And they are not interested in districts if the districts produce African-American Representatives, or any minority Representatives.

Ms. MCKINNEY. Mr. Speaker, I have a 10-year-old son. My son accompanies me on the floor of this House. Now, if my presence here threatens the majority status, how do I explain that to my son when he clearly looks around and says: "Well, mama, there ain't enough of you. There ain't very many women in this body. There ain't very many African-Americans in this body." So what is threatened by my presence in this body?

Mr. HILLIARD. Mr. Speaker, it is the same type of threat that is pervasive throughout our society. Even if we look at affirmative action policies, which is very much akin to this issue and to this argument. Set-asides, 5 percent. It is a threat because it is not 100 percent. They want 100 percent. So they are against affirmative action. They are against set-asides. And we are only talking about 5 out of 100 percent. But that is 5 percent that is too much, because they cannot have it also. That is the type of threat that is in our society. It has been here.

Ms. MCKINNEY. So those who have 96 percent are not satisfied unless there is 100 percent?

Mr. HILLIARD. Absolutely. Unfortunately, this is also the philosophy of the highest court in our land and the Supreme Court. And it does not allow for diversity in anything.

I am going to yield, because my colleague from Texas has been here patiently, and she has some things to say.

Ms. EDDIE BERNICE JOHNSON of Texas. Let me express my appreciation for the sponsorship of this hour. I will not dwell on the history of Texas because we all know it. But I want to dwell on the present.

We have encouraged our children and our grandchildren that this democracy is worth dying for. We have said that this is our country, and we are going to fight for this country, that this is the greatest country in the world. But they do not understand that, when you follow the rules, get education and training, that the opportunities are different for you.

Mr. HILLIARD. And limited.

Ms. EDDIE BERNICE JOHNSON of Texas. I believe strongly that I have represented the district that I was elected in as well or better than any previous elected official. I have answered mail. I have never referred to my constituents as "you people." I have been responsive. I have not just sent form letters. I have researched the issues. And I try very hard to come before them to listen. I have learned a lot by listening.

Ms. MCKINNEY. Mr. Speaker, my colleague has given representation all of the time whereas before it was representation some of the time.

Ms. EDDIE BERNICE JOHNSON of Texas. Yes, the representation from my area and for me meant seeing my elected official once every couple of years at some of the churches or buying a ticket or a table to a church or the NAACP banquet. That was my representation.

Ms. BROWN of Florida. You mean your representation was not showing up once a year at the festival?

Ms. EDDIE BERNICE JOHNSON of Texas. I can guarantee you, they showed up every other year and at the churches.

Ms. BROWN of Florida. I think representation, one of the things that the research will have shown is that, when African-Americans are elected, they represent all of the people. When we fight for school lunch programs, I want every last one of our kids to eat all over the country, really.

Ms. EDDIE BERNICE JOHNSON of Texas. When I look out for corporate opportunities, for research and development, rarely are those large businesses owned by people that look like me. But I believe strongly that, when we have a strong business community and lots of research to look out for the future, that it is good for all of us. But all of us then must have some opportunity in it.

We will fight the wars. We will help to do things. But when we are treated as invisibles or unwanteds, then it does not encourage my children or my grandchildren to go to college, to go to training, to be well equipped, because they see parents are having a struggle after they have done it. They do not know whether there will be an opportunity.

There is no understanding in my community why the district that I represent is being attacked. Because, you see, it is less than 50 percent African-American, and we have districts in Texas that are 88 and 90 percent Anglo, but they are constitutional. I do not understand that. Are they unconstitutional because it happens to be a few more that the incumbents allowed me to put in a district, because our efforts in Texas were to preserve the incumbents?

Ms. MCKINNEY. The gentlewoman from Texas, from Dallas, as well as the gentlewoman from Houston have both endured constitutional challenges to their districts where the lower court found that their districts were unconstitutional.

Ms. EDDIE BERNICE JOHNSON of Texas. The second time around.

Ms. MCKINNEY. Mr. Speaker, the district in Dallas was found unconstitutional, and the district in Houston, more than ably represented by Congresswoman SHEILA JACKSON-LEE, was also found unconstitutional.

Ms. BROWN of Florida. Mr. Speaker, I forgot to say that 20 years ago Barbara Jordan represented this district, and that is really frightening because we are talking about regression here. This is the district that was held by Barbara Jordan, one of the first females elected to Congress.

Ms. MCKINNEY. Barbara Jordan's historic district has now been found unconstitutional.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentlewoman from Georgia because we have spent many hours discussing our families and our sons. How important it is for us to give encouragement to young people, as my colleague from Texas has already mentioned. I listened passionately, as others were speaking passionately. I might remind us, as this comes somewhat to a close, of the words that the gentleman from North Carolina [Mr. WATT] offered about the last African-American preceding this era who served here in the House and who had to leave not of his own accord in 1901. I think it is important because, as the American people are watching, they are looking at two gentlewomen from Florida, and the gentleman from Alabama, and the gentleman from North Carolina, and all of us look alike. And they might wonder what is this issue.

It is an issue of democracy. It is an issue that would be as attractive and should be to our Hispanic brothers and sisters, our white brothers and sisters, our Asian brothers and sisters, because it is a question of disenfranchising people. And on December 5, 1995, we will again be in the U.S. Supreme Court challenging some of the districts in Texas and North Carolina.

Might I say something that I take great offense at, in fact I am appalled, and I might simply give just a very small, small summary of that case. The petitioners in the Richards versus Vera case, the Texas case in particular, came to sue that whole redistricting plan. They sued the whole State of Texas. They said the whole plan was wrong. But when it came down to a final solution, the only districts that they held unconstitutional were the 29th, Hispanic district, the 30th in Dallas, and, of course, the 18th, all of which were very much diverse, mine being under 50 percent African-American. But the court said that these districts were like racial apartheid.

I take great issue to describe democratically drawn districts that allow people to select a person of their choosing as an ugly term compared to South Africa of racial Apartheid. To the American people, that is not true. It is something that you should not accept. It is simply the adding of diversity.

Ms. MCKINNEY. Mr. Speaker, I would like to point out what the gentlewoman has referred to. The entire map of Texas was challenged, and they picked over this district. Talking about the lower court, the three judge panel found this district here, which is 91 percent white, constitutional. They did not find anything wrong with that district. They had to leap all the way to Barbara Jordan's district and say: Now, no, we do not want people like Barbara Jordan in Congress, so her district is unconstitutional; but this district right here withstands constitutional scrutiny.

Ms. JACKSON-LEE. Until the Voting Rights Act was in place, the Hon. Barbara Jordan would not have been in the U.S. Congress to represent all of the people and all Americans.

Ms. MCKINNEY. The gentlewoman is absolutely right.

I would like to conclude by saying that I know that there are people who understand this issue, who are not asleep during the counterrevolution and who truly appreciate that there is something wrong when a district like the Sixth District of Texas can be found constitutional, and the districts that we all represent can be found unconstitutional or can be challenged as to whether or not they are constitutional.

□ 1845

I received a letter dated November 9 from Richard Hamilton from Fleetwood, PA, and he says, "I'm a white northern conservative Republican. You have gained my respect through this speech. I wish there was some way I could help you with your problem. To lose someone like yourself through this redistricting is a tragedy for your district."

This comes from the pen of a conservative, a staunch pro-gun, pro-life, small-government, low-taxes conservative:

> Government needs people like yourself. Your voting record, I'm sure, would be directly opposite to my views. No matter. This is a democracy. Even though I may not agree with some of your views, I respect them. Having heard you, I would be compelled to vote for you. You are qualified in every sense. I would be honored to have you represent me in Congress. Sounds crazy; doesn't it?

Mr. Speaker, it does not sound crazy at all. Mr. Hamilton gets it.

Ms. JACKSON-LEE. Mr. Speaker, if the gentlewoman will yield for just a moment, we say the word "democracy." And I applaud her for that letter because that is a commonsense American, and that is why I think this evening is important, so that individuals understand that we are not trying to grab something that does not belong to us or grab something for our personal selves. What will happen is your constituents, those who you represent at this point, will be denied the opportunity to select someone of their choosing, and that person can be of any array of individuals, but they have the opportunity now, more than they have ever had before in history, to do so, but this body is also a republic.

Some people always hear the word "Republican" because it is in the majority right now. A republic means that you have a representative body and that we are all not alike. Before the Voter Rights Act of 1965 they were all alike, and in fact until women got the right to vote, they were all alike, and it is since these laws have created opportunities we have seen women coming to the U.S. Congress, and we have seen minorities, and particularly African-Americans, Hispanics, and we have Asians coming into this body; that is a republic. That is what we are saying to the American people.

Why would the Constitution be selected to undermine the rights of citizens to select someone of their choosing?

Ms. McKINNEY. The Supreme Court has taken the bold step of declaring the district that I represent unconstitutional. I do not lose. The people of America lose. And if each one of us is taken out of this body, what kind of republic, what kind of democracy, can America claim?

Is it that the Congressman from Alabama wants to say some concluding words?

Mr. HILLIARD. I just want to add that it is important that we preserve American democracy, and in order to preserve democracy we must make sure that all persons in this country are represented, that all persons participate, and there is no other way of doing it.

Thus through district representation it is what our forefathers would have fought for if we had had districts at that time, but because of the fact things were so small, there were so few Americans, there was not a need for it.

But things have changed. Our Constitution has changed, and it has changed because it wanted to make sure that protections that were not granted before to those persons who were absent are now granted.

So we need to, along without our forefathers, make sure that everything is constitutional and everyone has an opportunity to participate.

Ms. McKINNEY. I have a piece of legislation which has been introduced, House Resolution 2545, which proposes a solution to this problem. It gets us to color blindness, it gets us to republican representative democracy, it gets us to the kind of participation that we all want and value in this country.

In the next special order we will talk about some solutions to this problem that do not rely on single-Member districts which have been the tool that the Voting Rights Act allowed us that are now under attack because they have been so successful.

Ms. BROWN of Florida. In closing, next week, when the Supreme Court will hear the arguments in another reapportionment case, let me say that I have faith in the system, and I do believe that the Supreme Court can clear up what they have started in 1993 in Shaw versus Reno and acknowledge what really drives districts. It is not race; it is politics. It is politics, my colleagues. It is politics.

Ms. McKINNEY. I would just like to say in conclusion thank you to all of the Members of this body who have come to me personally and, I am sure, have come to each of the other Members who are on this floor right now to express their concern about what is happening in redistricting, and how valuable our participation is and how valuable the notion of diversity is to having policies produced that are meaningful to the broad spectrum of the American electorate.

MONTGOMERY BUS BOYCOTT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, this Friday marks the 40th anniversary of the Montgomery bus boycott and the creation of the Montgomery Improvement Association. This Friday marks the start of an American journey. In my home State of Alabama, 40 years ago, African-Americans said they were sick and tired of being mistreated and humiliated; sick and tired of being kicked by the brutal feet of oppression; and sick and tired of being denied access to full American citizenship.

This was the most significant boycott of the civil rights movement. On December 1, 1955, when Mrs. Rosa Parks decided not to stand up and move to the rear of the bus, this was the day when African-Americans stood up to injustice and moved to the forefront of the struggle to outlaw discrimination, segregation and the notion of separate but equal.

For 13 months, African-Americans in Montgomery refused to ride the buses. They refused to accept an unjust system that demoralized and humiliated them.

The strength and spirit of these courageous citizens captured the consciousness of the entire world.

A lawsuit was subsequently filed challenging the constitutionality of bus segregation. The United States Supreme Court found that the Montgomery, AL statutes regarding the segregation of passenger seating was in violation of the Constitution of the United States. On December 21, 1956, 13 months after the boycott began, African-Americans boarded Montgomery City Line buses free to sit where they pleased.

Mr. Speaker, I have introduced a resolution recognizing the Montgomery bus boycott as the beginning of the American civil rights movement. It is proper and appropriate for the House of Representatives to commemorate this historical event and pay tribute to the courageous women and men who placed themselves in harm's way in the pursuit of justice, fairness, and equal treatment under the laws.

I urge my colleagues to support and cosponsor the resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEFNER (at the request of Mr. GEPHARDT), for today, on account of medical reasons.

Mr. COSTELLO (at the request of Mr. GEPHARDT), for today after 8 p.m. and Thursday, November 30, 1995, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend his remarks and include extraneous material:)

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mr. SCHUMER, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mrs. LOWEY, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mrs. FOWLER) to revise and extend his remarks and include extraneous material:)

Mr. KIM, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today and on November 30.

Mr. KINGSTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mrs. NORTON, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. ACKERMAN.

Mr. HAMILTON in three instances.

Mr. KLECZKA.

(The following Members (at the request of Mrs. FOWLER) and to include extraneous matter:)

Mr. WELDON of Pennsylvania.

Mr. SCARBOROUGH.

(The following Members (at the request of Mr. HILLIARD) and to include extraneous matter:)

Mr. SOLOMON.

Mr. FLANAGAN.

Mr. BORSKI.

Mr. REED.

Mrs. FOWLER.

Mrs. MINK of Hawaii.

Mr. RANGEL.

Mr. DIXON.

Mr. CONDIT.

Mrs. MORELLA.

Mr. MORAN.

Mr. COX of California.

Mrs. MEEK of Florida.

Mr. BARCIA.

ADJOURNMENT

Mr. HILLIARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, November 30, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1720. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred when food was provided to all participants of Task Force 130, U.S. Army South [USARSO] and charge against Developing Countries Combined Exercise Program [DCCEP] funds, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1721. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act totaling $45,488 in the fiscal year 1989 Operation and Maintenance, Air Force appropriation, which occurred in the 3d Tactical Fighter Wing at Clark Air Base in the Republic of the Philippines, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1722. A letter from the Under Secretary of Defense, transmitting a report of four related violations of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1723. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–150, "Budget Support Temporary Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1724. A letter from the Chairman, Federal Election Commission, transmitting a correction to the proposed regulations governing communications disclaimer requirements (11 C.F.R. sections 110.11), pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

1725. A letter from the Chief of Staff, The White House, transmitting certification that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug Free Workplace Plan are themselves subject to a program of individual random drug testing, pursuant to section 624 of Public Law 104–52; jointly, to the Committee on Appropriations and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. QUILLEN: Committee on Rules. House Resolution 284. Resolution providing for consideration of the bill (H.R. 1788) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes (Rept. 104–370). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUNNING of Kentucky (for himself, Mr. HASTERT, Mr. ARCHER, Mr. JACOBS, Mr. SAM JOHNSON, Mr. COLLINS of Georgia, Mr. PORTMAN, Mr. ENGLISH of Pennsylvania, Mr. CHRISTENSEN, Mr. LAUGHLIN, Mr. CRANE, Mr. THOMAS, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. HOUGHTON, Mr. HERGER, Mr. MCCRERY, Mr. HANCOCK, Mr. CAMP, Mr. RAMSTAD, Mr. ZIMMER, Mr. NUSSLE, Ms. DUNN of Washington, Mr. ENSIGN, Mr. MCCOLLUM, Mr. MCINTOSH, Mr. KNOLLENBERG, Mr. GOSS, Mrs. SMITH of Washington, Mr. MCDADE, Mr. EMERSON, Mr. FRELINGHUYSEN, Mr. BUNN of Oregon, Mr. CHABOT, Mr. KOLBE, Mr. BALLENGER, Mr. BACHUS, Mr. SOLOMON, Mr. CUNNINGHAM, Mr. LATOURETTE, Mr. METCALF, Mr. CALVERT, Mr. FUNDERBURK, Mr. LEWIS of Kentucky, Mr. BURTON of Indiana, Mr. GUNDERSON, Mr. BLUTE, Mr. MYERS of Indiana, Mr. GALLEGLY, Mr. HEINEMAN, Mr. COBLE, Mr. FOLEY, Mr. BARTLETT of Maryland, Mrs. FOWLER, Mr. HANSEN, Mr. SAXTON, Mr. BOEHNER, Mr. FIELDS of Texas, Mr. STEARNS, Mr. BEREUTER, Mr. BARTON of Texas, Mr. BLILEY, Mr. HAYWORTH, Mr. COOLEY, Mr. BASS, Mrs. KELLY, Mr. LARGENT, Mr. INGLIS of South Carolina, Mr. EWING, Mr. LUCAS, Mr. SCHAEFER, Mr. TORKILDSEN, Mr. MILLER of Florida, Mr. FOX, Mr. BOEHLERT, Mr. CLINGER, Mr. GREENWOOD, Mr. NETHERCUTT, Mr. STUMP, Mr. JONES, Mr. FRISA, Mrs. MORELLA, Mr. NORWOOD, Mr. TALENT, Mr. WELDON of Pennsylvania, Mr. EHRLICH, Mr. ROYCE, Mr. SALMON, Mrs. VUCANOVICH, Mr. SMITH of New Jersey, Mr. DORNAN, Mr. HOSTETTLER, Mr. BUYER, Mr. ROBERTS, Mr. SHAYS, Mr. UPTON, and Mr. CLEMENT):

H.R. 2684. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMAS (for himself and Mr. BILIRAKIS):

H.R. 2685. A bill to repeal the Medicare and Medicaid coverage data bank; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANK of Massachusetts (for himself, Mr. SHAYS, Mr. BRYANT of Texas, Mr. TRAFICANT, Mr. SAWYER, Mr. BROWN of Ohio, and Ms. KAPTUR):

H.R. 2686. A bill to provide for additional lobbying reform measures; to the Committee on the Judiciary.

By Mr. MCCOLLUM (FOR HIMSELF, MR. SCHUMER, Mr. COBLE, Mr. HEINEMAN, Mr. BRYANT of Tennessee, and Ms. LOFGREN):

H.R. 2687. A bill to amend the anti-car theft provisions of title 49, United States Code to increase the utility of motor vehicle title information to State and Federal law enforcement officials and for other purposes; to the Committee on the Judiciary.

By Mrs. MORELLA (for herself, Mr. FRAZER, Mr. LEWIS of Georgia and Mr. LIPINSKI):

H.R. 2688. A bill to amend chapter 87 of title 5, United States Code, to provide that the reduction in additional optional life insurance for Federal retirees shall not apply if the beneficiary is permanently disabled; to the Committee on Government Reform and Oversight.

By Mr. POSHARD:

H.R. 2689. A bill to designate the U.S. Courthouse located at 301 West Main Street in Benton, IL, as the "James L. Foreman United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. STEARNS:

H.R. 2690. A bill to establish limitation with respect to the disclosure and use of genetic information, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Government Reform and Oversight, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 2691. A bill to amend the Public Health Service Act to prohibit discrimination regarding exposure to hazardous substances; to the Committee on Commerce.

By Mr. CANADY:

H. Con. Res. 116. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1060; considered and agreed to.

By Mr. HILLIARD:

H. Res. 285. Resolution to recognize and celebrate the 40th anniversary of the Montgomery bus boycott; to the Committee on Government Reform and Oversight.

By Ms. WOOLSEY (for herself, Mrs. LOWEY, Mr. HINCHEY, Mr. LIPINSKI, Ms. LOFGREN, Mr. MILLER of California, Ms. NORTON, Mr. SHAYS, Mr. VENTO, and Mr. WYDEN):

H. Res. 286. Resolution to limit the access of lobbyists to the Hall of the House; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

178. By the SPEAKER: Memorial of the House of Representatives of the State of Michigan, relative to establishing a sister-state relationship with the Province of Taiwan of the Republic of China; to the Committee on International Relations.

179. Also, memorial of the Legislature of the State of Alaska, relative to requesting the Congress to amend the Alaska National Interest Lands Conservation Act to clarify that the term "public lands" means only Federal land and water and that any extension of Federal jurisdiction onto adjacent land and water is expressly prohibited; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. TORRICELLI.

H.R. 104: Ms. DANNER.

H.R. 497: Mr. TATE, Mr. CONYERS, Mr. FRAZER, Mr. LAHOOD, Mr. TIAHRT, Ms. WOOLSEY, and Mr. METCALF.

H.R. 528: Mr. SAXTON, Mr. LUCAS, Mr. MYERS of Indiana, Mr. DOOLEY, Mr. TANNER, Mr. WISE, and Mr. VENTO.

H.R. 572: Mr. TORRICELLI.

H.R. 580: Mr. KINGSTON.

H.R. 852: Mr. PORTER.

H.R. 972: Mr. BAESLER.

H.R. 1073: Mrs. LINCOLN and Mr. GONZALEZ.

H.R. 1074: Mrs. LINCOLN and Mr. GONZALEZ.

H.R. 1152: Mr. COLEMAN.

H.R. 1202: Mr. LEACH, Mr. FILNER, Mr. ACKERMAN, Mr. OLVER, Mrs. MINK of Hawaii, Mr. WYDEN, and Mr. SMITH of New Jersey.

H.R. 1305: Mr. LIPINSKI, Mr. FALEOMAVAEGA, and Ms. MCKINNEY.

H.R. 1448: Mr. MCCOLLUM.

H.R. 1496: Mr. FILNER and Mr. DURBIN.

H.R. 1656: Mr. GONZALEZ, Mr. SCOTT, Mr. YATES, Ms. KAPTUR, Mrs. MEEK of Florida, Mr. LIPINSKI, and Mrs. MINK of Hawaii.

H.R. 1701: Mr. VENTO.

H.R. 1733: Mr. HOUGHTON, Mr. CAMP, and Mr. EHLERS.

H.R. 1818: Mr. MCCOLLUM.

H.R. 1834: Mr. LIGHTFOOT, Mr. OXLEY, and Mr. SPENCE.

H.R. 1876: Mr. COSTELLO.

H.R. 1883: Mr. KINGSTON.

H.R. 1893: Mr. DELLUMS.

H.R. 1968: Mrs. MORELLA.

H.R. 1985: Mr. MARTINI, Mr. MCCOLLUM, and Mr. FOX.

H.R. 2009: Mr. CALVERT.

H.R. 2144: Mr. BARCIA of Michigan.

H.R. 2205: Mr. POMEROY.

H.R. 2240: Mr. FRANKS of New Jersey.

H.R. 2264: Mr. BORSKI.

H.R. 2265: Mr. CLYBURN.

H.R. 2531: Mr. SAM JOHNSON, Mr. HORN, Mr. CRAPO, Mr. MARTINEZ, Mr. DORNAN, and Mr. FOLEY.

H.R. 2551: Mrs. MEEK of Florida, Mr. JACOBS, Mr. CRAMER, Mr. DELLUMS, Mr. GONZALEZ, Mr. SCOTT, Mr. MCDERMOTT, and Mr. BERMAN.

H.R. 2557: Mr. WELLER, Mr. JOHNSON of South Dakota, Mr. MINGE, Mrs. MEYERS of Kansas, Mr. NETHERCUTT, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. MANZULLO, Mr. ROBERTS, and Mr. TIAHRT.

H.R. 2566: Mr. DAVIS.

H.R. 2602: Mr. MICA, Mr. STEARNS, Mr. RIGGS, Mr. WELDON of Florida, Mr. FALEOMAVAEGA, and Mr. NEY.

H.R. 2622: Mr. DURBIN.

H.R. 2664: Mr. BALDACCI, Mr. MARTINEZ, Mr. BURTON of Indiana, Mr. KIM, Mr. EHRLICH, Mr. GILCHREST, Mr. YATES, Mr. BROWN of California, Mr. LUCAS, Mr. BARR, Mr. LATOURETTE, Mr. STOCKMAN, Mr. QUILLEN, Mr. TORKILDSEN, Mr. FRAZER, Mr. SKELTON, Mr. COX, Mr. PARKER, Mr. DEUTSCH, Mr. EVERETT, Mr. BARRETT of Nebraska, and Mr. CHRISTENSEN.

H.R. 2671: Mr. CRAMER, Ms. LOFGREN, Ms. MCKINNEY, Mrs. KENNELLY, Ms. MCCARTHY, Ms. FURSE, Mr. MCNULTY, Mr. DOYLE, Ms. WOOLSEY, and Mr. COBURN.

H. Con. Res. 50: Mr. BATEMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

48. The SPEAKER presented a petition of the city council of the city of Compton, CA, relative to urging the President and the Congress of the United States to abandon strict partisanship and conduct serious negotiations on the Federal budget; to the Committee on the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1788

OFFERED BY: MR. CLEMENT

AMENDMENT NO. 2: Page 36, after line 21, insert the following new section:

SEC. 617. RAILROAD LOAN GUARANTEES.

(a) DECLARATION OF POLICY.—Section 101(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801(a)(4)) is amended to read as follows:

"(4) continuation of service on, or preservation of, light density lines that are necessary to continued employment and community well-being throughout the United States;".

(b) MAXIMUM RATE OF INTEREST.—Section 511(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(f)) is amended by striking "shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market." and inserting in lieu thereof "shall not exceed the annual percentage rate charged equivalent to the cost of money to the United States.".

(c) MINIMUM REPAYMENT PERIOD AND PREPAYMENT PENALTIES.—Section 511(g)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(2)) is amended to read as follows:

"(2) payment of the obligation is required by its terms to be made not less than 15 years nor more than 25 years from the date of its execution, with no penalty imposed for prepayment after 5 years;".

(d) DETERMINATION OF REPAYABILITY.—Section 511(g)(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(5) is amended to read as follows:

"(5) either the loan can reasonably be repaid by the applicant or the loan is collateralized at no more than the current value of assets being financed under this section to provide protection to the United States;".

H.R. 1788

OFFERED BY: MR. NADLER

AMENDMENT NO. 3: Page 11, after line 11, insert the following new section:

SEC. 209. TRACKAGE RIGHTS FOR FREIGHT TRANSPORTATION.

Section 24904 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "rail freight or" in paragraph (6);

(B) by striking "and" at the end of paragraph (7);

(C) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(D) by adding at the end the following new paragraph:

"(9) consistent with safety and with priority for intercity and commuter rail passenger transportation, make agreements for rail freight transportation over rights-of-way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976

(45 U.S.C. 801 et seq.), notwithstanding any provision of law or contractual provision restricting the ability of Amtrak to enter into such an agreement.''; and

(2) in subsection (c)(1) and (3), by inserting ''or (9)'' after ''subsection (a)(6)''.

SENATE—*Wednesday, November 29, 1995*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, made the following announcement and offered prayer:

The Senate of the United States is a family. We care for each other, rejoice with each other, and suffer with each other. This morning, I announce to you that the former Chaplain, Dr. Richard Halverson, died last night. No person in recent history has done more to enable the Senate to be a family of caring people who support and encourage each other than Dr. Halverson.

Let us pray: Blessed living Holy God, Sovereign of this Nation and this Senate, we thank You for the way that You enrich our lives by the gift of persons who care. We praise You for the life of Richard Halverson, for 14 years the Chaplain of this Senate. We praise You for his integrity rooted in his intimate relationship with You that radiated upon his face and was communicated by his countenance. We thank You for the profound way that he cared for all of us and established deep relationships. He introduced people to You and helped them to grow as persons.

We bless and praise You now, Lord, as You are here with comfort and encouragement for us. You are with his wife, Doris, his sons, Chris and Steve, and his daughter, Debbie. Put Your arms of love around them, giving them hope.

Lord, we thank You this morning for the assurance that this life is but a small part of the whole of eternity and that death is only a transition in the midst of living for a man like Richard Halverson.

And so we thank You for him and praise You for Your enrichment of our lives through him. Through Jesus Christ, our Lord, Who has defeated the power of death and reigns forever. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

TRIBUTE TO THE REVEREND DR. RICHARD HALVERSON

Mr. DOLE. Mr. President, as the Chaplain mentioned in his opening prayer, the Senate today is mourning the passing of Dr. Richard Halverson.

As all Senators know, Dr. Halverson served as our Chaplain from 1981 until his retirement earlier this year.

Throughout his service as Chaplain, Dr. Halverson was a friend and counselor not only to Senators, but to the entire Senate family.

As many of my colleagues said upon Dr. Halverson's retirement, from Senate staffers to elevator operators to police force members to electricians, it would be impossible to tell how many lives Dr. Halverson touched here on Capitol Hill.

He came to the Senate after many years of service to churches in Missouri, California, and Maryland. He was recognized worldwide as a great humanitarian and traveled extensively through his leadership of World Vision, the Campus Crusade for Christ, Christian College Consortium, and the prayer breakfast movement.

Mr. President, perhaps our colleague, Senator NUNN, said it best earlier this year when he called Dr. Halverson "our friend, our colleague, our mentor, our adviser and, most of all, our example."

Later today, Senator DASCHLE and I will be submitting a resolution of condolence to be delivered to the Halverson family. It is my intent to include all Members of the Senate as cosponsors of this resolution.

At this time, I ask unanimous consent that the RECORD stay open for 15 days so that Senators may offer tributes to Dr. Halverson, and that these tributes be printed as a Senate document.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

CELEBRATING THE LIFE OF DR. RICHARD HALVERSON

Mr. DASCHLE. Mr. President, the majority leader has just spoken for all of us. There is not a person in the Senate today who has not had the good fortune to benefit from the friendship of Dr. Halverson.

Someone once said that life has no blessing like that of a good friend. Dr. Halverson was a good friend to all of us. Rather than mourn his death, it is appropriate to celebrate his life, because, indeed, it was a celebration of joy, of blessing. It was a recognition that through his religious belief, emanating every morning as he came to this Chamber, we all felt a little stronger, we all felt a little better, we all felt perhaps a little wiser, we all felt a little more able to work with each other. His contribution to his country and to this body will last for a long, long time.

So today we celebrate his life. We send our condolences to his wife, Doris, and his family. We wish them the best. We recognize that in life comes achievement, and with his achievement, we all are the better.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, is it appropriate that I speak for 2 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

ONE OF MY BEST FRIENDS

Mr. DOMENICI. Mr. President, later on, pursuant to the wishes of our leader, I will have much more to say about Reverend Halverson. I considered him to be one of my best friends in the whole world, but more than that, he cared for a lot of people. He was a true Chaplain, not just up here, but in the Halls and byways and offices of this place with families, with people who work for the Senate from the lowest paid to the highest paid. He took care of them.

He was very, very sick, particularly the last 3 weeks. I talked to his wife, Doris, this morning, his son Steven. Chris, his other son, was not there. It is kind of wonderful to see their expressions, because they obviously believe and they are very, very confident he is very happy today and that he is in everlasting life. That is marvelous to see, because that is just the way he would want their faith to be.

So not only to that family, but to all his large family here and everywhere in this city, and other places that he served, I think I can join with all of them in saying very simply that we thank God Almighty for sending people like Dr. Halverson to us.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

A CONSTANT GOOD EXAMPLE—DR. RICHARD HALVERSON

Mr. CHAFEE. Mr. President, I think the words that we "celebrate the life of Richard Halverson" are appropriate. Richard Halverson, as has been pointed out, served as Chaplain here for 16 years.

As has been mentioned, he did not restrict his duties to just the opening

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

prayer. He came to see us when we had difficulties. He was a constant mentor, as has previously been suggested, and a constant good example. He epitomized what leading the Christian life is all about.

So we have been blessed to have known him. His life is one we all should celebrate and try to emulate to the greatest extent possible. So to all of his family, we send our very best wishes at this extremely difficult time, and our deepest condolences.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. KEMPTHORNE] is recognized.

OUR LIVES WERE ENRICHED BY DR. RICHARD HALVERSON

Mr. KEMPTHORNE. Mr. President, I join in the statements that have been made here this morning and say that our lives have been so enriched by Dr. Halverson. He was the U.S. Senate Chaplain, but he was a friend of the Senators of this institution.

In our roles, so often we need to have that camaraderie, that facilitator that can help us in finding that higher wisdom and the inner peace. Richard Halverson provided that to us. I know now that he has that inner peace, and we share, as has been stated in the blessings, having him as part of our lives here.

Our prayers are with him, as well as with Doris, Chris, and all of the family. We thank the Lord for providing him to us.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, briefly, I advise my colleagues that, as indicated, we will begin consideration of S. 1316, the Safe Drinking Water Act. It is also possible that during today's session the Senate will consider the VA-HUD appropriations conference report, if it is received from the House. I think it is fair to say that we will have rollcall votes. I understand that Senator CHAFEE will be indicating there are a number of amendments. Some will require rollcalls.

We hope to complete action on the Safe Drinking Water Act, if not late today, by some time late afternoon tomorrow. At that time, I hope to announce the schedule for the remainder of the week. It may be that there may be a pro forma session only on Friday, or, if possible, we could take up additional conference reports if received from the House.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

SAFE DRINKING WATER ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1316, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Safe Drinking Water Act Amendments of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references.
Sec. 2. Findings.
Sec. 3. State revolving loan funds.
Sec. 4. Selection of contaminants; schedule.
Sec. 5. Risk assessment, management, and communication.
Sec. 6. Standard-setting; review of standards.
Sec. 7. Arsenic.
Sec. 8. Radon.
Sec. 9. Sulfate.
Sec. 10. Filtration and disinfection.
Sec. 11. Effective date for regulations.
Sec. 12. Technology and treatment techniques; technology centers.
Sec. 13. Variances and exemptions.
Sec. 14. Small systems; technical assistance.
Sec. 15. Capacity development; finance centers.
Sec. 16. Operator and laboratory certification.
Sec. 17. Source water quality protection partnerships.
Sec. 18. State primacy; State funding.
Sec. 19. Monitoring and information gathering.
Sec. 20. Public notification.
Sec. 21. Enforcement; judicial review.
Sec. 22. Federal agencies.
Sec. 23. Research.
Sec. 24. Definitions.
Sec. 25. Ground water protection.
Sec. 26. Lead plumbing and pipes; return flows.
Sec. 27. Bottled water.
Sec. 28. Assessing environmental priorities, costs, and benefits.
Sec. 29. Other amendments.

(c) REFERENCES TO TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to take steps to foster and maintain a genuine partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and regulation of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for drinking water regulations and that the standards established address the health risks posed by contaminants;

(6) procedures for assessing the health effects of contaminants and establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in setting priorities with respect to the health risks from drinking water to be addressed and in selecting the appropriate level of regulation for contaminants in drinking water, risk assessment and benefit-cost analysis are important and useful tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern; and

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act.

SEC. 3. STATE REVOLVING LOAN FUNDS.

The title (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—STATE REVOLVING LOAN FUNDS

"GENERAL AUTHORITY

"SEC. 1471. (a) CAPITALIZATION GRANT AGREEMENTS.—The Administrator shall offer to enter into an agreement with each State to make capitalization grants to the State pursuant to section 1472 (referred to in this part as 'capitalization grants') to establish a drinking water treatment State revolving loan fund (referred to in this part as a 'State loan fund').

"(b) REQUIREMENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall establish, to the satisfaction of the Administrator, that—

"(1) the State has established a State loan fund that complies with the requirements of this part;

"(2) the State loan fund will be administered by an instrumentality of the State that has the powers and authorities that are required to operate the State loan fund in accordance with this part;

"(3) the State will deposit the capitalization grants into the State loan fund;

"(4) the State will deposit all loan repayments received, and interest earned on the amounts deposited into the State loan fund under this part, into the State loan fund;

"(5) the State will deposit into the State loan fund an amount equal to at least 20 percent of the total amount of each payment to be made to the State on or before the date on which the payment is made to the State, except as provided in subsection (c)(4);

"(6) the State will use funds in the State loan fund in accordance with an intended use plan prepared pursuant to section 1474(b);

"(7) the State and loan recipients that receive funds that the State makes available from the State loan fund will use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe; and

"(8) the State has adopted policies and procedures to ensure that loan recipients are reasonably likely to be able to repay a loan.

"(c) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) IN GENERAL.—The authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund shall reside in the State agency that has primary responsibility for the administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State).

"(2) FINANCIAL ADMINISTRATION.—A State may combine the financial administration of the State loan fund pursuant to this part with the financial administration of a State water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or other State revolving funds providing financing for similar purposes, if the Administrator determines that the grants to be provided to the State under this part, and the loan repayments and interest deposited into the State loan fund pursuant to this part, will be separately accounted for and used solely for the purposes of and in compliance with the requirements of this part.

"(3) TRANSFER OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a Governor of a State may—

"(i) reserve up to 50 percent of a capitalization grant made pursuant to section 1472 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

"(ii) reserve in any year a dollar amount up to the dollar amount that may be reserved under clause (i) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1472.

"(B) STATE MATCH.—Funds reserved pursuant to this paragraph shall not be considered to be a State match of a capitalization grant required pursuant to this title or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(4) EXTENDED PERIOD.—Notwithstanding subsection (b)(5), a State shall not be required to deposit a State matching amount into the fund prior to the date on which each payment is made for payments from funds appropriated for fiscal years 1994, 1995, and 1996, if the matching amounts for the payments are deposited into the State fund prior to September 30, 1998.

"CAPITALIZATION GRANTS

"SEC. 1472. (a) GENERAL AUTHORITY.—The Administrator may make grants to capitalize State loan funds to a State that has entered into an agreement pursuant to section 1471.

"(b) FORMULA FOR ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—Subject to subsection (c) and paragraph (2), funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to section 1471 in accordance with—

"(A) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

"(B) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 1475(c), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under subparagraph (A).

"(2) OTHER JURISDICTIONS.—The formula established pursuant to paragraph (1) shall reserve 0.5 percent of the amounts made available to carry out this part for a fiscal year for providing direct grants to the jurisdictions, other than Indian Tribes, referred to in subsection (f).

"(c) RESERVATION OF FUNDS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, prior to the allotment of funds made available to carry out this part, the Administrator shall reserve 1.5 percent of the funds for providing financial assistance to Indian Tribes pursuant to subsection (f).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service *and Indian Tribes*.

"(3) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service *and Indian Tribes*, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to section 1475(c), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(d) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) SMALL SYSTEM.—The term 'small system' means a public water system that serves a population of 10,000 or fewer.

"(B) TECHNICAL ASSISTANCE.—The term 'technical assistance' means assistance provided by a State to a small system, including assistance to potential loan recipients and assistance for planning and design, development and implementation of a source water quality protection partnership program, alternative supplies of drinking water, restructuring or consolidation of a small system, and treatment to comply with a national primary drinking water regulation.

"(2) RESERVATION OF FUNDS.—To provide technical assistance pursuant to this subsection, each State may reserve from capitalization grants received in any year an amount that does not exceed the greater of—

"(A) an amount equal to 2 percent of the amount of the capitalization grants received by the State pursuant to this section; or

"(B) $300,000.

"(e) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the sums allotted to a State pursuant to subsection (b) for a fiscal year shall be available to the State for obligation during the fiscal year for which the sums are authorized and during the following fiscal year.

"(B) FUNDS MADE AVAILABLE FOR FISCAL YEARS 1995 AND 1996.—The sums allotted to a State pursuant to subsection (b) from funds that are made available by appropriations for each of fiscal years 1995 and 1996 shall be available to the State for obligation during each of fiscal years 1995 through 1998.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—Prior to obligating new allotments made available to the State pursuant to subsection (b), each State shall obligate funds accumulated before a date that is 1 year prior to the date of the obligation of a new allotment from loan repayments and interest earned on amounts deposited into a State loan fund. The amount of any allotment that is not obligated by a State by the last day of the period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (b), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (c). None of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

"(3) ALLOTMENT OF WITHHELD FUNDS.—All funds withheld by the Administrator pursuant to subsection (g) and section 1442(e)(3) shall be allotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subsection (b). None of the funds allotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1418(a).

"(f) DIRECT GRANTS.—

"(1) IN GENERAL.—The Administrator is authorized to make grants for the improvement of public water systems of Indian

Tribes, the District of Columbia, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam and, if funds are appropriated to carry out this part for fiscal year 1995, the Republic of Palau.

"(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

"(g) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold the percentage prescribed in the following sentence of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1418(a). The percentage withheld shall be 5 percent for fiscal year 1999, 10 percent for fiscal year 2000, and 15 percent for each subsequent fiscal year.

"ELIGIBLE ASSISTANCE

"SEC. 1473. (a) IN GENERAL.—The amounts deposited into a State loan fund, including any amounts equal to the amounts of loan repayments and interest earned on the amounts deposited, may be used by the State to carry out projects that are consistent with this section.

"(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts deposited into a State loan fund shall be used only for providing financial assistance for capital expenditures and associated costs (but excluding the cost of land acquisition unless the cost is incurred to acquire land for the construction of a treatment facility or for a consolidation project) for—

"(A) a project that will facilitate compliance with national primary drinking water regulations promulgated pursuant to section 1412;

"(B) a project that will facilitate the consolidation of public water systems or the use of an alternative source of water supply;

"(C) a project that will upgrade a drinking water treatment system; and

"(D) the development of a public water system to replace private drinking water supplies if the private water supplies pose a significant threat to human health.

"(2) OPERATOR TRAINING.—Associated costs eligible for assistance under this part include the costs of training and certifying the persons who will operate facilities that receive assistance pursuant to paragraph (1).

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

"(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; and

"(ii) has a history of—

"(I) past violations of any maximum contaminant level or treatment technique established by a regulation or a variance; or

"(II) significant noncompliance with monitoring requirements or any other requirement of a national primary drinking water regulation or variance.

"(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this part if—

"(i) the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that such measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term; and

"(ii) the use of the assistance will ensure compliance.

"(c) ELIGIBLE PUBLIC WATER SYSTEMS.—A State loan fund, *or the Administrator in the case of direct grants under section 1472(f)*, may provide financial assistance only to community water systems, publicly owned water systems (other than systems owned by Federal agencies), and nonprofit noncommunity water systems.

"(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

"(1) to make loans, on the condition that—

"(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

"(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (e)(1)), a State may provide an extended term for a loan, if the extended term—

"(i) terminates not later than the date that is 30 years after the date of project completion; and

"(ii) does not exceed the expected design life of the project;

"(C) the recipient of each loan will establish a dedicated source of revenue for the repayment of the loan; and

"(D) the State loan fund will be credited with all payments of principal and interest on each loan;

"(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after October 14, 1993, or to refinance a debt obligation for a project constructed to comply with a regulation established pursuant to an amendment to this title made by the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339; 100 Stat. 642);

"(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund;

"(5) as a source of revenue or security for the payment of interest on a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)); and

"(6) to earn interest on the amounts deposited into the State loan fund.

"(e) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

"(1) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

"(2) LOAN SUBSIDY.—Notwithstanding subsection (d), in any case in which the State makes a loan pursuant to subsection (d) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

"(3) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (2) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

"(f) SOURCE WATER QUALITY PROTECTION AND CAPACITY DEVELOPMENT.—

"(1) IN GENERAL.—Notwithstanding subsection (b)(1), a State may—

"(A) provide assistance, only in the form of a loan, to—

"(i) any public water system described in subsection (c) to acquire land or a conservation easement *from a willing seller or grantor*, if the purpose of the acquisition is to protect the source water of the system from contamination; or

"(ii) any community water system described in subsection (c) to provide funding in accordance with section 1419(d)(1)(C)(i);

"(B) provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1418(c); and

"(C) make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1419, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

"(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed [10] *15* percent of the amount of the capitalization grant received by the State for that [year.] *year and may not exceed 10 percent of that amount for any one of the following activities:*

"(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

"(B) To provide funding to implement recommendations of source water quality protection partnerships pursuant to paragraph (1)(A)(ii).

"(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

"(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

"STATE LOAN FUND ADMINISTRATION

"SEC. 1474. (a) ADMINISTRATION, TECHNICAL ASSISTANCE, AND MANAGEMENT.—

"(1) ADMINISTRATION.—Each State that has a State loan fund is authorized to expend from the annual capitalization grant of the State a reasonable amount, not to exceed 4 percent of the capitalization grant made to the State, for the costs of the administration of the State loan fund.

"(2) STATE PROGRAM MANAGEMENT ASSISTANCE.—

"(A) IN GENERAL.—Each State that has a loan fund is authorized to expend from the annual capitalization grant of the State an amount, determined pursuant to this paragraph, to carry out the public water system supervision program under section 1443(a) and to—

"(i) administer, or provide technical assistance through, source water quality protection programs, including a partnership program under section 1419; and

"(ii) develop and implement a capacity development strategy under section 1418(c) in the State.

"(B) Limitation.—Amounts expended by a State pursuant to this paragraph for any fiscal year may not exceed an amount that is equal to the amount of the grant funds available to the State for that fiscal year under section 1443(a).

"(C) State funds.—For any fiscal year, funds may not be expended pursuant to this paragraph unless the Administrator determines that the amount of State funds made available to carry out the public water system supervision program under section 1443(a) for the fiscal year is not less than the amount of State funds made available to carry out the program for fiscal year 1993.

"(b) Intended Use Plans.—

"(1) In general.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

"(2) Contents.—An intended use plan shall include—

"(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

"(B) the criteria and methods established for the distribution of funds; and

"(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

"(3) Use of funds.—

"(A) In general.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

"(i) address the most serious risk to human health;

"(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

"(iii) assist systems most in need on a per household basis according to State affordability criteria.

"(B) List of projects.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this part, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

"STATE LOAN FUND MANAGEMENT

"Sec. 1475. (a) In General.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Administrator shall conduct such reviews and audits as the Administrator considers appropriate, or require each State to have the reviews and audits independently conducted, in accordance with the single audit requirements of chapter 75 of title 31, United States Code.

"(b) State Reports.—Not later than 2 years after the date of enactment of this part, and every 2 years thereafter, each State that administers a State loan fund shall publish and submit to the Administrator a report on the activities of the State under this part, including the findings of the most recent audit of the State loan fund.

"(c) Drinking Water Needs Survey and Assessment.—Not later than 1 year after the date of enactment of this part, and every 4 years thereafter, the Administrator shall submit to Congress a survey and assessment of the needs for facilities in each State eligible for assistance under this part. The survey and assessment conducted pursuant to this subsection shall—

"(1) identify, by State, the needs for projects or facilities owned or controlled by community water systems eligible for assistance under this part on the date of the assessment (other than refinancing for a project pursuant to section 1473(d)(2));

"(2) estimate the needs for eligible facilities over the 20-year period following the date of the assessment;

"(3) identify, by size category, the population served by public water systems with needs identified pursuant to paragraph (1); and

"(4) include such other information as the Administrator determines to be appropriate.

"(d) Evaluation.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 1999. The evaluation shall be submitted to Congress at the same time as the President submits to Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2001 relating to the budget of the Environmental Protection Agency.

"ENFORCEMENT

"Sec. 1476. The failure or inability of any public water system to receive funds under this part or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

"REGULATIONS AND GUIDANCE

"Sec. 1477. The Administrator shall publish such guidance and promulgate such regulations as are necessary to carry out this part, including guidance and regulations to ensure that—

"(1) each State commits and expends funds from the State loan fund in accordance with the requirements of this part and applicable Federal and State laws; and

"(2) the States and eligible public water systems that receive funds under this part use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1478. (a) General Authorization.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this part $600,000,000 for fiscal year 1994 and $1,000,000,000 for each of fiscal years 1995 through 2003.

"(b) Health Effects Research.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects research on drinking water contaminants authorized by section 1442. In allocating funds made available under this subsection, the Administrator shall give priority to research concerning the health effects of cryptosporidium, disinfection byproducts, and arsenic, and the implementation of a research plan for subpopulations at greater risk of adverse effects pursuant to section 1442(l).

"(c) Monitoring for Unregulated Contaminants.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1997, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(D).

"(d) Small System Technical Assistance.—

"(1) In general.—Subject to paragraph (2), from funds appropriated pursuant to this section for each fiscal year for which the appropriation made pursuant to subsection (a) exceeds $800,000,000, the Administrator shall reserve to carry out section 1442(g) an amount that is equal to any amount by which the amount made available to carry out section 1442(g) is less than the amount referred to in the third sentence of section 1442(g).

"(2) Maximum amount.—For each fiscal year, the amount reserved under paragraph (1) shall be not greater than an amount equal to the lesser of—

"(A) 2 percent of the funds appropriated pursuant to this section for the fiscal year; or

"(B) $10,000,000.".

SEC. 4. SELECTION OF CONTAMINANTS; SCHEDULE.

(a) Standards.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (3) and inserting the following:

"(b) Standards.—

"(1) Identification of contaminants for listing.—

"(A) General authority.—The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for each contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995) if the Administrator determines, based on adequate data and appropriate peer-reviewed scientific information and an assessment of health risks, conducted in accordance with sound and objective scientific practices, that—

"(i) the contaminant may have an adverse effect on the health of persons; and

"(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern.

"(B) Selection and listing of contaminants for consideration.—

"(i) In general.—Not later than July 1, **[1996]** *1997*, the Administrator (after consultation with the Secretary of Health and Human Services) shall publish and periodically, but not less often than every 5 years, update a list of contaminants that are known or anticipated to occur in drinking water provided by public water systems and that may warrant regulation under this title.

"(ii) Research and study plan.—At such time as a list is published under clause (i), the Administrator shall describe available and needed information and research with respect to—

"(I) the health effects of the contaminants;

"(II) the occurrence of the contaminants in drinking water; and

"(III) treatment techniques and other means that may be feasible to control the contaminants.

"(iii) Comment.—The Administrator shall seek comment on each list and any research plan that is published from officials of State and local governments, operators of public water systems, the scientific community, and the general public.

"(C) DETERMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), not later than July 1, 2001, and every 5 years thereafter, the Administrator shall take one of the following actions for not fewer than 5 contaminants:

"(I) Publish a determination that information available to the Administrator does not warrant the issuance of a national primary drinking water regulation.

"(II) Publish a determination that a national primary drinking water regulation is warranted based on information available to the Administrator, and proceed to propose a maximum contaminant level goal and national primary drinking water regulation not later than 2 years after the date of publication of the determination.

"(III) Propose a maximum contaminant level goal and national primary drinking water regulation.

"(ii) INSUFFICIENT INFORMATION.—If the Administrator determines that available information is insufficient to make a determination for a contaminant under clause (i), the Administrator may publish a determination to continue to study the contaminant. Not later than 5 years after the Administrator determines that further study is necessary for a contaminant pursuant to this clause, the Administrator shall make a determination under clause (i).

"(iii) ASSESSMENT.—The determinations under clause (i) shall be based on an assessment of—

"(I) the available scientific knowledge that is consistent with the requirements of paragraph (3)(A) and useful in determining the nature and extent of adverse effects on the health of persons that may occur due to the presence of the contaminant in drinking water;

"(II) information on the occurrence of the contaminant in drinking water; and

"(III) the treatment technologies, treatment techniques, or other means that may be feasible in reducing the contaminant in drinking water provided by public water systems.

"(iv) PRIORITIES.—In making determinations under this subparagraph, the Administrator shall give priority to those contaminants not currently regulated that are associated with the most serious adverse health effects and that present the greatest potential risk to the health of persons due to the presence of the contaminant in drinking water provided by public water systems.

"(v) REVIEW.—Each document setting forth the determination for a contaminant under clause (i) shall be available for public comment [before] *at such time as* the determination is published.

"(vi) JUDICIAL REVIEW.—Determinations made by the Administrator pursuant to clause (i)(I) shall be considered final agency actions for the purposes of section 1448. No determination under clause (i)(I) shall be set aside by a court pursuant to a review authorized under that section [or other law,] unless the court finds that the determination is arbitrary and capricious.

"(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without listing the contaminant under subparagraph (B) or publishing a determination for the contaminant under subparagraph (C) to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with subparagraph (C) subject to an interim regulation under this subparagraph shall be issued not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

"(E) MONITORING DATA AND OTHER INFORMATION.—The Administrator may require, in accordance with section 1445(a)(2), the submission of monitoring data and other information necessary for the development of studies, research plans, or national primary drinking water regulations.

"(2) SCHEDULES AND DEADLINES.—

"(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

"(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

"(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

"(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

"(i) INFORMATION COLLECTION RULE.—

"(I) IN GENERAL.—Not later than December 31, 1995, the Administrator shall, after notice and opportunity for public comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium.

"(II) EXTENSION.—The Administrator may extend the deadline under subclause (I) for up to 180 days if the Administrator determines that progress toward approval of an appropriate analytical method to screen for cryptosporidium is sufficiently advanced and approval is likely to be completed within the additional time period.

"(ii) ADDITIONAL DEADLINES.—The time intervals between promulgation of a final information collection rule, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule shall be in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the timetable established by this subparagraph, all subsequent rules shall be completed as expeditiously as practicable subject to agreement by all the parties to the negotiated rulemaking, but no later than a revised date that reflects the interval or intervals for the rules in the timetable.

"(D) PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) (as in effect before the amendment made by section 4(a) of the Safe Drinking Water Act Amendments of 1995), and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995, are superseded by this paragraph and paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking "paragraph (1), (2), or (3) of subsection (b)" each place it appears and inserting "paragraph (1) or (2) of subsection (b)".

(2) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking "section 1412(b)(3)" and inserting "section 1412(b)(7)(A)".

SEC. 5. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 4) is further amended by inserting after paragraph (2) the following:

"(3) RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION.—

"(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this title, the Administrator shall use—

"(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

"(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

"(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

"(i) each population addressed by any estimate of public health effects;

"(ii) the expected risk or central estimate of risk for the specific populations;

"(iii) each appropriate upper-bound or lower-bound estimate of risk;

"(iv) each uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

"(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

"(i) MAXIMUM CONTAMINANT LEVELS.—Not later than 90 days prior to proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that would be considered in accordance with paragraph (4) in a proposed regulation and each alternative maximum contaminant level that would be considered in a proposed regulation pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of—

"(I) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected as the result of treatment to comply with each level;

"(II) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations;

"(III) the costs (including non-quantifiable costs identified and described by the Administrator, except that such costs shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such costs are likely to occur) expected solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations;

"(IV) the incremental costs and benefits associated with each alternative maximum contaminant level considered;

"(V) the effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population;

"(VI) any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants; and

"(VII) other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

"(ii) TREATMENT TECHNIQUES.—Not later than 90 days prior to proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that would be considered in a proposed regulation, taking into account, as appropriate, the factors described in clause (i).

"(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

"(iv) FORM OF NOTICE.—Whenever a national primary drinking water regulation is expected to result in compliance costs greater than $75,000,000 per year, the Administrator shall provide the notice required by clause (i) or (ii) through an advanced notice of proposed rulemaking.

"(v) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.".

SEC. 6. STANDARD-SETTING; REVIEW OF STANDARDS.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) Each" and inserting the following:

"(4) GOALS AND STANDARDS.—

"(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each";

(B) in subparagraph (A) (as so designated), by inserting after the first sentence the following: "The maximum contaminant level goal for contaminants that are known or likely to cause cancer in humans may be set at a level other than zero, if the Administrator determines, based on the best available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the maximum contaminant level goal at that level with an adequate margin of safety.";

(C) in the last sentence—

(i) by striking "Each national" and inserting the following:

"(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national"; and

(ii) by striking "maximum level" and inserting "maximum contaminant level"; and

(D) by adding at the end the following:

"(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).";

(2) by striking "(5) For the" and inserting the following:

"(D) DEFINITION OF FEASIBLE.—For the";

(3) in the second sentence of paragraph (4)(D) (as so designated), by striking "paragraph (4)" and inserting "this paragraph";

(4) by striking "(6) Each national" and inserting the following:

"(E) FEASIBLE TECHNOLOGIES.—Each national";

(5) in paragraph (4)(E) (as so designated), by striking "this paragraph" and inserting "this subsection"; and

(6) by inserting after paragraph (4) (as so amended) the following:

"(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

"(i) increasing the concentration of other contaminants in drinking water; or

"(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

"(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

"(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

"(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

"(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

"(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

"(i) persons served by large public water systems; and

"(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems (as defined in section 1415(e)).

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation for contaminants that are disinfectants or disinfection byproducts (as described in paragraph (2)), or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

"(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section, unless the court finds that the determination is arbitrary and capricious.".

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Public Health Service Act (as amended by subsection (a)) to promulgate the Stage I rulemaking for disinfectants and disinfection byproducts as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). Unless new information warrants a modification of the proposal as provided for in the "Disinfection and Disinfection Byproducts Negotiated Rulemaking Committee Agreement", nothing in such section shall be construed to require the Administrator to modify the provisions of the rulemaking as proposed.

(c) REVIEW OF STANDARDS.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by striking paragraph (9) and inserting the following:

"(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain or provide for greater protection of the health of persons.".

SEC. 7. ARSENIC.

Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by adding at the end the following:

"(12) ARSENIC.—

"(A) SCHEDULE AND STANDARD.—Notwithstanding paragraph (2), the Administrator shall promulgate a national primary drinking water regulation for arsenic in accordance with the schedule established by this paragraph and pursuant to this subsection.

"(B) RESEARCH PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for research in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. The Administrator shall consult with the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), other Federal agencies, and interested public and private entities.

"(C) RESEARCH PROJECTS.—The Administrator shall carry out the research plan, taking care to avoid duplication of other research in progress. The Administrator may enter into cooperative research agreements with other Federal agencies, State and local governments, and other interested public and private entities to carry out the research plan.

"(D) ASSESSMENT.—Not later than 3½ years after the date of enactment of this paragraph, the Administrator shall review the progress of the research to determine whether the health risks associated with exposure to low levels of arsenic are sufficiently well understood to proceed with a national primary drinking water regulation. The Administrator shall consult with the Science Advisory Board, other Federal agencies, and other interested public and private entities as part of the review.

"(E) PROPOSED REGULATION.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

"(F) FINAL REGULATION.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.".

SEC. 8. RADON.

Section 1412(b) (42 U.S.C. 300g-1(b)) (as amended by section 7) is further amended by adding at the end the following:

"(13) RADON IN DRINKING WATER.—

"(A) REGULATION.—Notwithstanding paragraph (2), not later than 180 days after the date of enactment of this paragraph, the Administrator shall promulgate a national primary drinking water regulation for radon.

"(B) MAXIMUM CONTAMINANT LEVEL.—Notwithstanding any other provision of law, the regulation shall provide for a maximum contaminant level for radon of 3,000 picocuries per liter.

"(C) REVISION.—

"(i) IN GENERAL.—Subject to clause (ii), a revision to the regulation promulgated under subparagraph (A) may be made pursuant to this subsection. *The revision may include a maximum contaminant level less stringent than 3,000 picocuries per liter as provided in paragraphs (4) and (9) or a maximum contaminant level more stringent than 3,000 picocuries per liter as provided in clause (ii).*

"(ii) MAXIMUM CONTAMINANT LEVEL.—

"(I) CRITERIA FOR REVISION.—The Administrator shall not revise the maximum contaminant level for radon to a more stringent level than the level established under subparagraph (B) unless—

"(aa) the revision is made to reflect consideration of risks from the ingestion of radon in drinking water and episodic uses of drinking water;

"(bb) the revision is supported by peer-reviewed scientific studies conducted in accordance with sound and objective scientific practices; and

"(cc) based on the studies, the National Academy of Sciences and the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), consider a revision of the maximum contaminant level to be appropriate.

"(II) AMOUNT OF REVISION.—If the Administrator determines to revise the maximum contaminant level for radon in accordance with subclause (I), the maximum contaminant level shall be revised to a level that is no more stringent than is necessary to reduce risks to human health from radon in drinking water to a level that is equivalent to risks to human health from radon in outdoor air based on the national average concentration of radon in outdoor air.".

SEC. 9. SULFATE.

Section 1412(b) (42 U.S.C. 300g-1(b)) (as amended by section 8) is further amended by adding at the end the following:

"(14) SULFATE.—

"(A) IN GENERAL.—In the absence of scientific evidence suggesting new or more serious health effects than are suggested by the evidence available on the date of enactment of this paragraph, for the purposes of promulgation of a national primary drinking water regulation for sulfate, notwithstanding the requirements of paragraphs (4) and (7), the Administrator shall specify in the regulation—

"(i) a requirement for best technology or other means under this subsection; and

"(ii) requirements for public notification and options for the provision of alternative water supplies to populations at risk as an alternative means of complying with the regulation.

"(B) SCHEDULE.—Notwithstanding paragraph (2), the regulation referred to in subparagraph (A) shall be promulgated not later than 2 years after the date of enactment of this paragraph.

"(C) AUTHORITY.—Paragraph (6) shall apply to the national primary drinking water regulation for sulfate first promulgated after the date of enactment of this paragraph only if the Administrator reproposes the national primary drinking water regulation for sulfate after that date based on evidence suggesting new or more serious health effects as described in subparagraph (A).

"(D) EFFECT ON OTHER LAWS.—

"(i) FEDERAL LAWS.—Notwithstanding part C, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), subtitle C or D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), or section 107 or 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 and 9621(d)), no national primary drinking water regulation for sulfate shall be—

"(I) used as a standard for determining compliance with any provision of any law other than this subsection;

"(II) used as a standard for determining appropriate cleanup levels or whether cleanup should be undertaken with respect to any facility or site;

"(III) considered to be an applicable or relevant and appropriate requirement for any such cleanup; or

"(IV) used for the purpose of defining injury to a natural resource;

unless the Administrator, by rule and after notice and opportunity for public comment, determines that the regulation is appropriate for a use described in subclause (I), (II), (III), or (IV).

"(ii) STATE LAWS.—This subparagraph shall not affect any requirement of State law, including the applicability of any State standard similar to the regulation published under this paragraph as a standard for any cleanup action, compliance action, or natural resource damage action taken pursuant to such a law.".

SEC. 10. FILTRATION AND DISINFECTION.

(a) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—Section 1412(b)(7)(C) (42 U.S.C. 300g-1(b)(7)(C)) is amended by adding at the end the following:

"(v) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—At the same time as the Administrator proposes an Interim Enhanced Surface Water Treatment Rule pursuant to paragraph (2)(C)(ii), the Administrator shall propose a regulation that describes treatment techniques that meet the requirements for filtration pursuant to this subparagraph and are feasible for community water systems serving a population of 3,300 or fewer and noncommunity water systems.".

(b) GROUND WATER DISINFECTION.—The first sentence of section 1412(b)(8) (42 U.S.C. 300g-1(b)(8)) is amended—

(1) by striking "Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate" and inserting ["At the time that] *At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1995 but not later than the date on which* the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)), the Administrator shall also promulgate"; and

(2) by striking the period at the end and inserting the following: ", including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.".

SEC. 11. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (10) and inserting the following:

"(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State in the case of an individual system, may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State determines that additional time is necessary for capital improvements.".

SEC. 12. TECHNOLOGY AND TREATMENT TECHNIQUES; TECHNOLOGY CENTERS.

(a) SYSTEM TREATMENT TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 9) is further amended by adding at the end the following:

"(15) SYSTEM TREATMENT TECHNOLOGIES.—

"(A) GUIDANCE OR REGULATIONS.—

"(i) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking *water* regulation pursuant to this section, the Administrator shall issue guidance or regulations describing all treatment technologies for the contaminant that is the subject of the regulation that are feasible with the use of best technology, treatment techniques, or other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available taking cost into consideration for public water systems serving—

"(I) a population of 10,000 or fewer but more than 3,300;

"(II) a population of 3,300 or fewer but more than 500; and

"(III) a population of 500 or fewer but more than 25.

"(ii) CONTENTS.—The guidance or regulations shall identify the effectiveness of the technology, the cost of the technology, and other factors related to the use of the technology, including requirements for the quality of source water to ensure adequate protection of human health, considering removal efficiencies of the technology, and installation and operation and maintenance requirements for the technology.

"(iii) LIMITATION.—The Administrator shall not issue guidance or regulations for a technology under this paragraph unless the technology adequately protects human health, considering the expected useful life of the technology and the source waters available to systems for which the technology is considered to be feasible.

"(B) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional or new or innovative treatment technologies that meet the requirements of subparagraph (A) for public water systems described in subparagraph (A)(i) that are subject to the regulation.

"(C) NO SPECIFIED TECHNOLOGY.—A description under subparagraph (A) of the best technology or other means available shall not be considered to require or authorize that the specified technology or other means be used for the purpose of meeting the requirements of any national primary drinking water regulation.".

(b) TECHNOLOGIES AND TREATMENT TECHNIQUES FOR SMALL SYSTEMS.—Section 1412(b)(4)(E) (as amended by section 6(a)) is further amended by adding at the end the following: "The Administrator shall include in the list any technology, treatment technique, or other means that is feasible for small public water systems serving—

"(i) a population of 10,000 or fewer but more than 3,300;

"(ii) a population of 3,300 or fewer but more than 500; and

"(iii) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level, including packaged or modular systems and point-of-entry treatment units that are controlled by the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems.".

(c) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding at the end the following:

"(g) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of paragraphs (4)(E) and (15) of section 1412(b), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and date by which information shall be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under paragraph (4)(E) or (15) of section 1412(b).".

(d) SMALL WATER SYSTEMS TECHNOLOGY CENTERS.—Section 1442 (42 U.S.C. 300j–1) is amended by adding at the end the following:

"(h) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

"(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

"(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of research, training, and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of rural small communities or Indian Tribes.

"(B) The grant recipient shall be located in a region that has experienced problems with rural water supplies.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated expertise in water resources research, technical assistance, and training.

"(D) The grant recipient shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and intermediate-range rural water system technology management problems.

"(E) The grant recipient shall have a demonstrated interdisciplinary capability with expertise in small public water system technology management and research.

"(F) The grant recipient shall have a demonstrated capability to disseminate the results of small public water system technology research and training programs through an interdisciplinary continuing education program.

"(G) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(H) The grant recipient has regional support beyond the host institution.

"(I) The grant recipient shall include the participation of water resources research institutes established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

"(5) ALASKA.—For purposes of this subsection, the State of Alaska shall be considered to be a region.

"(6) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities. In this paragraph, the term 'consortium of States with low population densities' means a consortium of States, each State of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

"(7) ADDITIONAL CONSIDERATIONS.—At least one center established under this subsection shall focus primarily on the development and evaluation of new technologies and new combinations of existing technologies that are likely to provide more reliable or lower cost options for providing safe drinking water. This center shall be located in a geographic region of the country with a high density of small systems, at a university with an established record of developing and piloting small treatment technologies in cooperation with industry, States, communities, and water system associations.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $10,000,000 for each of fiscal years 1995 through 2003.".

SEC. 13. VARIANCES AND EXEMPTIONS.

(a) TECHNOLOGY AND TREATMENT TECHNIQUES FOR SYSTEMS ISSUED VARIANCES.—The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking "only be issued to a system after the system's application of" and inserting "be issued to a system on condition that the system install"; and

(2) by inserting before the period at the end the following: ", and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system".

(b) EXEMPTIONS.—Section 1416 (42 U.S.C. 300g–5) is amended—

(1) in subsection (a)(1)—

(A) by inserting after "(which may include economic factors" the following: ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1473(e)(1)"; and

(B) by inserting after "treatment technique requirement," the following: "or to implement measures to develop an alternative source of water supply,";

(2) in subsection (b)(1)(A)—

(A) by striking "(including increments of progress)" and inserting "(including increments of progress or measures to develop an alternative source of water supply)"; and

(B) by striking "requirement and treatment" and inserting "requirement or treatment"; and

(3) in subsection (b)(2)—

(A) by striking "(except as provided in subparagraph (B))" in subparagraph (A) and all that follows through "3 years after the date of the issuance of the exemption if" in subparagraph (B) and inserting the following: "not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

"(B) No exemption shall be granted unless";

(B) in subparagraph (B)(i), by striking "within the period of such exemption" and inserting "prior to the date established pursuant to section 1412(b)(10)";

(C) in subparagraph (B)(ii), by inserting after "such financial assistance" the following: "or assistance pursuant to part G, or any other Federal or State program is reasonably likely to be available within the period of the exemption";

(D) in subparagraph (C)—

(i) by striking "500 service connections" and inserting "a population of 3,300"; and

(ii) by inserting ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods"; and

(E) by adding at the end the following:

"(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).".

SEC. 14. SMALL SYSTEMS; TECHNICAL ASSISTANCE.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

"(e) SMALL SYSTEM VARIANCES.—

"(1) IN GENERAL.—The Administrator (or a State with primary enforcement responsibility for public water systems under section 1413) may grant to a public water system serving a population of 10,000 or fewer (referred to in this subsection as a 'small system') a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation, if the variance meets each requirement of this subsection.

"(2) AVAILABILITY OF VARIANCES.—A small system may receive a variance under this subsection if the system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, treatment technology that is feasible for small systems as determined by the Administrator pursuant to section 1412(b)(15).

"(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

"(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

"(i) treatment;

"(ii) alternative source of water supply; or

"(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not feasible or appropriate based on other specified public policy considerations); and

"(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(4) APPLICATIONS.—An application for a variance for a national primary drinking water regulation under this subsection shall be submitted to the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) not later than the date that is the later of—

"(A) 3 years after the date of enactment of this subsection; or

"(B) 1 year after the compliance date of the national primary drinking water regulation as established under section 1412(b)(10) for which a variance is requested.

"(5) VARIANCE REVIEW AND DECISION.—

"(A) TIMETABLE.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall grant or deny a variance not later than 1 year after the date of receipt of the application.

"(B) PENALTY MORATORIUM.—Each public water system that submits a timely application for a variance under this subsection shall not be subject to a penalty in an enforcement action under section 1414 for a violation of a maximum contaminant level or treatment technique in the national primary drinking water regulation with respect to which the variance application was submitted prior to the date of a decision to grant or deny the variance.

"(6) COMPLIANCE SCHEDULES.—

"(A) VARIANCES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a treatment technique, secure an alternative source of water, or restructure if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to part G or any other Federal or State program.

"(B) DENIED APPLICATIONS.—If the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) denies a variance application under this subsection, the public water system shall come into compliance with the requirements of the national primary drinking water regulation for which the variance was requested not later than 4 years after the date on which the national primary drinking water regulation was promulgated.

"(7) DURATION OF VARIANCES.—

"(A) IN GENERAL.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

"(B) REVOCATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall revoke a variance in effect under this subsection if the Administrator (or the State) determines that—

"(i) the system is no longer eligible for a variance;

"(ii) the system has failed to comply with any term or condition of the variance, other than a reporting or monitoring requirement, unless the failure is caused by circumstances outside the control of the system; or

"(iii) the terms of the variance do not ensure adequate protection of human health, considering the quality of source water available to the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(8) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

"(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

"(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

"(9) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

"(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system applying for a variance and requirements for a public hearing on the variance before the variance is granted;

"(ii) requirements for the installation and proper operation of treatment technology that is feasible (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

"(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

"(iv) information requirements for variance applications.

"(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

"(10) REVIEW BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

"(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

"(C) OBJECTIONS TO VARIANCES.—

"(i) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

"(ii) PETITION BY CONSUMERS.—Not later than 30 days after a State with primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition not later than 60 days after the receipt of the petition. The State shall not grant the variance during the 60-day period. The petition shall be based on comments made by the petitioner during public review of the variance by the State.".

(b) TECHNICAL ASSISTANCE.—Section 1442(g) (42 U.S.C. 300j-1(g)) is amended—

(1) in the second sentence, by inserting "and multi-State regional technical assistance" after "'circuit-rider'"; and

(2) by striking the third sentence and inserting the following: "The Administrator shall ensure that funds made available for technical assistance pursuant to this subsection are allocated among the States equally. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using the assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 1992 through 2003.".

SEC. 15. CAPACITY DEVELOPMENT; FINANCE CENTERS.

Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

"CAPACITY DEVELOPMENT

"SEC. 1418. (a) STATE AUTHORITY FOR NEW SYSTEMS.—Each State shall obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1998, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

"(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

"(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

"(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

"(c) CAPACITY DEVELOPMENT STRATEGY.—

"(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section, each State shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

"(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

"(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

"(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

"(C) a description of how the State will use the authorities and resources of this title or other means to—

"(i) assist public water systems in complying with national primary drinking water regulations;

"(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

"(iii) assist public water systems in the training and certification of operators;

"(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

"(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

"(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

"(d) FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

"(2) INFORMATIONAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

"(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

"(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

"(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

"(3) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(2)(B), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this paragraph shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

"(4) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

"(5) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

"(e) ENVIRONMENTAL FINANCE CENTERS.—

"(1) IN GENERAL.—The Administrator shall support the network of university-based Environmental Finance Centers in providing training and technical assistance to State and local officials in developing capacity of public water systems.

"(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—Within the Environmental Finance Center network in existence on the date of enactment of this section, the Administrator shall establish a national public water systems capacity development clearinghouse to receive, coordinate, and disseminate research and reports on projects funded under this title and from other sources with respect to developing, improving, and maintaining technical, financial, and managerial capacity at public water systems to Federal and State agencies, universities, water suppliers, and other interested persons.

"(3) CAPACITY DEVELOPMENT TECHNIQUES.—

"(A) IN GENERAL.—The Environmental Finance Centers shall develop and test managerial, financial, and institutional techniques—

"(i) to ensure that new public water systems have the technical, managerial, and financial capacity before commencing operation;

"(ii) to identify public water systems in need of capacity development; and

"(iii) to bring public water systems with a history of significant noncompliance with national primary drinking water regulations into compliance.

"(B) TECHNIQUES.—The techniques may include capacity assessment methodologies, manual and computer-based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (e) $2,500,000 for each of fiscal years 1995 through 2003.".

SEC. 16. OPERATOR AND LABORATORY CERTIFICATION.

Section 1442 (42 U.S.C. 300j–1) is amended by inserting after subsection (d) the following:

"(e) CERTIFICATION OF OPERATORS AND LABORATORIES.—

"(1) REQUIREMENT.—Beginning 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995—

"(A) no assistance may be provided to a public water system under part G unless the system has entered into an enforceable commitment with the State providing that any person who operates the system will be trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413) not later than the date of completion of the capital project for which the assistance is provided; and

"(B) a public water system that has received assistance under part G may be operated only by a person who has been trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413).

"(2) GUIDELINES.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995 and after consultation with the States, the Administrator shall publish information to assist States in carrying out paragraph (1). In the case of a State with primary enforcement responsibility under section 1413 *or any other State that has established a training program that is consistent with the guidance issued under this paragraph*, the authority to prescribe the appropriate level of training for certification for all systems shall be solely the responsibility of the State. The guidance issued under this paragraph shall also include information to assist States in certifying laboratories engaged in testing for the purpose of compliance with sections 1445 and 1401(1).

"(3) NONCOMPLIANCE.—If a public water system in a State is not operated in accordance with paragraph (1), the Administrator is authorized to withhold from funds that would otherwise be allocated to the State under section 1472 or require the repayment of an amount equal to the amount of any assistance under part G provided to the public water system.".

SEC. 17. SOURCE WATER QUALITY PROTECTION PARTNERSHIPS.

Part B (42 U.S.C. 300g et seq.) (as amended by section 15) is further amended by adding at the end the following:

"SOURCE WATER QUALITY PROTECTION PARTNERSHIP PROGRAM

"SEC. 1419. (a) SOURCE WATER AREA DELINEATIONS.—Except as provided in subsection (c), not later than 5 years after the date of enactment of this section, and after an opportunity for public comment, each State shall—

"(1) delineate (directly or through delegation) the source water protection areas for community water systems in the State using hydrogeologic information considered to be reasonably available and appropriate by the State; and

"(2) conduct, to the extent practicable, vulnerability assessments in source water areas determined to be a priority by the State, including, to the extent practicable, identification of risks in source water protection areas to drinking water.

"(b) ALTERNATIVE DELINEATIONS AND VULNERABILITY ASSESSMENTS.—For the purposes of satisfying the requirements of subsection (a), a State may use delineations and vulnerability assessments conducted for—

"(1) ground water sources under a State wellhead protection program developed pursuant to section 1428;

"(2) surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)); or

"(3) surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

"(c) FUNDING.—To carry out the delineations and assessments described in subsection (a), a State may use funds made available for that purpose pursuant to section 1473(f). If funds available under that section are insufficient to meet the minimum requirements of subsection (a), the State shall establish a priority-based schedule for the delineations and assessments within available resources.

"(d) PETITION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a government in the State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

"(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

"(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

"(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

"(B) STATE DETERMINATION.—Not later than 1 year after the date of enactment of this section, each State shall provide public notice and solicit public comment on the question of whether to develop a source water quality protection partnership petition program in the State, and publicly announce the determination of the State thereafter. If so requested by any public water system or local governmental entity, prior to making the determination, the State shall hold at least one public hearing to assess the level of interest in the State for development and implementation of a State source water quality partnership petition program.

"(C) FUNDING.—Each State may—

"(i) use funds set aside pursuant to section 1473(f) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of [source water,] *source water such as* source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under subsection (a); and

"(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsections (e)(2)(B) and (g).

"(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

"(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

"(B) obtain assistance from the State in directing or redirecting resources under Federal or State water quality programs to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities) that affect the drinking water supply of a community.

"(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this section may address only those contaminants—

"(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412(b)(2)(C); or

"(B) for which a national primary drinking water regulation has been promulgated or proposed and—

"(i) that are detected in the community water system for which the petition is submitted at levels above the maximum contaminant level; or

"(ii) that are detected by adequate monitoring methods at levels that are not reliably and consistently below the maximum contaminant level.

"(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

"(A) include a delineation of the source water area in the State that is the subject of the petition;

"(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under subparagraph (A);

"(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

"(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

"(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under subparagraph (A); and

"(ii) each person in the source water area delineated under subparagraph (A)—

"(I) who is likely to be affected by recommendations of the voluntary local partnership; and

"(II) whose participation is essential to the success of the partnership;

"(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under subparagraph (A) under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

"(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

"(e) APPROVAL OR DISAPPROVAL OF PETITIONS.—

"(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (d), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

"(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (d). The notice of approval shall, at a minimum, include—

"(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

"(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

"(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

"(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or part G and the appropriate distribution of the funds to assist in implementing the recommendations of the partnership;

"(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

"(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

"(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

"(iv) the sole source aquifer protection program established under section 1427;

"(v) the community wellhead protection program established under section 1428;

"(vi) any pesticide or ground water management plan; **[**and**]**

"(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

["(vii)**]** *"(viii)* any abandoned well closure program; and

"(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

"(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (d), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

"(A) new information becomes available;

"(B) conditions affecting the source water that is the subject of the petition change; or

"(C) modifications are made in the type of assistance being requested.

"(f) ELIGIBILITY FOR WATER QUALITY PROTECTION ASSISTANCE.—A sole source aquifer plan developed under section 1427, a wellhead protection plan developed under section 1428, and a source water quality protection measure assisted in response to a petition submitted under subsection (d) shall be eligible for assistance under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including assistance provided under section 319 and title VI of such Act (33 U.S.C. 1329 and 1381 et seq.), if the project, measure, or practice would be eligible for assistance under such Act. In the case of funds made available under such section 319 to assist a source water quality protection measure in response to a petition submitted under subsection (d), the funds may be used only for a measure that addresses nonpoint source pollution.

"(g) GRANTS TO SUPPORT STATE PROGRAMS.—

"(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

"(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under paragraph (3). The Administrator shall approve the plan if the plan is consistent with the guidance published under paragraph (3).

"(3) GUIDANCE.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, *in consultation with the States,* shall publish guidance to assist—

"(i) States in the development of a source water quality protection partnership program; and

"(ii) municipal or local governments or political subdivisions of the governments and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

"(B) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

"(i) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (d);

"(ii) recommend procedures for the submission of petitions developed under subsection (d);

"(iii) recommend criteria for the **[**delineation**]** *assessment* of source water areas within a State;

"(iv) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (d); and

"(v) specify actions taken by the Administrator to ensure the coordination of the programs referred to in clause (iv) with the goals and objectives of this title to the maximum extent practicable.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for fiscal years 1995 through 2003. Each State with a plan for a program approved under paragraph (2) shall receive an equitable portion of the funds available for any fiscal year.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section—

"(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

"(B) limits any **[**existing**]** authority of a State, political subdivision, or community water system; or

"(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.".

SEC. 18. STATE PRIMACY; STATE FUNDING.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator;"; and

(2) by adding at the end the following:

"(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2) with respect to the regulation.".

(b) PUBLIC WATER SYSTEM SUPERVISION PROGRAM.—Section 1443(a) (42 U.S.C. 300j–2(a)) is amended—

(1) in paragraph (3)—

(A) by striking "(3) A grant" and inserting the following:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—A grant"; and

(B) by adding at the end the following:

"(B) DETERMINATION OF COSTS.—To determine the costs of a grant recipient pursuant to this paragraph, the Administrator shall, in cooperation with the States and not later than 180 days after the date of enactment of this subparagraph, establish a resource model for the public water system supervision program and review and revise the model as necessary.

"(C) STATE COST ADJUSTMENTS.—The Administrator shall revise cost estimates used in the resource model for any particular State to reflect costs more likely to be experienced in that State, if—

"(i) the State requests the modification; and

"(ii) the revised estimates ensure full and effective administration of the public water system supervision program in the State and the revised estimates do not overstate the resources needed to administer the program.";

(2) in paragraph (7), by adding at the end a period and the following:

"For the purpose of making grants under paragraph (1), there are authorized to be appropriated such sums as are necessary for each of fiscal years 1992 and 1993 and $100,000,000 for each of fiscal years 1994 through 2003."; and

(3) by adding at the end the following:

"(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

"(9) STATE LOAN FUNDS.—

"(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State (based on the resource model developed under paragraph (3)(B)), the Administrator may reserve from the funds made available to the State under section 1472 an amount that is equal to the amount of the shortfall.

"(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State—

"(i) each of the activities that would be required of the State if the State had primary enforcement authority under section 1413; and

"(ii) each of the activities required of the State by this title, other than part C, but not made a condition of the authority.".

SEC. 19. MONITORING AND INFORMATION GATHERING.

(a) REGULATED CONTAMINANTS.—

(1) REVIEW OF EXISTING REQUIREMENTS.—Section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(B) by adding at the end the following:

"(C) REVIEW.—The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.".

(2) ALTERNATIVE MONITORING PROGRAMS.—Section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) (as amended by paragraph (1)(B)) is further amended by adding at the end the following:

"(D) STATE-ESTABLISHED REQUIREMENTS.—

"(i) IN GENERAL.—Each State with primary enforcement responsibility under section 1413 may, by rule, establish alternative monitoring requirements for any national primary drinking water regulation, other than a regulation applicable to a microbial contaminant (or an indicator of a microbial contaminant). The alternative monitoring requirements established by a State under this clause may not take effect for any national primary drinking water regulation until after completion of at least 1 full cycle of monitoring in the State satisfying the requirements of paragraphs (1) and (2) of section 1413(a). The alternative monitoring requirements may be applicable to public water systems or classes of public water systems identified by the State, in lieu of the monitoring requirements that would otherwise be applicable under the regulation, if the alternative monitoring requirements—

"(I) are based on use of the best available science conducted in accordance with sound and objective scientific practices and data collected by accepted methods;

"(II) are based on the potential for the contaminant to occur in the source water based on use patterns and other relevant characteristics of the contaminant or the systems subject to the requirements;

"(III) in the case of a public water system or class of public water systems in which a contaminant has been detected at quantifiable levels that are not reliably and consistently below the maximum contaminant level, include monitoring frequencies that are not less frequent than the frequencies required in the national primary drinking water regulation for the contaminant for a period of 5 years after the detection; and

"(IV) in the case of each contaminant formed in the distribution system, are not applicable to public water systems for which treatment is necessary to comply with the national primary drinking water regulation.

"(ii) COMPLIANCE AND ENFORCEMENT.—The alternative monitoring requirements established by the State shall be adequate to ensure compliance with, and enforcement of, each national primary drinking water regulation. The State may review and update the alternative monitoring requirements as necessary.

"(iii) APPLICATION OF SECTION 1413.—

"(I) IN GENERAL.—Each State establishing alternative monitoring requirements under this subparagraph shall submit the rule to the Administrator as provided in section 1413(b)(1). Any requirements for a State to provide information supporting a submission shall be defined only in consultation with the States, and shall address only such information as is necessary to make a decision to approve or disapprove an alternative monitoring rule in accordance with the following sentence. The Administrator shall approve an alternative monitoring rule submitted under this clause for the purposes of section 1413, unless the Administrator determines in writing that the State rule for alternative monitoring does not ensure compliance with, and enforcement of, the national primary drinking water regulation for the contaminant or contaminants to which the rule applies.

"(II) EXCEPTIONS.—The requirements of section 1413(a)(1) that a rule be no less stringent than the national primary drinking water regulation for the contaminant or contaminants to which the rule applies shall not apply to the decision of the Administrator to approve or disapprove a rule submitted under this clause. Notwithstanding the requirements of section 1413(b)(2), the Administrator shall approve or disapprove a rule submitted under this clause within 180 days of submission. In the absence of a determination to disapprove a rule made by the Administrator within 180 days, the rule shall be deemed to be approved under section 1413(b)(2).

"(III) ADDITIONAL CONSIDERATIONS.—A State shall be considered to have primary enforcement authority with regard to an alternative monitoring rule, and the rule shall be effective, on a date (determined by the State) any time on or after submission of the rule, consistent with section 1413(c). A decision by the Administrator to disapprove an alternative monitoring rule under section 1413 or to withdraw the authority of the State to carry out the rule under clause (iv) may not be the basis for withdrawing primary enforcement responsibility for a national primary drinking water regulation or regulations from the State under section 1413.

"(iv) OVERSIGHT BY THE ADMINISTRATOR.—The Administrator shall review, not less often than every 5 years, any alternative monitoring requirements established by a State under clause (i) to determine whether the requirements are adequate to ensure compliance with, and enforcement of, national primary drinking water regulations. If the Administrator determines that the alternative monitoring requirements of a State are inadequate with respect to a contaminant, and after providing the State with an opportunity to respond to the determination of the Administrator and to correct any inadequacies, the Administrator may withdraw the authority of the State to carry out the alternative monitoring requirements with respect to the contaminant. If the Administrator withdraws the authority, the monitoring requirements contained in the national primary drinking water regulation for the contaminant shall apply to public water systems in the State.

"(v) NONPRIMACY STATES.—The Governor of any State that does not have primary enforcement responsibility under section 1413 on the date of enactment of this clause may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subparagraph that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

"(vi) GUIDANCE.—The Administrator shall issue guidance in consultation with the States that States may use to develop State-established requirements pursuant to this subparagraph and subparagraph (E). The guidance shall identify options for alternative monitoring designs that meet the criteria identified in clause (i) and the requirements of clause (ii).".

(3) SMALL SYSTEM MONITORING.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) SMALL SYSTEM MONITORING.—The Administrator or a State that has primary enforcement responsibility under section 1413 may modify the monitoring requirements for any contaminant, other than a microbial contaminant or an indicator of a microbial contaminant, a contaminant regulated on the basis of an acute health effect, or a contaminant formed in the treatment process or in the distribution system, to provide that any public water system that serves a population of 10,000 or fewer shall not be required to conduct additional quarterly monitoring during any 3-year period for a specific contaminant if monitoring conducted at the beginning of the period for the contaminant fails to detect the presence of the contaminant in the water supplied by the public water system, and the Administrator or the State determines that the contaminant is unlikely to be detected by further monitoring in the period.".

(b) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

"(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

"(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

"(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

"(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1995 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 20 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to paragraph (3).

"(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

"(C) MONITORING BY LARGE SYSTEMS.—A public water system that serves a population of more than 10,000 shall conduct monitoring for all contaminants listed under subparagraph (B).

"(D) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

"(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

"(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1478(c), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

"(E) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

"(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

"(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (h) in lieu of monitoring for particular contaminants under this paragraph.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 1995 through 2003.".

(c) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—Section 1445(a) (42 U.S.C. 300j–4(a)) (as amended by subsection (b)) is further amended by adding at the end the following:

"(3) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—

"(A) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under paragraph (2) and reliable information from other public and private sources.

"(B) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

"(C) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under paragraph (2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

"(i) the contaminant occurs or is likely to occur in drinking water; and

"(ii) the contaminant poses a risk to public health.

"(D) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

"(E) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

"(F) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

"(i) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under paragraph (2);

"(ii) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

"(iii) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.".

(d) INFORMATION.—

(1) MONITORING AND TESTING AUTHORITY.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by subsection (a)(1)(A)) is amended—

(A) by inserting "by accepted methods" after "conduct such monitoring"; and

(B) by striking "such information as the Administrator may reasonably require" and all that follows through the period at the end and inserting the following: "such information as the Administrator may reasonably require—

"(i) to assist the Administrator in establishing regulations under this title or to assist the Administrator in determining, on a case-by-case basis, whether the person has acted or is acting in compliance with this title; and

"(ii) by regulation to assist the Administrator in determining compliance with national primary drinking water regulations promulgated under section 1412 or in administering any program of financial assistance under this title.

If the Administrator is requiring monitoring for purposes of testing new or alternative methods, the Administrator may require the use of other than accepted methods.".

(2) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) (as amended by section 12(c)) is further amended by adding at the end the following:

"(h) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.".

SEC. 20. PUBLIC NOTIFICATION.

Section 1414 (42 U.S.C. 300g–3) is amended by striking subsection (c) and inserting the following:

"(c) NOTICE TO PERSONS SERVED.—

"(1) IN GENERAL.—Each owner or operator of a public water system shall give notice to the persons served by the system—

"(A) of any failure on the part of the public water system to—

"(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

"(ii) perform monitoring required by section 1445(a);

"(B) if the public water system is subject to a variance granted under section 1415(a)(1)(A), 1415(a)(2), or 1415(e) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(i) the existence of the variance or exemption; and

"(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption; and

"(C) of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

"(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

"(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

"(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

"(ii) take into account the seriousness of any potential adverse health effects that may be involved.

"(B) STATE REQUIREMENTS.—

"(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

"(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

"(II) with respect to the form and content of notice given under subparagraph (D).

"(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

"(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

"(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

"(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

"(ii) provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) the potential adverse effects on human health;

"(III) the steps that the public water system is taking to correct the violation; and

"(IV) the necessity of seeking alternative water supplies until the violation is corrected;

"(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

"(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

"(I) be provided to appropriate broadcast media;

"(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

"(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

"(D) WRITTEN NOTICE.—

"(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice—

"(I) in the first bill (if any) prepared after the date of occurrence of the violation;

"(II) in an annual report issued not later than 1 year after the date of occurrence of the violation; or

"(III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

"(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) any potential adverse health effects; and

"(III) the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

"(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

"(3) REPORTS.—

"(A) ANNUAL REPORT BY STATE.—

"(i) IN GENERAL.—Not later than January 1, 1997, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to—

"(I) maximum contaminant levels;

"(II) treatment requirements;

"(III) variances and exemptions; and

"(IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

"(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

"(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1997, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.".

SEC. 21. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "any national primary drinking water regulation in effect under section 1412" and inserting "any applicable requirement"; and

(II) by striking "with such regulation or requirement" and inserting "with the requirement"; and

(ii) in subparagraph (B), by striking "regulation or" and inserting "applicable"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT IN NONPRIMACY STATES.—

"(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

"(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.";

(2) in the first sentence of subsection (b), by striking "a national primary drinking water regulation" and inserting "any applicable requirement";

(3) in subsection (g)—

(A) in paragraph (1), by striking "regulation, schedule, or other" each place it appears and inserting "applicable";

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking "effect until after notice and opportunity for public hearing and," and inserting "effect,"; and

(II) by striking "proposed order" and inserting "order"; and

(ii) in the second sentence, by striking "proposed to be"; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

"(B) EFFECT OF PENALTY AMOUNTS.—In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code."; and

(ii) in subparagraph (C), by striking "paragraph exceeds $5,000" and inserting "subsection for a violation of an applicable requirement exceeds $25,000"; and

(4) by adding at the end the following:

"(h) CONSOLIDATION INCENTIVE.—

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the

State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, [1442, 1445, 1447, 1463, 1464, or 1471;] *or 1445;*

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

"(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.".

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g–2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

"(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

"(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.".

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting "final" after "any other";

(2) in the second sentence, by striking "or issuance of the order" and inserting "or any other final Agency action"; and

(3) by adding at the end the following "In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside [or] *and* remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.".

SEC. 22. FEDERAL AGENCIES.

(a) IN GENERAL.—Subsections (a) and (b) of section 1447 (42 U.S.C. 300j-6) are amended to read as follows:

"(a) COMPLIANCE.—

"(1) IN GENERAL.—Each Federal agency shall be subject to, and comply with, all Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions concerning the provision of safe drinking water or underground injection in the same manner, and to the same extent, as any nongovernmental entity is subject to, and shall comply with, the requirements, authorities, and process and sanctions.

"(2) ADMINISTRATIVE ORDERS AND PENALTIES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(3) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—The United States expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, or process or sanction referred to in paragraph (2) (including any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in paragraph (2), or reasonable service charge). The reasonable service charge referred to in the preceding sentence includes—

"(A) a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, variance, or exemption, review of a plan, study, or other document, or inspection or monitoring of a facility; and

"(B) any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local safe drinking water regulatory program.

"(4) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this subsection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(5) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States may be subject to a criminal sanction under a State, interstate, or local law concerning the provision of drinking water or underground injection. No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in the preceding sentence.

"(b) WAIVER OF COMPLIANCE.—

"(1) IN GENERAL.—The President may waive compliance with subsection (a) by any department, agency, or instrumentality in the executive branch if the President determines waiving compliance with such subsection to be in the paramount interest of the United States.

"(2) WAIVERS DUE TO LACK OF APPROPRIATIONS.—No waiver described in paragraph (1) shall be granted due to the lack of an appropriation unless the President has specifically requested the appropriation as part of the budgetary process and Congress has failed to make available the requested appropriation.

"(3) PERIOD OF WAIVER.—A waiver under this subsection shall be for a period of not to exceed 1 year, but an additional waiver may be granted for a period of not to exceed 1 year on the termination of a waiver if the President reviews the waiver and makes a determination that it is in the paramount interest of the United States to grant an additional waiver.

"(4) REPORT.—Not later than January 31 of each year, the President shall report to Congress on each waiver granted pursuant to this subsection during the preceding calendar year, together with the reason for granting the waiver.".

(b) ADMINISTRATIVE PENALTY ORDERS.—Section 1447 (42 U.S.C. 300j-6) is amended by adding at the end the following:

"(d) ADMINISTRATIVE PENALTY ORDERS.—

"(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

"(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

"(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

"(4) PUBLIC REVIEW.—

"(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

"(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

"(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

"(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.".

(c) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j-8(a)) is amended—

(1) in paragraph (1), by striking ", or" and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) for the collection of a penalty (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator under section 1447(d), to pay the penalty.".

(d) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j-6) (as amended by subsection (b)) is further amended by adding at the end the following:

"(e) WASHINGTON AQUEDUCT.—The Washington Aqueduct Authority, the Army Corps of Engineers, and the Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.".

SEC. 23. RESEARCH.

Section 1442 (42 U.S.C. 300j–1) (as amended by section 12(d)) is further amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

"(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

"(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

"(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.";

(B) by striking paragraph (3);

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4); and

(D) by adding at the end the following:

"(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out research authorized by this section $25,000,000 for each of fiscal years 1994 through 2003, of which $4,000,000 shall be available for each fiscal year for research on the health effects of arsenic in drinking water.";

(5) in subsection (b) (as so amended)—

(A) by striking "subparagraph" each place it appears and inserting "subsection"; and

(B) by adding at the end the following: "There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 1995 through 2003.";

(6) in the first sentence of subsection (c), by striking "eighteen months after the date of enactment of this subsection" and inserting "2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 5 years thereafter";

(7) in subsection (d) (as amended by paragraph (1))—

(A) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting "; and";

(D) by inserting after paragraph (3) the following:

"(4) develop and maintain a system for forecasting the supply of, and demand for, various professional occupational categories and other occupational categories needed for the protection and treatment of drinking water in each region of the United States."; and

(E) by adding at the end the following: "There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1994 through 2003."; and

(8) by adding at the end the following:

"(i) BIOLOGICAL MECHANISMS.—In carrying out this section, the Administrator shall conduct studies to—

"(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

"(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

"(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

"(j) RESEARCH PRIORITIES.—To establish long-term priorities for research under this section, the Administrator shall develop, and periodically update, an integrated risk characterization strategy for drinking water quality. The strategy shall identify unmet needs, priorities for study, and needed improvements in the scientific basis for activities carried out under this title. The initial strategy shall be made available to the public not later than 3 years after the date of enactment of this subsection.

"(k) RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.—

"(1) DEVELOPMENT OF PLAN.—The Administrator shall—

"(A) not later than 180 days after the date of enactment of this subsection, after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, *as appropriate*, the heads of other Federal agencies, develop a research plan to support the development and implementation of the most current version of the—

"(i) enhanced surface water treatment rule [(announced at 59 Fed. Reg. 6332 (February 10, 1994)] *59 Fed. Reg. 38832 (July 29, 1994)*);

"(ii) disinfectant and disinfection byproducts rule (Stage 2) [(announced at 59 Fed. Reg. 6332 (February 10, 1994)] *59 Fed. Reg. 38668 (July 29, 1994)*); and

"(iii) ground water disinfection rule (availability of draft summary announced at 57 Fed. Reg. 33960 (July 31, 1992)); and

"(B) carry out the research plan, after consultation and appropriate coordination with the Secretary of Agriculture and the heads of other Federal agencies.

"(2) CONTENTS OF PLAN.—

"(A) IN GENERAL.—The research plan shall include, at a minimum—

"(i) an identification and characterization of new disinfection byproducts associated with the use of different disinfectants;

"(ii) toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points;

"(iii) toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants;

"(iv) the development of practical analytical methods for detecting and enumerating microbial contaminants, including giardia, cryptosporidium, and viruses;

"(v) the development of reliable, efficient, and economical methods to determine the viability of individual cryptosporidium oocysts;

"(vi) the development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus;

"(vii) the development of indicators that define treatment effectiveness for pathogens and disinfection byproducts; and

"(viii) bench, pilot, and full-scale studies and demonstration projects to evaluate optimized conventional treatment, ozone, granular activated carbon, and membrane technology for controlling pathogens (including cryptosporidium) and disinfection byproducts.

"(B) RISK DEFINITION STRATEGY.—The research plan shall include a strategy for determining the risks and estimated extent of disease resulting from pathogens, disinfectants, and disinfection byproducts in drinking water, and the costs and removal efficiencies associated with various control methods for pathogens, disinfectants, and disinfection byproducts.

"(3) IMPLEMENTATION OF PLAN.—In carrying out the research plan, the Administrator shall use the most cost-effective mechanisms available, including coordination of research with, and use of matching funds from, institutions and utilities.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

"(l) SUBPOPULATIONS AT GREATER RISK.—

"(1) RESEARCH PLAN.—The Administrator shall conduct a continuing program of peer-reviewed research to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop and implement a research plan to establish whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

"(2) CONTENTS OF PLAN.—To the extent appropriate, the research shall be—

"(A) integrated into the health effects research plan carried out by the Administrator to support the regulation of specific contaminants under this Act; and

"(B) designed to identify—

"(i) the nature and extent of the elevated health risks, if any;

"(ii) the groups likely to experience the elevated health risks;

"(iii) biological mechanisms and other factors that may contribute to elevated health risks for groups within the general population;

"(iv) the degree of variability of the health risks to the groups from the health risks to the general population;

"(v) the threshold, if any, at which the elevated health risks for a specific contaminant occur; and

"(vi) the probability of the exposure to the contaminants by the identified group.

"(3) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to Congress on the results of the research.

"(4) USE OF RESEARCH.—In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall consider all relevant factors, including the results of research under this subsection, the margin of safety for variability in the general population, and sound scientific practices (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects.".

SEC. 24. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by inserting "accepted methods for" before "quality control"; and

(B) by adding at the end the following:

"At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. The procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.";

(2) in paragraph (13)—

(A) by striking "The" and inserting "(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) For purposes of part G, the term 'State' means each of the 50 States and the Commonwealth of Puerto Rico.";

(3) in paragraph (14), by adding at the end the following: "For purposes of part G, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))."; and

(4) by adding at the end the following:

["(15) The**]** *(15) COMMUNITY WATER SYSTEM.—The* term 'community water system' means a public water system that—

"(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

"(B) regularly serves at least 25 year-round residents.

["(16) The**]** *(16) NONCOMMUNITY WATER SYSTEM.—The* term 'noncommunity water system' means a public water system that is not a community water system.".

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended—

(A) in the first sentence, by striking "piped water for human consumption" and inserting "water for human consumption through pipes or other constructed conveyances";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking "(4) The" and inserting the following:

"(4) PUBLIC WATER SYSTEM.—

"(A) IN GENERAL.—The"; and

(D) by adding at the end the following:

"(B) CONNECTIONS.—

"(i) RESIDENTIAL USE.—

"(I) IN GENERAL.—A connection described in subclause (II) shall not be considered to be a connection for determining whether the system is a public water system under this title, if—

"(aa) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

"(bb) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking and cooking is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"(II) CONNECTIONS.—A connection referred to in this subclause is a connection to a water system that conveys water by a means other than a pipe principally for 1 or more purposes other than residential use (which other purposes include irrigation, stock watering, industrial use, or municipal source water prior to treatment)—

"(aa) for a residential use (consisting of drinking, bathing, cooking, or other similar use); or

"(bb) to a facility for a use similar to a residential use.

"(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential use shall not be considered to be a public water system if the system and the residential users of the system comply with subclauses (I) and (II) of clause (i).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

SEC. 25. GROUND WATER PROTECTION.

(a) STATE GROUND WATER PROTECTION GRANTS.—Section 1443 (42 U.S.C. 300j-2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) STATE GROUND WATER PROTECTION GRANTS.—

"(1) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

"(2) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

"(3) CONDITIONS OF GRANTS.—

"(A) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

"(B) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this paragraph for innovative programs proposed by a State for the prevention of ground water contamination.

"(C) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this subsection are allocated to each State that submits an application that is approved by the Administrator pursuant to this subsection.

"(D) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

"(4) COORDINATION WITH OTHER GRANT PROGRAMS.—The awarding of grants by the Administrator pursuant to this subsection shall be coordinated with the awarding of grants pursuant to section 319(i) of the Federal Water Pollution Control Act (33 U.S.C. 1329(i)) and the awarding of other Federal grant assistance that provides funding for programs related to ground water protection.

"(5) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

"(6) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this subsection and report to Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 1995 through 2003.".

(b) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h-6) is amended—

(1) in subsection (b)(1), by striking "not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986"; and

(2) in the first sentence of subsection (n), by adding at the end the following:

"1992–2003 .... 20,000,000.".

(c) WELLHEAD PROTECTION AREAS.—Section 1428(k) (42 U.S.C. 300h-7(k)) is amended by adding at the end the following:

"1992–2003 .... 35,000,000.".

(d) UNDERGROUND INJECTION CONTROL GRANT.—Section 1443(b)(5) (42 U.S.C. 300j-2(b)(5)) is amended by adding at the end the following:

"1992–2003 .... 20,850,000.".

(e) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—Section 1450 (42 U.S.C. 300j-9) is amended by striking subsection (h) and inserting the following:

"(h) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—The Administrator shall conduct a study to determine the extent and seriousness of contamination of private sources of drinking water that are not regulated under this title. Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall submit to Congress a report that includes the findings of the study and recommendations by the Administrator concerning responses to any problems identified under the study. In designing and conducting the study, including consideration of research design, methodology, and conclusions and recommendations, the Administrator shall consult with experts outside the Agency, including scientists, hydrogeologists, well contractors and suppliers, and other individuals knowledgeable in ground water protection and remediation.".

(f) NATIONAL CENTER FOR GROUND WATER RESEARCH.—The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration.

SEC. 26. LEAD PLUMBING AND PIPES; RETURN FLOWS.

(a) FITTINGS AND FIXTURES.—Section 1417 (42 U.S.C. 300g–6) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) PROHIBITIONS.—

"(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

"(i) any public water system; or

"(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

"(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.";

(B) in paragraph (2)(A), by inserting after "Each" the following: "owner or operator of a"; and

(C) by adding at the end the following:

"(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

"(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

"(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

"(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "lead, and" and inserting "lead;";

(B) in paragraph (2), by striking "lead." and inserting "lead; and"; and

(C) by adding at the end the following:

"(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e)."; and

(3) by adding at the end the following:

"(e) PLUMBING FITTINGS AND FIXTURES.—

"(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

"(2) STANDARDS.—

"(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

"(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.".

(b) WATER RETURN FLOWS.—Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

(c) RECORDS AND INSPECTIONS.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by section 19(a)(1)(A)) is amended by striking "Every person" and all that follows through "is a grantee," and inserting "Every person who is subject to any requirement of this title or who is a grantee".

SEC. 27. BOTTLED WATER.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

(2) by adding at the end the following:

"(b)(1) After the Administrator of the Environmental Protection Agency publishes a proposed maximum contaminant level, but not later than 180 days after the Administrator of the Environmental Protection Agency publishes a final maximum contaminant level, for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment, shall issue a regulation that establishes a quality level for the contaminant in bottled water or make a finding that a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled drinking water. *In the case of any contaminant for which a national primary drinking water regulation was promulgated before the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Secretary shall issue the regulation or make the finding required by this paragraph not later than 1 year after that date.*

"(2) The regulation shall include any monitoring requirements that the Secretary determines to be appropriate for bottled water.

"(3) The regulation—

"(A) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

"(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

"(4)(A) If the Secretary fails to establish a regulation within the 180-day period described in paragraph (1), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in such paragraph) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the final regulation for the establishment of the quality level for a contaminant required under paragraph (1) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

"(B) Not later than 30 days after the end of the 180-day period described in paragraph (1), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under subparagraph (A), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect.".

SEC. 28. ASSESSING ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term "adverse effect on human health" includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term "risk" means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term "source of pollution" means a category or class of facilities or activities that alter the chemical, physical, or biological character of the natural environment.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs, as other factors, including values and equity, must also be considered;

(4) cost-benefit analysis and risk assessment should be presented with a clear statement of the uncertainties in the analysis or assessment;

(5) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(6) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(7) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws,

and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and

(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(8) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data (to the extent practicable), rank sources of pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall estimate the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution.

(3) EVALUATION OF OTHER FEDERAL ACTIONS.—In addition to carrying out the requirements of paragraphs (1) and (2), the Administrator shall estimate the private and public costs and benefits associated with major Federal actions selected by the Administrator that have the most significant impact on human health or the environment, including direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(4) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(5) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(6) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(7) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address, and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish, not later than 2 years after the date of enactment of this Act, methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.

SEC. 29. OTHER AMENDMENTS.

(a) CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.—

(1) AUTHORIZATIONS.—

(A) AUTHORIZATION OF MODERNIZATION.—Subject to approval in, and in such amounts as may be provided in appropriations Acts, the Chief of Engineers of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Army Corps of Engineers borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct. The borrowing authority shall be provided by the Secretary of the Treasury, under such terms and conditions as are established by the Secretary of the Treasury, after a series of contracts with each public water supply customer has been entered into under paragraph (2).

(2) CONTRACTS WITH PUBLIC WATER SUPPLY CUSTOMERS.—

(A) CONTRACTS TO REPAY CORPS DEBT.—To the extent provided in appropriations Acts, and in accordance with subparagraphs (B) and (C), the Chief of Engineers of the Army Corps of Engineers is authorized to enter into a series of contracts with each public water supply customer under which the customer commits to repay a pro-rata share of the principal and interest owed by the Army Corps of Engineers to the Secretary of the Treasury under paragraph (1). Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(B) OFFSETTING OF RISK OF DEFAULT.—Each contract under subparagraph (A) shall include such additional terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts is estimated to be equal to the obligational authority used by the Army Corps of Engineers for modernizing the Washington Aqueduct at the time that each series of contracts is entered into.

(C) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the public water supply customer pledges future income from fees assessed to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority over all other creditors; and

(iii) include other conditions that the Secretary of the Treasury determines to be appropriate.

(3) BORROWING AUTHORITY.—Subject to an appropriation under paragraph (1)(B) and after entering into a series of contracts under paragraph (2), the Secretary, acting through the Chief of Engineers of the Army Corps of Engineers, shall seek borrowing authority from the Secretary of the Treasury under paragraph (1)(B).

(4) DEFINITIONS.—In this subsection:

(A) PUBLIC WATER SUPPLY CUSTOMER.—The term "public water supply customer" means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(B) VALUE TO THE GOVERNMENT.—The term "value to the Government" means the net present value of a contract under paragraph (2) calculated under the rules set forth in subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), excluding section 502(5)(B)(i) of such Act, as though the contracts provided for the repayment of direct loans to the public water supply customers.

(C) WASHINGTON AQUEDUCT.—The term "Washington Aqueduct" means the water supply system of treatment plants, raw water intakes, conduits, reservoirs, transmission mains, and pumping stations owned by the Federal Government located in the metropolitan Washington, District of Columbia, area.

(b) DRINKING WATER ADVISORY COUNCIL.—The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: ", of which two such members shall be associated with small, rural public water systems".

(c) SHORT TITLE.—

(1) IN GENERAL.—The title (42 U.S.C. 1401 et seq.) is amended by inserting after the title heading the following:

"SHORT TITLE

"SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.".

(2) CONFORMING AMENDMENT.—Section 1 of Public Law 93–523 (88 Stat. 1660) is amended by inserting "of 1974" after "Water Act".

(d) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

"PROHIBITION ON USE OF LEAD PIPES, FITTINGS, SOLDER, AND FLUX

"SEC. 1417. (a)".

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

"REGULATION OF STATE PROGRAMS

"SEC. 1426. (a)".

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

"SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

"SEC. 1427. (a)".

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

"STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

"SEC. 1428. (a)".

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a)".

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

"INDIAN TRIBES

"SEC. 1451. (a)".

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

"DEFINITIONS

"SEC. 1461. As".

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

"RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

"SEC. 1462. For".

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

"DRINKING WATER COOLERS CONTAINING LEAD

"SEC. 1463. (a)".

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

"LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1464. (a)".

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

"FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1465. (a)".

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we now have before us the Safe Drinking Water Act amendments of 1995, which is S. 1316. I am pleased to join with my colleagues to bring this bill to reauthorize the Safe Drinking Water Act. This legislation has broad bipartisan support. It has been a high priority for the Environment and Public Works Committee and was reported by unanimous vote; Democrats and Republicans in the committee voted for it 16–0.

We all agree that reform of the Safe Drinking Water Act is necessary. Public health protection has been strengthened by the many new standards that have been issued over the past few years. Of all the ways of keeping our public healthy, it seems to me few are more important than having the water that they drink be safe. But the pace of standard setting and the costs of new treatment and monitoring requirements have been a strain for water suppliers, especially smaller communities.

This bill includes many provisions to ease that strain on the smaller communities. There is a new grant program for drinking water revolving loan funds, which President Clinton first recommended. The States are authorized to reduce monitoring costs by developing their own testing requirements, tailored to meet the conditions in their region. This is very important. The States have this authority in this legislation.

Under this bill, States may also grant variances to the small systems that cannot afford to comply with national standards. Now, we are not rolling back health protections that are now provided. No existing standard will be weakened. The bill includes many new initiatives that will keep the national program moving forward. In the SRF grants—the State revolving loan fund grants—there are new programs to prevent pollution of source waters which are used for drinking water supply. There is a program to develop technical capacity in small systems.

The bill pushes hard for more and better science, including a research program to determine whether some groups, like children, pregnant women, or people with particular illnesses, are more likely to experience adverse effects from drinking water contaminants.

Mr. President, before describing the major provisions of the bill, I want to thank our colleagues for the hard work they have put into this legislation.

Senator KEMPTHORNE chairs the subcommittee that has jurisdiction over the drinking water program. Senator KEMPTHORNE is the principal author of this reauthorization bill and has spent months going over every detail of the legislation. So Senator KEMPTHORNE deserves tremendous credit for what we are bringing before the Senate today. I wish to take this opportunity to thank him.

Senator REID, the ranking member of the subcommittee, has been a partner in that effort and always has been very constructive.

Senator BAUCUS, the ranking member of the full committee, blazed the trail for us last year with the safe drinking water bill that passed the Senate 95–3.

The committee was assisted in the development of this bill by the fine staff of the Office of Water at EPA, including the Assistant Administrator for Water, Bob Perciasepe, and Cynthia Dougherty, who heads the drinking water office.

We also thank the many State and local drinking water officials and the representatives of their organizations who worked long and hard on this bill. Their expertise has been very helpful.

Mr. President, if we ask what is the one thing we can do that would most improve the safety of drinking water in the United States, I believe most of us would answer: Give some help to the small drinking water systems. If you can believe it, there are 54,000. I will repeat that. There are 54,000 small public water systems in our country.

What is a small system? It is one that serves fewer than 3,300 people. Some serve as few as 100 or 125 people, and some even 25 people. Some of these drinking water systems are owned by homeowners associations or trailer parks. Some are operated by town governments.

A significant number of these very small systems do not have the technical or financial resources to consistently provide safe drinking water. They cannot keep up with the testing and the treatment and the maintenance that is necessary to provide safe water every day. These are systems where the operator has no training, the consumers pay no fees for the water sometimes, and where the supply and distribution systems simply do not get the attention that is needed to keep contaminants out of the water.

The bill we are bringing before the Senate addresses this is problem in several ways. First, it establishes a grant program to provide Federal assistance to build the treatment plants that are essential to the provision of safe drinking water. EPA estimates that capital expenditures needed nationwide to comply with current requirements of the Safe Drinking Water Act total approximately $8.6 billion, that is, if we brought all the systems up to snuff, and approximately 40 percent of these expenditures will be required of small systems. Many systems are not able to build the treatment facilities to comply with these regulations unless they get some help.

Other Federal statutes mandating investment in local utility services have provided grant assistance to go along with the mandates. In other words, when we mandated from the Federal Government for clean water bills, for example, the Congress, which has provided help, and, indeed, in that particular example, the building of sewage treatment facilities, Congress has appropriated over the years $65 billion to meet the secondary treatment requirements required by 1972 amendments to the Clean Water Act. We have not provided any sort of similar assistance under the Safe Drinking Water Act in the past.

In early 1993, President Clinton proposed creation of a State-revolving loan fund for those funds for drinking water capital investments modeled after the Clean Water Act loans. This bill authorizes $600 million in fiscal year 1994 and $1 billion per year through fiscal year 2003 for this new SRF Program. This authorization is sufficient to cover the capital investments in treatment needed to comply with Federal health standards.

Priority funding would go to projects to address the most serious public health problems and to communities most in need. Who will get the money? Those communities that most need the help as determined by the States—not by big brother in Washington, but by the States—and those projects that needed to address the most serious health problems.

In contrast to the SRF Program under the Clean Water Act, States may provide grants to systems. In other words, from this State-revolving loan fund in this bill, in safe drinking water the State can give grants to systems that cannot afford to repay.

As a second step to help small systems, the bill asks each State to adopt what is known as a capacity development strategy to help the small systems.

What is this all about? A strategy might include training for the operators of drinking water systems, or technical assistance to develop new and safer water supplies, or it might encourage consolidation or regional management to make better use of the resources. We are relying on the States to take the lead in designing capacity strategies for the small systems.

This is not some heavyhanded mandate from Washington to the States, but, instead, it is up to the States. We do not, from Washington, enforce the direction of operators who do not get training, for example. But we suggest it be done and we give assistance to do it.

We are looking to the States, to the Governors, and to the legislatures to take the big steps. Here is a chance to show that a major problem can be resolved by the States through cooperation and incentives rather than by command and control from Washington. The ultimate judgment on the success or failure of this bill will depend in large part on what the States do with this opportunity.

There are several other provisions to help small systems. States are authorized to grant variances to small systems that cannot afford to comply with national primary drinking water regulations. A portion of the SRF funds may be set aside for technical assistance, as I mentioned, to small systems, and the cost of training operators may be included in the SRF grants or loan.

States may reduce monitoring requirements. This is very important. The States do not have to meet a certain steady monitoring system. They can reduce those requirements for many contaminants for small systems that do not detect a contaminant in the first test of a quarterly series.

There are two other major provisions in this bill that I wish to describe briefly. The first relates to the criteria that EPA uses to select contaminants for regulation. The second concerns considerations that go into establishing national health standards. Because EPA failed to take action to set national standards for contaminants that were of public health concern, the 1986 amendments listed 83 specific contaminants and required EPA to set standards for those by 1989.

The legislation—here was a big problem with that legislation we passed—directed EPA to set standards for an additional 25 contaminants every 3 years beginning in 1991.

This single provision—that is, adding 25 new contaminants every 3 years—has provoked more critical comment than virtually any other element that we have dealt with in all the environmental laws we have. Some of the 83 contaminants for which standards are required occur so infrequently that the costs of monitoring far outweigh any health benefits that could be realized.

The mandate that EPA set standards for an additional 25 contaminants every 3 years, regardless of the threat posed by those contaminants, was for many the quintessential example of an arbitrary Federal law imposing burdens on consumers and the taxpayers with no rational relationship to the public benefit that might be realized. This bill repeals the requirement that EPA regulate an additional 25 contaminants every 3 years. Instead, there is a selection process that gives EPA the discretion to identify contaminants that warrant regulation in the future.

How do you do this selection process? Every 5 years EPA publishes a list of high-priority contaminants that should receive additional study.

EPA may require monitoring at public water systems for up to 20 unregulated contaminants, to gather information on the occurrence of these contaminants in public systems.

Decisions made by EPA under the act are to be guided by new principles for sound science.

EPA is to set aside $10 million from the annual appropriations for SRF, for the State-revolving fund grants, to conduct health effects research on contaminants that are candidates for regulation. In other words, EPA gives a hand with all of this.

Every 5 years, EPA is to make regulatory decisions for at least 5 contaminants, announcing whether they warrant regulation or not.

Finally, let me turn to the issue of standard setting. This has been the most contentious issue in this reauthorization debate. I believe the committee has developed a sound compromise that deserves the support of all Senators.

Under current law, EPA establishes drinking water standards through a two-step process. First, the administrator identifies the maximum contaminant level goal reflecting a concentration of the contaminants in drinking water at which no adverse effects will occur.

Then, the administrator sets an enforceable standard as close to this absolutely safe goal as possible, as feasible. "Feasible," what does that mean? That the level can be reached by large regional water systems applying best available technology.

In other words, what is the policy to meet these goals. We do not use what the little systems can do, but what the big systems can do. EPA takes into account the costs to identify the best available technology.

The treatment system must be affordable. What is affordable? Well, they use the standard that it costs less than $100 per household per year for the large systems.

Now, this approach is all right because 80 percent of the population—this is a very important statistic—80 percent of the population of the United States receives its drinking water from large systems. Safe water can be provided to this 80 percent at an affordable cost. They can afford the best available technology. Indeed, the compliance cost for large cities average not $100 per household, but $20 per household per year.

However, there is a problem with this system. There are three problems. First, the treatment technology affordable to the large systems may be unaffordable to the small system and would push the per household cost way up for these small systems.

Second, for some contaminants, this approach to standard setting can impose large costs while producing only small gains in public health. Although the treatment technology may be entirely affordable for the large systems, the incremental health benefits of addressing the relatively small health risk presented by some contaminants do not justify the aggregate cost. It is just not worth it for the small systems because the benefit you get is so small for the cost.

Third, the use of some treatment technologies may actually increase risk from some contaminants. For example, chlorine is used to kill pathogenic organisms, but that may result in increased cancer risk from disinfection byproducts. In other words, you take care of something and it causes a greater risk of something else.

Now, read literally, the existing statute requires EPA to overcontrol some contaminants to a degree that overall public health risks from drinking water would be greater using this new technology. The bill we bring to the Senate today includes several provisions to respond to these problems in standard setting.

The States may provide variances to small systems. If it is all right for the big system, not very expensive because you have so many households, the States can say to the small systems: No, you do not have to do that. We give you a variance. EPA may balance competing risks from several contaminants if the treatment technology to control one would increase the risk from the other, which I just previously mentioned.

EPA may set standards at a level less stringent than "feasible" if the costs of a standard reflecting best available technology are not justified. In other words, this is not somebody in EPA saying you have to reach this standard even though the costs are astronomical. Costs can be figured in. There is a cost-benefit factor involved here. The unique characteristics and risks of some contaminants, including arsenic, radon, or sulfate, are addressed with special standard-setting provisions. Although the bill includes new risk assessment and cost-benefit considerations to address unresolved problems, EPA may not use this authority to relax any existing standard unless new science indicates that a less stringent standard would be equally protective.

It appears we have secured broad bipartisan support for a series of reforms to this act, a law that has, indeed, been controversial. Achieving this reflects the contributions of many Senators, as I mentioned. Reaching this degree of consensus has generated much controversy, and the fact that we have this unanimity so far is quite an achievement.

So, again, I congratulate Senator KEMPTHORNE for his work. I know he joins me in extending appreciation to Senator REID, Senator BAUCUS, and all the others I previously mentioned.

We are ready to go, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, first of all, I want to inform the Senate that the manager of the bill, Senator BAUCUS, is temporarily away from the floor and will return shortly.

The bill before this body is, of course, the Safe Drinking Water Act Amendments of this year, 1995. This legislation, I believe, is Congress at its finest. What I mean by that is that this is a bill that is brought to this point by building consensus. It was not easy. It was difficult. But I think the people in the State of Rhode Island, the people in the State of Montana, the people in the State of Idaho are well served with the way their Senators handled this legislation.

Whether we like it or not, legislation is the art of compromise. Legislation is the art of consensus building, and that is what this legislation is all about. This bill is not everything that I like. It is not everything, I am sure, that my colleagues, the Senator from Idaho and the Senators from Montana and Rhode Island, think is a perfect bill. But it is a good bill. It is a tremendous improvement over anything we have been able to do before.

Where there has been rancor among the parties on other items before the Senate, and even in our committee, this bill has been negotiated for the better part of a year and as a result of the negotiations, we have come up with this fine piece of legislation. This is a bipartisan effort. The Senate will address the drinking water problems of this country in this legislation and, as a result of this bill passing—and I have every belief it will pass—the people of this country will be well served by having the assurance that the water they are drinking is safe.

I recognize, as I have indicated, that not everyone is going to be totally happy with what is in this legislation. But it is a good, sound, reasonable, rational piece of reform legislation. This is truly reform legislation. I support the bill for lots of reasons, but let me mention just a few of them.

This bill, all Members of the U.S. Senate should realize, represents a balance. It is a balance that has been reached, and I think it has been done with great thought and consideration. There is no question that we must begin with the presumption that water in the United States is not necessarily safe if you drink it. There are increasing threats of contamination and pollution.

I can remember, as a young boy, we would drive once in a while down to the river, the Colorado River. My father told me something that was certainly true in those days, that if the water was running, it was safe, you could drink it, because as the water progressed it was cleansed as it proceeded through the rocks and the pebbles and the bushes—it was clean. That is not the case anymore. Things are put in water so that the mere fact that it is running no longer makes it safe. I cannot tell my children the same thing my father told me about having safe drinking water.

So there are increasing threats of contamination and pollution. That is what this legislation is all about. The bill provides for drinking water standards and the means by which drinking water systems can meet the standards. Again, I repeat, this legislation is to allow people, when they drink water in the United States, to feel they are drinking safe water, that the contaminants have been removed and there are procedures to make that water safe.

The bill incorporates sound science into the Administrator's decisionmaking and contaminant regulations. The bill establishes, importantly, as has been clearly explained by the chairman of the committee, a revolving loan fund to assist drinking water systems in complying with drinking water standards. In accordance with the Unfunded Mandates Act, which the Senator from Idaho worked so hard in accomplishing, it establishes money for States and drinking water systems to help comply with the act. I think we should all be very careful of amendments that come on the floor today, that we do not violate what we have worked so hard to accomplish in this legislation; that is, we are not going to force upon the States and local governments things that they do not have the money to comply with. I think that should be the watchword of the amendments that are offered here today. We truly meant what we said when we passed the unfunded mandates legislation very early this year.

Even technical assistance funds for the small drinking water systems are provided for in set-asides. Additionally, States and local authorities are given greater flexibility, as, again, was explained so well by the chairman of the committee. States and local authorities are given greater flexibility in the implementation and development of their capacity development strategies. The bill also equips the Environmental Protection Agency with greater flexibility in setting drinking water standards that were based on peer-reviewed science, with the benefits and risks associated with contaminants. The Environmental Protection Agency will be focusing its scarce resources on important health risks that are grounded in valid science rather than spending all their time, effort and money on matters that really did not allow for us to arrive at the conclusion it was necessarily better water to drink.

I also want to make a few observations about the Environmental Protection Agency. I believe this agency has served this country well. It has been maligned, but wrongfully so, in my estimation. I do not think we should be passing laws out of fear of antagonism to an agency. I think this agency has had a noble mission, one part of which is to make sure that we have safe drinking water. We all recognize that reform and change must occur, and that is what they are doing with this legislation. I emphasize to my colleagues, there are certain things the Administrator has already initiated, reforming the Environmental Protection Agency generally.

The Safe Drinking Water Act Amendments of this year should not be about agency procedures and management, nor should the Safe Drinking Water Act be about regulatory reform issues that have dominated so much of the debate this year. This bill is about drinking water, about the water that we drink, our children drink, and our children's children will drink. That is what we should be talking about during this debate on this legislation: Will water be safer as a result of this legislation passing? That is, the drinking water that we all partake of, will it be safer as a result of this legislation?

This bill, I think, should either protect the drinking water of the homes and communities of this Nation, or we should not be here. I believe the chairman of the full committee, the ranking member, the chairman of the subcommittee and the ranking member, feel very strongly that this is good legislation that will make the water we drink safer.

There are other reasons I support this legislation. There are many small systems in Nevada, hundreds of small systems in Nevada. These systems must also be such that the water that comes out of those systems is safe drinking water.

Five years ago, on November 16, the President, President Bush, signed a very important bill. It settled a 100-year water war between the States of California and Nevada. It preserved the wetlands that had been in existence for up to 10,000 years, some 80,000 acres that had been drawn down to less than 1,000 acres and were very toxic in nature. We resolved that and resolved the problems of two Indian tribes, two endangered species, some agricultural problems we had, and solved some water problems for the cities of Reno and Sparks.

I mention how complicated that was, but the most difficult problem we had in the entire legislation was not the things I mentioned. It was not endangered species. It was not the wetlands. It was not all the other things I talked about. It was in the Lake Tahoe basin, in California and Nevada—it was what we did about those little water companies. Some of them were so small, as the chairman of the committee mentioned, they served 25 people. In Lake Tahoe there were over 100 water companies. In some of them the systems were so bad they had to leave the water running all year or the lines would freeze up. This legislation will allow those small water systems to have the assurance there will be safe drinking water. We are not going to force them into doing anything.

Since that time, a number of those companies have merged. We do not have the myriad of problems we had before. But, even if we did, this legislation takes into consideration small water companies like are in the Tahoe basin. So this legislation really, I believe, addresses the problems of rural America.

We, in Congress, address the problems of big cities. We spend almost all of our time on big cities. The State of Nevada, surprisingly, is the most urban State in America. Mr. President, 90 percent of the people in Nevada live in the metropolitan areas of Reno and Las Vegas. Yet we are the seventh largest State of all the 50 States. We have 73 million acres. But most of the land is not where most of the people are. Those people outside Reno and Las Vegas need the assurance they are going to have safe drinking water. I was born and raised in Searchlight, NV. It is a very small place. It is getting bigger. If you take all the little communities around Searchlight, they have 1,000 people. We want to make sure the people of Searchlight have safe drinking water. This legislation does that. This legislation really takes care of rural America. It does not neglect rural America or urban America as we do many times.

Is this good legislation? I think it is important legislation. It is reasonable reform. It benefits the communities and ensures the health and safety of Americans. It is legislation that is—I repeat—compromise legislation. This is not just a catchy phrase. But this is reasonable reform, and it is true reform.

Mr. President, I extend my congratulations to the chairman of the full committee, and ranking member, and also the chairman of the subcommittee that I have worked with. He has been very reasonable. We have not agreed on everything all year, but he has made every effort to reach out to the rest of the subcommittee to make sure that we have all the input that we feel is necessary.

I say this with the tremendous difficulty which we are having now with all the money things—the continuing resolution and extending the debt limit. I think people, especially in the other body, can take a real lesson from what this legislation is all about. I do not think there is anyone that I have come across that has had stronger principles in the legislative process than the Senator from Rhode Island, and certainly the Senator from Idaho, but they have had to compromise in this legislation.

I say to the people in the other body as we are grinding down trying to work things out in the last few weeks of this legislative session—everyone, Democrat and Republican alike—that they can look at this legislation and say there is hope for the money problems we have in this country, if they follow as an example what we have done here.

This is true reform, and I think it is legislation that is at its best. I am happy to have been a part in this bill arriving to the point where it is now. This is good legislation.

I ask the Members, both Democrats and Republicans, to support this legislation.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I am pleased to stand here today in support of the Safe Drinking Water Act Amendments of 1995. I believe that this is a strong bill, that will improve public health, give States and local governments the authority and flexibility they need to target their scarce resources on high priority health risks, and lay the foundation for a safe and affordable drinking water supply into the 21st century.

Mr. President, this legislation is long overdue. Over the past year, I have heard from dozens of State and local officials, consumers, representatives from industry and even EPA. Their perspectives are different, but their message was a shared one: Virtually everyone agrees that the current law simply does not work. It does not target those contaminants most likely to be found in drinking water; it does not ensure that standards are set based on the best available, peer-reviewed science; and it does not provide States and local governments with the tools that they need to ensure that citizens have safe and affordable drinking water.

Jeffrey Wennberg, the mayor of Rutland, VT, said it best.

> There is no public health responsibility of greater concern to local elected officials than the provision of consistently safe, plentiful, and affordable drinking water. This is the only product or service that we provide that directly affects the health and well-being of every one of our constituents every day. Unfortunately, the Safe Drinking Water Act, as amended in 1986, has often confounded our efforts to meet this responsibility.

Federal policy makers agree. Former EPA Deputy Administrator Robert Sussman summed it up when he acknowledged that:

> Safe Drinking Water Act implementation has harmed the agency's credibility by becoming a potent symbol of the rigidity and costliness of Federal mandates on local governments and the overprotectiveness of the EPA standard setting process. Reforms should strive for maintaining environmental protection while achieving more flexibility in priority setting, lower compliance costs, and greater state and local involvement in decision making.

Many of the concerns raised by critics of the Safe Drinking Water Act are the direct result of unrealistic and in many cases overzealous mandates imposed by the 1986 amendments to the Safe Drinking Water Act. These amendments, although well-intentioned, went too far to one extreme—command and control regulation took the place of common sense. With the Federal Government at the helm, we imposed rule after rule on State and local governments, requiring them to spend literally billions of dollars to comply with burdensome Federal standards, often with little or no consideration of the true nature of the risk to public health, the cost of compliance, or the availability of less intrusive alternatives.

Yet, while we are asking States and local governments to devote scarce resources to safeguard against potentially remote risks, we are ignoring more immediate and real risks to public health and safety. In 1993, for example, a known disease-causing agent—cryptosporidium—contaminated the drinking water supply in Milwaukee, WI. Over 400,000 people became sick and 104 people died from the cryptosporidium outbreak. There have been other outbreaks of cryptosporidium contamination since then. Cryptosporidium was not regulated in 1993 and it still is not in 1995. Clearly, current law is not adequately protecting the public from true health threats. We need to do better. Americans should not get sick from their drinking water. It is time to change direction.

The bill we are here today to debate responds to the legitimate concerns that have been raised and provides important midterm corrections to a regulatory scheme mired in ill-focused, often unjustified and certainly costly mandates. It reflects months of negotiations with various stakeholders and the efforts of many of my colleagues, particularly Senator CHAFEE, the chairman of the Senate Environment and Public Works Committee, with whom it is a great pleasure for me to work, and I appreciated the comments he made in his opening statement this morning; Senator BAUCUS, the ranking member of the committee; Senator REID, the ranking member of the Senate Subcommittee on Drinking Water, Fisheries and Wildlife, of which I am the chairman. The partnership that HARRY REID and I have been able to forge I think suggests that there will be other successes which will come forward from that subcommittee, and I greatly appreciated his kind words this morning.

I also want to acknowledge Senator KERREY of Nebraska, who has been instrumental in the negotiations over drinking water reform. He was a catalyst toward a bipartisan effort here today. I appreciate the efforts of all of these individuals and the assistance over the past year.

In drafting this legislation, we were guided by three fundamental principles. First and most importantly, we wanted not only to preserve public health, but also to improve it. Second, we wanted to strengthen the partnership between the Federal Government and State and local officials who are primarily responsible for providing safe and affordable drinking water. And third, we would impose no unfunded mandates. The bill that is before the Senate today satisfies each of these principles.

Let me highlight a few of the key concepts of the legislation.

First, the legislation substantially strengthens current law to ensure that all Americans have safe and affordable drinking water. It revises the standard setting process so that the Administrator is no longer required arbitrarily to identify and regulate 25 new contaminants every 3 years. Instead, the Administrator is given the authority and flexibility to target her regulatory resources on those contaminants that are actually present, or likely to be present, in drinking water, and that, based upon the best available peer-reviewed science, are found to pose a real risk to public health. Once the Administrator has identified a contaminant of concern, the bill requires that she evaluate several regulatory options, taking into consideration both the benefits of each option and the real costs that will be borne by those responsible for complying with any new standards.

Our intent was simple. Drinking water standards should not be set just because they are technologically feasible as they are under current law; they must also be justifiable. If we are going to demand that our states, counties and towns spend billions of dollars to comply with new chlorine standards, for example, at the very least, we owe them the assurance that these are dollars well spent. We must be particularly sensitive to this when we apply, as we do in the Drinking Water Act, new standards to small communities that must already comply with and pay for numerous other Federal regulations. For example, one town in my home State of Idaho, McCall, with a population of approximately 2,000, must invest in a new wastewater treatment plant, a new filtration system, and make improvements in its infrastructure to deliver drinking water. As one community leader told me, "We've seen a 500-percent increase in our sewer rates, and we're struggling. If we have to go back and raise rates again, or float a bond, or whatever it takes to finance compliance with Federal requirements, we need to know that what we're being asked to do makes sense in terms of public health protection." As a former Mayor, I share his concerns.

By targeting scarce resources on regulating contaminants that truly threaten public health, and by tailoring drinking water standards to maximize the benefits of regulation for the cost, we increase the overall level of protection that we offer everyday users of drinking water.

The legislation also recognizes that in many cases, it is easier and more cost effective to prevent contaminants from getting into source water for a drinking water system, rather than to try to remove them by regulation after they are in the system. This bill encourages States to develop source water protection partnerships between community water systems and upstream stakeholders to anticipate and solve source water problems before they occur. These are voluntary, incentive-based partnerships. Our experience in my home State of Idaho has repeatedly demonstrated that these kinds of programs work, and work well. Locally-driven solutions that stakeholders themselves develop in a non-regulatory, nonadversarial setting will often achieve a far greater level of protection than otherwise through mandatory restrictions on land use or other regulations dictated by Federal agencies within the beltway. The bill's voluntary source water protection program provides another tool for States and local governments to improve public health, target local risks, and maximize resources.

The legislation also strengthens the existing partnership between the Federal Government and the States in implementing the Safe Drinking Water Act. It preserves the strong role for the Federal Government in developing drinking water standards, but for the first time gives States the flexibility to tailor Federal monitoring and other requirements to meet their specific needs. This is just good common sense. It makes no sense, for example, to require Idaho drinking water systems to spend thousands of dollars to monitor for a pesticide that may be used only on citrus crops.

The legislation also provides needed relief through a variance process to small, financially strapped systems. These systems, in certain circumstances, may use alternative, affordable treatment technologies that do not achieve full compliance with federal standards, provided that they achieve an overall level of improvement in their drinking water. These types of system specific adjustments are important because they allow States and local governments to target their scarce resources to achieve the greatest overall level of protection.

One of the most significant elements of this legislation is the commitment for the first time of Federal resources to assure that the nation's drinking water supply is safe. The legislation authorizes up to $1 billion annually for a State revolving loan fund, which the States then match with an additional 20 percent. These funds will be available to States and local drinking water systems to construct needed treatment facilities to comply with Federal standards. We recognize that many communities simply cannot advance the funds that are needed to respond to new regulations. The Federal loan fund gives them the initial boost that they need.

Importantly, the legislation also authorizes approximately $53 million for health effects research, including research on the health effects of cryptosporidium and disinfectants, and their potential effect on sensitive groups, like pregnant women, children, and those with serious illnesses. I believe that this research is essential to ensure that we continue to target our regulatory resources on true threats to public health, while making sure that we never let another cryptosporidium outbreak take us by surprise.

While flexibility, sound science, and reduced costs may be the watchwords of this legislation, it bears noting that the one term that you will not hear in connection with this bill is "unfunded mandate." The 1986 Safe Drinking Water Act, by way of contrast, is the classic example of a Federal unfunded mandate that this Congress overwhelmingly rejected when we passed the Kempthorne-Glenn Unfunded Mandates Reform Act this year.

Using the 1986 law as a case study of an unfunded mandate, the Congressional Budget Office just last month issued a report which found that:

> State and local officials have voiced strong opposition in recent years to the growing number of Federal requirements. At the local level, environmental requirements are perceived to be particularly onerous, and the Safe Drinking Water Act is often cited as one of the most burdensome requirements.

The report concluded that the average cost of compliance with existing drinking standards is between $1.4 billion and $2.3 billion per year. It went on to note that compliance costs could increase substantially as a result of four proposed regulations that EPA is currently considering. In fact, compliance with just one of these proposed regulations alone—the so-called disinfectants and disinfection by-products rule—could cost drinking water systems as much as $2.6 billion dollars per year once it is fully implemented. Most systems cannot afford these kinds of costs, particularly since the CBO study makes it clear that it is extremely uncertain that these costs will reduce health risks.

Even without the Federal commitment of funds, there are in fact fewer mandates to fund than under current law.

The Congressional Budget Office has confirmed that this legislation does not impose unfunded mandates under the Unfunded Mandates Reform Act. In its analysis of this legislation, the CBO stated that the legislation's standard setting provisions, including the risk assessment and cost benefit language would "lower the cost of compliance for local water systems." The CBO concluded that "the bill would likely result in significant net savings to state and local governments."

Make no mistake about it. This bill will work. It will improve public health and reduce our costs at the same time. Do not just take my word for it, though. Listen to those who are responsible for providing safe drinking water. They overwhelmingly support this legislation.

The National League of Cities has said that the legislation:

> will strengthen and revise the current law to assure that limited government resources are targeted on contaminants of public health concern that are actually found in the nation's drinking water supplies . . . The measure is creative and innovative in that for the first time it establishes a funding source to assist communities.

The American Water Works Association:

> believes that this legislation is a major step forward in the direction of better public health; safer drinking water; and more responsive government. The sensible reforms contained in this bill represent a common sense solution that supports both environmental protection and regulatory reform.

The Association of Metropolitan Water Agencies has praised the legislation, stating that it:

> opens the door on a new era of Federal lawmaking, where the Federal Government, States, and local government and the public entities responsible for implementing the law, can work together to solve problems that impact the entire Nation.

Even the EPA agrees. EPA Administrator Carol Browner recently appeared before the Senate Environment and Public Works Committee and testified that the agency is looking for a new drinking water law that "will strengthen public health protection; provide improved regulatory flexibility; promote preventive efforts to keep the pollution and contamination out of our drinking water in the first place; and provide public funding to help communities upgrade their drinking water facilities." This legislation, in her words, provides a "framework and is a step in the right direction" to achieve these important goals.

In conclusion, Mr. President, we have taken an important step forward in improving the way in which we regulate drinking water. Does this legislation solve all the problems? Of course not. But it will bring common sense back into the standard setting process, make it easier for states to comply with the most important requirements, streamline the bureaucracy, and reduce overall costs to most systems. And it will do all of this without jeopardizing public health. That is an achievement that we should all be extremely proud of.

I hope that you will join me and Senator CHAFEE, Senator BAUCUS, Senator REID, and Senator KERREY in taking this first step and support this legislation.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LEVIN be added as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, today, the Senate begins consideration of S. 1316, a bill to reauthorize and reform the Safe Drinking Water Act.

We all understand the need to reform the Safe Drinking Water Act. It contains a number of provisions that are too rigid and too costly.

At the same time, we must protect public health. After all, this is not some theoretical exercise. We are talking about the water that we and our children drink. Two quarts a day, every day of our lives.

To my mind, this bill strikes the right balance.

It will reduce regulatory burdens. Unnecessary regulations, redtape.

At the same time, it will not jeopardize public health. In fact, in several important ways, it will increase protection of public health.

Before turning to details, I would like to take a few minutes to put this legislation in perspective.

Mr. President, Americans expect to be able to turn on the tap, fill a glass, and drink the water—without getting sick. They expect safe drinking water in their homes and in their local communities.

They expect safe drinking water when they move to a new community. They expect safe drinking water when they travel.

When people from Conrad, MT visit Billings, Spokane, or Boston, or when people come to visit their nation's capital, they expect to be able to drink the water without getting sick or without the worrying about getting sick.

Ever since 1974, the Safe Drinking Water Act has guided Federal, State and local efforts to assure that the water Americans drink is clean and pure. In the last several years, however, there has been growing concern that some provisions of the act misdirect Federal resources.

There also has been concern that the act imposes regulatory burdens that local water systems simply cannot comply with, no matter how hard they try. More specifically, critics of the act point to several flaws:

Local officials who operate drinking water systems, especially small systems, are buried under a mountain of redtape. The operators of these systems are trying to provide a basic public service to their neighbors. The job is difficult enough without monitoring requirements that cannot be met.

There is another problem: Technology costs have skyrocketed. Again, this is particularly a burden on those who operate small systems in rural areas.

These small systems have what the economists call limited economies of scale. They cannot spread their costs across a large number of ratepayers. Nevertheless, in many cases, it costs them just as much to comply with the law as it costs large urban systems who do spread their costs.

On top of all of this, the standards-setting system in current law keeps rolling along, with 25 new contaminants regulated every 3 years, whether they are needed or not. And we have not provided federal funds to help communities meet their increased obligations.

Because of all these problems, it seems that the Safe Drinking Water Act has become the very symbol of concern about unfunded mandates.

But we have to get beyond symbolism, to solutions.

That is exactly what this bill does.

Senator CHAFEE, Senator KEMPTHORNE, Senator REID and I have been working closely, with Senators on both sides of the aisle, with the Administration, with the environmental community, and with State and local groups.

As a result of this work, the bill before us today, S. 1316, makes significant improvements in the law.

It creates a new State revolving loan fund for drinking water. It reforms the standards-setting process and the monitoring requirements. It lightens the burdens on small communities, while continuing to protect public health.

It also addresses risk. We have had a lot of debates about risk assessment this year.

Risk assessment is not a magic answer to all our problems. But it can be an important tool, applied to specific problems.

This bill does that, by applying risk-based concepts to contaminant selection and standard-setting.

Mr. President, our Chairman, Senator CHAFEE, has described the provisions of the bill ably and in detail.

I would simply like to emphasize three features of the bill that I consider particularly important.

First, the bill creates a new revolving loan fund. We all talk about unfunded mandates. With this bill, we put some money where our mouths are.

The biggest problem facing drinking water systems, especially small systems, is the lack of funding to build adequate treatment facilities. They simply cannot afford to comply with the current requirements of the act.

To address this, the bill establishes a State Revolving Loan Fund similar to the Clean Water Act revolving fund.

The money can be used by all States to help communities comply with drinking water standards, restructure their operations, or find alternative sources of water.

The fund is authorized at a level of $600 million in fiscal year 1994, and thereafter at $1 billion annually through fiscal year 2003.

Initially, grants for the drinking water State revolving funds will be distributed according to the formula currently used to allocate Federal grants to States for drinking water oversight programs.

Beginning in fiscal year 1998, funds will be distributed according to the results of an EPA survey of drinking water needs.

Another thing about the SRF. It provides flexibility. States can respond to their own needs. They can provide grants to disadvantaged communities. They can offset a program shortfall.

They can help local water systems develop customized monitoring programs and source water programs.

And they can shift funds between their clean water or drinking water revolving loan funds, in order to meet their most pressing problems.

So we provide both funding and flexibility.

A second important feature is the bill's reform of the regulatory program.

For example, one of the most troublesome requirements, in all of our environmental laws, is the requirement that EPA regulate 25 additional drinking water contaminants every 3 years, whether or not those contaminants really threaten public health.

As a result, EPA is required to issue regulations that may impose high costs for little public health benefit.

The bill replaces that requirement with a new provision requiring EPA to periodically review the need to regulate additional contaminants. That way, we can focus our limited resources on the most important problems.

The bill also reforms monitoring requirements, the standard setting process, and other elements of the law.

In each case, the objective is to focus our resources on the most important problems.

The third important feature is special help for small community water systems.

In the country as a whole, more than 85 percent of the drinking water systems in this country are small.

In my home state of Montana, 688 of the 694 community water systems serve less than 10,000 people, and there is not one system serving more than 100,000 people.

While small systems only serve about 10 percent of the people, they bear about 40 percent of the cost of the Safe Drinking Water Act.

The bill provides special help to small systems that cannot afford to comply with the drinking water regulations and can benefit from technologies geared specifically to the needs of small systems.

Here is how it would work. Any system serving 10,000 people or fewer may request a variance to install special small system technology identified by EPA. What this means is that if a small system cannot afford to comply with current regulations through conventional treatment, the system can comply with the act by installing affordable small system technology.

Small systems that seek a variance will be protected from financial penalties while their application is being reviewed, and they would have 3 years to install the affordable technology.

States approve the variance, but only if the technology provides adequate water quality and public health protection.

So small systems are not forced to use big city treatment. But they must fully protect public health.

Another way that this bill provides help to small systems is through technical assistance. Many small systems just need some advice on how to meet some of the requirements of the law or operate equipment. For example, the Rapelje water system in Yellowstone County, MT was advised through the technical assistance program in our State to install a pressure relief valve in its system, an action that will save the system a considerable amount in repairs.

This bill recognizes the importance of the technical assistance program for small systems by increasing the authorization for the program and allowing the States to use up to 2 percent of their SRF money for small system technical assistance.

Mr. President, putting all this together, the bill provides funding, reforms regulations, and recognizes the special problems of small rural systems.

But in doing so, it does not relax existing standards or weaken provisions of the act that are necessary to protect public health.

In fact, in addition to allowing EPA, States, and local communities to target resources to the greatest threats, the bill improves the act's enforcement and compliance provisions.

And it improves the important provisions that require water system operators to alert people about drinking water problems in their communities, especially problems that create health threats.

In summary, Mr. President, this bill is good news indeed.

And not only because it improves the Safe Drinking Water Act.

There is another reason. This bill shows that we can get something done around here.

During this Congress, most debates about the environment have deteriorated into pitched partisan battles. Both sides have hardened.

As a result, we have missed several opportunities to enact reasonable, balanced reforms that reduce regulatory burdens while improving environmental protection.

The bill before us today is a refreshing exception. Republicans and Democrats have worked together, cooperatively. Sure, it has taken time. There have been painstaking negotiations. There has been compromise.

But look at the result. We have been able to develop a bill that will result in meaningful reforms.

A bill that will protect public health. And a bill that the public can, with confidence, support.

I want to thank Senators CHAFEE, KEMPTHORNE, and REID for the work they have done to get this bill where it is today—unanimously reported from the Environment and Public Works Committee with more than 30 cosponsors.

I also want to thank the Administration and others for their hard work and spirit of cooperation.

And I look forward to working with all of my colleagues to pass this bill through the Senate and enact it into law.

Mr. President, here we are passing a very complicated, very important bill which dramatically affects a lot of small communities, and certainly every American, and yet there are very few Senators on the floor. There does not seem to be a lot of interest by some Senators to be here on the floor for this bill. Why is that? Basically, Mr. President, it is because this legislation, in addressing a real need, is done the right way.

What do I mean by the right way? I mean not demagoging the issue. Senators on both sides of the aisle have worked very, very hard, particularly with interest groups around the country that were very interested in addressing drinking water problems in our Nation—small communities, large communities, Governors, mayors, environmental groups. And these groups, in trying to find a solution to the tradeoff between, on the one hand, protection—making sure our water is safe and, on the other hand, regulation, that is, not requiring too much regulation, trying to find the balance. We have done just that; we have found a balance.

They have worked very, very hard. They have rolled up their sleeves. They have worked together to get the job done. And we are here today basically ratifying, putting together, that mutual effort of a lot of compromise on the part of a lot of people. That is often what happens around here. Those who really work hard and get the job done are not praised as much as they should be.

In this case, it is all the various groups and people. It is also the chairman of the committee, Senator CHAFEE, the present occupant of the Chair, Senator KEMPTHORNE, who chairs the subcommittee, also Senator REID, the ranking member of the subcommittee, and many other Senators who worked very hard, and their staffs particularly worked very hard to get their job done.

Now, what is the problem? What is the problem that this legislation addresses? Essentially, Mr. President, the problem is this. Over the years, Americans have become more and more demanding, as they should, that their water is safe. In 1986, they became quite concerned that the EPA, the administration at that time, was not quite doing the job that should have been done to make sure that our water in our country was safe. So the 1986 amendments to the Safe Drinking Water Act were passed. They were well-intended. They were amendments which directed the Environmental Protection Agency and directed States to significantly increase their standards, impose many more monitoring requirements. There were many more contaminants of concern identified than the EPA was setting standards for.

Essentially, to help reassure Americans, because the job was not getting done, we passed the 1986 amendments. I think it is fair to say that the 1986 amendments that Congress passed went too far. They went too far in requiring the Environmental Protection Agency and the States to set too many standards, to regulate too much, to monitor too much and, basically, did not address the essential problem, that is, how to assure safer water at an affordable cost.

For example, one of the provisions in the 1986 amendments was essentially to say, "OK, EPA, we want you to set standards for at least 83 different contaminants." Up to that point, I think there were about 22 contaminants regulated. "We want you to set standards for a total of 83, and beyond that, we want you, EPA, to set standards for 25 additional contaminants every 3 years." That is stupid. It is nuts. There is no way in the world any agency could begin to do that much, with a tremendous additional burden on the Environmental Protection Agency.

In addition, Mr. President, what was another consequence? Another consequence was the dramatic disproportionate cost for smaller communities. Let us just think a minute. If the EPA tells a water system in a community to monitor certain contaminants, and to set certain standards, and to essentially apply certain technology, regardless of the size of the system, it is very clear that the large cities are able to spread those costs out among many, many more people, so the cost per household is much lower. But if the very same monitoring requirements, the very same standards, and the very same requirements are imposed on smaller communities, it is clear there is no way in the world that a smaller community is going to be able to meet those very same standards, those very same requirements, without imposing a tremendous cost on individual households in that small system.

That is particularly a problem, Mr. President, in my State of Montana. We have about 698—I think that is the figure—community water systems. Of those, I think about 660—I hope my figures are right—are communities of under 10,000 people. We are a small-system State, which means that the 1986 amendments imposed tremendous disproportionate requirements on small communities.

These are communities that want safe water. Sure, they want clean water. They want to do their best to make sure the water in their communities is just as safe, if not safer, than in big cities. But, my gosh, they are required to monitor for contaminants that do not exist. I have to tell you, monitoring may not sound like much, but it is very, very expensive to monitor for an individual contaminant. You multiply that for additional contaminants that may not be there—the law requires you to monitor for them anyway, spend the money anyway. It does not make any sense. In addition, the technologies that have to be installed are that much more expensive.

Another big problem that the 1986 amendments created is a problem that you heard many times from many people: unfunded mandates. That is Uncle Sam saying, "OK, community, you do this, you are going to take these requirements, but we are not going to give you the money for it." It just was not fair.

As the occupant of the chair knows, this Congress, quite correctly, over the months earlier this year passed legislation to prohibit unfunded mandates. If my memory serves me correctly, one of the chief proponents of that legislation is the Senator from Idaho, and I commend him for it.

This bill tries to address that problem by setting up a State revolving loan fund. It is $600 million the first year, and then it gets to $1 billion. It basically says, "OK, States, we are going to change some of the requirements we passed in 1986. In addition to that, we are going to provide funds in the State revolving loan funds so systems can pay for some of the costs to install these technologies."

We are also saying to the States, "Boy, you have lots of flexibility. You can pass money between the Safe Drinking Water Act revolving loan fund and the clean water revolving loan fund. You also can set up a technical assistance program to help smaller communities, even a grant program for smaller communities." There is a lot of flexibility here, as it should be.

I will not take too much more time. Let me say, this is an example where Government is working. Government does not always work—we all know that—but sometimes Government does work. Here is a situation where Government can work. It may not be perfect. There are probably some areas where this legislation could be improved upon on the margin, but mainly, it is a very good, solid effort to find a commonsense, balanced solution to assure Americans that their water in their communities is safe and affordable.

That is what this bill does. It accomplishes this result, because a lot of very good people have worked very, very hard, and they have not demagogued it and gone to the media. They just rolled up their sleeves and got the job done.

I particularly commend the chairman of the committee, Senator CHAFEE. He has been the captain of the ship. He is at the helm. He set the tone, the mood and the approach to all this. We are here because he has done that.

I very much hope—and this is the point the Senator from Nevada made earlier—that we can take this as an example or a paradigm of how to deal with other problems around here. As the Senator from Nevada pointed out, we are now locked in budget negotiations, a pitched battle, Republicans and Democrats, the Congress and the White House.

Basically, Americans just want us to get the job done. They want us to compromise. They want us to balance the budget within 7 years, but do it fairly, do it evenhandedly, so all Americans are participating together as we get the job done together, just as we have done in this bill.

Mr. President, this bill is a basic, commonsense, balanced solution of compromises, give and take, on both sides. We are getting the job done. I very much hope that the White House, I hope that the Congress, and, to be totally candid about this, I particularly hope the other body, particularly the majority party of the other body, in good faith sits down in these budget negotiations and compromises to get the job done.

In summary, Mr. President, I want to particularly thank some Montanans who have worked very hard on this legislation over the years. The first that comes to mind is Dan Kyle. Dan Kyle sat down with me at the Heritage Inn in Great Falls, MT, I guess 6, 7, 8 years ago, talking about how horrendously expensive it is, inappropriately expensive, for small systems to meet the Federal requirements. That was a long time ago. Dan Kyle has labored in the vineyards. He has worked very, very hard—I believe he is head of the Montana Rural Water Association—along with Ray Wadsworth and the rest of the Montana crew, and Jim Melsted. I know these same people exist in other States. I only know those three in Montana, and they have been just terrific. I want to compliment them particularly for their hard work. They are pretty proud that finally we got the job done.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I want to thank the distinguished ranking member of the committee, Senator BAUCUS, for his kind comments. I know that we all share the sentiments that we work together to get something done. We are very fortunate in this committee to have a heritage, if you will, of cooperation. It has extended way back to Jennings Randolph and then to Bob Stafford, to Senator PAT MOYNIHAN, and to the distinguished Senator from Montana himself when he was chairman of this committee. We have always tried to bring things out with bipartisan consensus, so we can move ahead. This legislation represents that.

I am very pleased to be chairman of this committee when we have this heritage that I mentioned, and I want to pledge to all that I will continue that effort to bring everybody together, listen to each side and then have something—we will not always be as successful as this, 16 to 0 in the committee, not a single dissenting vote from either side. That is what we want to use as a standard for the future.

When the distinguished ranking member was chairman of the committee and brought this bill to the floor a year ago, it passed 93 to 3. It is pretty hard to beat that. If we can emulate that today or tomorrow, I will be very, very happy.

COMMITTEE AMENDMENTS, EN BLOC

Mr. CHAFEE. Mr. President, I ask unanimous consent that the committee amendments be adopted, en bloc, and that the bill, as amended, by the committee amendments then be considered original text for the purpose of additional amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So, the committee amendments, en bloc, were agreed to.

AMENDMENT NO. 3068

(Purpose: To authorize listing of point-of-use treatment devices as best available technology, modify loan authorities for the SRF program, clarify the definition of public water system, and for other purposes)

Mr. CHAFEE. Mr. President, I send a managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3068.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 23, insert "(or, in the case of privately-owned system, demonstrate that there is adequate security)" after "source of revenue".

On page 20, line 24, insert "and" after "fund;".

On page 21, strike lines 1 through 4.

On page 21, line 5, strike "(6)" and insert "(5)".

On page 42, line 16, strike "title" and insert "section, and, to the degree that an Agency action is based on science, in carrying out this title,".

On page 69, line 24, strike "level," and insert "level or treatment technique,".

On page 69, line 25, insert "or point-of-use" after "point-of-entry".

On page 70, line 1, strike "controlled by the public water system" and insert "owned, controlled and maintained by the public water system or by a person under contract with the public water system".

On page 70, line 6, strike "problems." and insert "problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards."

Beginning on page 165, line 20, strike all through line page 166, line 2, and insert the following:

"(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

"(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);".

On page 166, line 3, strike "(aa)" and insert "(II)".

On page 166, line 15, strike "(bb)" and insert "(III)".

Beginning on page 167, line 5, strike all through page 167, line 19.

On page 168, line 1, strike "and" and insert "or".

On page 168, lines 2 and 3, strike "(I) and (II)" and insert "(II) and (III)".

On page 168, line 3, strike "and" and insert "or".

On page 168, strike lines 4 through 6 and insert the following:

"(C) Transition period.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.".

On page 178, line 21, strike "180-day".

On page 179, lines 6 and 7, strike "180-day".

On page 179, line 15, strike "effect." and insert "effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.".

On page 195, after line 20, insert the following:

"(e) Prevention and Control of Zebra, Mussel Infestation of Lake Champlain.—

"(1) Findings.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

"(A) by striking "and" at the end of paragraph (3);

"(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

"(C) by adding at the end the following new paragraph:

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

"(2) Ex-officio members of aquatic nuisance species task force.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

"(3) Aquatic nuisance species program.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting ", Lake Champlain," after "Great Lakes" each place it appears.

"(4) Authorization of appropriations.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

"(A) in paragraph (3), by inserting ", and the Lake Champlain Research Consortium," after "Laboratory"; and

"(B) in paragraph (4)(A)—

"(i) by inserting after "(33 U.S.C. 1121 et seq.)" the following: "and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322) "; and

"(ii) by inserting "and the Lake Champlain basin" after "Great Lakes region".

On page 195, after line 20, insert the following:

"(f) Southwest Center for Environmental Research and Policy.—

"(1) Establishment of center.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as 'the Center').

"(2) Members of the center.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

"(3) Functions.—Among its functions, the Center shall—

"(A) conduct research and development programs, projects and activities, including training and community service, on U.S.-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

"(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

"(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

"(4) Authorization of appropriations.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.".

On page 195, after line 20, insert the following:

"(g) Estrogenic Substances Screening Program.—

"(1) Development.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

"(2) Implementation.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

"(3) Substances.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

"(4) Exemption.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

"(5) Collection of information.—

"(A) In general.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

"(B) Failure to submit information.—

"(i) Suspension.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

"(ii) Hearing.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

"(iii) Termination of suspensions.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied with this paragraph.

"(6) Agency action.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

"(7) Report to congress.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

"(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

"(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

"(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.".

Mr. CHAFEE. Mr. President, let me briefly say what this is. The managers' amendment does the following: It clarifies the new definition for the term "public water system." It strengthens standard setting for bottled water as recommended by the bottled water industry. It allows EPA to list more cost-effective, point-of-use treatment devices as best available technology; it includes Lake Champlain in the program to control the infestation of zebra mussels in the Great Lakes; it authorizes assistance to a university consortium called the Southwest Center for Environmental Research and Policy; it requires EPA to conduct a screening program for the estrogenic effects of pesticides, and it makes two changes to the loan provisions of the new SRF program, State revolving loan fund program. Overall, it clears seven issues that Senators have brought to our attention.

So, Mr. President, I urge adoption of the managers' amendment.

Mr. BAUCUS. Mr. President, these provisions under the managers' amendment are essentially technical and clarification amendments, which Senator CHAFEE, myself, Senator REID, and the occupant of the chair I know has also looked at. I think they are good improvements to the bill.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3068) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3069

(Purpose: To require additional research prior to the promulgation of a standard for sulfate)

Mr. CHAFEE. Mr. President, I send an additional managers' amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3069.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 61, line 11, strike all through page 62, line 16, and insert:

"(A) ADDITIONAL RESEARCH.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

"(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administrator shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity of public comment, promulgate a final national primary drinking water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.".

Mr. CHAFEE. Mr. President, let me explain this amendment. What it does is it modifies the standard-setting provisions of the bill for one contaminant, sulfate.

What is sulfate? It is a naturally occurring substance that contaminates some groundwater used for drinking water, particularly in the Western States.

The 1986 amendments required EPA to issue a standard for sulfates. It is one of the 83 contaminants we previously discussed. But EPA has not completed the job yet. Part of the problem has been inadequate scientific information on the adverse health effects caused by sulfate. We know that adverse effects occur, but we do not know exactly what concentration levels must occur to cause the effects.

This amendment requires EPA and the Centers for Disease Control to collect more information before a standard is set. The amendment also delays the deadline for issuing a standard so that this research might be completed. Senators PRESSLER and DASCHLE from South Dakota and Senator GRAMS from Minnesota have expressed particular interest in resolving the scientific questions associated with sulfate, and we thank them for their interest and help in preparing this amendment.

Mr. BAUCUS. Mr. President, we have examined the amendment and think it is a good improvement. I urge its adoption.

Mr. PRESSLER. Mr. President, I rise today to commend Chairman CHAFEE, Subcommittee Chairman KEMPTHORNE, and Senator BAUCUS, as ranking member of this committee, for their hard work in drafting this bill. Certainly, we need a uniform system of Federal laws and regulations to maintain the public health and safety of our drinking water. These laws must be reasonable. They must make sense.

The bill before us, S. 1316, would go a long way to bring common sense to safe drinking water regulations. This is good news for small cities and rural communities. For example, S. 1316 would require the EPA to provide sound scientific background for future drinking water standards. In addition, this legislation would grant flexibility to small water systems that cannot always afford the expensive treatment technology to comply with Federal regulations.

S. 1316 represents a reasonable approach to drinking water regulation.

I am particularly pleased that my colleagues agreed to improve the original language in section 9, regarding the levels of sulfates allowed in drinking water supplies. This original provision would have required that communities provide bottled water as an alternative to water containing sulfate. This provision is similar to a proposed Environmental Protection Agency regulation that would require communities to limit sulfate in drinking water. However, there is no scientific study to prove that these low levels of sulfate in drinking water result in negative health affects.

As originally drafted, the bill would have affected roughly one-quarter of all the water systems in South Dakota—108 of the 483 water systems in the State. The South Dakota Department of Environment and Natural Resources [DENR], which opposed both section 9 and the EPA's proposed sulfate rule, has estimated that the costs of compliance for those affected water systems would have been 40 to 60 million. That was just the initial cost of compliance. Small, rural communities in South Dakota should not be forced to pay such a high price to enforce a regulation that has no valid scientific justification.

Let me put these figures in real terms we can all understand. The largest of the 108 affected South Dakota communities would have been Madison, with a population of 6,395 people. Currently, the average water bill for each household in Madison is $13.75 per month. According to the South Dakota DENR, if the original section 9 were enacted, the additional cost to each household would have been almost $14 per month. That would have meant an average monthly water bill of $27.75—a 101 percent increase. Remember, this figure is for the largest of the affected communities.

Let us take Big Stone City, SD, as another example. With a population of 670 people, Big Stone City has the median population of the 108 communities in South Dakota affected by the original sulfate proposal. Currently, the average monthly water bill per household in Big Stone City is $9.80. If the original section 9 were to become law, each household in that community would have seen its water bill rise about $12.00, for a total monthly bill of $21.80. That would be a dramatic 122 percent increase. Just imagine the impact this provision could have on communities even smaller than Big Stone City.

Mr. President, what would these communities have gotten in return for these shocking rate increases? Nothing. That is right. Nothing. For years, South Dakotans have been drinking water containing sulfate with no apparent adverse health effects.

In response to the concerns of my constituents, my colleagues on the committee agreed to suspend the current EPA rule. Instead, additional research conducted jointly by the Centers for Disease Control and the EPA would be required on the health affects of various dose levels of sulfate in drinking water on the broader population. The EPA then would propose a new regulatory standard for sulfate based on the findings of this study, and on the standards set forth by this bill.

I am convinced that this additional study will prove once and for all that the sulfate which occurs naturally in much of South Dakota's drinking water causes no harmful side affects. The revised sulfate provisions of section 9 also have received the endorsement of the South Dakota Department of Environment and Natural Resources, and the South Dakota Municipal League.

Mr. President, like all Americans, South Dakotans certainly want safe and healthy drinking water. But they also want Federal rules that are reasonable, understandable and flexible.

By passing this bill, we are finally taking much-needed steps to solve the problems associated with the current safe drinking water law. I am happy that I was able to work with the chairman to develop sensible language to reduce the impact of burdensome sulfate regulations on small cities and rural water systems in South Dakota and other States.

Again, I thank Chairman CHAFEE for his leadership and for accommodating the concerns of my constituents. I also want to thank my friend from Minnesota, Senator GRAMS, for working with me to ensure that we achieve a commonsense legislative solution on this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3069) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, my staff has been working with the floor leaders on S. 1316, the Safe Drinking Water Act, relative to an amendment which has been discussed at some length. I am sure the chairman of the Environment and Public Works Committee will respond to the status of the amendment. But it would authorize the administrator of the Environmental Protection Agency to make grants. May I check with the floor leader relative to the status of my amendment authorizing the Administrator of the Environmental Protection Agency to make grants to Alaska to improve rural sanitation by paying the Federal share, 50 percent, of the cost of those improvements?

I would like to offer the amendment, if the leader has not offered it and speak very briefly on it.

Mr. CHAFEE. Mr. President, the Senator from Alaska had two amendments and both of those, it is my understanding, could be resolved and accepted. Frankly, we are in the midst of working that out now.

Why not go ahead and describe the amendment, and at the conclusion of the Senator's description maybe we can arrive at a position where the amendment could be accepted.

Mr. MURKOWSKI. I thank the Senator.

Mr. President, my amendment authorizes the Administrator of the Environmental Protection Agency to make grants to Alaska because of the unique rural sanitation conditions in my State. It would improve rural sanitation by assisting with the Federal share—50 percent—of the costs of specifically two items. One, the development and construction of water and wastewater systems, and second, the training, technical assistance, and educational programs relating to the operation and management of sanitation services.

The purpose of the amendment is to ensure future funds are provided to improve Alaska's rural sanitation conditions. Our delegation—Senator STEVENS, Representative YOUNG, and myself—have supported $15 million in the EPA's budget this year for rural sanitation, and Senator STEVENS on the Appropriations Committee has obtained appropriations in previous years. The problem we have is that the residents of rural Alaska simply do not have adequate drinking water or sanitation facilities. As a consequence, we have an abnormally high amount of sickness and disease, and on some occasions, conditions can be compared to some Third World countries, unfortunately.

It is estimated that about one-fourth of Alaska's 86,000 Native residents live without running water and use plastic buckets for toilets. These are commonly called "honey buckets." As a consequence, Mr. President, we have had numerous cases of hepatitis A among villagers, in some instances causing death.

I have a chart here which depicts the level of existing wastewater services in rural Alaska communities, and as the Chair will note the area in dark blue indicates about 49 percent of the chart, which is the area of the population dependent on pit privies or honey buckets; 37 percent have flush toilets; 14 percent have a haul system where the honey bucket man comes once a week and hauls the sewage away.

In over half of the villages in Alaska, water is hauled to the home by hand from a washeteria, watering points, or from a creek or river. A washeteria is a centrally located community building with washing and drying machines, showers, and so forth. Often times, Mr. President, the trash can is used as a water storage tank. Water for drinking, hand washing, and doing dishes comes from this household trash can, and you can imagine the potential for disease as a consequence of that type of transmission. Existing water service levels in rural Alaska have improved, but they have a long way to go. Only 40 percent of rural Alaska has piped water to residents; 30 percent use a washeteria; 20 percent use a year round watering point; 7 percent have individual wells, and 3 percent have no system at all. One can imagine the residents of this city living without the convenience of running water or toilets that flush.

In conclusion, I will continue to work to provide safe drinking water to rural Alaska and along with my colleague, Senator STEVENS, we want to see the elimination of the honey bucket in rural Alaska. That is a goal. And as the country moves toward the 21st century, Alaska's rural residents should not have to live in these conditions, again often compared to Third World countries.

I wish to especially acknowledge Carol Spils of my staff who has been working with the Environment and Public Works Committee for a long time on this legislation.

I would ask that the amendment be considered at this time by the committee. If there are additional details to be worked out, I would be happy to pursue them currently or if the floor managers are satisfied with them, why, I would ask they be included in the package. I would send up the amendment and modification, if it is appropriate.

Mr. CHAFEE. Mr. President, as I understand the modification, it is to set a time limit on the authorization, am I correct, to the year 2003, and thus be in conformity with the rest of the legislation?

Mr. MURKOWSKI. The floor manager is correct. I thank my friend from Rhode Island.

Mr. CHAFEE. That would be fine. If we could make that modification, and if the Senator would submit that, then that would be accepted. Then we would proceed to accept his amendment.

AMENDMENT NO. 3070

(Purpose: To authorize the Administrator of the Environmental Protection Agency to make grants to the State of Alaska to improve sanitation in rural and Native villages)

Mr. MURKOWSKI. Then, Mr. President, I would send the modification to the desk and ask for its consideration at this time.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for himself, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3070:

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 195, after line 20, insert the following:

"(g) GRANT TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

"(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

"(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

"(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

"(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

"(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

"(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, as I understand it, this sets the time limit of 2003?

Mr. MURKOWSKI. That is my understanding and my intent.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3070) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Let me take this opportunity to thank my colleagues for their accommodation on this matter. It is very meaningful to Alaska. Rural Alaska will be extremely pleased to see this continued progress.

I also wish to again thank Carol Spils.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I want to alert my colleagues to a provision of this bill which we are negotiating which I think could be very pernicious and go well beyond anything that has to do with safe drinking water, would expand potentially the authority of EPA to evaluate and issue cost-benefit ratios which, in turn, could affect Federal actions, across the broad spectrum of Federal action.

I am referring to section 28, beginning on page 179 of the bill. Under this provision, the Administrator of the EPA can select major Federal actions, and we know that a major Federal action can be anything from drilling in ANWR, building a highway, having a timber sale, granting a loan—most anything. The Administrator of EPA would determine what he thinks would have a significant impact upon the environment and then would do a benefit-cost ratio on that major Federal action.

It tells him how to consider the benefits, and under section 6 on page 185, he is told to "estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk", for example, of "(C) preserving biological diversity," "(D) maintaining aesthetically pleasing environment," and other things with respect to regulating the chemistry of the air, so that, under this provision, the Administrator of the EPA has the specific authority to come up with a rating and a benefit-cost ratio to deal with, for example, a timber sale regarding the spotted owl.

So that the Administrator of the EPA, who is now not in the loop on determining a lot of these things, before you know it, there would be a benefit-cost ratio that would say this timber sale or this drilling in ANWR or the building of this highway or the granting of this loan has a benefit-cost ratio of only 50 percent and does not pass anybody's muster in terms of benefit-cost ratio.

There is no requirement of peer review. There is no requirement of making a rulemaking where the interested parties would be brought in. There is just simply a broad mandate to the Administrator of EPA to go look around at any place in the Federal Government where there is a major Federal action that may affect pollution—"pollution" being broadly defined—in which the Administrator of EPA can then take into consideration everything from aesthetics to biodiversity. Mr. President, this could be a very, very bad provision.

The intent of the provision, of course, is good. The intent of the provision is to rank various sources of pollution, to look at the relative risks of different sources of pollution. Everyone agrees with that. But the grant of authority under section 28 under this bill is so broad that many Federal Departments will wake up one day and find out something that they had been working on for a long time, let us say the building of a highway, suddenly becomes not feasible because EPA has determined that it had a benefit-cost ratio of only 50 percent and, therefore, should not be built.

I suppose the determination that EPA made could be the basis of declaring a regulation or major Federal action to be arbitrary and capricious. It could affect major Federal actions all across the board including, presumably, the Department of Defense, Department of the Interior, Department of Energy. You name it, the Administrator of EPA could make that determination that it does not pass benefit-cost ratio.

Again, as the author of the original bill on risk assessment in the last Congress, I very strongly support the idea of relative risk and risk assessment, but I believe in an attempt to deal with this issue. This bill imperfectly does it, and I hope before this bill is finished that we can strike these provisions.

S. 343, the regulatory reform bill, deals with this issue, I believe, in a better way, because with respect to benefit-cost ratios, S. 343 provides for a rulemaking and peer review, a rulemaking in which all interested parties would be involved, a rulemaking in which the agency itself, which is putting out the regulation, would have the responsibility of running the rulemaking.

Under this, EPA does not have to peer review, does not have to give notice to interested parties. They can simply select around throughout the Federal establishment any Federal action which they wish to deal with and declare it to be not passing the cost-benefit analysis, because it fails to preserve biodiversity or fails to "maintain an aesthetically pleasing environment."

That is what it says, Mr. President. It may not be the intent. It may be correctable. I hope it is. But I believe section 28 ought to be stricken.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Louisiana for his thoughts on this. What we are doing now is seeking out and we are going to discuss this with the principal proponent of section 28. It is possible that we can do what the Senator from Louisiana suggests.

The Senator from Louisiana has some proposals that, in effect, deal with regulatory reform in section 5, as I understand it. My question is, would he be prepared to drop those provisions?

As I understand, he has another amendment that deals with section 5. What I would like to do is, frankly, get all references to regulatory reform out of this bill. We could discuss it now, or we could meet and have a quorum call. I know the Senator from Texas has comments on another subject. But I would like to discuss with the Senator from Louisiana what I previously suggested, namely dropping the section 5 proposals he has suggested.

Mr. JOHNSTON. Mr. President, the section 5 is a slightly different subject matter. I would certainly be very interested in talking to the Senator about that. I do believe section 28 ought to be dropped in its entirety. The problem is, if we do not drop it in its entirety, that will engender amendments to put in the reg reform S. 343 provisions, and that is going to engender a huge debate. It seems to me that that debate ought to be put off until another day and not be engrafted upon the Safe Drinking Water Act.

The risk assessment on section 5 does have to do with safe drinking water because it determines how you do risk assessment with respect to drinking water. Section 28 really does not deal with safe drinking water at all. That is why I think section 28 ought to be dealt with separately. We would be prepared to discuss section 5 at any time the Senator wishes to.

Mr. CHAFEE. Mr. President, what I suggest is that we have those discussions now. I know the Senator from Texas is ready to go. There is a gap here, and I do not know how long the Senator would like.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, whenever I can serve the good of the Senate by speaking on another subject so that the discussion can occur, I leap to the opportunity.

Mr. CHAFEE. I was going to suggest 20, 30 minutes.

Mr. GRAMM. I do not know that I will go that long, but I will suggest the absence of a quorum when I finish.

Mr. CHAFEE. That will be fine.

Mr. BAUCUS. Will the Senator yield for a unanimous-consent request?

Mr. GRAMM. Yes.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Carl Mazza, a fellow with Senator MOYNIHAN's office, be permitted to have floor privileges during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET NEGOTIATIONS

Mr. GRAMM. Mr. President, as we all know—in fact, as the whole country knows—intensive negotiations on the budget are underway in this very building, and working Americans have a big stake in the outcome of those negotiations.

While we do not know the final makeup of the compromise that would emerge from these negotiations, what I have heard is already alarming. I want to talk about the things that we are reading about in the paper, the apparent movement in the negotiations. I think it is important that if someone feels very strongly about a subject—and I feel very strongly about this subject—that we not surprise them by waiting until the last minute, when negotiations are finished and a final product has been produced, to suddenly spring it on people that are not going to support it.

So what I would like to do this afternoon is to talk very briefly about the emerging budget deal and then talk about four simple principles that I intend to establish in terms of my own vote. Obviously, I speak only on behalf of myself but I believe that, based upon the 1994 elections, the vast majority of Americans agree with the principles I will outline today. In fact, I think there is no doubt about the fact that the vast majority of Americans agree with the principles that I will set forth, and which will guide my vote on any final budget agreement.

I think the general parameters of a negotiation are pretty clear in terms of what we hear from the White House, from Mr. Panetta, and what we are beginning to hear from our own leadership. If you go back to the last continuing resolution, there was a little line in that resolution that, for the first time, opened the door to the possibility that we would change the parameters, the assumptions in our budget.

Let me explain why that is so important. It sounds kind of trivial to many people, what we assume about the health of the economy, interest rates, unemployment rates, and the number of people who qualify for Government programs. But let me explain how important those assumptions are. If you take the assumptions that the independent and nonpartisan Congressional Budget Office has established, which guide our budget, and you compare them to the assumptions contained in President Clinton's budgets, his assumptions about lower unemployment, higher growth, lower interest rates, and less spending from existing programs ultimately allows him to spend $1 trillion more, over the next 10 years, than our budget allows us to spend.

Now, I have one constituent who can comprehend what $1 billion is—Ross Perot, but I do not have any constituents that I know of, who knows what $1 trillion is, so let me try to define it. The trillion dollars that President Clinton wants to spend over the next 10 years would be equivalent to giving him the ability to write $15,000 worth of checks on the checking account of every American family, over that 10-year period. That is how much $1 trillion is.

I think it is clear that one path the negotiations could take, a path that I am very concerned about, would be to change our assumptions. This would be like a family assuming—when they sit down around the kitchen table at the end of the month, when they get out a pencil and a piece of paper and try to figure out how they are going to pay the rent or mortgage and how they are going to buy a new refrigerator before the old one goes, or how they are going to try to send the first child in the history of their family to college, when they are making tough, real-world decisions, when that we are not just making ends meet, but struggling for the American dream—assuming that there will be more money to spend than will actually be available.

I want to be very sure, Mr. President, that we do not make, in writing our new budget, an assumption that would be equivalent to a family saying, well, "What if we won the lottery?" or, "What if we got a big promotion next year?" or, "What if some distant relative we do not know left us some money?" We know American families do not do budgets that way because they have to live with the consequences of these decisions.

I am very concerned that we are on a path toward changing the underlying assumptions in the budget in such a way as to let President Clinton spend an additional $100 to $150 billion more each year over the next 7 years than we have set out in our budget. I am very concerned that, if we do this, we are giving up the first real opportunity we have had in 25 years to balance the Federal budget.

I want to let my colleagues know—and I know every person is trying to come up with the best solution to the impasse we have—but I want my colleagues to know that under no circumstances am I going to support any budget that allows President Clinton to spend money we do not have on programs we cannot afford.

If there was one promise that we made clear last year in the elections, it was that if the American people gave us a Republican majority in both Houses of Congress, we were going to balance the budget. I will have no part in backing away from that commitment.

The first principle I want to set out is a very simple one: I will not support a budget that spends one dime more than the dollar figures we set out in our balanced budget. We have written a budget and it was consistent with putting the Federal deficit in balance over a 7-year period. Families and businesses have to do it every year. It is not cruel and unusual punishment to make the Government do it over a 7-year period. But we have written a budget that establishes the maximum amount we can spend each year for the next 7 years and still balance the budget. That amount, by the way, is $12 trillion. This is a 27-percent increase over what we spent in the last 7 years.

It seems to me that this is enough, especially when you stop and think about the fact that last Sunday, Americans sat down with the Sunday newspaper and with their scissors and cut 120 million coupons out of their Sunday newspapers, and then carried those coupons to the grocery store and went to all the hassles to turn in the coupons as they were paying their grocery bill just to save a few nickels, dimes, and quarters.

Have we lost our ability to be outraged about the fact that the Government does not make those sorts of decisions when we are now taking $1 out of every $4 earned by every family of four in America? In 1950 we were taking only $1 out of every $50.

I think, if we back away from our commitment to balance the Federal budget, we are betraying everything we promised in 1994, and I refuse to be a part of that.

The first principle is that I will not support a budget that spends one dime more than the dollar figures we set out in our budget. Especially since this is the maximum amount we can spend while still balancing the Federal budget.

The second principle is that I am not going to vote for a budget which provides tax cuts that are smaller than the tax cuts set out in the Balanced Budget Act. I want to remind my colleagues that we are talking about letting working families keep an amount that equals roughly 2 percent of the total amount of Federal spending.

We promised in the election a $500 tax credit per child. That means beginning in January every family in America with two children would get to keep $1,000 more of what they earn to invest in their own children, their own family, their own future.

We have a fairly tight lid on it. The money is only going to working moderate, middle, and upper middle-income families. I know many of our Democratic colleagues are outraged that, if you do not pay taxes, you do not get a tax cut. I am not outraged about this. I think it is time to start operating Government in a way that tries to help those people who pull the wagon instead of solely being focused on the people who are riding in the wagon and, quite frankly, are being kept in the wagon by programs that deny them the ability to get out and become part of the American experience.

So I am not going to negotiate away a very modest tax cut which we committed to, which we set out in terms of absolute dollars at $245 billion over a 7-year period, roughly 2 percent of the level of spending of the Government, 70 percent of which goes to families, that begins to allow people to save more of what they earn, to invest more in their own children, and that has some modest incentives for economic growth.

Now, what is negotiable? First of all, I think we should be ready to sit down with the President anywhere, at any time, and under any circumstance, to negotiate how we spend the $12 trillion that is consistent with balancing the Federal budget. I think we ought to be totally willing to sit down with President Clinton and negotiate on each of those 7 years, how that $12 trillion is spent while still balancing the Federal budget.

I want to draw a clear line of distinction between negotiating about how to spend the amount of money that is consistent with balancing the budget and negotiating about how we might change the budget itself to allow more spending that we can not afford and that clearly would deny us the ability, for the first time in a quarter of a century, to balance the Federal budget.

I also believe we should be willing to sit down and hear the President out as to what the makeup of the tax cut should be. I do not believe we should compromise further on the size of the tax cut. I offered the original amendment in the Senate which would have cut Government spending further than our budget in order to adopt the Contract With America tax cut as it was adopted in the House. That amendment was rejected. We have already compromised in coming down from the original Contract With America.

As my dear friend, DICK ARMEY, said about compromising on the tax cut, he "already gave at the Senate." and I agree with this sentiment.

It is clear that there is a movement in the negotiations toward going back and assuming that things will be better in the future than we believed they would be 3 weeks ago, because in some sense many Members of Congress and the White House believe if they could just assume away part of the deficit problem, that they could jointly achieve their objectives, that we could claim we have balanced the budget, that the President could spend more money, and that perhaps happiness might be found on both ends of Pennsylvania Avenue.

Mr. President, I am not going to support that effort. I think that would be a tragic mistake. How can we conclude that the economy is going to be brighter in the future, if at the same time we prevent economic growth by giving smaller tax cuts, by having the Government spend more money, and by having larger deficits?

We would be assuming a rosy scenario and doing things that deny the ability of that scenario to ever come true. I am not going to support that effort.

Let me set down this fourth principle. Any changes that we make in what are called economic assumptions or technical assumptions—what we think interest rates will be 6 years from now, how fast we think money is going to be spent out of a program—that every penny resulting from those changes and assumptions ought to go to deficit reduction. By applying it to deficit reduction we can guarantee that it will be there if, in fact, things do not turn out to be as rosy as we would like them to be.

We would be doing what prudent families do. That is, budget on the assumption that you are not going to win the lottery, budget on the assumption that you are not going to get the big promotion. And if you do get the promotion, if Aunt Sally does give you money, then you are in a very sound position to decide what to do with it. I believe if we conclude, as we say in the language art that is contained in the continuing resolution, if the Congressional Budget Office, in consultation with the White House and outside groups, concludes that there may be a brighter future than we thought 3 weeks ago when we debated this issue, then every dollar of savings ought to go to balance the budget in this century.

Only in Washington do we have a debate about whether to balance the budget in 7 years or 10 years or even whether to do it at all. I have never, ever, in any of the States that I have traveled in the last few years heard, nor, has anybody come up to me and said "Senator GRAMM, I think balancing the budget is a great idea. Why not do it later than you plan?" I have never had anybody say that to me. But almost every day—and as many of my colleagues know, I am meeting a lot of people all over the country—almost every day somebody comes up and says, "Why are you waiting 7 years? Why don't we do it sooner? Why don't we do it now?"

So, I think it is prudent policy that, if we conclude that the economy is going to have a brighter future—basically because we conclude it is going to have a brighter future based on wishful thinking—then let us apply every dollar of savings that comes from these assumptions to deficit reduction. And if, in fact, the economy does turn out to have a brighter future, the maybe we will balance the budget within this century. But if it does not, if the original assumptions, the original conservative assumptions, were right, then we will balance the budget in 7 years as we promised.

I hear, every day, our colleagues talking about expanding the ability of the President to spend. A member of the leadership recently, while on television, suggested that maybe we could bring the tax cut down from $240 to $195 billion. I disagree. I think this is the time to stand on principle. We had an election. We have a mandate. It is not as if the American people were deceived. They knew what we promised to do. We wrote a contract. I know many Members of the Senate say they did not sign the contract, but America signed the contract when they elected us and gave us a majority in both Houses of Congress.

I think these four principles I have outlined embody a reasonable and a flexible approach to living up to what we promised we would do and yet being willing to work with the President in saying: These are our priorities as to how we spend the $12 trillion that can be spent over the next 7 years while still balancing the Federal budget. What are yours? Government must learn to live within the constraint that, quite frankly, families face every month when they sit down around the kitchen table and get out that pencil and piece of paper. Families do not have the luxury of saying, "Let us assume that something great is going to happen, let us spend additional money." They have to negotiate how they are going to spend the income they have available. We should be willing to negotiate with President Clinton on that basis. We should hear the President out in terms of his priorities, but we have a priority that was given as a mandate by the voters in 1994. That mandate and that priority is balance the Federal budget under reasonable and realistic assumptions.

Anybody can balance the budget if you let them make up the assumptions. Any family can live within its budget if they can make up their income. That is not the trick. The real challenge, however, that is faced every night by millions of families sitting around their kitchen tables—which, quite frankly, we do not face here in Washington, and have not faced for 25 years—is how do you do it based on the amount of money you are realistically going to be able to spend? Every day in America, families are making these tough decisions, and they are having to say no to the things they want. They are having to say no because we never say no. They are having to say no to their children because we will not say no to spending more and more money of their money.

I think the time has come for us to say no. I want to say no so families and businesses can say yes again. I want less Government, and more freedom. I want less Government, stronger families, more opportunity, and more freedom. I think the way we get there is to stand up for some very simple principles. We are committed to balancing the budget under realistic assumptions. We have set out what we can spend and still achieve our objective. We will spend no more.

We promised the working people of this country a very small, very modest, very targeted amount of tax relief. It in no way gets working Americans back to where they were 20 years ago, but it is a step in the right direction. It is something we promised and I am not going to back off from it. We can negotiate over how to spend the money, but not how much to spend. And, finally, if in fact we conclude that the assumptions of the budget should be updated, that we should assume a more optimistic future—and I think we can make one by balancing the budget—but if we makes these assumptions, then every penny of savings that comes from those new rosy assumptions should go to deficit reduction. None of it should be spent.

These are the principles I intend to fight for. They are principles I think embody what I fought for in the 1994 election when we elected a Republican majority. They were embodied in the Contract With America. And I think, quite frankly, if we want people to believe politicians mean anything when they say it, then there is one way to achieve this and that is to actually do what you said you would do. I believe that if we stick to these principles we would finally be living up to the commitments that we made. I, for one, intend to do it.

I wanted to go on record today as to what my position is, because I do not want anyone to feel that, while they were away negotiating with President Clinton, somehow it was not clear where I stood. And when this final deal is reached, I do not want anyone to be surprised, if it violates one of these very, simple and, I think, eminently reasonable, principles, if I do not vote for the deal—because I cannot vote for a budget that does not live up to the deal we made first with the American people in 1994.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALANCED BUDGET

Mr. THOMAS. First, let me congratulate the Senator from Texas on his very strong endorsement of the balanced budget amendment, the thing that has really been, what will be, the capstone of what we have done all year here, that will really make fundamental changes in the direction the Government takes. I admire his strength standing for it.

Mr. President, I send a bill to the desk and ask it be referred appropriately.

The PRESIDING OFFICER. The bill will be received and referred to the appropriate committee.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 1434 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. KEMPTHORNE. Mr. President, in returning to the Safe Drinking Water Act Amendments of 1995, I would like to address a few points.

There has been quite a bit of discussion about the idea of these unfunded Federal mandates that we have had for years. And in fact the Congressional Budget Office pointed out that probably one of the most burdensome, onerous Federal regulations that has been imposed upon local and State government has been the Safe Drinking Water Act Amendments of 1986. The unfunded mandates format for 1995 that was passed earlier this year and signed into law this year by the President's signature does not go into effect until January 1, 1996 and, therefore, this legislation before us today, Senate bill 1316, does not come in under the requirements of the Unfunded Mandate Reform Act of 1995.

As the sponsor of that act which was signed into law, I was determined and absolutely dedicated that we are going to stop unfunded Federal mandates around here and, therefore, as this bill has been developed over 9 months I continually stayed in touch with the Congressional Budget Office. And in fact, I then submitted Senate bill 1316 to the Congressional Budget Office and asked them to please go through this legislation as though the unfunded mandates format were currently law, used all the same criteria, and the tough examination of this legislation. They have done so.

Mr. President, I ask unanimous consent that the letter from the Congressional Budget Office be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 7, 1995.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1316, the Safe Drinking Water Act Amendments of 1995.

Enacting S. 1316 would affect both direct spending and receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1316.

2. Bill title: Safe Drinking Water Act Amendments of 1995.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works on October 24, 1995.

4. Bill purpose: The bill would amend the Safe Drinking Water Act (SDWA) to authorize the Environmental Protection Agency (EPA) to make grants to states for capitalizing state revolving loan funds (SRFs). These SRFs would finance the construction of facilities for the treatment of drinking water. The bill would authorize appropriations of $1 billion annually over the 1996–2003 period for these capitalization grants. In addition, major provisions of the bill would:

Amend the procedures that EPA uses to identify contaminants for regulation under the SDWA;

Allow states to establish an alternative monitoring program for contaminants in drinking water;

Allow operators of small drinking water systems to obtain variances from drinking water standards under certain conditions;

Direct EPA to define treatment technologies that are feasible for small drinking water systems when the agency issues new contaminant regulations;

Require states to ensure that public water systems have the technical expertise and financial resources to implement the SDWA;

Establish a standard for the amount of radon in drinking water;

Authorize appropriations of $100 million annually for state public water system supervision programs (PWSS), $40 million annually for protecting underground drinking water sources, $35 million annually for protecting drinking water wellhead areas, and $35 million annually for assisting small drinking water systems; and

Authorize a loan for capital improvements to the Washington Aqueduct, which is operated by the U.S. Corps of Engineers to provide drinking water to the District of Columbia and parts of Northern Virginia.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized for discretionary programs, enacting S. 1316 would lead to fiscal year 1996 funding for safe drinking water programs about $1.2 billion above the 1995 appropriation. CBO estimates that the bill would authorize appropriations totaling nearly $7 billion over the 1996–2000 period.

The authorization for most of EPA's safe drinking water activities expired in 1991, but the program has been continued through annual appropriations. In 1995 about $166 million was appropriated to EPA for safe drinking work and grants. In addition to this amount, $700 million was appropriated in 1995 and $599 million was appropriated in 1994 for EPA capitalizing grants to safe drinking water state revolving loan funds (SRFs). Spending of these SRF funds was made contingent upon enactment of legislation authorizing safe drinking water SRFs. Public Law 104–19 rescinded all but $225 million of the SRF appropriations.

Enacting S. 1316 would have a small effect on revenues from civil and criminal penalties and on resulting direct spending. Finally, enacting the bill could increase direct spending for the payments of judgments against the federal government resulting from claims made by states under SDWA; however, CBO cannot predict the number or amount of any such judgments that would result from enacting the bill. The estimated budgetary effects of S. 1316 are summarized in the following table.

[By fiscal years, in millions dollars]

	1995	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS						
Spending under current law:						
Budget authority	166	0	0	0	0	0
Estimated outlays	161	66	17	0	0	0
Proposed changes:						
Estimated authorization level	0	1,371	1,386	1,388	1,389	1,391
Estimated outlays	0	257	649	1,045	1,262	1,360
Spending under S. 1316:						
Estimated authorization level	166	1,371	1,386	1,388	1,389	1,391
Estimated outlays	161	323	666	1,045	1,262	1,360
ADDITIONAL REVENUES AND DIRECT SPENDING						
Revenues:						
Estimated revenues		(1)	(1)	(1)	(1)	(1)
Direct spending:[2]						
Estimated budget authority			(1)	(1)	(1)	(1)
Estimated outlays			(1)	(1)	(1)	(1)

[1] Less than $500,000.

[2] The bill also could increase direct spending for judgments against the government, but CBO cannot estimate the amount of any judgment payments that might occur from enacting S. 1316.

The costs of this bill fall within budget function 300.

6. Basis of Estimate: Spending Subject to Appropriations.—For purposes of this estimate, CBO assumes that the bill will be enacted before 1996 appropriations for EPA are provided and that all funds authorized by S. 1316 will be appropriated for each year. Over the 1996–2003 period, the bill would authorize appropriations totalling $10.6 billion, including $8 billion for grants to safe drinking water state revolving loan funds.

In addition to the bill's specified authorization amounts, CBO has estimated that $60 million to $70 million a year would be necessary to pay for activities authorized by the bill without specific dollar authorizations. Estimated costs for these activities are based on information provided by EPA. Estimated outlays are based on historical spending patterns of ongoing EPA drinking water programs and its grant program for waste water treatment state revolving loan funds.

CBO estimates that enacting the bill would require about $55 million annually (at 1996 price levels) to pay for EPA's general oversight and administrative costs for the safe drinking water program. This amount would constitute an increase of about $15 million above EPA's current program costs, principally for administration of the new SRF program. We estimate that no funds would be required for grants to states for the source-water protection programs that would be established under section 17 of the bill because states are unlikely to implement the optional petition programs described in the bill. CBO also estimates a cost of at least $5 million annually over the 1996–2000 period for EPA to prepare the reports on environmental priorities, costs, and benefits that would be required by section 28 of the bill.

CBO believes that the proposed authority for modernizing the Washington Aqueduct should be treated as authority for providing a federal loan to the three localities that receive water from the aqueduct. In effect, the localities are borrowing money from the Treasury to pay for modernizing the aqueduct. Such a loan would be subject to credit reform provisions of the Budget Enforcement Act of 1990. We estimate that this authorization would have no net cost to the federal government because the bill would allow the Secretary of the Treasury to impose loan terms and conditions on the localities involved sufficient to offset any subsidy cost of the loan.

The Army Corps of Engineers estimates that the aqueduct modernization project would cost about $275 million in 1995 dollars and would take seven years to complete. Credit reform requires that the subsidy cost of any loan—estimated as a net present value—be recorded as an outlay in the year that the loan is disbursed. But since the bill would require that the three localities pay interest and any additional amounts necessary to offset the risk of default, the subsidy cost of this loan would be zero. Hence, we estimate that the proposed loan would have no effect on outlays.

Revenues and Direct Spending.—Enactment of this bill would increase governmental receipts from civil and criminal penalties, as well as direct spending from the Crime Victims Fund, but CBO expects that the amounts involved would be insignificant. Any additional amounts deposited into the Crime Victims Fund would be spent in the following year.

In addition, section 22 of the bill would explicitly waive any federal immunity from administrative orders or civil or administrative fines or penalties assessed under SDWA, and would clarify that federal facilities are subject to reasonable service charges assessed in connection with a federal or state program. This provision of SDWA may encourage states to seek to impose fines and penalties on the federal government under SDWA. If federal agencies contest these fines and penalties, it is possible that payments would have to be made from the government's Claims and Judgments Fund, if not otherwise provided from appropriated funds. The Claims and Judgments Fund is a permanent, open-ended appropriation, and any amounts paid from it would be considered direct spending. CBO cannot predict the number of the dollar amount of judgments against the government that could result from enactment of this bill. Further, we cannot determine whether those judgments would be paid from the Claims and Judgments Fund or from appropriated funds.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency

Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Enacting S. 1316 would increase governmental receipts from civil and criminal penalties, and the spending of such penalties; hence, pay-as-you-go provisions would apply. The following table summarizes CBO's estimate of the bill's pay-as-you-go effects.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	0	0
Change in receipts	0	0	0

8. Estimated cost to State and local governments: S. 1316 would change the process for setting standards for drinking water contaminants, alter requirements for monitoring and treatment, and create state revolving loan funds to provide low-cost financing for public water systems.

The primary impact of the bill on state and local governments would be to reduce the likely costs of complying with future drinking water regulations. These future regulations would impose significant costs, primarily on local public water systems. The number of severity of these regulations is likely to be less under S. 1316. However, because these regulations are not yet in place, we cannot estimate the magnitude of any savings at this time.

For example, the bill would change the level at which future standards would be set for drinking water contaminants. By allowing EPA to consider the cost of compliance and the extent of the reduction in risks to health when establishing new standards, the bill would allow less stringent standards to be set in some circumstances and would therefore lower the cost of compliance for local water systems. Again, because these regulations are not yet in place, we cannot estimate the magnitude of any savings, although we expect that they would be significant.

The bill also would create some new responsibilities (mostly for states), but CBO expects that the cost of these new responsibilities would likely be far less than the potential savings realized from changing the current standard-setting process and altering current monitoring and treatment requirements. Furthermore, the bill extends the authorization of certain existing appropriations and authorizes the appropriation of additional federal funds to help state and local governments meet compliance costs. In total, the bill would authorize over $9.9 billion in funding for state and local governments over fiscal years 1996 to 2003 and would make available for spending about $225 million that was previously appropriated in fiscal years 1994 and 1995. Assuming the appropriation of these funds, CBO estimates that the bill would likely result in significant net savings to state and local governments.

CHANGES LIKELY TO REDUCE COMPLIANCE COSTS

Standard-setting

The bill would change the procedures for determining permissible levels of contaminants in drinking water in ways that would likely lower compliance costs for public water systems. First, it would rescind the requirement that the EPA Administrator issue rules for 25 drinking water contaminants every three years. No specific number of contaminants would have to be regulated. Although it is possible that with this change EPA would regulate more contaminants than current law dictates, CBO expects that the agency would regulate fewer contaminants than currently required.

Second, the bill would allow EPA to set the maximum contaminant level goal (MCLC) for contaminants known or likely to be carcinogens at a level other than zero in some circumstances. MCLGs are concentration levels below which there is thought to be no adverse effect on human health. Under current law, the maximum contaminant level (MCL) is an enforceable standard that is set as close to the MCLG as EPA determines is feasible. Current law requires MCLGs for known or likely carcinogens to be set at zero.

Third, the bill would give EPA the authority to set MCLs at a level other than the feasible level if using the feasible level would increase the health risks from other contaminants. If EPA uses this authority, it must set the MCL at a level that minimizes the overall health risk. Current law does not allow EPA to consider the effect of new regulations on the concentration of contaminants that are already regulated.

Fourth, the bill would require that EPA conduct a cost-benefit analysis for national primary drinking water regulations before they are proposed. The bill also would require EPA, when proposing a maximum contaminant level, to publish a determination as to whether the benefits of the proposed MCL justify the costs of complying with it. EPA would be given the discretionary authority to establish less stringent standards when it determines that the benefits of an MCL set at the feasible level would not justify the cost of compliance or when it determines that the contaminant occurs almost exclusively in small systems. If EPA uses this discretionary authority, it would have to set the MCL at a level that maximizes health risk reduction at a cost justified by the benefits. While current law requires EPA to perform cost/benefit analyses of new regulations, it does not give the agency the discretion to use those analyses as justification for changing the standards contained in new regulations. These last three changes in current law would give EPA greater discretion to set less stringent standards in future regulations. Any use of that discretion would lower the cost of compliance for public water systems.

Finally, the bill would establish an MCL for radon and would set specific requirements for regulations governing arsenic and sulfates in drinking water. The impact of these provisions on state and local government budgets is difficult to gauge, since EPA has not yet written final regulations for these contaminants. The bill would require the EPA Administrator to issue an MCL for radon of 3,000 picocuries per liter of water (pCi/Lwater). The impact of this change is difficult to assess because the MCL for radon under current law has not yet been determined. EPA has issued a draft MCL of 300 pCi/Lwater, and agency officials estimate that public drinking water systems serving 17 million people would be required to treat water for radon at that level. Under the higher MCL in the bill, systems serving fewer than 1 million people would have to treat for radon. Without a clear indication of the MCLs EPA would establish for other substances under current law, CBO has no sound basis for estimating the possible savings that would result from these provisions.

Monitoring

Section 19 would change monitoring requirements for local water systems in ways that probably would lower compliance costs. First, it would allow the EPA Administrator to waive monitoring requirements for states under certain conditions. Second, it would allow states with primary enforcement responsibility to establish alternative monitoring requirements for some national drinking water regulations. Alternative requirements could apply to all or just some public water systems in the state. Third, this section would give states with primary enforcement responsibility separate authority to establish alternate monitoring requirements specifically for small systems. Fourth, under "representative monitoring plans" developed by the states, small and medium water systems would probably monitor for unregulated contaminants less frequently than they would under current law. Finally, this section would direct the EPA Administration to pay the reasonable costs of testing and analysis that small systems incur by carrying out the representative monitoring plans.

Compliance period, exemptions, and variances

Section 11 would change the date that primary drinking water regulations become effective from eighteen months to three years after the date of promulgation, unless the EPA Administrator determines that an earlier date is practicable. This change would give water systems more time to install new equipment or take other steps necessary to come into compliance with the new regulation.

Section 13 would ease the conditions under which a state with primary enforcement responsibility may grant exemptions from primary drinking water regulations. Exemptions are currently given to water systems that, because of "compelling factors," cannot comply with national drinking water regulations. These exemptions must be accompanied by a schedule that indicates when the system will come into compliance with the regulation. This section would specifically provide that a system serving a disadvantaged community may be eligible for an exemption.

Section 14 of the bill would set out conditions under which small systems could be granted variances from complying with primary drinking water regulations. Variances are currently given to water systems that, because of the quality of their raw water sources, cannot comply with regulations, even after applying the best technology or treatment technique. This section would broaden the qualifying criteria for small water systems, increasing the likelihood that they would be granted variances.

NEW REQUIREMENTS THAT WOULD INCREASE COSTS

Conditions of primary

Several sections of the bill would increase the responsibilities of states only if they choose to accept primary enforcement responsibility for national drinking water regulations. Every state except Wyoming currently has primary enforcement authority. Specifically, primacy states would have to set up new procedures to review applications for variances submitted by small systems and ensure that systems remain eligible for any variances granted. They would also have to establish requirements for the training and certification of operators of public water systems. Beginning in fiscal year 1997, they would have to prepare an annual report for EPA on violations of national primary drinking water regulations committed by their public water systems. Primacy states would also have to consider and act upon consolidation proposals from public water systems.

These new requirements would entail some costs for primacy states. Based on information from state drinking water officials, CBO believes that if all funds authorized are subsequently appropriated, states would probably receive enough money to pay for these additional requirements.

Procedures for small systems

Some provisions of this bill would require all states, whether or not they have accepted primary enforcement responsibility, to institute new procedures that would benefit some water systems. These requirements could impose significant additional costs on the states themselves. For example, section 19 of the bill would require each state to develop a "representative monitoring plan" to assess the occurrence of unregulated contaminants in small water systems. Under these plans, only a representative sample of small water systems in each state would be required to monitor for unregulated contaminants. Current law requires all systems to do such monitoring. While these plans could reduce the cost of monitoring for most small systems, they would require extra effort by the states. Based on information from a number of state drinking water officials, CBO believes that if all funds authorized are later appropriated, the states would probably receive enough funding to pay for any additional costs.

Section 15 of the bill would require each state to take certain actions to ensure that public water systems in the state develop the technical, managerial, and financial capacity to comply with drinking water regulations. States would have to prepare a "capacity development strategy" for small water systems as well as a list of systems that have not complied with drinking water regulations. In some circumstances, states would be allowed to spend money from their annual SRF capitalization grant to pay for developing and implementing their strategy.

Recordkeeping and notification

The bill includes other provisions that might lead to additional recordkeeping and reporting responsibilities for states and for public water systems. Section 4 would allow the Administrator of the Environmental Protection Agency to require states and localities to submit monitoring data and other information necessary for developing studies, work plans, or national primary drinking water regulations. This section could increase reporting costs for state and local governments, but on balance the bill would likely result in a significant decrease in overall monitoring requirements and costs.

Section 20 of the bill would substitute more specific legislative requirements for current regulations governing how water systems notify customers of violations of national primary drinking water regulations. For example, this section would add a new requirement that community water systems notify customers of violations by mail. These requirements might result in increased costs for local governments.

Definition of public water system

Section 24 would change the definition of "public water system" to include systems that provide water for residential use through "other constructed conveyances." This change would make drinking water regulations applicable to some irrigation districts that currently supply water to residential customers by means other than pipes. Districts would not fall under the new definition if alternative water is being provided for residential uses or if the water provided for residential uses is being treated by the provider, a pass-through entity, or the user. Those districts that fall under the new definition could face increased costs for treatment or for providing an alternative water supply.

CBO is still gathering information on the number of districts that would be affected by this change; however, we believe that because most of the water supplied by these districts is for agricultural uses, the amount of water that they would need to treat would be a small fraction of the water they supply. Furthermore, the bill would allow districts to make residential users of their water responsible for treatment or for obtaining an alternative water supply.

AUTHORIZATIONS OF APPROPRIATIONS

The bill would authorize the appropriation of over $9.9 billion for state and local governments over fiscal years 1996 to 2203. The largest authorization would be $8.0 billion for the creation of state revolving loan funds (SRFs). In addition, the bill would make available for spending $225 million that was appropriated for the revolving funds in fiscal years 1994 and 1995. If the authorized funds are appropriated, these SRFs would be a significant new source of low-cost infrastructure financing for many public water supply systems. The bill would give states the flexibility to transfer capitalization grant funds between the new safe drinking water SRFs and the SRFs established by the Clean Water Act for financing wastewater treatment facilities.

The bill would also extend the authorization for grants to the states for public water system supervision (PWSS) programs through fiscal year 2003 at $100 million per year and in some situations would allow states to supplement their PWSS grant by reserving an equal amount from their annual SRF capitalization grant. The PWSS programs implement the Safe Drinking Water Act at the state level through enforcement, staff training, data management, sanitary surveys, and certification of testing laboratories. The fiscal year 1995 appropriation for PWSS grants totaled $70 million. Both EPA and the Association of State Drinking Water Administrators have found this level of funding to be inadequate to meet the requirements of current law.

The bill would also allow the District of Columbia, Arlington County, Virginia, and Falls Church, Virginia to enter into agreements to pay the Army Corps of Engineers to modernize the Washington Aqueduct. The Corps estimates that the modernization would cost about $275 million in 1995 dollars and would take around seven years to complete. The terms of the agreements are subject to negotiation, but it is likely that payment of principal and interest would begin within two or three years and would be spread out over thirty years. The three localities would raise the necessary funds by increasing the water rates paid by their customers. The localities' respective shares of the costs would be roughly as follows: District of Columbia (75 percent), Arlington County (15 percent), and Falls Church (10 percent).

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Kim Cawley and Stephanie Weiner. State and Local Government Cost Estimate: Pepper Santalucia.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. KEMPTHORNE. Mr. President, I can state, based on that letter from the Congressional Budget Office, that there are no new unfunded Federal mandates, and, in fact, as they pointed out, we will significantly reduce the cost to the local and State governments based on the legislation, S. 1316.

Again, I think it is important to note that while that act does not go into effect until January 1, we are complying with it today. And that is as it should be.

Another point I would like to make is the fact that I think our State and local officials have made it very clear that one of their most important responsibilities to their constituents is to assure their constituents that their drinking water is safe and it is affordable. Therefore, on many, many occasions during the course of the crafting of this legislation, a coalition representing the State and local governments, the different entities that provide the waters to different customers were part of the discussions. I ask unanimous consent to have printed in the RECORD a series of letters, letters from the National Governors' Association, the National Association of Counties, the National Conference of State Legislators, National League of Cities, U.S. Conference of Mayors, and a variety of other organizations, pointing out their strong support for this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION, NATIONAL ASSOCIATION OF COUNTIES, NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS,

November 9, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: As elected representatives of state and local government, we are writing to express our strong support for S. 1316, the Safe Drinking Water Act Amendments of 1995, as it was reported by the Committee on Environment and Public Works. We ask for your help in passing this legislation into law without extraneous or substantive amendments. As you know, EPA has indicated that the drinking water law is broken and that reform of the statute is a top priority. Collectively our organizations agree that reform of this program is of critical importance, and we have made such reform our highest collective priority for this year. In many respects, the current law is unfocused, arbitrary, and imposes unacceptable costs on our citizens without appreciable benefits. S. 1316 makes important improvements in the law and deserves your support.

As a bottom line, S. 1316 makes the drinking water program more effective in protecting public health. In her September 27 letter to Senator Baucus, EPA Administrator Browner outlined her views on what a new drinking water law should do. We believe S. 1316 satisfies those concerns. In particular, this bill:

Helps prevent contamination of drinking water supplies by creating the first framework for water suppliers to work in partnership with those whose activities affect water supplies.

Provides assistance to help build the financial, managerial, and technical capacity of drinking water systems.

Assures that drinking water standards address the highest risks by directing EPA to set priorities and to establish standards for contaminants that occur in drinking water.

Allows EPA to consider both costs and benefits in developing new drinking water regulations, as EPA has recommended.

Provides much needed funds to help communities improve drinking water facilities.

Finally, but not least important, the bill addresses the problems of many of our smaller communities by requiring EPA to identify appropriate health-protective technologies for small water systems.

The bill represents countless hours of negotiation and compromise among the various interests, including EPA. While no party gets all that they want from such a process, the final product is balanced and reasonable.

We are concerned about two amendments that may be offered on the floor. One would require all water systems to report on contaminants found in the water at levels that do not violate the federal standards. The bill as drafted and current law require reporting and public notification when a standard is breached. In addition, water systems will be required to report on monitoring for unregulated contaminants in order to provide EPA with data on occurrence. States already have authority to require additional reporting, and some do. We support those provisions. However, additional mandatory reporting would be burdensome and serve no good purpose, and we cannot support them.

A second amendment may be offered allowing EPA to avoid analysis and public comment requirements when EPA declares an urgent threat to public health. The bill as drafted, combined with provisions of existing law, allows EPA to react quickly to protect the public in the event of an urgent threat. The authorities for quick action include the emergency powers, urgent threat to public health, and public notification requirements of the current law and this bill. Faced with an urgent threat, the Administrator can—and must—act quickly to protect the public. Moreover, all Governors also have authority to take emergency action to protect public health. However, even the quickest action should not be blind with respect to good science, the costs and benefits of that action, or the effect of that action on other contaminants.

We have seen no evidence that the analysis required by S. 1316 would slow EPA's response to an urgent threat, while the chance of mistakes dramatically increases when action is taken in haste. The cost of such mistakes can be very high, and could include costs of over-reaction, under-reaction, addressing the wrong risk, or addressing a risk in the wrong way. Those are the very mistakes that the analysis required by the bill is designed to avoid. The EPA should not take shortcuts even when quick action is needed, and the public and the regulated community should have the right to see EPA's analysis before standards are proposed.

We hope you understand how important this bill is to state and local governments and to the citizens we represent, and hope you will help move this bill to final passage.

Sincerely,

Governor FIFE SYMINGTON,
Chair, Committee on Natural Resources.
Governor GEORGE V. VOINOVICH,
Lead Governor on Federalism.
Governor E. BENJAMIN NELSON,
Vice Chair, Committee on Natural Resources.
DOUGLAS R. BOVIN,
President, National Association of Counties.

OFFICE OF THE MAYOR,
CITY OF CHICAGO,
November 2, 1995.

Hon. DIRK KEMPTHORNE,
Chairman, Senate Committee on Environment and Public Works, Subcommittee on Drinking Water, Fisheries, and Wildlife, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support of your Safe Drinking Water Act reauthorization bill (S. 1316).

As you know, the City of Chicago like other local governments, is plagued by unfunded federal mandates, many of which stem from the Safe Drinking Water Act. Current law makes blanket assumptions about the threats and conditions facing municipalities and issues the same rules for every city regardless of its unique circumstances. As a result, Chicago has spent a significant amount of time and money to comply with mandates that do not reflect the concerns of its water system. These mandates are consuming resources that our budget will not allow us to spend unwisely, and our citizens should not be saddled with unnecessary increases in the price they pay for safe drinking water.

In an effort to conserve our scarce resources, I have been actively involved in the fight to reduce the burden of unfunded federal mandates on local governments. The standard setting process for safe drinking water is an issue that I strongly believe needs improvement. I am pleased to see that your bill addresses this issue by directing the EPA to set drinking water priorities and to set standards for contaminants that are present in our water. I also commend you for recognizing the need for a cost-benefit analysis in setting these drinking water standards.

Your bill will enable the City to use its resources more efficiently and will allow the Water Department to take more effective steps to guard against contamination that may pose a real risk to the citizens of Chicago. For these reasons, I thank you not only for your insight but also for your leadership on this important piece of legislation.

Sincerely,

RICHARD M. DALEY,
Mayor.

CALIFORNIA WATER SERVICE CO.,
San Jose, CA, October 20, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: As you may know, on October 12, a bipartisan group of Senators introduced S. 1316, the Safe Drinking Water Act Amendments of 1995. I urge you to lend your support to this important bill by signing on as cosponsor.

S. 1316 adds needed flexibility to the Safe Drinking Water Act (the Act) while preserving the Act's strong public health protections. It improves the method for choosing and setting drinking water standards; encourages states to prevent the formation of—and consolidate—nonviable water systems (which are responsible for the vast majority of water quality violations); places greater emphasis on source water protection; and directs EPA to place a priority on research into cryptosporidium and at risk subpopulations.

These reforms are badly needed. Without them, Californians face considerable incremental increases in their water bills over the next few years without concomitant increase in public health protections. For example, it would cost an estimated $500 million for San Francisco to build a filtration plant to treat one of the most pristine water supplies in the world. California consumers would pay between $3 and $4 billion in up front costs and about $600 million annually to comply with the proposed radon regulation if adopted unchanged. Yet merely by opening the window, they will be exposed to higher levels of radon.

Nationwide, water utilities have spent billions of dollars a year to ensure the safety of their customers' supply. Large expenditures life these were made even before passage of the Act in 1974 and will continue to be made with or without changes to it. However, with the outlook for retail water costs in California increasing, additional treatment costs should not be imposed on our customers unless they are necessary to enhance public health protections.

The California Water Service Company is the State's largest investor-owned water utility serving 1.5 million people in 38 communities around California. On their behalf, I appreciate your interest in this issue.

Sincerely,

DONALD L. HOUCK,
President.

ST. LOUIS COUNTY WATER CO.,
St. Louis, MO, October 24, 1995.

Attention: Tracy Henke.
Hon. KIT BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: Senator Kempthorne recently introduced The Safe Drinking Water Act Amendments of 1995, (S. 1316), which already has received bipartisan support from many of your colleagues. Last week Gurnie Gunter of the Kansas City Water Department provided testimony before the Senate Committee on Environment and Public Works in support of this legislation. I agree with Gurnie, as do most of the water utility people I know.

This legislation represents significant improvement over current law, would ensure increased protection of public health, and clearly represents the consensus reached only after long hours of deliberations. S. 1316 would target high risk contaminants, require the use of better scientific analysis, and target funds to much needed research. Furthermore, the bill would repeal unnecessary monitoring requirements and other wasteful SDWA provisions which drain funds from real public health protection.

The bill has been endorsed by associations representing state and local elected officials all across the country, and contains many provisions which the EPA has been advocating in a SDWA reauthorization.

For these reasons, I encourage you to cosponsor this important reauthorization bill. I would also like to make my staff available to your staff should clarification be needed in the technical areas of the bill.

I appreciate your attention to this matter, and look forward to hearing from you.

Sincerely,

A. M. TINKEY,
President.

OCTOBER 24, 1995.

Hon. DIRK KEMPTHORNE,
Chairman, Subcommittee on Drinking Water, Fisheries, and Wildlife, Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The undersigned agricultural and agribusiness organizations are pleased to comment on S. 1316, the Safe Drinking Water Act Amendments of 1995, and in particular Section 17, "Source Water Quality Protection Partnerships." The petition program in Section 17, which Subcommittee Chairman Dirk Kempthorne took the lead in crafting, successfully builds on a similar provision authored in the last congress by Senators John Warner and Kent Conrad, and adopted by the Senate. We certainly appreciate your efforts to resolve agricultural concerns during development of the Section 17 language. If implemented as envisioned, this petition program contains the foundation for voluntary partnerships involving state and local governments and agriculture.

Importantly, the new petition program is *not* intended to create new bureaucracies, a mini-Clean Water Act, or a new layer of regulatory mandates imposed on farmers and other stakeholders. Section 17 avoids a heavy-handed, "top down" regulatory approach in which economic viability is ignored and farmers could become victims. Instead, States have the option of establishing a petition program. States may respond to petitions where appropriate by facilitating locally developed, voluntary partnerships through technical assistance and financial incentives available under existing water quality, farm bill and other programs, plus funds from the new drinking water SRF as provided for in S. 1316. The petition process is a common-sense, problem-solving approach which offers farmers and other stakeholders the opportunity to work with their local communities as partners. There are a growing number of success stories in which local communities and farmers are already working together in voluntary partnerships to resolve drinking water problems.

We look forward to working with members of the Committee and the Senate in ensuring that the petition process in S. 1316 maintains its voluntary and problem-solving objectives.

Sincerely,

Agricultural Retailers Association.
American Association of Nurserymen.
American Farm Bureau Federation.
American Feed Industry Association.
American Sheep Industry Association.
American Soybean Association.
Equipment Manufacturers Institute.
Farmland Industries, Inc.
National Association of Conservation Districts.
National Association of Wheat Growers.
National Association of State Departments of Agriculture.
National Cattlemen's Association.
National Cotton Council.
National Council of Farmer Cooperatives.
National Grange.
National Pork Producers Council.
National Potato Council.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, October 13, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The American Farm Bureau Federation would like to take this opportunity to thank you for your strong support of agriculture in developing the source water protection provisions in the Kempthorne/Chafee Safe Drinking Water Act reauthorization bill.

Farm Bureau supports the incorporation of a voluntary sources water provision in the Safe Drinking Water Act. Your petition program will establish these voluntary partnerships between state and local governments, helping agriculture create a positive approach for solve water quality problems. An important aspect of this program is that it does not create new regulations or bureaucracies. Rather it provides a means for a community or water supplier who is experiencing water quality trouble to solve the problem with the help of stakeholders using programs and resources that are currently available under existing laws. This is a very practical solution in addressing water quality needs.

We thank you and your staff again for your leadership and responsiveness in addressing this issue.

Sincerely,

RICHARD W. NEWPHER,
Executive Director, Washington Office.

UNITED WATER DELAWARE,
Wilmington, DE, October 13, 1995.

Senator DIRK KEMPTHORNE,
Chairman, Senate Drinking Water, Fisheries, and Wildlife Subcommittee, Dirksen Building, Washington, DC.

HON. SENATOR KEMPTHORNE: As Manager of United Water Delaware, I am writing to support your proposed Safe Drinking Water Act Amendments of 1995. As purveyor of water to some 100,000 people in the Wilmington, DE area, the re-authorization of the Safe Drinking Water Act is very important to me and UWD's customers in Delaware and Pennsylvania.

I feel that this bill will renew the partnership between the water purveyors and the State; re-establish confidence in EPA; and help make safe, adequate water supplies available to all Americans.

Very truly yours,

ROBERT P. WALKER,
Manager.

OFFICE OF THE MAYOR,
Rutland, VT, October 23, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

SENATOR KEMPTHORNE: Thank you once again for your most successful efforts to craft a bipartisan set of amendments to the Safe Drinking Water Act. Thank you also for giving me, the NLC and NACO an opportunity to offer testimony last week.

A great many people have worked for years to strengthen the protection of public health through the Safe Drinking Water Act. As someone who is on the front line of this fight. I want you to know how deeply your leadership and legislative craftsmanship are appreciated. Put bluntly, in the current political climate, it could not have been without you.

I am now confident that this Congress will enact amendments that will protect both the taxpayer's wallets and the public health. Please share my sentiments with Meg and everyone on your staff who contributed to this remarkable effort.

Sincerely,

JEFF WENNBERG,
Mayor of Rutland.

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,
Montgomery, AL, October 25, 1995.

Re: Senate bill 1316.

Hon. RICHARD SHELBY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SHELBY. As you are aware, hearings were held on Senate Bill 1316, reauthorization of the Safe Drinking Water Act, on October 19, 1995.

Staff of the Department have reviewed this bill and previously provided input through the National Governor's Association and the Association of State Drinking Water Administrators noting our satisfaction with the language as presented. Lack of flexibility properly administer the Safe Drinking Water Program has caused water systems in Alabama to spend excessively on monitoring without an associated increase in public health protection. The passage of reauthorization will greatly benefit the water systems of Alabama and not only provide a safer quality of drinking water but a better environment for our citizens. I urge you to co-sponsor this bill and provide support for its passage.

Sincerely,

JAMES W. WARR,
Acting Director.

TULSA METROPOLITAN UTILITIES AUTHORITY,
Tulsa, OK, November 1, 1995.

Hon. JAMES M. INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: On behalf of the Tulsa Metropolitan Utility Authority, I am writing to thank you for your cosponsorship of S. 1316, the Safe Drinking Water Act Amendments of 1995. We feel that S. 1316 is a significant improvement over current law in that it increases the likelihood that contaminants of real concern to the public will be addressed. We feel S. 1316 will achieve this goal by doing the following:

Using solid science as a standard setting basis;

Authorizing adequate funding for health effects research;

Securing the publics right to know;

Establishing a reasonable compliance time frame;

Ensuring that drinking water standards address the highest priorities for risk reduction;

Setting up a framework and authorizing funds for source water protection partnerships.

By supporting this bill, we recognize you are focusing your attention as well as the state of Oklahoma's attention on public health protection. Water quality is important to us all; consequently, we feel that S. 1316 is a step in the right direction to achieving better drinking water. We ask that you continue your support of S. 1316 and the pursuit of other supporters for the improvement of drinking water. We truly believe S. 1316 will not only benefit the water quality of Tulsa and the State of Oklahoma, but it will also benefit the water quality of the entire country.

Thank you again for your support and continued pursuit of this matter.

Sincerely,

SANDRA ALEXANDER,
Chairman.

TULSA METROPOLITAN
UTILITY AUTHORITY,
November 1, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the Tulsa Metropolitan Utility Authority, I am writing to ask for your support of S. 1316, the Safe Drinking Water Act Amendments of 1995. By supporting this bill, you would be focusing your attention as well as the state of Oklahoma's attention on public health protection. We here at the TMUA support S. 1316 and believe it represents a significant improvement over current law by increasing the likelihood that contaminants of real concern to the public will be addressed. We believe it would do this by achieving the following:

Ensuring that drinking water standards address the highest priorities for risk reduction;

Utilizing solid science as a basis for standard setting;

Authorizing adequate funding for health effects research;

Securing the publics right-to-know;

Establishing a reasonable compliance timeframe;

Setting up a framework and authorizing funds for source water protection partnerships.

Water quality is of utmost importance to us, and we feel that the current bill up for approval by the Senate meets the current water quality needs in an adequate manner. We would greatly appreciate your support on S. 1316 and hope you will continue to pursue what is best for Oklahoma.

Thank you for your consideration on this matter.

Sincerely,

SANDRA ALEXANDER,
Chairman.

ASSOCIATION OF METROPOLITAN
WATER AGENCIES,
Washington, DC, November 15, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the Association of Metropolitan Water Agencies (AMWA), I would like to urge you to support S. 1316, the Safe Drinking Water Act Amendments of 1995. The bill, which makes essential reforms to the nation's drinking water law, was developed through a bipartisan effort and has the backing of the major drinking water supply organizations as well as State and local governments.

S. 1316 improves the current statute in several meaningful ways. The bill establishes a rational approach to selecting contaminants for future regulation, greatly improves the scientific bases for establishing maximum contaminant levels, and modifies the existing mechanism for setting standards by providing EPA with the discretion to apply a benefit-cost justification under certain circumstances. In addition, the bill allows EPA to balance risks when considering the development of standards and applies this risk balancing authority to regulation of disinfectants, disinfection by-products and microbial contaminants. The risk trade-off authority is particularly important given the public health and cost implications of controlling contaminants whose treatment, by its very nature, may result in unintended increased public health risks.

AMWA also urges you to support passage of S. 1316 without significant amendments. The bill contains many compromises that continues the Act's focus on public health protection but also addresses many problems with the statute from a variety of perspectives. Amendments that shift this balance could serve to undermine the bill's support.

We urge you to support S. 1316.

Thank you for your consideration of this very important matter. If you need any additional information or have any questions, please do not hesitate to give me a call.

Sincerely,

DIANE VANDE HEI,
Executive Director.

CITIZENS UTILITIES,
Sun City, AZ, November 6, 1995.

Hon. JOHN KYL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KYL: I am writing on behalf of Citizens Utilities Company ("Citizens") regarding proposed legislation, Senator Kempthorne recently introduced the Safe Drinking Water Act Amendments of 1995 (S. 1316) which already has received bipartisan support from many of your colleagues. Citizens strongly supports this reauthorization bill.

In the state of Arizona, Citizens provides water and wastewater utility services to approximately 105,000 customers in Maricopa, Mohave, and Santa Cruz Counties. We are the largest contiguous investor-owned water/wastewater utility company in the State of Arizona. Among our service areas are the world-renowned, master-planned retirement communities of Sun City, Sun City West, and Del Webb's newest project, Sun City Grand.

This legislation represents significant improvement over current law, would ensure increased protection of public health, and clearly represents the consensus reached only after long hours of deliberations. S. 1316 would target high risk contaminants, require the use of better scientific analysis, and target funds to much needed research. Furthermore, the bill would repeal unnecessary monitoring requirements and other wasteful SDWA provisions which drain funds from real public health protection.

The bill has been endorsed by associations representing state and local elected officials all across the country, and it contains many provisions which the EPA has been advocating in an SDWA reauthorization.

Thank you for your consideration of the foregoing information. I look forward to hearing from you regarding this important piece of legislation.

Very truly yours,

FRED L. KRIESS, Jr.,
General Manager.

ILLINOIS-AMERICAN WATER CO.,
Belleville, IL, October 18, 1995.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: I am writing to urge you to cosponsor S. 1316, the Safe Drinking Water Act Amendments of 1995. The bipartisan bill was introduced by Senator Kempthorne with 23 cosponsors including Senator Dole (Majority Leader) and Senator Daschle (Minority Leader).

As the guardian of safe drinking water in Pekin, Peoria, Alton, East St. Louis, Belleville, Granite City and Cairo, Illinois-American Water Company believes S. 1316 is a major step forward in the direction of better public health; safer drinking water; and more responsive government. The reforms contained in this bill represent a common sense solution that supports both environmental protection and regulatory reform.

S. 1316 strengthens the scientific basis for establishing drinking water standards; targets regulatory resources towards greater public health risks and away from trivial risks; establishes a stable, forward-looking framework for addressing longer term drinking water issues; funds new mandates while reducing existing mandates that don't work; establishes a source water protection program; provides authorization for a drinking water state revolving fund; and provides for an improved federal-state partnership.

S. 1316 is supported by national organizations representing governors, mayors, other state and local elected officials, state drinking water regulators, and public water suppliers—virtually all those responsible for assuring the safety of America's drinking water.

It is important that we focus our resources on the overall interest of the public and not simply react to political rhetoric.

Thank you for your time and consideration. If we can provide additional information for you please contact us.

Sincerely,

RAY LEE, *President.*

BRIDGEPORT HYDRAULIC CO.,
Bridgeport, CT., October 13, 1995.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR DODD: We understand that on October 12, 1995, Senators Kempthorne and Chafee introduced S. 1316, "The Safe Drinking Water Act Amendments of 1995." This bill has bi-partisan support from the leadership of both parties in the Senate and has been endorsed by members of the Safe Drinking Water Act Coalition, which represents state and local governments and public water suppliers.

S. 1316 makes substantial improvements in the current law, particularly how contaminants will be selected for regulation and requiring a cost benefit analysis for risk assessment. We believe when enacted, S. 1316 will help provide American consumers with safe, high-quality water at a reasonable price.

Since this bill will provide reasonable, risk reducing water regulations, we urge you to become one of its co-sponsors. Thanks for your consideration.

Sincerely,

LARRY L. BINGAMAN,
Vice President,
Corporate Relations and Secretary.

IDAHO RURAL WATER ASSOCIATION,
Lewiston, ID, March 13, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of over 187 rural and small communities in Idaho, we want to thank you for your commitment to pass a revised Safe Drinking Water Act (SDWA).

The federal Safe Drinking Water Act has proven to be one of the most expensive and most arbitrary federal mandates that has been placed on rural communities. All water systems small and large must follow the same ONE-SIZE-FITS-ALL federal requirements regardless of the history and/or previously tested quality of their water.

We urge you to pass the SDWA that corrects the over regulation of small and rural communities. No one is more concerned about ensuring public health protection than rural communities with water systems, but specific changes need to be made to make the law workable.

For a bill to benefit small and rural communities, the Safe Drinking Water Act should:

1. Provide small communities with increased technical assistance. This is what works in the field to help small systems with the mandates. Small systems have the most difficulty complying with the SDWA because of limited budgets and big system requirements. Through the thick and thin of the federal SDWA regulations, small and rural systems have relied on their state rural technical assistance program to help each other try to meet these ever increasing mandates. This program needs to be strengthened.

2. No more federal regulation requirements. The revised law should not include new requirements because EPA cannot even manage the existing requirements. Viability, or the way a system operates in order to meet standards, should not be subject to federal regulatory definition. Our state can manage its small systems. Rural consumers have to pay for all the good ideas that come out of Washington. Giving the federal bureaucracy authority over determining the criteria for management and operations of local municipal water systems will only increase burden on water operators and local elected officials.

3. Urgent-Monitoring relief. We estimate that 20 to 25 percent of Idaho's small communities did not utilize the 1993 Chafee Lautenberg monitoring relief and therefore will have to complete four samples of Phase II/V monitoring in 1995. Please extend this one-test relief provision.

4. The enclosed signatures were gathered during the Idaho Rural Water Association's annual meeting. The 54 names on the petition represent approximately 140,992 citizens of small rural communities in Idaho. They support the above mentioned three items. They also appreciate your effort to pass a revised SDWA that is fair and workable and provides them the opportunity to provide clean, safe, affordable drinking water to their citizens.

Sincerely,

KENNETH GORTSEMA, *President*.

Enclosure.

IDAHO RURAL WATER ASSOCIATION LETTER TO SENATOR KEMPTHORNE—SIGNERS

Roy Cook, Coeur o'Alene, vendor.

Robert Cuber, City of Jerome, (pop. 7,049), water superintendent.

Helen Smith, LOFD Lewiston, (pop. 6,000), board member.

Frank Groseclose, City of Juliaetta, (pop. 500), maintenance supervisor.

Jeanette Turner, Clarkia, (pop. 70), director/secretary.

Fred Turner, Clarkia, (pop. 70), maintenance.

Robert L. Luedke Jr., City of Gowesee, (pop. 800), city supervisor.

Jeanette Turner, Clarkia, (pop. 70), board member.

Fred Turner, Clarkia, (pop. 70), maintenance.

Jerry Lewis, Bonner County, (pop. 115), owner.

Roberto J. Lopez, Lapwai, (pop. 250), water maintenance.

Jim Richards, City of Pierce, (pop. 800), maintenance.

Andy Steut, City of Spiritlake, (pop. 1,500), maintenance.

Mark Kriner, Pocatello, Idaho, (pop. 60,000), vice president Caribon Acres water.

Ted A. Swanson, Pocatello, Idaho, (pop. 60,000), Swanson construction.

Nathan Marvin, City of Weiser, (pop. 4,800), public works superintendent.

Larry Kubick, Fernwood water district, (pop. 450), operator/maintenance/supervisor.

Steve Howerton, City of Kendrick, (pop. 350), maintenance/supervisor.

Kelly Frazier, City of Kooskia, (pop. 700), public works superintendent.

Alvena Gellinos, L.O. irrigation district, (pop. 3,800A.), Billing clerk.

——— ———, City of Lapivai, (pop. 1,000), city clerk.

Daeline Pfaff, Fort Hall (townsite), (pop. 150), board member.

Shelley Ponozzo, L.O.I.D. Lewiston, Id., (pop. 6,000), accountant/office manager.

Irvin Hardy, Rupert Id., (pop. 5,200), water superintendent.

Bob Paffile, CDA, board member/vice president.

Robert Smith, New Meadows, (pop. 600), water superintendent.

Buzz Hardy, Rapid River water and sewer, (pop. 42), district president.

Paul Stokes, Solmon, Idaho, (pop. 3,000), water treatment.

Steve Kimberling, Orofino ID, (pop. 2,500), water maintenance.

Richard Whiting, City of Victor ID., (pop. 600), water superintendent.

Jim Condit, City of Spirit Lake, (pop. 1,500), water waste water.

Rhonda Wilcox, City of Harrison, (pop. 226), water maintenance.

Phil Tschida, City of Horseshoe Bend, (pop. 720), water maintenance superintendent.

Ed Miller, CSC water district Kellogg, (pop. 3,000), water operator.

Virgil W. Leedy, City of Weiser, (pop. 4,500), water superintendent.

Dan Waldo, Kingston water, (pop. 180), manager.

Todd Zimmermann, Avondale Irrigation District, (pop. 1,700), manager.

Joe Podrabsky, City of Lewiston, (pop. 5,500), water operator.

Ken Rawson, City of Lewiston, (pop. 5,500), water operator.

Mike Curtiss, City of Grangeville, (pop. 3,300), water superintendent.

John Shields, Kootenai county water district, (pop. 170), manager.

Dave Owsley, Dworshak N.F.H., engineer.

Ray Crawford, Winchester, (pop. 380), maintenance.

Rodney Cook, Juliaetta, (pop. 480), maintenance.

Jack Fuest, Culdesac, (pop. 420), maintenance.

Brian Ellison, Troy, (pop. 800), maintenance.

David C. Shears Sr., Cottonwood, (pop. 850), maintenance.

Dave Fuzzell, Cottonwood, (pop. 850), maintenance.

Robert Jones, Lewiston, (pop. 28,000), maintenance.

Renee McMillen, Lewiston, (pop. 28,000), water operator.

Bob Faling, Lewiston, (pop. 28,000), water maintenance.

Lonnie Woodbridge, Arco, (pop. 1,000), maintenance.

Dale W. Anderson, Harwood, (pop. 80), maintenance.

Eugene J. Pfoff, Fort Hall (townsite), maintenance).

Mr. KEMPTHORNE. I remember, Mr. President, on one occasion at a particular meeting somebody who was part of the Federal establishment saying, "Well, if we do not have the Federal Government absolutely through regulation watch out for everything dealing with safe drinking water, who in the world will?" It is because of that same Federal mentality—somehow somebody thinks only the Federal Government can be the guardian of the well-being of this country—I remind all of us we are the United States. We are not the Federal Government of America. There are 50 sovereign States that comprise this Union, and those Governors and those legislators and, within those States, those county commissioners and those mayors, they care about their people. If you had a situation in a community where there would be an outbreak of water contamination that would be life threatening, those elected officials would have a serious problem, not only the serious problem of immediately dealing with the life-threatening situation but they also probably would have a political problem because their constituents are not going to allow someone to somehow jeopardize the safety of that water which the children of that community are going to drink.

We have talked about cryptosporidium, the fact that it was not regulated in 1993 when there was an outbreak and 104 people died from that particular outbreak, and yet today cryptosporidium is still not regulated. We are going to change that, and this legislation allows us to improve, therefore, public safety and public health, and we are going to do it at less cost. We are going to provide flexibility to States and local communities, but we are going to then be able to target life-threatening contaminants such as cryptosporidium and go after those contaminants instead of contaminants that pose absolutely no health risk and yet require these communities to spend their finite dollars on expensive monitoring systems. If this is not in keeping with what this Congress is trying to do, I do know what is.

So I am pleased that we do have S. 1316 before us. I am pleased that in the Environment and Public Works Committee all 16 members of that committee, bipartisan, support this legislation, as well as the fact the leadership on both sides of the aisle, the majority leader and the Democratic leader, supports this legislation. We are currently working with some Senators who have proposals, amendments that they are suggesting would improve this particular legislation. We will work with them. I believe that we can resolve that. But again this is another significant step forward in our role as partners with State and local governments, working on behalf of the people of the United States of America.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ONE MARINE'S WILL TO SURVIVE

Mr. KEMPTHORNE. Mr. President, Lance Cpl. Zachary Mayo, from Osburn, ID, population 2,000, is a marine aboard the U.S.S. *America*. In the early morning hours of November 25, just a couple days ago, he was swept overboard from his assignment on the U.S.S. *America*. The Navy conducted 3 extensive days of searching, utilizing different ships and helicopters to locate Lance Cpl. Mayo. His mother and father had been notified that their son was missing at sea.

I just got off the phone with Mr. Stanley Mayo, the father, who received a call at 4 a.m. this morning that his son is OK. In fact, he spoke with his son. After 36 hours in the water, Zachary was picked up by a Pakistani fishing boat. He has been taken to Pakistan and is now in transit to the United States Embassy and will be returned shortly.

In speaking with his father and learning a little bit about what it must have been like to be swept over and spend 36 hours without a flotation device, he described the survival technique utilized by this tough marine of utilizing the clothing and tying knots in both the sleeves of the uniform jacket, as well as the pants, and creating an air chamber. I think this, again, shows the quality of the people that we have, and this is a testament to a young man's determination to survive—which he did, after 36 hours in I believe the Arabian Sea. Also, it demonstrates the faith of a family that never gave up hope, and all in the Silver Valley were determined that they would receive that good news.

Stanley Mayo told me moments ago that he went to bed last night with the prayer that in the morning he would hear from his son, and that prayer was answered. So I know that all of us rejoice in what will be an outstanding reunion. Stan Mayo said that he cannot remember when he ever had such news that brought him such joy, except perhaps when it was the birth of Zachary. So now to have the news that his son will be returned is something we can all rejoice in.

Again, this is a testament to the ability of our U.S. military personnel and their dedication to survival and carrying out their assignments. Again, I think it is something that we need to make note of. I say to the Mayo family, God bless all of them.

With that, I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

A TRIBUTE TO OUR ARMED SERVICES

Mr. COHEN. Mr. President, first let me congratulate my colleague for his very poignant recitation of what took place and join him in congratulating the men and women who serve in the armed services for the kind of dedication and creativity and ingenuity that is involved in preparing themselves for the ultimate conflict they must always be prepared for.

I think his recitation only adds greater credence and compliments the leadership being shown in the armed services and the kinds of people being recruited day in and day out. The American people—not to mention this particular father—have a great deal to be proud of. So I commend him for his statement.

Mr. KEMPTHORNE. I thank the Senator.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, I want to commend Senator KEMPTHORNE along with Senators CHAFEE, REID, and others, for their efforts to bring to the floor this important safe drinking water legislation, which I was pleased to cosponsor. The changes that would be made by this bill—reducing unnecessary burdens and costs to communities and ratepayers while guaranteeing reliable drinking water—have been sought by cities and towns in my State for many years now.

The Safe Drinking Water Act is perceived at the local level to be one of the most expensive and onerous Federal environmental requirements that we have. Reform of drinking water regulations has been a top priority of local officials across the country as they expressed increasing frustration with unfunded Federal mandates. As a former mayor, I understand the difficulties local officials encounter when they are faced with an enormous number of requirements and little money to pay for them.

I was pleased to be an initial cosponsor of the Unfunded Mandates Reform Act of 1995 which was the first step taken by Congress to reduce the impact of unfunded mandates. That was enacted into law last March under the leadership of Senator KEMPTHORNE. It is going to make it much more difficult to enact new unfunded mandates.

The second step toward reducing the burden on communities is to directly address the unfunded mandates that currently exist on the books. The bill before us today represents a very thoughtful and prudent approach to this critical second step.

The purpose of the bill is to maintain a safe drinking water supply while reducing the cost to communities and ratepayers. We need to remind ourselves that while cutting costs is very important, it is also critical that we do not lose sight of the fundamental goal of providing citizens with clean drinking water. People expect the water coming out of the tap to be safe, and we must not do anything that would jeopardize public health.

It is a sorry comment indeed that you read in the local paper in this community that people need to boil their drinking water. Here we are in the Nation's Capital where people have to be alerted that the water they are drinking is not safe, that it contains harmful bacteria. Therefore, local residents are told to be sure to boil their water. That does not say very much for the state of affairs in this community, to say the least. But it is a warning, perhaps, to all of us that we cannot simply engage in looking at the costs without taking into account what the major and central goal has to be: protecting the health and welfare of our people.

This bill would amend the Safe Drinking Water Act to increase the role of risk assessment and cost-benefit analysis in standard setting. It would also provide waivers from various requirements for small drinking water systems, and would authorize a revolving loan fund to provide funding for drinking water infrastructure projects. This legislation goes a long way toward providing flexibility for States and municipalities to develop drinking water programs that make sense for particular communities instead of the current one-size-fits-all approach.

One of the most critical aspects of this legislation is its recognition of the unique problems expensive Safe Drinking Water Act requirements pose to small communities. A recent CBO study found that the Safe Drinking Water Act has resulted in fairly modest costs for a majority of the households in this country. Approximately 80 percent of the households are expected to incur costs of $20 annually. However, the CBO noted that "the household served by small water systems are particularly likely to face high costs," some well in excess of $100 per year. Additionally, that study found that costs to ratepayers tend to be higher for surface water systems than for groundwater systems.

In Maine, the majority of households get their water from municipal systems, all but a handful of which serve fewer than 10,000 users, and most of which serve less than 4,000 users. Maine has a relatively high percentage of water systems that rely on surface water as their source. Because this water has historically been very clean, few towns had filtration facilities. As a result, Maine water systems now have spent over $150 million in the past few years to comply with the surface water treatment rule, which has been particularly hard for these small community systems.

One example of this would be Southport, ME. It is an island town of about 650 year-round residents, where the voters recently rejected—overwhelmingly, I should point out—a $300,000 plan to bring the town into compliance with the Safe Drinking Water Act. The town's 70-year-old system relies on surface water since there is little potable ground water on the island. Providing water that meets the law's standards would raise the annual water rates for seasonal residents from $136 to $306.

In Searsport, ME, the water district is currently proposing a 66-percent rate increase due to the need to convert from surface to ground water. As a result, the water costs of one Searsport company would increase by $48,000 a year. The company, understandably, is considering other water sources, although the implication for other users are going to be enormous if that company left the town system.

Finally, I would like to share just one more example of the need to reform the Safe Drinking Water Act. Among the many letters I have received from Mainers expressing concerning about the law's impact is a very thoughtful letter from Mrs. Audrey Stone of Bucksport. Mrs. Stone wrote:

> As I rely totally on my Social Security check and therefore am restricted to a fixed income, as are many other residents in this community, you can readily see that the impact of a water rate increase in excess of $200 per year poses grave threats to my ability to maintain my residence. Additionally, those residents who have another source of water supply may choose to shut off the water company at the street, returning to their own source of water and defeating the purpose of this previously enumerated act. Further, this leaves less ratepayers to absorb the cost of the mandated improvements.

Mr. President, I strongly believe we have to preserve public confidence in the safety of our drinking water, but current Federal laws seek to achieve the goal of clean drinking water in a very expensive and sometimes very wasteful manner.

This bill will maintain a safe drinking water supply and reduce unnecessary costs and burdens to communities and utilities that provide the water. By reducing unnecessary costs and providing additional Federal funding, communities will be better able to maintain reasonable rates and address other public works concerns and priorities such as law enforcement and education.

Mr. President, there was a former city official from Lewiston, ME, who said, as a result of the costs of water regulations to communities, "We will have the cleanest water in the State and the dumbest kids."

It was a provocative statement, but it certainly hit home because he indicated that he was faced with a Hobson's choice of either obeying Federal environmental mandates or spending money on educating the community's children. He could not do both.

I think this legislation will help solve that Hobson's choice and allow some flexibility to small communities so they may meet the goal of protecting our people while not forcing them to cut education and other high-priority items.

I urge my colleagues to support this important legislation. I yield the floor.

Mr. BURNS. Mr. President, I rise today to support final passage of Senate bill 1316, the Safe Drinking Water Act Amendments of 1995. I am proud to be an original cosponsor of this important bill.

Montana is an extremely rural State. In fact, we don't have a drinking water system that serves more than 100,000 people. Most of our water systems don't serve more than 10,000 people. Meeting the requirements under the existing water laws has been difficult, at best, for many of these communities.

The bill we are considering today is a step in the right direction. It will give relief to communities and improve public health regulations by reducing burdensome and unnecessary regulations.

Over the next 8 years, this bill authorizes $1 billion annually in Federal grants. These grants go directly to the States where loans or grants can be made to local water systems. In addition, this bill contains a provision where a percentage of the funds can be allocated for disadvantaged communities. This bill also gives our Governors the flexibility to transfer funds between the clean water and drinking water State revolving loan funds.

The bill provides $15 million for technical assistance for small systems. This is a $5 million increase over existing levels. The technical assistance program often is the only contact systems have to meet the requirements under the Safe Drinking Water Act. In addition, S. 1316 allows the technical assistance funding to be used for the rural water wellhead-groundwater protection program. This has been one of the most successful programs in rural communities. And prevention is less expensive than remediation.

Included in the current law, is a mandate to promulgate standards for 25 additional contaminants every 3 years. S. 1316 repeals this mandate and sets a new mechanism to identify contaminants for future regulations.

The most expensive part of running a water system is the monitoring which must occur. S. 1316 moves the decision to the States regarding monitoring. This will allow local conditions to be considered. Systems serving up to 10,000 people can skip repeat testing for many contaminants that do not pose health risks if the first sample in a quarterly series does not detect the contaminant. This could reduce the monitoring by 75 percent in some communities.

Most importantly, this bill contains no new Federal mandates. S. 1316 does not contain any new Federal regulatory program. Montanans want the Federal Government out of their lives, and this bill not only does not add new regulations, it streamlines the requirements contained in the current bill.

There is no constituency for dirty water. However, the problem with the existing law is it is based on fines and penalties. The bill we will pass today takes us away from that mentality. It gives the States and communities the tools to provide folks with safe water. It is a bill based on providing communities with assistance, not penalties.

I am pleased to be an original cosponsor of this bill and I look forward to it being enacted into law.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of the Safe Drinking Water Amendments Act of 1995. I want to commend Senators CHAFEE, KEMPTHORNE, BAUCUS, and REID for their excellent work in crafting a bipartisan bill.

This bipartisan effort is particularly important because environmental issues have been marked by such sharp and bitter controversy this Congress. Twenty-five years of bipartisan support for strong environmental protection have been placed in jeopardy. I hope that this bill will serve as a model for getting us back on track. The bill makes reasonable changes to the Safe Drinking Water Act but does not roll back protection of human health.

The No. 1 responsibility Congress has, and what people demand from us, is to protect the people we serve from harm. That means guarding our national security with a strong defense, and keeping our streets safe from crime. But that also means protecting people from drinking poisonous water, breathing dangerous air, and from eating contaminated food—in other words, protecting people from harms from which they cannot protect themselves. We can and should reform our laws to make them more cost-effective and to eliminate unnecessary requirements. But we should not waiver from our responsibility to protect people.

One of the major reasons that the current Safe Drinking Water Act needs adjustment is that many drinking water systems—mostly smaller systems—have difficulty complying with the law because of lack of funding and expertise. These systems also often lack trained operators. The legislation addresses these issues by authorizing a

State revolving fund of $1 billion per year through 2003 to upgrade facilities to enable systems to come into compliance with the current standards, and by requiring that States receiving SRF money must have a system of operator certification and a training program.

The issue of the use of cost-benefit analysis in setting standards for protecting human health and the environment has been extremely controversial this Congress, particularly in the context of regulatory reform legislation. This bill demonstrates that the most effective way for Congress to consider the use of cost-benefit analysis is in the context of individual statutes. In the abstract, in the context of a broad regulatory reform bill covering every health, safety, and environmental law, cost-benefit analysis becomes highly contentious because we simply don't know the impact on all the laws we are affecting. But this legislation demonstrates that we can clearly reach agreement when we look at individual statutes.

This legislation allows the EPA Administrator discretion to utilize cost-benefit analysis to move away from technology-based standards in those circumstances where benefits do not justify costs. But there are logical limits restrictions on this authority that make sense in the context of the Safe Drinking Water Act. These restrictions include the following. First, the discretion is solely with the Administrator to use this authority. No court may compel the Administrator to use this authority. Second, the Administrator cannot use this discretion when the benefits justify the costs for large systems and variances from the standards are available for small systems. Third, the Administrator cannot use this authority to make any existing standard less stringent. In other words, there can be no rollback of human health protection. Fourth, the authority may not be used for rules relating to cryptosporidium and disinfectants or disinfectant byproducts. Fifth, there must be a full consideration of nonquantifiable benefits in any analysis of whether benefits justify costs. Sixth, the health effects on sensitive subpopulations must be considered in determining whether benefits justify costs. Seventh, judicial review of the Administrator's determination of whether benefits justify costs can only occur as part of the final rule and can only be considered by the court under the arbitrary and capricious standard.

Some concern has been expressed in the Litchfield County area of my State regarding levels of radon found in their drinking water, and the environmental community has raised concerns that the radon standard in the bill is not strong enough. Unfortunately, since 1992, Congress as part of the appropriations process has prevented EPA from issuing a radon standard. The EPA spending bill this year, which I opposed, again included this restriction. Those who have led this effort cite the fact that the EPA Science Advisory Board, in a report to Congress, raised serious concerns about EPA's approach to regulating radon.

This bill moves the process forward by establishing for the first time a Federal standard for radon at a level which the managers of the bill indicate finds support in the EPA Science Advisory Board report. Importantly, however, the bill contains a specific provision allowing the EPA Administrator to set a more stringent level for radon if certain conditions are met; in addition, States have the authority to set more stringent standards. I am confident that the EPA Administrator will take this authority very seriously, and I intend to follow up with the Agency on its use of this authority.

Finally, the provisions relating to source-water protection are, in my view, not strong enough. As we have found in Connecticut, protecting the sources of drinking water makes good common sense—it's pollution prevention that will save water systems and communities money. I hope these provisions can be strengthened in the House and conference.

Again, my congratulations to the managers.

Mr. BOND. Mr. President, today the Senate has the opportunity to demonstrate that the Federal Government is responsive to needs of the States and localities as they seek to provide quality drinking water to their citizens. It is imperative that Congress move forward on a Safe Drinking Water Act [SDWA] that revises the standard setting process that bases drinking water standards on an analysis of costs and public health benefits, eliminates unnecessary monitoring requirements, and has regulations based on the occurrence of a given contaminant and existence of public health risks instead of an arbitrary and escalating schedule of contaminants.

Congress passed the Safe Drinking Water Act in 1974 following public concern over findings of harmful chemicals in drinking water supplies. The intentions were admirable, but today's SDWA is a law that is too rigid and fails to prioritize risks. The current law operates under the notion that EPA bureaucrats are better able than local public health officials to determine the public health needs of a local community. Because of this, contaminants like cryptosporidium that ought to be regulated go unregulated because water operators are too busy expending limited resources on testing for so many random and sometimes obscure substances. In addition, the law fails to acknowledge that today's drinking water systems are capable of efficiently delivering 40 million gallons of safe water to American homes every day.

The current SDWA is also an excellent example of a statute where litle or no science is required to regulate; there is no flexibility to set priorities based on risk to public health until 83 contaminants are regulated.

The 1986 amendments to the Safe Drinking Water Act required EPA to regulate a specific list of 83 contaminants, allowing the Agency seven substitutions. Regardless of the health risk associated with each of the contaminants listed in the statute, EPA was told to regulate 9 contaminants 1 year after enactment of the statute; 40 contaminants within 2 years of enactment; and the remainder 1 year later. Once EPA completes the list of 83, the statute goes on to require EPA to finalize regulations for 25 new contaminants every 3 years regardless of whether the contaminants occur in drinking water, or whether they are of public health concern.

Nowhere in the statute does it say that the Agency should have good science, or peer-reviewed science or that if there are contaminants in drinking water supplies of greater health concern than those on the list, that EPA should regulate them first.

EPA acknowledges that they have found it impossible to keep up with the statute's requirements and recognizes that the requirement has resulted in some pretty poorly drafted rules. In fact, in EPA's 1993 report to Congress, the Agency was quite frank about the statute's required deadlines and the quality of the data used. The Agency said in its report:

> To meet these deadlines, data collection and analysis have not always been as thorough as desired. Document drafting and management review had to occur simultaneously and documents have needed to be rewritten and rereviewed. Short review periods have resulted in oversights and the need to publish correction notices. Regulations covering multiple contaminants have often been lengthy and complex. Thus, the public had difficulty providing thoughtful comments and the Agency had limited resources for gathering and analyzing additional data in response to comments. In some cases, unrealistic deadlines have contributed to the Agency's difficulty in addressing the unique technical and economic capacity problems of very small systems.

The current drinking water law, in other words, has played a large role in creating the information vacuum that now exists on the regulation of cryptosporidium for instance.

One reason it has taken EPA so long to focus on cryptosporidium is the current law. Its rigidity and lack of flexibility have created a situation where even EPA's resources have gone to complying with a requirement to regulate an arbitrary list of 83 contaminants, most of which according to EPA occur in drinking water seldom and rarely at levels of public health concern, rather than concentrating efforts on priority contaminants. Even more wasteful is the significant amount of funds being spent by local communities monitoring for contaminants that do not occur in their particular source of water. Hundreds of millions of dollars a year are spent on monitoring for the contaminants regulated currently.

If we are not looking at what is occurring in the drinking water supply and we are not required to have adequate or even good science to regulate, it is not surprising that we wind up regulating contaminants that may not be of the highest concern—and those priority contaminants, such as cryptosporidium, go unregulated.

Local water suppliers, however, have recognized the need to move ahead without EPA regulations and have led the effort to develop a voluntary partnership with the States and EPA to enhance existing treatment processes to help safeguard drinking water from cryptosporidium in advance of the knowledge needed to develop an appropriate national regulation.

It is past time that the Federal Government get in step and develop reforms that allow for prioritization of standards based on risk to the human population.

It is past time to bring common sense to both laws and regulations.

I commend Senators KEMPTHORNE, REID, CHAFEE, and BAUCUS for working diligently to get this broad, bipartisan supported legislation to the floor. I will support this legislation because it goes a long way in improving the current law. It eliminates the arbitrary schedule of contaminants, provides much-needed assistance to small systems, requires good, peer-reviewed science, changes standard setting requirements, implements voluntary sourcewater protection initiatives, and many more things. It is imperative that these changes are made. However, I do have some concerns with the legislation and this is why I have not cosponsored the bill.

I believe we need to do more to ensure that those responsible for providing safe drinking water can adequately pursue the activities deemed most important in protecting public health with the resources available. We need to continue to address seriously the issues of risk assessment and cost-benefit analysis.

According to the National Academy of Public Administration, the NAPA report:

> The tools of risk analysis and economic analysis help clarify regulatory and priority-setting issues confronting EPA and Congress. The discipline of analyzing risks, costs, and benefits encourages a degree of consistency in approach to understanding problems and defining solutions. The tools can and do provide information that is important for decisionmakers to consider. Shelving any of these tools, as some advocate, would be foolish and counterproductive, an invitation to muddle through rather than to learn and think.

By setting risk based priorities we have the best opportunity to allocate, in the most cost-effective manner, the resources of the Government and private sector in protecting the public from contaminants in drinking water. We need to do all we can to provide greater protection to the public at less cost than the current system mandates.

Once again, the NAPA report urges that:

> Congress should ask the agency to explain its significant regulatory decisions in terms of reductions in risk, and in terms of other benefits and costs. The agency should support state and local efforts to engage the public in comparing environmental risks, report periodically to Congress on a national ranking of risks and risk-reduction opportunities, and use comparative risk analysis to help set program and budget priorities.

One of the reasons that I stress the issues of risk assessment and cost benefit as they relate to budget priorities is because that is the only way we are going to get the "biggest bang for the buck." My colleagues on the committee have already heard my concerns regarding the authorization for appropriations in this bill. I was hoping that my concerns were going to be addressed, but I understand my colleagues on the other side of the aisle have objected. Therefore, I am compelled to share with everyone, once again, my views regarding this issue.

Every single one of us, Republican or Democrat, has a responsibility to balance the budget. We have seen over the last several weeks that our views might not be identical on how to achieve this objective, but the objective is the same—a balanced budget.

As authorizers, not just on this committee, but all committees, we must start to be more realistic in our funding expectations. Do not get me wrong, I know that as an authorizer I would probably authorize more than I know would be appropriated—so as not to tie the hands of the appropriators and just in case the slim chance would exist that full funding could be achieved. However, authorized pie-in-the-sky numbers have contributed to our budget problems and in my opinion, when we know from the beginning that the proposed authorization for appropriation is not possible we are being unfair to all our constituents.

Reality is that discretionary spending is declining. The EPA budget was reduced this year. We have no choice but to try to do more with less. We must prioritize. As chairman of the relevant appropriations committee I would love to appropriate what everyone wants—point me to the money machine.

Since the funding does not exist—how can we continue to mislead and give the impression that things are possible when they are not. Unfortunately, there is a wide gap between the wish list in this bill and available resources.

Once again, I was hoping that this concern would be addressed, and am disappointed that it was not. I guess I will follow the direction that the distinguished committee chairman, Senator CHAFEE, provided during markup. The decisions will have to be made solely in appropriations.

I also need to address one final concern in relation to the proposed disinfection-disinfection byproducts rule. The provision in the bill, in my opinion, greatly discourages the use of chlorine in water treatment despite the many health benefits chlorine provides. The language exempts this rule from cost-benefit analysis, sound science and comparative risk assessment. Considering the proposed cost of this rule, I am concerned that this will be an unfunded mandate to the States and localities.

Once again, I thank Chairman CHAFEE, Senator BAUCUS, Senator KEMPTHORNE, and Senator REID for their leadership and diligence on this issue. I learned long ago that you do not always get what you want. Maybe next time.

Mr. HATFIELD. Mr. President, the bill now before the Senate represents the best of this body. This legislation has been a long time in the works, and the final product shows the high level of commitment to this important area of policy.

There are few things that touch more aspects of life in Oregon than water. From electricity, to fishing, forestry, and agriculture, no issue is more central to Oregon. And of course, the women, men, and children of my State, like all others, depend on a clean, healthy supply of water to drink.

I have always supported the Safe Drinking Water Act. I voted for the original provision in 1974 and for the 1986 amendments. I am proud to be an original cosponsor of the legislation introduced by a bipartisan group led by Senator KEMPTHORNE.

In 1993, I met with over 150 representatives of water systems in Oregon to discuss the approaching reauthorization of the Safe Drinking Water Act. I have also received hundreds of letters in the last year from system operators and local officials. These are truly committed public servants who care deeply about the health of those in their communities. Their input has greatly assisted me in navigating through this debate.

Mr. President, I believe water is our most vital resource. Water provides much of the clean electric power produced in the Northwest. Water is vital to Oregon's strong agricultural production. And where would our fisheries and forestry industries be without water? None of these is of more intimate importance to each of us than the water we consume. Our bodies cannot live without water.

Many inside the beltway call Oregon the land of liquid sunshine. They say we do not tan, we rust. Well, we know that is not always true. We have recently experienced the difficulties of a 6-year drought, which taught us that water should never be taken for granted.

Today Oregonians are confronting the damage that can come about due to too much rain. Heavy rains have hit the Pacific Northwest in the past several days causing significant problems, particularly in Yamhill and Tillamook Counties. Our Governor has declared a state of emergency in these counties.

I ask unanimous consent that an article from today's Oregonian newspaper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. The heavy rains have resulted in a landslide in Portland's renown Bull Run watershed, which has provided pure drinking water from the Portland area for generations. The slide severely damaged a bridge crossing which carries two of the three conduits which bring drinking water from the Bull Run watershed to Portland. No water is flowing through the two damaged pipes. The third pipe is underground and is still in operation. The two dams in the watershed are undamaged.

City officials have two main concerns: public health and adequate supply. The Portland Water Bureau is closely monitoring both contamination levels and turbidity. At this stage, no public health problems have arisen.

The second issue is adequate supply. The city's daily water usage this time of year is 90 million gallons per day. The one remaining conduit from Bull Run has a capacity of 75 million gallons per day. Any additional supply up to the 90 million gallons per day will come from the city's existing well fields in northeastern Portland near the Columbia River. In addition, over 270 million gallons is currently stored in reservoirs throughout the city.

Temporary repair of the two conduits from Bull Run could take weeks. A permanent fix could take months. Engineering studies are already underway.

This shows us once again the importance of our precious water resources. It shows us the importance of providing our local officials with the resources they need to respond to unpredictable challenges. These officials must have the flexibility and the resources to carry out their responsibilities.

The legislation before us today meets that and many other goals. It is a significant accomplishment and I am proud to cosponsor it. Let me take a moment to review the concerns I have heard from hundreds of Oregon communities and take note of how these concerns have been addressed in the legislation before us.

As my colleagues recall, last year, many months of effort were put toward crafting a bipartisan Safe Drinking Water Act reauthorization bill. I was proud to work closely with Senator KERREY in an attempt to bridge the partisan differences that had emerged on the issue. The final product passed this body with overwhelming bipartisan support. Efforts to bring the bill to a conclusion late in the session were not successful. I am pleased that many of the provisions in the bill before us today clearly emanate from last year's bill.

SELECTION OF NEW CONTAMINANTS

One of the most frequently cited problems with the current law is that in the 1986 reauthorization, Congress required EPA to regulate 25 new contaminants every 3 years, whether they need to or not. The bill before us eliminates this requirement and replaces it with a requirement that EPA take action with respect to at least five contaminants every 5 years beginning in 2001. This change will provide tremendous regulatory relief to EPA, States and water systems.

RISK ASSESSMENT

Citizens of Oregon want to know that the contaminants EPA decides to regulate actually pose a health risk. They feel that the process of regulation is too often divorced from sound scientific evidence of risk from a contaminant.

This legislation requires EPA to use good science and assess the risk of contaminants before proceeding with regulation. The bill gives EPA authority to regulate contaminants based on their actual occurrence in drinking water and the real risks they pose. This will help EPA pursue regulations of the substances in drinking water that pose the greatest threat to human health.

COST-BENEFIT ANALYSIS

Nearly everyone I have spoken to in Oregon is concerned that EPA sets standards for contaminants at a level that is unrelated to the level of health protection secured for the cost. Small systems need consideration of risk even more than larger ones. The bill before us allows the Administrator the flexibility to set standards at levels other than those technically feasible and affordable to large systems, when it makes sense to do so in light of the risk reductions to be achieved and the compliance costs.

This is a critical element of reauthorization because it will create a tighter and more explicit relationship between regulations, health protection, and the compliance costs. I strongly commend Senators KEMPTHORNE, CHAFEE and BAUCUS for helping solve this thorny issue.

MONITORING BURDEN

Oregonians have complained that they monitor for contaminants that have never been in their water. By ignoring differences among geographic areas, we force local systems to devote resources to contaminants they do not have. This takes vital resources from real problems. This bill includes provisions similar to those added by Senator KERREY and myself to the 1994 Safe Drinking Water Act reauthorization bill that will allow State drinking water programs to design monitoring programs that are appropriate to conditions faced by their State.

SMALL SYSTEM FLEXIBILITY

In Oregon, I learned that small systems are particularly hard hit by many of the current Safe Drinking Water Act regulations because they do not have the economies of scale of a large city. The bill before us addresses this problem in several ways. First, there is monitoring relief for small systems. Moreover, systems serving less than 10,000 people are eligible for a streamlined variance process and a small system technology program. A number of other flexibility provisions are included in the bill for small systems.

SUFFICIENT RESOURCES

Oregonians have told me that the regulations governing drinking water are technical and expensive. In addition, GAO reported last year that State programs are underfunded.

To begin to solve this problem, the bill authorizes a $1 billion annual State revolving loan fund. The bill also authorizes an additional $90 million for health effects research, a wise investment for public health.

CONCLUSION

I strongly urge the Senate to support this bill. These provisions strengthen the Safe Drinking Water Act, not because they make the act more rigid and stringent, but rather because they will help us—in Congress, at EPA, in the States and in every local water system—focus drinking water resources on the most pressing problems and on the biggest threats to health.

Again, let me commend the managers of this legislation for their fine efforts in bringing this matter to the floor in such a sound bipartisan manner. I look forward to casting my vote in favor of this legislation.

EXHIBIT 1

[From the Oregonian, Nov. 29, 1995]

WHEN IT RAINS, IT POURS

(By Stuart Tomlinson, David R. Anderson, and Pat Forgey)

Oregonians paused to assess and clean up the damage caused by heavy rain Monday and Tuesday and braced for another, stronger storm expected to hit Wednesday.

Gov. John Kitzhaber declared a state of emergency Tuesday in Tillamook and Yamhill counties because of landslides, flooding and road washouts.

"It's a mess," Tillamook County Commissioner Jerry Dove said after a helicopter tour Tuesday. "I have never seen anything so devastating."

Heavy rain falling on ground saturated during one of the wettest Novembers on record sent several coastal rivers over their banks, trapping motorists, closing schools and driving residents from their homes.

By Tuesday afternoon, the rain slackened, which allowed the river levels to subside. But forecasters warned of heavier rains Wednesday, accompanied by winds that could reach 75 mph on the coast.

"The flood season has just begun," said Clint Stiger, a hydrologist for the National Weather Service in Portland. "We're very concerned about the storm coming Wednesday because there is just not much more moisture the soil can contain."

Flood alerts were posted Tuesday for rivers throughout Western Washington, and Gov. Mike Lowry declared a state of emergency in Clark County and 10 other Washington counties late Tuesday. The declaration is retroactive to Nov. 7, when heavy rains began causing flood damage in Washington.

While flooding was reported on the Clackamas River, Johnson Creek and the Tualatin and Salmon rivers outside Portland, the northern Oregon coast was hardest hit.

Kitzhaber's emergency declaration will allow the Oregon Department of Transportation to use highway safety money for emergency road repairs. The declaration also means the governor can use the Oregon National Guard to assist in flood cleanup or for security.

More than 6 inches of rain fell in about 36 hours at Lee's Camp, a reporting station outside Tillamook. A rain gauge at a Tillamook city reservoir can measure a maximum of 7.5 inches, but it overflowed in less than 24 hours Monday night and Tuesday morning.

Snow that had fallen during the weekend melted under the onslaught of record warm temperatures. With 58 degrees, Portland broke a record for the date set in 1982, while Eugene had a record-tying 60 degrees.

Portland is inching toward breaking the all-time rain-fall record for November, which was 11.57 inches in 1942.

By 10 p.m. Tuesday, rainfall at Portland International Airport reached 10.28 inches.

Rain was the main problem Tuesday, but high winds could bring problems throughout the day Wednesday.

Forcasters issued high wind warnings for the north and central Oregon coast through Wednesday, with gusts up to 75 mph on exposed headlands and gusts to 40-plus mph inland.

Heavy rain also hit Eastern Oregon. The National Weather Service issued small stream advisories for portions of Umatilla County.

Snow levels rose to about 8,000 feet by Tuesday, but they were expected to plummet Thursday and Friday to about 4,000 feet, with more snow forecast for the northern Oregon Cascades.

A storm containing moisture from nearly 1,000 miles southwest of Hawaii brought the rain and warm temperatures to the state. It's part of a pattern of storms that rake the region during November and December.

Oregon is on the edge between warm, tropical air to the south and colder air to the north.

"Where the two air masses come together, there is often a violent meeting on the boundary," said state climatologist George Taylor. "The atmosphere is trying to reach equilibrium."

So were Tillamook County residents.

Crews worked all Tuesday to reach people trapped in their homes by mudslides, mostly on the Trask and Kilchis River roads.

By late Tuesday, about 50 homes, with as many as 200 residents, on Trask River Road still were cut off by 15 to 18 landslides. Some routes were cleared only to be closed again by slides or flooding.

Tillamook County Sheriff Thomas Dye said a U.S. Coast Guard helicopter dropped a paramedic in the area to check on a 3-year-old girl suffering from the flu. The girl checked out fine, and the paramedic left by helicopter.

Jon Oshel, the county public works director, said he hoped to have Trask River Road open by dark. Kilchis River Road presented a bigger problem, although only about 10 families still were cut off.

"We lost a major piece of road there that's just flat gone into the river," Oshel said.

Tillamook County Commissioner Ken Burdick lives up Trask River Road, where he saw what he called the worse devastation in 42 years.

"We sat there last night until 4 a.m., listening to canyons blow out," he said.

Burdick didn't get out of his house until late Tuesday, when county road crews working their way up the Trask River reached him.

During a helicopter tour, Dove said every canyon they looked at east of Tillamook had been hit with a gully-washer, blocking roads, washing out culverts and carrying trees and stumps downriver.

Dove said he saw houses flooded and dairy farmers cut off from their cows.

The Wilson River Highway, the main road between Tillamook and Portland, was closed between Tillamook and Glendale by landslides. The road wasn't expected to be open to through traffic until late Wednesday, traffic officials said.

Mike Fredericks, who lives along the Wilson River, was forced from his trailer by rising floodwaters. When he came back Tuesday, he expected his trailer to be in Tillamook Bay.

When he left the night before, his trailer was an island buffeted by what used to be the hillside across the Wilson River Highway.

Because of a clear-cut last summer, he said, the culvert that drains the hill clogged Monday night.

The water had to go somewhere. When he went next door to talk to his neighbor, a veteran of six years on the river, Fredericks found out where.

"As soon as we turned our heads, down came the hill," Fredericks said. "The creek was hitting the trailer house and fanning around each side."

Fredericks' cat, Cubby, was washed away. His mailbox, telephone bill and all, ended up about 50 yards from the house.

The trailer, which is about five miles east of Tillamook, survived the deluge and moved not an inch toward the Wilson River. If it weren't for the mess in his yard, Fredericks would have felt fortunate.

The new stream cut a 10-foot-deep gully across the lawn, halfway between his trailer home and recreational vehicle. Sheared logs, about a foot of mud and hundreds of basketball-size rocks littered his lawn.

In Yamhill County, the Three Rivers Highway dropped about 4 feet at milepost 13.5. The highway was reopened after emergency repairs were completed.

Although the rains were impressive, river levels still were below historic flood levels.

During a January 1990 flood, the Nehalem River crested at 25 feet; Tuesday's peak reached 16.2 feet. In January 1972, the Wilson River crested at 16.9 feet; Tuesday's peak reached 13.2 feet.

Flooding caused the aptly named Roaring River Bridge, at the confluence of the Roaring and Clackamas rivers about 17 miles southeast of Estacada, to sink two feet Tuesday morning.

A large log, probably loosened from an embankment eroded by the floodwater, rammed and bent the bridge pilings, said Gary McNeel, an assistant district manage of the Oregon Department of Transportation office. The 45-year-old bridge serves about 1,100 vehicles a day.

In Clackamas County, firefighters and the sheriff's deputies evacuated residents of the Eagle Creek Mobile Home Park near storm-swollen Eagle Creek for several hours early Tuesday.

Worst hit were Terry and Toni Hirbeck. Their doublewide at 30773 S.E. Creekside Lane, about a mile upstream from the Clackamas River, had water up to its subflooring and no yard at all.

"I woke Terry up at 11 o'clock last night to tell him the water was coming up," said Toni Hirbeck, 33. "And from 11 o'clock to midnight, the water rose so much that stuff was already floating."

By 2:30 a.m., firefighters from the Boring Fire Department had to rig a rope across the lane as a lifeline so the lane could be forded more safely.

WEATHER WOES

The coast

Tillamook: High water and mudslides closed dozens of roads. Many residents were stranded in homes and cars. The Wilson River Highway, the main road between Tillamook and Portland, was blocked by slides. School districts in north and central Tillamook County closed Tuesday, after officials decided it was to risky to send buses out.

Multnomah County

Bull Run: A mudslide smashed two of three conduits supplying Portland's water from the Bull Run watershed Tuesday, sharply reducing the Portland area's water delivery system. Officials planned to avert a water shortage my drawing on reservoirs and turning on backup wells along the Columbia River.

Clackamas County

Roaring River: Flooding caused Oregon 224's Roaring River Bridge, over the Roaring River at the confluence with the Clackamas River about 17 miles southeast of Estacada, to sink about the two feet Tuesday. A large log rammed into and bent the pilings of the 45-year-old bridge that serves about 1,100 vehicles a day. Workers are expected to complete a temporary plate-steel bridge in about a week.

Clackamas River: The river was above flood stage at several sites, but particularly threatening at Carver. Residents of a mobile home park were bracing for possible evacuation.

Eagle Creek: Crews evacuated families from 12 homes about 1:30 a.m. Tuesday but allowed them to return later in the morning.

Salmon river: In the Mount Hood area, a few families were driven from their homes Monday night.

Sanbag help: County officials recommend calling 655—8224 to get information about sandbags and available help.

Clark County

Salmon Creek: A handful of residents north of Vancouver evacuated their homes Tuesday when Salmon Creek overflowed, sending several feet of water into basements, submerging lawns and uprooting trees. Homeowners and fire District 6 personnel sandbagged six homes at 136th Way and Salmon Creek Avenue to stem the damage.

Road Closures: Southeast Evergreen Highway was closed at 190th Avenue by water 3-

feet deep across the pavement. Water crested above the guardrail and closed Leadbetter Road at 232nd Avenue north of Lacamas Lake.

Eastern Oregon

The storm caused flooding and power failures across much of Eastern Oregon. Several families on the Umatilla Indian Reservation near Pendleton wee stranded when the Umatilla river flooded rural roads. Eight inches of snow fell on the Ladd Canyon mountain pass between Baker City and La Grande, causing a massive tie-up.

Mr. SIMPSON. Mr. President, the Safe Drinking Water Act is important to every community in this country—large or small—rich or poor. This public health statute ensures that our citizens have clean water to drink when they turn on the tap. But this law is important for another reason as well—it can be very costly for small rural communities that simply do not have the financial resources necessary to comply with many of the stringent standards and monitoring requirements required by the act. All of us in Congress have been sensitized to the issue of unfunded Federal mandates because of the regulatory excesses brought out by the previous reauthorization of the Safe Drinking Water Act.

The Clinton administration makes the claim that Republicans don't care about the environment but that is pure balderdash. We care about the environment just as much and we are passing this legislation because we do care. We also care about real people—cities and small towns—and that is why we are putting some common sense back into the law.

The environmental groups may think that unfunded mandates are part of what they call an unholy trinity, but I can tell you that to a Member of Congress this issue is a very real concern. When I travel around my State and stop in small towns I always hear complaints about the Clean Water Act and the Safe Drinking Water Act and unfunded mandates.

The last time we reauthorized the Safe Drinking Water Act we caused a near crisis in small town America. Thousands of small towns are financially unable to meet Federal drinking water requirements and need help finding less expensive ways to make their water safe to drink. A recent GAO report said that meeting Federal drinking water standards is an acute problem for around 50,000 small communities that account for 90 percent of the drinking water violations. We need to find more cost-effective ways to provide these small towns with safe drinking water or we are going to be wholly discredited in the eyes of the American public.

The EPA estimates that it will cost small communities $3 billion to comply with current Federal drinking water regulations and another $20 billion to repair and replace and expand their current drinking water infrastructure and to meet future needs. It has been estimated that 70 percent of the costs will be incurred by small communities that account for 10 percent of the population. These communities cannot afford that kind of expense and I don't think a simple revolving loan fund will help enough.

Neither the Federal Government nor the States have developed policies that will reduce costs through less expensive technology or development of better financing and funding mechanisms. This situation must be remedied. We need to make direct grants to small communities along with a loan program and more importantly we need to revise monitoring requirements and change the ways standards are being set.

The bill we are considering is an improvement in this regard, but I don't think it goes far enough. The environmental groups have taken a paternalistic approach to this issue and they don't believe the States should be given flexibility in carrying out the act. This isn't the classic case where it is industry versus the greenies. This is Governors, mayors, State legislators, and water administrators saying "Congress must do something radical to fix this program or we are going to go broke."

I don't think the committee bill goes as far as I would have liked in directing EPA to consider cost and good science, but I think the final version represents a genuine effort to improve current law and it will cause EPA to take a more realistic approach to the standard setting issue in the future. For this reason I intend to vote for this bill and I trust the President will sign it when Congress sends it on to the White House.

Ms. SNOWE. Mr. President, Senator COHEN and I would like to engage the Senator from Rhode Island and the Senator from Idaho in a colloquy.

Mr. CHAFEE. I would be pleased to participate in a colloquy with the Senators from Maine.

Mr. KEMPTHORNE. I would be happy to engage the Senators from Maine in a colloquy as well.

Ms. SNOWE. As the Senators from Rhode Island and Idaho are aware, a number of very small, economically disadvantaged communities across the country are having serious difficulties trying to comply with the surface water treatment rule. Compliance with this rule can be very expensive, sometimes requiring a disadvantaged community with less than 500 residents to build a filtration plant costing over $1 million. Unfortunately, many of these communities cannot afford to construct these expensive facilities without substantial Federal assistance, and that assistance has not been adequate to meet the demand. This predicament has caused a lot of frustration in certain small towns, particularly since the quality of their local water sources, which are often located in isolated rural areas, can be quite high and is not vulnerable to imminent degradation.

Mr. COHEN. I concur with Senator SNOWE on this point. There are 19 small, economically disadvantaged towns in Maine currently under compliance order to install filtration systems as required by the SWTR, and the deadlines for those orders will be expiring over the next year. Without adequate Federal financial assistance, these disadvantaged communities will not be able to comply with the filtration requirement.

We understand that section 13(b) of S. 1316 allows a State to exempt an economically disadvantaged public water system serving a population of less than 3,300 people from the requirements of a national primary drinking water regulation as they relate to maximum contaminant standards or treatment techniques for a period of up to 3 years, as long as there is a reasonable expectation that the system will receive Federal financial assistance during the exemption period. In addition, the bill would allow a State to renew this exemption in 2-year increments up to an additional 6 years.

Ms. SNOWE. We further understand that the authorities available under section 13(b) apply to the surface water treatment rule, as they do to other national primary drinking water regulations, and that section 13(b) would therefore allow a State to provide an exemption to a system serving an economically disadvantaged community in the predicament that we just described, provided the system meets the terms and conditions set forth in the section.

We would like to ask the chairman of the Environmental and Public Works Committee, Senator CHAFEE, and the chief sponsor of S. 1316, Senator KEMPTHORNE, if our understanding of this provision is correct.

Mr. CHAFEE. The Maine Senators' understanding of section 13(b) is correct. This section does apply to the surface water treatment rule as well as other Federal drinking water regulations. I very much recognize the problems that small disadvantaged towns are facing in complying with some of the expensive requirements of the act, and we hope that section 13(b) and other sections of S. 1316 will address these problems.

Mr. KEMPTHORNE. I concur with Senator CHAFEE that the Maine Senators' understanding of section 13(b) is correct. The surface water treatment rule is covered under this section. One of my major interests in drafting S. 1316 was to find ways to ease the compliance burden of the act on small, disadvantaged communities while maintaining public health protections. Section 13(b) is one of the provisions in the bill that will help us achieve this important goal.

Ms. SNOWE. We thank the Senators for clarifying this important matter.

Mr. KEMPTHORNE. Mr. President, there is an issue on which I would like to engage in a colloquy and get the support of the chairman of the subcommittee. I understand that efforts to gain an accurate and valid determination of drinking water quality often can be compromised by brief weather changes. Current regulations call for water quality compliance of a contaminant to be based on the annual average of four quarterly samples. But when quarterly samples are collected during such brief periods, inaccurate and misleading impressions of the water's annual average quality can result.

This situation is especially prevalent with respect to determination of agricultural and other non-point contaminants. Spring thunderstorms often follow farmland tillage operations and necessary applications of fertilizers and crop protection chemicals, and natural storm water runoff can briefly elevate concentrations of these contaminants in water. A single spring quarter sample taken immediately after a major thunderstorm can put the water supplier out of compliance for the entire year and result in expensive and unnecessary water treatment.

More frequent sampling would give a more accurate assessment of the long-term exposure to these seasonal contaminants. Mr. Chairman, it is my impression that the provisions for alternative monitoring programs authorized in section 19 of the bill would authorize each State with primary enforcement responsibility to allow utilities to conduct time-weighted sampling during the quarters of concern. To balance accuracy with economic considerations, such alternative monitoring programs could allow utilities to composite monthly or more frequent samples for a single quarterly analysis for those contaminants which are known to be stable in storage.

Is this the understanding of the chairman of this committee?

Mr. CHAFEE. If the Senator will yield, Mr. President, that is correct.

Mr. KEMPTHORNE. I thank the chairman of the committee for his support and clarification of this section.

REGULATION OF ZINC

Mr. THOMPSON. I would like to engage the majority managers of the bill in a brief colloquy concerning the regulation of zinc—an essential trace element—under the Safe Drinking Water Act. As they are undoubtedly aware, there are a number of studies showing that children, particularly poor children, are seriously deficient in their intake of zinc. Drinking water is one important source of zinc for those children.

The managers are surely also aware that the Environmental Protection Agency has established at least one reference dose—or safe exposure level—that allows for less than the recommended dietary allowance for zinc for infants, children and possibly pregnant and nursing mothers, despite the needs of these particularly sensitive groups. In light of the essential nature of, and the recommended dietary allowances established for, zinc, is it the manager's view that EPA should consider these factors when regulating additional trace elements such as zinc?

Mr. KEMPTHORNE. I agree with the Senator from Tennessee that EPA should take into account: First, the essential nature of the zinc, and second, the recommended dietary allowances for the element for infants, children and pregnant and nursing women, when deciding whether or not the essential trace element zinc should be regulated under the Safe Drinking Water Act.

Mr. CHAFEE. I agree with the statement of the Senator from Idaho.

SMALL PUBLIC WATER SYSTEMS TECHNOLOGY CENTERS

Mr. BYRD. Mr. President, the bill before the Senate, S. 1316, the Safe Drinking Water Act Amendments of 1995, provides for the establishment of a grant program, to be administered by the Environmental Protection Agency [EPA], that would fund not fewer than five Small Public Water Systems Technology Assistance Centers across the United States. I commend the Committee on Environment and Public Works for the action it has taken in this regard. I would, however, ask for some clarification of the criteria listed in the new subsection (h). The criteria listed in the bill reference technical assistance support activities that would be provided by regional centers. My question to the managers of the bill is:

Would a national center engaged in the following activities meet the criteria listed for the proposed Small Public Water Systems Technology Centers?

A clearinghouse service engaged in both the collection and distribution, at no or low cost, of technical literature and other educational resource materials, including government documents, research papers, video tapes, brochures, and diagrams;

A toll-free telephone assistance and referral service providing access to engineers and other specialists;

A quarterly newsletter service, published at no cost to subscribers, that addresses such topics as the health effects of contaminated waters, small community assistance providers, small water system regulatory issues, and water system operation maintenance; and

A toll-free electronic bulletin board service that enables users to post questions and have those questions answered, as well as to read and comment on water-related topics.

In reading the bill and the committee's report, I would presume that a national center that provides such services would be eligible to receive funding under the grant program established in the bill. I would simply ask the manager of the bill if this is correct.

Mr. CHAFEE. The Senator is correct. Let me add that the concept of providing grants to regional centers that the Senator refers to is primarily intended to ensure that such centers are distributed throughout our Nation. It is not intended to limit the scope of assistance these centers can provide.

Mr. KEMPTHORNE. I would also add that the regional technology assistance centers are intended to be sited in areas that are representative of their region in regards to the water supply needs of small rural communities. In this respect, these centers are supposed to have expertise in the particular water supply problems associated with that region.

Mr. BAUCUS. The Senator from West Virginia is correct, however, in pointing out that the information these centers provide can also be national in scope. The access to this information, therefore, should not be limited to any particular State or region. In providing assistance on a national basis, these centers should coordinate their activities to minimize any duplication of effort and to maximize the utility of the information provided.

Mr. BYRD. I thank the managers of the bill for providing this clarification.

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleagues in support of the Safe Drinking Water Act. This bill represents a bipartisan effort which couples protection of public health and welfare with the flexibility necessary for cost-effective implementation.

The bill contains a number of provisions that are of particular interest to New York State. The components of the bill which provide for watershed protection directly impact the 9 million residents of New York City who rely on the Croton, Catskill, and Delaware watersheds to provide approximately 1.4 billion gallons of water each day. The State of New York recently announced the establishment of a partnership between New York City and the communities located within the watershed region. This agreement will effectively limit contamination of the water supply, preventing the need for a multibillion-dollar water filtration facility. The bill would authorize up to $15 million per year for 7 years to help fund the implementation and assessment of demonstration projects as part of the New York City Water Protection Program. Thus, the bill supports New York State's efforts to achieve prudent, cost-effective protection of the quality of New York City's drinking water.

A second provision will provide long-term benefits for the Great Lakes region by establishing a program to test chemical pollutants believed to cause so-called estrogenic effects in human populations. These effects may result in a variety of cancers—especially breast cancer—in addition to affecting the human reproductive system adversely. Pollutants which may be associated with these effects are known to accumulate in bodies of water and are pervasive in the Great Lakes System. The testing program sponsored by this provision will incorporate quality science and peer-review to allow the Administrator of EPA to identify such substances and take effective action to prevent human exposure.

Unfortunately, despite Senator CHAFEE's valiant efforts today, it has become necessary to eliminate section 28 of the bill which, was reported unanimously out of committee. This section would have required the EPA Administrator to compare and rank various sources of pollution with respect to their relative degree of risk to human health and the environment, and evaluate the costs and benefits of existing regulations. I believe this analysis, which would have been included in a peer-reviewed report to the Congress, would have provided us with information critical to enhancing the effectiveness of the Nation's environmental programs.

I would point out that the requirement to conduct cost-benefit analyses and to evaluate the effectiveness of environmental legislation was first incorporated in the Clean Air Act amendments of 1990. I felt it was very important when passing the acid rain provisions of the Clean Air Act to evaluate their effectiveness, and requirements to conduct such an evaluation were incorporated in that law.

In any case, because of the importance of safe drinking water legislation, I urge my colleagues to join me in support of the Safe Drinking Water Act. I extend my sincere gratitude to Senator CHAFEE for his support of future consideration of the issue by the Environment and Public Works committee. I intend to work with him and other interested Members to secure passage of a bill authorizing these important studies. I have introduced legislation to achieve this end in the past three Congresses, and I look forward to the upcoming hearings on the measure.

ESTROGENIC SCREENING PROGRAM

Mr. D'AMATO. Mr. President, I want to commend and thank the managers of this bill for including in the manager's amendment package our amendment establishing an estrogenic chemicals screening program at EPA. This amendment is identical to an amendment that was adopted unanimously by the Senate when offered by my senior colleague from New York and myself during consideration of the Safe Drinking Water Act in the 103d Congress.

The amendment requires EPA to gather information that may prove essential in the war against breast cancer. Specifically, this amendment will require the EPA to develop and implement a testing program to identify pesticides and other chemicals that can cause estrogenic and other biological effects in humans, and to report their findings to Congress within 4 years.

This amendment is critical in view of growing evidence linking environmental chemicals that are capable of mimicking or blocking the action of the hormone estrogen to a host of developmental and reproductive abnormalities in wildlife and humans. The most alarming findings suggest a link between exposure to these chemicals and the dramatic increase in human breast cancer that has become so tragically apparent in our Nation over the past several decades.

In 1960, the chances of a woman developing breast cancer were 1 in 14. Today, they are one in eight. This year alone, breast cancer will strike an estimated 182,000 American women, and will take the lives of over 46,000. It has become the most common female cancer and the leading cause of death among American women between the ages of 35 and 54.

For years, researchers have understood that breast cancer is influenced by how much estrogen a woman produces. If you take the existing known risk factors—including early puberty, late menopause, delayed childbearing, or having no children at all—they have one thing in common: they all contribute to a high lifetime exposure to estrogen. There is clear evidence that the more estrogen a woman is exposed to in her lifetime, the higher her risk of developing breast cancer.

Recently, scientists have been taking a close look at the relation between so-called xeno-estrogens and increased breast cancer risk. It is theorized that these estrogenic materials—which include pesticides and other chemicals capable of affecting the internal production of the hormone estrogen—may hold the key to explaining some of the 70 percent of all breast cancer cases not associated with any of the existing known risk factors.

The research is compelling.

Perhaps the most startling findings are those of Dr. Mary Wolff of Mt. Sinai Medical Center, whose research involved the estrogenic chemicals PCB and DDE, which is a breakdown product of the pesticide DDT. Dr. Wolff tested the blood of 58 women with breast cancer and compared it to that of 171 women who were cancer-free, taking pains to ensure that the women were identical when it came to age, childbearing history, and every other characteristic known to influence breast cancer risk. She found that the women who had developed breast cancer had PCB levels in their blood that were 15 percent higher than the cancer-free women, and DDE levels that were 35 percent higher. She also discovered that as the level of DDE increased, so did the risk of developing breast cancer—to the extent that the women with the highest DDE levels were four times as likely to get breast cancer as those with the lowest levels.

A subsequent study by Canadian researchers, published on February 2, 1994, in the Journal of the National Cancer Institute, found a further link between DDE levels in breast tissue and the development of breast cancer. In this case, higher DDE levels were associated with a higher risk for a particular-type of breast cancer which feeds on estrogen—a type of breast cancer which, according to researchers, has made up a larger and larger portion of the increase in breast cancer in recent years. In the words of the study's authors, "this study supports the hypothesis that exposure to estrogenic organochlorine may affect the incidence of hormone-responsive breast cancer."

The women of Long Island, NY, have long suspected a connection between the region's unusually high breast cancer rates and the exceptional concentrations of DDT and other potentially estrogenic pesticides that were once applied in an effort to rid former potato fields of a parasite known as the golden nematode.

Women who have grown up and raised families in residential subdivisions that were built on top of these abandoned potato fields have good reasons to be suspicious. Not least of these is the recent finding that if you are a woman and you have lived in Nassau County for more than 40 years, your risk of getting breast cancer is 72 percent greater than a woman of the same age who has lived in the county for less than 20 years.

The National Cancer Institute is now in the process of further examining the connection between breast cancer and xeno-estrogens as part of a comprehensive study into the causes of Long Island's high breast cancer rates. Their findings—expected within the next several years—will contribute greatly to our knowledge base about this important issue.

As we wait for the results of this and other studies, it is vital that we begin to systematically identify those pesticides and other compounds present in the environment that possess estrogenic properties. We must do this so we will be ready, should further research confirm a clear link between these substances and breast cancer, to take appropriate steps to protect the public.

This amendment will give us some of the information needed to begin taking these steps should they become necessary.

The amendment would require the EPA to utilize appropriate, scientifically validated test systems as part of a screening program to identify pesticides and other substances capable of altering estrogenic activity in the human body.

Several quick and inexpensive test systems have been developed in recent years which could potentially be utilized in such a screening program. Examples include tests developed by Dr. Ana M. Soto of Tufts University School of Medicine in Boston and Dr. Leon Bradlow of the Strang-Cornell Cancer Research Laboratory in New York, as well as a third test utilizing state-of-the-art biotechnology techniques described recently in Environmental Health Perspectives by Dr. John McLachlan of the National Institute of Environmental Health Sciences.

Because these tests are simple, inexpensive and quick, they are well suited for the kind of large-scale screening needed to identify potentially hazardous estrogenic compounds. Since reproduction requires complex interactions between hormones and cells in the intact body, the tests are not intended to replace existing animal testing models, but to complement them by quickly flagging suspect compounds which can then be targeted for additional testing or public health approaches.

Given the availability of these new techniques, I was shocked when I learned 2 years ago that EPA does not routinely screen pesticides for estrogenicity. I raised this concern in testimony before a joint hearing of House Subcommittee on Health and the Environment and the Senate Committee on Labor and Human Resources on September 21, 1993. In my testimony I called for a much more aggressive EPA response to the evidence which has been put forward linking estrogenic chemicals and breast cancer.

The EPA has now become more interested in this area—for which I commend and encourage them. But I would like to encourage them further by requiring them to undertake the kind of widespread screening program that our Nation's breast cancer epidemic demands, utilizing appropriate, scientifically validated testing techniques, coupled with a research program to understand the health risks associated with exposure to xenoestrogens.

This amendment would ensure that such a program is underway within 1 year, and would give the EPA Administrator a deadline of 2 years to implement a peer-reviewed plan, with a report to Congress due in 4 years detailing the program's findings and any recommendations for further action the administrator deems appropriate.

Mr. President, we simply cannot afford to wait until we have a smoking gun before we act to identify those chemicals in the environment that are estrogenic. Breast cancer is claiming the lives of women in this country at a rate of one death every 11 minutes. It would be unconscionable not to arm ourselves with crucial knowledge about chemicals that may be contributing to this scourge so that we can rapidly implement appropriate public health measures when scientific research indicates they are warranted.

Mr. President, this amendment will ensure that we are armed with this crucial information, and I again thank the managers for agreeing to accept this amendment.

PESTICIDE CHEMICAL SCREENING AMENDMENT

Mr. MOYNIHAN. Mr. President, would the Senator from New York yield for some questions regarding this amendment?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. Given the concerns that reproductive effects in wildlife may be linked to endocrine disruption, some are concerned that the amendment is too limited because it focuses on human breast cancer. Does the amendment take a position on this issue?

Mr. D'AMATO. I recognize the concern that environmental estrogens and other hormone mimics may cause significant effects on nonhuman species. However, the top priority of this amendment is to learn more about substances that may lead to breast and other related forms of cancer in humans. It is silent about the possibility that effects may occur in other species and leaves that judgment to the Administrator.

Mr. MOYNIHAN. I have heard concerns raised about other endocrine and immune system impairments too. Does the discretion provided the Administrator under this amendment extend to health effects other than breast cancer?

Mr. D'AMATO. Yes. For example, if the Administrator so chose, she could include screening for male reproductive effects, effects to the immune system, and so forth. Would the Senator address a question about the scope of the amendment?

Mr. MOYNIHAN. Certainly.

Mr. D'AMATO. When the results of the screening study become available, subsection g(6) directs the Administrator to "* * * take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health." Is the intent that the Administrator regulate all substances found positive in the study under the amendment?

Mr. MOYNIHAN. No. The testing called for in the amendment is a screening study to identify active and inert pesticide ingredients that mimic estrogens. It is a hazard identification process designed to identify the magnitude of the potential problem and to help set priorities for the future. As we learned from the experience with the Ames test for carcinogens in the 1970's and 1980's, hazard identification tests do not provide enough information to be the sole basis for regulatory action. Having said that, let me quickly note that the Administrator may have additional information about the exposure levels, or about the relationship between exposure and effect for certain of the substances to be tested such that she makes a risk management decision that regulatory action is needed. If, as a result of such evaluations, the Administrator finds a substance likely has a potential adverse effect in humans she must take appropriate regulatory action. The amendment gives her authority to do so through appropriate regulatory action under the Federal Insecticide, Fungicide and Rodenticide Act or the Toxic Substances Control Act or under other authority available to the Administrator.

Mr. D'AMATO. What happens once the screening study called for in this amendment is completed?

Mr. MOYNIHAN. The screening study will identify certain pesticide ingredients that mimic estrogens and perhaps other hormones. Consequently, people will be concerned, some very concerned, about their health. It is important to be realistic, honest and responsible throughout the design and conduct of this study so that we do not create undue apprehension, but it is also important to inform the public and to take action where significant hazards are identified.

Mr. D'AMATO. The Senator raises something that I feel very strongly about. Frankly, I am extremely worried about the health impacts associated with exposure to pesticides, and I am deeply concerned that they may lead to diseases such as breast cancer. At the same time I think that the women of Long Island and elsewhere have suffered enough anguish, and I do not want to scare people unnecessarily.

Mr. MOYNIHAN. The Senator raises an extremely important issue—how best to determine whether pesticides, a widespread class of environmental chemicals, pose a potential risk without creating unwarranted public concern. An important part of this process should be a risk communication strategy to identify the likely outcomes, and to keep the public informed and aware of the purpose of the study, including its strengths and limitations. It is important not to over promise and raise false expectations.

Turning to another issue, could the Senator elaborate on what is intended by the exemption described in subsection g(4)?

Mr. D'AMATO. Of course. While it is our intent to require broad screening of active and inert pesticide ingredients, we recognize that there are biologic substances, and perhaps other substances, that the Secretary will find do not warrant testing because she concludes that they do not mimic estrogen in humans. Subsection g(4) would allow her to exempt such substances from the screening program called for under this amendment. We expect the Secretary to rely upon the best available scientific information in identifying substances to be exempted.

Would the Senator like to comment on why the amendment requires that the testing requirements and communication strategies be reviewed by the Science Advisory Panel and Science Advisory Board, and any other review group the Administrator deems appropriate before finalizing the requirements.

Mr. MOYNIHAN. Yes, certainly. It is because we are just coming to learn that certain environmental pollutants mimic naturally occurring hormones and that they may contribute to breast cancer, reproductive failure, and other diseases. There is no consensus about the magnitude and nature of the problem, and so it will be controversial, with those on opposite sides of the issue voicing strong opinions. It is our intent that EPA be as responsible and credible as it can be. This means that the Administrator should work with expert scientists from government, academia, industry, and the public health sector to select criteria for what constitutes a validated test, to select the set of validated tests to be used, and to design the protocols for study. She may wish to engage organizations such as the National Academy of Sciences or other appropriate independent scientific organizations for assistance.

Similarly, when the study is completed, the report to Congress required under subsection g(7) should reflect guidance from the scientific community, summarizing the findings of the screening study, and recommending followup actions, as necessary.

Mr. D'AMATO. Could the Senator discuss the potential followup actions that might be recommended?

Mr. MOYNIHAN. Obviously, that depends on the outcome of the screening program. If only a few substances screen positive, the followup might include conducting more detailed tests on each substance that tests positive; if a number are positive, however, priorities must be set to identify those chemicals of greatest concern for which dose-response relationships are needed. Though we may wish it were not so, we simply cannot do everything at once.

The criteria for setting priorities may well be to select those chemicals found most often in the environment and in the highest concentrations, those that are most active or that bioaccumulate, those for which there are testable hypotheses for action, and those which are representative of specific categories of chemicals. The goal is to develop plausible biologically-based risk-assessment models for use by EPA and others to inform their risk management decisions.

Mr. D'AMATO. Does the Senator know just what kinds of follow-up studies will likely need to be conducted and how much they will cost?

Mr. MOYNIHAN. The amendment is silent on exactly what additional studies to require after the screening study because we want to benefit from the screening results and from EPA's guidance before deciding what, if anything, to do next. The determination about how much science is needed before making a regulatory decision is a policy call. There will never be enough information to unambiguously answer every question about environmental safety. When the EPA makes its report to Congress it would be appropriate to examine just how much science is recommended by EPA to resolve this issue, how much additional research or action beyond that initiated by EPA would cost, and how much Congress thinks is appropriate to pay.

Mr. DOLE. Mr. President, the Senate today is considering legislation that is of primary importance to every home in America. Every individual, every family, and every community is directly affected by the quality of their drinking water. Perhaps in no other area do we need to provide assurances of adequate protection to public health than in drinking water. This legislation enhances important public health priorities by using sound science and appropriate treatment and testing technologies.

As a cosponsor of the legislation, I would like to commend Senator KEMPTHORNE and Senator CHAFEE for what turned out to be a year-long debate over the specifics of this bill. It is, as others have pointed out, compromise legislation. I am disappointed that some sections of the bill are not stronger. However, this legislation sets important new directions for Federal policy by providing States and local governments with a much stronger say in dealing with their own particular drinking water issues. Specifically, the new variance section provided to small systems will be of significant assistance in addressing the economic constraints on many of these smaller communities. It is important to note that States decide the affordability criteria, making these decisions closer to home.

I am pleased that the standard setting section of the bill includes a requirement that EPA conduct a cost benefit analysis of alternative standards. However, this legislation specifically states only that it allows EPA to consider cost and benefits to set new standards; EPA is not clearly required to use that analysis to ensure that benefits justify costs.

During the regulatory reform debate, we heard from representatives of the administration that such reform was unnecessary. If there were problems with individual statutes—like the current safe drinking water law—they should be addressed individually, statute by statute. We were told that the President's executive order currently calls cost-benefit analysis and is used to make sure that benefits outweigh costs.

Therefore, passage of this Safe Drinking Water Act sets forth an important test for EPA. Let's see how this bill is implemented. If the administration actually conducts cost-benefit analysis and uses the results, this will go a long way toward passing the test. This statute, by allowing EPA the flexibility to conduct a cost-benefit test, will determine how serious it is about meeting this goal.

In this regard, I am disappointed that the cost benefit language is not available for use in the disinfection byproducts rule. I understand that this was a closely negotiated compromise among the various parties associated with this bill. While I respect the compromises that have been made, I do not believe that the unfortunate results of codifying this proposed rule should be overlooked. EPA has received letters of concern from many communities, including Kansas communities, who are worried about the impact of this rule. It is ironic that this legislation seeks to provide more flexibility for States by providing variances to small communities. Yet on this particular issue, EPA will continue to have the final say. I am concerned that the legislation before us essentially codifies a proposed rule which is extremely expensive and ignores sound science and the potentially adverse substitute risks that could result from overregulation of disinfection byproducts.

Taking into consideration these concerns, I will support this bill. A strong bipartisan effort has been made and there is support of the compromises that were achieved in this bill. A great deal of work has gone into this legislation. I look forward to further discussions on this bill and how we can move forward to assure the quality of our Nation's drinking water.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise today in support of S. 1316, the Safe Drinking Water Act Amendments of 1995, introduced by the Senator from Idaho, Senator KEMPTHORNE. I am pleased to be an original cosponsor of this important legislation. The bill introduced by the distinguished chairman of the Subcommittee on Drinking Water, Fisheries, and Wildlife will provide the Nation with a more workable, rational, and flexible law that reduces the burdens placed on small, rural water systems while protecting public health and assuring a safe supply of drinking water.

The Safe Drinking Water Act has been one of the most frequently mentioned examples of an unfunded mandate on America's small towns, and justifiably so. The Congressional Budget Office recently released a report entitled "The Safe Drinking Water Act: A Case Study of an Unfunded Federal Mandate." Mr. President, that report documents what many of us already knew about the current law. It is especially burdensome on small water systems, such as most of the systems in my State. The CBO report states, "Households served by small water systems are particularly likely to face high costs. Furthermore, compliance costs could increase significantly over time."

Mr. President, it would be one thing if those costs were justified by a need for safety. But many of these costs have little or nothing to do with safety. In fact, they are regulation for regulation's sake.

The Safe Drinking Water Act has also been roundly criticized as unnecessarily inflexible. The CBO report also addressed the flexibility concern, indicating that there are significant barriers to adequately using the flexibility provisions in the existing law. Mr. President, we can instill flexibility for our small communities into the Safe Drinking Water Act, and still ensure that our constituents are drinking safe, clean water. I believe the bill before us today inserts some much-needed common sense into the law, and frankly Mr. President, it is long overdue.

But the current law is inflexible in other, unnecessary ways as well. For example, the current statute requires that EPA regulate 25 new contaminants every 3 years, regardless of the overall risk posed by these contaminants. Mr. President, that is absurd. That is unnecessary. That is regulation for regulations sake, and it should be stopped.

The bill before us repeals the requirement that the EPA regulate 25 new contaminants every 3 years. Instead, the bill takes a flexible approach that requires the Administrator of EPA to develop a list of high-priority contaminants, and make regulatory decisions about at least five of those contaminants every 5 years. The bill does not mandate that EPA regulate additional contaminants on an arbitrary and costly schedule. This legislation takes the commonsense approach that says the EPA must analyze possible threats to public health. If no new threat exists, no regulation is necessary. This provision lets EPA consider risk, rather than simply imposing additional costs on water systems that may or may not increase protection of public health.

The bill introduced yesterday includes a number of important provisions to address the shortcomings of the existing Safe Drinking Water Act. In addition to addressing the flexibility question, it authorizes a State revolving fund to give States funding to make grants or loans to water systems to help them comply with the Safe Drinking Water Act. In fact, the conference report for the fiscal year 1996 VA, HUD, and independent agencies appropriations bill provides $275 million for this SRF, providing we reauthorize the bill. While I would have preferred to see more resources go to this vital SRF, this funding is essential to small water systems to help them upgrade drinking water treatment systems, replace wells that provide unsafe drinking water, develop alternative sources of water, and comply with drinking water regulations. This funding will also help provide important technical assistance to local communities.

Let me just say that the local communities have told me over and over how valuable that technical assistance is. I am pleased to say it is part of this new legislation.

The State Revolving Fund is absolutely essential to our small communities so that they can adequately protect the health of the American public. The bill before us today gives a great deal of flexibility to small water systems so they can provide safe and affordable drinking water to their consumers. It gives States flexibility to reduce monitoring for contaminants that do not occur in their water system. That just makes common sense. States can also approve alternative treatment plans for small systems, taking into account affordability, without compromising the safety of the drinking water supplies.

Last year, this body passed a balanced, flexible and workable bill to reform the Safe Drinking Water Act. I supported that bill. I was proud to do so. Unfortunately, we simply ran out of time at the end of the session before a conference committee could reconcile the differences between the House and Senate versions of the bill. I was extremely disappointed we could not pass a final version last year.

I wish to applaud Senator KEMPTHORNE for the significant effort he has put forward to craft a reasonable and responsible bill, and I commend him for his willingness to work with our colleagues on both sides of the aisle in drafting this legislation.

Many people from State health department officials to managers of small rural water systems in my State have told me they believe this bill is even better than the bill we were addressing last year. I am proud to join the majority leader, the minority leader, the chairman and ranking members of the Environment Committee and the drinking water subcommittee in sponsoring this important piece of legislation.

What could be more clear than the current legislation, the Safe Drinking Water Act, needs to be reformed. It is my hope that this bill will lead to the kind of flexible, workable solutions that have been needed for years. I urge my colleagues to support this commonsense legislation, and I urge our colleagues in the House to quickly turn to reforming the Safe Drinking Water Act. We cannot afford to let this opportunity slip away again during this session of Congress.

I thank the Chair, and I especially thank my colleague from Idaho for really an excellent job in putting this legislation together.

I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, let me thank my colleague from North Dakota for the comments he has made in his statement. I greatly appreciate both the tone and the spirit and the points the Senator raised. I agree with the Senator. The existing Safe Drinking Water Act needs a healthy dose of common sense, as the Senator points out, and I believe that this bill, S. 1316, provides that common sense. That is why I believe we have the support of the Governors, the mayors, and the county commissioners of the Nation supporting us in this legislation. I am proud that the Senator is a cosponsor of this legislation.

The Senator also pointed out with regard to the funds—and the Senator is correct—that up until the passage of this bill, which we are looking forward to, we have never provided the funds to the communities, to the water systems, and ironically we have had the situation where the appropriators have appropriated the money but it has never been authorized. For the first time, we will authorize the funds and use them where they ought to be on a priority basis to help our communities ensure that we not only continue to have safe drinking water but it will improve the public health of this country, plus the technical assistance that the Senator pointed out to the small communities. They have, as we all do, such finite resources, and yet they want to comply and they want to ensure that their constituents or the customers that they are serving get the standards to the greatest extent possible. We provide the technical assistance to do so.

Another point that I would just mention is source water protection. I think we owe a great deal of credit to our agricultural organizations throughout the country that really have come forward and said we are going to support you in this because, again, in the previous Safe Drinking Water Acts we never addressed source water protection.

So what is this source water protection? Again, it is common sense, as the Senator from North Dakota has pointed out, that is, if you can keep water upstream from being contaminated so that you do not then have to wait until it is downstream and then treat all of the contamination so that people can then drink it. It is a lot cheaper to go ahead upstream and put in a few little amenities that may prevent the contamination than to just simply turn your back on it and say, well, we will wait and see what happens down here. But it is voluntary.

And so again, it is a progressive step forward, but we have all of the stakeholders upstream saying, wonderful; we will be willing partners in making this happen.

I believe this legislation, which is very much bipartisan, shows that you can be creative and innovative in protecting the environment but doing it at the most economically feasible level. We say in this legislation just because you can do something technologically does not mean it will be justifiable. Now we have cost-benefit.

So, again, I thank the Senator from North Dakota. It has been a pleasure to work with the Senator on this legislation.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I again thank my colleague from Idaho. It has been a pleasure to work with him. He has been open-minded and absolutely fair with respect to listening to both sides on this matter, and I really have appreciated the way he has addressed this matter.

I can remember so well going to a meeting of county commissioners and mayors in my State, and them saying to me, you know, it is nuts; we are being asked to test for things that have never been present in our system for 20 years. We have had testing for 20 years. We have never had this contaminant show up, and we keep having to do tests that may cost us $20 or $40 a test every month.

When you are talking Washington talk, $20 or $40 a month does not sound like very much, but if you have towns such as we have in North Dakota, we have four of them incorporated that have 10 people or less and when you are talking about $20 or $40 a test on things that are totally unnecessary that may have to be done on a quarterly or monthly basis, it mounts up and it becomes an absurdity.

So again, I think it is absolutely time that this job gets done. I again wish to thank my colleague from Idaho for the job he has done.

I thank the Chair and yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise today in support of the Safe Drinking Water Amendments Act of 1995. I am particularly pleased to see this legislation come before the Senate after the disappointment of last year when we were unable to come to an agreement.

I have been involved in this debate for a long time. Back in January of this year I wrote a letter to the chairman of the Environment and Public Works Committee, Senator CHAFEE, urging the Senator to focus the committee's attention once again on this important piece of legislation. I thought we had a good bill last year. But, Mr. President, I believe this year's bill is even better. And I thank Senator CHAFEE and others associated with him for their efforts.

This year we are able to craft a bipartisan bill which improves our Nation's drinking water law in several important and meaningful ways. Communities throughout the United States, including many in Nebraska, have had a difficult time complying with current law. As we all know, unnecessary and heavy-handed mandates have cost our Nation, especially the small communities, very dearly.

This bill recognizes that the needs of small communities are different from those of large communities. The bill combines flexibility with a good dose of common sense by allowing smaller communities to find the best way to protect their water quality.

This bill gives new authority to the States in determining what contaminants pose the greatest risk to their communities and empowers States to direct their resources toward monitoring those contaminants rather than those that pose a trivial risk to their communities, removes excessive Federal regulation and keeps our Nation's drinking water safe.

I am proud of the work that Senator KERREY and I and others have done on this legislation. I believe that the bill that we have crafted strikes a fair balance by recognizing the need to protect our drinking water but also allowing States flexibility in determining how best to protect this valuable and very vital resource.

Mr. President, in closing, I wish to emphasize once again my thanks for the leadership of Senator CHAFEE and others associated with him on the committee for their very successful job. And I hope that the Safe Drinking Water Amendments Act of 1995 will shortly become the law of the land. I thank the Chair and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Nebraska for his comments. I know that from his perspective, as a former Governor, a Governor from the great State of Nebraska, he realizes the need for State flexibility, and by granting that flexibility and authority to the States, that not all wisdom resides in Washington, DC, but that we happen to have 50 Governors throughout this country who really can make decisions that are tailored to the needs of their respective States in conjunction with their legislatures and the agencies they have set up in place.

And, too, Senator EXON referenced Senator KERREY, whom I also want to applaud for his efforts, because really he was a catalyst toward assuring that this particular legislation would be bipartisan, as it should be. So, again, the team from Nebraska served well, and I appreciate it. It is a joy to work with the Senator.

Mr. EXON. Mr. President, I thank very much my colleague from Idaho. I thank him for his keen perception in this whole area. I was very proud to follow his leadership earlier this year in the mandates area where we had required that of States for far too long. But I know that he has played a very keen part in crafting this measure, which I think is fair and reasonable, workable, and eliminates much of the consternation and expense, in many cases unnecessarily expensive procedures. So I thank him and the full committee for the excellent job they did. It was a pleasure working with the Senator.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that Senator SNOWE of Maine be added as a cosponsor to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair. I rise in support of this legislation to authorize the Safe Drinking Water Act. I want to commend my colleague and my friend from Idaho for his hard work on this, and to express at the same time my appreciation to the chairman of the Environment and Public Works Committee, on which we both serve, Senator CHAFEE, for the open process that he and Senator KEMPTHORNE established for drafting this bill.

It has not been a lightning experience, though it has been an enlightening experience. I say it has not been lightning because it has taken a fair amount of time to get this to this point. As a matter of fact, the committee has been meeting since February, both Democrats and Republicans, to try to get this legislation into shape so that it could meet the bipartisan test and pass. They have been meeting almost constantly over the year, and into September and October, to reach the consensus that exists now on this legislation.

The process has produced a bill that, though imperfect, does substantially improve the Safe Drinking Water Act. When I say, "though imperfect," I do not remember a time when there was a bill that involved a complicated process that had been produced here that was perfect. There is always a point of view that something could be better. It was often said by a former majority leader, George Mitchell, that the perfect is the enemy of the good. And what we have is we have a good bill.

This committee, Mr. President, the Environment and Public Works Committee, has a good history of working in a bipartisan fashion. The environmental legislation has been a joint enterprise, going back to at least 1969. This bipartisanship continued when Democrats chaired the committee from 1969 to 1980 and then through Senator Robert Stafford's tenure as chairman in the early 1980's. That spirit continues today, as demonstrated by this bill.

The legacy of this process has been a system of environmental protection that, frankly, is a model for the industrial world. More importantly, the process has led to cleaner water, cleaner air, and a safer disposal of waste. It has led to a better world. But that should not be surprising.

There has been strong bipartisan support across the country for effective environmental standards. Poll after poll shows support not only for EPA but for toughening of standards to protect the air, the water and our land. Although some special interests have taken the recent election results as a repudiation of the environment agenda over the last 25 years, I hope that this bill demonstrates that we, in a bipartisan fashion, can make progress, evidenced by this joint, bipartisan commitment to protect our environment.

Time will tell if an optimistic view will prevail when Congress deals with other environmental issues.

Mr. President, in any compromise, especially in this second generation of environmental statutes, agreement does not please everyone. Reaching a consensus requires both sides to accept provisions that they would rather not have. There are provisions in this bill that I would like to strengthen and I am sure others might want to weaken. However, the overall view is that this is a good bill.

It is critical to ensure that drinking water is safe. Guaranteeing that safety is an important responsibility of Government, and it cannot be delegated entirely to the States or to the private market. At the same time, some State and local flexibility is essential to ensure efficient regulation. This legislation seeks to strike a balance between the critical need to guarantee public safety and the need to provide for reasonable regulatory flexibility. Once again, not a perfect balance, but a definite improvement over current law.

For example, we have attempted to add additional cost-benefit and risk-assessment tests before we regulate chemical contaminants. These tests will apply to arsenic and sulfates and chlorinated byproducts. They are a reasonable compromise between provisions in the regulatory reform proposal and present law.

As we debate this legislation, it is important to do what we can to strengthen public confidence in the water supply. Unfortunately, Americans now have little confidence in the safety of their drinking water. They worry about it, for their families. That is one of the reasons why 42 million Americans, one out of six, regularly drink bottled water. When I was a child, Mr. President—it was not a century ago, I assure you—I never heard of anybody drinking bottled water. Seltzer water or soda water, or something like that, but plain old bottled water? Never heard of it and never had the money for it even if we had heard of it.

In the Washington area, Safeway or Giant Food stores, generic bottled water—and I am not talking about the highly advertised designer shaped bottles—in these places, water costs about $1.35 a gallon. It is 1,000 percent more than tap water—1,000 percent.

Despite these high costs, sales of nonsparkling bottled water increased 100 percent between 1986 and 1994. To be sure, some people drink bottled water because of the notion it provides. It is kind of a cachet of things that people do, but many simply do not trust local water supplies and are willing to pay a stiff premium for alternatives to tap water.

I personally believe that the tap water provided by public and private systems in New Jersey, my State, are safe. But given the widespread distrust of our water supplies, it is essential that in our deregulatory zeal, we do not further undermine public confidence in tap water.

This bill should move us closer to the goal of safe, drinkable water at affordable prices. I have been pleased to cosponsor the bill, and I urge its support.

I add, Mr. President, that an amendment of mine that is included in the bill is there to guarantee the safety of bottled water, because this amendment requires that bottled water meet the same safety standards set for tap water.

There is an anomaly out there that tap water is tested rather rigorously, and water that is paid for out of one's pocket has not had the same requirements. We want to make them the same. People ought to know simply because it is in a bottle and thought to be pure that there should be a test that applies to this water.

The amendment is supported by the International Bottled Water Association, and it will assure consumers that bottled water is at least as safe as the water they receive at the tap. The public needs to know that all their drinking water is safe, whether it comes out of the tap or out of a bottle.

So, Mr. President, I am supporting this bill and reserve, however, the right to change my mind if there are amendments offered that do not have direct relationship to the Safe Drinking Water Act changes as we propose them. We have heard other subjects being discussed on the floor, and I hope they will not be offered as amendments to this bill.

Barring that, I am 100 percent behind it and will do whatever I can to help make it turn into law.

Once again, I thank my colleague from Idaho for his good, hard work which he continually shows in the committee and on the floor. We try to get things done, as I suggested earlier, in a bipartisan manner. It always is easier when we do, Mr. President. There are a few things that are on tap, to use the expression, a few things that we are working on in the Environment and Public Works Committee that I hope we will be able to use this effort as a model to move along. I have particular interest in Superfund and some other environmental legislation, and we just need to get together to make it happen.

With that, Mr. President, I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from New Jersey for his comments. I appreciate so much working with Senator LAUTENBERG on the committee. I appreciate his cosponsorship of this legislation.

He has pointed out something that I agree with, and that is, oftentimes, while the motive may have been pure, you have regulations or legislation that is nonworkable, that is difficult to achieve, and so we have, again, turned our efforts toward establishing a dose of common sense in this legislation.

As the Senator from New Jersey said, there are probably amendments he would like to offer that he would feel would strengthen the bill, and there are others who would offer amendments that would weaken the bill.

The interesting thing is, his amendment he would determine as strengthening and I would determine as actually weakening, and vice versa.

So I think we have found that good balance in this legislation, that while reducing the cost to the States and cities, we are increasing public health. Just because we have the technology to do something and it is technologically feasible, does not necessarily mean it is justifiable to require the States and cities to do.

So we do have in this environmental legislation cost-benefit analysis that is in place. So, again, I have appreciated working with the Senator from New Jersey. I thank him for his comments this afternoon. In this fashion, I believe this legislation is going to move forward.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, we have two items that have been cleared, and that can now be adopted.

AMENDMENT NO. 3071

(Purpose: To authorize additional criteria for alternatives to filtration)

Mr. CHAFEE. Mr. President, the first item was brought to our attention by the Presiding Officer, Senator GORTON, and Senator MURRAY. The Safe Drinking Water Act requires filtration for most drinking water systems that are served by surface water. But some cities have made extraordinary efforts to protect their watersheds from development that might contribute to contamination. One such city is Seattle, WA. That city owns virtually all of the land around its reservoir. This amendment recognizes the efforts made by the city of Seattle and allows Seattle, in cooperation with the State of Washington, to employ treatment approaches in lieu of filtration that will be more cost effective.

So, Mr. President, I send on behalf of myself and both Senators from Washington a printed amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself, Mr. GORTON, Mrs. MURRAY, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3071.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, after line 5, insert the following:

"(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: "Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).".

On page 64, line 6, strike "(a)" and insert "(b)".

On page 64, line 21, strike "(b)" and insert "(c)".

• Mr. GORTON. Mr. President, I am happy to support S. 1316, amendments to the Safe Drinking Water Act. This legislation will go a long way to help small and large water systems in my State to provide safe, clean, and affordable drinking water to their customers.

Last year, the Senate considered legislation to amend the Safe Drinking Water Act. I was a strong supporter of that legislation, which, unfortunately, never made it to the President's desk. The bill before the Senate today improves upon last year's legislation, and I am proud to support the committee's legislation once again.

Over the past several years I have heard from small and large water systems in my State urging Congress to amend the current law in order to break free of the one-size-fits-all approach of current law. The legislation before the Senate today accomplishes this goal. Washington State ranks fifth in the Nation in the number of small public water systems, and, as a result, the mandates of current law are especially burdensome on my State's small systems. For many of my State's small communities the price tag associated with filtration costs is incomprehensible. These communities simply cannot afford this costly technology.

The legislation before us today ensures that small systems will be better able to provide safe drinking water to their customers. The bill directs the Administrator to identify a range of technologies for a range of small systems. The legislation recognizes that small systems have unique needs and cannot afford the costly technology that is affordable for larger systems. In addition, many of my State's small system operators have told me that monitoring compliance was one of the most costly aspects of the current law. By giving States with primary enforcement responsibility the opportunity to establish their own monitoring requirements, this legislation eliminates another costly burden for small systems.

The legislation also makes a critical improvement over existing law on standard setting. The bill establishes that maximum contaminant level goals [MCLG] for contaminants that are known or likely to cause cancer in humans may be set at a level other than zero, if the Administrator determines based upon available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the MCLG at that level with an adequate margin of safety. MCLG's for carcinogens—elements known to cause cancer—are set at zero under current law. Many in the scientific community believe that this number has been set arbitrarily. The setting of the standard at zero is the equivalent of the Delany clause for drinking water contaminants. Many communities in my State have argued that a MCLG set at zero is an ineffective use of funds, and results in a great deal of effort expended, in many cases, for a marginal reduction in the likelihood of cancer. By granting the Administrator the flexibility to establish a MCLG at a level other than zero, S. 1316 makes a good improvement to existing law.

Mr. President, I would also like to thank the chairman and ranking member of the Environment and Public Works Committee, and their staff, for accepting an amendment to the bill offered by this Senator and the junior Senator from Washington. The amendment establishes a limited alternative to filtration, if the system can utilize another form of treatment that will provide a significantly greater removal of pathogens, than that of filtration.

The need for this amendment was brought to my attention by the city of Seattle. The city has two water supply sources, the Cedar River Watershed, and the Tolt River supply. Because of turbidity problems in the Tolt supply, the city is in the process of implementing filtration technology on the Tolt. Conversely, the Cedar River supply does not have turbidity problems—it consistently tests below average for turbidity—and the city is seeking an alternative to filtration for the Cedar River supply.

Currently the Cedar is an unfiltered system, and therefore must comply with the surface water treatment rule. The rule sets forward 11 specific criteria, and calls for extensive monitoring of the system, to ensure that the system continues to provide clean water to its customers. During 1992, the Cedar violated 1 of the 11 criteria, and, consequently, was required to initiate filtration plans. Shortly thereafter the city entered into an agreement with the State and EPA region 10 to achieve compliance with the rule without filtration.

Seattle has been working closely with EPA region 10 and the Washington

State Health Department for the past several years to find a way to treat the Cedar supply, without filtration. Filtration would cost the city roughly $200 million, but the city believes that the process of ozonation would better meet the city's drinking water needs. The ozonation process would only cost $68 million. Ozonation is a process that is considerably less expensive than filtration and is believed to be the next up and coming technology for ensuring clean drinking water.

The ozonation process is proven to be more effective than filtration in getting rid of harmful pathogens in a water supply, like cryptosporidium and giardia. Filtration technology would inactivate 99.9 percent of cryptosporidium, but ozonation would inactivate 99.999 percent of the cryptosporidium. The increase of .099 is considered a significant increase in the level of human health protection.

The city of Seattle—together with mayors from Tacoma, Redmond, Bothell, and Bellevue—support the amendment because the majority of their communities are served by the Seattle water system. On behalf of the Puget Sound residents served by the city of Seattle's water supply, I would like to thank Senators CHAFEE and BAUCUS, and their staff, for working on this amendment.

I urge my colleagues to support the committee's bill, and this Senator hopes that we can get legislation to the President's desk for his signature this year.●

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 3071) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I have a request from Senator SNOWE that she be added as a cosponsor of S. 1316 and as a cosponsor of the managers' amendment to S. 1316.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask that Senator GORTON also be added as cosponsor of S. 1316 and the managers' amendment thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3072

(Purpose: To authorize grants for wastewater treatment and drinking water supply to communities commonly referred to as colonias)

Mr. CHAFEE. Mr. President, on behalf of myself and Senators DOMENICI, KEMPTHORNE, BAUCUS, and REID, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. DOMENICI, and Mr. REID, proposes an amendment numbered 3072.

On page 195, after line 20, insert the following: "(h) ASSISTANCE TO COLONIAS.—

"(1) DEFINITIONS.—As used in this subsection—

"(A) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

"(i) is commonly referred to as a colonia;

"(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

"(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

"(B) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico and Texas.

"(C) TREATMENT WORKS.—The term 'treatment works' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

"(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

"(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

"(B) the construction or improvement of sewers and treatment works for wastewater treatment.

"(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

"(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

"(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

"(6) AUTHORIZATION OF APPROPRIATIONS.—there are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.".

Mr. CHAFEE. Mr. President, this is an amendment that has been cleared by both sides. As you understood from the reading of it, it deals with those very low-income settlements along the United States side of the United States-Mexican border, and it is of particular concern to the senior Senator from New Mexico, and I am sure for the junior Senator from New Mexico likewise.

Mr. DOMENICI. Mr. President, I rise in strong support of S. 1316, the Safe Drinking Water Act Amendments of 1995. I am proud to be an original cosponsor of this outstanding, broadly bipartisan bill.

Mr. President, I have long been involved in the drinking water debate, having introduced a reform bill of my own last session. Coming from a predominantly rural State, one of my biggest concerns with the current Safe Drinking Water Act is the fact that the overwhelming majority of small rural water systems simply do not have the economic or technical capability to comply with the act as it now exists. Senator KEMPTHORNE'S bill goes very far in addressing this problem by giving States the flexibility to grant variances for small water systems.

In addition, I am very happy to see that Senator KEMPTHORNE'S bill requires EPA to use the best available, peer-reviewed science in implementing the act. I worked hard to get this commonsense provision put into last session's reauthorization effort, and I am glad it has been retained in this session's bill.

I would like to take a few moments to discuss an issue of particular importance to me, and that is the issue of colonias. Mr. President, for those who do not speak Spanish or come from the Southwest, colonia is the Spanish word for neighborhood. Traditionally, in my State of New Mexico and throughout the Southwest, colonias referred to long-established, unincorporated small towns with rich community heritages.

Over the past decade, colonias have also come to refer to densely populated, poverty-stricken communities that have sprung up along the border in the past 10 to 15 years. They are often populated primarily by Mexican-Americans and legal immigrants working as seasonal farm laborers. These are decent, honest, hardworking people trying their best to create a good life for themselves and their families. The tragedy of these new colonias, however, is that they are typified by desperate poverty, by severe overcrowding, by inadequate housing, by pathetic roads, and, most important for purposes of the bill before us, by nonexistent drinking and waste water services.

Mr. President, I would like to read a few passages from an article that appeared earlier this year in one of my State's newspapers, the Las Cruces Sun News. Las Cruces is the largest city in

Dona Ana County, a county with a large number of colonias. The article, written by Deborah Baker of the Associated Press, is titled "Colonias: The American dream is more of a nightmare for many State residents." Mr. President, the passages I would like to read, which could apply to most of the new colonias dotting our Nation's southwestern border, describe the appalling conditions under which these people live every day:

> The American dream lives on a trash-strewn hillside at the end of a rutted road in a cluster of trailer and shacks called El Milagro—"The Miracle."
>
> There, two families share three rooms: a two-room trailer, and a dirt-floored addition with walls that stop several feet short of the ceiling.
>
> Cooking is done on a grate balanced between cinderblocks over an open fire on the dirt floor. Water comes from a pipe, run from a neighbor's house, that sticks up from the ground behind the trailer. There is no bathroom—not even an outhouse. No electricity. No heat.

Mr. President, this is a description of third-world living conditions existing here in the United States of America. Such conditions are unsafe, unhealthy, and, I believe, simply intolerable. Nor is this a small problem. I know that in New Mexico we have at least 60 such communities in desperate need of this basic infrastructure. In Dona Ana County alone, there are 35 colonias.

Our border States have made great efforts in trying to deal with this problem. My State of New Mexico, for example, has spent large amounts of money to build community centers, health facilities, fire stations, and day care centers for its colonies. New Mexico also recently enacted a statute to tighten up zoning laws that had previously allowed developers to subdivide plots of land repeatedly for residential use without first supplying basic infrastructure.

Unfortunately, however, many of the border States simply do not have the financial capability to help with some of the more costly infrastructure that these communities need, especially drinking water and wastewater facilities. The colonias themselves certainly do not have these funds.

Consequently, I am offering an amendment, for myself and for Senator BINGAMAN, that I believe will greatly help these most needy of communities.

Mr. President, my amendment will authorize the Environmental Protection Agency, or any other appropriate agency, to award grants to any appropriate entity or border State to provide assistance for the construction of drinking and wastewater facilities.

My amendment also authorizes these agencies to use funds to operate and maintain these drinking and wastewater facilities. I believe this is a key point. It is not enough just to build these systems. Without the technical assistance to keep them operating, and operating well, we haven't accomplished anything.

In closing, Mr. President, I would like to thank Chairman CHAFEE and Senator KEMPTHORNE for their gracious help with this important amendment. I believe the amendment will go a long way in helping some of the neediest communities in the United States in two crucial public health areas. These colonias will finally get adequate sewer service, and they will finally receive clean, safe water to drink.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 3072) was agreed to.

Mr. CHAFEE. Mr. President, move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BALANCED BUDGET

Mr. GORTON. Mr. President, as we are here, I think, close to completing a very important piece of legislation on safe drinking water, we, as Members of this body, recognize that in another sense we are marking time during negotiations between the Republican leadership of the House and Senate and the President of the United States on the question of the balanced budget.

There was, just a few weeks ago, a crisis in the course of our Government as the President vetoed a continuing resolution and thus put out of work many hundreds of thousands of Government employees. Crisis negotiations led to a further continuing resolution under which each of the agencies of Government will continue in operation until the 15th of December while the various parties negotiate a long-term budget.

One of the conditions of that return, a part of the law signed by the President of the United States, was an agreement to reach before the end of this session of Congress, that is to say, before the end of the year, a budget which would be projected to be in balance by the year 2002 under figures and statistics provided by the Congressional Budget Office, so that each of us knew the parameters within which that debate would take place.

At the same time as these temporary arrangements were being made, this body and the House of Representatives passed, and is about to send to the President of the United States, a bill, the Balanced Budget Act of 1995, which accomplished precisely that goal. Many of the elements of that proposal are controversial, though it does for the first time truly reform our entitlement programs, including Medicare, Medicare in a way that preserves its financial security, keeps part A from going bankrupt, fairly continues the present percentage of premiums paid by the beneficiaries of part B, and adds to the premiums only of very well-off Americans.

The President has announced—and in this case we have no reason to doubt him—that he will veto that Balanced Budget Act of 1995. So far, in spite of that announced intention, in spite of his signature solemnly affixed to a bill which calls for just such a balanced budget under just such a set of statistics, the President has submitted no alternative budget which would be balanced under those rules by 2002.

As a consequence, the negotiations, which began abortively more than a week ago and seriously just a couple of days ago, have not even produced an agreement on an agenda. This is not surprising. We have produced and sent to the President the Balanced Budget Act of 1995. We believe that it covers all of the conditions asked for by the President: that it properly and appropriately funds Medicare, Medicaid, welfare, the national defense, the environment, and a wide range of other activities.

The President disagrees. That is the President's prerogative. But, Mr. President, it is not an appropriate response to that disagreement to simply sit still and say, "Give me another alternative." The President has a duty, if he is serious at all about the budget crisis facing this country, to say,

> Here is my proposal for a balanced budget by the year 2002, based on these same propositions. Here are the differences between the two parties. Let us negotiate those differences.

To this point, every economic indicator since the election of just more than a year ago is in a positive direction. Interest rates are lower, inflation is down, employment and the gross domestic product are up, based, as we understand, primarily on the proposition that our financial markets believe that the budget will be balanced.

In my opinion, if the President continues to refuse to propose any alternative, if he believes that the politics of scare tactics about Medicare and other programs are a better election platform on which to run than an actual balanced budget, we will almost certainly suffer a loss in each one of those economic indicators, which will not help the President—for that matter, will not help the Congress, and certainly will not help the country.

We are bound and determined to have just such a balanced budget. The President has now, by his signature on a bill, agreed to just such a balanced budget. It is time—it is well past time—that the President, who so eloquently disagrees with ours, produces his own so that we can work constructively toward a solution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that Linda Reidt Critchfield, a fellow in Senator LIEBERMAN's office, be granted privileges of the floor for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, previously this afternoon I submitted amendment numbered 3072 on behalf of myself, Senator KEMPTHORNE, Senator BAUCUS, Senator REID and Senator DOMENICI, and that amendment was adopted. I ask unanimous consent that Senator BINGAMAN be added as a cosponsor to that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PEACE AGREEMENT IN BOSNIA

Mr. INHOFE. Mr. President, yesterday when I was on the floor I made some comments which I do not think were very clearly understood because I was assuming some people were aware of some of the problems that have existed since the initialing of the peace agreement in Bosnia.

It has been very disturbing to me, after having been over there, to feel that most people are laboring under the misconception that there is in fact a peace. The President himself in his message to the Nation said, "Now the war is over." I just wish the President would go over there and see that the war is not over.

But since that time, there have been some articles which I would like to read, and then submit into the RECORD. One is from the Los Angeles Times of November 25, just a few days ago.

"On Friday, November 24, approximately 200 Bosnian Government troops looted a U.N. base in the Bihac"—that is right over here, Mr. President, on the Croatian border—"manned by a Bangladeshi battalion. They fired machine guns over the heads of the peacekeepers and carried off food, fuel, and equipment including nine armored vehicles. The 80 peacekeepers returned fire"—keep in mind that while all of this is happening they are firing and returning fire—"but were forced to retreat. The Bosnians were taking advantage of the imminent withdrawal of U.N. forces to make way for NATO troops"—which gives you an indication as to what would happen even if we were able to stop this obsession that the President of the United States has in sending troops into Bosnia and were able to try to get them withdrawn.

Also, a Reuters publication on the same day, on Friday, the 24th, says, "Also on Friday the 24th, U.N. officials reported that Croat forces burned and looted houses"—these are Croat forces—"in areas located in central and northwest Bosnia. Houses were burned and looted in the city of Gornji Vakuf"—which is this area right in here—"in central Bosnia and also in the cities of Mrkonjic Grad, and Sipovo"—which is this area right in here.

If you look, the major part of the activity is taking place in this section right of Bosnia. This is the section in which the United States would have forces.

I have often wondered, and have not been able to get an answer from anyone, as to who drew these lots for us; why we have the French over here and the British over here, but we would be right here—virtually everything north of Sarajevo up to and including Tuzla, and a corridor that would go through here, which is one of the most contentious areas.

This comes from the New York Times article of the 27th: "On Sunday, November 26, angry groups of men stoned and flipped over U.N. vehicles passing through Serbian sections of Sarajevo."

Sarajevo is an area that is divided up between Croats, Serbs, and Moslem forces, each with their own checkpoints.

Also according to the New York Times: "As of November 26, a total of 210 peacekeepers have been killed in the 4 years of conflict in the former Yugoslavia."

Mr. President, these are identified as peacekeepers. If you will remember, one of the major concerns that we have is that the President is putting our forces into a situation that is ideal for what we call "mission creep." That is, you go in with one idea. Say you are going to go in, as we are going in, to keep the peace. Obviously, there is no peace to keep. But still they call them "peacekeepers."

When the President made his speech he was very careful to use the word "implementation."

So it has already crept from peacekeeping to peace "implementation."

The Times article goes on: "In Bosnia itself, 107 have been killed, most by the former Serbs but some by the Muslims. Serbs have repeatedly used peacekeepers as hostages to secure their aims."

Further, in the same article: "In the past NATO has been able to respond to attacks on peacekeepers with air strikes on Serbian artillery and other positions. Now this is less of an option because the multinational troops will be mingled with the civilian population especially in places like Sarajevo, where about 10,000 troops are to be deployed."

"The NATO operation is billed as one where superior Western firepower will obliterate any obstacles. But the NATO led force will not be threatened mainly by organized resistance, but by angry women and children, lone snipers and renegade bands of armed men determined to thwart a plan that would drive them from their homes and negate all they have fought to achieve."

We are talking about people who have fought each other for nearly 4 years. And I stood on the streets of Sarajevo and saw those areas where they have pounded the residential areas and have obliterated them. Many of the people who are there now are not the people who lived in Sarajevo before. They were not there back during the Winter Olympics that we remember so fondly in such a beautiful thriving city as Sarajevo then was. They are people who came in there as refugees. Once the people were driven from their homes, they were no longer livable for individuals who had those homes, and now refugees have come in.

So we are dealing now with two groups of people that are going to be problems—assuming that we are successful in going in there to achieve some type of peace.

Col. Thierry Cambournac of NATO, deputy sector commander of Sarajevo, said he feared that the soldiers could get drawn into conflicts in urban areas they will patrol. A quote from the colonel: "Our biggest concern is the population in these areas will revolt."

Their concern is not whether one of the organized factions, whether it is Croats or Serbs or the Moslems, are going to be a problem. It is instead the people who have been driven from their homes. In fact, the mayor of this suburb said, and this is a direct quote, "We will still fight, and if the multinational force tries to drive us from our homes, or take away our right to defend ourselves, there will be no authority on Earth"—no authority on Earth—"including the Serbian authorities, that can stop us. We will not leave, we will not withdraw, and we will not live under Muslim rule."

Now, we get back to the two groups of people, the groups of people that have fought for homes. And what does that mean when they have a peace? They assume they can continue to live in their homes. But, no, that is not the way this works because if they happen to be a Serbian family in a home that is now designated by this group that met in Ohio as a Croatian area, then they will be driven from their homes.

I used to be the mayor of a major city in America, Tulsa, OK. You do not make statements like this unless you mean it. He says we will not leave. So we now have a new faction, rogue faction if you will, that will develop from people who are living in homes, fought for homes they feel are theirs now, and now we come along and say, "You have to move."

What is the other group? We hear about 2 million refugees that are scattered all throughout this region. I think it is closer to 3 million. When I was over there, they were identifying close to 3 million refugees, but let us be conservative and say 2 million refugees. These are people who have been driven from their homes—a second group of people. These people were driven from their homes. When they hear there is a peace accord, what does that mean to a refugee? It means he can go home.

So what happens to those people? Are they Serbs? Are they Bosnian Serbs? Are they Moslems? Are they Croats? We do not know. And it does not really matter what they are because they are going to become rogue elements. Our intelligence community has already identified nine rogue elements. We have the Iranians; the mujaheddin; we know they are in there right now; we have the Black Swans which are mostly Moslems; we have the Arkan Tigers; we have special forces.

So, Mr. President, we are not dealing with three people sitting around a table in Dayton, OH, agreeing about what they are going to do. I seriously doubt that the star of that show, the one who was supposed to be the most difficult to swing into a peace posture, Milosevic, is really speaking on behalf of those Serbs in Bosnia because those people are considered Bosnian Serbs, and they consider themselves to be independent.

When I was in Sarajevo, there is a little town located right here called Pale. This is the town where they supposedly had the Christian Science Monitor journalist who had been held hostage for a period of time, and we were getting ready to go over there to help bring him back when we found out in fact he was not there. But one thing we did learn is that when you close those checkpoints, you are in another world, and those people do not have their allegiance to Milosevic. They do not have their allegiance to Tudjman or in many cases even Karadzic because they are people who are now holding themselves out to be independent.

So I would just repeat to the President, who in his speech said the words "the war isn't over," I have yet to find—there are only two Members of Congress, to my knowledge, who have been up into this northeast sector, the sector where the President is proposing to send—and as we are speaking today is sending—American troops on the ground. They are Senator Hank BROWN from Colorado and myself.

Yesterday, we had a chance to address the Senate about what has really happened up there. It is not very pretty. In fact, we went via British helicopter, at very low attitude, never getting over 1000 feet, in a blizzard, all the way from Sarajevo up to the Tuzla area, going back and forth, and really being able to look very carefully at all of this land.

Everything between Sarajevo and Tuzla is not like the Rocky Mountains, not like we think of mountainous regions. It is straight up and down. There is no way you could have even any kind of a light armored vehicle penetrate and travel through those roads, leave alone 120 M1 tanks they are talking about bringing from Hungary, down across the Posavina corridor and into the Tuzla area. Once they go into the Tuzla area, the terrain will not allow them to go any further.

We have seen articles, many of which I have here, published recently about the mines, about the roads. They talk about the roads coming down from Hungary into the Tuzla area where 120 M1 tanks—there is only one bridge in the entire area that is going to be able to hold up an M1 tank. Up in Tuzla, General Haukland, a Norwegian general who was in charge up there, said that another element that you are going to have hostile are the very people we are supposedly trying to protect and trying to achieve peace for. Those are the individuals who will be mad because we have torn the roads up, the same roads they need for commerce and freedom of movement.

I have never seen a proposed mission as doomed for failure as this one. We do not know who the enemy is. We are dealing with the mentality of people who fire on their own troops, murder their own people so they can blame somebody else. I do not know why anyone would not come to the conclusion that, if you are going to fire on your own troops so you can blame some other faction, you would certainly fire on American troops trying to remove you from your home.

It is my understanding—from the sketchy information we get from the agreement that has been initialed—that there are two conditions under which we will withdraw our troops. One is at the end of 12 months.

Now, since I have not heard anything to the contrary since the Senate Armed Services Committee met, when we had Secretary Christopher and Secretary Perry and General Shalikashvili, the Chairman of the Joint Chiefs of Staff, all said that in 12 months we will be out of there. And I asked the question, you mean we are going to be out of there regardless? If we are in the middle of a huge war, if we have entrenched ourselves within the civil war that has been going on for 500 years, we are about to win it, and that 12 months is over, we withdraw? Absolutely, they said, we are going to withdraw in 12 months, and it is over.

I do not think there is anyone who has studied military history who can point to a time when we have had a time deadline as to when a withdrawal will take place. It is supposed to be event-oriented: After this happens and this happens and we are successful, then we will withdraw. That is not what we are saying. We are saying we will withdraw in 12 months.

The other condition is withdrawal in the event of "systemic violations."

Mr. President, I have asked for many times a definition of "systemic violation." What is a systemic violation? The administration speaks in vague terms about this. They say if you take the Croats or take the Serbs or take the Moslems as the three major factions, and if it is obvious that one faction is going to break the peace accord that we assume is going to be signed and is going to be acknowledged, then that would constitute a systemic violation.

Well, we already know that there are nine or perhaps more rogue elements out there. How is our soldier, who has been trained over in Germany to fight in this type of terrain, how is this soldier who is fired upon going to know whether that firepower is coming from the Croats, the Serbs, the Moslems or is coming from some irate families who do not want to leave their homes or from some refugees who want to go home or the Black Swans or the Arkan Tigers or the mujaheddin?

This is the problem we have here. Nobody can answer these questions. And yet systemic violation means we pick up our toys and go home. And what is going to happen on the road home? The same thing that you are seeing over here as we are making a transformation from a U.N. peacekeeping operation to a NATO operation that has not been well-defined. They are firing on so-called "peacekeeping" troops. And we are not really sure who will be firing on our troops. Now, if it could happen now during a cease-fire, it certainly can happen later. I have been disturbed for 2 years about this because 2 years ago—and I do not think it served any useful purpose—when I was serving in the other body, serving on the House Armed Services Committee, one of the top individuals came in and said that one of the first things that President Clinton said when he came into office was that he wanted to do airdrops into Bosnia. And I asked the question, in this closed meeting at that time—it is all right to talk about it now—I said, "Well, let me ask you a question. They have been fighting over there with all these rogue elements, with all these factions. How do you know, if we are dropping our stuff in there, if it will be in the hands of the good guys instead of the bad guys?" The answer of this official was, "Well, we don't know." Then he hesitated and looked over and said, "You know, I'm not sure we know who the good guys and the bad guys are."

We have clearly taken sides. We are now saying that we are in a peace implementation posture where we are supposed to be neutral. We are going in with a NATO force that is declared to be neutral, yet we have taken sides clearly against the Serbs. That is where our air attacks have gone. I think it would be very difficult for us to go in and say we are truly neutral in this case.

I guess the reason that I am going to continue talking about this for as long as we are in session is that each hour that goes by, Mr. President, we become more in peril. More of our American lives are endangered because, as we are speaking today, they are taking the troops—the troops that have been trained and the advanced troops who are going in for logistics purposes—and they have already been deployed from Germany up to Hungary, down south toward the Tuzla area that has been assigned to us, having to go through such hostile areas as this part of Croatia, this part of Serbia and, of course, the Posavina corridor which we already talked about.

That means that if it is an hour after this or a day after this, there are going to be several more—how many are there right now? I am embarrassed to tell you, Mr. President, I do not know. I am a Member of the U.S. Senate. I am a member of the Senate Armed Services Committee. I am a member of the Senate Intelligence Committee, and yet I do not know. And it is a highly guarded secret.

We read different articles in the newspapers about how many are over there. We hear calls from people at home that say that they have heard from their son or daughter who is being deployed or was deployed 2 or 3 days ago. And there is no way of knowing.

But we do know this: That the clear strategy of the President of the United States is to get as many American troops over there as possible before there is any vote that takes place in this Senate so that he will put us in a position of voting against our troops that are on the ground, which he knows we do not want to do. And so he is holding us hostage in Congress.

One thing we have not talked about is the cost of all of this. Talk about being held hostage. We have gone through these humanitarian gestures in Sarajevo and Haiti and all the rest of the things that are part of President Clinton's foreign policy. And while we do not authorize them, they come around later and say now we have to have an emergency supplemental appropriation. We passed one out of this body a few weeks ago for $1.4 billion. And that was for the things that were taking place in Haiti and Somalia. And those were exercises that we opposed in a bipartisan way in both the House and the Senate.

So I anticipate that if the President is successful, as it appears he is going to be—it may be a fait accompli. Maybe it has already happened. Maybe we cannot stop it. So our troops are going to be sent out over there, not 20,000, not 25,000; we know it will be closer to 40,000 or 50,000, at least. Then we will be faced one of these days with a supplemental appropriation request for not $1.5 billion but for, according to the Heritage Foundation and some other groups, somewhere between $3 billion and $6 billion.

It means if we do not then appropriate that in an emergency supplemental appropriation, it is going to come out of the military budget. And we are already operating our military on a budget that is of the level of 1980, when we could not afford spare parts.

So, Mr. President, I want to impress upon this body that the war is not over over there, that they are killing people today as we speak, that all this hostility is taking place in these areas, along with all we know about in the sector referred to as the northeast U.N. sector where we will have our troops.

I have been up there. I do not think there is one person so far who has been north of Sarajevo and up through Tuzla who says that we should send young American lives into that area. I have never personally seen any more hostile area in my life. I have never seen anything that looks like that.

There is no way we can use the armored vehicles. And it is very easy to understand now, in studying our history of World War II, how the former Yugoslavia was able to, at a ratio of 1 to 8, hold off the very finest that Hitler had because of this very unique area of cliffs and caves, this hostile environment, where the President of the United States is sending our young soldiers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3073

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment for immediate consideration on behalf of Senators THOMAS and SIMPSON.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. THOMAS, for himself, and Mr. SIMPSON, proposes an amendment numbered 3073.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 23 after "the State).", add the following: "*Provided further*, in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund."

Mr. KEMPTHORNE. Mr. President, this amendment simply clarifies that for a State that does not have primacy to manage its drinking water program, the Governor, rather than a State agency, will have authority to establish priorities for the use of the State revolving loan fund. This is applicable to Wyoming, which does not have primacy.

This amendment has been cleared by both sides of the aisle, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

So the amendment (No. 3073) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3074

Mr. KEMPTHORNE. Mr. President, I send to the desk an amendment on behalf of Senator BOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. BOND, proposes an amendment numbered 3074.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, line 22, insert: "except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified".

Mr. KEMPTHORNE. Mr. President, this amendment clarifies that the Administrator may grant up to a 2-year extension to a State that needs additional time to issue drinking water standards in compliance with this act. This authority is discretionary. States must show that the extension is necessary and justified.

This amendment also has been cleared on both sides of the aisle. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

So the amendment (No. 3074) was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3075

(Purpose: To require that the needs of Native villages in the State of Alaska for drinking water treatment facilities be surveyed and assessed as part of the State survey and assessment)

Mr. KEMPTHORNE. Mr. President, I send to the desk on behalf of Senator MURKOWSKI an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE], for Mr. MURKOWSKI, for himself, Mr. STEVENS, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS and Mr. REID, proposes an amendment numbered 3075.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 3, before the period, insert "(including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))".

Mr. KEMPTHORNE. Mr. President, this amendment simply clarifies that the needs of Native Alaska villages will be counted for purposes of determining the State of Alaska's share of the State revolving loan fund.

This amendment also has been cleared on both sides of the aisle, and I ask for its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

So the amendment (No. 3075) was agreed to.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the amendment reflect that it is both Senator MURKOWSKI and Senator STEVENS as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3074, AS MODIFIED

Mr. CHAFEE. Mr. President, I ask unanimous consent that amendment No. 3074, previously agreed to, be modified with the changes I have sent to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3074), as modified, is as follows:

On page 112, line 2, before the first semicolon, insert the following: "except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified".

Mr. CHAFEE. Mr. President, the Senator from New York, Senator MOYNIHAN, has long been a driving force in attempting to have the Environmental Protection Agency set its priorities based on good science. He is the author of a bill to accomplish this. That bill was the basis for section 28 in the legislation that we are considering today.

Although we have agreed to drop section 28 from this bill, I want to assure the Senator from New York that we will continue to work with him and other interested Senators on this matter.

Personally, I have agreed with Senator MOYNIHAN that because he was generous enough and gracious enough to agree to the dropping of section 28, that as chairman of the Environment and Public Works Committee I will present to the committee section 28 as a freestanding bill. We have agreed we will have a hearing on this, and I will seek to have legislation approved by the committee as quickly as possible.

In addition, Senator JOHNSTON has some views on this matter, and we would invite him to testify at that hearing. My goal would be to hold a hearing in the next few weeks, and my hope is we could proceed to report a new freestanding bill shortly thereafter.

Mr. President, earlier I presented an amendment on behalf of Senator DOMENICI in connection with providing assistance to those villages located on the United States-Mexican border known as colonias. I ask unanimous consent that Senators KYL and FEINSTEIN be added as original cosponsors to Senator DOMENICI's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, in the 1994 elections, Americans demanded a smaller, smarter Federal Government and a more rational, cost-effective system of regulation. While Americans do not want to compromise on public health protection, they do want an assurance that the public health and environmental protection dollars are being spent wisely. That is why Federal and State Governments must prioritize and target scarce resources toward reducing health threats based on actual or likely risks. This concept makes sense and is supported by public health agencies as well as the scientific community.

There are several environmental statutes that, although they were enacted with the best of intentions, have been unworkable in their implementation and enforcement—the Safe Drinking Water Act being one of them. No one disputes the importance of preserving this public health statue. However, there are reforms that need to be made. At the same time, this Congress is not here to gut any environmental laws, as some national environmental organizations would have the public believe—our goal is to make them work more effectively for the benefit of all our citizens.

When we talk about the issue of unfunded Federal mandates, the Safe Drinking Water Act is regarded by many State and local governments as the king of unfunded mandates. It is particularly burdensome on economically distressed communities and those with a small or diminishing tax base.

While the issue of Federal mandates is not new, the level of concern among municipal governments has risen dramatically in recent years, and with good reason. According to a report by the Congressional Budget Office, the number of Federal mandates is increasing while Federal aid to State and local governments for categories other than welfare has been falling on a per capita basis since 1978. Contributing to the mandate burden is the insufficient flexibility in Federal regulations.

Last year's Safe Drinking Water bill represented a major improvement over existing law, especially through the elimination of the arbitrary requirement that EPA regulate 25 contaminants every 3 years. This year's proposed modifications, however, fine tune the statue's ability to achieve congressional objectives of providing more flexibility and authority to State and local governments, lessening the burden of Federal mandates and prioritizing resources according to risk—thereby achieving greater public health protection.

I support the efforts of Senators KEMPTHORNE and CHAFEE in reaching an agreement with other committee members on a Safe Drinking Water reform bill. I have been closely involved in negotiating many of its provisions, including: a more reasonable radon standard that will save New England water suppliers and their ratepayers millions of dollars without compromising public health; and the authorization of five small system water technology centers at academic institutions around the country to assist in developing and testing affordable treatment technologies for small systems. One of these centers I hope will be established at the University of New Hampshire, which has extensive knowledge and experience in water technology.

So today, Mr. President, I am pleased that the Senate is giving approval of these much needed reforms to the Safe Drinking Water Act. This bill received the unanimous support of the Environment and Public Works Committee, of which I am a member, as well as the coalition representing State and municipal government and public water supply community. I now urge the House to act expeditiously on its reauthorization bill so that our communities can soon receive the regulatory relief and financial assistance they need.

AMENDMENT NO. 3076

(Purpose: To strike the provisions with respect to comparative risk assessment)

Mr. CHAFEE. Mr. President, I just referred to the fact that we would be dropping section 28 from the bill in accordance with an agreement with Senator MOYNIHAN and others.

I now send to the desk an amendment to accomplish that, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3076.

Beginning on page 179, line 16, strike section 28 of the bill and renumber subsequent sections accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3076) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that there be 40 minutes equally divided on the Boxer amendment, community right to know, and following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the Boxer amendment without any intervening action or amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Tom Irvin, a legislative fellow in my subcommittee, be permitted privileges of the floor during my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 20TH ANNIVERSARY OF IDEA

Mr. FRIST. Mr. President, I rise to acknowledge the 20th anniversary of the Individuals With Disabilities Education Act [IDEA].

It is important to pause today and recognize the impact that this law has had on the lives of millions of children with disabilities and their families during the last two decades. Through this law we deliver on a timeless simple promise—every child with a disability shall have a free appropriate public education—no more, no less.

The Senate Subcommittee on Disability Policy, which I chair, is involved in the reauthorization of IDEA. As the new chairman of the subcommittee, I wanted to get the facts before we began the reauthorization process. The subcommittee held four hearings on the law in May and July of this year. The first hearing on May 9, which I cochaired with my friend from California, Mr. CUNNINGHAM of the other body, was a joint congressional hearing on the 20th anniversary of IDEA.

During the course of that hearing we heard from Members who were original cosponsors of the legislation in 1975, judges and attorneys involved with the landmark court cases that served as catalysts for IDEA, and former congressional staff and advocates for children with disabilities, who facilitated its historic passage.

That hearing sent a valuable message to students with disabilities, their families, and educators. Members of Congress have a longstanding interest in assuring a free appropriate public education and early intervention services for infants, toddlers, children, and youth with disabilities. Designing and sustaining the Federal role in assisting States with these responsibilities is founded on bipartisan cooperation.

There are many challenges that face America's young people: What to choose for a life's work, how to evaluate advice, how to judge one's own progress, and how to define personal satisfaction and happiness. Their approach to these questions will be colored by the behavior of adults around them. Do we celebrate individual abilities and differences? Do we encourage cooperation and collaboration in school? Do we respect and recognize the opinions of young people? Do we promote goal setting based on interests and abilities?

How we answer these questions with regard to young people with disabilities is a barometer. If young people with disabilities are exposed to the experiences of their peers, if we help them become a valued member of their peer group, if we take into account their choices, and if we help them become the best they can be, they and their nondisabled friends learn a valuable lesson. They learn that adults care, that we are fair, and that we can be trusted.

My good friend from Iowa and I released the first draft of the authorization bill for IDEA on November 20. As we developed the draft, we were always conscious of these young people and their future.

We have spent many months reading and talking to people about how to best serve children with disabilities through IDEA. Five major principles influenced our drafting efforts.

First, children with disabilities and their families should be the central focus of our drafting efforts.

Second, if a provision in IDEA works, don't undo it.

Third, add incentives that encourage schools to serve children, based on needs, not because of disability labels.

Fourth, add incentives that encourage and prepare schools to include children with disabilities in schoolwide innovation, reform efforts, and assessments of student progress.

Fifth, clearly link discretionary programs to the State grant programs, so that discretionary grants help educators educate children with disabilities and help families contribute in meaningful ways to the educational process of their children.

We have done what we set out to do. We have crafted a bill that will take us into the next century, a bill that celebrates the legacy established 20 years ago today, a bill that gives parents and educators the tools they need to help young people with disabilities succeed, and a bill that delivers on that timeless simple promise—a free appropriate public education for each child with a disability.

Such an education is an investment in people whose hopes, opportunities, and achievements are dependent on us. As we proceed with the reauthorization process, I urge my colleagues to join me in celebrating a law that works, a law that endures, a law that is most necessary. Although the difference it has made may be measured in dollars and judged in terms of children served, its impact is more pervasive, more powerful. Services it funds have lead to words read, concepts understood, steps taken, and words spoken—often for the first time. As such experiences are repeated, young people with disabilities develop pride and increased confidence in their achievements. IDEA is definitely a law worth recognizing, celebrating, and preserving.

20TH ANNIVERSARY OF PUBLIC LAW 94-142, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975.

Mr. HARKIN. Mr. President, today marks the 20th anniversary of the signing of Public Law 94-142, the Education for All Handicapped Children Act, now known as Part B of the Individuals with Disabilities Education Act [IDEA].

On that fall day two decades ago, we literally changed the world for millions of children with disabilities. At that time, over 1 million children with disabilities in the United States were excluded entirely from the public school system, and more than half of all children with disabilities were not receiving appropriate educational services.

On that day, we exclaimed that the days of exclusion, segregation, and denial of education of disabled children are over in this country.

On that day we sent a simple, yet powerful message heard around the world: disability is a natural part of a child's experience that in no way diminishes the fundamental right of a disabled child to receive a free and appropriate public education.

On that day, we also sent a powerful message that families count and they must be treated as equal partners in the education of their children.

On that day we lit a beacon of hope for millions of children with disabilities and their families.

Since the enactment of Public Law 94-142, considerable progress has been made in fulfilling the message that was conveyed by the Congress in 1975.

Today, 20 years later, every State now ensures a free appropriate public education to all children with disabilities between the ages of 3 and 18, and most States extend that provision through age 21. Over 5 million children with disabilities are now receiving special education and related services. And all States now provide early intervention services to infants and toddlers with disabilities from birth through age two and their families.

Today, the beacon of hope is burning bright. As one parent from Iowa recently told me:

> Thank God for IDEA. IDEA gives us the strength to face the challenges of bringing up a child with a disability. It has kept our family together. Because of IDEA our child is achieving academic success. He is also treated by his nondisabled peers as "one of the guys." I am now confident that he will graduate high school prepared to hold down a job and lead an independent life.

In May, Danette Crawford, a senior at Urbandale High School in Des Moines testified before the Disability Policy Subcommittee. Danette, who has cerebral palsy, testified that:

> My grade point average stands at 3.8 and I am enrolled in advanced placement courses. The education I am receiving is preparing me for a real future. Without IDEA, I am convinced I would not be receiving the quality education that Urbandale High School provides me.

Mr. President, these are not isolated statements from a few parents in Iowa. They are reflective of the general feeling about the law across the country. The National Council on Disability [NCD] recently conducted 10 regional meetings throughout the Nation regarding progress made in implementing the IDEA over the past 20 years. In its report, NCD stated that "in all of the 10 regional hearings * * * there were ringing affirmations in support of IDEA and the positive difference it has made in the lives of children and youth with disabilities and their families." The report adds that "all across the country witnesses told of the tremendous power of IDEA to help children with disabilities fulfill their dreams to learn, to grow, and to mature."

Anniversaries are a time to celebrate; but they are also a time to reflect. So, as we look back on the enactment of IDEA, we must also step back and ask some basic questions: Has the IDEA resulted in full equality of educational opportunity for all children with disabilities? Should we be satisfied with the educational outcomes we are achieving; can we do better?

From the four hearings held by the Subcommittee on Disability Policy, it is clear to me that major changes in IDEA are not needed nor wanted. IDEA is as critical today as it was 20 years ago, particularly the due process protections. These provisions level the playing field so that parents can sit down as equal partners in designing an education for their children.

The witnesses at these hearings did make clear, however, that we need to fine-tune the law, in order to make sure that children with disabilities are not left out of educational reform efforts that are now underway, and to take what we have learned over the past 20 years and use it to update and improve this critical law.

Based on 20 years of experience and research in the education of children with disabilities, we have reinforced our thinking and knowledge about what is needed to make this law work, and we have learned many new things that are important if we are to ensure an equal educational opportunity for all children with disabilities:

For example, our experience and knowledge over the past 20 years have reaffirmed that the provision of quality education and services to children with disabilities must be based on an individualized assessment of each child's unique needs and abilities; and that, to the maximum extent appropriate, children with disabilities must be educated with children who are not disabled and children should be removed from the regular educational environment only when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

We have also learned that students with disabilities achieve at significantly higher levels when schools have high expectations—and establish high goals—for these students, ensure their access to the general curriculum—whenever appropriate—and provide them with the necessary services and supports. And there is general agreement that including children with disabilities in general State and districtwide assessments is an effective accountability mechanism and a critical strategy for improving educational results for these children.

Our experience over the past 20 years has underscored the fact that parent participation is a crucial component in the education of children with disabilities, and parents should have meaningful opportunities, through appropriate training and other supports, to participate as partners with teachers and other school staff in assisting their children to achieve to high standards. And we also know how critical it is for school administrators to have the tools they need to ensure school environments that are safe and conducive to learning.

There is general agreement today at all levels of government that State and local educational agencies must be responsive to the increasing racial, ethnic, and linguistic diversity that prevails in the Nation's public schools today. Steps must be taken to ensure that the procedures used for referring and evaluating children with disabilities include appropriate safeguards to prevent the over- or under-identification of minority students requiring special education. Services, supports, and other assistance must be provided in a culturally competent manner. And greater efforts must be made to improve post-school results among minority students with disabilities.

The basic purposes of Public Law 94-142 must be retained under the proposed reauthorization of IDEA: To assist States and local communities meet their obligation to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet the unique needs of these children and enable them to lead productive independent adult lives; to ensure that the rights of children with disabilities and their parents are protected; and to assess and ensure the effectiveness of efforts to educate children with disabilities.

We also need to expand those purposes to promote the improvement of educational services and results for children with disabilities and early intervention services for infants and toddlers with disabilities—by assisting or supporting systems change initiatives by State educational agencies in partnership with other interested parties, coordinated research and personnel preparation, and coordinated technical assistance, dissemination, and evaluation, and technology development and media services.

The progress that has been made over the past 20 years in the education of children with disabilities has been impressive. However, it is clear that significant challenges remain. We must ensure that this crucial law not only remains intact as the centerpiece for ensuring equal educational opportunity for all children with disabilities, but also that it is strengthened and updated to keep current with the changing times.

In closing, Mr. President, I would like to quote Ms. Melanie Seivert of Sibley IA, who is the parent of Susan, a child with Downs Syndrome. She states:

> Our ultimate goal for Susan is to be educated academically, vocationally, [and] in life-skills and community living so as an adult she can get a job and live her life with a minimum of management from outside help. Through the things IDEA provides * * * we will be able to reach our goals.
>
> Does it not make sense to give all children the best education possible? Our children need IDEA for a future.

Mr. President, IDEA is the shining light of educational opportunity. And, on this the 20th anniversary of the IDEA, we in the Congress must make sure that the light continues to burn bright. We still have promises to keep.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE DRINKING WATER ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. THOMAS. Mr. President, we are in the process of talking about the Safe Drinking Water Act now, I understand?

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. Good. I would like to do that.

Mr. President, I want to speak in behalf of this bill. I think it is one that is very important to all of us, certainly important to my State. I congratulate Senator KEMPTHORNE and Senator CHAFEE and Senator BAUCUS for the hard work and long time that has gone into it. This is an important bill. It has been very long in coming. Last year in the House we worked on this bill. I think it reflects a good deal of thoughtful consideration. Therefore, I believe it deserves the support of Members of this Senate.

It has been an inclusive process in which many people with many interests have been involved. It is important that be the case. We are talking here about a program that affects us all over the country, a country in which the effects are quite different. Certainly some of the small towns in Wyoming have different problems than Pittsburgh or Los Angeles, and one of the efforts we have to make is to make it flexible enough to reflect that. I think this bill does that. Overregulation, certainly, has been on the minds of most people. It is much on the minds of the people I talk to in Wyoming. People are weary of the top-down kinds of regulations, that one-size-fits-all sort of thing. It is difficult to deal with that. I think this bill attempts to do that and does so in a very effective way.

The Safe Drinking Water Act, as it has been, has been an example of the old approach, regulating substances that do not even occur in drinking water and do not pose a risk in particular areas. I always think of the efforts we made in Pinedale, WY, which has a water supply. There is a very deep lake that is close. Even though the testing would show that water was of excellent quality, they were, at least ostensibly, required to invest a great deal of their taxpayers' money to do some things that probably were not necessary.

So people have asked for change and a new direction. The principle guiding this change is common sense. That is what I think we seek to do here, and the sponsors of the bill have done so, I think, successfully. It injects much-needed common sense into the regulatory process while doing a better job at protecting public health.

The current mandate that 25 contaminants be regulated every 3 years regardless of whether there is a risk is repealed. The risk assessment is inserted into the process. States' roles are increased. Water systems are able to focus their efforts and their resources monitoring contaminants that actually occur in the systems. And that is good. In a word, the bill shatters the status quo.

I again thank the sponsors for their attention to a State like Wyoming, which is different—small towns, different sources. So we have worked closely with Senators KEMPTHORNE and CHAFEE to ensure that our communities did have the opportunity to take advantage of the funding mechanisms and the regulatory relief that this bill provides. I thank them for that.

In addition, the small systems, as defined in this bill as those serving under 10,000, will be given special consideration when seeking ways to comply with the regulations.

The bill is not perfect, of course, and there has been a great deal of effort going on each day, and some things needed to be changed. But overall the bill is an excellent one, and is an effort that will reduce the cost to local communities, municipalities but allowing them to protect effectively.

So I urge my colleagues to support the bill. I hope the other body will act quickly, and the President will support our efforts. This bill is needed and we ought to move forward, and I urge that.

Mr. President, thank you. I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Wyoming for his statement on the floor, and I also thank him for his great support in the

Environment and Public Works Committee. We are very happy to have him as a cosponsor, and his addition to that committee on behalf of the voices of small town America and rural communities is extremely helpful. We thank him.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I also want to thank the distinguished Senator from Wyoming for his kind comments and for his help on this legislation. He is a very valuable member of our committee, and we appreciate everything he has done to help with this.

AMENDMENT NO. 3077

Mr. CHAFEE. Mr. President, on behalf of myself, Senators KEMPTHORNE, BAUCUS, REID, D'AMATO, and MOYNIHAN, I send to the desk a printed amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE), for himself, and Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. D'AMATO and Mr. MOYNIHAN proposes an amendment numbered 3077.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 168, line 7, strike "GROUND WATER PROTECTION" and insert "WATERSHED AND GROUND WATER PROTECTION".

On page 173, after line 7, insert the following:

"(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

"(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

"grants for state and local programs

"(2) Section 1443 (42 U.S.C.) is amended by adding at the end thereof the following:

"(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—

"(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

"(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

"(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

"(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administration by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of stormwater runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning or governing organizations.

In certifying projects to the Administration, the State of New York shall give priority to those monitoring and research projects that have undergone peer review.

"(C) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

"(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purpose of providing assistance to the State of New York to carry out paragraph (2).".

On page 171, line 21, strike "20,000,000" and insert "15,000,000".

On page 171, line 24, strike "35,000,000" and insert "30,000,000".

On page 172, line 3, strike "20,850,000" and insert "15,000,000".

On page 2, in the material following line 6, strike "Sec. 25. Ground water protection." and insert "Sec. 25. Watershed and ground water protection.".

Mr. CHAFEE. Mr. President, this authorizes the expenditure of $15 million a year for 7 years to the year 2003 for the protection of the watershed of the city of New York. This is a very unusual approach that they are trying in New York in which, instead of building very, very expensive water treatment facilities that would amount to more than $1 billion, they are trying to protect the watershed; in other words, the headwaters of the rivers that provide the waters for the city of New York up in the Hudson River Valley.

This provides authorization for $15 million for 7 years to be of assistance in that effort.

As I say, this is an amendment by both New York Senators, Senators MOYNIHAN and D'AMATO. I think it is a good amendment, Mr. President.

Mr. D'AMATO. Mr. President, on behalf of myself and Senator MOYNIHAN, I wish to thank Senator CHAFEE and Senator KEMPTHORNE for accepting this crucial amendment—an amendment that will protect the drinking water of 9 million persons.

New York City is home to our Nation's largest unfiltered surface water supply delivering 1.5 billion gallons per day. It is also, arguably, our Nation's best drinking water. To many, it would seem implausible that our Nation's largest city could have such high quality water and not require extensive filtration. However, extensive measures have been taken over the years to ensure the purity of New York City's water.

New York City's watershed actually consists of three distinct geographic areas that cover some 1,900 square miles in 8 counties in New York State—an area approximately the size of Rhode Island. Due to an act of the New York Legislature in 1907, and further amendments in 1953, New York City has been able to regulate activities that affect water quality in the watershed area. This capability caused its share of suspicion among farmers, homeowners, and local elected officials in the upstate watershed. As one might suspect, these individuals did not necessarily appreciate the city having a say as to how they could utilize their land.

With development creeping out of the metropolitan area and into the watershed area, many became concerned about the consequences of such growth on water quality. Echoing that concern, under the auspices of the 1986 Safe Drinking Water Act amendments, the EPA required New York City in 1989 to either further protect the watershed or filter. It was apparent that enhanced protection efforts would be necessary if the water supply for the city was to be preserved without spending billions of dollars to build filtration plants. This set in motion the impetus to negotiate a filtration avoidance plan that would meet the approval of the EPA, provide safe drinking water to New York City residents, and preserve the rights of upstate New Yorkers to prudently utilize their land. Until recently, the ability to balance all of these needs had not proven entirely successful and watershed protection efforts stalled.

In early November, though, New York Governor George Pataki announced what many had thought impossible. In an unprecedented agreement, the State of New York, the city of New York, environmentalists, local elected officials within the watershed and the Environmental Protection Agency all gave their approval to a plan to protect the New York City watershed and avoid large-scale filtration. Under the terms of the agreement, a total of $1.2 billion will be spent by the city of New York over the next 15 years for water quality protection programs while upstate communities will continue to be able to grow and prosper in environmentally responsible ways.

Specifically, the city expects to increase its landholdings in the watershed threefold spending a minimum of $260 million for purchases in the most sensitive areas from willing sellers. Also, the city will spend close to $400 million on water quality protection programs in the watershed communities in addition to the programs required to be undertaken by EPA for the city to avoid filtration. Also, a new regional watershed council will be created to serve in an advisory role. The city will continue its plans to spend over $600 million in already committed funds to build a filtration plant for the Croton watershed. Finally, the New York State Department of Health will approve and promulgate new watershed regulations to replace the existing outdated regulations.

By undertaking these activities, the city of New York will avoid the construction of a filtration system for the Catskill/Delaware watershed costing upwards of $8 billion. The construction of such massive filtration plants would have likely dramatically increased water payments for each household in New York City.

While this historic agreement will lay the groundwork for the protection of New York's watershed, it will only be successful if effective and sophisticated monitoring is in place. It would not be fiscally wise to spend over $1 billion without an ability to determine whether the protection efforts are working.

To address this concern, Senator MOYNIHAN and I have offered this amendment that will allow the EPA to spend up to $15 million per year for 7 years in the State of New York in order to monitor and implement a host of watershed protection programs in the New York City watershed. Some of the projects that will be undertaken and in need of Federal assistance are: a phosphorus offset program designed to reduce the total amount of phosphorus in sensitive watershed basins; wastewater diversion; wastewater micro-filtration treatment; enhanced stormwater control activities; and agricultural and forestry best management practices. Federal funding could be utilized for up to 35 percent of a project's total cost. Should water quality decline, the EPA will have the ability to demand appropriate changes.

Our amendment is a perfect complement to the efforts being undertaken in New York State to protect the watershed in a scientifically sound and fiscally responsible manner. Under our amendment, scientists will be better able to monitor the quality of the drinking water of some 9 million people and prevent degradation of this vital watershed before it becomes a matter of concern. This will be able to be done at a spend-out rate of $12 to every $1 spent by the Federal Government.

I am pleased that the managers of this bill agree with the need to protect this precious resource. With the passage of this amendment, the State of New York will be given an opportunity to further protect its valuable watershed. I am confident that the efforts undertaken in New York will be able to serve as a model for similar activities in other parts of the country.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 3077) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the bill we have before us provides an excellent example of how good people, working together, can find a way to balance safety and cost concerns. I commend the bipartisan effort that developed the Safe Drinking Water Amendments Act of 1995. I also rise to thank these same chairmen and ranking members for agreeing to the amendment that Senator GORTON and I proposed regarding the city of Seattle's water supply that was approved earlier today.

Safe drinking water is probably the single most important thing a government can supply its people. This bill, S. 1316, accomplishes that task by giving the Environmental Protection Agency flexibility to set drinking water standards based on peer-reviewed science. It encourages State and local governments to become full partners in the development, implementation, and enforcement of drinking water regulations. It targets our scarce public resources toward greater health risks and away from more trivial risks.

S. 1316 will be particularly helpful for small systems serving fewer than 10,000 people. These small systems will be eligible for variances that allow them to use affordable treatment technology. While regulators may grant variances, S. 1316 also authorizes consumers to participate in the decision to grant a variance and requires variance renewals every 5 years. I have heard from many small communities about how burdensome the current Safe Drinking Water Act requirements are. I share their enthusiasm for the flexibility and innovation contained in this bill.

I also want to draw my colleagues' attention to the amendment Senator GORTON and I proposed regarding the city of Seattle water supply. With our amendment, Seattle will be able to provide its customers safer water, at a lower cost, and with a better taste than it could have under current filtration requirements. Our amendment will allow local governments that have undeveloped watersheds with a consolidated ownership to use a process other than filtration if that alternative ensures significantly greater removal of pathogens.

The Seattle Water Department has concluded that ozonation, a process commonly used in Europe, may provide 100 times more protection from Cryptosporidium and other pathogens than would a filtration system. Should ozonation deliver as much protection as it promises, the people of Seattle will have safer water and will pay $130 million less for that safety than they would have had to pay for a Cedar River watershed filtration system.

Mr. President, like all bills that pass through the process of compromise and negotiation, S. 1316 is not perfect. However, it is a good bill that goes a long way toward solving some of the more troublesome aspects of the current Safe Drinking Water Act. This bill offers responsible reform, flexibility, and balance. I have heard from a number of local governments urging my full support of this bill. I intend to offer that support, while at the same time voting in favor of stronger right-to-know provisions.

Again, I thank the chairmen and ranking members for their hard work on this bill and for accepting Sen. GORTON's and my amendment.

SEATTLE'S WATER SUPPLY

Mr. President, I rise in support of the Safe Drinking Water Amendments Act of 1995 and commend the managers on their excellent work. In addition, I would like to address the amendment that Senator GORTON and I proposed, which was accepted as a managers' amendment, that will provide the people of the city of Seattle with quality drinking water at an affordable price. Like this bill before us, our amendment seeks to protect our citizens from unnecessary costs while providing safe, high quality drinking water.

Our amendment requires the EPA to amend its drinking water protection criteria to allow a State to establish treatment requirements other than filtration where a watershed is uninhabited, has consolidated ownership and has controlled access. Our amendment allows an alternative to filtration where EPA determines that the quality of the source water and alternative treatment requirements established by the State ensure significantly greater pathogen removal efficiencies than would a combination of filtration and chlorine disinfection.

Mr. President, the Cedar River watershed is unique. The city of Seattle will own 100 percent of this 90,490 acre watershed by the end of the year. The city controls access to and activity in this watershed. It practices model land stewardship, supplying a wide variety of public values, including healthy populations of wildlife. In short, it is a crown jewel. It is the type of water supply all major cities should aspire to have.

The watershed met all of the criteria for remaining an unfiltered supplier for the first 18 months after passage of the SDWA amendments of 1986. However, because of a severe drought and an abundance of wildlife, the watershed exceeded one of the unfiltered water criteria, that of fecal coliform. After receiving notification of noncompliance, the Seattle Water Department began investigating filtration and nonfiltration systems to ensure it would satisfy requirements of the SDWA.

The water department discovered that a process widely used in Europe, called ozonation, would reliably remove more cryptosporidium and giardia—the pathogens of most concern—than would filtration. An ozonation facility would inactivate 99.999 percent of cryptosporidium, while filtration would inactivate only 99.9 percent. In simple terms, ozonation can be economically designed to provide two orders of magnitude, or 100 times greater protection than filtration. Not only is ozonation more effective against the most serious threats to the Seattle water supply, but it costs less and makes the water taste better.

The Seattle Water Department's studies indicate that an ozonation plant would cost its customers $68 million, while a filtration plant would cost $198 million. While Seattle water officials believe that the Cedar River water may require filtration sometime in the future, the system has a number of other more pressing needs—such as covering open, in-city reservoirs and installing a filtration plant in the Tolt River watershed—that make ozonation the best course for today. The ozonation plant will be built in such a way as to be compatible with a filtration plant should the need for one arise in the future.

Mr. President, this amendment offers the city of Seattle needed flexibility so that it can provide its customers the safest water at the lowest cost in the very near future. It is worth re-stating that this filtration flexibility may be given only where a watershed is undeveloped and, most importantly, the alternative to filtration proves to ensure significantly greater pathogen removal efficiencies. Delivering safe drinking water is the fundamental goal of this amendment and this bill.

Again, I thank the bill's managers for their assistance and support on our amendment and in developing the comprehensive, balanced Safe Drinking Water Amendments Act of 1995.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 5 minutes without the time being charged to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. CAMPBELL. Mr. President, I come to the floor of the Senate this evening to address an issue which is of great concern to this Nation and to many of my colleagues—and that is Bosnia. This past Monday, the President took his proposal to the American people and he appears to have listened to the majority of Americans by coming forward and stating his case for the United States' involvement in Bosnia.

Although the President was wise to come to the American people, I like many of my colleagues, cannot support the President's decision to send troops because I do not know that he has fully explained what "American values" are at stake in Bosnia.

In my home State of Colorado, I have five offices. Without exception, the phones have been ringing and my constituents have been voicing their concerns, their fears, their anger, and their opposition to the President's proposal. Today they see no threat to our national security or to our way of life, although they do have great empathy for the people in Bosnia.

Bosnia has proven to be a quagmire time and time again. I, like many of my colleagues, do not want to see our troops placed in harm's way in this region. We surely do not want to repeat the problems that we had in either Vietnam or Somalia.

I believe the new-found peace in Bosnia is untenable and cannot be guaranteed. I believe there are 120,000 Serbs over there who basically said the same thing.

It is foolish for us to believe that there will not be mission changes during our proposed 12-month involvement in the region. The environment in Bosnia will continue to change as time goes on, and we cannot predict what will be asked of us during the next 12 months. What starts out to be a peacekeeping mission will certainly became a nation-rebuilding mission at the expense of the American taxpayers.

I do not believe the President fully appreciates the fact that you cannot, under the best of circumstances, give a definitive end date for involvement in that military mission.

By nature, military missions are unpredictable. We have no way to determine how long it will take before peace is freestanding in the region. In 12 months, the Bosnian peace may be at a pivotal stage so that we cannot pull out, we cannot bring our troops home, and that is what I fear the most.

That region has a history of internal struggles. The country is torn and has always been torn by deeply held religious beliefs, and we cannot socially engineer a peace. Peace will never come easily to this region, and there are still those today who oppose the agreement.

I am most concerned that the United States will be making up 30 percent of the NATO force in addition to all of the air support and the logistics of the mission. This is far more than any of the other 15 NATO members. As a result, we will also be contributing a large part of the funds for this mission. In this time of fiscal restraint of asking everyone to do more with less, I cannot understand how the President can ask us to ante up for this commitment, continue to insist on increased levels of domestic spending, and still work to balance the budget in 7 years as he has indicated he would.

I support our treaty obligations to NATO. However, in this instance I feel our obligations simply do not outweigh our concerns for our American youngsters that we have to send into harm's way.

We all support the efforts to end the atrocities and suffering. However, I do not believe that we have any vital national security interests in that region, as we did in the Gulf war. I also believe that we have a humanitarian interest in the region, but I do not think the American people solely support the humanitarian rationale as justification for sending our ground troops into Bosnia. Certainly Coloradans do not.

Above all, we cannot afford to forget the reality of the situation we are sending our troops into: A newly founded and untenable peace. In that environment, there will undoubtedly be continued hostilities. I am absolutely convinced that we will have American dead by Christmas, if not by hidden enemy, certainly from one of the 6 million buried mines that still exist.

The parents and families of these Americans we are asking to go to Bosnia are those the Congress and the President must answer to. I believe that we should be most thoughtful before this administration puts us in a position where we might have American youngsters dead by Christmas.

With that, I yield the floor, Mr. President.

SAFE DRINKING WATER ACT AMENDMENTS OF 1995

The Senate continued with the consideration of the bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that following the use or yielding back of the time on the Boxer amendment, the amendment be laid aside and there be 10 minutes equally divided between the two managers to offer a series of cleared amendments, and following the disposition of those amendments and the expiration of time, the Senate proceed to vote on or in relation to the Boxer amendment, to be followed immediately by third reading and final passage of S. 1316, as amended, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Reserving the right to object, and I shall not, I just want to make sure, since there will be intervening discussion between the explanation of my amendment and the vote, I ask that we could have a minute on each side just before the vote to restate it.

Mr. CHAFEE. I say this to the distinguished Senator. If we are going to vote and people know we are going to go to final passage right after this, frankly, if we have nothing to do, no cleared amendments, I see no reason that there even would be 10 minutes. So let us see how it works out. I will say this to the Senator. If there is a long intervening time, I will make sure she gets a minute to explain her amendment.

Mrs. BOXER. That is all I need. I will certainly trust my chairman, whom I respect very much, as I respect the ranking member and subcommittee chair. And if the Senators want, I can send up the amendment and we can start the clock running on the 15 minutes per side.

Mr. CHAFEE. All ready to go. I thank the Senator.

AMENDMENT NO. 3078

Mrs. BOXER. Mr. President, under the previous order, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 3078.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 20, Page 140, line 11—add at the end the following new subparagraph:

(F) CONSUMER CONFIDENCE REPORTS.—

(i) IN GENERAL.—The Administrator shall issue regulations within three years of enactment of the Safe Drinking Water Act Amendments of 1995 to require each community water system to issue a consumer confidence report at least once annually to its water consumers on the level of contaminants in the drinking water purveyed by that system which pose a potential risk to human health. The report shall include, but not be limited to: information on source, content, and quality of water purveyed; a plainly worded explanation of the health implications of contaminants relative to national primary drinking water regulations or health advisories; information on compliance with national primary drinking water regulations; and information on priority unregulated contaminants to the extent that testing methods and health effects information are available (including levels of cryptosporidium and radon where States determine that they may be found).

(ii) COVERAGE.—Subsection (i) shall not apply to community water systems serving fewer than 10,000 persons or other systems as determined by the Governor, provided that such systems inform their customers that they will not be complying with Subsection (i). The State may by rule establish alternative requirements with respect to the form and content of consumer confidence reports.

Mrs. BOXER. Mr. President, we have a very good bill before us. I for one am just delighted to see it come here. It has been very bipartisan. I commend the chairman, the ranking member, Senator KEMPTHORNE, and Senator REID, all of whom have worked so hard on this bill. I am particularly pleased, being a member of the Environment and Public Works Committee, that my biggest priority was taken care of in this bill, which involved assurance that our drinking water will protect the most vulnerable populations.

I had an amendment that did carry on this bill the last time it came before the body, and basically it makes sure that children, infants, pregnant women, and the chronically ill are not overlooked when we set standards. We know that more than 100 people who died as a result of drinking water in Milwaukee last year were from vulnerable groups such as children, the elderly, transplant patients, and AIDS patients. About 400,000 people in Milwaukee got sick as a result of contaminated drinking water. We hear very large numbers coming out of CDC, The Centers for Disease Control. One report that says 900 people die from contaminated tap water every year.

So, Mr. President, this is an important bill, and I am proud that we are here at this moment. I would also like to thank Senators CHAFEE and BAUCUS for agreeing to my amendment to authorize the Southwest Center for Environmental Research and Policy. It is very important. It is a consortium of American and Mexican universities that work to address environmental problems along the United States-Mexico border, including but not limited to air quality, water quality, and hazardous materials, and it is important to a lot of our States. San Diego State University is involved in it, New Mexico State University, University of Utah, University of Texas, Arizona State University as well. So that is my praise for this bill.

Mr. President, I think we need to do more. I think we should do more. I am very proud that the Democratic leader, Senator DASCHLE, has joined me in offering this community right-to-know amendment. It is supported by over 60 environmental groups and the Environmental Protection Agency, and I will at the end of my remarks ask that the EPA's letter be included in the RECORD so everyone can see it.

The American Public Health Association, League of Conservation Voters, Consumer Federation of America, League of Women Voters, Physicians for Social Responsibility, the Natural Resources Defense Council, the Sierra Club, the American Baptist Church, the United Methodist Board of Churches Society all support the Boxer-Daschle amendment.

Frankly, I am at a loss to understand why we do not just make this happen. I have great respect for my leaders on the committee. Perhaps they have negotiated a compromise they feel they do not want to disturb. But I cannot back off in terms of presenting it because I feel strongly about it. I believe the community has a right to know what is in the drinking water.

Mr. President, 89 percent of the American people are asking for this. They want more information about the quality of their drinking water.

It would ensure that consumers are informed about the levels of contaminants found in their drinking water once a year through the mail in an easy-to-understand explanation of what is in their water and what the health risks are, if any.

Mr. President, I ask that you let me know when I have used up 10 minutes of my 15 minutes of time.

The PRESIDING OFFICER. The Chair informs the Senator that the times were divided 20 minutes per side, not 15 minutes.

Does the Senator wish to be informed at 10 minutes remaining?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know, although the earlier agreement was 20 minutes on a side formally, we have agreed to 15 minutes. It may be presumptuous of me, but I ask unanimous consent that the earlier unanimous-consent agreement be modified so it is 15 minutes per side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask that the Chair inform me when I have used 10 minutes.

What is very important about this community right-to-know amendment is that we exempt small water systems that serve 10,000 persons or less. So we are mindful of not putting a burden on the small systems. We also allow the Governor to opt out as long as he explains why.

This is a national bill. Safe drinking water is a national priority; otherwise, we would not be here. So the argument that we should not tell the Governors what to do just does not fly. We are telling water systems what to do, we are setting safety levels, and all this does is say, "Let's also let the consumers know."

My amendment requires EPA to issue regulations within 3 years that would govern the implementation of this. The reason is, we want it to be very simple. The objective of the Boxer-Daschle amendment is not to inflict consumers with a complex table of chemicals they never heard of, nor to scare consumers about the quality of their water, but to let them know what they need to know.

Let me be specific. I have a new grandchild, and that grandchild is the most precious thing to me and to his family. When that grandchild visits Washington, DC, I am not sure if I should mix that formula with the tap water, because there has been an advisory of late to be careful.

I think it is important for people to know if they should, in fact, mix that formula with tap water. They should know, if they are concerned about an elderly person, whether the water is safe. I heard colleagues say, "Oh, it is too much information for people; too much. We don't want to load them down with pages of information."

Here is one report, a terrific one that comes out of Ohio where they show people what causes cloudy water, what causes rusty water. In other words, when you send out these things, it is an opportunity to put people's minds at ease. It is not just a question of frightening them. Is there lead in my drinking water? And then they show where the various plants are located, where the water comes from and the various chemicals that are in the water.

So if someone does have someone living with them who is part of a vulnerable population—be it an infant, be it a child under 6, be it a grandma, a grandpa who has some problem, be it a cancer victim, be it an AIDS victim—we would have an opportunity to know if, in fact, that water could harm them.

We have over 60 public interest, environmental, and public health groups supporting us, and I gave you just a few of those, and we will put the rest into the RECORD.

But I do believe that the Boxer-Daschle amendment will also benefit water suppliers because it will increase consumer awareness of how their local water system performs and what challenges that system faces as it tries to maintain water quality.

We have a water board in our home county, and they come to us once in a while and say, "You know, we have to increase your water rates."

"Why?"

If I know it is to make that water safer, if it is to make sure contaminants are taken out of the water, that is a plus for that water district, and there will be more support.

Currently, consumers are required to be notified only if a water supplier violates an enforceable standard. Consumers do not have to be told if their tap water contains common contaminants which are not regulated, such as cryptosporidium and radioactive radon. We know cryptosporidium kills people. We do not happen to have a standard established for cryptosporidium. Does that mean we should not let people know if it is in their water supply?

I certainly hope people will support this amendment because then consumers will know if cryptosporidium is in their water supply, at what level, and whether it is dangerous. And if they have a little child in the home or someone from a vulnerable population, they can act accordingly.

In the case of arsenic, an EPA-regulated contaminant, the current standard is being revised by the EPA because it is a weak standard that was set in 1942 before we knew that arsenic caused cancer. In the bill we are considering, the EPA will not have to issue a revised standard until the year 2001 and no enforceable standard until 2004. I believe consumers have a right to know whether or not the water they drink contains arsenic at levels that could be a potential risk to their health.

Why not let consumers know? Why treat people like they do not deserve to know or they will misuse the information? We are all adults. We deserve to know. We are paying money for that water. We ought to know what it contains.

Under current law, not even a crisis, an outbreak such as the 1993 Milwaukee cryptosporidium outbreak which killed over 100 people, not even a crisis forces water systems to warn consumers about the presence of dangerous levels of unregulated contaminants.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from California has 5 minutes.

Mrs. BOXER. Thank you, Madam President. I am going to withhold because I know my colleagues are going to make some terrific arguments against me, and I want to be ready to combat them, so I retain my time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I, unfortunately, must oppose this amendment, although I do appreciate the efforts of the Senator from California to work with the concerns that I had expressed on this. I truly do appreciate that.

I do not oppose this amendment because I believe that consumers should not have access to information about the safety of the tap water that they drink. Our bill already requires drinking water systems to give information to consumers of any health threats presented by drinking water and of any violations. These provisions ensure that consumers have access to information that they need to protect themselves, if that is necessary.

Let me just state for you, Madam President, what the bill specifically provides.

First, each water system is required to notify their customers within 24 hours of any violation of a drinking water standard that results in an immediate health concern.

Second, for all other violations of Federal drinking water standards and requirements, public water systems are required to notify their customers of those violations as soon as possible but within 1 year of the violation.

Third, and finally, the State and EPA are required to publish an annual report disclosing all violations by drinking water systems in the State. That report also must be made available to the public.

As has been pointed out, the State of California has in its system already a program very similar to what the Senator from California has discussed. Therefore, there is nothing to preclude a State from doing exactly what the Senator from California is saying she feels should be done, but it ought to be left to the prerogative of the States.

California has chosen to do so. There may be other States that will choose to do so, but why in the world should we have the Federal Government say that you must do this? We spent quite a bit of time earlier today talking about unfunded Federal mandates. We took S. 1316 and gave it to the Congressional Budget Office and said, "Please review this and score this and determine if, in any way, we are providing any new unfunded Federal mandates." Their letter came back and said, "No, you are not."

But with regard to this particular amendment, the Senator from California also sent to the Congressional Budget Office a question as to how much would it cost. The Congressional Budget Office came back and said the requirement nationwide would be between $1.5 to $10 million annually. That is an unfunded Federal mandate, and the $1.5 to $10 million annually could be used in tremendous opportunities by some of the small systems to achieve the standards that are necessary for the public health that we are trying to improve.

So for those reasons, Madam President, I respectfully have to oppose this amendment. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I am always very, very reluctant to oppose any amendment by the distinguished

Californian who is a member of our Environment and Public Works Committee, a very able member of that committee and contributes a great deal. So it is with some trepidation that I rise to differ with her views on this particular amendment.

It seems to me that this is not a necessary amendment, and, frankly, I do not think we should be adopting amendments that do not seem to have a necessity to them.

Now, as has been pointed out, in the legislation we have submitted, S. 1316, if one looks at the report of the committee on page 136, it starts setting forth there what are the requirements that we have regarding notice. And indeed, on page 137, under (D)(1), "Regulations issued under subparagraph (a) shall specify notification procedures for violations, other than the violations covered by subparagraph (c), and the procedures specify that a public water system shall provide written notice to each person served by the system by notice in the first bill prepared after the date of occurrence."

In other words, if there is a violation of the law, then it is required that notice be given. I think that is adequate. Madam President, as the distinguished chairman of the subcommittee, Senator KEMPTHORNE, just pointed out, there is a system for not only this notification, but if we want a more broad notification, then go ahead and do it. The States can pass such a law.

Indeed, let me just demonstrate here, if I might, a two-sided piece of paper which is, I suppose, something like 14 inches long, issued by the State of Maryland, pursuant to Maryland law, by the Patuxent and Potomac Water Filtration Plants. It is just unintelligible. I think this is what everybody is going to receive. Let me give an illustration. It says down here, "1-1, dichlorothane; 1-3, dichloropropane." That goes on to say that it deals with a number of micrograms per liter. It is not detected, it says, in Patuxent and in Potomac. Again, "maximum monthly averages not detected." And it goes on to say that there is no limit established up or down by EPA on this.

In other words, apparently, the Maryland law is that there must be close to 80 substances or potential contaminants that have to be notified. Anybody that receives this—99.9 percent of the people that receive it must say, "What is this?" and dispose of it in the wastebasket.

It seems to me that it is really an unnecessary expenditure. So, Madam President, I reluctantly oppose the amendment by the Senator from California on the basis that if some State wants it, go ahead and do it. That is their business. If they do not want to do it, then we have some protective provisions in the current law, as I have previously pointed out.

Mr. BAUCUS. Madam President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BAUCUS. Madam President, I will take 4 minutes. All of us greatly admire the Senator from California. I do not know any Senator, frankly, who is a stronger advocate for environmental protection than the Senator from California. She is very persistent and perceptive in her efforts to protect the environment. She has already said—and I think most Senators agree—that the bill before us is a very good safe drinking water bill. It sets very good—more than good, excellent standards—that apply to States around the country as they direct their systems to comply with certain standards and contaminant levels and so forth.

The amendment the Senator from California offers, I think, goes too far. Essentially, it says that what California is doing, issuing reports to each consumer with respect to a whole lot of information, now must apply to all States; that is, the Federal Government must adopt the same requirement. It is regulatory overkill.

Let me very briefly indicate some of the specifics that this amendment would require systems to provide to consumers. It would require reporting the source—I do not know whether this means groundwater, rivers, or whatever. It requires reporting on content, that could be most anything. The quality of the water requirement is vague. A multiworded explanation of the health implications of contaminants relative to national primary drinking water regulations is required. Even though the State and the system may be meeting all the standards, still consumers have to be notified as to the health implications of those contaminants—even though regulated. I am just touching the tip of the iceberg listing the requirements that must be given to consumers. The long and short of it is, if California or any State wants to, according to its own law, require a whole host of information about what the water contains, even though the system is meeting all the standards required by law, then let that State make that decision.

One reason we are here today writing this bill and making amendments to the Safe Drinking Water Act is because, under the 1986 amendments to the act, we unfortunately required systems, States, and the EPA to do way too much, to dilute its resources pursuing a lot of different efforts, instead of concentrating on the most egregious contaminants and problems and focusing priorities on the problems a system should meet to make sure the water is as pure as can be for the consumers.

If systems do what this amendment proposes, it would further dilute and distract resources. Systems would have to spend a lot of time trying to figure out what all this is, even though they are doing what is required of them and meeting the law.

I urge Senators to look and see what is in this amendment. I think they will realize that we should not be requiring all States to do something that one State may want to do. If a State chooses to do so, fine. This does not limit States from taking these actions. I do not think we should require all this additional information which, as the Senator from Rhode Island pointed out, is not going to be read. I know the interest groups will do a good job of filing lawsuits and doing whatever they want to do if a State system is not meeting standards. They should. I take my hat off to them. But we should not go overboard with a lot of red tape and bombard people with information they are not even going to read.

Mr. LAUTENBERG. Madam President, as the author the community right-to-know law that requires notification of the public of releases of toxics into the environment, I rise in support of the amendment of the Senator from California, Senator BOXER.

This amendment requires local water providers to notify their customers at least annually of the quality of their drinking water so they can properly monitor the water for possible health effects.

Madam President, shining the light on the behavior of corporations and governments has repeatedly led to significant environmental advances. When accidents, or discharges, or violations must be reported to the customers, quality improves. This has been proven dramatically in the case of the community right-to-know legislation.

The right-to-know law does not require a company to lower its use or emissions of any chemical one ounce. The right-to-know law was intended to notify neighbors about chemicals that were being discharged. Companies did not like the bad publicity.

In addition, the law brought to the attention of corporate executives the fact that expensive chemicals were leaving their facilities as waste, not product. In response to these reports, companies voluntarily instituted pollution prevention measures that have lowered toxic releases tremendously. Emissions from facilities have decreased 42 percent nationwide since 1989; a reduction of two billion pounds.

Virtually none of those reductions were required by federal law; they were voluntarily done by companies who found a better way to do business, encouraged by this law.

Senator BOXER's amendment is likely to have similar, positive effects. It will mean cleaner drinking water for consumers. It also will give individual Americans complete information about the quality and safety of their drinking water. This will allow consumers to decide for themselves whether they want to buy bottled water, or take other steps to protect themselves from unhealthy drinking water.

I urge support for this amendment.

Mrs. BOXER. I thank the Senator from New Jersey; he is the author of the community right-to-know law that requires notification to the public of releases of toxics in the environment. He strongly backs this amendment. He says, "This will allow consumers to decide for themselves whether they want to buy bottled water, or take other steps to protect themselves." This is life and death, Madam President.

Madam President, has all time expired on the other side?

The PRESIDING OFFICER. There is 3 minutes 30 seconds remaining.

Mrs. BOXER. I would appreciate it if they will take their time so I can finish the debate. It is my amendment.

Mr. BAUCUS. Madam President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from California has 5 minutes. The Senator from Rhode Island has 3 minutes 30 seconds.

Mrs. BOXER. I will retain 1 minute of my time, and I will speak for 4 minutes. First of all, I think the comments made by my colleagues are terrific, but they are not right.

Madam President, I have to make a number of points here. My colleague from Montana says, oh, what does this mean, and he holds up this amendment. This has been in operation in California for 6 years. Nobody ever asks what does it mean. Everyone thinks it is terrific, and everybody understands what it means.

In addition, we worked with the EPA because they had constructive suggestions. They worked with us on every word of this amendment.

My friend from Idaho makes a point that I would like to address. He says, "My God, we go a long way in this bill. You have to be told there is a violation if your water standard is in violation of the law."

I have to point out to my friend that in 1993 the GAO did a very important report entitled "Consumers Often Not Well-Informed of Potentially Serious Violations in their Water Supply." They concluded that 63 percent of violations were not reported at all. Of these, over half of the violations posed serious long-term health risks such as long-term cancer risk.

Now, that is GAO. That is not some environmental organization. That is an investigative arm of the Congress. The fact is, these violations more than half the time are not reported. I do not want to wait for there to be an outbreak of cryptosporidium and people die and then we notify them, "Boil your water."

I think people have a right to know on a regular basis what is in their water. I do not think it is in any way encroaching.

We are so clear: Systems that serve 10,000 persons or less are exempted from this. Governors can opt out by explaining why. And the cost, if you take the maximum cost, is 23 cents per household per year. Madam President, 23 cents per year to know if there is cryptosporidium in your water.

Just talk to someone who lost a loved one from cryptosporidium in the water supply. Would it be worth 23 cents a year? And, by the way, the Governor can opt out. So there is no unfunded mandate if the Governor can opt out.

The American Public Health Association wants to see this amendment become the law of the land. This is not extreme. This is a national safe drinking water act. National standards are set. We should be standing up here for the consumer, for taxpayers, for that water user who pays for that water, to have the information they need to keep their families safe.

The first time there is an outbreak of cryptosporidium, people will rush to this floor and say, "BOXER was right," and so was Senator DASCHLE because he happens to be the lead cosponsor, and Senator LAUTENBERG who spent so much of his career making sure consumers have the right to know if there are toxins in our environment.

I would like to add Senator KOHL as a cosponsor.

Mr. CHAFEE. Madam President, let me just say this to the very able arguments of the Senator from California. They are able arguments.

I suppose that when she makes the point that the Governor can opt out or that it does not apply to those systems of 10,000 or less that it works the other way around.

If this is such a vital amendment and so necessary, why do we have it that a Governor can just opt out of it? Or if it is so important, why do we exclude 87 percent of the water systems in the Nation? Madam President, 87 percent of the water systems in the Nation serve 10,000 or fewer people.

That is not to say that 87 percent of the population is served by that. I am not making that suggestion. But 87 percent of all the water systems in the Nation are small ones. They are exempt from this bill.

Madam President, I say this is a good piece of legislation. One of the things we have done here is to provide money to train the operators of these systems to be better. We have provided for better technical assistance than previously existed. We encourage consolidations.

I think we have done a lot of things to improve the safety of the water that the users drink, in addition to the provisions that I have previously mentioned that deal specifically with notification in case the water is not safe.

I do appreciate the arguments of the distinguished Senator.

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute and 43 seconds remaining.

Mr. BAUCUS. Madam President, the Senator from California makes a very impassioned statement. It sounds very good.

The facts are, very simply, if California or if any State wants to go far above and beyond what is required by Federal law, I think it makes sense for that State to do so if that State wants to do so. I do not think the Federal Government should make this additional requirement on all States just because California is doing it. If California wants to, fine. But the U.S. Congress should not make a judgment as to whether an additional requirement to each individual consumer, which has no bearing whatever to whether the systems in a State meet standards. If the State wants to, fine. I do not think the Federal Government should make that requirement on all States.

Mr. CHAFEE. We yield back the balance.

Mrs. BOXER. Madam President, I will finish. When anyone does not like an argument, they tell you you are emotional. Let me just say the American Public Health Association is not emotional about this. They just say, "We need to know. We need to know what is in our water supply."

I say to my friend from Rhode Island, the distinguished and able chairman, for whom I have the greatest respect, that 83 percent of the American people will be covered by this Boxer amendment because they are served by the larger water systems.

To those who oppose this amendment, I ask, suppose that your loved one is elderly or ill, has a compromised immune system because of cancer, chemotherapy, a recent transplant, or for other reasons, or there is a little baby in the house that you are mixing that formula with water from the tap, suppose you knew your water supplier knew all along there was a level of cryptosporidium in the water but never told you, because in 63 percent of the cases, the GAO says they do not report violations.

That is not emotion. That is fact. The GAO study found 63 percent of the violations are not reported. I make sure if cryptosporidium is in your water system, you would know whether you live in Maine or California or Montana or Rhode Island or South Carolina.

I hope that people will vote against the motion to table, which I assume is on its way. I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. CHAFEE. Madam President, I move to table the amendment of the distinguished Senator from California, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. CHAFEE. It is my understanding we have 10 minutes equally divided to wrap up amendments or statements before we go to the vote.

AMENDMENT NO. 3079

(Purpose: To provide that monitoring requirements imposed on a substantial number of public water systems be established by regulation)

Mr. CHAFEE. I have one last amendment, Madam President, that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 3079.

Mr. CHAFEE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 132, line 5, strike "methods." and insert "methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the administrator), shall be established by regulation as provided in clause (ii).".

Mr. CHAFEE. Madam President, this amendment tightens up EPA's information-gathering authorities under the law. The amendment would require EPA to impose new monitoring reporting or record-keeping requirements only by rule of a public comment if those requirements would effect a substantial number of public water systems.

This amendment has been cleared on both sides. We are prepared to adopt it.

The PRESIDING OFFICER. Is there any further debate?

The question is on agreeing to the amendment.

The amendment (No. 3079) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. BAUCUS. I move to lay it on the table.

The motion to lay on the table was agreed to.

SOURCE WATER PROTECTION

Mr. KOHL. Madam President, as all the managers of this bill are acutely aware, an emergency outbreak of the parasite cryptosporidium in Milwaukee in 1993 resulted in the deaths of over 100 citizens and caused nearly 400,000 others to become severely ill. I believe that many provisions included in this legislation will be helpful in protecting future generations from the threat of cryptosporidium and other microbial contaminants, and I thank the managers for that.

Certainly the Milwaukee outbreak has demonstrated the need for strong source water protection programs. In fact, the State of Wisconsin has one of the most respected sources water protection programs in the Nation. However, even with that program, the Milwaukee cryptosporidium outbreak occurred. Although the Wisconsin Priority Watershed Program is primarily a voluntary program, working in a cooperative manner with landowners in targeted watersheds, the program does have the authority to enforce against the small minority of landowners in a targeted watershed who refuse to cooperate with the commonsense conservation efforts of their neighbors.

While I know that it is the intention of the managers to create a new, Source Water Quality Protection Partnership Program which is voluntary in nature, I want to be able to assure the citizens of my State that the Wisconsin Priority Watershed Program will not be discriminated against in S. 1316, as a result of having an enforcement authority.

Mr. CHAFEE. I completely understand the concerns of the Senator from Wisconsin, and I agree that the Wisconsin Priority Watershed Program is one of the most outstanding water quality programs in this country. In that context, I want to assure the Senator that S. 1316 in no way discriminates against the Wisconsin program, or any other State program, on the basis of that program's enforcement authority. While States choosing to participate in the new Source Water Quality Protection Partnership Program are required to use the voluntary approach, other sections of the bill would provide programs like Wisconsin's Priority Watershed Program access to funding from the State revolving fund. States that choose the Source Water Quality Protection Partnership approach are also authorized to use SRF funding.

Mr. BAUCUS. I concur in the response made by the Senator from Rhode Island. This bill does not discriminate against State or local programs that include enforcement authority, it merely sets up a different framework. Both purely voluntary programs, as well as programs like the Wisconsin Priority Watershed Program, are authorized to use funding from the State's SRF allocation through state administration of a source water quality protection program.

Mr. KOHL. I thank the managers for this clarification and for working with me on this important matter.

Mr. FEINGOLD. I, too, am pleased that this bill contains a requirement for the development of a national standard for cryptosporidum. Several times this Congress, I have raised the issue that the cryptosporidium outbreaks are no longer Milwaukee's problem, but the country's problem, and that there should be action to ensure that enforceable national requirements are developed. However, relative to the bill's provisions that create a new petition program for voluntary sourcewater protection, I share the concerns of the senior Senator from Wisconsin, [Mr. KOHL].

I want to be certain that Wisconsin is not penalized for the actions it has already taken to protect source water. As mentioned by the senior Senator from Wisconsin [Mr. KOHL] our State's efforts to protect source waters from contaminated runoff centers around the Wisconsin Nonpoint Source Water Pollution Abatement Program, often referred to as the priority watershed program based upon its watershed approach to controlling polluted runoff. The program provides grants to local units of government in urban and rural watersheds, which reimburse up to 70 percent of costs associated with installing best management practices. By the end of 1994, the State has been actively engaged in 67 projects, including 4 large-scale and 3 lake initiatives, and more than 82 large-scale projects are eligible to participate in the program.

Our State's program follows an extensive land use inventory and water resource appraisal process, and public participation is a critical component of the program. By in large participation has been voluntary, but the State does retain the authority to require participation after the protection plan is developed.

I concur in the importance of assuring that this bill allows Wisconsin's current program to access the SRF and appreciate the statements made by the floor managers to that effect.

STAGE I RULEMAKING

Mr. CHAFEE. Madam President, I would like to clarify the application of the new standard setting authorities established by the bill to the stage I rulemaking for disinfectants and disinfection byproducts that EPA has proposed.

The use of chlorine to kill pathogenic organisms in drinking water presents a real challenge. On the one hand, disinfection of public water supplies is a public health miracle. One of the witnesses at our hearings on this bill called it the single most important public health advance in history. On the other hand, the use of chlorine as a disinfectant may produce chemical byproducts in the water that present other health risks.

EPA has proposed a rule for disinfectants and disinfection byproducts that attempts to balance these risks. The proposed rule was developed through a regulatory negotiation that included representatives of local governments, water agencies and water supply districts, and public interest groups. EPA used this approach because current law does not contain explicit authority to balance risks in the way that EPA has proposed to do in this rulemaking. Presumably, one reason for the negotiation was to avoid a subsequent court challenge to the rule.

Now, we are changing the law and we are including explicit authority for the Administrator to take a risk balancing approach where it is appropriate. These changes would authorize EPA to issue the type of rule that has been proposed in stage I for disinfection byproducts. But in passing this bill, we face a delicate legislative task. We want to endorse the risk balancing approach that EPA is taking and make it clear that the statute as amended authorizes such a rule—including the stage I rule—but we don't want these new statutory provisions to disturb the negotiated agreement that is incorporated in the rule that EPA has proposed.

Mr. KEMPTHORNE. I would ask the distinguished chairman of the Environment and Public Works Committee whether the bill would prevent EPA from modifying the proposed rule. If new information indicates that the stage I rule as proposed does not strike an appropriate balance among the competing health risks, could EPA modify the rule when it is promulgated?

Mr. CHAFEE. It is my understanding that the agreement negotiated by the parties to the disinfection byproducts rulemaking does provide that the final stage I rule may include modifications if new information warrants those changes. The bill does not preclude changes that are within the scope of the agreement.

However, these new standard setting authorities are not to be the basis for making changes in the rule as it was proposed, nor was it our intent to require the Administrator to repropose the stage I proposed rule to conduct additional risk balancing under new section 1412(b)(5). However, if subsequent to enactment, someone should discover an inconsistency, the bill specifically precludes a change in the proposed rule to resolve that inconsistency. Furthermore, the bill insulates the rule from a court challenge on the basis of any inconsistency, should one be found. We do not intend to disrupt the results of the negotiation.

Mr. BAUCUS. The committee report at page 38 says that the bill does not apply to the stage I rulemaking because that rule has already been proposed in a detailed form. Does the Senator's statement affect that part of the committee report?

Mr. CHAFEE. Yes. The purpose of this statement is to establish that in one sense the new authority contained in section 1412b(5) does apply to the stage I rulemaking.

As I said, we are attempting a delicate legislative task here. We are changing the statute to provide EPA with explicit authority to set standards that balance risks. But we do not want the detailed provisions of this new authority to upset a specific rule of that type that has recently been proposed. We want to make clear that EPA is authorized by the Safe Drinking Water Act, as it is amended by this bill, to issue the stage I rule. If this bill is enacted and the stage I rule is promulgated as it was proposed, no one could bring a court challenge against the rule on the grounds that it wasn't authorized by the statute.

At the same time, the stage I rule is not to be tested against the specific provisions of the statute to determine whether it is consistent in every respect. it may not be. So long as the final stage I rule stays within the parameters of the agreement negotiated by the parties, it is authorized by the statute as amended.

The bill applies to the stage I rule because EPA is given general authority to issue a rule that is consistent with the negotiated agreement; but the specific provisions of the risk balancing authorities in the new subsection 1412(b)(5) are not to be applied by EPA or by the courts in determining whether the final rule is in accordance with the law. That determination is to be based on the agreement that was signed by the parties to the negotiation.

Nothing in this bill affects the applicability of new subsection 1412(b)(5) to the stage II rulemaking on disinfection by products.

Madam President, that completes everything on this side. I inform all Senators, immediately following the vote on the motion to table the Boxer amendment, we will then go to final passage.

I ask, if proper, for the yeas and nays on final passage at this time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Madam President, the delay here is we are waiting a possible additional colloquy with the distinguished Senator from Nebraska.

Madam President, how much time of the 10 minutes is left?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. CHAFEE. If the Senator from California wished that minute, this is the time, if she would like.

AMENDMENT NO. 3078

Mrs. BOXER. Madam President, I will take advantage of that one moment to simply say what we are trying to do in this amendment is to give support to the public health community, which says it is very important. We have the support of EPA and the American Public Health Association, and a number of other organizations, that consumers have a right to know, just once a year, what is in their water.

It is not something we feel is burdensome. As a matter of fact, we say the EPA has to issue regulations that make it simple. The Democratic leader is supporting this. Senator LAUTENBERG is supporting this. Senator KOHL, whose State had a terrible outbreak of cryptosporidium and lost lives, is supporting it. We think this is extremely reasonable. It is not an unfunded mandate. Governors can opt out of this. Small water systems can opt out of this. The large water systems serve 83 percent of our people.

We think this is a solid amendment and we urge a "no" vote on the motion to table.

I yield the remainder of my time.

The PRESIDING OFFICER. There are 4 minutes remaining. Is there further debate?

Mr. CHAFEE. Madam President, while we are preparing several colloquies to submit for the RECORD, I will take this brief opportunity to thank everybody involved. Particularly, I thank the distinguished chairman of the subcommittee, Senator KEMPTHORNE, for his splendid work on this. He has really been a tower of strength and the leader of this whole effort.

Also, I thank the ranking member, Senator BAUCUS, and Senator REID, the ranking member of the subcommittee, and all the staff for their wonderful work. I particularly thank Jimmie Powell on this side, who really was very, very effective.

PUBLIC WATER SYSTEM DEFINITION

Mr. KEMPTHORNE. Some questions have arisen about how section 24(b) of the bill, which amends the definition of public water systems, applies to certain irrigation systems. As the committee report explains, the provision is intended to address a narrow set of situations, such as the one that was involved in the Imperial Irrigation court decision, where an irrigation system is knowingly providing drinking water to a large number of customers. However, it is my understanding that the provision does not apply to irrigation systems that only intend to provide water for such purposes as irrigation and stock watering, and do not intend that water be withdrawn for drinking water use.

Mr. BAUCUS. I agree with Senator KEMPTHORNE's interpretation. In the arid west, where irrigation systems may cover vast distances, it would be unfair and impractical to treat an irrigation system as a public water system just because a number of people withdraw water for drinking water use without the permission or knowledge of the system, and I do not believe that the provision applies to such situations.

Mr. KEMPTHORNE. Does the manager of the bill share this view.

Mr. CHAFEE. Yes. The Safe Drinking Water Act defines a public water system as a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. In describing a public water system, EPA's regulations and guidance use such terms as "serves" and "delivers," usually in the context of "customers." These terms are clearly contrary to a situation where the irrigation system does not either consent to having water withdrawn for human consumption, or know that such withdrawals are occurring with respect to the requisite number of connections or customers.

Mr. KEMPTHORNE. Questions also have arisen about how the new provision would apply to irrigation systems that provide water to municipal drinking water systems, which then treat the water and provide it to customers for human consumption. Would these irrigation systems be treated as public water systems on this basis?

Mr. CHAFEE. No. Under the new provision, a connection is not considered, for purposes of determining whether an entity is a public water system, if the water is treated by a pass-through entity to achieve a level of treatment equivalent to the level provided by applicable drinking water regulations. In the case you describe, the municipal water system would be providing such treatment, and the irrigation system's provision of water to the municipal water system would not be considered a connection.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I commend the floor manager, Senator CHAFEE, for his efforts, not only during the months that it took us to get here but for his demeanor today on the floor. I also thank Senator BAUCUS, the other floor manager of this very important legislation, and Senator REID, for this legislation that is going to be well received by all the States and municipalities throughout the United States and their constituents.

I thank the staffs of Senator BAUCUS and Senator REID and the staff of Senator CHAFEE: Jimmie Powell and Steve Shimberg; and acknowledge my staff, Meg Hunt, Ann Klee, and Buzz Fawcett, and thank all the Senators who participated today, in their suggestions or debate, for their improvements to the bill.

I look forward to what is about to happen, which is we are going to astound our families by voting on final passage of this at a relatively early hour. Then I suggest all Senators go home, have supper with their families, and raise a toast of safe drinking water to what we have accomplished today.

Mr. CHAFEE. We have no need for further time, Madam President.

VOTE ON AMENDMENT NO. 3078

The PRESIDING OFFICER. All time has expired.

The question now occurs on the motion to table the amendment offered by the Senator from California, amendment No. 3078.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 59, nays 40, as follows:

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 587 Leg.]

YEAS—59

Abraham
Ashcroft
Baucus
Bennett
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Biden
Bingaman
Boxer
Bradley
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

So, the motion to lay on the table the amendment (No. 3078) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. HUTCHISON). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 588 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So the bill (S. 1316), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. KEMPTHORNE. Madam President, I move to reconsider the vote.

Mr. COATS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. COATS. Madam President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE AGREEMENT FOR COOPERATION IN THE PEACEFUL USES OF NUCLEAR ENERGY BETWEEN THE UNITED STATES AND THE EUROPEAN ATOMIC ENERGY COMMUNITY—MESSAGE FROM THE PRESIDENT—PM 99

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) with accompanying agreed minute, annexes, and other attachments. (The confidential list of EURATOM storage facilities covered by the Agreement is being transmitted directly to the Senate Foreign Relations Committee and the House International Relations Committee.) I am also pleased to transmit my written approval, authorization and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and other attachments, including the views of the Nuclear Regulatory Commission, is also enclosed.

The proposed new agreement with EURATOM has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. It replaces two existing agreements for peaceful nuclear cooperation with EURATOM, including the 1960 agreement that has served as our primary legal framework for cooperation in recent years and that will expire by its terms on December 31 of this year. The proposed new agreement will provide an updated, comprehensive framework for peaceful nuclear cooperation between the United States and EURATOM, will facilitate such cooperation, and will establish strengthened nonproliferation conditions and controls including all those required by the NNPA. The new agreement provides for the transfer of nonnuclear material, nuclear material, and equipment for both nuclear research and nuclear power purposes. It does not provide for transfers under the agreement of any sensitive nuclear technology (SNT).

The proposed agreement has an initial term of 30 years, and will continue in force indefinitely thereafter in increments of 5 years each until terminated in accordance with its provisions. In the event of termination, key nonproliferation conditions and controls, including guarantees of safeguards, peaceful use and adequate physical protection, and the U.S. right to approve retransfers to third parties, will remain effective with respect to transferred nonnuclear material, nuclear material, and equipment, as well as nuclear material produced through their use. Procedures are also established for determining the survival of additional controls.

The member states of EURATOM and the European Union itself have impeccable nuclear nonproliferation credentials. All EURATOM member states are party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). EURATOM and all its nonnuclear weapon state member states have an agreement with the International Atomic Energy Agency (IAEA) for the application of full-scope IAEA safeguards within the respective territories of the nonnuclear weapon states. The two EURATOM nuclear weapon states, France and the United Kingdom, like the United States, have voluntary safeguards agreements with the IAEA. In addition, EURATOM itself applies its own stringent safeguards at all peaceful facilities within the territories of all member states. The United States and EURATOM are of one mind in their unswerving commitment to achieving global nuclear nonproliferation goals. I call the attention of the Congress to the joint U.S.-EURATOM "Declaration on Non-Proliferation Policy" appended to the text of the agreement I am transmitting herewith.

The proposed new agreement provides for very stringent controls over certain fuel cycle activities, including enrichment, reprocessing, and alteration in form or content and storage of plutonium and other sensitive nuclear materials. The United States and EURATOM have accepted these controls on a reciprocal basis, not as a sign of either Party's distrust of the other, and not for the purpose of interfering with each other's fuel cycle choices, which are for each Party to determine for itself, but rather as a reflection of their common conviction that the provisions in question represent an important norm for peaceful nuclear commerce.

In view of the strong commitment of EURATOM and its member states to the international nonproliferation regime, the comprehensive nonproliferation commitments they have made, the advanced technological character of the EURATOM civil nuclear program, the long history of extensive transatlantic cooperation in the peaceful uses of nuclear energy without any risk of proliferation, and the fact that all member states are close allies or close friends of the United States, the proposed new agreement provides to EURATOM (and on a reciprocal basis, to the United States) advance, long-term approval for specified enrichment, retransfers, reprocessing, alteration in form or content, and storage of specified nuclear material, and for retransfers of nonnuclear material and equipment. The approval for reprocessing and alteration in form or content may be suspended if either activity ceases to meet the criteria set out in U.S. law, including criteria relating to safeguards and physical protection.

In providing advance, long-term approval for certain nuclear fuel cycle activities, the proposed agreement has features similar to those in several other agreements for cooperation that the United States has entered into subsequent to enactment of the NNPA. These include bilateral U.S. agreements with Japan, Finland, Norway and Sweden. (The U.S. agreements with Finland and Sweden will be automatically terminated upon entry into force of the new U.S.-EURATOM agreement, as Finland and Sweden joined the European Union on January 1, 1995.) Among the documents I am transmitting herewith to the Congress is an analysis by the Secretary of Energy of the advance, long-term approvals contained in the proposed U.S. agreement with EURATOM. The analysis concludes that the approvals meet all requirements of the Atomic Energy Act.

I believe that the proposed agreement for cooperation with EURATOM will make an important contribution to achieving our nonproliferation, trade and other significant foreign policy goals.

In particular, I am convinced that this agreement will strengthen the international nuclear nonproliferation regime, support of which is a fundamental objective of U.S. national security and foreign policy, by setting a high standard for rigorous nonproliferation conditions and controls.

It will substantially upgrade U.S. controls over nuclear items subject to the current U.S.-EURATOM agreement as well as over future cooperation.

I believe that the new agreement will also demonstrate the U.S. intention to be a reliable nuclear trading partner, and thus help ensure the continuation and, I hope, growth of U.S. civil nuclear exports to EURATOM member states.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act of 1954, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 29, 1995.*

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

H.R. 2525. An act to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The message also announced that the House has passed the following bill, without amendment:

S. 1060. An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The message further announced that the House has agreed to the concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 116. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1060.

The message also announced that the House has agreed to the concurrent resolution, without amendment:

S. Con. Res. 33. Concurrent resolution expressing the thanks and good wishes of the American people to the Honorable George M. White on the occasion of his retirement as the Architect of the Capitol.

The message further announced that pursuant to section 2702(a)(1)(B)(vi) of Public Law 101–509, the Clerk appoints Mr. Roger Davidson of Washington, D.C., as a member from private life, to the Advisory Committee on the Records of Congress on the part of the House.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 1432. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the social security earnings limit for individuals who have attained retirement age, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1627. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, notice to use other than full and open competition to negotiate a single prime contract with the United Space Alliance; to the Committee on Commerce, Science, and Transportation.

EC–1628. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of four violations of the Antideficiency Act, case number 92–78; to the Committee on Appropriations.

EC–1629. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–08; to the Committee on Appropriations.

EC–1630. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report entitled, "Imposition of Foreign Policy Export Controls on Specially Designed Implements of Torture and Thumbscrews"; to the Committee on Banking, Housing, and Urban Affairs.

EC–1631. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the comprehensive litigation report for the period April 1 to September 30, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1632. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within 5 days of enactment; to the Committee on the Budget.

EC–1633. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report under the Superfund Amendments and Reauthorization Act of 1986 (SARA) for fiscal year 1995; to the Committee on the Environment and Public Works.

EC–1634. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report entitled, "National Maxium Speed Limit" for fiscal year 1993; to the Committee on the Environment and Public Works.

EC–1635. A communication from the chairman of the Good Neighbor Environmental Board, transmitting, pursuant to law, the first annual report concerning environmental and infrastructure needs within the States contiguous to Mexico; to the Committee on the Environment and Public Works.

EC–1636. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on abnormal occurrences for events at licensed nuclear facilities for the period April 1 to June 30, 1995; to the Committee on Environment and Public Works.

EC–1637. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1142. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes (Rept. No. 104–178).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

Arthur L. Money, of California, to be an Assistant Secretary of the Air Force.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN:

S. 1433. A bill to direct the Secretary of Energy to establish a system for defining the scope of energy research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Mr. DOLE, Mr. DOMENICI, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FAIRCLOTH, Mr. THOMPSON, and Mr. COCHRAN):

S. 1434. A bill to amend the Congressional Budget Act of 1974 to provide for a two-year (biennial) budgeting cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. MCCONNELL (for himself and Mr. WARNER):

S. 1435. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of non-profit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1436. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND (for himself and Mr. SIMON:

S. 1437. A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr.

SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S. Res. 196. A resolution relative to the death of the Reverend Richard Halverson, late the Chaplain of the U.S. Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 1433. A bill to direct the Secretary of Energy to establish a system for defining the scope of energy research and development projects, and for other purposes; to the Committee on Energy and Natural Resources.

DEFINING THE SCOPE OF ENERGY RESEARCH AND DEVELOPMENT PROJECTS LEGISLATION

• Mr. MCCAIN. Mr. President, at a time in which we are trying to reduce the deficit and improve the efficiency of government, we should not be funding research and development projects that are ill defined and poorly managed because of a lack of direction and purpose. We should not be providing Federal dollars to any program in which it is not clear how the American public will benefit from its investment. It only stands to reason that if the private sector will not fund efforts in which there is not some return on its investment, the Federal Government should not either.

Furthermore, we should not be funding efforts that the private sector should be funding because of its huge payoff to the private sector and minimal payoff to the American public. If there is shared benefits to be realized by both, then the effort should be cost shared between the two.

The Department of Energy spends approximately $7 billion a year on research and development activities. They cover a wide range of science and engineering issues in the energy field. Any savings due to an improvement in the efficiency and the effectiveness of the management system will amount to several millions of dollars.

Mr. President, I am introducing a bill that will begin to address this issue. The bill will require the Secretary of Energy to establish a project definition system for research and development projects in which projects costs are expected to exceed $1 million.

It is expected that by requiring this project definition system prior to funding any project, costly revisions in project plans and directions may be avoided. The project definition document, the product of the project definition system, will provide the foundation by which more detailed project plans can be developed. It is expected that this system will also further ensure that the Department is not funding projects that are not addressing a known problem.

The bill identifies a number of issues or questions to be resolved prior to the funding of a project. Included are such things as project cost, duration, future users or beneficiaries, cost sharing, and expected outcome.

However, also included in this list is the criteria to be used to determine the end of the project or the end of Government funding. For many years, Government-sponsored projects have gone on for years without any clear end in sight. They have consumed years of funding with little or no benefit for continuation. By having this criteria established at the beginning of the project, this practice will be stopped. With this stoppage of Government support, any cost-sharing partners may continue with the project if they decide to do so.

Mr. President, I feel this bill takes a step in the right direction of ensuring that our public resources are invested wisely and responsibly. I feel that if the Department can invest a little more time, more money, at the beginning of these expensive research and development projects, it can avoid some of the costly type of mistakes that it has made in the past—mistakes due to ill-defined projects and lack of proper planning.

I look forward to further discussions with my colleagues on how to further improve this bill. I hope my colleagues will join me in supporting this bill as we debate the future of the Department of Energy and work to eliminate projects that can and should be undertaken by the private sector, we should at the very least seek ways to ensure a direction and efficiency in the projects we do undertake.•

By Mr. THOMAS (for himself, Mr. DOLE, Mr. DOMENICI, Mr. SIMPSON, Mrs. KASSEBAUM, Mr. FAIRCLOTH, Mr. THOMPSON, and Mr. COCHRAN):

S. 1434. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year—biennial—budgeting cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

THE BIENNIAL BUDGETING ACT OF 1995

Mr. THOMAS. Mr. President, I rise today to introduce a bill that creates a biennial budgeting cycle. It seems to me it is particularly appropriate to do that now. We have spent almost this entire year dealing with the budget. Surely it has been an unusual budget year in that we are attempting to make some changes, fundamental changes, in direction. But it is not otherwise unusual. As a matter of fact, since 1977, there have been 55 continuing resolutions, which would indicate we need to change the budgeting process. I am joined in this effort by a number of Senators originally and hope to have more: Senator DOLE, Senator DOMENICI, Senator SIMPSON, Senator KASSEBAUM, Senator FAIRCLOTH, Senator THOMPSON and Senator COCHRAN.

There are a lot of things we ought to be doing. We ought to be dealing with health care. We have not finished that problem. We ought to be dealing with regulatory reform. Most everyone agrees with that. Telecommunications, where we can deregulate and move forward with the things that will create jobs and move us forward. Personally, I believe we ought to be doing something with rangeland reform. Some of us live in States where 50 to 80 percent of the surface belongs to the Federal Government and is managed by the Federal Government. We need to change some of those things. Foreign policy—we need to be involved more in foreign policy. I think we find ourselves drifting into situations where we need to make policy in certain places and the administration says, gosh, we do not want to do that until we get an agreement, and then, after we have an agreement, it is too late to talk about it. So, essentially, the Congress is outside of foreign policy. That is wrong. We ought to be talking about endangered species, and a number of things that need to be done.

Instead, Mr. President, as you know, we spend almost all our time deciding on how we are going to fund the Government. Most States—the Presiding Officer, I think, in his State of Missouri, served as Governor—have biennial budgets. There are a couple of advantages to that, certainly. One of them is that it gives a little longer time for agencies to plan. Rather than every year, they have more tenure in their budgeting. They can plan longer. More important, I think, it allows the Congress, then, to have some time to do the other things, one of which is oversight of the budget.

I suspect that the budget debate will not be over in this session of Congress until next year. I suspect in less than 2 months we will be moving into another budget debate which consumes all of our time. I already mentioned that since 1977 we have had 55 continuing resolutions. We have had too many repetitive votes. We are back on the same thing over and over and over again without any new issue.

So there has not been, and continues not to be, enough time for vigorous oversight. I suspect one of the principal functions of the legislative body ought to be oversight of the budgets that they have approved to ensure that they are, indeed, being spent as they were designed to be spent and to discover how they can be spent more efficiently and more effectively. That is one of the things we have had very little time to do.

The provisions of this bill are rather simple. By the way, this is not a new idea. This has been introduced a number of times, been considered and supported by many Members of this body.

It creates a 2-year authorization of appropriation and budget resolutions so that you set it out in a block and say here we are. It is not much more difficult to do it for 2 years than 1. You simply have a block of 2 years in which to do a budget. It is not difficult at all. All budgetary activities would take place during the first session of Congress. So in the second session you would have a chance to go back and provide some oversight to what is being done with the money that has been appropriated. Oversight in nonbudgetary matters would be taken up in the second session of Congress. There would be an opportunity to do the kinds of policy things that the Congress is designed to do in addition to spending all of our time funding the Government. Benefits, of course, would promote timely action on the budget, and would eliminate some of the redundancy. We need to do that. It would provide more time for effective oversight in the off years, and it would help so that we can reduce the size of Government.

It would also reduce the number of times where there is potential for the kinds of congressional-Presidential conflicts that arise so often as in the process now that arises. If would allow the budget to be adopted in the first year of the President's term, and in the first year of the sessions of Congress so that new Congresses can implement their budget, and then have a year for oversight. It would encourage longer-term planning in the agencies.

I think that is one of the keys to reducing the cost of Government. There have been very many programs, of course, that need to be analyzed, and that have to have applied to them priorities. Things need to be done much better—things that could be transferred to local governments, and closer to the people. Those things all are often a result of oversight.

There is a good deal of support for this proposition, as there has been in the past—Citizens Against Government Waste, the Hudson Institute, Concord Coalition, Cato Institute, Committee for Responsible Federal Budgeting—a 20-year history of legislative bipartisan support in this Congress supported by Presidents Bush and Reagan over the years.

Mr. President, this is obviously not a cure-all. Budgets are difficult. The allocation of money to activities is not easy, and it is terribly important. But I submit to you that it can be done as well in 2-year blocks, and the results will be much better. The results will be much better for the operations of Congress. The results will be much better for the operations of Government.

By Mr. McCONNELL (for himself and Mr. WARNER):

S. 1435. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

THE VOLUNTEER PROTECTION ACT

Mr. McCONNELL. Mr. President, volunteer service has become a high-risk venture. Our "sue happy" legal culture has ensnared those selfless individuals who help worthy organizations and institutions through volunteer service. And, these lawsuits are proof that no good deed goes unpunished.

In order to relieve volunteers from these million dollar liability judgments, I am pleased to introduce the Volunteer Protection Act.

The litigation craze is hurting the spirit of voluntarism that is an integral part of American society. From school chaperones to Girl Scout and Boy Scout troop leaders to good samaritan doctors and nursing home aides, volunteers perform valuable services. And, these volunteers are being dragged into court and needlessly and unfairly sued. The end result? Too many people pointing fingers and too few offering a helping hand.

So, this bill creates immunity from lawsuits for those volunteers who act within the scope of their responsibilities, who are properly licensed or certified where necessary, and who do not cause harm willfully and wantonly.

In addition to creating a Federal standard for volunteer protection, the bill allows the States to add further refinements to the Federal standard. This will give the States a degree of flexibility and it strikes a balance between the federalism interest and the need to protect volunteers from these lawsuits. If a State enacts one or more of these additional criteria, the State law will be consistent with the Federal standard:

A requirement that the organization or entity adhere to risk management procedures, including the training of volunteers.

A requirement that the organization or entity be accountable for the actions of its volunteers in the same way that an employer is liable for the acts of its employees.

An exemption from the liability protection in the event the volunteer is using a motor vehicle or similar instrument.

An exemption from the liability protection if the lawsuit is brought by a State or local official in accordance with State or local law.

A requirement that the liability protection applies only if the nonprofit organization or government entity provides a financially secure source of recovery, such as an insurance policy, for those who suffer harm.

I ask unanimous consent that a copy of the bill be printed in the RECORD and Legal Backgrounder entitled, "Unfair Lawsuits Threaten Volunteers" as well as the American Tort Reform Association's "A Few Facts About Volunteer Liability" also be printed in the RECORD.

Mr. President, this bill is widely supported by those organizations' who rely on volunteers to provide important services to our communities. Some 150 organizations have endorsed this bill and I ask that a list of the Coalition for Volunteer Protection be printed in the RECORD.

I look forward to the Senate's consideration of this bill and to prompt passage. We cannot afford not to enact this legislation. Our communities are depending upon us.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1995".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by potential for liability actions against them and the organizations they serve;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating; and

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide protection from personal financial liability to volunteers serving nonprofit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 3. PREEMPTION.

This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional incentives or protections to volunteers, or category of volunteers.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of his or her responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State undertaken within the scope of his or her responsibilities in the nonprofit organization or governmental entity; and

(3) the harm was not caused by willful and wanton misconduct by the volunteer.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS WITH RESPECT TO ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this Act:

(1) A State law that requires the organization or entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that the limitation of liability does not apply if the volunteer was operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or vehicle owner to possess an operator's license or to maintain insurance.

(4) A State law that the limitation of liability does not apply if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(5) A State law that the limitation of liability shall apply only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "economic losses" means objectively verifiable monetary losses, including past and future medical expenses, loss of past and future earnings, cost of obtaining replacement services in the home (including child care, transportation, food preparation, and household care), cost of making reasonable accommodations to a personal residence, loss of employment, and loss of business or employment opportunities;

(2) the term "harm" includes physical, nonphysical, economic, and noneconomic losses;

(3) the term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature;

(4) the term "nonprofit organization" means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(5) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession; and

(6) the term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $300 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 6. EFFECTIVE DATE.

This Act applies to any claim for harm caused by an act or omission of a volunteer filed on or after the date of enactment of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such date of enactment.

AMERICAN TORT REFORM ASSOCIATION,
Washington, DC.

VOLUNTEER LIABILITY

In October 1983, Craig Fredborg celebrated his birthday by climbing Box Springs Mountain, overlooking Riverside, California. To his companions' horror, Fredborg slipped on a boulder and plummeted some 90 feet, sustaining severe spinal injuries.

Alerted that Fredborg lay helpless on the slope, Walter Walker, now 54, and his son Kevin, 31, and teammates from the volunteer Riverside Mountain Rescue Unit scrambled to aid a physician and a paramedic in mounting a ticklish nighttime helicopter evacuation. Over the last 30 years, the unit's volunteers have saved hundreds of lives. But for their troubles, the Walkers and the others involved in the emergency mission were sued two years later by the victim, who asked $12 million in damages, claiming that 'reckless and negligent' rescue techniques had caused him to become a quadriplegic.

The lawsuit eventually was dropped. But not before the Walkers lost a lot of hours from their family printing business giving depositions and meeting with defense attorneys provided them by the county sheriff's department. Perhaps the most significant consequence of the suit, says Walker, is that meticulous documentation and planning procedures have been instituted in its wake to forestall future liability claims. 'Probably we were a little weak in that,' he concedes. Nevertheless, he adds, 'It definitely has slowed us down in getting the team into the field . . . Concern about liability exposure has complicated how we look at every mission.'"—David O. Weber, "A Thousand Points of Fright?", Insurance Review, February 1991.

A man who was high on LSD was rescued by a student, after he had jumped from a 30 foot dockside bar into a seven foot pool of water. The man suffered a broken neck and was left paralyzed for life. However, he subsequently sued both the school and the student. The judge eventually threw the case out, but unfortunately, this is just another prime example of a waste of tax payers money.—Mississippi Press, May 2, 1993.

"Amateur referees at softball diamonds, high school stadiums and college field houses are finding that their decisions can trigger major-league lawsuits." An Iowa souvenir company faced with a suddenly devalued inventory challenged the last-second foul call of a part-time Big Ten basketball official with a $175,000 negligence suit. The official eventually won his court battle, but only after a costly two-year fight that went all the way to the Iowa Supreme Court.

"Some of our people got to the point where they were just afraid to work because of the threat of lawsuits," says Dottie Lewis of the Southwest Officials Association in Dallas. The Association provides officials for scholastic games.

A New Jersey umpire was sued by a catcher who was hit in the eye by a softball while playing without a mask; he complained that the umpire should have lent him his. The catcher walked away with a $24,000 settlement.—The Wall Street Journal, Friday, August 11, 1989.

58% of the principals responding to a survey sponsored by the National Association of Secondary School Principals said that they had noticed a difference in the kinds of school programs being offered in schools because of liability concerns, and the use of non-faculty volunteers was affected. Typically, parent volunteers assist schools with tutoring, science programs, class trips and social activities.—1989 Survey Members of the National Association of Secondary School Principals.

NATIONAL COALITION FOR VOLUNTEER PROTECTION

Academy of Medicine of Columbus and Franklin County, Air Force Association, Alabama Forestry Association, Alabama Oilmens Association, Alabama Textile Manufacturers Association, Alliance for Fire and Emergency Management, American Association of Blood Banks, American Association of Equine Practitioners, American Association of Museums, American Association of Nurserymen, American Association of Occupational Health Nurses, American Chamber of Commerce Executives, American College of Emergency Physicians—National Office.

American College of Healthcare Executives, American Diabetes Association Kentucky Affiliate, American Hardware Manufacturers Association, American Horse Council Incorporated, American Horticultural Therapy Association, American Industrial Hygiene Association, American Institute of Architects North Carolina Chapter, American Physical Therapy Association California Chapter, American Physical Therapy Association Louisiana Chapter, American Production and Inventory Control Society, American Red Cross, American Society of Anesthesiologists, American Society of Association Executives, American Society of Mechanical Engineers Washington Office, American Society of Safety Engineers.

American Tort Reform Association, Anchorage Convention and Visitors Bureau, Arizona Academy of Family Physicians, Arizona Cable Television Association, Arizona Contractors Association, Arizona Motor Transport Association, Arkansas Hospital

Association, Arkansas Hospitality Association, Arkansas Pharmacists Association, Arthritis Foundation National Office, Associated Builders and Contractors of Wisconsin Incorporated.

Associated California Loggers, Associated Industries of Massachusetts, Association Management Services, Association of Graphic Communications, Baton Rouge Apartment Association, Beacon Consulting Group, Building Industry Association of Tulare/Kings Counties Incorporated, California Association of Employers, California Association of Marriage and Family Therapists, California Chamber of Commerce, California Dental Association, California Independent Petroleum Association, California Society of Enrolled Agents, Catholic Health Association, Chicagoland Chamber of Commerce.

Childrens Alliance, Colorado Society of Association Executives, Community and Economic Development Association of Cook County Incorporated, Community Associations Institute, Connecticut Association of Not for Profit Providers for the Aging, Council of Community Blood Centers, Eastern Building Material Dealers Association, Fazio International Ltd, Financial Managers Society Incorporated, Florida Nurserymen and Growers Association Incorporated, Florida Optometric Association, General Federation of Womens Clubs, Greater Washington Society of Association Executives, Home Builders Association Holland Area, Home Builders Association of Kentucky.

Howe and Hutton Limited, Illinois Lumber and Material Dealers Association Incorporated, Independent Insurance Agents of Arkansas, Independent Insurance Agents of Virginia, Independent Sector, International Association for Financial Planning, Iowa and Nebraska Equipment Dealers Association, Iowa Bankers Association, Iowa Society of Certified Public Accountants, Kansas City Area Hospital Association, Kentucky Automobile Dealers Association Incorporated, Kentucky Derby Festival Incorporated, Kentucky Grocers Association, Kentucky Medical Association, Literacy Volunteers of America.

Long Island Convention and Visitors Bureau, MACU Association Group, Maine Association of Broadcasters, Maryland State Dental Association, Massachusetts Association of Rehabilitation Facilities, Mechanical Contractors Association of America Incorporated St. Louis Chapter, Metropolitan Detroit Plumbing and Mechanical Contractors Association, Michigan Chamber of Commerce, Michigan Dental Association, Michigan Pork Producers Association, Midwest Equipment Dealers Association Incorporated, Minnesota Automobile Dealers Association, Minnesota Electrical Association, Mississippi Malt Beverage Association.

Mississippi Optometric Association, Missouri Association of Homes for the Aging, Missouri Automobile Dealers Association, Modular Building Institute, National Association for Campus Activities, National Association of Hosiery Manufacturers, National Electrical Contractors Association St. Louis Chapter, National Electronic Distributors Association, National Federation of Nonprofits, National Glass Association, National Parent Teachers Association, National Small Business United, National Society of Professional Engineers, National Student Nurses Association, Nevada Association of Realtors.

Nevada Society of Certified Public Accountants, North American Equipment Dealers Association, Ohio Lumberman's Association, Ohio Osteopathic Association, Ohio Society of Association Executives, Ohio Society of Certified Public Accountants, Oklahoma Public Employees Association, Professional Meetings and Association Services, Public Risk Management Association, Recreation and Welfare Association, Relationship Management Incorporated, Religious Conference Management Association, Smith Bucklin and Associates Incorporated Washington Office, Soroptimist International of the Americas.

South Dakota Dental Association and Foundation, Texas Association of Nurserymen Incorporated, Texas Land Title Association, Texas Oil Marketers Association, Towing and Recovery Association of America, United States Hang Gliding Association, United States Pony Clubs, United Way of America, Utah Mechanical Contractors Association, Virginia Society of Association Executives, Water Environment Federation, Western Retail Implement and Hardware Association, Wisconsin Home Organization, Wisconsin League of Financial Institutions Ltd, Wisconsin Ready Mixed Concrete Association, Wisconsin Restaurant Association, Wisconsin Wholesale Beer Distributors Association, YMCA of the USA.

150 Members as of November 27, 1995.

WASHINGTON LEGAL FOUNDATION,
Washington, DC, December 16, 1994.

UNFAIR LAWSUITS THREATEN VOLUNTEERS

(By William J. Cople III)[1]

Volunteer service is under assault from an unlikely quarter—the civil justice system. Like so many others, volunteers and their service organizations have been swept into the courts to face potential liability in civil suits. Under the rule of law, our actions are judged by common standards of conduct. This provides the basis for the courts to recognize rights and afford remedies to those who claim to be aggrieved. But civil justice should not be used recklessly to inhibit beneficial conduct that may involve some amount of risk. In order for volunteer service to survive and prosper, the civil justice system must find an equilibrium under which it recognizes and protects personal and property rights without stifling the volunteer spirit so necessary to a vital and self-reliant community.

Efforts to achieve this balance have been hindered by the civil justice system itself. Both federal and state courts seem to be trapped in a disturbing pattern of recognizing novel rights and enlarging the scope of existing rights in an effort to redress a multitude of real and perceived wrongs and injuries. The courts have regrettably found rights, and corresponding remedies, to exist in cases involving grievances that are trivial or mundane and in cases where acts or omissions were not previously understood to be a legal wrong. In other cases, judges and juries have found serious injuries and other matters of grave concern to deserve recompense, even though the legal duty was uncertain or the causal connection to the harm was attenuated.

As a result, the value of rights that historically have been recognized in the courts as a proper subject of redress has been debased by according them respect no greater than the most tenuous rights now being recognized. Moreover, the expansion of potential liability may diminish desirable and beneficial conduct, such as the willingness to serve as a volunteer. In the past, the courts seem to have understood that some circumstances, even ones of tragic proportion, are simply caused by accident or misfortune, and not necessarily by culpable conduct on the part of any other person. Yet, this now has become an unacceptable conclusion. Every conceivable circumstance in which we deal and interact with each other seems to create a victim. This has spawned the civil litigation clogging the courts, as every victim of circumstances seeks compensation by shifting the blame for those circumstances to someone else.

An unfortunate effect of this civil litigation is to heighten the risks of volunteer service. In thousands of service organizations, volunteers give freely of their time and effort to support activities that they believe to be worthwhile for a host of personal reasons. This is done without expectation of compensation or other remuneration of any kind. Nonetheless, many volunteer organizations have been forced by the growing threat of civil litigation to purchase and maintain liability insurance or other forms of legal indemnity covering volunteers for their services.

Even with insurance coverage, the increasing risk of litigation no doubt has a chilling effect on the willingness and enthusiasm of volunteers to donate their time and effort. Many volunteers may think twice before becoming involved, while others may continue to participate, but curtail their services to those activities that seem relatively risk-free. Still others may cease to be a volunteer, out of an abundance of caution and justifiable aversion to being caught up in civil litigation. Quantifying the effects of increased risk of civil liability on volunteer service will have to await empirical evidence. It is fair to say, however, that volunteers themselves have become victims of the civil justice system. The increasing propensity to enlarge the universe of rights and award compensation, often in stunning amounts, may be to the detriment of volunteer service.

This danger was illustrated recently in a personal injury lawsuit brought against volunteers serving a local council of the Boy Scouts of America. In a case brought in Oregon state court, Powell v. Boy Scouts of America, et al., a youth seriously injured in an activity sponsored by Scouting sued the Boy Scouts and its adult volunteers for negligence.

The Boy Scouts of America is a national volunteer service organization, chartered by the U.S. Congress in 1916, pursuant to 36 U.S.C. §§21–29. Acting primarily through its volunteers, the Boy Scouts is dedicated to the training of youth in accordance with long-established Scouting ideals and principles. Id. §23. The Boy Scouts operates through several hundred local Scout councils. Community organizations within each Council, including churches, schools, and civic groups, among others, conduct Scouting programs and activities. The availability of these programs and activities depends upon individual volunteers willing to devote considerable time and effort in providing adult supervision for participating Scouts. These volunteers provide their time and resources to support the Council and the local organizations. They not only develop and plan the Scouting activities, but also raise the funds in the community necessary to support them. Without these volunteers, the Boy Scouts would be deprived of its principal resource for carrying out its national charter as a youth service organization.

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[1] William J. Cople III is a partner with the Washington, D.C. law firm of Spriggs & Hollingsworth and serves pro bono as the General Counsel of the National Capital Area Council of the Boy Scouts of America.

In the Powell case, several adults in Portland, Oregon volunteered to supervise an outing of the Sea Explorers, a Scouting unit in the Boy Scouts' Cascade Pacific Council. In a tragic accident, one of the young men participating in the Sea Explorer outing suffered a paralyzing injury in a rough game of touch football. The injured youth, who was 16 years of age at the time of the accident, broke his neck during the football game and is now quadriplegic. At least one of the adult volunteers apparently knew that the boys were throwing a football around, but neither observed the game in which the boy was injured.

Based on this incident, the injured youth filed a personal injury lawsuit against the Boy Scouts and the Columbia Pacific Council (predecessor to Cascade Pacific Council) in Multnomah County Circuit Court, Oregon. The suit alleged that the youth's injury was foreseeable and preventable, and that the Boy Scouts and its volunteers negligently failed to supervise him adequately during the Sea Explorer outing.

The Court dismissed the original lawsuit, evidently based on an insufficient nexus between the Boy scouts and the youth's injury. Subsequently, the injured young man filed his personal injury lawsuit directly against two of the adult volunteers who participated in the Sea Explorer outing. Following trial, an Oregon jury entered a verdict against the two adult volunteers, finding them liable for some $7 million. In one of the largest monetary verdicts in Oregon, the jury awarded $4.89 million dollars for future care and lost earnings plus $2.14 million dollars for pain and suffering. In accordance with Oregon state law, the amount of the verdict will be reduced by the proportionate negligence, approximately one-third, that the jury assigned to the injured youth for his own negligent conduct. The Oregon Circuit Judge presiding at trial also reduced the amount awarded by the jury for pain and suffering to $500,000, reflecting a statutory limit on noneconomic damages that may be awarded in personal injury suits in Oregon.

The Oregon jury's verdict in this case against the Sea Explorer adult volunteers brings the civil justice dilemma into striking focus. The case was born of a tragic accident in which a young man's life and future were forever changed by a debilitating permanent injury. But this tragedy may have been compounded, not alleviated, by finding culpability and imposing liability on the adult volunteers under circumstances suggesting an enlargement of the volunteers' legal duty. The jury seemingly held the volunteers to a standard of care requiring them constantly to supervise the youth entrusted to their charge, even for activities which under other circumstances may routinely be permitted without such meticulous oversight.

Any parent entrusting their children to the care and supervision of another should expect and demand that all reasonable and prudent care be taken in discharging that responsibility. However, this does not mean that this duty of care must be carried out in such an extraordinary manner that only constant supervision of the youth in their care, regardless of age and other factors, will suffice for volunteers to satisfy their legal responsibility. Certainly, the circumstances surrounding tragic incidents should be carefully examined. All relevant facts and circumstances should be given due weight and consideration in judging whether an adult volunteer has adequately met the responsibility to supervise a child entrusted to his care. But circumstances will nonetheless occur where senseless tragedies happen without anyone being legally to blame. As in the case of other legal duties, adequate supervision should mean reasonable and prudent conduct as required under the circumstances as they existed at the time. Organizations serving the youth in our community, as well as those fulfilling other beneficent purposes, should not be forced into the role of guaranteeing a safe harbor free of all risk. Likewise, neither should volunteers be held a standard that may be infeasible, or even unattainable.

To choose otherwise would mean that the civil justice system needs to resolve every mishap and inexplicable tragedy by identifying someone to bear legal responsibility for a victim of those circumstances. This may, or may not, have happened in the case of the Multnomah County Circuit Court jury's verdict against the Scout volunteers. But the circumstances of the case, and the available evidence that has been reported, seem to suggest that the jury overreached in an effort to assign blame.

As is the case of the Oregon verdict against the Sea Explorer volunteers, there are a great many cases involving injury to person, property, or other rights, which are anything but trivial. In fact, their dimensions may be so tragic that such cases motivate judges or juries to find fault and assign blame where it might otherwise hesitate and decline to do so. The judgments entered in such cases, however, have other serious consequences. They obscure the standards of conduct under which we should expect to comport ourselves. This expectation of being able to determine, before we act, whether we are engaging in conduct that is right or wrong is a critical component to civil justice. Moreover, when civil litigation affords redress to every injury, regardless of whether the circumstances justify it under the rule of law, those rights that are long established and highly prized are commensurately demeaned. If virtually every injury is entitled to compensation, then the most important rights become lost in the sea of compensable grievances that the courts recognize. Finally, we need to underscore that a legal judgment entered in a single case can have a multitude of consequences extending far beyond that case itself. This surely is a reason for concern in the case of volunteers to service organizations.

The Boy Scouts afford their volunteers certain insurance liability coverage or other indemnity for their acts or omissions that may occur in the course of providing services as a Scouting volunteer. This coverage is far from unlimited. Similarly, other youth service and charitable organizations may also be able to provide such insurance coverage for their volunteers, but still others may not. Even with insurance coverage available, many of the most talented and energetic volunteers may eschew volunteer service, fearing that their good intentions will buy themselves a lawsuit. This is a particularly invidious effect, which is difficult to measure and even harder to correct. Existing and prospective volunteers may refuse to participate in many organizations out of a genuine concern with accepting an unreasonable risk of potential liability. Volunteers who might otherwise be motivated to serve may be deterred from doing so based solely on this concern for liability.

The Supreme Court of the United States aptly characterized the problem in *Parratt* v. *Taylor* 451 U.S. 527, 101 S. Ct. 1908 (1981). In Parratt, a prisoner, who lost his mail order hobby materials when normal procedures for receipt of mail packages were not followed, brought a federal civil rights case for the alleged deprivation of a Constitutional right. In its decision in that case, the Court seemed to forewarn the civil justice system that not every wrong is entitled to redress as a violation of Constitutional rights because "[i]t is hard to perceive any logical stopping place for such a line of reasoning." *Id.* at 544. The Court's observation, though made in the context of a civil rights suit more than ten years ago, is equally salient today. The civil justice system should not recognize a legal right for every victim of circumstances. The rule of law should be used to define our standards of conduct and promote consistency and reasonable expectations in their application. The case involving the Sea Explorer volunteers in Oregon serves to reveal a truth. Despite the best of intentions, when misused or used in unpredictable ways, the civil justice system ends up serving no one, least of all those who volunteer.•

By Mr. LAUTENBERG:

S. 1436. A bill to amend the Federal Water Pollution Control Act to allow certain privately owned public treatment works to be treated as publicly owned treatment works, and for other purposes; to the Committee on the Environment and Public Works.

THE MUNICIPAL WASTEWATER TREATMENT FACILITY PRIVATE INVESTMENT ACT OF 1995

Mr. LAUTENBERG. Mr. President, I rise to introduce the Municipal Wastewater Treatment Private Investment Act. This bill will remove an impediment to private investment in municipal wastewater treatment facilities and in doing so, will improve water quality, provide increased fiscal flexibility to local governments, and create jobs.

Mr. President, our Nation's waters are a priceless resource. They provide recreational opportunities, habitat for fish and wildlife, and drinking water among other uses. But we cannot assure our citizens that our waterways will be clean unless we have adequate wastewater treatment facilities.

And our wastewater treatment needs are staggering. According to the 1992 EPA National Needs Survey, it will cost the United States $112 billion to build necessary wastewater treatment facilities. My State of New Jersey's wastewater treatment needs alone are $4.759 billion. This includes close to $2 billion for wastewater treatment plants necessary for compliance with the Clean Water Act and an estimated $1.29 billion to reduce discharges of bacteria, garbage and other floatable debris, and other untreated waste from combined sewer overflows. The remaining needs are to construct new sewers and repair existing sewers.

Federal dollars are necessary but insufficient to build these facilities. The Senate VA/HUD appropriations bill includes $1.5 billion for State revolving loan funds. This funding level alone is insufficient to pay the costs local communities will have to bear to comply with the Clean Water Act. In addition, State revolving loan assistance will have to address other water quality needs such as storm water and nonpoint source pollution.

Local communities are looking increasingly to privatization of local governmental programs as a way to pay for these programs. This is an obvious way for them to minimize the costs associated with Federal requirements, which are eating into their budgets. And the Federal Government should do everything possible to assist these efforts.

In 1992, President Bush issued Executive Order 12803, which made it easier for local governments to privatize facilities that have received Federal financing—including wastewater treatment facilities. EPA Administrator Carol Browner has expressed her support to continue these efforts. In a letter she wrote to Mr. Edward Limbach, vice president of the American Water Works Co. in Voorhees, NJ, Ms. Browner said:

> [W]e need to provide communities the opportunity to work more closely with the private sector in financing environmental infrastructure. Local officials are in the best position to develop capital financing structures that meet their particular needs. We find that communities throughout the Nation are taking the lead in "reinventing government" and acknowledging the ability of private capital to enhance public investment. The EPA is committed to supporting these communities and allowing them flexibility in financing the infrastructure systems needed to achieve the environmental protection our citizens demand.

EPA has an initiative underway to encourage private investment in wastewater treatment facilities.

I urge the Congress to join with the administration in providing flexibility to local officials struggling to address the wastewater needs of this country. One problem identified by EPA which requires legislation concerns the phrase "publicly owned treatment works" or [POTWs]. This is the phrase used in the Clean Water act to identify what we all know to be municipal sewage facilities. Under the act, POTWs, treating municipal waste, are required to provide a level of treatment known as secondary treatment. However, if a private company offered to provide the same municipal waste services to the same community, it would have to meet a different treatment standard only because it is not a publicly owned treatment work.

Mr. President, the level of wastewater treatment should be based on the quality of the receiving water, or a national technology standard—it should not turn on the tax status of the owner of the sewer pipe.

My bill would define publicly owned treatment works to include wastewater facilities which are privatized or jointly owned by public and private partners. The legislation would remove the uncertainty regarding the environmental standards governing privately owned wastewater treatment facilities providing municipal wastewater services. It would require the same environmental standards for municipal wastewater treatment facilities owned in whole or in part by private investors as would apply to publicly owned treatment works. Communities and their citizens should not face an additional burden imposed by the Federal Government simply because they are developing innovative means to pay for a clean environment.

This bill would have numerous positive benefits. Perhaps most importantly, it would lead to more construction of wastewater treatment facilities. According to a report done by NatWest Washington Analysis, potential private investment in municipal wastewater treatment facilities could reach $2 billion a year. This would double the Federal investment in wastewater facilities.

To the extent that this investment is in new facilities, there will be more treatment facilities and cleaner water. The legislation also would help private capital flow into wastewater systems facing upgrades, expansions and new requirements.

Under the legislation, private and public/private facilities would have to comply with all of the same requirements that publicly owned facilities must comply with. Industrial facilities discharging into sewers and treatment plants, whether public or private, would continue to be subject to the pretreatment requirements of the Clean Water Act.

The legislation also will lead to additional jobs. According to a study prepared by Apogee Research, every $1 billion spent on wastewater facility investment generates 34,200 to 57,400 jobs.

The bill also would mean more capital investment to protect and prolong the extensive Federal investment in existing structures.

Privatization gives local governments which must comply with the Clean Water Act an additional fiscal tool for construction and maintenance of these facilities. It provides equitable treatment of communities that choose to pursue alternative financing on their own rather than depending on limited Federal funds.

Mr. President, this bill will help the private sector provide the infrastructure financing which is essential for economic growth. It will give local governments with limited financial resources another tool to address their budgetary problems. It will generate jobs. And it will improve the quality of the Nation's waters.

This proposal is endorsed by the National Association of Water Companies, the National Council for Public-Private Partnership, the Utility and Transportation Contractors Association of New Jersey, the National Utility Contractors Association, and the Water and Wastewater Equipment Manufacturers Association.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Wastewater Treatment Facility Private Investment Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) municipal wastewater treatment construction needs exceed $100,000,000,000;

(2) Federal assistance for State revolving loan programs will provide funding for only a portion of the municipal wastewater treatment facilities;

(3) increasing the amount of funds invested by the private sector in municipal wastewater treatment facilities would—

(A) help address the funding shortfall referred to in paragraph (2);

(B) stimulate economic growth;

(C) lead to an increase in the construction of wastewater treatment facilities and jobs;

(D) result in a cleaner environment; and

(E) provide a greater degree of fiscal flexibility for local governments in meeting Federal mandates; and

(4) the most effective way to encourage an increase in the level of involvement of the private sector in the provision of municipal wastewater services is to provide for the uniform regulation of municipal wastewater treatment plants without regard to whether the wastewater treatment plants are publicly or privately owned or under the control of a public and private partnership.

SEC. 3. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraphs:

"(21) As used in titles I, III, and IV, and this title, the term 'publicly owned treatment works' means a device or system used in the collection, storage, treatment, recycling, or reclamation of municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) with respect to which all or part of the device or system—

"(A) was constructed and is owned or operated by a State or municipality;

"(B) was constructed, owned, or operated by a State or municipality and the ownership has been transferred (in whole or in part) to a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances, if the facility is used in a manner prescribed in the matter preceding subparagraph (A) by the private entity; or

"(C) is owned or operated by a private entity that is a regulated utility or that has in effect a contract with a State or municipality to receive municipal wastewater (or a mixture of municipal wastewater and industrial wastes of a liquid nature) from sewers, pipes, or other conveyances within a service area that would otherwise be served by the State or municipality, if the facility is used in a manner prescribed in the matter preceding subparagraph (A).

"(22) The term 'regulated utility' means a person, firm, or corporation with respect to which—

"(A) a State water pollution control agency grants a license to own or operate (or both) a wastewater treatment facility; and

"(B) a State regulates the fees or other charges of the utility.".

By Mr. THURMOND (for himself and Mr. SIMON):

S. 1437. A bill to provide for an increase in funding for the conduct and support of diabetes-related research by the National Institutes of Health; to the Committee on Labor and Human Resources.

THE DIABETES RESEARCH ACT

Mr. THURMOND. Mr. President, I am pleased to rise today, along with my able colleague Senator SIMON, to introduce the Diabetes Research Act. Diabetes is a chronic, and often fatal, disease affecting more than 14 million Americans. Billions of dollars are spent annually to care for those afflicted by this disease. It is the fourth leading cause of death in the United States and a major cause of kidney disease, heart disease, amputation, and adult blindness. Scientists tell us that medical research holds a cure for diabetes, yet the problem persists.

In February of this year, I attended the Capitol Summit on Diabetes Research where leading scientists from around the Nation presented a comprehensive plan to direct diabetes research to a cure by the turn of the century. Recent evidence indicates that we are on the verge of uncovering new prevention, screening, and treatment procedures that will dramatically improve diabetes therapy and lead to a cure in the very near future.

The bill I am introducing today will substantially increase the funds available to the National Institutes of Health for diabetes research. I believe that at this critical juncture in the fight to end diabetes, it is imperative that we provide additional funding to our scientists who are on the verge of finding a cure. Every year, over $100 billion is spent caring for the 14 million citizens suffering with the complications of this devastating disease. This bill increases the authorization by $315 million for diabetes research. In light of the emotional and financial burden that diabetes brings to our country, I believe that this bill represents a prudent, invaluable investment in our Nation's future. I urge my colleagues to join me in cosponsoring this critical legislation so that we can end diabetes, and end the pain that this disease brings to its sufferers and their loved ones.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Diabetes Research Act of 1995".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Diabetes is a serious health problem in America.

(2) More than 14,000,000 Americans suffer from diabetes.

(3) Diabetes is the fourth leading cause of death in America, taking the lives of 162,000 people annually.

(4) Diabetes disproportionately affects minority populations, especially African-Americans, Hispanics, and Native Americans.

(5) Diabetes is the leading cause of new blindness, affecting up to 39,000 Americans each year.

(6) Diabetes is the leading cause of kidney failure requiring dialysis or transplantation, affecting up to 13,000 Americans each year.

(7) Diabetes is the leading cause of nontraumatic amputations, affecting 54,000 Americans each year.

(8) The cost of treating diabetes and its complications are staggering for our Nation.

(9) Diabetes accounted for health expenditures of $105,000,000,000 in 1992.

(10) Diabetes accounts for over 14 percent of our Nation's health care costs.

(11) Federal funds invested in diabetes research over the last two decades has led to significant advances and, according to leading scientists and endocrinologists, has brought the United States to the threshold of revolutionary discoveries which hold the potential to dramatically reduce the economic and social burden of this disease.

(12) The National Institute of Diabetes and Digestive and Kidney Diseases supports, in addition to many other areas of research, genetic research, islet cell transportation research, and prevention and treatment clinical trials focusing on diabetes. Other research institutes within the National Institutes of Health conduct diabetes-related research focusing on its numerous complications, such as heart disease, eye and kidney problems, amputations, and diabetic neuropathy.

SEC. 3. NATIONAL INSTITUTES OF HEALTH; INCREASED FUNDING REGARDING DIABETES.

With respect to the conduct and support of diabetes-related research by the National Institutes of Health—

(1) in addition to any other authorization of appropriations that is available for such purpose for the fiscal year involved, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1996 through 2000; and

(2) of the amounts appropriated under paragraph (1) for such purpose for a fiscal year, the Director of the National Institutes of Health shall reserve—

(A) not less than $155,000,000 for such purpose for the National Institute of Diabetes and Digestive and Kidney Diseases; and

(B) not less than $160,000,000 for such purpose for the other national research institutes.

Mr. SIMON. Mr. President, during this National Diabetes Awareness Month, I am pleased to join my colleague Senator STROM THURMOND in introducing the Diabetes Research Act of 1995, a bill to authorize increased funding for diabetes research. It is identical to legislation introduced in the House earlier this year by Representative ELIZABETH FURSE and Representative GEORGE R. NETHERCUTT, Jr.

Information from the National Institute of Diabetes and Digestive and Kidney Diseases shows there has been a dramatic increase recently in the number of Americans with diabetes—almost a 50 percent increase since 1983. About 15 million Americans now have diabetes, and an estimated half of them do not know they have the disease.

Diabetes is one of the leading causes of death by illness in the United States. It can lead to blindness, kidney failure, heart disease, stroke, and nerve damage. And it affects minority groups two to three times more frequently than others.

The rapid increase is taking place primarily in type II diabetes—adult-onset diabetes—which makes up 95 percent of cases. This type of diabetes is usually diagnosed at age 51, and with increasing numbers of Americans in this age range, we can expect an even higher incidence of diabetes in the future.

The diabetes-related costs to the Nation each year are estimated at over $100 million. And each day, thousands of Americans are facing blindness, amputation of extremities, and heart disease as a result of the disease.

We need to make research in this area a priority, and that is the purpose of the $315 million increase in NIH funding in this bill. The good news is, diabetes research is making great strides, and additional effort has an excellent chance of providing breakthrough results, saving thousands of lives, improving the lives of millions more and saving billions of health care dollars.

I invite my colleagues' support for this legislation.

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. FAIRCLOTH, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri

[Mr. BOND], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Utah [Mr. BENNETT], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Wyoming [Mr. THOMAS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Missouri [Mr. ASHCROFT], the Senator from Minnesota [Mr. GRAMS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 978, supra.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act], to revise the standards for coverage under the Act, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1316

At the request of Mr. BAUCUS, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

At the request of Mr. KEMPTHORNE, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1316, supra.

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1316, supra.

At the request of Mr. FRIST, his name was added as a cosponsor of S. 1316, supra.

At the request of Mr. KYL, his name was added as a cosponsor of S. 1316, supra.

At the request of Mr. MACK, his name was added as a cosponsor of S. 1316, supra.

S. 1429

At the request of Mr. DOMENICI, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1429, a bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995.

SENATE RESOLUTION 196—RELATIVE TO THE DEATH OF THE REVEREND RICHARD HALVERSON

Mr. DOLE (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 196

Whereas, the Reverend Dr. Richard Halverson became the 60th Senate Chaplain on February 2, 1981, and faithfully served the Senate for 14 years as Senate Chaplain;

Whereas, Dr. Halverson for more than 40 years was an associate in the International Prayer Breakfast Movement and Chairman of the Board of World Vision and President of Concerned Ministries;

Whereas, Dr. Halverson was the author of several books, including "A Day at a Time", "No Greater Power", "We the People", and "Be Yourself * * * and God's"; and

Whereas, Dr. Halverson was graduated from Wheaton College and Princeton Theological Seminary, and served as a Presbyterian minister throughout his professional life, including being the senior pastor at Fourth Presbyterian Church of Bethesda, Maryland: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Reverend Dr. Richard Halverson, late the Chaplain of the United States Senate.

Resolved, That the Secretary transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it recess or adjourn as a further mark of respect to the memory of the deceased.

AMENDMENTS SUBMITTED

THE SAFE DRINKING WATER ACT AMENDMENTS OF 1995

CHAFEE (AND OTHERS) AMENDMENT NO. 3068

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. GORTON, and Ms. SNOWE) proposed an amendment to the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes; as follows:

On page 19, line 23, insert "(or, in the case of a privately-owned system, demonstrate that there is adequate security)" after "source of revenue".

On page 20, line 24, insert "and" after "fund;".

On page 21, strike lines 1 through 4.

On page 21, line 5, strike "(6)" and insert "(5)".

On page 42, line 16, strike "title" and insert "section, and, to the degree that an Agency action is based on science, in carrying out this title,".

On page 69, line 24, strike "level," and insert "level or treatment technique,".

On page 69, line 25, insert "or point-of-use" after "point-of-entry".

On page 70, line 1, strike "controlled by the public water system" and insert "owned, controlled and maintained by the public water system or by a person under contract with the public water system".

On page 70, line 6, strike "problems." and insert "problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbal contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards."

Beginning on page 165, line 20, strike all through line page 166, line 2, and insert the following:

"(I) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

"(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);".

On page 166, line 3, strike "(aa)" and insert "(II)".

On page 166, line 15, strike "(bb)" and insert "(III)".

Beginning on page 167, line 5, strike all through page 167, line 19.

On page 168, line 1, strike "and" and insert "or".

On page 168, lines 2 and 3, strike "(I) and (II)" and insert "(II) and (III)".

On page 168, line 3, strike "and" and insert "or".

On page 168, strike lines 4 through 6 and insert the following:

"(C) Transition period.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.".

On page 178, line 21, strike "180-day".

On page 179, lines 6 and 7, strike "180-day".

On page 179, line 15, strike "effect." and insert "effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.".

On page 195, after line 20, insert the following:

"(e) Prevention and Control of Zebra Mussel Infestation of Lake Champlain.—

"(1) Findings.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

"(A) by striking "and" at the end of paragraph (3)'

"(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

"(C) by adding at the end the following new paragraph:

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

"(2) Ex officio members of aquatic nuisance species task force.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

"(3) Aquatic nuisance species program.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting ", Lake Champlain," after "Great Lakes" each place it appears.

"(4) Authorization of appropriations.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

"(A) in paragraph (3), by inserting ", and the Lake Champlain Research Consortium," after "Laboratory"; and

"(B) in paragraph (4)(A)—

"(i) by inserting after "(33 U.S.C. 1121 et seq.)" the following: "and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322)"; and

"(ii) by inserting "and the Lake Champlain basin" after "Great Lakes region".

On page 195, after line 20, insert the following:

"(f) Southwest Center for Environmental Research and Policy.—

"(1) Establishment of center.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as 'the Center').

"(2) Members of the center.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

"(3) Functions.—Among its functions, the Center shall—

"(A) conduct research and development programs, projects and activities, including training and community service, on U.S.-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

"(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

"(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

"(4) Authorization of appropriations.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.".

On page 195, after line 20, insert the following:

"(g) Estrogenic Substances Screening Program.—

"(1) Development.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

"(2) Implementation.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

"(3) Substances.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

"(4) Exemption.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

"(5) Collection of information.—

"(A) In general.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

"(B) Failure to submit information.—

"(i) Suspension.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

"(ii) Hearing.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

"(iii) Termination of suspensions.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied fully with this paragraph.

"(6) Agency action.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

"(7) Report to congress.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

"(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

"(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

"(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.".

CHAFEE (AND OTHERS) AMENDMENT NO. 3069

Mr. CHAFEE (for himself, Mr. Kempthorne, Mr. Baucus, and Mr. Reid) proposed an amendment to the bill, S. 1316, supra, as follows:

Beginning on page 61, line 11, strike all through page 62, line 16, and insert:

"(A) Additional research.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administration shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.".

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3070

Mr. MURKOWSKI (for himself, Mr. CHAFEE, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra, as follows:

On page 195, after line 20, insert the following:

"(g) GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

"(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

"(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

"(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

"(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

"(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

"(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

CHAFEE (AND OTHERS) AMENDMENT NO. 3071

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. GORTON, and Mrs. MURRAY) proposed an amendment to the bill, S. 1316, supra, as follows:

On page 64, after line 5, insert the following:

"(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: "Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alterative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).".

On page 64, line 6, strike "(a)" and insert "(b)".

On page 64, line 31, strike "(b)" and insert "(c)".

CHAFEE (AND OTHERS) AMENDMENT NO. 3072

Mr. CHAFEE (for himself, Mr. STEVENS, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. DOMENICI, Mr. BINGAMAN, Mr. KYL, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1316, supra, as follows:

On page 195, after line 20, insert the following:

"(h) ASSISTANCE TO COLONIAS.—

"(1) DEFINITIONS.—As used in this subsection—

"(A) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

"(i) is commonly referred to as a colonia;

"(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

"(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

"(B) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico and Texas.

"(C) TREATMENT WORKS.—The term 'treatment works' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

"(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

"(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

"(B) the construction or improvement of sewers and treatment works for wastewater treatment.

"(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

"(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

"(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.".

THOMAS (AND SIMPSON) AMENDMENT NO. 3073

Mr. KEMPTHORNE (for Mr. THOMAS, for himself, and Mr. SIMPSON) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 7, line 23 after "the State)." And the following: "*Provided further*, in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund."

BOND AMENDMENT NO. 3074

Mr. KEMPTHORNE (for Mr. BOND) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 111, line 22 insert: "except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified".

MURKOWSKI (AND OTHERS) AMENDMENT NO. 3075

Mr. KEMPTHORNE (for Mr. MURKOWSKI for himself, Mr. STEVENS, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 28, line 3, before the period, insert "(including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))".

CHAFEE (AND OTHERS) AMENDMENT NO. 3076

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, and Mr. CHAFEE) proposed an amendment to the bill, S. 1316, supra; as follows:

Beginning on page 179, line 16, strike section 28 of the bill and renumber subsequent sections accordingly.

CHAFEE (AND OTHERS) AMENDMENT NO. 3077

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. REID, Mr. D'AMATO, and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 168, line 7, strike "GROUND WATER PROTECTION" and insert "WATERSHED AND GROUND WATER PROTECTION".

On page 173, after line 7, insert the following:

"(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

"(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

"grants for state and local programs

"(2) Section 1443 (42 U.S.C. is amended by adding at the end thereof the following:

"(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—

"(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published and under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

"(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

"(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

"(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administration by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of storm water runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning, or governing organizations. In certifying projects to the Administrator, State of New York shall give priority to these monitoring and research projects that have undergone peer review.

"(C) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

"(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purposes of providing assistance to the State of New York, to carry out paragraph (2).".

On page 171, line 21, strike "20,000,000" and insert "15,000,000".

On page 171, line 24, strike "35,000,000" and insert "30,000,000".

On page 172, line 3, strike "20,850,000" and insert "15,000,000"

On page 2, in the material following line 6, strike "Sec. 25. Ground water protection." and insert "Sec. 25. Watershed and ground water protection.".

BOXER (AND OTHERS) AMENDMENT NO. 3078

Mrs. BOXER (for herself, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. KOHL) proposed an amendment to the bill, S. 1316, supra; as follows:

Section 20, Page 140, line 11, add at the end the following new subparagraph:

(F) CONSUMER CONFIDENCE REPORTS.—

(i) IN GENERAL.—The Administrator shall issue regulations within three years of enactment of the Safe Drinking Water Act Amendments of 1995 to require each community water system to issue a consumer confidence report at least once annually to its water consumers on the level of contaminants in the drinking water purveyed by that system which pose a potential risk to human health. The report shall include, but not be limited to: information on source, content, and quality of water purveyed; a plainly worded explanation of the health implications of contaminants relative to national primary drinking water regulations or health advisories; information on compliance with national primary drinking water regulations; and information on priority unregulated contaminants to the extent that testing methods and health effects information are available (including levels of cryptosporidium and radon where states determine that they may be found).

(ii) COVERAGE.—Subsection (i) shall not apply to community water systems serving fewer than 10,000 persons or other systems as determined by the Governor, provided that such systems inform their customers that they will not be complying with Subsection (i). The state may by rule establish alternative requirements with respect to the form and content of consumer confidence reports

CHAFEE (AND OTHERS) AMENDMENT NO. 3079

Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, and Mr. REID) proposed an amendment to the bill, S. 1316, supra; as follows:

On page 132, line 5, strike "methods." and insert "methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the administrator), shall be established by regulation as provided in clause (ii).".

AUTHORITY FOR COMMITTEES TO MEET

COMMITEE ON LABOR AND HUMAN RESOURCES

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 1423, Occupational Safety and Health Reform and Reinvention Act, during the session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 4:30 p.m. to hold a closed briefing regarding intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT COMMITTEE ON THE LIBRARY

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Joint Committee on the Library be allowed to meet during the session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m. to conduct an oversight hearing of the Library of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 10 a.m., to hold a hearing on franchise relocation in professional sports.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 29, 1995, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. KEMPHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, November 29, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the administration's implementation of section 2001 of the Funding Rescissions Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m. in SR385.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT ON THE DISTRICT OF COLUMBIA

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, be permitted to meet during a session of the Senate on Wednesday, November 29, 1995, at 9:30 a.m., to hold a hearing on S. 1224, the Administrative Dispute Resolution Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LAST RESPECTS TO PRIME MINISTER RABIN

• Mr. SIMON. Mr. President, I had the honor to speak at a tree planting across from the White House, a ceremony honoring the late Prime Minister Yitzhak Rabin, conducted by the Jewish National Fund.

It was the first time a tree had been planted in the area of the White House honoring a foreign leader.

My hope is that all parties in the Middle East, as well as other nations, including the United States, will do everything we can to pursue Yitzhak Rabin's dream of peace, a practical peace where neighbors can get along and trade and have normal discourse.

At the funeral tribute to Prime Minister Rabin in Israel, which I watched on television, nothing was more moving than the tribute of his teenage granddaughter, Noa Ben-Artzi Philosof.

You would have to be hard-hearted indeed not to have tears come to your eyes as she made this moving tribute to him.

I was proud of President Clinton's tribute, and I thought King Hussein and President Mubarak also did an excellent job.

But for those who may not have heard or read the tribute of Prime Minister Rabin's granddaughter, I ask that it be printed in the RECORD.

The tribute follows:

[Translated and transcribed by the New York Times]

A GRANDDAUGHTER'S FAREWELL

(By Noa Ben-Artzi Philosof)

Please excuse me for not wanting to talk about the peace. I want to talk about my grandfather.

You always awake from a nightmare, but since yesterday (Sunday) I was continually awakening to a nightmare. It is not possible to get used to the nightmare of life without you. The television never ceases to broadcast pictures of you, and you are so alive that I can almost touch you—but only almost, and I won't be able to anymore.

Grandfather, you were the pillar of fire in front of the camp and now we are left in the camp alone, in the dark; and we are so cold and so sad.

I know that people talk in terms of a national tragedy, and of comforting an entire nation, but we feel the huge void that remains in your absence when grandmother doesn't stop crying.

Few people really knew you. Now they will talk about you for quite some time, but I feel that they really don't know just how great the pain is, how great the tragedy is; something has been destroyed.

Grandfather, you were and still are our hero. I wanted you to know that every time I did anything, I saw you in front of me.

Your appreciation and your love accompanied us every step down the road, and our lives were always shaped after your values. You, who never abandoned anything, are now abandoned. And here you are, my ever-present hero, cold, alone, and I cannot do anything to save you. You are missed so much.

Others greater than I have already eulogized you, but none of them ever had the pleasure I had to feel the caresses of our warm, soft hands, to merit your warm embrace that was reserved only for us, to see your half-smile that always told me so much, that same smile which is no longer, frozen in the grave with you.

I have no feelings of revenge because my pain and feelings of loss are so large, too large. The ground has been swept out from below us, and we are groping now, trying to wander about in this empty void, without any success so far.

I am not able to finish this; left with no alternative. I say goodbye to you, hero, and ask you to rest in peace, and think about us, and miss us, as down here we love you so very much. I imagine angels are accompanying you now and I ask them to take care of you, because you deserve their protection.•

MARINE CORPS ANNIVERSARY OBSERVANCE

• Mr. WARNER. Mr. President, I attended the Marine Corps Anniversary Observance at the Marine Corps War Memorial. The speaker at those ceremonies was our colleague from New Hampshire, BOB SMITH. As a former marine, I was very impressed with Senator SMITH's remarks, and I ask that they be printed in the RECORD for all—Marines and those who wish they were—to read.

The remarks follow:

REMARKS OF SENATOR BOB SMITH—MARINE CORPS 220TH BIRTHDAY

Thank you very much, General Krulak, Secretary Perry, Secretary Dalton, General Shalikashvili, Senator WARNER, Colonel Dotter, and distinguished guests. It is a great honor to join with you all today in commemorating the 220th birthday of the United States Marine Corps. Before we begin, I want to take this opportunity to commend you personally, General Krulak, on the superb readiness of your troops, and for your outstanding leadership as commandant of the Marine Corps.

It is fitting that today's commemoration coincides with the observance of Veterans Day. Indeed, as our Nation pauses to reflect upon the historical sacrifices of its warriors, what better place for us to congregate that here at this great shrine. What better way to honor our Nation's veterans than to celebrate 220 years of Marine Corps history.

As you know, I was not a marine. However, I took my share of "incoming" on the floor of the U.S. Senate fighting the battle for those M1A1 tanks and MPS ships, and I am proud of it. I am a marine in spirit, and I have a letter from General Mundy to prove it.

The Marine Corps was created on November 10, 1775 when the Continental Congress decreed that two battalions of Marines be organized under the direction of Captain Samuel Nicholas, the first commandant.

Recruitment procedures being somewhat different back then, the Marines were recruited at Tun Tavern in Philadelphia. Although their indoctrination was not quite as rigorous as a trip through San Diego, Parris Island, or Quantico, these pioneering Marines made history by launching an amphibious landing at New Providence Island in the Bahamas, capturing a British fort and securing its arms and powder for Washington's Army. They later went on to fight at such locations as Trenton, Morristown. Penobscot Bay, and Fort Mifflin.

In the two centuries since those colonial battles, the size and structure of the Marine Corps has evolved, doctrine has changed, and areas of operational responsibility have expanded. The corps has emerged as a truly global force, deploying to Central and South America, Europe, Asia, and the Middle East, with the status of being the first to fight.

But what has never changed, and what continues to distinguish the United States Marine Corps from any other fighting force in the world, is its unique culture and character.

The Marine Corps is rich with tradition, its men and women strong on character and conviction. Honor discipline, valor, and fidelity are the corps virtues; dedication, sacrifice, and commitment its code. To those who willingly join this elite society, service is not merely an occupation, it is a way of life. Once a marine, always a marine.

It is this way of life, this absolute, unwavering commitment to duty, honor, and country, that has distinguished the United States Marine Corps from every other fighting force in history. And it is this selfless dedication, manifested through uncountable examples of battlefield valor, that has preserved our freedom and enabled our nation to prosper.

But there have been costs. Tremendous costs. Look at the costs of Iwo Jima. Between February 19th and March 26th 1945, nineteen-thousand Americans were wounded and seven thousand were killed in the campaign to capture that strategic four mile island. Against tremendous adversity, our marines persevered and prevailed in this critically important campaign. Four of the men depicted in this memorial died within days of raising the flag.

But those of us who have served in the Armed Forces and gone to war know that freedom is never free. We knew it when we enlisted, we know it today. So many of our brave soldiers, sailors, airmen, and marines have perished in defense of freedom. So many more have been wounded or disabled. Each of us has suffered the loss of a fallen comrade or loved one.

This veterans day has a very special significance for me. For it was 50 years ago that I lost my father on active duty during World War II. He was a naval aviator who flew combat missions in the South Pacific.

He knew the risks, he knew them well. And he accepted them. The stakes were too high not to. My father gave his life in service to his Nation. And on this very special occasion, when I am so honored to join with you today, I want to pay tribute to my father and mother who, together, rest on a quiet little hillside in Arlington Cemetery. Like my dad, my mother never wavered in her love of country, even when she saw her only two sons depart for Vietnam.

Freedom is never free.

But some things are worth fighting for. Some universal principles of freedom, of morality, of human dignity, and of right and wrong must be defended, no matter what the costs. And through thick and thin, the United States Marine Corps has answered the Nation's call, remaining true to its convictions and determined in its vow to be most ready when the Nation is least ready.

Whether it be the colonial battles at new providence island and Trenton, or the historic campaigns at Belleau Wood, Guadalcanal, Iwo Jima, and Inchon, the marines have always delivered for our Nation for the cause of freedom.

And today, whether rescuing American citizens in Rwanda, maintaining the watch off Somalia, conducting migrant rescue and security operations in the Caribbean and ashore in Jamaica, Cuba, and Haiti, responding to crises in the Persian gulf, or rescuing downed pilots in Bosnia, the Marine Corps continues to deliver on its commitment to the American people and the United States Constitution. They even survived the media onslaught when they landed in Somalia.

When I think back upon the uncountable acts of heroism and sacrifice by our marines, I am always reminded of the words of Admiral Chester Nimitz following the battle of Iow Jima.

From the fleet, Admiral Nimitz concluded, and I quote, "Among the Americans who served on Iwo Island, uncommon valor was a common virtue." Unquote.

Let me briefly provide an example of the kind of valor to which Admiral Nimitz was referring. On February 23, 1945, a young marine corporal named Hershel Williams earned the Congressional Medal of Honor at Iwo Jima. When marine tanks were unable to open a lane for the infantry through a network of concrete pillboxes and buried mines, Corporal Williams struck out on his own to suppress the Japanese onslaught.

Corporal Williams fought desperately for 4 hours, covered by only 4 riflemen, preparing demolition charges and using a flamethrower to wipe out multiple enemy positions.

On one occasion, he daringly mounted a pillbox under heavy fire, inserting the nozzle of his flamethrower through the air vent, and destroying the enemy guns that were ravaging our troops.

According to the Medal of Honor description, Corporal Williams' unyielding determination and extraordinary heroism in the face of ruthless enemy resistance were directly instrumental in neutralizing one of the most fanatically defended Japanese strongholds, enabling his company to reach its objective.

This is the kind of uncommon valor that Admiral Nimitz was talking about. But one does not have to reach back into history to find heroism. It is right here in front of, and around me, today. The highest decorations that our Nation bestows are worn on the chest of many of you here today. It is you who carry the torch of freedom, and you who continue the legacy of Corporal Williams and the millions of other marines who have served our Nation. And you do it willingly, sometimes without receiving the credit you so richly deserve.

Though the world remains dangerous, and the future uncertain, there is one constant that we as Americans can take great pride and comfort in. That is the fact that our United States Marine Corps remains on station, throughout the world, 24 hours a day, 365 days a year, every year, defending our freedom and preserving our security.

The honor, the dedication, the sacrifice, and, yes, the uncommon valor of every marine who has served before lives on through those of you who stand watch today. As we honor this history, we should pause to reflect upon the 275 Marine Corps soldiers who are still listed as POW/MIA from Vietnam, Korea, and other wars. They are always in our hearts.

I know that my friends in the Navy, Army, and Air Force will understand when I take the liberty of saying to General Krulak and all members of the Marine Corps—past, present and future—Semper fi.

Thank you very much.•

CHINA-UNITED STATES TIES WARM A BIT AS CHINA-TAIWAN RELATIONS CHILL

Mr. SIMON. Mr. President, I have felt for some time that the United States made a mistake in recognizing the People's Republic of China and derecognizing Taiwan, sometimes referred to as the Republic of China.

My position for a long time was that we should recognize both Chinas, as we recognized both Germanys. That did not prevent East Germany and West Germany from uniting as one country.

But when the mistake was made of playing the China card, in large measure in response to the Soviet Union and its perceived threat, we had set up a situation that potentially could mean military trouble in Asia.

The New York Times carried a story on Saturday, November 18, by Patrick E. Tyler that talks about an improvement in United States ties but a worsening of China-Taiwan ties.

I am concerned about any leadership that could emerge in dictatorial China that might be a threat to the free Government of Taiwan.

I hope that our military leaders and our diplomatic leaders will not pussyfoot around in making clear that there would be serious repercussions if China were to invade Taiwan.

I ask that the article be printed in the RECORD.

The article follows:

CHINA-U.S. TIES WARM A BIT AS CHINA-TAIWAN RELATIONS CHILL

(By Patrick E. Tyler)

BEIJING, Nov. 17.—China and the United States made new progress today in resuming a program of high-level military contacts by agreeing to an exchange of visits of their top military officers next year.

But American defense officials visiting here this week reported that during private conversations they encountered trenchant rhetoric and signs of unrelenting determination by Beijing's military and civilian leaders to undermine the rule of the President of Taiwan, Lee Teng-hui.

In recent days, China has restated its intention to use all means, including military intimidation and force if necessary, to end what Beijing considers a drive by Mr. Lee to achieve independence for Taiwan.

Mr. Lee insists he is only seeking greater international recognition for the island, which has been estranged from the mainland since the nationalists fled there after their defeat by the Communists in 1949.

As three days of talks ended, the Pentagon was receiving reports that China had begun a new military exercise off its southeastern coast near Taiwan, military officials here said.

It followed a Taiwanese drill earlier in the week intended to demonstrate the island's ability to repulse an invasion from the mainland.

The visit of the American delegation led by Joseph S. Nye, the Assistant Secretary of Defense for International Security Affairs, was the first by American military officials since the diplomatic rift that followed a White House decision to allow Mr. Lee to make a private visit to the United States in June.

And it demonstrated that United States-China relations are recovering at a time of unremitting military tension across the Taiwan Strait that could lead to another rupture in relations and, perhaps, military conflict.

"The Chinese have a military operation starting right now," an official traveling with Mr. Nye said tonight. "And what is clear is that China is brushing off military plans and operational contingencies that they haven't thought about since the 1950's. This is an issue we are very concerned about."

Mr. Nye and officials traveling with him said that communication between China and the United States is improving in some areas, but "there was no give whatsoever" on Taiwan, one official said.

"Every single person referred to Taiwan, and their point was that every Chinese is united on this question," the official said.

"It was interesting because they made a comparison with our system. They said you may have differences in your Congress, but in China we are all united that there is only one China and Taiwan is part of China."

Chinese military leaders, during extensive closed door talks with the American delegation, engaged in "subtle exploration" of how the United States would respond in the event of a military crisis over Taiwan, one official said.

But the American officials refused to discuss United States contingency planning. "We stand for peaceful resolution of disputes across the Taiwan Strait," Mr. Nye said at a news conference today.

Any use of force by China against Taiwan "would be a serious mistake" and, he added, continued military exercises near Taiwan "are not helpful."

Mr. Nye announced that the Chinese Defense Minister, Gen. Chi Haotian, would visit Washington next year and that Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, would pay a reciprocal visit to Beijing.

Visits by American and Chinese warships to each other's ports will also resume, Mr. Nye said.•

CHARITABLE GIVING PROTECTION ACT

• Mr. D'AMATO. Mr. President, I am pleased to be a cosponsor of S. 978, the Charitable Giving Protection Act of 1995, introduced by Senators HUTCHISON and DODD.

Charitable organizations serve a vital and unique role in meeting the needs of the American people. Religious, educational, benevolent, fraternal, and other charitable organizations depend on donations to fund their operations. Congress must see to it that charitable giving is encouraged to ensure that these critical donations continue.

Charitable gift annuities enable individuals to make a donation to charity and receive lifetime interest payments based on the donation's return. The SEC has determined that these types of donations do not involve an investment strategy and thus are not securities that would otherwise have to be registered.

Recently, however, a lawsuit has put into question whether charitable income funds need to be registered under the Federal securities laws. The threat of litigation would deter individuals from making this type of donation and prevent charitable organizations from raising funds in this manner. S. 978 will allow charitable institutions to continue raising vital funds through special investments and charitable gift annuities—without the threat of litigation.

The Charitable Giving Protection Act clarifies that the charitable income funds are not required to register under the Federal securities laws. This legislation would codify the longstanding SEC practice of exempting charitable organizations from registration requirements.

This legislation maintains critical investor protection provisions of the Federal securities laws. It does not exclude charitable organizations from the antifraud or disclosure provisions of the Federal securities laws. These important investor provisions must be retained to protect individuals who make the donations to charitable organizations.

This legislation provides the appropriate relief to charities so they can raise and manage their money without compromising investor protections. The chief watchdog of the securities markets, the SEC, also supports the goals of this legislation. During House Commerce Committee hearings on a companion bill, the SEC's Director of the Division of Investment Management, Barry Barbash, testified: "the Commission believes that the Philanthropy Protection Act provides an appropriate level of investor protection while not encumbering charitable organizations with the burdens of full compliance with the securities laws."

I am pleased to be a cosponsor of S. 978. Last night, the House companion bills, H.R. 2145, the Philanthropy Protection Act and H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act of 1995 passed by a unanimous vote of the House of Representatives. I urge the Senate to act quickly on this important legislation.•

HONORING SHIM KANAZAWA, KINJI KANAZAWA, AND SPARK M. MATSUNAGA

• Mr. INOUYE. Mr. President, I would like to honor three extraordinary gifted individuals who share many things in common: love of country and an undying commitment to serve their fellow citizens. Shim and Kinji Kanazawa and our beloved colleague, the late Spark M. Matsunaga are to be commended for the time, effort and many years of outstanding service that they have given to improving the quality of life for the people of Hawaii. They are indeed role models that many can only hope to emulate.

The eldest of 11 children of Torazo and Saki Rusaki, Shimeiji, or Shim as she is more familiarly known, was born in Kamuela, HI. She attended schools in Waimea, Hilo, and Boston.

At the time when World War II broke out, Shim assisted the Swedish Vice-Consulate, which had the responsibility for protecting the interests of resident Japanese aliens. She advised the Vice-Consulate to provide a variety of services including assistance with business and personal affairs, reuniting internees with their families, arranging for transportation, and escorting many to the faraway camps. The American Red Cross later awarded Shim a special citation for the care and compassion she displayed to those she assisted.

In 1946, while working for the Veterans Administration, Shim met her husband, Kinji. The following year they were married and immediately moved to Boston where Kinji attended law school and Shim studied at the Chamberlain School of Design and Retailing. Upon completion of their studies, they returned to Honolulu and Shim continued her work for the betterment of the community.

Shim served as an active volunteer member of many organizations including the Lawyers Wives Club, for which she served as president, and the Commission on Children and Youth. Shim was the first nisei woman to serve on the board of Aloha United Way, and the first woman director and chair to serve on the board of Kuakini Medical Center. She was appointed by former Gov. William Quinn to chair the Life and Law Committee to study laws affecting family life and youth, which spearheaded the creation of the Family Court. Shim actively participated on the Elder Affairs Policy Advisory Board and chaired the Commission on Aging. She was also the driving force in the planning of Hawaii's participation in the White House Conference on Aging, serving as chair in 1981 and 1995, and for more than 10 years, Shim has been an active board member of the Moiliili Community Center.

In 1990, on behalf of the Moiliili Hongwanji Mission, Shim applied for a grant from the National Federation of Interfaith Volunteer Caregiver and founded Project Dana, which developed into a very successful program of volunteer caregiving for the frail elderly. Today, she serves on the Robert Wood Johnson Faith in Action National Advisory Committee and is a trustee/treasurer of the National Federation of Interfaith Volunteer Caregivers.

Shim's extraordinary efforts to care for and serve the community has earned her many honors. On May 13, 1990, the Board of Regents of the University of Hawaii at Manoa bestowed upon her the honorary degree of Humane Letters for her deep concern and humanitarian efforts to improve the quality of life for all people. On April 12, 1995, our State Senate honored Shim for her devoted and exemplary service to the people of Hawaii, and on May 11, 1995, the Public Schools Foundation honored her for her more than 20 years of continuous service as a full time executive volunteer at the local and national level.

Kinji Kanazawa is the son of Sakijiro and Haru Kanazawa. He was born and raised in Moiliili with his twin brother Kanemi and five older sisters. Kinji attended Kuhio Elementary, Washington Intermediate, McKinley High School, and the University of Hawaii at Manoa. Kinji worked in real estate, and during World War II, for the Federal War Housing Administration which built about 1,000 temporary homes in Manoa Valley. After the war, he attended Boston University Law School.

Kinji headed the State Real Estate Commission, taught at the University of Hawaii, and operated his own real estate school where he trained over 6,000 agents. On April 3, 1995, he was duly admitted as an Attorney and Counselor of the Supreme Court of the United States of America.

Kinji is credited with saving the Moiliili Community Center during World War II, when most Japanese-owned land was confiscated by the Government under martial law. The military governor refused to allow the Moiliili Community Association to acquire the Japanese Language School unless the Japanese Board of Directors was replaced by caucasians. Kinji persuaded several caucasian community leaders to become board members. As soon as the emergency was over, they willingly resigned to enable the former Moiliili leaders to become board members. Kinji and I recently co-chaired the Capitol Fund Drive to construct the Weinberg Building which is now the Thrift Shop. He has continuously led the board of trustees of the Moiliili Community Center for the past 50 years. Kinji has also served the Moiliili Hongwanji Mission as the president of the temple organization for over 22 years.

The late Spark M. Matsunaga was born on October 8, 1916, on the Island of Kauai, to Kingoro and Chiyono Matsunaga, who had emigrated from Japan to work on a sugar plantation. He worked at many jobs through high school and graduated with honors from the University of Hawaii, where he received a degree in education.

At the time World War II broke out, Spark was a second lieutenant in the U.S. Army. When President Roosevelt permitted the formation of all-Japanese units, Spark became a member of the 100th Infantry Battalion, which later became a part of the 442nd Regimental Combat Team. Whatever assignments Spark received, he performed with skill and bravery. He fought in the historic battles of Monte Cassino, Anzio and the liberation of Rome. He was wounded twice and earned the Bronze Star Medal for heroism.

Using the GI bill, Spark went to Harvard Law School and received his law degree. He went to work as an assistant prosecuting attorney in Honolulu and was elected to the Territorial House of Representatives from 1954 to 1959, and serving as majority leader in 1959.

In 1962, Spark came to Washington and served in the U.S. House of Representatives for seven terms. In 1976, he was elected to the U.S. Senate. He served with much distinction as a member of the Finance Committee, where he was a ranking member, and chairman of the Subcommittee on Taxation and Debt Management; on the Labor and Human Resources Committee, and chairman of its Subcommittee on Aging; and on the Veterans' Affairs Committee.

Spark will always be respected for his outstanding legislative record that fulfilled his visions of peace, international cooperation, and assistance to those in need. He had always wanted to be remembered as a friend of peacemakers. He never forgot the horrors of war. He was determined that our Nation would devote itself to the pursuit of peace. In 1984, Spark's 22 years of lobbying efforts resulted in the establishment of the U.S. Institute for Peace.

As a ranking member of the Veterans' Affairs Committee, Spark's imprint could be seen on virtually every major bill that passed the committee. In 1987, he engaged in efforts to establish a veterans medical center in Hawaii, to care for the aging and ailing military veterans. At that time, I committed myself to carrying on Spark's endeavor and ask that the veterans hospital would forever bear his name, in remembrance of his contributions on behalf of our Nation's veterans. I am pleased to report today, the Congress has appropriated approximately one-third of the total funds to establish the Spark M. Matsunaga Department of Veterans Affairs Medical Center, and I remain hopeful that Spark's endeavor will someday become a reality.

Spark was indeed a voice of compassion for the homeless, as well as the physically and mentally ill. When it may have been unpopular to do so, he waged a campaign for justice for Americans of Japanese ancestry who were interned during World War II. Spark went from office to office seeking cosponsors for a measure authorizing an apology and monetary reparations for Japanese-Americans whose patriotism was questioned. This measure was enacted in 1988.

I will always remember Spark for these achievements, his friendly personality and love of Japanese poetry.

Shim and Kinji Kanazawa's and the late Spark M. Matsunaga's extraordinary lifelong contributions to the State of Hawaii and to our Nation will not be forgotten.•

IMMIGRATION: WHERE TO GO FROM HERE

• Mr. ABRAHAM. Mr. President, I would like to bring to the attention of my Senate colleagues a piece that appeared in the November 27 edition of the Wall Street Journal entitled "Immigration: Where to Go From Here?" In this piece, the Journal asked a panel of opinion-makers—ranging from Jack Kemp to former New York Mayor Edward Koch to our colleague BEN NIGHTHORSE CAMPBELL—about the impact of legal immigration on America's society and economy. I think that the views expressed in this article will be helpful to my colleagues as we debate immigration reform in the coming months. I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 27, 1995]

IMMIGRATION: WHERE TO GO FROM HERE

Jack Kemp is a co-director of Empower America, a conservative advocacy organization.

Some immigration policies badly need reform, especially those having to do with illegal immigration. Under the 1986 immigration reform act, for example, it's illegal to hire an undocumented alien, and hard and costly even to hire a legal one. By contrast, the law allows, and in many cases legally mandates, payment of welfare, medical, education and other benefits.

A better, more American, policy would be to make it easy for immigrants to work—for example, with a generous guest worker program and low-cost i.d. for participants. We can design a policy that would be just and would create better incentives, but would make it harder to get welfare payments. For instance, the U.S. could more readily accept immigrants who take a pledge not to go on welfare (a pledge many have already taken).

With such policies, we not only can "afford" to keep the golden door open; we will attract the same type of dynamic men and women who historically helped build this immigrant nation. Let's agree to reform the welfare state and not allow America to be turned into a police state.

Edward I. Koch is a former mayor of New York City.

The U.S. continues to benefit from the influx of legal immigrants. Just to take a few examples: In Silicon Valley, one out of every three engineers and microchip designers is foreign born; in Miami, Cuban immigrants have revitalized a once decaying city; and in New York, foreign nationals serve as CEOs of banking institutions, as senior managers of international companies, and as investors and entrepreneurs.

What the restrictionist legislative proposals seem to ignore is the critical distinction between legal and illegal immigration. The number of legal immigrants we admit each year is limited and manageable. Fewer than 25,000 immigrants received labor certifications (the prerequisite for obtaining permanent resident status based on job skills) last year.

Under existing law, legal immigrants must establish when coming here that they have sufficient assets to sustain themselves or that they have a job with a salary that will ensure their not becoming dependent on welfare. Lacking these two, they are required to provide an affidavit from a sponsor, usually a family member, who will be legally responsible to make sure the immigrant and his family will never become public charges. These commitments should be made enforceable.

I do not believe that the U.S. would be the world's only superpower if not for the super energy provided by the annual influx of legal immigrants. I don't want to change that.

Stephen H. Legomsky is a professor of international and comparative law at Washington University School of Law, St. Louis.

The U.S. has two venerable traditions. One is to admit immigrants; the other is to complain that today's immigrants are not of the same caliber as yesterday's. In actuality, today's immigrants are just as resourceful as their predecessors, and they are more vital to American industry and to the American consumer than ever before. Imported laborers used to be valued mainly for their muscle. In today's high-tech global economy, brainpower has become the more valuable resource. American companies and universities compete with their foreign counterparts for the world's greatest minds. Why donate this talent to our global competitors when we can use it ourselves?

Yes, immigrants take jobs. But they also create jobs by consuming goods and services, lending their expertise to newly vibrant American export companies, starting businesses and revitalizing cities.

Yes, some immigrants receive welfare. But immigrants also pay taxes—income, sales, property, gasoline and Social Security. For federal, state and local governments combined, immigrants actually generate a net fiscal surplus.

Of course, immigration does far more than this. It reunites husbands with wives and parents with children. It enriches us culturally. It is, ultimately, the quintessential American value.

Peter Brimelow is the author of "Alien Nation: Common Sense About America's Immigration Disaster" (Random House).

Immigration policy is broke and needs fixing. The perverse selectivity of the 1965 Immigration Act has resulted in an inflow vastly larger and more unskilled than promised. Moreover, in the lull since the 1890–1920 immigration wave, the American welfare state was invented. Its interaction with mass immigration is paradoxical. At the turn of the century, 40% of all immigrants went home, basically because they failed in the work force. Now immigrants are significantly into welfare (9.1% vs. 7.4% for native-born Americans, maybe 5% for native-born whites). And net immigration is some 90%.

The real economic question about immigration, however, is: Is it necessary? Does it do anything for the native-born that they could not do for themselves? Here there is a consensus: no. Indeed, the best estimate of the post-1965 influx's benefit to the native-born, by University of California, San Diego economist George J. Borjas, is that it is nugatory: perhaps one-tenth of 1% of gross domestic product in total. America is being transformed for—nothing.

Current legislation usefully reduces numbers. But irresponsible politicians and pundits will prevent a full Canadian-style reorientation to favoring immigrants with skills and cultural compatibility such as English proficiency, or giving consideration to guest workers, before the inevitable backlash compels a total cut-off.

Gregory Fossedal is founder and CEO of the Alexis de Tocqueville Institution, Arlington, VA.

Immigrants pay $25 billion more in federal taxes than they use in services, according to an Urban Institute estimate. Preliminary data on patents, small business startups, and city and state unemployment all indicate immigrants generate net output and jobs. For a smaller budget deficit we should run a people surplus.

Some want to "skim the cream"—letting in lots of engineers and millionaires, but fewer family members, refugees and "low-skilled" immigrants. Tempting, but the brilliant Indian and Chinese programmers working for Microsoft often have wives or husbands or parents. Many American executives need an affordable au pair: And the George Soroses or Any Groves of tomorrow often have nothing when they come. They bus tables or clean hotel rooms before they build Fortune 500 companies. It's a mistake for Vice President Al Gore to try to out-think capital markets. Why should Sen. Alan Simpson be smarter than the labor market?

We should sharpen the programmatic distinction between being in the U.S. and being a U.S. citizen. Make it easy to work or travel—but confer government benefits on citizens, not on people who merely happen to be here (a change included in the House welfare reform). This would end the shibboleth that immigrants are costly, and ease legitimate concern that America is losing its English-speaking core. Then there would be support for the reform we really need—to let in more immigrants.

Barbara Jordan chairs the U.S. Commission on Immigration Reform.

It is because we benefit from lawful immigration that reform is necessary. The bipartisan USCIR recommends a comprehensive strategy to deter illegal immigration: better border management; more effective enforcement of labor and immigration laws; benefits policies consistent with immigration goals: prompt removal of criminal aliens. Most illegal aliens come for jobs, so reducing that magnet is key. Employers need tools to verify work authorization that fight fraud and discrimination, reduce paperwork and protect privacy. The most promising option: electronic validation of the Social Security number all workers already provide after they are hired.

A well-regulated legal immigration system sets priorities. Current policy does not. More than one million nuclear families are separated, awaiting visas that will not be available for years. We recommend using extended family visas to clear this backlog. Unskilled foreign workers are admitted while many of our own unskilled can't find jobs. We recommend eliminating this category. A failed regulatory system prevents timely hiring of skilled foreign professionals even when employers demonstrate an immediate need. We recommend a simpler, less costly system based on market forces. We still have a Cold War refugee policy. To maintain our commitment to refugees, we should rethink our admissions criteria.

These reforms will further the national interest.

Scott McNealy is chairman and CEO, Sun Microsystems Inc., Palo Alto, Calif.

Sun Microsystems is an American success story, a company that has benefited profoundly from the employment of highly skilled legal immigrants. Founded in 1982 by individuals from three countries—Vinod Khosla (India), Any Bechtolsheim (Germany), and Bill Joy and myself (U.S.)—today Sun has more than $6 billion in annual revenues and more than 15,500 employees worldwide. Our latest technology effort was headed by an Indian national and worked on by about 2,000 employees from around the world.

While illegal immigration is a problem that needs to be addressed, there are very real benefits to the U.S. economy from the employment of highly skilled legal immigrants.

The legislation that is moving through Congress today, if approved, will hurt Sun, and the industry. With at least half of our revenue earned outside the U.S., and the bulk of our R&D conducted inside the U.S., we need to hire the best and brightest engineers and scientists, regardless of their place of birth, to stay globally competitive. And even though Sun is devoting considerable resources both to training our employees and to educating students from kindergarten through university, we are still confronted with a shortage of U.S. workers with state-of-art, leading-edge engineering knowledge. We must be able to hire highly skilled legal immigrants now or we may miss a product cycle in this fast-paced industry. Miss one product cycle, you're seriously hurt; miss two, you're history.

If Sun loses its ability to compete and recruit globally, our employees and shareholders lose and ultimately the U.S. loses.

George E. Pataki is the Governor of New York.

In my hometown of Peekskill, N.Y., where my immigrant grandparents lived, the homes and flats that were rented by immigrants from Hungary, Italy and Ireland in the early 20th century are now rented by new immigrants from Peru, Mexico and East Asia. In the early morning you can see many of these new immigrants waiting for rides and for work as they begin their long days as gardeners and laborers. Their work ethic and their dreams for a better future parallel the work ethic of America's earlier immigrants.

While the federal government must improve the policing of our borders and assure that immigration is in fact legal, Congress must avoid the temptation to pass restrictive measures like California's Proposition 187. This is America, not Fortress America.

Let those who share our values as Americans—hard work, individual responsibility and a love for this country—continue to strengthen our unique nation.

Ben Nighthorse Campbell is a Republican Senator from Colorado.

One weakness of our immigration policy is that we continually give amnesty to the illegal immigrants, undermining the legal process and the intent of the law. But, generally, immigrants still contribute more than they take out. Many of them do jobs no American will do for any wage. Immigrants from Southeast Asia go into inner cities and help rejuvenate them by operating small restaurants and motels. And most of them, to my knowledge, have no problems with the law. The first thing they do when they get here is to find a job and get to work.

If my ancestors on the Indian side had the same anti-immigrant attitude that many Americans do now, those very same people who now criticize immigrants wouldn't be here themselves.

But, having said all that, I recognize you must have control of your borders. You cannot have an open-door policy for anybody and everybody. It becomes a national security and national health problem when we give up having some control.

Dr. Ruth Westheimer is the author of, "Sex for Dummies" (IDG Books, paperback).

When I was 10 years old, I was permitted to immigrate to Switzerland while my parents and grandmother were not. The net effect was that I survived the Holocaust and they didn't. If we in the U.S. are going to call ourselves followers of the Judeo-Christian ethic, then we have a moral obligation not to shut the doors to those who are being persecuted.

Now while I am not an economist, I also think that we benefit a lot more than we admit from a constant flow of new laborers. When I first came here, I was able to find a job as a housemaid for a dollar an hour, which saved my life. Now I employ a housekeeper who comes from the Philippines, and to me she is a lifesaver. We all benefit from the Mexican workers who pick our fruits and vegetables, and from the Korean grocers who stay open all night selling them. If we try to keep new immigrants from joining us, we will only be cutting off our collective nose to spite our selfish face.•

PRESIDENTS OF ARMENIA AND TURKEY MEET IN NEW YORK

• Mr. SIMON. Mr. President, I receive the Armenian Mirror-Spectator regularly, a weekly publication circulated primarily in the United States.

There are two items of interest in the October 28 issue. And the headings on the two items tell much of the story. One is "Presidents of Armenia and Turkey Meet in New York," and the other is "Armenia Suggests Normalization of Ties With Turkey."

The animosities of decades and, sometimes, centuries have to be diminished in our world. One of those that hurts both Armenia and Turkey is the historic difficulties between these two peoples.

I urge both countries to continue to move along this path toward reconciliation.

And I ask that the two articles be printed in the RECORD.

The articles follow:

[From the Armenian Mirror-Spectator, Oct. 28, 1995]

PRESIDENTS OF ARMENIA AND TURKEY MEET IN NEW YORK

(By Florence Avakian)

UNITED NATIONS, NY.—On Monday, October 23, a private meeting took place between Turkish President Suleyman Demirel and Armenian President Levon Der Petrossian and their aides at the Turkish Mission to the United Nations in New York. The meeting at the Turkish UN headquarters, which is across the street from the United Nations, underscored the importance that Armenia puts on improved relations with Turkey.

Just before the Demirel-Der Petrossian meeting, the Turkish President had met privately with Azerbaijani President Geidar Aliyev, also at the Turkish Mission to the United Nations. Following the Demirel-Aliyev meeting, the two leaders came out for a photo opportunity with the more than 60 Turkish and Azeri media representatives. This correspondent, who was the only Armenian journalist present, asked the Turkish President:

FA: Mr. Demirel, do you have plans to have a trilateral meeting with Presidents Der Petrossian and Aliyev?

SD: No, that will not happen. We are having bilateral meetings with each other. At this time, there is no need to have a summit. Armenia and Azerbaijan don't have a common ground or agreement in order to have a three-way summit.

When the President of Armenia arrived for his meeting with the Turkish leader, the Demirel-Aliyev meeting was still in progress. He waited on another floor of the Turkish Mission until the Azeri President left. Following the more than half hour meeting between the Armenian and Turkish heads of state, the two also came out for a photo op with the press.

Speaking in Armenian with an English interpreter, President Der Petrossian commented, "We are using all the opportunities to achieve peace. During our meeting today, the issue of settlement of the Nağorno Karabağh conflict was discussed as well as the issues connected with bilateral relations between Armenia and Turkey. I think that the common understanding is to allow the resumption of military activities in Nağorno Karabağh.

"At the same time it is necessary for all parties to express good will and to find constructive compromise and solutions to the conflict. There are details that are to be settled and discussed during the negotiating process. And it's not only Lachin, but there are tens of issues in which the parties' opinions differ from each other. Tomorrow, the same issues will be discussed with Mr. Aliyev."

This last statement was in reference to a private meeting between the Armenian and Azeri Presidents which was scheduled to take place on Tuesday morning, October 24, at 9:30 am, at the United Nations headquarters.

Following the two bilateral meetings, the Turkish President held a press conference with only the Turkish press, intended for public consumption in Turkey. The Turkish press representative summarized the information for this correspondent after the briefing.

Demirel had reportedly said, without elaborating, that after the dismemberment of the Soviet Union, the importance of Turkey had increased. Concerning the Caucasus, he said that it was Turkey's second foreign policy priority, after the war in the former Yuğoslavia, and that the Karabağh conflict hurts not only Armenia and Azerbaijan, but also Turkey and Georğia. His statement reportedly was that when one neighbor is hurt, all are hurt. The Caucasus conflict cannot be resolved by force, he said, and that peace will open new opportunities.

The Turkish press representative continued the Turkish President's comments which included the statement that Turkey does not have designs against its neighbors, and that Armenia and Azerbaijan will reach peace through the Minsk Group. Demirel reportedly stated that he wants "1.4 million Azeris to return to their homes."

In answer to a question by this correspondent three weeks ago, Former Turkish Foreign Minister, Erdal Inonu, at a press conference at the United Nations, used the figure of one million Azeri refugees. (It is interesting to note, as I reported at that time, that the International Red Cross puts the figure of refugees resulting from the Caucasus conflict at 1.1 million, 350,000 of which are Armenian refugees from Baku, Sumgait and Karabagh.)

The Turkish President also mentioned that he had cancelled his meeting with President Clinton in Washington because of the government crisis in Turkey. However, he said that President Clinton, at the Presidents' dinner at the United Nations, told him that he is supporting Turkey. To this, Demirel thanked Clinton for his support on the oil and terror issues. The United States has supported Turkey on the Kurdish question. One of the most vocal protest groups outside the United Nations were the Kurds asking for freedom and self-determination.

The Turkish crisis which brought down the Ciller government resulted in the Turkish President returning to Turkey on the evening of Monday, October 23. It was widely expected that on Tuesday, October 24, Demirel would appoint a new government, and set a new date for elections. Reportedly, he has asked Tansu Ciller to remain as Prime Minister. Reliable sources also say that Hikmet Cetin, who held the post before, will replace Erdal Inonu as the next foreign minister.

[From the Armenian Mirror-Spectator, Oct. 28, 1995]

ARMENIA SUGGESTS NORMALIZATION OF TIES WITH TURKEY

ANKARA, TURKEY.—The Armenian Parliament speaker this week called for an end to decades of mistrust and hostilities with Turkey and proposed to establish bilateral diplomatic and commercial ties.

Babken Ararktsian, who is currently in Istanbul as term president of the Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC), told local reporters that Armenia was ready to tear down the wall between Turkey and Armenia which has been there for the past 70 years.

"Relations should be bilateral. They should not be influenced by third countries," he said.

Turkey has never established diplomatic ties with Armenia because of Armenia's repeated charges that Turks massacred 1.5 million Armenians during the First World War as well as its seven-year war with Azerbaijan over the Nagorno Karabagh enclave.

Turkey had supported Azerbaijan and cut off all air and overland border crossings to Armenia at the height of the war in 1993.

An air corridor between eastern Turkey and Yerevan, capital of Armenia, was reopened only this year.

Ararktsian said Armenia was ready to open its borders to allow Turkish trucks carrying goods to transit to the Caucasus and to the Turkic republics in Central Asia.

"Big perspectives exist for the future of economic ties between the two countries," he added.●

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Tuesday, November 28, the Federal debt stood at exactly $4,989,008,629,825.32. On a per capita basis, every man, woman, and child in America owes $18,938.36 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to approve a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a Constitutional amendment.

THE RETIREMENT OF WILLIAM F. RAINES, JR.

Mr. FORD. Mr. President, William F. Raines, Jr., the administrative assistant to the Architect of the Capitol, is retiring on November 30, 1995, after 43 years of Federal service. Bill began his career with the Office of the Architect of the Capitol as a personnel clerk in February 1956. He steadily advanced in various jobs and in October, 1973, was appointed to the position of administrative assistant to George M. White, the Architect of the Capitol.

As the Architect's administrative assistant, Bill was the management official responsible for that office's human resources, accounting, and procurement divisions and the flag office, and for oversight of the operations of the Senate Restaurants. He also served as the coordinator of the superintendents and supervising engineers of the various buildings under the Architect's jurisdiction, as well as the Capitol grounds. In addition to these duties, Bill acted as adviser and counselor to the Architect and, in effect, served as Mr. White's chief of staff.

Bill was born in Henderson, NC, and attended Henderson High School. He completed his studies at Henderson Business College in July 1955. Prior to his employment with the Architect's Office, Bill worked for Southeastern Construction Co. and Harriet Cotton Mills. He served with the U.S. Coast Guard from February 1952, to August 1954.

Throughout his 43 years of Federal service and especially during the 40 years he served in the Office of the Architect of the Capitol, Bill Raines has distinguished himself as an excellent employee. He has received numerous letters of appreciation and recognition which attest to this fact. His dedication to fulfilling his duties and responsibilities and the exemplary professional manner in which he served will stand as a lasting memory for those who worked with him.

On behalf of Chairman WARNER and the members of the Rules Committee, I wish to extend to Bill Raines our gratitude for his years of service. To Bill and his wife, Myrtle, we extend our best wishes and good health in their retirement years.

20TH ANNIVERSARY OF IDEA

Mr. KENNEDY. Mr. President, today marks the 20th anniversary of the Education for All Handicapped Children Act, now known as the Individuals with Disabilities Education Act (IDEA). I was proud to serve on the committee that approved IDEA in 1975, and I am proud of its successes in the past two decades.

For millions of children with disabilities, IDEA has meant the difference between exclusion and participation, between dependence and independence, between lost potential and learning.

Before IDEA was enacted in 1975, young people with disabilities were often shut away and condemned to life without hope. In 1975, 4 million handicapped children did not receive the help they needed to succeed in school—either because their disabilities were undetected or because schools did not offer the services they needed. Virtually no disabled preschoolers received services. A million school-aged children with disabilities were excluded from public school.

Now, as a result of IDEA, every State in the Nation offers a free appropriate public education to the 5 million children with disabilities, and provides early intervention services to infants and toddlers with disabilities.

In the early 1970's, 95,000 children with disabilities lived in institutional settings. Today, fewer than 6,000 are institutionalized.

Only 33 percent of people with disabilities who grew up before IDEA were competitively employed within 5 years after leaving school. Today, nearly 60 percent of young men and women with disabilities become productive, taxpaying members of society.

In some respects, as we know, IDEA has fallen short. Too many students with disabilities drop out of school and have a high risk of unemployment. Some get in trouble with the law and spend a significant amount of time in jail. Enrollment of students with disabilities in college is still too low.

We need to be more vigilant in our mission to make sure that all these children grow up with the skills they need to get a job and live independently.

Legislation to reauthorize IDEA will be considered by Congress in the coming months, and I look forward to working closely with colleagues on both sides of the aisle to achieve these important goals. The best way for all of us to honor the law's success is to rededicate ourselves to making it even more effective in the future.

YELLOWSTONE COUNTY DUI TASK FORCE

Mr. BAUCUS. Mr. President, I am pleased to take this opportunity to recognize the Yellowstone County DUI task force in my State, Montana. They have been selected by the National Commission Against Drunk Driving to receive their eleventh annual citizen activist award on December 4, 1995.

The accomplishments of the Yellowstone County DUI task force are twofold. Not only did they continue their educational activities, they also worked with State leaders to form a legislative agenda to curb drunk driving. The results of their efforts are apparent. Our State now boasts the most comprehensive DUI legislative package ever passed in a single legislative session.

I would also like to recognize three members of the Yellowstone County DUI task force who were instrumental in bringing about their organization's accomplishments: Diane Stanley, Peter Stanley, and Angie Bentz. They, along with many other tireless workers, have earned the recognition of this body. Congratulations and good work.

THE DEATH OF THE REVEREND DR. RICHARD C. HALVERSON

Mr. HEFLIN. Mr. President, our long-time Senate Chaplain and dear friend, Dr. Richard C. Halverson, has passed away, just 8½ months after his retirement. He retired in March, after more than 14 years of distinguished service to this body. During his tenure as our Chaplain, Dr. Halverson proved himself over and over again not only to be a comforting spiritual guide, but an understanding, knowledgeable counselor. His ministry and support helped us immeasurably as we wrestled with difficult personal, political and policy issues.

Dick Halverson was superb at arranging for guest Chaplains, thereby giving wide representations to the many diverse religious faiths and denominations in our Nation. As Chaplain, he provided pastoral services for Members and our staffs—in particular to staffs, policemen. Every conceivable person that worked in the Senate felt his influence, knew him as a friend. He was a tremendous help to them in their personal problems. His soothing countenance and understanding manner made us feel more at home here in Washington.

Sworn in on February 2, 1981, the Reverend Dr. Richard Halverson was the 60th Senate Chaplain. A native of North Dakota, he was a graduate of Wheaton College and the Princeton Theological Seminary. He held honorary doctoral degrees from Wheaton and Gordon Colleges, and served churches in Kansas City, MO; Coalinga and Hollywood, CA; and for 23 years at his last pastorate at the Fourth Presbyterian Church in Bethesda, MD.

Dr. Halverson was deeply involved as an associate in the international prayer breakfast movement in Washington, and I had the personal pleasure of working directly with him on this project during the time he served here in the Senate. He was involved with the prayer breakfast for almost 40 years. He also served as chairman of the board of World Vision and president of Concern Ministries, and authored several books, including "A Day at a Time," "Be Yourself . . . and God's," "Between Sundays," "No Greater Power," and "We the People."

Richard Halverson was an outstanding example of why the Senate has always had a chaplain. He was completely devoted to the Senate and we are grateful for his many years of service. We appreciate him, we will miss him, and we extend our sincerest condolences to his wife Doris, his son Chris, and all their family. Dr. Halverson left his mark on this body, and it is not the same without him. The Senate is better for having had his guidance and wisdom for 14 years, and the Nation and world are better for having had him for all the years of his life. He was a true blessing.

TRIBUTE TO CHAPLAIN HALVERSON

Mr. HATFIELD. Mr. President, last night the U.S. Senate lost one of its greatest servants. Dr. Halverson left us in bodily presence but his spiritual legacy will remain eternal. For 14 years, Dr. Halverson provided guidance and counsel to the Senate as its Chaplain, continually reminding us of the true meaning of leadership. For Dr. Halverson a true leader was first a servant. He reminded us each and every day, as he strolled these halls, of what it means to serve the people around you.

I have said before that Dr. Halverson was one of the most Christlike men I have ever known, and today that sentiment has not changed. Even in failing health, he continued his ministries right to the very end. Those of you who remember him, recall his humble spirit, his compassionate heart, and his penetrating intellect. All of these qualities were supplemented with an uncanny ability to address complex issues with an insightful simplicity that cut to the core of an issue, illuminating the vital components so that even a child could understand.

Dr. Halverson will be profoundly missed. He will be missed by the Senators, but this mournful occasion will impact all who are involved in the business of Congress. Dr. Halverson was not just a pastor to the hundred men and women who serve in this body, but he was a pastor to the police officers, to the custodians, to the food servce workers, to everyone who was fortunate to cross his path. He ministered to all he encountered, indiscriminate of position, background, and stature. He genuinely loved everyone. I cannot recall him ever uttering an ill word toward anyone.

I am deeply saddened by this great loss. Dr. Halverson was my close friend and brother. Now, Dr. Halverson is experiencing joy and happiness incomprehensible to those of us here on Earth. But until I see him again, I will miss this good and faithful servant. I will miss his warm greetings. I will miss his thoughtful prayers. I will miss his example of humility. Most of all, I will miss being his friend.

PAYING TRIBUTE TO THE LATE REV. RICHARD HALVERSON

Mr. THURMOND. Mr. President, our Senate family lost one of our finest and most respected members yesterday with the passing of the former Senate Chaplain, Reverend Richard Halverson.

As many in this body know, Reverend Halverson ministered to the spiritual needs of Senators, our families, and our staffs for many years. A man who was deeply devoted to his duties as a servant of God, and to his congregation, Reverend Halverson selflessly served the Senate and the Lord almost literally to the end of his life. Despite a lingering illness in his later years, the Reverend was never too tired or sick to spend time with someone who required his guidance and counsel. He was a man who always had a kind word and a positive thought to share with us. I remember, Reverend Halverson would often clip newspaper and magazine articles that he felt were particularly relevant to the issues of religion and morality and send them to Members. Along with these articles, he would include a thoughtful note offering his opinion on the author's thesis, a gesture that not only reminded us that the Reverend was looking after our spiritual well being, but that there are laws and directives as important as those found in the Constitution and code books that should dictate our behavior and conduct as leaders of the Nation. Reverend Halverson was so committed to the cause of restoring and maintaining righteousness in America, he was the only natural choice to author the foreward to the book Right vs. Wrong, written by my good friend and former Chief of Staff, Harry Dent.

I had the pleasure of knowing Reverend Halverson throughout his entire tenure in the Senate, and I can attest that he was one of the most faithful, capable, and dedicated Chaplains to have served the United States Senate. Those of us who were here when Reverend Halverson retired last year felt this Chamber had lost a friend, those of us who are here today know the world has lost a kind and compassionate man.

Reverend Halverson is survived by his wife Doris, and I hope that she knows that each of us joins her in mourning the loss of her husband. While her husband and our friend is gone, he has left a little something of himself with those who knew him and we will never forget the service he rendered, or the man he was.

TRIBUTE TO DR. RICHARD HALVERSON

Mr. COATS. Madam President, 60 years ago, during the holiday season that we are now celebrating, a young man by the name of Richard Halverson, fresh from the humble upbringing in North Dakota, found himself discouraged and lonely in Hollywood, CA—discouraged by his struggles to become an actor, and lonely as he was away from home during Christmas for the first time in his 19 years of life. It was then that Dick Halverson heard a call from the Lord—first, to believe and follow God, and then to preach the Lord's gospel and minister to all who had the great fortune of knowing him.

In 1988, I was privileged to be appointed to the U.S. Senate, filling the vacancy created by the election of then Senator Dan Quayle to the Vice Presidency. Several thoughts occurred to me and my family at that moment, but one of the greatest was that I would have the privilege of serving in the same institution where Rev. Dick Halverson served as Chaplain. My admiration for Dr. Halverson extended then and now beyond the fact that we graduated from the same institution, Wheaton College. My respect for Dick Halverson is based on the way he lived his life every day in humble service to his God.

The American public primarily saw Chaplain Halverson in the role of opening each Senate session with prayer. As he prepared those invocations each day, Pastor Halverson prayed that God would give him the wisdom to speak the Lord's truth in what is known as the world's greatest deliberative body. Without touching on specific bills or legislation, Dr. Halverson prayed that God would lead Members of the Senate in reasoned, respectful debate.

For example, Chaplain Halverson prayed here on the Senate floor, "God of our fathers, if we separate morality from politics, we imperil our Nation and threaten self-destruction. Imperial Rome was not defeated by an enemy from without; it was destroyed by moral decay from within. Mighty God, over and over again you warned your people, Israel, that righteousness is essential to national health." Words of wisdom from a man of great wisdom.

Those of us privileged to know Dr. Halverson also experienced the dedicated and loving service he provided away from the lights of the Senate floor. Washington, DC, is one of the toughest, most intense places anybody can live, especially for those of us who work on Capitol Hill. From overloaded Senate schedules to endless traffic jams, Washington can grind even the strongest individuals—which I think is one of the reasons God gave us Dick Halverson.

Pastor Halverson used to say, "I never try to be in a hurry." While all of us would scurry around from scheduled event to scheduled event, Chaplain Halverson lived that phrase, "I never try to be in a hurry." And he slowed us down. A smile, a hand on the arm, a twinkle in his eye, and the words "God bless you" were delivered literally thousands, if not tens of thousands of times to Members of this body.

While our lives can be filled with stress and strife, it was Chaplain Halverson who always had the time to walk back with us to our office, chat with us on the telephone, and when necessary counsel us through our deepest struggles.

The real greatness of Dick Halverson, however, was exhibited in the ways that he provided this selfless service, not just to those of us privileged to serve as elected officials here in the U.S. Senate, but to all who crossed his doorstep or came upon his path. Just ask the Senate staffers, just ask the security guards, just ask the custodians, just ask the cooks in the kitchens, all of whom Dick Halverson knew on a first-name basis.

For Pastor Halverson, we are created equal in the sight of God. Each person is equally important and equally significant. Each personal need conveyed to him by others was serious and substantial regardless of who it was who conveyed that need. Our loss is great and our prayers are with his surviving family.

But for Richard Halverson this is a new day. He has left his post in his Nation's Government to sit in the throne room of the King. He has fought the good fight. He has finished the race and he kept the faith.

Chaplain Halverson once described himself as "a servant to the public servants." Because he served his role so well, we know today with confidence that Dick Halverson is hearing those loving words from the Lord Almighty, "Well done, good and faithful servant."

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 1432

Mr. LOTT. Madam President, I understand there is a bill on the calendar that is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1432) to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

Mr. LOTT. I object to further consideration of this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1058

Mr. LOTT. Madam President, I ask unanimous consent that at 9:30 a.m. on Tuesday, December 5, the Senate receive the conference report to accompany H.R. 1058, the securities litigation bill, and it be considered under the following time agreement: 8 hours equally divided in the usual manner between the chairman and the ranking minority member of the Banking Committee or their designee, with 15 minutes of the majority time under the control of Senator SPECTER, and that following the conclusion or yielding back of time, the Senate proceed to vote on the conference report without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION RELATIVE TO THE DEATH OF THE REV. RICHARD HALVERSON, LATE THE CHAPLAIN OF THE U.S. SENATE

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 196, submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Whereas, the Reverend Dr. Richard Halverson became the 60th Senate Chaplain on February 2, 1981, and faithfully served the Senate for 14 years as Senate Chaplain;

Whereas, Dr. Halverson for more than 40 years was an associate in the International Prayer Breakfast Movement and Chairman of the Board of World Vision and President of Concerned Ministries;

Whereas, Dr. Halverson was the author of several books, including "A Day at a Time", "No Greater Power", "We the People", and "Be Yourself. . .and God's"; and

Whereas, Dr. Halverson was graduated from Wheaton College and Princeton Theological Seminary, and served as a Presbyterian minister throughout his professional life, including being the senior pastor at Fourth Presbyterian Church of Bethesda, Maryland: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Reverend Dr. Richard Halverson, late the Chaplain of the United States Senate.

Resolved, That the Secretary transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it recess or adjourn as a further mark of respect to the memory of the deceased.

Mr. LOTT. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 196) was agreed to.

The preamble was agreed to.

SADDLEBACK MOUNTAIN-ARIZONA SETTLEMENT ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 245, S. 1341.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1341) to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saddleback Mountain-Arizona Settlement Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, have a longstanding interest in a 701-acre tract of land known as the "Saddleback Property", that lies within the boundaries of the City and abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(2) the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard corridor in Scottsdale, Arizona, that—

(A) has significant conservation value; and

(B) is of historic and cultural significance to the Community;

(3) in 1989, the Resolution Trust Corporation acquired the Saddleback Property as a receiver for the Sun City Savings and Loan Association;

(4) after the Saddleback Property was noticed for sale by the Resolution Trust Corporation, a dispute between the Community and the City arose concerning the future ownership, use, and development of the Saddleback Property;

(5) the Community and the City each filed litigation with respect to that dispute, but in lieu of pursuing that litigation, the Community and the City negotiated a Settlement Agreement that—

(A) addresses the concerns of each of those parties with respect to the future use and development of the Saddleback Property; and

(B) provides for the dismissal of the litigation;

(6) under the Settlement Agreement, subject to detailed use and development agreements—

(A) the Community will purchase a portion of the Saddleback Property; and

(B) the City will purchase the remaining portion of that property; and

(7) the Community and the City agree that the enactment of legislation by Congress to ratify the Settlement Agreement is necessary in order for—

(A) the Settlement Agreement to become effective; and

(B) the United States to take into trust the property referred to in paragraph (6)(A) and make that property a part of the Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the Community, the City, and the Resolution Trust Corporation;

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions; and

(3) to provide for the taking into trust by the United States of the portion of the Saddleback Property purchased by the Community in order to make that portion a part of the Reservation.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CITY.—The term "City" means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) COMMUNITY.—The term "Community" means the Salt River Pima-Maricopa Indian

Community, which is a federally recognized Indian tribe.

(3) DEDICATION PROPERTY.—The term "Dedication Property" means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) DEVELOPMENT AGREEMENT.—The term "Development Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) DEVELOPMENT PROPERTY.—The term "Development Property" means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) MOUNTAIN PROPERTY.—The term "Mountain Property" means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) PRESERVATION PROPERTY.—The term "Preservation Property" means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) RESERVATION.—The term "Reservation" means the Salt River Pima-Maricopa Indian Reservation.

(9) SADDLEBACK PROPERTY.—The term "Saddleback Property" means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) SETTLEMENT AGREEMENT.—The term "Settlement Agreement"—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community, the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) USE AGREEMENT.—The term "Use Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land referred to in subsection (b) to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community.

[(c)**]** *(d)* RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.

Mr. MCCAIN. Mr. President, I rise in support of S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995.

I was very pleased to join with Senator KYL in sponsoring this legislation. Its purpose is to approve an agreement to settle a dispute between the Salt River Pima-Maricopa Indian community and the city of Scottsdale, AZ, over 701 acres of land known as the Saddleback property. This property is currently held by the Resolution Trust Corporation.

The Saddleback property is located in the easternmost part of Scottsdale, abuts 1.7 miles of the northern boundary of the Salt River Indian Reservation, and is undeveloped. Its most distinctive feature is Saddleback Mountain, a striking natural landmark that rises abruptly from the desert floor to a height of 900 feet. Due to its location, high conservation value and other special features, the property's use and disposition are of major importance both to the community and the city.

A dispute arose after the Resolution Trust Corporation, in its capacity as the receiver for the Sun State Savings & Loan Association, acquired the Saddleback property in 1989 and subsequently noticed it for sale. The community submitted the highest cash bid for the property, $6,500,000, conditioned upon being able to develop the flat portion of the property. the city, concerned about the direction that development of the property by the community might follow, sued the Resolution Trust Corporation to acquire the property by eminent domain. The Resolution Trust Corporation then rejected all auction sale bids and determined to transfer the property to Scottsdale through the eminent domain litigation. The community thereupon filed civil rights actions against the city and the Resolution Trust Corporation, seeking damages.

Rather than pursue the litigation, the city, the community and the Resolution Trust Corporation sought to resolve their dispute through negotiation. The result of their efforts is a settlement agreement under which the Resolution Trust Corporation will sell the property to Scottsdale and the community for a total of $6,500,000. The city will pay $636,000 to acquire approximately 98 acres for preservation and 27 acres for future expansion of an important traffic artery, Shea Boulevard. The community will pay $5,864,000 to acquire 576 acres adjoining its reservation, and this land will be added to its reservation. The two lawsuits, which are pending in the U.S. District Court for the District of Arizona, will be dismissed.

Under the settlement agreement, 365 acres of the property to be acquired by the community, including Saddleback Mountain, will be forever preserved in its natural state for use only as a public park and recreation area. Except for a limited number of sites that are of particular historical and cultural significance to the community, the public will have free access to this area. Together with the preservation property to be acquired by the city, it will be jointly managed by the city and the community. The remaining 211 acres to be acquired by the community will be subject to a detailed development agreement with the city, as well as the limitations and restrictions of current community zoning laws.

Enactment of S. 1341 will eliminate any ambiguity as to the enforceability of the settlement agreement, and will ensure that the lands purchased by the Salt River Indian Community will be held in trust by the United States as part of the Salt River Reservation.

The sale of the Saddleback property to the Indian community and the city will realize $6.5 million for the taxpayers, less any closing costs incurred by the Resolution Trust Corporation. No new authorization or expenditure of Federal funds is needed and none is provided by S. 1341.

The Committee on Indian Affairs held a hearing on S. 1341 on October 26, 1995, and on November 7, by voice vote, ordered the bill reported with an amendment. As amended, the bill has the unqualified support of the administration as well as the Salt River Pima-Maricopa Indian community and the city of Scottsdale.

The Saddleback settlement reflects what President Lincoln referred to as the better angels of our nature. Rather than spend time and money on acrimonious litigation, the leaders of the tribal and city governments emphasized their common interests and negotiated their differences in good faith as neighbors. The enhanced mutual respect resulting from this cooperation is a significant byproduct of their efforts.

In particular, I congratulate Ivan Makil, the President of the Salt Water Pima-Maricopa Indian community, and Herb Drinkwater, the mayor of Scottsdale, and their respective councils, for their enlightened leadership in resolving the questions and issues involving the Saddleback property.

As a result of their collective efforts, Saddleback Mountain will be preserved in its natural state in a park setting within what is a rapidly developing urban area. For generations to come, citizens of every stripe will be able to appreciate and enjoy this unique natural monument. Similarly, the Salt River Indian community is assured of always being able to preserve and protect the historic and cultural areas of the mountain that are of great significance to its members.

The Saddleback settlement is a victory for common sense and civility. It is irrefutable evidence that good will and mutual respect are key to finding win-win solutions to complex problems. S. 1341 confirms this victory and this evidence. I strongly urge the Senate to approve it.

Mr. LOTT. I ask unanimous consent the committee amendments be agreed to, the bill be deemed read a third time and passed as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1341), as amended, was deemed read a third time and passed, as follows:

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saddleback Mountain-Arizona Settlement Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, have a longstanding interest in a 701-acre tract of land known as the "Saddleback Property", that lies within the boundaries of the City and abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(2) the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard corridor in Scottsdale, Arizona, that—

(A) has significant conservation value; and

(B) is of historic and cultural significance to the Community;

(3) in 1989, the Resolution Trust Corporation acquired the Saddleback Property as a receiver for the Sun City Savings and Loan Association;

(4) after the Saddleback Property was noticed for sale by the Resolution Trust Corporation, a dispute between the Community and the City arose concerning the future ownership, use, and development of the Saddleback Property;

(5) the Community and the City each filed litigation with respect to that dispute, but in lieu of pursuing that litigation, the Community and the City negotiated a Settlement Agreement that—

(A) addresses the concerns of each of those parties with respect to the future use and development of the Saddleback Property; and

(B) provides for the dismissal of the litigation;

(6) under the Settlement Agreement, subject to detailed use and development agreements—

(A) the Community will purchase a portion of the Saddleback Property; and

(B) the City will purchase the remaining portion of that property; and

(7) the Community and the City agree that the enactment of legislation by Congress to ratify the Settlement Agreement is necessary in order for—

(A) the Settlement Agreement to become effective; and

(B) the United States to take into trust the property referred to in paragraph (6)(A) and make that property a part of the Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the Community, the City, and the Resolution Trust Corporation;

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions; and

(3) to provide for the taking into trust by the United States of the portion of the Saddleback Property purchased by the Community in order to make that portion a part of the Reservation.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CITY.—The term "City" means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) COMMUNITY.—The term "Community" means the Salt River Pima-Maricopa Indian Community, which is a federally recognized Indian tribe.

(3) DEDICATION PROPERTY.—The term "Dedication Property" means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) DEVELOPMENT AGREEMENT.—The term "Development Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) DEVELOPMENT PROPERTY.—The term "Development Property" means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) MOUNTAIN PROPERTY.—The term "Mountain Property" means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) PRESERVATION PROPERTY.—The term "Preservation Property" means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) RESERVATION.—The term "Reservation" means the Salt River Pima-Maricopa Indian Reservation.

(9) SADDLEBACK PROPERTY.—The term "Saddleback Property" means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) SETTLEMENT AGREEMENT.—The term "Settlement Agreement"—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community, the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) USE AGREEMENT.—The term "Use Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land referred to in subsection (b) to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community.

(d) RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.

PHILANTHROPY PROTECTION ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2519, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2519) to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

The Senate proceeded to consider the bill.

Mr. PRESSLER. Madam President, I am pleased that the Senate today is taking action on H.R. 2519, the Philanthropy Protection Act, and H.R. 2525, the Charitable Gift Annuity Anti-trust Relief Act. Both bills are very important to our Nation's charitable organizations. These bills deserve our full support.

America's charities are America's inspiration. They serve those in physical and spiritual distress. They educate our children and adults so that they can become self-sufficient. They enrich our lives through music and the arts. They seek cures for diseases that plague humanity. They encourage the preservation of our environment. As our Government finally begins to tighten its fiscal belt, America's charities will be expected to assume an even greater responsibility. As they have done on so many occasions during war and peace, depression and prosperity, America's charities are prepared to answer the call for assistance.

America's charities are a vital foundation of our Nation. However, today, they are under unwarranted and life-threatening assault. As many of my colleagues know, an ominous class action lawsuit in a Federal court in Texas has put American philanthropy in jeopardy. Specifically, this lawsuit disingenuously attempts to apply securities and antitrust laws meant to govern commercial enterprises to fundraising and money-management techniques of charities. This is an application of Federal law never contemplated by Congress.

This lawsuit has been an issue of great concern to this Congress. To their credit, my friends and colleagues from Texas and Connecticut, Senators HUTCHISON and DODD, identified this problem early on and introduced S. 978 to address the issues raised in the lawsuit and clarify the role of the securities laws and the antitrust laws with respect to charitable organizations. I am pleased to be one of a number of bipartisan cosponsors of this legislation. I am even more pleased that the Senate is taking action to pass this legislation. Quick action to enact this legislation would free donors to make year-end gifts without fear of becoming entangled in a stressful, costly lawsuit. Further, enactment of this bill would free charities to do what they do best: serve the people of America. With the beginning of the holiday season—the peak period of charitable giving—passage of this bill could not have come at a better time.

I also would like to commend our colleagues in the House of Representatives. They took action last night and passed both H.R. 2519 and H.R. 2525 unanimously. I applaud the House leadership and the bipartisan sponsors of this bill, including Representatives HYDE, CONYERS, BLILEY, FIELDS, DINGELL and MARKEY, among others, for working together to pass the bill as part of the House's Correction Day calendar.

Action is needed. Millions of dollars of donations that should be going to charitable programs are instead being wasted on attorneys' fees and needless litigation. We must not stand idly by while America's charitable organizations are looted. Both bills make clear that charities that go astray of both the law and the public trust will be held accountable to the full extent of the law. Both bills would end unfair punishment of those charities that play by the rules and pursue their missions in good faith. Both bills restore fairness to the law and remove the cloud over charitable giving. Today, we can send an important signal to our citizens that in their time of need, America's charities will still be there for them and future generations.

Again, I commend my colleagues from Texas and Connecticut, Senators HUTCHISON and DODD, and all the cosponsors of S. 978, for coming together in a demonstration of bipartisan support for America's charities.

I urge all my colleagues to support immediate passage of H.R. 2519 and H.R. 2525.

Mr. LOTT. I ask unanimous consent the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2519) was deemed read three times and passed.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT

Mr. LOTT. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 2525, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2525) to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The Senate proceeded to consider the bill.

Mr. LOTT. I ask unanimous consent the bill be considered and deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2525) was deemed read three times and passed.

ORDERS FOR THURSDAY, NOVEMBER 30, 1995

Mr. LOTT. Madam President, I ask unanimous consent now that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Thursday, November 30; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 2 p.m. with Senators permitted to speak for up to 5 minutes each; with the following exceptions: Senator DASCHLE or designee, 60 minutes; Senator THOMAS for 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Madam President, following the morning business on Thursday it will be the intention of the majority leader to turn to any legislative matter that can be cleared for action including the HUD–VA appropriations conference report if received from the House. Therefore votes could occur.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:30 p.m., adjourned until Thursday, November 30, 1995, at 10 a.m.

EXTENSIONS OF REMARKS

CHANGES IN THE MEDICARE PART B PROGRAM FOR FEHBP MEMBERS

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. BORSKI. I rise today to express my concern about the proposed changes in the Medicare part B prescription drug benefit program for our Federal employees and retirees.

Effective January 1, 1996, many Federal retirees receiving medical benefits through Blue Cross/Blue Shield will be forced to obtain their prescription drugs from mail-order drug companies or be required to pay an additional 20 percent copayment for their prescription drugs acquired from their neighborhood druggist. As a result, over 1 million of our Nation's seniors may no longer be able to afford to have the convenience and security of receiving their prescription drugs from their neighborhood, preferred-network pharmacies.

On January 1, Federal employees and retirees who receive retail pharmacy benefits from the Medicare part B program of the Federal Employee Health Benefits Program [FEHBP] Blue Cross/Blue Shield standard option will no longer have their 20-percent coinsurance drug deductible waived if they choose to receive their drugs from their local pharmacy. Only those members who receive their prescription drugs through mail-order drug companies will be entitled to retain the waiver available under current law. As a result, many of our Nation's retired Federal employees will no longer be able to afford the safety and convenience of receiving their prescription drugs from their neighborhood druggists.

Mr. Speaker, by raising the cost of prescription drugs by 20 percent, Blue Cross/Blue Shield is economically forcing many of our Nation's seniors into receiving their prescription drugs from anonymous mail-order drug companies. By removing trusted, local druggists from the picture, Blue Cross/Blue Shield is creating a potentially dangerous situation for many of our retired Federal employees.

First, Federal retirees, like most senior citizens, use prescription drugs more frequently than any other age group. Many of the drugs taken by the elderly are so dramatically important that should a senior citizen mistakenly forget to reorder his or her medication, or accidentally spill the medication in the sink, the consequences of not being able to acquire or afford immediate replacement of the prescription would be life threatening.

In addition, senior citizens are more likely to be taking multiple drugs at the same time. Many seniors require the face-to-face attention and recordkeeping provided by pharmacists to ensure that their medications are being properly administered and that there are no adverse reactions among their prescriptions. However, unlike community pharmacies, many mail-order firms do not maintain complete patient medication records, which means that they cannot check for or prevent any potential serious medication problems.

A recent study by the U.S. General Accounting Office [GAO] entitled "Prescription Drugs and the Elderly" noted that health practitioners are in agreement that in order for our Nation's elderly to receive safe and effective care, physicians, pharmacists, and patients should all participate in the drug therapy decisionmaking process through increased communication. However, mail-order prescriptions do not allow this type of face-to-face communication and accurate recordkeeping which is essential to prevent dangerous mistakes with prescription drugs.

Finally, Blue Cross/Blue Shield has stated the proposed elimination of the prescription drug waiver for Federal retirees was a result of "working hard to create a balance between providing an overall comprehensive benefits package for [its FEHBP] members and keeping [its] premiums competitive."

However, this decision seemingly ignores the fact that increasing the medicinal risk to many seniors by removing local druggists could have a drastic effect on the health care costs for everyone. According to the GAO study, nearly one of four ambulatory elderly patients were taking prescription medication in an inappropriate manner which led to unnecessary adverse reactions and higher medical costs amounting to $20 billion a year. By further increasing the risk of medicinal accident to the elderly, there is no estimate as to the likely increase in medical costs.

Therefore, Mr. Speaker, considering the unnecessary risk that would be imposed on many of our Nation's retired Federal employees as a result of a simple cost-cutting measure, it is unwise and inappropriate to place the protection of the neighborhood pharmacist out of the economic range for many of our Nation's retired Federal employees.

A TRIBUTE TO CLEVELAND ROBINSON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to Cleveland Robinson, leader of District 65 of the United Auto Workers Union in New York City who recently passed away. Cleveland Robinson committed his life to economic justice and racial equality. As a union representative, he fought to improve the lives of the mostly black and Hispanic New York City autoworkers whom he represented. Committed to racial justice in the United States and internationally, Mr. Robinson also served as the administrator chairman of the 1963 March on Washington and helped to bring American Labor into the fight against South African apartheid. Mr. Robinson's commitment to justice was deeply held and his contribution to social justice was great.

In memory of Cleveland Robinson and in tribute to the ideals for which he fought, I would like to enter into the CONGRESSIONAL RECORD the following excerpts from a statement by Bernice Powell Jackson from the Civil Rights Journal.

No one could attend Cleveland Robinson's funeral, held at the Cathedral of St. John the Divine in New York City, and not be awed. There was the grandeur of the church, the power of the African drummers leading the procession and there was the procession itself. In it were Jesse Jackson, Andrew Young, Corertta Scott King, David Dinkins and Harry Belafonte. In it were labor leader like Bill Lucy and Owen Bieber and union members whom Cleveland Robinson had spent a life-time representing. In it were church leaders and civic leaders and Robinson family members. In it were the Consul General and Ambassador from Robinson's native Jamaica. It was an awesome moment.

Cleveland Robinson's name is not a household word. Yet, he was a man whose unswerving commitment to the working people of our country led to the improvement of the lives of the 30,000 mostly black and Hispanic workers in small shops and department stores whom he represented. He was a man whose dedication to fighting injustice, especially racial injustice, led him to be a loyal and fearless supporter of the civil rights movements in the United States and the anti-apartheid movement in South Africa.

It was Cleveland Robinson who served as the administrator chairman of the 1963 March on Washington. In her remarks at his funeral, Mrs. King remembered his long-time support for Dr. King and the civil rights movement, dating back to the 1956 Montgomery bus boycott. Indeed, many in the movement knew that you always could count on Cleveland Robinson for moral and financial support and "troops" when you confronted racism.

It was the same in the anti-apartheid movement, where Cleveland Robinson played a key role in getting labor support of anti-apartheid activities. He helped to organize the 1986 anti-apartheid rally in New York City where nearly a million marched and let our national leaders know they no longer had public support for U.S. backing of a racist regime. For that reason President Nelson Mandela sent a personal message to Robinson's funeral.

Mr. Robinson's contribution to America was powerful, and I would like to take this moment to honor his memory and to mourn our loss.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO TOM LAZZARO

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mrs. MEEK of Florida. Mr. Speaker, I have the privilege of honoring a colleague of mine who is retiring on December 3, 1995. After giving of himself 30 years of continued and dedicated service to the cognitive and affective growth of thousands of students at Miami-Dade Community College, he now seeks a well-deserved retirement from leading and teaching so many of the college's increasing number of prominent alumni.

My good friend, Tom Lazzaro, is among a rare breed of hardy but compassionate leaders of young folks who found themselves learning both from his wise counsel and disarming compassion. Beginning his career at the college in 1964, he genuinely epitomized the dual role of teacher and coach, becoming one of our Nation's premiere college tennis coaches. Highly respected among his peers, he served as president of the National Junior College Athletic Men's Tennis Coaches Association from 1974–1994. He was inducted into three different halls of fame: the National Junior College Athletic Association Men's Tennis in 1992, the Dade County Tennis in 1995 and the Florida Community College Activities Association in this same year.

As the Miami-Dade Community College's north campus tennis coach, he led the Falcon netters for 30 seasons, compiling an astounding .619 career winning percentage of 356 wins and 219 losses. During that time, the Falcon tennis team won three consecutive national championships in 1966, 1967 and 1968, finishing as national runners-up three times and winning seven Florida State tennis titles.

Known throughout Florida as a coach extraordinaire and personal confidante of many a student-athlete at the college, Mr. Lazzaro developed 13 junior college all-American tennis players and went out of his way to obtain for 30 athletes scholarships to various 4-year institutions. It is this commitment to the future success of his students that endeared him to the hundreds of young athletes who chose to learn not only the athletic demands to which they were subjected but also prepared them to pursue with excellence the academic requirements toward furthering their education.

During his teaching career at the college, this native of Hialeah instructed north campus students in health education, tennis, and nautilus training. Married for 42 years, Tom will now enjoy a much-deserved retirement with his wife Joan, along with his seven children and the other grandchildren that make up the burgeoning Lazzaro clan.

HONORING MS. ETHEL HAWS GREEN ON HER 100TH BIRTHDAY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. DIXON. Mr. Speaker, today I rise to honor Ms. Ethel Haws Green on the occasion of her 100th birthday, Saturday December 2, 1995.

Born Alma Ethel Haws on December 2, 1895, in Del Valle, TX, Ethel began her education in the rural schools of Del Valle. She would later obtain her high school diploma from Los Angeles High School, attend Tillotson College, and earn a certificate in fashion design from Los Angeles Trade Tech School. Following the death of her mother, Ethel withdrew from college to assist her father in raising her eight sisters and brothers. While helping to care for her siblings, she worked as a school teacher in Forney, TX.

Ethel's career took many turns as she helped support her family. After leaving Del Valle she worked in Dallas, TX as a waitress and in Chicago, IL as a housekeeper with the Southern Pacific Railroad. While working for the railroad Ethel studied cosmetology, earning her license as a cosmetologist and a promotion from housekeeper to beautician. It was here that she would meet her husband, Richard "Pap" Green, who worked as a clerk with the U.S. Postal Service. Ethel and Richard were married in September of 1928 and lived happily together for 55 years.

Mr. and Mrs. Green moved to Los Angeles, CA shortly after they were married. In Los Angeles Ethel began working in a beauty shop. At the shop Ethel met Gladys Owens, with whom she opened her own beauty shop on historic Central Avenue. Several years later, Gladys moved to Chicago and Ethel became the sole proprietor of the establishment. While operating the beauty shop she had the privilege of working with such stars as Lena Horne, Eartha Kitt, and Catherine Dunham. During her career Ethel also worked as a seamstress and a businesswoman. Upon her husband's retirement Ethel spent a decade in the rest home business.

Although Ethel maintained a busy career, she always found time to contribute to her community. Ethel has given direction and made financial contributions to many organizations which provide scholarships to deserving youngsters, such as the Alpha Wives Auxiliary Scholarship Fund, the Cecil Murray Education Center, the Tillotson College Scholarship Fund, and the National Association for the Advancement of Colored People. She continues to participate in a number of civic and social organizations, sharing with them her humor, insight, courage, and love of humankind.

Mr. Speaker, Ethel Haws Green is an inspiration to us all. I ask that you and my colleagues join me in recognizing this wonderful and gracious lady on her 100th birthday.

THANK YOU, DON SMRECAK

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. BARCIA. Mr. Speaker, grand events often start from small ones, and keeping them grand requires a special skill. Over the years the Munger Potato Festival has grown from a local event attracting area residents to one which today boasts over 42,000 people who over a 4-day period celebrate the importance of potatoes to the local economy with a carnival, contests, wonderful food, and memories galore. Don Smrecak has served as the chairman of the festival for 10 years, and his tenure will always be fondly remembered.

During his term, the festival grew to its present size. He created a special Kids Day, when children age 5 to 12 are able to participate in games free of charge. Every participant wins a prize for being involved. This follows his work on the parade committee for several years which helped make this parade one of the most attractive of all area events.

Don has been a member of the Munger Volunteer Firemen Corps, the sponsoring organization for the festival, for over 20 years. He continues to serve on various festival committees, as well as serving as the finance chairman of St. Norbert Church in Munger.

Don and his wife Lori have two children, who have been blessed in their family to see the value of giving to one's community. What better lesson could we ask our young people to learn than the importance of being involved as a volunteer to help make your home town an even better place? The Munger Potato Festival has done this by providing an important source of funding for recreational activities and facilities that are used throughout the year in Munger and Merritt Township.

Mr. Speaker, when a town of 1,700 is visited by 42,000, a major impact is felt. The Munger Potato Festival has been vitally important in helping to provide resources to a wonderful small community, and it is because of dedicated, willing people, like Don Smrecak. I urge you and all of our colleagues to join me in thanking Don for his years of service to his community.

BUDGET RECONCILIATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 29, 1995, into the CONGRESSIONAL RECORD.

WHY I OPPOSED THE GINGRICH BUDGET PLAN

Earlier this month, the House considered two different budget reconciliation plans that would balance the federal budget in seven years. The first plan, proposed by Speaker Gingrich, was approved by the House and Senate, but vetoed by President Clinton. I opposed this version. The second plan, drafted by a group of conservative Democrats known as the "Coalition", was defeated by the House. I supported this version.

Congress is taking serious steps to address the budget deficit. I support a balanced budget and a line-item veto and have voted for a balanced budget amendment to the U.S. Constitution. I will continue to urge the President and my colleagues in Congress to reach a bipartisan agreement to balance the budget in seven years.

The Gingrich plan.—This budget plan includes the following major provisions:

HEALTH CARE CUTS

The plan would cut back an estimated $270 billion from projected spending in the Medicare program. It would increase Part B premiums paid by beneficiaries; cut back payments to hospitals and doctors; and give beneficiaries a wider choice of health insurance options. The plan also would cut back an estimated $170 billion from the federal share of Medicaid by converting it into a capped block grant to the states, limited the amount of federal funds a state could receive.

TAX BREAKS

The Gingrich budget would provide $245 billion in tax cuts, including: a $500-per-child tax credit for families with incomes up to $110,000; an expanded Individual Retirement Account (IRA); and a reduction in taxes on capital gains income. It also would scale back the Earned Income Tax Credit, which benefits the working poor, by $32 billion.

OTHER CUTS

The plan would reduce spending on welfare by $82 billion by converting the current program into several block grants to the states. It would cut back spending on farm programs by $13.8 billion by reducing export supports and replacing current programs for major commodities with declining annual cash payments which are not tied to crop prices. It would also increase borrowing costs for college students, and reduce spending on veterans' programs by $6.7 billion.

THE COALITION BUDGET

The conservative "Coalition" budget I voted for asks every American to do their fair share with more evenly distributed spending cuts. This plan would reduce spending by more than $850 billion over seven years. It reforms welfare, preserves Medicare and Medicaid for the future, cuts corporate subsidies, and makes farm programs more market-oriented. It also includes a line-item veto and tough enforcement measures.

The Coalition budget is a promising middle ground between the White House and the Speaker's budgets. It eliminates the federal budget deficit in seven years, as the Republicans want, uses realistic cost estimates, ensures that work pays more than welfare, and reduces the burden of the debt, while requiring less drastic cuts in social programs, such as Medicare and Medicaid, because it is without tax breaks. Furthermore, the Coalition budget reduces the deficit right away, while the Gingrich budget adds to the deficit (and the debt) in 1996 and 1997 because the tax breaks are front-loaded.

My position.—I opposed the Republican budget plan for four reasons.

First, the job of balancing the budget is made much more difficult by huge tax breaks. We cannot justify large tax cuts until the budget is balanced—especially when the tax breaks start early and most of the spending cuts are delayed. If and when a surplus does occur, then Congress should pass the tax cuts. It does not make sense to borrow more money to give ourselves a tax cut. My preference would be for a more balanced tax package. A good portion of the Gingrich tax breaks would favor wealthier Americans.

Second, my spending priorities are different. Half of the total savings come from health care and assistance to the poor and elderly. We should not ask the poor to bear more than their share of the burden. The cuts in Medicare and Medicaid are too steep. My preference is for fair, across-the-board cuts in most programs; deep cuts in "corporate welfare;" and more modest increases in defense spending. We should also preserve funding for long-term investments in education, research and infrastructure. These are necessary to continue economic growth, increase revenues, and reduce the deficit.

Third, the plan delays most of the tough spending cuts until 2001. Until then, we will have deficits in excess of $100 billion per year. My preference is to reduce spending gradually each year, rather than postponing action.

Fourth, the process for consideration of the bill was flawed. The bill is too large (it runs over two thousand pages) and covers too many important issues. Speaker Gingrich only allowed two hours of debate on the measure, without an opportunity for amendment. This process places too much power in the Speaker's hands and subverts the legislative process.

Conclusion.—I am encouraged by the recent agreement between the President and congressional leaders which establishes a basic framework for negotiations on the budget. The President agreed to support a seven year balanced budget plan and to use Congressional Budget Office assumptions to get there, provided the budget plan is balanced, fair and does not devastate key federal programs, particularly Medicare, Medicaid and education.

The budget clash taking place in Washington today is not just a squabble among politicians who have forgotten their manners. The policy debate reflects a nation at a crossroads and turns on fundamental questions about the size and role of the federal government and whether there should be any safety net for the poor and the elderly.

At the end of the year, if the Republicans refuse to moderate their more extreme demands and if the President's vetoes are sustained, then we will simply have to take the debate to the voters next fall. In the interim, we should not allow the country to be hurt by government shutdowns and high wire management of the national debt.

RETIREMENT OF CALIFORNIA HIGHWAY PATROL COMMISSIONER MAURY HANNIGAN

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. CONDIT. Mr. Speaker, I rise today together with my California colleagues Nancy Pelosi, Carlos Moorhead, Pete Stark, Frank Riggs, Lucille Roybal-Allard, Lynn Woolsey, Henry Waxman, Zoe Lofgren, Wally Herger, Robert Matsui, Andrea Seastrand, Howard Berman, George Radonovich, Robert Dornan, Jane Harman, Ken Calvert, Stephen Horn, Elton Gallegly, Julian Dixon, Richard Pombo, Matthew G. Martinez, Calvin Dooley, Howard "Buck" McKeon, Tom Lantos, and Bob Filner to honor a man who has dedicated over 30 years of his life in service to the people of California. This month, Maurice J. (Maury) Hannigan will retire as the commissioner of the California Highway Patrol, a post which he has held meritoriously since 1989.

Commissioner Hannigan was appointed to the California Highway patrol November 30, 1964. He rose swiftly through the ranks of the department serving for 5 years as deputy commissioner before being appointed commissioner. Commissioner Hannigan's tenure has been one of accomplishment, courage, and conviction.

In a demanding job, Commissioner Hannigan has never settled for simply doing the minimum. After receiving his bachelor's degree from Golden Gate University, he continued to seek out further professional development and training becoming a graduate of the University of California Davis Executive Program, the Federal Bureau of investigation National Academy, and the Federal Bureau of Investigation National Executive Institute. His dedication also extends to the many law enforcement and traffic safety committees on which he serves.

It is indeed an exemplary attitude which has made Commissioner Hannigan determined to make California a safer place to live. In recognition of this determination, Commissioner Hannigan has been the 1994 recipient of the National Safety Council Distinguished Service to Safety Award and the recipient of the J. Stannard Baker Award-Special Recognition/Lifetime Service to Public Safety bestowed by Northwestern University.

We are all sorry to see Commissioner Hannigan leave the California Highway Patrol and in particular the post he has so singularly held for the last 6 years. It is without doubt that his contributions to our California community are far from over. It is with sincere thanks and best wishes for the future that we honor his retirement.

TRIBUTE TO OKALOOSA COUNTY UNDERSHERIFF JERRY ALFORD

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. SCARBOROUGH. Mr. Speaker, the citizens of Okaloosa County and the State of Florida will be losing a much beloved and highly respected law enforcement officer on December 31, 1995, when Okaloosa County Undersheriff Jerry Alford retires after four decades of service as a law enforcement officer and public servant. It is a great honor to recognize this dedicated police officer for his service in the field of criminal justice.

At a time when our Nation appears to lack confidence in our Government, and the men and women who fight to enforce the law of the land, it is fitting that today we honor a law enforcement professional who always went to extra mile to protect our citizens while striving to support and defend the Constitution of the United States. Undersheriff Alford has known, better than most, that while trying to protect our quality of life, we must respect the God given rights of freedom.

His overall attitude of public service has been a model in the lives of hundreds of law enforcement officers that he has trained, supervised, and encouraged. His legacy will remind new officers that when at all possible, police officers should go above and beyond the call of duty to assist the citizens with any problem when it's legal, moral, and ethical to do so.

During the past 40 years, Mr. Alford has proven himself a real patriot in the truest sense of the word. In many occasions, he placed his life and limb in jeopardy, in defense of lives and property of others. A man who has always had a vested interest in his country and community, Mr. Alford has served as a U.S. Marine, a Walton County deputy sheriff, a special agent with the State of Florida Beverage Department, and undersheriff with the Okaloosa County Sheriff's Office.

As Mr. Alford departs his active role in the law enforcement community, he can take pride in knowing that he influenced so many people in a positive way. Mr. Alford will always be remembered not only as a committed crime fighter, but a man of principle with a sincere desire to serve his community, State, and Nation.

SOCIAL SECURITY IS FAR FROM BROKEN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. RANGEL. Mr. Speaker, I rise today to enter into the CONGRESSIONAL RECORD an article by Mr. Gus Tyler celebrating the 60th anniversary of the Social Security trust fund and decrying the false prediction that Social Security is on the verge of bankruptcy, Mr. Tyler makes clear that the Social Security trust fund is not running out of money, as many of my colleagues have argued.

The trust fund is strong and will remain strong as long as the American economy is strong. What threatens the trust fund is what threatens the economy: unemployment and a stagnant economy. We need to strengthen the economy not to dismantle Social Security. Moreover, the Social Security system strengthens the American economy by generating buying power and increasing savings. I would like to enter into the CONGRESSIONAL RECORD this statement by Gus Tyler which clearly outlines why we don't need to dismantle Social Security.

TRUST FUND DOESN'T NEED TO BE "FIXED"

(By Gus Tyler)

The Social Security Trust Fund, which celebrates its 60th birthday this month, will go bust sometime between the year 2020 and 2030. That forecast has been heard so often and from so many authentic voices that the statement is now taken to be a fact. Which it is not.

To head off the imagined disaster, the following remedies are presented: a) raise the payroll tax that funds the system; b) reduce the benefits to retirees; c) do not adjust the benefits to meet the cost of living; d) tax benefits to help balance the budget.

If these cures are applied, they will kill the patient who is not sick.

The Social Security Trust Fund will not run out of funds by 2020 or 2030 unless the United States runs into what amounts to a depression that will continue for a protracted period. And the remedies currently proposed will hasten the coming of precisely such a depression that will not only destroy the Social Security program, but will destroy the country.

Here is the truth about Social Security as set forth simply by an extremely authoritative governmental body known as the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Fund.

The facts that follow are drawn from the 1995 report of this official body to the appropriate persons and agencies in accordance with Section 201(c)(2) of the Social Security Act as amended.

The Report (page 181) submits three scenarios on the future of the Social Security system. One scenario assumes virtually no growth in the economy in the first 75 years of the next century. Another scenario assumes slow growth; a third scenario assumes something between no movement and a slow crawl.

The first scenario—the worst possible case—assumes that the country is in the economic doldrums for about 70 years. By 1996 (next year), the economy will be effectively stagnant, with a growth rate of minus 0.7 percent. That means recession bordering on depression.

The same scenario projects little hope for the future. Growth will be near zilch. And, as a consequence, the Social Security Trust Fund will be facing early bankruptcy. In fact, says the footnote on page 181, "estimates for later years (after 2030) are not shown because the Funds are estimated to become exhausted in 2030."

But—and this is a big "but"—this is only one of three scenarios submitted by the Board of Trustees.

A second scenario assumes an annual growth rate of between 2 and 3 percent a year. That is a very slow growth rate when compared with growth in the years from 1960 to 1964 (4.4 percent) or with growth in the years 1970 to 1974 (3.1 percent) or with 1984 (6.2 percent). A growth rate in the next century—from the year 2000 to 2070—of a mere 2 to 2.5 percent is sluggish.

Yet, according to the report of the trustees, if such a growth rate, albeit slow, continues, by the year 2070, the Social Security Trust Fund will have an income of $22.74 trillion dollars and will have accumulated assets of $98.7 trillion. Yes, "trillion," not billion!

The $98 trillion (roughly $100 trillion) is not as outlandishly huge as it seems. The report for this scenario assumes an annual 3 percent rate of inflation. Over 75 years (from 1995 to 2070), a dollar will lose much of its value, ending up worth about 10 cents in 1995 currency.

Allowing for that factor, the $98 trillion dollar reserve projected for 2070 would only be worth one-tenth that sum—about $10 trillion—in 1995 dollars.

Ten trillion dollars in 1995 currency is, however, no mean sum to have as a reserve in the Social Security Trust Fund. It is twenty times as large as the present reserve of about half a trillion. It is twice as large as the total federal debt this year. It will, as noted above, be replenished in 2070 by an additional $22 trillion and by annual contributions in that dimension in the years to follow.

One of the problems that some insiders were posing a few years ago when this scenario began to unfold was—what to do with all that money? One of the possible answers would be to allocate some of the money in the Old Age and Survivors Fund to the Medicare Fund.

The sums that are projected by this scenario are not the outer limits of what can be realized. The assumption of the "optimistic" forecast is that the economy will grow, between now and 2070, at an average rate of about 2.5 percent a year. That is no great shakes. Between 1960 and 1994, it grew at 2.8 percent. And it could have grown faster if the Federal Reserve Board had not been repeatedly checking growth by raising interest rates and limiting the money supply.

Should the economy grow at 3 and 4 percent a year, added trillions would pour into the Social Security and Medicare funds, as well as into the U.S. Treasury.

But, would not such growth beyond, let's say, 3 percent, be inflationary? The report of the Fund trustees says, "No." In 1984, the economy grew at the swift speed of 6.2 percent, but the inflation rate (consumer price index) was only 3.5 percent. Again, in 1994, the economy grew at a lively 4 percent, but the inflation rate was only 2.5 percent.

Perversely, in some of the years of slowest growth, prices rose wildly. In 1990, the economy grew by a feeble 1.2 percent, but prices rose by 5.2 percent. And in 1980, the economy actually shrunk by 0.5 percent, but prices skyrocketed by 13.4 percent.

The reasons for this seemingly contrary behavior are several and make a fitting subject for another article. But the fact remains that rapid growth does not mean inflation and that low or negative growth does not mean lower prices. (All these data are drawn from the above mentioned report, page 56).

In sum, the future of Social Security (and Medicare) is not glum if the economy continues to grow at a reasonable rate. The way to go, then, is to take steps to expand the economy.

But the remedies proposed to "fix" the Social Security system that is not broken will break both the security system and the economy. Let us, briefly, consider each of these proposals.

1. Raise the payroll tax. Such a tax would reduce the "disposable income" of employees. They and their families will have less with which to buy. In our "market economy," any such shrinkage of the "market" has to shrink the economy—less buying, less production, fewer jobs. Right now, retailers and manufacturers are stuck with a pile up of 14 months of consecutive inventory accumulations they cannot sell. To cut buying power of employees would mean more unsold wares.

2. Reduce the benefits. That would have the same effect as raising the tax on employees. Reduced benefits mean reduced buying power. And reduced buying power means reduced production, etc. ad nauseam.

3. Do not increase the benefits to keep up with the rise in the cost of living. This, too, would be a subtle, but effective way to do what 1) and 2) above do more directly. If prices rise and the ability to buy does not rise simultaneously, people buy less. By now, we all know the rest.

4. Tax the Social Security benefits of the "affluent." Such a tax is, in effect, a reduction in benefits. Uncle Sam gives with one hand—the security check—and takes with the other hand, the tax. That would work just like the other bad medicines.

In addition, who are the "affluent"? Are we talking about a retiree with an income of $25,000 or a retiree with an income of $250,000? To tax the latter would probably not seriously change his or her spending habits; to tax the former will.

What is not generally appreciated about the Social Security system is that it is one of the greatest and most reliable sources of nourishment for the entire American economy. In 1995, some 43 million people will have received about $340 billion with which to buy things and purchase services. Let's assume that in a mean moment of madness, all those payments were discontinued. How long would the American economy be able to sustain itself?

The Social Security system, however, does more than provide the fuel for consumption, it also provides capital for production. Every year, for many years, the security fund has generated multi-billion dollar surpluses. At the end of this year, it will have a reserve of more than half a trillion.

Where does that money go? It goes, just about all of it, to purchase government securities. That frees up other capital for investment in the private sector of the economy.

In this way, the Social Security system strengthens America in two ways: a) it generates buying power; b) it generates savings.

And, if we, as a nation, pursue policies to expand, rather than stunt, growth, the entire economy and U.S. Treasury, whose income is drawn from that economy, will be in better shape and our senior citizens need not worry about either their or their children's future.

TRIBUTE TO REV. KWASI ANTHONY THORNELL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday November 29, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay tribute and to thank the Reverend Kwasi Anthony Thornell for his wonderful ministry to the citizens of the Washington, DC metropolitan area. On January 1, 1996, the Reverend Thornell will begin another chapter in his ministry as the new Rector of St. Philips Episcopal Church in Columbus, OH. As he prepares to begin a new ministry, I am pleased to have this opportunity to provide this retrospective of his many years of faithful and steadfast ministry in our Nation's Capital.

Father Kwasi—as he is affectionately known by the many whose lives he has touched—has indeed inspired many through his ministry. For over a decade, he has served the National Capital Area faithfully, spreading his message and affection to the young and the old, as well as to the healthy and the infirm. Although he is moving on to continue his ministry in another location, his contributions to the Washington metropolitan community warrant special praise.

Born in Tuskegee, AL, the Reverend Thornell was ordained to the priesthood by Bishop John T. Walker in 1973. He is a candidate for the degree of doctor of ministry at Wesley Seminary and holds a master of divinity degree from the Episcopal Divinity School in Cambridge, MA. He received his undergraduate degree from Alma College in Alma, MI. He is the father of three children.

For over two decades Father Kwasi has been bringing spiritual awareness and hope to communities in Detroit, MI; St. Louis, MO; and our Nation's Capital. In particular, he has been deeply involved in efforts to eradicate violence among our youth. As a matter of course, Father Thornell has an abiding commitment to eradicating the obstacles that perpetuate poverty, illiteracy, and violence. Indeed, in the Washington community, he successfully led and improved the cathedral's tutorial program, and established a similar program at Calvary Episcopal Church. His efforts to stamp out youth violence are well known throughout the Washington metropolitan community, where he currently serves as a project coordinator for the Violence Prevention Initiative for the Foundation for the National Capitol Region.

As the assistant rector of Calvary Episcopal Church, Father Kwasi was very active with youth organizations and worked to extend the church's outreach to the surrounding urban community.

Prior to joining Calvary, the Reverend Thornell spent nearly a decade at the Washington National Cathedral. As canon missioner, he was responsible for pastoral and liturgical duties, and represented the cathedral in areas of urban social justice and outreach ministries. In this regard, Father Thornell was especially effective in bringing a heightened awareness to the problems of youth violence in the community. He participated in numerous forums and outreach efforts established to eliminate the conditions that lead our youth away from the church and into the arms of violence.

While at the cathedral, he also served as interim precentor, responsible for planning and directing religious services, creating liturgies, writing prayers and preparing the Rota. During his tenure, Father Thornell was also actively involved in the church's mission to highlight the evils of apartheid in South Africa. He traveled to that country as a participant in church-sponsored delegations.

Father Kwasi's early years in the ministry were spent as minister and founder of the Alexander Crummell Center for Worship and Learning in Detroit, MI. In St. Louis, he served as the vicar of St. Stephen's Episcopal Church and as the deputy for urban mission for the Episcopal Diocese of Missouri.

Throughout his distinguished and devoted ministry, Father Kwasi has tirelessly worked to improve the socioeconomic condition for the disenfranchised and poor members of the community. He has been a savior for those children seeking a brighter tomorrow, and provided comfort and advice to persons suffering pain, despair, and/or other forms of adversity.

He has used his ministry and the pulpit to deliver powerful, inspiring and relevant sermons, translating God's message into community action. He has done more than just preach the Gospel. He has walked the Gospel, endeavoring to make life just a little better for the children and the downtrodden in our community. He has worked with patients afflicted with HIV-Aids, and those persons suffering from the disease of alcoholism. He is an HIV-Aids education trainer, as well as a trained counselor in alcohol abuse. His has been a ministry filled with hopefulness and a belief that humankind can have a brighter tomorrow if we care for one another.

A man of seemingly boundless energy, The Reverend Thornell has also devoted his time to serve on numerous boards, including RAP, Incorporated; the Church Association for Community Services; Episcopal Caring Response to Aids, Childrens' Defense Fund, and the National African American Clergy HIV/AIDS Task Force.

In addition to serving as president of the District of Columbia Chapter of the Union of Black Episcopalians [UBE], Father Kwasi also is a member of the NAACP, the urban League, the Council of Greater Washington, and the Episcopal Urban Caucus.

Last year, Father Thornell realized a lifelong dream when he starred as a cast member of the production of Fraternity at Washington's historic and renowned Lincoln Theater.

Mr. Speaker, as the Reverend Kwasi Anthony Thornell prepares to carry his profound, wonderful, and inspirational ministry to St. Philips and the greater Columbus community, I am pleased to have this opportunity to salute the many outstanding contributions he has made to the citizens of the Washington metropolitan area. I ask that my colleagues join me in saying thank you and in extending our heartfelt best wishes for continued success as he prepares to begin a new, exciting, and challenging chapter in his selfless ministry as an exceptional servant of our Lord.

ERV WITUCKI: SPUD EXTRAORDINARE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. BARCIA. Mr. Speaker, many of our communities have special matters that define their heritage and economic well-being. And many of these communities have developed such a heritage through the efforts of devoted individuals. Munger, MI, is known for its annual Potato Festival that has been held each year since 1954. One man who deserves unqualified recognition for his efforts over the years is Erv Witucki, who has been a member of the sponsoring organization, the Munger Volunteer Firemen Corps, for the entire 41 years.

Not only has Erv been a member of the sponsoring organization since the festival's inception, he has also served as the festival's chairman for 20 years, from 1960 to 1981, and its co-chairman or honorary chairman for the remaining 21 years. He nurtured the festival's growth from a small, two day local event, to one which attracted over 30,000 people each year as a major regional 4 day event.

I can personally remember going to this event as a small child, and thinking how grand it was. As I grew, so did this festival, so that the image I had of this wonderful event as a child only grew with me. This is because of the hard work of Erv Witucki during those formative years. The impact this festival has had on other young people has been phenomenal because it isn't just for a 4-day celebration of the importance of the production of a key commodity, potatoes, to this town, but an opportunity to raise funds that have an impact on youth throughout the year. Recreation projects such as softball programs, tennis courts, playground equipment and picnic areas, a pavilion and volleyball courts, and an annual Halloween party for children are all the direct result of this festival.

Erv has given to his community. He and his wife Marie have been blessed with 4 children and now 11 grandchildren. He has served as Merritt Township treasurer for 28 years, and has been extremely active with St. Norbert Church in Munger.

Mr. Speaker, the people of Munger are very grateful to Erv Witucki and the others who have volunteered their time and effort to make their community a better place. I urge you and all of our colleagues in joining me in offering thanks to Erv Witucki.

THE GOVERNMENT SHUTDOWN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, November 22, 1995, into the CONGRESSIONAL RECORD.

THE BUDGET BATTLE

As the federal government shut down on November 14, many Hoosiers found themselves angry about the dispute that precipitated the shutdown, unsure about how long it would last, and concerned about how it might affect them.

The shutdown occurred because Congress has not completed action on all of the measures to provide funding for the government during the current fiscal year, which began on October 1. A short-term funding measure, called a continuing resolution (CR), was passed in September and gave Congress until November 14 to enact spending bills. But by that date only three of the thirteen appropriations bills had been signed into law.

Congress and the President have not been able to agree to extend the CR. The congressional leadership attached a number of provisions to the second continuing resolution, including an increase in Medicare premiums. President Clinton objected to these provisions, and vetoed the measure. With my support, Congress then passed a continuing resolution that would keep the government open until December 5 and called for balancing the budget in seven years. However, President Clinton also vetoed this measure.

On November 14, some 800,000 of the federal government's two million civilian employees were furloughed. Many federal government offices were closed, including national parks and museums. New applications for federal benefits, such as Social Security, could not be processed, though payment of Social Security and Medicare benefits continued. The Agriculture and Energy Departments remained open because their funding and been approved. In addition, employees vital to the safety and health of the public, such as air traffic controllers and guards in federal prisons, were kept on duty, as were those on active duty in the military.

A short-term shutdown of the federal government produces plenty of frustration, inconvenience and confusion, but probably little enduring harm. Congress has typically ensured that federal workers receive pay for the time they spend on furlough. However, a longer shutdown could create major problems for many people. Companies with federal contracts, individuals receiving veterans' benefits, and federal employees could see their payments delayed.

In addition, shutting down the government is expensive. Pay for furloughed federal employees is estimated to cost about $150 million per day. The shutdown process itself—preparing plans, notifying employees, securing property and so forth—also carries a price.

But perhaps the greatest cost of the shutdown is that it simply reinforces the cynicism and bitterness so many Americans feel about the federal government, particularly elected officials. They see the shutdown as the result of the partisan bickering and political posturing, and they place blame on leaders of both parties for gridlock.

Complicating the situation further is disagreement on raising the federal debt limit. Treasury Secretary Robert Rubin has taken a number of steps to ensure that the federal government remains below the debt limit, since at that point the government could no longer borrow money to meet its obligations. A default by the federal government could have serious, long-term implications for the American economy, though no one really knows how the markets would react. The big unknown is that much of the debt is held in places abroad where the understanding of American politics is meager. In any event, my view is that we should do everything we can to avoid default. There is no good reason to push the nation to the edge of financial catastrophe.

I agree with those who find the current standoff unnecessary and counterproductive. Both sides are engaging in political theater at the expense of substance. Congress has had several months to complete work on the appropriations bills. Voters expect us to work together to get the government's business done, and we should do so.

The current standoff is essentially not about short-term funding, but about competing views on how to balance the budget. The congressional leadership is trying to use the spending and debt limit legislation, where they have a lot of leverage, to force the President to sign the reconciliation bill—the bigger fight where they have little leverage. This is the most difficult struggle over budget priorities I have seen since I have been in Congress. It is a high-stakes dispute over what the role and the priorities of the federal government should be over the next several years.

The short-term solution to the shutdown of the government may appear manageable, but it is extremely difficult to see the solution to the long-term division between the President and the congressional leadership. The real fight comes when Congress passes the reconciliation bill and the President vetoes it. What is at stake there is the future of Medicare, Medicaid, the welfare system, rules governing the environment, and federal efforts in education, employment training and technology.

We must take several steps to get beyond the current impasse. I believe that sensible compromises are within reach. First, in my view, Congress should enact a "clean" continuing resolution and debt limit increase, without extraneous policy provisions. Second, we ought to continue negotiations in an effort to enact the rest of the appropriations bills for the current fiscal year. Third, we must to the extent possible seek agreement on policy issues contained in the reconciliation bill.

I suspect in the end we will not be able to resolve all of these major policy differences in 1995. The way out will be to keep the government operating largely under present policies on these unresolved matters and then have a public debate on the budget between now and the 1996 elections. Both sides would then have an opportunity to clarify exactly what they are for. I think this approach would make the voters much more comfortable.

The question with respect to the shutdown is: do we want a battle or a bill? I believe that Hoosiers want the government to get the people's business done. They are tired of this game of political chicken and are not going to view either party in this debate favorably. Both the President and Congress must seek reasonable solutions, not political points.

DEPENDENTS WITH DISABILITIES FEDERAL LIFE INSURANCE PROTECTION ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mrs. MORELLA. Mr. Speaker, today, I am introducing the Dependents With Disabilities Federal Life Insurance Protection Act of 1995. The bill would permit a Federal retiree over the age of 65 to continue additional optional life insurance coverage when the beneficiary is a person with a disability. In this case, the disability would have to be one which could be expected to last permanently and would prevent an individual from fully providing for himself/herself. The retiree would also be responsible for the total premium, limiting the cost to the Government.

Currently, Federal workers can continue the additional optional life insurance coverage, irrespective of age. However, when these individuals reach age 65 and are retired, the insurance is reduced and then subsequently stopped. There have been cases in which Federal workers have continued working beyond the normal retirement age in an effort to continue this coverage for their dependents with severe disabilities.

Without a provision for a dependent with a disability, upon the retiree's death, the dependent would become a public responsibility, with potential budgetary implications at the national, State, and local levels. This provision would be consistent with the thrust of the 1990 Americans With Disabilities Act [ADA]. The act encourages persons with disabilities to live in a setting of maximum independence—financially and socially—rather than being relegated to functioning in institutional settings subsidized with public funds.

This bill will help many persons with disabilities continue to have a quality life and will give peace of mind to thousands of Federal retirees, who have dependents with disabilities.

The following are key components of the bill:

The bill amends title 5 to provide that the reduction in additional optional life insurance for Federal retirees shall not apply if the beneficiary is permanently disabled;

The retiree must have designated the person with the disability as the beneficiary prior to retirement;

The payment received can only be used for the care and support of the beneficiary;

The disability of the beneficiary must be one that is expected to last permanently and that would prevent an individual from fully providing for himself/herself;

The retiree is responsible for the full premium;

A payment to the beneficiary will be reduced by the amount of any premiums not paid due to current law;

The Office of Personnel Management will have 1 year from the date of enactment to issue regulations; and

An individual who retired 50 months prior to the enactment of the law can have the additional optional life insurance reinstated at the full percentage.

A TRIBUTE TO MATTHEW J. HAYES

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to take a moment to pay tribute to a gentleman who provided great service to his family, his community, and his country. I was greatly saddened to learn of the passing of Matthew J. Hayes, a constituent of my congressional district and someone for whom I had a great deal of admiration.

Matt Hayes began his public-service career with the Delaware County government in 1977 when he became director of budget management. His outstanding abilities were recognized 2 years later when he was appointed executive director of Delaware County, a post he held for 13 years. I worked closely with Matt in my capacity as chairman of the Delaware County Council. No public servant brought more vigor to a position than Matt, nor did anyone more capacity protect the interests of taxpayers.

In 1992, Matt became chief executive officer of the Delaware County Solid Waste Authority. Again, he approached his position with commitment and determination. His knowledge and negotiating skills helped save the county millions of dollars.

Matt was a certified public accountant and a graduate of Villanova University, where he also served as an adjunct professor of accounting for 8 years. Before joining county government, he had 20 years experience in the private sector in accounting and management, including international financing with a major accounting firm.

Matt was also dedicated to serving his community. He served as treasurer of the Haverford Township Republican Party and was a member of the Haverford Township Parks and Recreation Board. He also served on the finance committee of St. Denis Roman Catholic Church, his home parish in Havertown. He was a board member of the Ardmore Manor Civic Association and a member of the Merwood Civic Association. He was a U.S. Army veteran.

Matt was devoted to his family. He cared deeply about his wife, Marie Purcell Hayes; his children, Matthew, Marie, James, William, and Joseph; and his three grandchildren. I offer my condolences to each to them. Matt will be greatly missed by all of us.

HMONG REFUGEES OF THAILAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. REED. Mr. Speaker, I rise today to submit for the record a letter I have sent to Secretary of State Christopher on behalf of the Hmong refugees in Thailand. Incidents of human rights abuses, forced repatriation, and retaliation upon their return to Laos continue to be reported. The Hmong community in Rhode Island remains very concerned about this situation, and I believe it is time we work to resolve it. I will be certain to submit for the record any response I receive from the State Department on this urgent matter:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 28, 1995.
Secretary WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write to express my concern about the status of Hmong combat veterans and refugees in Thailand.

You may recall that I wrote last year regarding the plight of the Hmong refugees. At that time, I was assured that additional resources had been committed to UNHCR to provide assistance to and monitor the safety of Hmong refugees, and that the State Department was working with the Thai government to resolve the question of repatriation to non-communist third countries. Thus, I have supported efforts to maintain a fair and responsible U.S. refugee policy that would prevent further persecution of Hmong refugees.

However, I am distressed that this situation has not yet been resolved. The Hmong people were our loyal allies and have been a great asset to our nation. Yet, thousands of Hmong remain in Thailand in refugee camps and continue to be persecuted because of their relationship with the U.S. While I recognize the difficulties in administering a refugee program, cases of forced repatriation, disappearances, and human rights abuses continue to be reported.

I would sincerely appreciate an update on the current status of the Hmong refugees. Specifically, I would like to know: what progress has been made to resettle the remaining Hmong combat veterans and refugees in safe, third countries; what efforts are being made to assist and monitor the safety and welfare of those refugees who have been voluntarily repatriated; have all means of forced repatriation ceased; are there currently immigration slots available for these refugees to come to the United States; is the Thai government cooperating with these efforts; and if not, what action will the State Department take to help the remaining Hmong refugees and ensure that they are not forcibly repatriated?

This issue is of great importance to the Hmong community in Rhode Island. Thank you in advance for your attention to this urgent issue, and I look forward to your response.

Sincerely,

JACK REED,
Member of Congress.

20TH ANNIVERSARY OF NEIGHBORHOOD IMPROVEMENT PROGRAM

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. KLECZKA. Mr. Speaker, I am honored to have this opportunity to commend the South Side's Milwaukee Christian Center Neighborhood Improvement Project [NIP] on its 20th anniversary.

The South Side's NIP was founded in 1975 as a collaboration of South Side agencies seeking to provide summer jobs for youth under a community development block grant. The organization was formed to harness the considerable energy of area youth in an endeavor that would teach them valuable skills and contribute to the surrounding community.

In 1994, the South Side NIP employed 44 young adults in housing rehabilitation projects. Participants remove unsightly graffiti, paint, provide carpentry services, and roof homes for low-income homeowners. South Side neighborhoods receive a facelift, while youth gain a work ethic and marketable skills.

Sixty-seven homes benefited from no-cost renovations last year. Meanwhile, the 38 young offenders served their community service sentences as graffiti removal team members, cleaning up at over 2,300 dwellings throughout the year.

Young people learn about the real work world through the NIP. They work on a timeclock and are responsible for their tools. Some programs operate based on piecework, which rewards higher productivity with higher pay. Many summer program participants have moved up through the program to become team supervisors. Mentors are drawn from local community centers to provide technical expertise and role models for the youth.

Over the past two decades, the South Side NIP has provided invaluable services to local residents. It truly represents an exemplary investment of CDBG funds. The program benefits not only participants, but also homeowners and neighborhoods. I am pleased to congratulate the Milwaukee Christian Center Neighborhood Improvement Project on its 20th anniversary and wish it continued success in the future.

A TRIBUTE TO WILLIAM KUNSTLER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to attorney William Kunstler who recently passed away. In memory of William Kunstler and in tribute to the ideals for which he fought, I would like to enter into the CONGRESSIONAL RECORD this statement.

Mr. Kunstler was profoundly committed to the fundamentally American ideal of justice for all. As an attorney he fought against racism and for the legal rights of everyone from important political figures to marginal outsiders.

His notable achievements included his work with Dr. Martin Luther King and his representation of Adam Clayton Powell and Stokely Carmichael.

To make the ideal of a just America a reality, Mr. Kunstler brought his considerable talents to defend unpopular and sometimes virtually unwinnable cases as a matter of principle. He took on the cases of many of the prisoners charged following the Attica Prison uprising. He took on the case of Wayne Williams, who was convicted of killing young boys in Atlanta, and Colin Ferguson, who was convicted of killing several people on the Long Island railroad. It is these cases that test our commitment to a fair and equitable justice system, and it is with these unpopular cases that William Kunstler proved the depth of his commitment to a fair justice system.

In her tribute to William Kunstler, Bernice Powell Jackson from the Civil Rights Journal noted that William Kunstler was a man who challenged our legal system to be the best and the fairest it could be. In this time of increasing attacks on the rights of the accused, we need to be inspired by Mr. Kunstler's commitment to a fair and equitable justice system. I would like to take this moment to honor his memory.

WORLD FOOD SUPPLIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. HAMILTION. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 15, 1995 into the CONGRESSIONAL RECORD.

FUTURE WORLD FOOD SUPPLIES

The tightening of world food supplies in recent years has led many people to wonder about the long-term food outlook. Will we be facing an era of major shortages driven by world population growth that will mean sharp price increases for some and food scarcity and famine for others? Or will research advances and improved farm productivity be enough to meet the growing world needs? The long-term predictions have important implications for U.S. food and agricultural policy and for Hoosier farmers.

CURRENT SUPPLIES

In recent years, world grain supplies have tightened considerably. The world's grain harvest has not increased in any of the last five years, and since 1992 world grain consumption has exceeded production. Grain stocks carried over from one year to the next are at record lows. In the U.S., lower production, strong export demand, and reforms making farm programs more market oriented have meant that this year—for the first time since World War II—there are basically no surplus stocks in government-owned reserves. The tight supplies have led to steep price increases for wheat, rice, and corn.

LONG-TERM PROJECTIONS

Some people look at the current tight supplies and see things only getting worse. They believe that world population growth, increasingly scarce water and land resources, and the demand for better diets in developing countries will mean an era of major food scarcity. Others are optimistic. They point to advancing farm technology, unused cropland, and potential to modernize farm production in developing countries. On this view, feeding billions more around the world could easily be done.

The U.S. Department of Agriculture (USDA) recently released a major study on the outlook for world food supplies that comes down in between these two views. Looking at the next 10 years, the report sees no looming crisis in food supplies. The report expects production to grow at basically the same rate as population, so grain use per person will remain relatively unchanged. World prices for wheat and rice are expected to lag only slightly behind inflation.

Explaining the increased demand, USDA emphasized the importance of world population growth—from 5.5 billion to 6.6 billion over the next decade—as well as efforts by countries like China to improve their diets. Yet world food production is expected to keep pace, more through higher yields than expanded cropland. Crop yields, however, are expected to grow more slowly than in the past because high-yielding rice and wheat varieties have been widely adopted and no similar research advances are anticipated soon.

FOOD SHORTAGES

While the USDA report projected adequate global food supplies, it also concluded that there will be major food shortages in some parts of the world. And on that score USDA was not optimistic. Currently some 800 million people—15% of the world's population—have inadequate diets, with many of them suffering from severe malnutrition. The study projected that food aid needs will double over the next decade, even under relatively optimistic assumptions of increased food production in the developing countries. The problem of food shortages is largely financial—the inability of poorer countries to buy adequate food.

The world food situation is like a basket half empty and half full. More people are adequately fed than ever before and much more food is available than in past decades. At the same time, there are still more hungry people in the world than ever before, both in absolute numbers and as a percentage of total world population.

AGRICULTURAL RESEARCH

One clear message from the long-term food supply projections is that we need to continue to support agricultural research. The U.S. agricultural research system has been a major reason for the productivity of our farmers, and continued research will be crucial in the years ahead to helping them meet the ever-growing markets for food.

Yet agricultural research faces federal budget cuts. Funding in 1996 will be below this year's level, and Congress will consider various reforms in the months ahead. We need to balance the budget, but deep cuts in agricultural research would be short-sighted.

FARM PROGRAMS

The increasing world food needs also mean that we should reform current federal farm programs to open up more farmland to production. Currently some 15 percent of U.S. cropland is being idled through federal commodity programs designed to help stabilize supplies and through Conservation Reserve programs designed to protect fragile cropland.

Reforms are currently being considered in Congress to reduce government land set-asides, allow farmers to withdraw less-sensitive land from the Conservation Reserve, and allow farmers more planting flexibility to react to world market needs. I support such efforts.

FOOD AID

We also need to improve U.S. food aid programs. since the end of World War II, the U.S. has been the world's bulwark against famine. This year we will provide $1.3 billion in food aid—about 1/10 of 1 percent of the total federal budget. Food aid benefits not just needy people overseas but also U.S. farmers, by providing a market for their current production and by laying the groundwork for future export sales. Of the 50 largest buyers of American farm goods, 43 are countries that formerly received U.S. food aid. Former food aid recipients purchase more than $35 billion in U.S. agricultural products each year. By helping feed the needy we also create major new markets for our exports.

But food aid programs also face budget cuts, and it is clear that we will have to do more with less. That's why recent Clinton Administration efforts to overhaul and "reinvent" food aid programs—better coordinating assistance and focusing much more on measuring and managing for results—are a step in the right direction.

CONCLUSION

Long-term projections about global food supplies and needs are very tentative, and are highly sensitive to even the smallest changes in assumptions. The latest projections are generally reassuring for those of us in the U.S., but they also indicate the need for a long-term view in our food and agricultural policies. We must continue to invest in the ability of U.S. farmers to meet the needs of global markets.

IN SUPPORT OF STRONG LOBBYING LEGISLATION

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. FLANAGAN. Mr. Speaker, today is a historic day. Finally, after almost a half century, the House passed and sent to the President a strong lobbying disclosure bill that will serve to close the various loopholes in current lobbying law and make the rules mean what they are supposed to mean.

Because it was necessary to send to the President a clean bill—any amendment adopted to H.R. 2564 would have ultimately served to kill lobbying reform in Congress for yet another year—Members of Congress were forced to withdraw and vote down a number of well-intended and worthy amendments.

Sadly, one of those withdrawn amendments was offered by the gentleman from Michigan [Mr. DINGELL]. Mr. DINGELL's amendment would have made a step in the right direction in stifling the atrocious lobbying procedure associated with so-called astroturf lobbying in which lobbying firms falsely use a person's name in a telegram or letter in an effort to influence a Member of Congress on pending legislation.

In August, during consideration of H.R. 1555, the Communications Act of 1995, my office received thousands of these computer-generated form telegrams. They were supposedly from my constituents outraged over the telecommunications deregulation and reform legislation. But after my staff and I contacted over 200 of those whose names and addresses that appeared on the telegrams, our results revealed that only a tiny fraction of "senders"—I am talking about only a handful—even knew their names has been used in this way, and one gentleman had long been deceased.

Mr. DINGELL's amendment to establish a penalty of a fine or up to 1 year imprisonment for lobbying firms who falsely uses a person's name in a computerized telegram or postcard is a necessary step in ending these despicable lobbying techniques. I urge all my colleagues to support it when introduced as freestanding legislation.

While I strongly support Mr. DINGELL's language, I also believe it is important for Congress to enact legislation that would require full disclosure of expenditures on this so-called astroturf lobbying. Neither H.R. 2564 nor the Dingell amendment requires disclosure of expenditures on astroturf lobbying. I believe this important information should be included in the registration and reports filed by lobbyists or organizations that lobby. This could be accomplished through separate legislation which I hope will be introduced this year.

Mr. Speaker, I would like to thank Mr. DINGELL for offering his amendment today and for withdrawing it. I hope we can get together and put our minds to work and introduce a strong lobbying reform bill this year. Mr. CANADY, chairman of the Subcommittee on the Constitution of the full Committee of the Judiciary and lead sponsor of H.R. 2564, is also committed to working on another lobbying bill. With a year left in the 104th Congress, I believe this will be achieved.

ROMANIAN NATIONAL DAY—DECEMBER 1

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. SOLOMON. Mr. Speaker, on the eve of Romania's National Day on December 1, I would like to take a few moments to recognize the strides it has made since overthrowing communism just a mere 5 years ago.

Romania, like many of its neighbors, rejoiced when it was finally able to break free of communism and join the West. Having lived through some very rough years of a Stalinist inspired dictatorship, the Romanian people and their government are firmly dedicated to establishing a modern democracy.

Once obtaining its new-found freedoms, Mr. Speaker, Romania went on to achieve a number of firsts. For example, in 1989, Romania became the first country in central Europe to adopt a new Constitution, approved by a new, freely elected Parliament and by national referendum. Romania was also the first country in the region to have three rounds of free elections in 6 years, including parliamentary, presidential, and local. Finally, Romania achieved the distinction of being the first central European nation to join the Partnership for Peace [PFP] on January 26, 1994.

I am pleased to note, Mr. Speaker, that the Romania Government regards its bilateral relationship with the United States to be very special, and is intent on developing an intense cooperation in all fields with the United States—political, military, economic, and cultural. For example, at my invitation on behalf of the Congressional Research Service Task Force on International Parliamentary Programs. Mr. Adrian Nastase, President of the Romanian Parliament—equivalent to our Speaker of the House—is currently leading a delegation to Washington to institute modernization techniques for running the Romanian Parliament.

The Romanian Parliament is currently busy debating a law on political parties, and several other bills—on competition, on real estate promotion, on a forest code, on labor protection—demonstrating that democracy is hard at work in Romania. Ironically enough, when recently asked which issue is currently the most important one before the Romanian Parliament President Nastase answered that the budget has taken precedence before all other political issues. I guess some things do not change from Parliament to Parliament, Mr. Speaker.

Mr. Speaker, the people of Central and Eastern Europe experienced tremendous hope with the fall of the Iron Curtain. The people of these countries and their governments are now facing the sobering challenges to build anew a free and modern state. On the occasion of Romania's National Day, I congratulate Romania for its accomplishments to date and join with my colleagues to wishing Romania well in its future.

HONORING KENNETH R. KORNHAUSER, FRED MILSTEIN, AND LEONARD COOPER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of the Suffolk Association for Jewish Educational Services [SAJES] and my constituents in the fifth congressional district as they gather to honor Kenneth R. Kornhauser, Fred Milstein, and Leonard Cooper for distinguished service in advancing the cause of Jewish education in Suffolk County, NY.

Through innovative and creative leadership, Kenneth R. Kornhauser has provided a solid basis of support to the advancement of quality Jewish education. A member of Temple Beth Torah, Kenneth is an involved board member of an array of Jewish organizations that include the Suffolk Y Jewish Community Center, the Gurwin Jewish Geriatric Center, the United Jewish Community Center of Long Island, and SAJES.

Honoree Fred Milstein also is being recognized for his endless dedication to the Suffolk Jewish Community. He has exemplified himself and enhanced the community through his active and effective participation as a member of the Suffolk Jewish Center, and as a board member of SAJES, the Solomon Schechter Day School of Suffolk County, B'nai B'rith, the World Jewish Congress, and the Suffolk Jewish Communal Planning Council.

Extraordinary is a word that befits SAJEs' third honoree, Leonard Cooper. Because of his extraordinary talents for enhancing the Suffolk Jewish Community, SAJES confers upon him an award of special recognition. Leonard has served with great distinction and effectiveness as the first president of the Suffolk Y Jewish Community Center, and he is also a board member of the Gurwin Jewish Geriatric Center. In addition, he has served as campaign chairman for the United Jewish Appeal on eastern Long Island.

Without compensation or demand for recognition, these men have given of their great skills and talents to the uplifting and betterment of our community. It is with great pride that I call upon all my colleagues in the House of Representatives to join me in paying tribute to Kenneth R. Kornhauser, Fred Milstein, and Leonard Cooper. May their good works and selfless deeds serve as an example for all Americans to follow.

PERSONAL EXPLANATION

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. COX of California. Mr. Speaker, earlier today, I was unavoidably detained and unable to return to the Capitol in time to record a "yes" vote in favor of H.R. 2564, legislation to toughen disclosure rules for lobbyists.

The passage of H.R. 2564—on the heels of last week's landmark vote to completely ban all gifts from lobbyists—adds to this new Congress' already impressive list of achievements in changing the way Washington does business.

On the first day of this Congress, the new Republican majority in the House of Representatives delivered on its promise to drastically cut congressional staff. We have continued to deliver on this pledge, cutting spending in the legislative branch, reducing committee staff by one-third, and completely eliminating three full committees and redistributing their duties.

We have also instituted internal term limits on the Speaker and committee chairmen, and ended the practice of ghost voting in committee, requiring instead that Members themselves be present to vote. And, the crown jewel of our internal reforms thus far—the first Republican bill signed into law by Bill Clinton—was legislation requiring that the laws of the land apply to Congress as well.

While there is still more to be accomplished on our congressional reform agenda, these significant reforms—including H.R. 2564—will do much to end business as usual in Washington, and to restore honesty and integrity to Congress.

CELEBRATING ROMANIA'S INDEPENDENCE DAY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 29, 1995

Mr. MORAN. Mr. Speaker, in a couple of days, on December 1, Romania will celebrate its national day of independence. This 1995 celebration will mark the 77th time the people of that nation have commemorated the founding of their country. Unlike many of the past national days, however, Romania's celebration this year is one that is full of hope for the future.

As many of my colleagues know, earlier this fall, Romania's President, Ion Iliescu, came to Washington to meet with President Clinton. He also met with a number of our colleagues here in the House. The message he carried was simple. Romania is irrevocably marching down the path toward a democratic political system and a free-market economy.

This march has not been an easy one—reversing 40 years of communist rule is difficult. Romanians have borne real economic hardship since the 1989 revolution that overthrew the dictator Ceausescu. Nevertheless, major economic indicators for a healthy Romanian economy appear auspicious. Inflation is expected to be only 29 percent this year, less than half the 1994 rate. There has been more foreign investment, including U.S. investment, during the first 6 months of 1995 than there was in all of the previous 4 years. The agricultural sector, the first sector to benefit from privatization, has produced an almost record crop of wheat, allowing Romania to be a net grain exporter for the first time in years. A new stock exchange has opened, drawing capital to Romania, and the government has initiated a comprehensive privatizaiton scheme empowering individual Romanians to become owners of the country's manufacturing sector.

Taken together, these successes bode well for Romania's economic future—a future we are encouraging through our granting of most-favored-nation status to Romania and by extending to it the benefits of the Generalized System of Preferences Program.

I urge my colleagues to join with me in extending our best wishes to the people of Romania on the occasion of their 77th—annual—day of independence. I also hope my colleagues join with me in acknowledging the progress Romania has made in meeting the twin goals of economic reform and political democratization.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 30, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 1

10:00 a.m.
Foreign Relations
To hold hearings to examine the peace process in the former Yugoslavia.
SD–419

Special on Special Committee
To Investigate Whitewater Development Corporation and Related Matters
To continue hearings to examine certain issues relative to the Whitewater Development Corporation.
SH–216

2:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings to examine certain funding requirements involving United States interests in Bosnia.
SD–192

DECEMBER 5

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.
SD–226

DECEMBER 6

9:30 a.m.
Labor and Human Resources
To hold joint hearings with the Committee on Small Business on certain issues relating to modifications to the Occupational Safety and Health Act of 1970.
SD–106

Small Business
To hold joint hearings with the Committee on Labor and Human Resources on certain issues relating to modifications to the Occupational Safety and Health Act of 1970.
SD–106

Indian Affairs
To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101- 601).
SR–485

DECEMBER 14

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1271, to amend the Nuclear Waste Policy Act of 1982.
SD–366

CANCELLATIONS

NOVEMBER 30

2:00 p.m.
Judiciary
Immigration Subcommittee
Business meeting, to continue to mark up S. 1394, to reform the legal immigration of immigrants and nonimmigrants to the United States.
SR–385

SENATE—*Thursday, November 30, 1995*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

In the 13th century, Richard of Chichester prayed:

"Day by day, dear Lord, of Thee three things I pray:

"To see Thee more clearly,

"To love Thee more dearly,

"To follow Thee more nearly."

This is our longing for this new day, dear God. Help us to see You in the beauty of the world around us, in the never to be repeated miracles of Your grace, in the people of our lives, and in Your providential care in timely interventions to help us in the circumstances of life. Yes Lord, we do want to see You more clearly.

We love You not just for what You do for us, but most of all, for who You are. Your loving kindness, mercy, and faithfulness are our stability in a world of change. You are our help when we are helpless, our hope when we are tired in body and troubled in mind. Yes Lord, we do want to love You more dearly.

We hear Your summons to follow You sounding in our souls. We commit ourselves to walk humbly with You through this day. May we neither run ahead of You or lag behind, but keep pace with You. Help us to know what You desire and give us the strength to do what love requires. Yes Lord, we do want to follow You more nearly. In the name of Jesus, amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Mr. DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, for the information of all of my colleagues, we have morning business until 2 p.m. today with Senators to speak for up to 5 minutes each, except for the following: Senator DASCHLE, or his designee, 60 minutes; and Senator THOMAS for 60 minutes.

It is possible that the VA–HUD conference report will arrive from the House today. If that should happen, we will take that up today. Therefore, rollcall votes are possible during today's session.

As my colleagues know, the budget negotiations are underway. They start at 11 o'clock in the morning, and they meet again in the afternoon. So that will be an ongoing process, and I assume for the next 8 to 10 days.

If we can complete action on VA–HUD and send that to the White House, that would still leave five appropriations bills that have not been acted upon.

I am hoping the President will sign the Defense appropriations bill today. If not, it will become law, which will occur at 12 midnight today. It is a very important bill, and particularly important in view of the President's plan to deploy 20,000 American troops in Bosnia because it contains money for that purpose. It is my hope that the President will sign the bill.

(Mr. FRIST assumed the chair)

RECESS

Mr. DOLE. Mr. President, I move that the Senate stand in recess until 11 a.m.

The motion was agreed to, and, the Senate, at 10:04 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CAMPBELL].

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak for up to 5 minutes each.

The Chair, in his capacity as a Senator from the State of Colorado, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has 1 hour.

FRESHMAN FOCUS

Mr. THOMAS. Thank you, Mr. President. I do not intend to take the hour.

We did set aside some time, however, and I hope to be joined later by some of my colleagues from the freshman class who have sought to come to the floor from time to time to talk a bit about what, in our view at least, our collective view, we are seeking to do during this session of Congress. What we have sought to do, of course, along with the other Senators in this body, throughout this year, is to make some substantial changes.

I think those of us who have just come this year perhaps feel more strongly about making changes, more strongly because we are not as wedded to the operations that have gone on here for 30 years as some may be. I think we are probably more sensitive to voters, having just come fairly recently off an election, an election in which most agree that people said we have too much Government, it costs too much, we need to be as fiscally and financially responsible as a country as you and I expect to be as individuals in our families and our homes and our businesses.

So we feel very strongly about that. Balancing the budget has been and continues to be the prime issue, I think, for a number of reasons, not only because of the arithmetic, not only because for 30 years this Congress has not balanced the budget. We have spent more than we have taken in for a very long time. In order to do that, we have maxed out our credit card. We have charged it to our children and to our grandchildren and continue on at that rate, continue on to add to the debt to where we now have a $5 trillion debt, which is more money than most of us can imagine. Maybe even more directly, we have an interest payment every year we must make of $260 billion, probably next year the largest single line item in the budget, one that, of course, cannot be adjusted or changed. If it continues to grow at the rate it has, it will absorb more and more of the available funds.

So, balancing the budget is something that we have not paid a lot of attention to, collectively, over the years. The deficit sort of happened. Nobody felt much pain, and we continued to do that. It is financially irresponsible. As we look to moving into a new century we must ask ourselves, I think, what kind of a Government, what kind of a country do we pass on? One that is continuing to grow a $5 trillion debt, adding on every day? Or do we, in fact, want to make some changes that will bring about different results?

In addition to that, however, balancing the budget has some other fundamental changes. It has to do with spending. I suppose you can balance the budget by raising income, raising taxes, raising revenue, which of course

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

was what the President did in 1993. It was the largest tax increase the world has ever known. It did, to some extent, reduce the deficit. I guess you can do that. The real issue, however, is what do you want to do about spending? If, in fact, the message was that Government is too big and spends too much, then in addition to balancing the budget, you also have to balance it on the basis of holding spending, or at least reducing the increase in spending, which has an impact on Government. If you have too much Government, if you have too much regulation, if Government is too intrusive in your life—as many people believe it is, as I believe it is—then balancing the budget and the level of spending have something to do with that.

I have a hunch that one of the rules of nature or science or whatever is that government grows to the extent possible by available funds and available debt. Until you do something about that, it continues to grow. So this has been the pivotal issue and continues to be. We have done a number of things this year with respect to it. One of the early ones was to seek to have a balanced budget amendment to the Constitution. I support that idea. Some do not. Some say you do not need to do it. You do not need to tamper with the Constitution. You just do it.

The evidence is that does not work very well. We have been saying that for a long time. It has not happened. It has not happened. Others say we just have to get at it. I am for a balanced budget amendment, but that proposal died by one vote here in the Senate. I believe it is necessary, frankly, to have a constitutional amendment to provide some discipline. Public bodies are awfully hard to discipline. Everyone comes from a constituency. Everyone has a constituency that needs a new bridge or new road or whatever. So it is very difficult to have the discipline to say no to some things, to live within a budget. The constitutional restraints help do that. I come from a State that requires a balanced budget in the State constitution. And no one thinks a lot about it. We know that you cannot spend more than is available, more than you take in. So you have to make adjustments. I think it is a great idea.

One of the problems with spending in this country is that we are over here talking about the benefits of spending but we do not then relate it to the cost of paying for it. One of the simplest and most direct cost-benefit ratios comes from the local school district. You say to the constituents that we need a new junior high, and it is going to cost you $220 a year on your property tax. So you say to yourself, OK, is it worth $220 a year? Then you go vote, and you decide based on what the benefits are of the school based on what it is going to cost. We are too far removed from that on the Federal level. So spending is over here. You pay for it over here, and the two never come together in terms of a cost-benefit ratio. That is not good for government.

So we did not get a balanced budget amendment. So then we set about to balance the budget over a period of 7 years by doing it through appropriations, and beginning to decrease the growth of spending in appropriations. And we have worked on that all year and have not yet finished, as a matter of fact.

I introduced yesterday a bill that would provide for a biennial budget, thinking we would be much better off if we had a 2-year budget so that at some time, when we would get through doing appropriations, we would have time to do other things like health care, and environmental issues, and have oversight of the spending that we have approved. At any rate, that is another matter. We are still working on it. It is not finished.

We still have out of the 13 appropriations bills I think 7 that are not completed. That is what brought us, of course, to the shutdown of the Government several weeks ago and to the controversy over that which allows for the potential of another one on the 14th or 15th of December when this continuing resolution runs out.

Some folks in the media have said, "Oh, my gosh. That is just an adolescent food fight going on in Washington. These guys ought to grow up." It is not that, Mr. President. It is a very fundamental controversy over the direction of this Government—whether you are going to continue to spend more and more, or whether you are going to reduce the level of spending and come to a balanced budget. That is what it is about.

You will recall in the last one the confrontation between the Republicans and the Democrats and the administration, which turned out to be a continuing agreement that said, yes, we will have a balanced budget. We will participate in putting together a balanced budget. We will commit to a balanced budget. We will commit to a balanced budget in 7 years, and we will commit to a balanced budget that is based on real numbers, in this case the Congressional Budget Office numbers. However, there were some other words added—some words that are a little less easy to define, such as we are going to protect Medicare, we are going to protect Medicaid, we are going to protect farmers, and we are going to protect the environment. I do not know what that means. I suppose protection of those things can be interpreted to mean many things. So that is where we are.

In addition, of course, to the appropriations comes a balanced budget bill which makes the changes in programs necessary to over 7 years balance the budget. The toughest ones are entitlements. Congress really has very little to do with the amount of money spent on entitlements. You set up an entitlement. If you qualify, you get paid. Welfare is one. So if you really want to do something about the rate of growth, you finally have to do something about entitlements.

That is what this is about—and welfare, to make block grants to the States so that they can, indeed, find growth that fits. My State of Wyoming has different needs than Pennsylvania or New York. So the block grants would allow for States to have the flexibility to put together programs that do work.

Medicare—to change Medicare so that it does not go broke in the year 2002, and, if we do not change it, it will. The question is not whether you do something. The question is what do you do if you want to continue to have health care for the elderly.

So what has happened is that I think some have taken the position that we need to make the changes needed, that you are going to have different results, and you have to do some things differently. Others have said, "Well, I really do not want to do that. We can talk about balancing the budget, but I am not sure I am for that today." Everyone who stands up starts by saying, "I am for a balanced budget" and then goes on for another 30 minutes announcing why he cannot, and becoming a defender of those programs which are kind of scare tactics. Some have called it mediscare, and somehow you are going to do away with the benefits. It is not true, of course. We reduce the growth rate from 10.5, to 6.5. We reduce the amounts available per beneficiary that will grow $4,700 to $6,700 over this 7-year period.

So they say, "Gosh. This is radical stuff. And you are tearing it all apart." Let me see how radical you think some of this is.

Mandatory Medicare spending will increase each and every year from $178 billion in 1995 to $289 billion in the year 2002. That is a 62-percent increase. That is radical reduction? Overall mandatory spending—overall mandatory spending would increase in each and every year from $739 billion in 1995 to $1.93 trillion in 2002, a 48-percent increase. Overall, Federal outlay—listen to this—will increase every year from $1.518 trillion in 1995, what we spend now, to $1.856 trillion in 2002, a 22-percent increase in total spending. But if you listen to some of the Members of this body, if you listen to the media, draconian cuts are taking place. And we are going to do something about it.

Here is what the minority leader said:

> So, if we cannot get the Republicans to come off those extreme positions, then I think we are advantaged in not reaching an agreement.

Mr. President, reaching an agreement is I believe our responsibility. I believe it is the thing that we have to do.

I forgot to mention, of course, that what is going on here is the President has submitted two budgets, and neither of them balance. Neither of them were accepted. Neither of them have gotten any votes in this Senate.

So we have to say, Is there a real effort made to do this? I hope so. I hope so. Collectively, for this country we need to make a move to balance the budget. We have the best chance we have ever had. We are on the way to doing that. We can do it in 7 years. We can do it with real numbers. We can do it, and provide the benefits that need to be provided. We simply need to have the will. Frankly, we need to have the will to come to the snubbing post, and say, "Here is what we need to do."

Now the notion is that it is all pain. Let me tell you it is not. A balanced budget will bring a good deal of stability to this country that will help the markets, that will reduce interest rates so that on your home, as some have suggested, it could be up to $2,000 a year in savings in interest on a long-term date.

Mr. INHOFE. Will the Senator yield?

Mr. THOMAS. Certainly.

Mr. INHOFE. I have been listening to the Senator from Wyoming. He hit upon something here I do not think people are fully aware of or sensitive to, and that is the effect what we are doing here is having on the markets. We keep hearing if something happens, that there is an impasse, it is going to have a deteriorating effect. The markets have been very good. Interest rates are low. Things are going very well right now mostly because of the anticipation of the fact we are going to have a balanced budget.

I can remember so well, as the Senator can remember, when we had the discussion on the balanced budget amendment to the Constitution, and we lost it by one or two votes and what happened to the markets after that and the devaluation of the dollar against the yen and the mark. The deterioration was unprecedented. And so I would suggest that what the Senator from Wyoming says is true. There is nothing we could do that would enhance the optimistic future of the economy than to go ahead and take this Balanced Budget Act of 1995 and pass it.

I do not think most people are aware, Mr. President, that we have passed a Balanced Budget Act of 1995 which essentially does what the President committed to do during the last continuing resolution. It does provide for a balanced budget, and it uses real numbers, CBO numbers, those numbers that come from the Congressional Budget Office, which the President stood before a joint session of the legislature and said is the most reliable source that we can use, so we can end smoke and mirrors and we can handle what is out there.

The thing that concerns me more than anything else, and I ask the Senator from Wyoming if he agrees, is that we have passed a budget. It does what the American people asked us to do in November of 1994. And the President does not have a budget. So while I am not in on the negotiations, how do you negotiate when you have a budget and the other side does not have one? I wondered if the Senator had figured that out yet.

Mr. THOMAS. Mr. President, the Senator from Oklahoma asks a difficult question. I do not know, nor am I in on the negotiations. If there is bona fide negotiations, both sides need to put their proposals on the table and find some common ground and there can be some adjustment.

I think the key feature to the Republican proposal to balancing the budget is to have a spending limit. Within that spending limit, there are choices, priorities of how you do that. The key is to be able to have projections out into the future using CBO numbers with the contribution of the OMB and whoever else has knowledge, to have that projection and use the same numbers so that you are not using smoke and mirrors. Most anybody can balance the budget if they find some numbers that show revenues increasing out all the time and then it does not materialize. We have done some of that before. On the contrary, we ought to use the more conservative number so if we are wrong, we will err to have more surplus rather than less and add that to the reduction of the deficit and keep spending down.

So the Senator from Oklahoma is exactly right. If there is going to be bona fide negotiation, you need to come to the table with some ideas. And we are dedicated to doing that. So I hope that we do.

Let me yield the floor so that my friend from Oklahoma may proceed.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank the Senator for yielding.

CRITICAL TIMES IN AMERICA

THE BUDGET NEGOTIATIONS

Mr. INHOFE. Mr. President, I wholeheartedly agree with the Senator from Wyoming. I have to say also that the people of Oklahoma, a lot of times—say you are reading these polls, and people are saying, well, we really do not want to balance the budget yet; let us wait until the President gets back; we do not want to be too harsh. There is a myth that is floating around that we are going to be cutting Medicare when in fact we are saving Medicare, and without our doing that, according to his own board of trustees, Medicare would go under.

I believe that when I go back, as I do every weekend, to Oklahoma and I talk to what I refer to—and it has offended several people in this Chamber—as real people, they tell me that they do not want us to back down. They say that this is our opportunity to have a balanced budget.

I can stand on the floor of this Senate and say in my honest opinion this is the last opportunity probably in my lifetime that we will have to have a balanced budget. And if we cave in now, we are not going to be able to have it. I do not think we will have another chance. And I think the President has every intention of having us cave in because he has a lot of discretionary programs he wants to keep funding. He is holding on to the past with white knuckles, to the last 30 years of reckless spending that has brought us where we are today, and he is trying to use the very sensitive argument that we cannot do this to all these people, that there are all these programs that are going to be cut, which are not going to be cut.

I would say that if you want to make a moral issue out of this, the moral issue is to go ahead with this, with the Balanced Budget Act of 1995, which passed in this Chamber and they passed in the House of Representatives, and get this passed because if we do not do it, we know what we are subjecting our future generations to. Many Members in this body are much younger than I am, and they have young families. I have grandchildren coming up now. One is due any minute now. If we do not change the trend that we established in the 1960's and that has continued until today, a person born today is going to have to pay 82 percent of his or her lifetime income just to service the Government.

I do not think that is what we want. I know that is not what the American people want. But some people just do not want to change. Some people refuse to look at the elections and the post-election analyses and polls that said very distinctly that the American people in November 1994 voted for a change, a change from the Great Society programs of the 1960's that have been perpetuating themselves and growing ever since then. So I think this is the last chance we have.

This is our last stand. I encourage the negotiators to keep that in mind. I am talking about Republicans and Democrats. It is too important to future generations.

U.S. TROOPS IN BOSNIA

It is ironic now that we have two things that are going on that are very, very critical to all of America, not just this budget matter that we have been talking about—and the distinguished Senator from Wyoming is right when he draws the attention to the significance of what is going on—but something else is happening, too. My frustration, which I have expressed in the Chamber every day for the last several days, is that while the President is out rejoicing in his new posture of being the international peacemaker in Belfast and other places, time is going by and American troops as we speak are being sent to Bosnia. It goes all the way back to 2½ years ago when this President made a decision to do airdrops into Bosnia. I can remember serving in the other body at that time and asking the question: You are doing airdrops. How do you know that the stuff you are dropping is going to the good guys instead of the bad guys? And the response in that committee meeting was: "Well, we do not know." There was a hesitation. This was the military talking: "I am not sure that we know who the good guys and the bad guys are."

I think if you take any snapshot in the history of Bosnia over the last 500 years, you could come to the conclusion legitimately that the Serbs are the bad guys or the Croats are the bad guys or even the Moslems are the bad guys. If you look at what has happened in the last week over there, people have been killed, tortured; there have been uprisings. I read from several articles yesterday of the hostile area and what is happening over there.

The mayor of a town not far from where the Senator was when he was over there said, speaking in behalf of the people—we hear a lot of the military, of the three known factions and of the rogue groups that are over there but these are civilians—he says, "We will still fight, and if the multinational force tries to drive us from our homes or take away our right to defend ourselves, there will be no authority on Earth, including the Serbian authorities, that can stop us. We will not leave, we will not withdraw, and we will not live under Moslem rule."

This is coming from an area that is going to be under Moslem rule if this initial peace accord would take place. And you have another big group, too, not just those who have found happy homes and feel that they ought to be able to stay in those homes. You also have what I have been stating as 3 million, but I know the conservative figure is 2 million, refugees that we can identify in those areas, and they are scattered throughout Bosnia. We have heard from all of the sources—our Embassy people, the military people, U.N. people, Gen. Rupert Smith, the British general who is in charge of the U.N. forces in Bosnia, as we speak—that more than 50 percent of these 2 million refugees, under the plan that we have here, will not be able to return to their homes.

What does a refugee want to do? If you have peace, it means you get to go home. More than half of these will not get to go home. So you are going to have new rogue elements rising up.

Just this morning in the newspapers—I will just read one part of an article here that said, "The worst problem though is likely"—keep in mind this is an article that showed this morning 10 more American soldiers showed up. There are only 10. I understand that is not a very large number. But tomorrow it will be 10 more, the next day 10 more; then larger and larger numbers will be coming because that is the President's plan, as he hides over in Europe and allows more and more of our soldiers to go over to put us in a position where we have to support him to send ground troops in.

> The worst problem though is likely to be minefields. There are believed to be millions of mines of all shapes and sizes in the Tuzla region. There are mines everywhere. And neither side has maps. We have to move one centimeter at a time.

This is a quote from the lieutenant colonel who works directly under General Haukland, the Norwegian general that I talked to in Tuzla. He also said that in the past 3 weeks his men have demined nearly 300 yards of road. Heavy snowfall will only complicate the problem. This is the very ground that I stood on 3 weeks ago in the Tuzla area. There are only two Members of Congress who went up into that area, Senator HANK BROWN from Colorado and myself. We stood there. And I can tell you that there are mines there. These reports are accurate. That is where we are going to be having some 25,000 Americans up in that region.

Yesterday we showed a map—and I said, I do not know who did the negotiating for the United States of America—where we ended up with the northeast sector, the most hostile area. But that is where we are. And we are there very clearly today.

So, that is what we are faced with. And I think it is time to draw some other lines, too. I know that the President is over in Europe right now, believing that we are going to end up being able to vote to support his program.

Let me just serve notice to the U.S. Senate at this time, there are not going to be any free rides on this deal. A lot of people are saying, well, let us have a weak resolution or wait until we have so many troops over there and say we are going to support our troops. Sure we are going to support our troops. But now is when we can make a decision and say, "Mr. President, you are wrong. We do not want you to send ground troops into Bosnia."

There is going to be a recorded vote. We might as well know it. By the way, I went back and did some research just this morning. If you remember back in 1991, when George Bush was President of the United States, George Bush wanted to send troops into the Persian Gulf. We all recognized that we did have strategic interests in the Persian Gulf. Our ability to fight a war was dependent upon our protecting those interests in the Persian Gulf.

There are no strategic interests in Bosnia. But I would like to read some things. I am reading this for one reason; that is, that there was a lunch that took place just a couple days ago where the President talked to the Democrats of this Senate. And the word I got is they are all going to line up, that they all agreed that they would support the President in sending ground troops in.

Mr. THOMAS. Will the Senator yield for a minute?

Mr. INHOFE. Yes.

Mr. THOMAS. This has been an interesting process. Certainly everyone subscribes to the notion that the President has some authorities—in the case of emergencies and in the case of war. But it seems to me that the Congress also has some responsibilities as representatives of the people. It seems to me what has happened is when we get into these situations, like in Bosnia—it has been going on now for 3 years—and then there comes, "Well, we're going to have a peace agreement, so we can't talk to you about it until we get a peace agreement. We don't want you to get involved here until there's a peace agreement." Then when there is a peace agreement, the answer is, "Well, we've already got a peace agreement, so there's nothing for you to do."

Does it strike the Senator that we are essentially being left out of any decisions, those of us who represent our States?

Mr. INHOFE. That is exactly what is happening, I would respond to the Senator from Wyoming. I am particularly sensitive to this because I serve on the Senate Armed Services Committee. Let us take this out of a partisan realm, because I opposed—it was George Bush, not Bill Clinton, who originally sent troops into Somalia. I was opposed to it at that time. It was supposed to be, as I recall, a 45-day humanitarian mission to open up the routes so we could send humanitarian goods in.

Then, of course, he went out of office. President Clinton came in. And each month—and the Senator from Wyoming will remember this because he and I were both serving in the other body when this happened—each month we sent a resolution to the President saying, bring back our troops from Somalia. We did not have any strategic interest there that related to our Nation's security. And he did not do it. And he did not do it. And he did not do it. It was not until 18 of our Rangers were brutally murdered in Somalia and their corpses dragged through the streets of Mogadishu that the people finally stood up and said, "We have had enough," and we brought them home.

I do not want that to happen in Bosnia. But the Senator is exactly right, the President sends these troops all over the world. Then he comes back for an emergency supplemental. That puts us in the position that, if we do not vote for the emergency supplemental which might violate everything we are trying to do with our budget balancing effort, he will take the amount of money out of the existing military budget, which is already down to the bare bones anyway. We went through this in this Chamber just a few weeks a ago, a $1.4 billion emergency supplemental to take care of all these Haiti and Somalia episodes.

Now there is some talk about the cost of this war in Bosnia. They are trying to say it is between $1.5 and $2 billion. The cost figures that I get are far greater than that. There have been many people who have evaluated that and come up with figures from $4.5 to $6 billion. So there is a dollar consideration here as well as a human life consideration.

The Senator is exactly right, we are being put in a situation where the people of this Nation cannot be heard in decisions as critical as risking American lives in a war-infested place like Bosnia. We are irrelevant. It does not matter what we say or do. This is what the President apparently is telling us.

But I was going to go back in history to 1991 just for a moment to read some of the arguments that I heard from the other side of the aisle. I repeat again, there are not going to be any free rides on this thing because we are going to have recorded votes. I will not mention the names of all of them because I do not think doing so would serve any useful purpose, but these are mostly in the leadership of the Democrat side, those who I understand are going to be supporting the President in his effort to send 25,000 or more troops into that war-infested area.

"Some argue that we must go"—this is 1991. This is when we had security interests in the Persian Gulf. "Some argue that we must go to prevent a coalition from falling apart. I disagree. The use of American military should not be a substitute for the weakness of any coalition. America is not 911 for every problem." I would say there is no more accurate statement that could describe what has been happening up in Dayton, OH, for the last several weeks.

Here is one here. It says, "The worst-case scenario"—again 1991, Democrats arguing against sending troops into the Persian Gulf. "The worst-case scenario could have us losing thousands and thousands of young Americans. The worst-case scenario could have us bogged down for months and months and maybe years. This is not an easy war to be fought. And this is not a war that ought to be fought."

If there is any war that should not be fought, it is the war in the Balkans. We do not even know who the good guys and the bad guys are. If this were a snapshot in history, 50 years ago it would be the Croats, not the Serbs, that would be the bad guys. And you could go to any other time in history and find that to be true.

This is another prominent Democrat who made this statement on the floor of this body. "I cannot back a policy I believe is ill-advised, when Americans' lives hang in the balance, just for the sake of displaying a united front."

Is that not the argument we have been hearing? We have to have this united front, we have to protect the integrity of NATO at any cost, particularly American lives, at any financial cost. We heard yesterday the distinguished Senator from Alaska talking about that so far we have funded 70 percent of the cost of the efforts over there in the Balkans, and yet we are farther away than anybody else in the alliance.

Here is one that I think is one of the best. It says, "But do these goals"—1991—"qualify as a sufficient reason to suffer the tragic loss of American life, especially before we have exhausted every available alternative? My deep conviction is no, no they do not. I cannot look my 17-year-old son and my 19-year-old daughter in the eye and say, 'Moving Saddam Hussein out of Kuwait, obtaining the necessary oil from the Persian Gulf, protecting our allies or saving jobs is worth your life.' I cannot say that. If at this time I cannot say that to them, how in good conscience can I say it to a mother or a father? How can I say it to a sister or brother?"

I came back from that northeast sector of Bosnia, around the Tuzla area, and I stopped on the way back at the 1st Armored Division training area in Germany, where I think the Senator from Wyoming has been. And he probably talked to some of the troops, as I did.

I went by and had breakfast in the mess hall with these guys and gals who were being trained in that 12-by-6 mile box that they said is supposed to emulate the terrain of Bosnia. It did not look anymore like the terrain of Bosnia than the hill around Washington, DC does. But they are out there training. They are getting good training. They are preparing themselves mentally to be deployed, but they are saying: "We haven't been told yet why we're going."

I think in all fairness to the officials and those officers who are in charge over there—and I have the utmost respect for General Yates and General Nash—that they themselves do not have a clear understanding of what their mission is.

The President, in his very eloquent, persuasive speech 3 days ago, said we have a clear and concise mission, but he never told us what that mission was. He never told us what the rules of engagement were. I do not think—I suspect—our own troops, the ones over there today, do not really have a well-defined understanding of what our rules of engagement are.

We hear about the conditions under which we can withdraw, like 12 months, a time condition, systemic violations. What is a systemic violation to a corporal out in the field who gets fired upon? Does that firepower come from a Serb element or from a Croatian element, or maybe from one of these rogue elements or a Moslem element? He will not have any way of knowing, and yet that could, in fact, be a systemic violation, because a systemic violation—which they have not yet defined—I have to assume it is something systemic, meaning the entire element is acting as a group—whether it be the Croats, Serbs, or Moslems—and are breaking the peace accord.

Well, I do not think there is any way of determining how that could be enforced.

Mr. THOMAS. Will the Senator yield?

Mr. INHOFE. I will yield.

Mr. THOMAS. I was struck by your quotation on the necessity to maintain the alliance. I was, as you pointed out, in Bosnia about a month ago. Seven of us went to Sarajevo. We also met in Brussels with the NATO group, and all 16 of the Ambassadors were there, as a matter of fact. Each of them stood up in order and almost as if by pushing a button said, "Why, we just can't do this without the leadership of the United States."

The President is now in Europe. I guess I would say, what would you expect Europeans to do with him there? Of course, they will applaud the United States taking the burden, paying the major part of the bill and the major part of having troops on the ground. I think it is a very thoughtful way of promoting this idea.

We were also struck about this very same question. Here are our U.S. soldiers. They are going in there, according to the plan, to be peacekeepers. So then what happens if you are attacked by an armed group and you respond? The notion is, and I think properly, that you can respond to defend yourself. We asked the general of the European group what happens if there is an organized effort. "Well, then we leave, because we are not there to fight the war."

It is very indecisive in terms of what they do. And I agree with the Senator that certainly you can say that the goal is well defined but, in fact, it has not been well defined.

Mr. INHOFE. The Senator from Wyoming, since he was in the Sarajevo area, I am sure observed the same thing I did. Keep in mind, this is the area where there has been fighting only in the last week, since this accord, if that is what it is, has been initialed.

The problem that I see over there is that there is no way to define who the other side is in Sarajevo. In Sarajevo, we have a convolution of parties that have come in and taken up the vacuum that has been left by the pounding of the various dwellings—the single-family dwellings and apartment buildings—in Sarajevo. The true inhabitants of those dwellings, those wonderful people who were there during the winter Olympics, are not there anymore, and the ones who are in there now are refugees. We do not know where they came from. We do not know if they are Serbs, Croatians, or any other, perhaps rogue, element. So it makes it that much more difficult.

Before yielding to the Senator from Georgia, let me just make one other comment about something that the Senator from Wyoming said. He used the term "peacekeeping." I suggest to you now that they are not using peacekeeping. If there is ever a classic area for mission creep, this is it, because we have already crept from peacekeeping to peace implementation.

There is a big difference between peacekeeping and peace implementation. Peacekeeping is an assumption that there is peace to keep. We know there is not peace to keep. The President stood and he said the war is over, we are in a cease-fire. I stood in Tuzla and heard areas where the war is not over. There is firing up there. The President has not been there so perhaps he does not know and perhaps his advisers are not adequately advising.

Before we go back to a budget discussion, I want to state again what I stated yesterday. I may be one last Senator standing alone, but I am going to fight with every fiber of my being to stop the President from this obsession he has been living with for a year and a half, and that is to send American troops on the ground in Bosnia.

CONCLUSION

I am very concerned with the discussion we were having earlier about what is happening in our budget battle. I guess I will sign off by stating at least my position.

We passed a good bill, the Balanced Budget Act of 1995, through this body and through the other body. It is one that is consistent with the mandates of the election of 1994, and I do believe that we have done a good job.

I certainly encourage the President to use the guidelines he committed to during the last CR—that is, a balanced budget in 7 years using real numbers—and come up with something that is acceptable.

At this point, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia [Mr. COVERDELL] is recognized.

Mr. COVERDELL. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business up to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator should be aware, under morning business, the Senator has 5 minutes.

Mr. COVERDELL. Unanimous consent is approved for 10 minutes?

The PRESIDING OFFICER. The Senator is correct.

PUT THE FISCAL HOUSE OF GOVERNMENT IN ORDER

Mr. COVERDELL. Mr. President, I want to respond to the remarks of the good Senator and my colleague from Oklahoma who has closed his remarks by talking about the importance of a balanced budget. Let me take just a minute to frame where we are.

It has been a rigorous year, and both the House and the Senate have now passed a Balanced Budget Act, just before Thanksgiving. This is the first time that this has happened in nearly three decades—a Balanced Budget Act in response to the American people. The American people have said over and over to put the fiscal house of their Government in order, like they have to do at home.

We have done it. We came here with a promise, and we have passed a balanced budget. We are sending it to the President. This balanced budget balances it in 7 years, reforms welfare, saves Medicare and lowers taxes. That is our plan.

There are currently meetings underway with representatives of the Senate and the House and the administration. They have not been productive as yet, because there is no balanced budget proposal from the President.

The President says he is going to veto this first balanced budget that the Congress has sent him. He said, "I will not accept it." That is his prerogative, but my question to the President is this: Where is your plan?

We have done our job. We have made our best faith effort. We have sent a rational and reasonable plan to the President. With all the debate and discussions in Washington, you almost have to step back from it to measure the reasonableness of it because all the financial markets in America are responding positively. The stock market is up. Interest rates are dropping. The people in the real world, the people running businesses and running families all across the land, are responding positively to what we have done.

It is time for the President to tell the country and to tell these conferees what his plan is.

Back when I was in high school, they would say, "The jig is up." We have done our work; we have laid the plan before him. He says it is not acceptable. Give us your plan, Mr. President. Then we can work the two plans together. But this business of criticizing our plan while you have none of your own cannot go on, and America will not accept it.

Mr. President, I would like to talk just a moment about what our plan does and why it is so reasonable. Take Medicare. The trustees told us that Medicare will go out of business in 6 years—broke, bankrupt. It said that the Congress and the President need to step forward and do something about it. Our balanced budget plan does just that. It expands Medicare because it expands the investment in it over the next 7 years by 65 percent. It grows 65 percent larger under our plan. It takes the solvency of it and expands it from the 6 years that are left and pushes the solvency of the plan out almost a quarter of a century. And it expands the choices people can make about the kind of coverage they want.

We increase Social Security spending 44 percent. We increase the size of Medicaid 65 percent. We increase overall Federal outlays 22 percent. The U.S. economy, we are told, will grow $32 billion in new disposable income. We will create 6.1 million new jobs. We will have $66 billion in new purchases and 100,000 new housing starts. Ten million more Americans will be able to purchase their first home. We will lower interest payments on the average family's mortgage by $1,500 to $2,000 per year. We will lower the interest payments on their car $200 per year. We will lower the interest payments on their student loan or the back porch another $200 a year. Because of the tax credits of $500 per child, in the average family we are going to add another thousand dollars of disposable income.

The bottom line here is, we are creating new jobs, new businesses, new homes, and we are putting between $2,000 and $3,000 of new disposable income on the kitchen table of every average American family. We depend on the family to nurture and grow America, to house America, to educate America. That is where we need to put our resources—on the kitchen tables in Hahira, GA, Denver, CO, or Keokuk, IA. That is where the resources need to be, not sent to Washington and redistributed by a bunch of policy mongers. We will help local government.

In my State alone, the balanced budget amendment will create $333 million over 7 years—$333 million; that is a third of a billion dollars—in lower interest payments for the State government of Georgia. In my capital city, Atlanta, we will save $100 million over 7 years in lower interest payments. That is a boon to a city putting on the Olympics next year, which is pressed from every corner to meet its needs. And $100 million would be saved. In all, $29 billion will be saved by local governments over the next 7 years—$29 billion—because we have balanced our budget.

A lot of people, including the President, who talk about the balanced budget, talk about it as if it is a painful exercise, a dreadful experience that we have to drag America through. It is the exact reverse. By taking charge of our budget, by managing our affairs, we strengthen every quadrant of America, and we keep the country strong and healthy so that it can keep on taking care of those who fall through the safety net.

Mr. President, this is history in the making. We have done our job. We have put forward a really solid plan to take charge of America's finances, to help every family in the country and to make America strong as it comes to the new century. Now it is on the President's desk. He promised America he would balance the budget in 5 years. He promised America the other day that he would join us in balancing it in 7 years. It is time for him to fulfill that promise to the country.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

THE BUDGET

Mr. ABRAHAM. Mr. President, I will be brief. Mr. President, I rise to speak along the same lines as the Senator from Georgia and talk a little bit about our apparent budget impasse. We are told—and I read in the media—that political advisers to the President have urged him to resist negotiations, to allow an impasse to continue, to theoretically take the impasse to the American electorate a year from now. That has resulted, as far as I can tell, in very limited discussions so far, limited efforts on the part of the administration to negotiate, and no plan by the administration with respect to balancing the budget, protecting Medicare, or any of the other vital priorities in this country.

I do not know what the President's decision will be. I do know what I read to be the advice he is receiving from his political counselors. I do not know, he may well decide to take the politically expedient course here, Mr. President. Before he does, I hope the President will consider the implications of taking the advice of the political experts as to what is good for next year's election and understand the consequences of doing that, because if an impasse continues for a year, if the President is responsible for there not being a balanced budget passed, it means a lot of very critical, I think, things for the American people. It means, number one, that we will not deal with the problem of Medicare insolvency that is staring this country in the face.

As the Senator from Georgia has already indicated, we stand on the brink of having part A in the Medicare trust fund bankrupt in just 6 years. If the President does not negotiate in good faith, if he plays the political card his advisers are recommending, then he will not sign, next week, the bill that would protect Medicare and keep the trust fund solvent.

If the President continues the impasse, if the advisers, the political folks at the White House, are successful, it will also mean, I believe, very detrimental things for our economy. We have been very fortunate in recent weeks, as we have seen the stock market go up and interest rates go down. There is a very clear reason for that, and the analysts on Wall Street and elsewhere in this country all say the same thing. They say that the economy and the markets are reacting to the belief that we will have significant deficit reduction when this budget process is over.

Mr. President, if they conclude that the President prefers an impasse for political reasons, then I think the robust stock market and the lower interest rates will be short-lived. Then the President will have to explain why interest rates are going back up again and why the market is going down.

But most important, if the President heeds the advice of the political counselors, instead of doing what is right for this country, the impact will be felt greatest by the families of America, because if we fail to take advantage of this unique opportunity we have right now, Mr. President, to bring the budget under control and to put us on a path toward balance, what it means for the families, as the Senator from Georgia just indicated, is very, very considerable.

It means continuing interest rates at levels beyond what they need to be. It means people paying more for their mortgage, more for their car payment, more for their student loans than they need to make. It means Washington continuing to make more money and keeping it here and making decisions for the families of America that they ought to make themselves.

Mr. President, I hope when the President returns from his trip to Europe that he will reject the opinion of the political advisers, reject the notion of allowing a long impasse to continue, reject the notion of refusing to negotiate upfront in good faith and with his own plan, and instead come to the table, begin the discussions that I think are necessary for us to bring about the kind of balanced budget that we have passed here in the Senate and the Congress and for the American people, the first balanced budget in a quarter of a century.

I hope that the President decides that the political advisers are not what matters and that next year's election is not what matters, but it is the future of this country, the future of our children that matter.

If he does, he will join the Republicans in seeking to balance the budget, seeking to end the impasse, and most importantly, seeking to protect future generations.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALANCED BUDGET

Mrs. HUTCHISON. Mr. President, I want to rise to speak, as many of my colleagues have, on two very important issues that the Senate is facing right now.

I think there are great differences between the administration's position and the position of Congress. The first, of course, is the balanced budget. We are trying to keep the promise we made to the people that we will have a balanced budget in 7 years. The President has altered his position, starting in his campaign with a 5-year balanced budget, but then after he was elected saying, "Well, 10 years is good enough, 9 years, 8 years."

Now he has committed to a 7-year balanced budget. The only problem is the President is doing what he has been doing for the last 2½ years, and that is giving lip service now to a 7-year balanced budget, but his offer on the table is, "I need $7 billion or $8 billion more in spending." Fine, Mr. President. Where are we going to take that spending from? Silence from the White House.

That is not the kind of leadership that we need if we are going to truly sit down with a commitment to a 7-year balanced budget and say, "All right, here are the parameters, here are the spending limits. Now let's negotiate within these parameters." You cannot say, I need $7 billion out of the sky, but yes, I am committed to a 7-year balanced budget, but I am not going to suggest where we would take it from. That is because the tough decisions are always the decisions on where you have to cut or slow spending or eliminate programs that do not work.

When it comes to the rubber meeting the road, we have to cut spending. That is how we are going to meet the test. Mr. President, $7 billion more to spend, without saying where it is going to come from, is always the easy position.

I would love to spend the money on these programs. There is probably not one of them that is not a good program. But does it meet the test of our taxpayers feeling that it is worth their hard-earned dollars to put money in these programs rather than live within our means, like every household and every small business in this country must do. That is the question, and that is the test we are facing right now.

When I am home, people say to me, "Don't blink." I am here to say, we are not going to blink. We are going to do what is right for this country. I hope the President will come to the table and say not only where he would like to spend more money but from where he believes we should take it.

BOSNIA

Mrs. HUTCHISON. The second point I want to make, Mr. President, and it is very much in the forefront right now, and that is the situation where the President has asked for our support to send troops to Bosnia.

Mr. President, I do not think we should send troops to Bosnia, and I do not feel that the President has made the case, made the difference, shown the difference, between a national interest and a national security interest that would warrant the loss of our precious American lives.

Our young American men and women that signed up to be in the military did sign up knowing that they might be put in harm's way. They did that willingly because they believed that they should be able and willing and ready to fight for our freedom, and to protect the freedom and strength of the United States of America.

There is one thing implicit, Mr. President, in that decision. That is that we would have the judgment to send them where our national security interest was at stake. I do not think our national security interest is at stake, Mr. President.

That is why I am so strongly urging that the President reconsider, that the President look at what is happening right now. People talking about changing the agreement in Paris that has been already initialed in Dayton; Serbs talking about not thinking Americans are neutral in this; talking about throwing rocks at Americans when they come in.

Mr. President, can we be thinking of the security of those troops as we are wondering if this is a national security issue that should warrant the loss of their lives? Mr. President, I do not think the case has been made.

I am going to fight it in every way that I can. I think we have other options to support the people of Bosnia. I do want to support those people. They have suffered greatly. I want to help them. There are many ways that we can.

I do not think American troops on the ground should be the only test to show that we are committed to the people of Bosnia. We are committed. We can show it in many other ways.

I want to keep our troops home. I want to save our troops for when there is a security threat to the United States.

We can go out and help the people of the world who are not as fortunate as we are, and we are a generous people and we will do that. But giving our lives in those causes is not what I think is necessary, nor is it the responsible role of Congress to let it happen. I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed for 10 minutes in morning business.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

THE BALANCED BUDGET

Mr. GREGG. Mr. President, obviously the issue of Bosnia has the attention of America, as it well should because American soldiers are being put in harm's way. We as a nation should equally focus on the issue of these negotiations that are going on between Congress and the President over how we reach a balanced budget, because as our soldiers are in harm's way in the immediate sense, as they move into Bosnia, our Nation is clearly in harm's way as a result of the continued deficits which we run and the fact that we are putting our children's future at risk by presenting them with a nation that is bankrupt if we do not get under control our national debt.

So I think it is important to review where we stand and try to reflect on what the two sides present. Where we stand is that about a week and a half ago, this Nation's Government essentially came to a standstill, stopped, because we could not agree on whether or not we should reach a balanced budget.

The Republicans had put forward a balanced budget bill and we passed it. It says that we should reach a balanced budget in 7 years. That is not an excessively short amount of time. In fact, it is probably too much time. We should probably be reaching a balanced budget sooner. But we agreed to 7 years because we felt that was something that could be attained and which was reasonable.

The administration, the President specifically, had said, over a period of time, they were for a balanced budget also. He said specifically he was for a balanced budget, at one time in 5 years. He had said he was for a balanced budget in 6 years. He had said he was for a balanced budget in 7 years. He had said he was for a balanced budget in 8 years. He had said he was for a balanced budget in 9 years. And he had said he was for a balanced budget in 10 years. We chose 7 years. We thought that was right about in the middle of the different proposals he had put forward and we hoped he would be comfortable with it.

As a result of the closure of the Government, there was an agreement finally reached and the administration has now stated they are committed to balancing the budget in 7 years and that they are committed to doing that using, as an independent scoring agency to determine the fairness and accuracy of the numbers, the Congressional Budget Office. That is a major step forward, obviously, in the process.

It is unfortunate that it took a shutdown of the Government to accomplish that. We, as Republicans, remember, were willing to go forward to reach a balanced budget. We had actually passed the resolution to accomplish that with specifics, without requiring that the Government be shut down. It was the administration which would not come to the table until there was a Government shutdown, which would not agree to a balanced budget until there was a Government shutdown.

So, as we move into the process of revising the history books, which always seems to occur after events take place, let us remember that Republicans had already committed to a 7-year balanced budget prior to the shutdown and that the shutdown—the outcome of the shutdown was that the administration also agreed to a 7-year balanced budget. So, something was accomplished by the shutdown. It was unfortunate it was necessary. But what was accomplished was that this administration finally settled on a number, 7 years, for a balanced budget. Now we proceed with the negotiations as to how we get there.

I have to say, I have been watching these negotiations, as I suspect many of us have—although we have been distracted, clearly, by the Bosnia situation—and I have become concerned because, while we have put forward a plan, the Republicans have put forward a plan which is very specific and which in real terms accomplishes what is necessary to get this country's fiscal house in order so we will be passing on to our children a nation which is financially solvent rather than a Nation that is bankrupt, we have, as yet, seen nothing from the administration in terms of specifics.

Where is their budget plan that gets us to balance? We have ours on the table—3,000 pages. In fact, the other side of the aisle had great entertainment, making fun of the length of our proposal. It is a lengthy proposal because it is a specific proposal and a real proposal. What we need to see from the administration are specifics as to how they wish to get to a balanced budget. It is very difficult, I suspect, for those negotiating in this process to be negotiating without one side being willing to come forward and say what they are willing to do.

So I think it is incumbent on the folks who follow this process, recognizing we are all a bit distracted, and rightly so, by what is happening in Bosnia and the immediate threat to our American soldiers—but, even in the context of that I think it is incumbent upon all of us in this country to be asking the question, "How does this President intend to get to a balanced budget in 7 years? What are his proposals?"

We saw his budget that he sent up here in June. That was a 10-year budget. It did not get to balance. In fact it had deficits of $200 billion for the entire 10-year period, each year for the 10-year period. For this administration to get to balance, they must come forward with proposals which slow the rate of Federal spending by approximately $750 billion over the next 7 years. We have come forward with proposals that do that. Where are the administration proposals?

My sense is that they do not want to come forward with proposals because they are not sincere, to be quite honest. I do not believe they are sincere. If they were sincere they would come forward with these proposals. But the fact that they have not raises serious doubts as to their sincerity in their efforts. I hope I am wrong but, as of right now, I think the facts show I am right. I think the American people should start asking themselves what type of administration, what philosophy of Government allows the executive branch to agree to a 7-year timeframe for reaching a balanced budget but refuses to come forward and define how they are going to get to that balanced budget? What is the philosophy of an administration that does that?

I do not believe it is a philosophy that is sincerely committed to a balanced budget. I believe it is a philosophy that is more involved in the politics of the issue than the substance of the issue. That is the problem. We cannot afford, as a nation, any longer to be involved in the politics. We need to be involved with the substance of the balanced budget. In order to get involved in the substance, we need to have this administration come forward and state specifically how it intends to get to a balanced budget in 7 years. We have done it. The reason we have done it is because we understand that, if this is not accomplished, and not accomplished at this time, at this moment in history where the opportunity is so ripe, that we may not have a chance at any later date to do it again. And, if we do not do it now, if we do not put in place now the decisions that are necessary to change the spending patterns of this Government in the outyears so we reduce its rate of growth—we are not talking about cutting the Federal Government, we are talking about reducing its rate of growth. In fact, in the Medicare area we are talking about adding $349 billion of new spending to Medicare and allowing it to grow at a rate that actually exceeds what the President projected in one of his budgets that he sent up.

But, if we do not make the changes necessary to reduce the rate of growth in the Federal Government and make those changes now by changing the programs which drive spending, specifically the entitlement programs, then we are going to end up, as a nation, passing on to our children a country that is bankrupt. That is an extremely cynical act to have occur at the time when all the parties have formally stated that they are opposed to having that occur. That is the irony of this. All the parties have now formally stated they are willing to reach a balanced budget. Yet one of the parties has been unwilling to state how it is going to get there. Thus, you have to question their sincerity.

The fact is, if we do not do this now, if we do not make these changes now which accomplish a balanced budget—and we do not have to follow the plan laid out by the Republicans. We would be happy to see a plan from the other side of the aisle, specifically from the administration, or a joint plan worked out. But we need to have the facts from the administration first and the proposals from the administration first. If we do not follow such a plan and put such a plan in place now, we are not going to be able to accomplish it.

Mr. President, I ask for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. We are not going to be able to accomplish what is that overriding, absolutely essential goal which is that we get this budget in balance so our children have a nation which is solvent.

So, as we move down this road, recognizing there is a tremendously large amount going on in this world today which distracts the attention of Americans, recognizing our first concern and interest must be for our soldiers who are going into Bosnia, I do hope we will not lose focus on the fact that the future of our children is being decided today on the issue of whether we get to a balanced budget. We are not going to be able to get from here to there unless this administration starts putting forward some honest proposals.

The PRESIDING OFFICER. The Senator from North Dakota.

COOPERATION

Mr. DORGAN. Mr. President, we have been treated in the Senate with a discussion by Senator THOMAS, Senator INHOFE, Senator COVERDELL, Senator ABRAHAM, Senator HUTCHISON, Senator GREGG, and I assume there will be more, who come to the Senate, among other things to question the sincerity of those on the Democratic side, and especially the President, about whether or not we are interested in a balanced budget. In fact, one of the speakers this morning said that he felt that the President was hiding in Europe, I believe that was the term he used, "hiding out" in Europe.

It is not the kind of thoughtful discussion that would advance a spirit of cooperation, to do the right thing for this country, to see a parade of people coming to the floor of the Senate, questioning the sincerity of people on the other side. It is certainly not thoughtful. But, rather, it is thoughtless for anyone to come here and suggest that what the President is doing at this point in Europe—dealing with the issue of peacekeepers in Ireland, and so on—is that the President is hiding out. I did not intend to come to the floor to speak on this issue today.

THE BUDGET NEGOTIATIONS

Mr. DORGAN. Mr. President, I have been asked to be one of the negotiators in the budget negotiations. So I and Senator EXON, representing the Democratic side in the budget negotiations, are spending a lot of time and will spend a great deal of time on this issue. I do not need, nor do I think the President nor anyone else needs, to have their sincerity questioned about whether or not they want a balanced budget. I believe it is in this country's interest to have a balanced budget. I believe that is a goal that represents a legitimate and important goal for this country. It is one goal. There are others.

Do we care and should we do something about making sure we have the best schools in the world? Yes. That is another goal. Do we care that we have clean air and clean water and a decent environment in the country? Yes. That is a third goal. Do we care whether low-income senior citizens have access to health care? Do we care whether children have access to good nutrition? Do we care whether poor children have access to health care? Those are other goals. It is not a case where there is only one goal in this country. We have a number of goals we must meet.

It is true the Republicans put together a plan. It is also true that plan is dead, gone. The President will veto it. There are 34 people who will sustain the veto. And that plan does not exist at that point. Then what is true is Democrats and Republicans sit down at the table and decide together, how do we balance the budget in 7 years? That is going to take a substantial amount of effort and good will. And it is not just how do you balance the budget in 7 years, but it is how do you do that in a responsible way for the long-term interests of this country?

Those who paraded in here this morning had a plan that would balance the budget in 7 years by, among other things, providing—let me give you a couple of little examples—that we repeal most of the alternative minimum tax for corporations so 2,000 corporations will get $7 million each in tax breaks because of the reduction in the alternative minimum tax. I do not know whether everyone who voted for that knew that was in there. But those who voted for it and believe that should happen do no service to this country. That is not good public policy.

I wonder whether those who voted for this plan they are so proud of understand that what they did was increase the tax incentive for people to close down their plants in America and move their jobs overseas. That is in the plan. It says, by the way, if you do that, we will give you a bigger tax benefit. Just move the American jobs you have overseas and we will give you a benefit. I do not know whether anybody is proud of that or whether they want to come here and boast that was in their plan.

There are a series of very large policy areas that we must address—Medicare, Medicaid, education, environment, and others. On the issue of Medicare, the majority party plan, which is now going to be dead when the President vetoes it, calls for $270 billion in budget savings for Medicare. Many of us believe that is too much. There needs to be a compromise in that area. The same plan provided for $245 billion in tax cuts.

I offered an amendment on the floor of the Senate that I believe every single Republican voted against. It was very simple. I said, if there is going to be tax cuts—I do not think there should be at this point. I think we ought to balance the budget first. Then we ought to decide after the budget is balanced how to change the tax system, and where to cut taxes. But if there will be tax cuts, I said, let us at least decide this. Let us decide that those tax cuts shall be limited to people whose incomes are below a quarter of a million dollars. Can we not at least agree that we will provide the tax cuts only to those whose incomes are below a quarter of a million dollars a year and use the savings from that, somewhere around $50 billion in 7 years, to reduce the reductions in Medicare, reduce the hit on Medicare especially for low-income elderly?

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I posed the question in an amendment. Should we not, if we are going to do that, at least limit the tax cuts to those whose incomes are a quarter of a million dollars a year or less and use the savings from that limitation to reduce the hurt that is going to be caused to low-income senior citizens on Medicare? The answer was no. They said no. We insist that people above $250,000 get a tax cut. Some will get an enormous tax cut from this legislation.

So those who come here and bust their suit buttons boasting about what they have done, what they have done was unacceptable to a lot of folks. Not that they have balanced the budget. That is not unacceptable. It is the way they have done it that is unacceptable. I want to balance the budget. I want to spend a lot of hours in the room with negotiators and try to balance the budget. I am not going to come out here and question their sincerity. I do not think they ought to come out here and suggest the President is hiding in Europe. It does no service to try to advance an opportunity to reach agreement on these issues.

We are talking, after all, about a 7-year spending plan for this country, a 7-year spending plan created in such a way that put this country's books in balance. That is a worthy goal—put the books in balance in a way that also recognizes the need for investment in certain areas, education; the need for protection in certain areas, health care for low-income elderly, and others. We can do that. I am convinced we can do that. But we cannot do it if we keep shouting across the aisle that we are the only ones that had a plan, that we are the only ones on the right track, and that all the rest of you folks do not believe in it. We question your sincerity. You are hiding.

What kind of nonsense is that? That is not thoughtful. That is thoughtless political pandering. And I think that we will all be better off if we decide—yes, the goal is worthy. The plan that was advanced was not acceptable.

So let us have a rectangular table where we sit down and in good faith decide how we balance the budget and to do it in the right way. I want to do that. It is good for this country. The motives of the other side are, in my judgment, good motives. But some of the language makes no sense. Let us decide to work together in a spirit of cooperation, and fix what is wrong in this country and do it the right way.

Mr. President, I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would like to thank the Senator from North Dakota for his comments. I believe they are right on. They are helpful, and I think they are positive.

It is my belief that the budget debate could be settled in 20 minutes, if both sides really sat down and did it. I think the Senator from North Dakota clearly gave the main kernel of a solution. The tax cuts that are in the bill—no one benefits from those tax cuts more than my own family does. My husband is an investment banker. The capital gains clearly benefits him. He would love to have those benefits. It would be a nice thing to have, and many Americans feel that way. However, to have those benefits by making deeper cuts in Medicare and Medicaid—in my own State the Medicaid Program pays half a million of the poorest Californians' premiums and copayments whose Medicare would be done away with. We do not need to do that in this bill. You do not need to have the depth of the cuts to balance the budget in 7 years.

The issue is not balancing the budget in 7 years. We have all agreed that is now going to be the case. The issue is do we need to have a major tax reduction benefiting largely upper-income people by taking those dollars, by making the cuts deeper in Medicare and Medicaid and social programs that are important to the well-being of this Nation? I think the answer to that, for anyone that looks at this from a moral perspective, clearly has to be no. So my own view is that this thing can be settled very quickly, and that the Senator from North Dakota clearly put forward a kernel of that solution.

BOSNIA

Mrs. FEINSTEIN. Mr. President, I have come to the floor to talk about Bosnia.

Three nights ago the President of the United States went before the American people to make the case for sending 20,000 American soldiers to help implement the peace agreement that was recently drawn up and initialed in Dayton.

I listened, as did millions of other Americans, and I heard the President lay out his reasons for doing something no one really wants to do, not even he. The decision that he made was not an easy one. As we have come to know all too well over the past few years, there are no easy answers to end the bloody conflict in Bosnia that has consumed so many lives.

Over the past 72 hours all of us have weighed this question, and discussed the options before us with the administration, with our constituents, and deep within our own conscience. I submit to you that when push comes to shove this is going to be a vote of conscience, a vote of conscience here in the Senate, and a vote of conscience in the House of Representatives.

While the details of the implementation plan have not yet been finalized, and as the President noted, there are critical questions that still need to be answered about how this mission can be accomplished effectively and with the greatest attention to troop safety, it is now clear to me that the American people and the Congress must and should support the President.

To do otherwise, I believe, is to show a divided nation and send a signal throughout a world where 30 wars are now in progress that the American people forfeit our leadership role as the moral force for freedom and responsibility in the world.

Over the past 4 years, while America and our European allies have quibbled about responsibility, the war has continued unabated. Amid the often self-inflicted charges of hand-wringing and finger-pointing as to whose war is it, who should lead, whose backyard is affected, two inescapable facts come home to me. One is something that the

British statesman Edmund Burke said two centuries ago. We should all listen to what he said.

I quote: "The only thing necessary for the triumph of evil is for good men to do nothing."

And, second, in the words of George Santayana, "Those who forget history are doomed to repeat it."

Mr. President, it is time for good men and women to stand up, and America must lead.

To those who know history, this area of the world is no stranger to conflict. In 1878, 117 years ago, Benjamin Disraeli said in the House of Lords in Great Britain:

> No language can describe adequately the condition of that large portion of the Balkan peninsula—Serbia, Bosnia, Herzegovina, and other provinces—political intrigues, constant rivalries, a total absence of all public spirit . . . hatred of all races, animosity of rival religions and absence of any controlling power . . . nothing short of an army of 50,000 of the best troops would produce anything like order in these parts.

Disraeli's observation is as astute today as it was in 1878, but over the past 4 years the war in Bosnia has taken an enormous toll: a quarter of a million people dead; the systematic rape and torture of thousands; ethnic cleansing; concentration camps; over 300 graves with more than 1 body in them; war crimes; thousands still unaccounted for; 2 million homeless; and the fear of a spreading conflict.

Not since Adolf Hitler has the world seen such atrocities.

When our children and grandchildren look back on this day, they should not have to ask, Why did we not act when we had a chance to make a difference? Why did we not learn from the lessons of the Holocaust?

America is the strongest nation in the world. As new nations fight for survival, as ethnic groups fight for their rights, as the leaders of fledgling nations fight for democracy and as people suffer atrocities, we must be careful as to how and when and where we make a difference. But if we can make a difference, and if it is important to our interests, I believe we should.

We have an interest in this peace. Some might say we did not have such an interest before Dayton, but post-Dayton we most certainly have an interest in this peace. We have brokered this peace. We have a chance for peace to succeed. We cannot turn our backs because if we turn our backs on a chance for peace, what we are going to go back to is the systematic torture and rape and ethnic cleansing and atrocities.

When the assault took place on Srebrenica, the moral argument truly hit home. And after all, there are still thousands of men and boys unaccounted for since the Serbs took over Srebrenica.

I have used this picture standing next to me in this Chamber before. Today I use it again. This young Bosnian woman from Srebrenica looks very normal—her skirt, her sweater—with one exception: She has hung herself. She is hanging from a tree. Rather than further endure the atrocities, the rape, the torture, the mayhem, she hung herself.

What we stand for as a nation is not letting things like this happen. What we stand for is doing something about it. And we have done that before. Our men and women have fought two wars in Europe—World War I and World War II. America was not threatened then, but we fought for some of the same reasons that we brokered a peace in Dayton that now has an opportunity to succeed, if we have the will, the unity, and the disposition to see that peace succeeds.

So my argument today is really the moral one. We can have a peace succeed at this time if we have the resolve as a free, strong country to see it through.

Once again, I would recall what Edmund Burke said many years ago and paraphrase it: Bad men flourish when good men refuse to stand up.

It is true, as many have said, and there is no question that there is a price to pay. The question is, Should we pay that price? And what happens if we do not?

Let me begin with what happens if we do not. If we do not, we know that our allies will not go in. Since the arms embargo has just been lifted by the U.N. Security Council, we know that all sides will have greater access to arms. The Bosnian Government most probably will get arms from Moslem nations, and possibly from the United States as well. And the Bosnian Serbs will gain arms from Serbia and quite possibly from Russia.

There is a significant danger that what has been a largely self-contained conflict could spread, drawing in Croatia and Serbia as full participants—and we have seen the might of the Croatian Army—and then to nearby nations, such as Macedonia and Albania. From there our NATO allies, Greece and Turkey, could find themselves drawn in. And the threat of a major European conflict will be drastically increased.

The mission that has been proposed is not without risk and it is not without cost. No military mission ever is. But it is a risk, I think, the leader of the free world must take.

My continued support for the President's plan will be contingent upon the details of the mission. And I want to go into that for a moment.

Our task over the next few weeks is to ensure that this mission is achievable, and that our troops are given everything they need to allow these highly trained forces—and they are very highly trained—to do what we know they are capable of as the strongest, best-equipped, best-trained military force in the world.

There are certain aspects of this plan that are fundamentally necessary to ensure success. First, as I have said, the United States will take the lead, but we will not be alone. We will provide one-third of the troops; our allies will provide two-thirds.

Second, the command will be unified and straightforward. U.S. and all other troops will operate under the command of an American general, General Joulwan, the Supreme Allied Commander in Europe. This mission—Operation Joint Endeavor—will be an exclusively NATO-led mission. The United Nations will not play a role.

Third, our forces will be operating under robust rules of engagement. They will respond with immediate and overwhelming force to any threat. Anyone who threatens our forces will not receive a proportional response. They will, quite simply, be taken out.

Here I want to commend the President for his clarity and strength. I echo his words that if anyone threatens U.S. troops, "We will fight fire with fire—and then some."

Tomorrow, the Foreign Relations Committee, of which I am a member, will hold hearings on the plan to implement the peace agreement. The Armed Services Committee will also have an opportunity. Today, the House International Relations Committee is having that opportunity.

We will have an opportunity to examine the terms of the peace agreement in depth, and to discuss the commitment of the parties to the agreement. President Clinton has made it clear that there will be no peace implementation force unless all parties sign the peace agreement.

There are other concerns that also must be thoroughly addressed: the precise definition and limits of the mission; the avoidance of mission creep; a well-thought-out exit strategy, and the President has indicated four areas which will be used as the determining factors of when the mission has been successfully completed; the relocation of an estimated 2 million refugees; how to deal with anonymous sniper fire.

We now know that there will be an international police task force set up, separate from the peace implementation force, to handle policing duties. There will be a body set up to handle the relocation of refugees. And we now know that the parties themselves will participate in efforts to remove the large number of landmines.

All of these questions, though, must have more answers, and I believe they are in the course of being presented.

As many of my colleagues have noted in recent days, the President has the constitutional authority to deploy these troops without congressional approval. The President, however, is seeking the support of the American people and of Congress for this mission. We must work with him to ensure that this mission is successful, but we can do no less than to support him.

Three weeks ago, as Bosnian, Serb, and Croatian leaders hammered out this peace agreement, in another part of the world a great peacemaker and world leader was felled by an assassin's bullet. I was very sobered by the fact that Prime Minister Yitzhak Rabin gave his life for peace. More than anything else, I think this shows the risk that making peace in a historically troubled area carries with it. And so his death serves as a reminder that leadership in the search for peace has a price.

I remember something that President Kennedy once said, that "America would pay any price, bear any burden, and suffer any hardship in the cause of liberty and peace." I think that really says it all. We have an historic opportunity to help achieve peace where there has been far too much war. We cannot pass up this chance for peace.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

SENDING UNITED STATES TROOPS TO BOSNIA

Mr. CRAIG. Mr. President, I am not quite sure I can speak with the passion of the Senator from California, but I, too, feel a great concern for the situation in which this President has now in a foursquare way placed this country.

The President's speech this week was probably the most important speech of his Presidency. It was an address that outlined a decision, a very critical decision that only a President can make, and that is to deploy United States troops, in this instance United States troops, to be peacekeepers in the former Yugoslavian Republic. I was looking for a number of answers in his message, such as a very full articulation of a defined goal or mission, strategy for achieving that goal, an exit strategy, and that of our national and security interests for our country.

I do not, in any way, bow from the moral imperative argument. That has been clear from day one. It is certainly an argument that this Nation has not walked away from. We have invested millions of dollars and lots of our manpower in air support, in sea support, in logistics. We have been involved.

So it is not a question of now versus then. I am sorry, Mr. President, if you only caught the sails of the current moral imperative, the slaughter in the former Yugoslavia has been going on for 4 years. We have all witnessed it, and the Senator from California has spoken to it on the floor. So that is something that has not missed America. What has missed America is how do we become engaged, engaged in a way that we can control a situation and environment and an emotion that is well 300 years old in the making, where other nations, great and small, have chosen to at least stand aside for the very risk of the people, their own people, that they might chose to engage in a solution.

So that becomes the issue. It is the issue that we, in this Senate, will have to face, because ultimately what is the President's decision can become our responsibility. I will not judge it on a moral imperative. I cannot judge it on that basis. I have to judge it on whether we can do it in a way in which we can go in, solve a problem, stabilize the situation, minimize the risk to our people, our sons and daughters who have gone in service to this country and its security, and then is there a way out. That is what I think we ought to be judging here.

There is no question about the loss of human life that has gone on over there. And we have all spoken to it with a great sense of urgency. But it is not now only to be discovered. We have known it for a long, long while.

What is at hand now is an issue that this President for justifiable reasons has attempted to bring to this country, and by his decision, and by the initialing of the agreement in Dayton, has clearly brought it foursquare. But, Mr. President, my frustration is very simple. The President of the United States cautioned us not to debate the issue until there was a decision, not to debate the issue until there was a plan. And we chose not to. I think we chose improperly, but we chose to give him the time.

And now that he has a plan, or at least now that he soon will have a plan that we can look at with some detail, he has put us in a very unique situation. He almost has the opportunity, if we chose not to support him, to turn to us and say, you are breaking the peace agreement, you are putting at risk the men and women of the former Yugoslavia, and the children. Mr. President, not so, simply not so. They have been at risk for a long time. And this Senate and the U.S. House of Representatives has for many years contemplated alternatives. We have asked for a variety of approaches, only to be denied those, to create equity and balance with the warring factions over there, only to be denied that, to clearly create a one-sided war that by the very nature of its history would spell out human slaughter, and it has.

And now finally, after all of those long denials, this President has said, "Here is a solution. And here is what I propose to do. And here is what I am going to do." And that can result, not only in the placing at risk of 20,000 of our armed services people on the ground, clearly in foursquare risk, but it also places a good many more—because of the 4-to-1 ratio, we are not just talking about 20,000 Americans on the ground over there, we may well be talking 50,000, or 60,000, or 70,000.

Is it going to go on for a year? Well, Mr. President, I do not think you know that, and we certainly do not know that. So it is with these concerns that I come to the floor today, Mr. President, because of the constitutional role that our President has, the right that he has under the Constitution to do what he is doing today, and at the same time to recognize that we have a responsibility. And, as I have said very early on, my responsibility rests with Americans first and the ability to understand how they can best be involved and safeguarded. Our responsibilities also rest in whether we appropriately fund these actions and if the mission is effectively carried out.

So there are a lot of questions yet unanswered. I have asked the people of Idaho to speak to me and our delegation on this issue because the Senator from California is right, this is a tough one. There is no question about it that we will all consider this with great, great concern, great passion, a great aching of the heart, not only for what has gone on over there but for what we might be putting our men and women at risk in doing.

And so in asking that, my phone, like I think most of the phones of my colleagues, has been filled with phone calls from our citizens expressing with more passion than I have heard expressed in some time, a concern about what we are about to do as a country. My phone calls are running 100 to 1 in opposition to what my citizens now know at least of what our President plans to do. And they are hoping that I can block him from doing that. And I must tell them that I cannot, that under the Constitution, as Commander in Chief, he has that kind of authority.

But I do hope that this Senate will speak out very clearly as to where we stand and what we stand for. I do not think that our message in any way can be garbled nor can we avoid just passing it by, just letting the President free rein this. Not at all. And I hope that we can develop a resolution that speaks clearly to our concerns that those who openly and aggressively support the President in this issue can have a right to express that, those of us who have very real questions at this moment who more than likely will strongly oppose the President can also have that opportunity to speak clearly to it.

That is the responsibility of the Senate and the Congress, not just to this President, but to the citizens of this country, because we, in Government here, have this unique responsibility among all, and that is whether to engage this Nation in war or police actions and ask our citizens not only to support us in this but to take up arms for the purpose of these actions.

The President has raised three concerns to justify U.S. participation in implementing the peace accord: The potential spread of the conflict, our leadership in NATO and the international community, and the need to end the carnage in the Balkans. I do not question the concerns raised by our Commander in Chief. However, I do reserve my support for his actions at this time.

Mr. President, we would like to respond to what I will refer to as the "moral imperative," that President Clinton outlined in his speech.

The devastation and human suffering in the Balkans has left us all with a feeling of frustration. These feelings are not new, however. Four years ago, I was contacted by a Croatian-American constituent of mine, when the conflict first raged between the Serbs and Croatians. This gentleman was in regular contact with my office, and his fears and frustrations were very real to me. The moral imperative existed back then. However, then, like now, our options for involvement are very limited, and we still face the fundamental difficulty of trying to make the peace a greater victory than winning the war.

Mr. President, while we all understand and agree with the moral imperative, we have yet to hear why this action would serve our national interest or security needs.

In the coming days, when details of the mission are made clear, I will look and I will listen, but I have very grave concerns and reservations about this proposed action.

I must admit, President Clinton has put the Congress in a bad position by bringing us into the picture after the Bosnian peace agreement has been initialed.

He has put the Congress at the disadvantage of being the breakers of peace, if we withhold support. Even so, Congress has no choice but to speak. Regardless of the outcome, I want to make one point very clear: If Americans are deployed to defend the peace, I will support our troops.

Mr. President, I have great concern about sending Americans into the Balkans to implement and enforce a peace agreement that was hammered out in Dayton, OH.

My concerns stem from the fact that despite their sincerity and good intentions, the negotiators may not be able to deliver on their promises.

One of the great problems with the situation in the Balkans—and one of the reasons we have had approximately 30 failed cease-fires—is that there is an inordinate number of people who are often referred to as "irregulars." In Idaho, we would probably call them vigilantes.

The bottom line is that this kind of disorder, combined with extraordinary tensions and emotions, is a recipe for disaster.

Mr. President, as outsiders, we cannot impose peace under these circumstances. We may not even be able to serve as the conduit of peace.

There has been some discussion about the need for detail in this peace agreement. The Dayton agreement has detail, but there are people who wield power, such as Bosnian-Serb leader Radovan Karadzic, who were not at the negotiating table.

With the ink barely dry on the agreement, Karadzic announced that peace in the capital would be difficult to ensure and that the transfer of Serb-held neighborhoods was not final. Karadzic, who was not at the negotiation table, but represented by Serb President Slobodan Milosevic, is committed to making changes to the peace agreement. However, it is my understanding that negotiators in the agreement have rebuffed the idea that Bosnian Serbs could restructure the agreement.

In an interview with NBC, U.S. negotiator Richard C. Holbrooke said, "Dayton was an initialing. Paris will be a signing. There will be no change between Dayton and Paris."

Defense Secretary William J. Perry on "Face the Nation," reconfirmed that position by saying,

> . . . I want to make clear: We're not going to renegotiate this agreement. This agreement is the agreement, and that's what we're proceeding on.

Karadzic does not appear stonewalled. It is my understanding from reports I have read, that he is mobilizing community leaders from the suburbs around Sarajevo, to force changes in the agreement, prior to the signing date on December 10. While we may dismiss Karadzic's power with the Serbian people, there is one thing that cannot be overlooked: His message strikes a chord with many Serbians who have fought for gains that are now being signed away, in the name of peace.

The issue at hand may be peacekeeping, but we cannot ignore the fact that peace will only come with a high price:

> What is wrong with the Dayton agreement [is that it] has created a new Beirut in Europe. It is going to bleed for decades.

Radovan Karadzic, from a Washington Post article November 27, 1995.

While Karadzic's rhetoric may be just rhetoric, it is aimed at destabilizing this agreement. It is also a message that many Serbians want to hear. From what I have seen happen in this conflict over the last few years, he will likely be a formidable opponent to peace.

Reports on comments from both Bosnians and Serbs in Sarajevo don't bode well for peace. The bitter depth of anger in this conflict and the lack of trust on both sides has not created the kind of atmosphere this peace agreement needs to be successful.

In short, Mr. President, citizens marching in protest of the peace accord are not likely to swallow the hatred they have harbored in order to bring about peace.

So, what exactly does this agreement say that is so hotly contested by some Serbian factions? Mr. President, under the agreement initialed last week, the enforcement of peace will be the responsibility of a NATO-led peacekeeping force of 60,000 troops, with as many as 20,000 of them being Americans. Bosnia would be split between a joint Moslem-Croat Government, which would have jurisdiction over 51 percent of the territory, and a Serb republic, which would control 49 percent.

Sarajevo will fall under control of the Moslem-Croat Federation, along with its Serb-held suburbs.

Needless to say, the apportionment does not sit well with many of the Serbian people.

Before closing, Mr. President, I would like to take a moment to comment on the war powers resolution. Many of my fellow Idahoans have raised concerns about who has the power to deploy troops in the kind of situation we are facing in Bosnia.

The Constitution provides authority to both the President and the Congress with respect to the use of our military. Our Constitution is one of the greatest documents ever written. The role of Congress and the Presidency in the use of our military is a case in point. Our Constitution reflects the desire to have the collective judgment of both the Congress and the President when making decisions on the use of force.

Under article II, section 2, of the Constitution, the President has the authority as Commander in Chief of the Armed Forces to deploy and command our Armed Forces.

On the other hand, article I, section 8 of the Constitution gives the Congress the power to declare war. We can all look at these powers, and see the clear differences. However, lines can become fuzzy when those principles are applied to a specific situation, such as the one before us in the Balkans.

The War Powers Resolution, which passed over President Nixon's veto on November 7, 1973, was designed to provide a functional framework through which to clarify the two roles and to maintain the intended balance of power.

Compliance with the resolution becomes an issue when troops are deployed to a location where they face hostilities or imminent involvement in hostilities.

The criteria required for compliance with the War Powers Resolution are very clear. The President must consult the Congress, fulfill reporting requirements, and then seek congressional approval for continued deployment beyond a specific number of days—60 or 90 depending on the situation.

If these steps are not fulfilled. Then the Congress is left with using it's power of the purse. Terminating the funds necessary for the deployment provides the Congress the ability to curb the President's powers as Commander-in-Chief. This step is not an easy one, given that the Congress would have to override a presidential veto with a two-thirds vote.

Mr. President, I would like to explore one final point in this whole situation that has consumed my concerns. The war in the former Yugoslavian republics is not new; it is a continuation of an age-old conflict. These people have fought and suffered atrocities, especially over the last 4 years, that we cannot comprehend, for a goal that we do not understand. Yet, when cease-fires were achieved they were short-lived, because winning the war or conflict was valued more highly than coexisting in peace. All sides in this conflict have had one goal: to win. To win, is to survive.

However, through our efforts to contain the conflict by placing the international embargo on Yugoslavia and maintain it on Bosnia, the conflict became very uneven. The Serbians took hold of that advantage, and have taken hold of every subsequent advantage in their efforts to win.

I do not see the average person, whether Serb, Moslem, or Croatian, being prepared to accept peace without a fight. A Washington Post article on November 27, quoted what I would call an average man who has lived through this conflict:

> "It's pathetic," said Milorad Dugovic, a car mechanic who keeps an automatic pistol tucked in his waistband. "What were we fighting for in the past four years? * * * we will continue to fight. We'll fight even NATO. What's ours will remain ours."

I do not see the Serbian people being willing to snatch defeat from the jaws of victory. Peace under this agreement is not a done deal. Let us not deceive ourselves into thinking that our troops will only be peacekeepers. If actions fit rhetoric, and fighting begins again, our troops will be in the middle of this bloody civil war, then peace will come only if we become the peacemakers by using force to settle this conflict.

Mr. President, I remain opposed to the proposed deployment of United States troops into Bosnia as part of this peace agreement at this time. I emphasize "at this time," because it is imperative that we all fully understand what is at stake.

In my view, our national and security interests have not yet been defined. Before I can even entertain the thought of sending American men and women into this situation, these interests must be real, and they must be defined.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

SHOULD WE HAVE THE RIGHT TO BE INDIGNANT?

Mr. STEVENS. Mr. President, during an appearance on "Nightline" last week, I got quite disturbed with the Secretary of the Interior. He said that the Alaska delegation had been sneaky about, as he said, sticking in provisions to allow exploration and development of the Alaska oil reserve in the budget bills without honest debate. And he further said that we had done this in the dark of the night.

I came a little unglued at that, the idea that a Cabinet officer who is under oath—and I believe we are always under oath as Members of the Congress—will make statements that are just not true. I did not have time really to explain—in the context of that type of experience—the situation. So I have decided to come to the Senate and take 5 minutes to do it today.

This is a map of my State. It depicts what happened in 1980 at the time the Congress withdrew all of those areas that are outlined in blue and set them aside as preservation areas, national parks, national wildlife refuges, wild and scenic rivers, wilderness.

This area up here, the Arctic National Wildlife Range, was expanded into what is known now as Arctic National Wildlife Refuge. But one area, 1.5 million acres on the Arctic Slope, is the only area touched by that 1980 Alaska National Interest Lands Conservation Act that the 1980 act allowed for continued utilization for development. This is called the 1002 area, because that is the section, 1002 in the 1980 act. It abuts the Arctic Ocean of the Arctic National Wildlife Refuge. It is in the coastal plain. That area we have sought to proceed with leasing as was contemplated by the 1980 act now for 15 years.

What has happened this year that did not exist before this year was that the President requested and Congress has granted a change in the law with regard to scoring of Federal actions under the Budget Act. Prior to this year, the leasing of land, which brings about sizable bonus bids, would not score as a Federal revenue raiser even though it would bring money into the Federal Treasury. There was a bid for one area right offshore of the Arctic oil reserve, this part of ANWR, as we call it, $2 billion just for the right to look to see if there was oil and gas in the area. It was dry. We expect bids in this area of over $5 billion when the land is leased. More conservative estimates suggest that bids will be about $2.6 billion, with $1.3 billion coming to the Federal Treasury. That is what the Congressional Budget Office has said.

The President has asked for, and we granted, the right to score sales, and leasing is a sale of a right to use land for a period of time. Those are now scoreable so they can get in the Budget Act.

Going back to 1980, we have tried since then to get this leasing to proceed, but we have not been able to have it done.

This year in the budget reconciliation, what we're now calling the Balanced Budget Act of 1995, there was a vote in the Senate Energy Committee of 13 to 7 to include this area in the budget reconciliation. It came to the floor.

There have been three rollcall votes on the Senate floor this year dealing with the issue: May 24, to prohibit the asset sales in the budget resolution; again on May 24, to strike this amendment that had been inserted in the budget resolution by my colleague, Senator MURKOWSKI; and in October, during the budget reconciliation process, we voted on Senator BAUCUS' amendment dealing with the Arctic oil reserve. We tabled each of these motions. We were sustained in our position that this belongs in the budget bill.

In response to another of Secretary Babbitt's assertions, we have not done this in the dark of the night. There was not anything sneaky about it. As a matter of fact, we have had, since 1987, 26 days of hearings on this issue in the House of Representatives, 14 days of hearings in the Senate, and there is no question that this has all been done in the light of day.

We have not done anything sneaky in the dark of the night. To have a Cabinet officer accuse Members of the Congress of taking such action is really, I think, an extreme position. The interesting thing is the news media have picked this up and now they are bashing me over the head again, because I got disturbed at him for making such statements. It is appalling to me that we cannot require honesty and truthfulness out of people dealing with issues such as this.

We seek only to proceed with leasing, as was contemplated in 1980. As I said, this is the only area of Alaska in which that act allowed development. Look at the rest of it. Over 100 million acres of Alaska set aside. We cannot use them. This one area we can use, and we have been blocked by filibuster since 1980 to proceed as contemplated.

Now, the President asked for the change in the law, and asset sales can be included in the budget resolution. We can put this in the Budget Act, and we have put it in the Balanced Budget Act of 1995. It is a concept that we should, I think, consider.

Mr. President, it means over 735,000 jobs for Americans. It means we will be able to produce oil from that area as was contemplated. It is probably the last greatest oil reserve on the North American Continent that has not been produced.

We have had provisions to allow the leasing of the coastal plain in a whole series of bills. At one time, we had a six-vote margin on a filibuster vote to break the filibuster. We did not have 60 votes, and we were not able to bring this up in past Congresses. President Bush's 1993 budget proposed this area be leased. Leasing of the coastal plain was part of his proposal to balance the budget by leasing land such as this and getting the bonus bids and getting the royalties that would come to the United States if leasing and development came about. He specifically provided, as a matter of fact, that the revenues would be shared equally between the Federal Government and the State of Alaska, which would mean a change in the law to accomplish that.

I come to the floor and I am going to come back again and again. I am going to ask the Senate to analyze the statements made by this Cabinet officer and let the public decide: Should we have the right to be indignant when a Cabinet officer makes statements on national television that are not true, that we try to mislead the public in terms of what is going on here in Congress? Is it sneaky to put a provision in the Balanced Budget Act of 1995 that does the same thing the President of the United States wants to do with the helium reserve, with the Teapot Dome area, and with the naval petroleum reserves? He wants to sell them. If they are sold, they are scored. We put it in the Balanced Budget Act. These actions have never been able to proceed passed because they were not in those bills either. They did not have the capability of getting a vote to avoid a filibuster in the Senate.

Now, Mr. President, it is very difficult to represent a State that is offshore, that is one-fifth the size of the United States, and that has so many varied issues that involve Federal lands and Federal actions, and to deal with the person who is Secretary of the Interior, who is unwilling to properly present the issue to the American public. I believe—and there has been a recent poll that will be announced today—the American public, when fully informed about this issue, will agree with us, that leasing should go ahead, as contemplated in 1980, and the revenues that will come from that area should come to the Federal Treasury, and some to the State. But the jobs that would come from developing our oil reserve should be available to Americans. We should stop importing so much foreign oil.

There are a great many more things that were said by the Secretary of the Interior in that statement when we appeared together on "Nightline." I will come back again and again, because all I am asking for, Mr. President, is an honest debate, to tell the truth and give the facts and let the judgment be made. But when people are trying to twist the information so that it casts us in a light of being people that sneak around in the night—can you imagine that, saying we did this in the "dark of the night," that we were sneaky, when we have had so many days of hearings, so many public statements on the floor, so many votes both here and in the House?

I think there is just no question that a Cabinet officer who does that should be called to attention, and we should ask: Is this the conduct that this administration believes should be the conduct of a Cabinet officer? When he raised his hand and said he would support the Constitution, as you and I did, Mr. President, does that not mean we will be truthful in the conduct of our business, the public business?

We do it out in front of everybody, right here on the floor. We did our action of putting this amendment in the bill, by a vote of the committee. We have had three votes on the floor this year. We have been here for 15 years now trying to get this Congress to proceed as was contemplated in 1980. I do not think it is proper to call us "sneaky," or to say we are doing it in the dark of the night.

I hope more and more people in America understand that those who make allegations like that have something to hide themselves. I am going to find some way to bring to the American public the truth in these statements that are being made by the Cabinet members of this administration.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I want to talk just a few minutes now. I understand that the unanimous-consent agreement that has been propounded and accepted limits Senators to 5 minutes. I ask unanimous consent to extend that to 10 minutes.

Mr. STEVENS. I would have to object, Mr. President. We, of course, have no objection if the Senator wishes to be recognized for the second time. But in the interest of fairness, we have set 5 minutes per Senator. If there is another Senator to speak at the end of that 5 minutes, he should be recognized.

Mr. LAUTENBERG. That is not an unfair response. Perhaps at the end of that time, I will call on using leader time, which I understand has been made available to me.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

THE BUDGET

Mr. LAUTENBERG. Mr. President, as the Democrat and Republican negotiators sit down and try to work out a final budget, I want to urge the negotiators to begin their discussions by agreeing on a fundamental principle. The principle is critical to Democrats like me and to the overwhelming majority of Americans. The principle is this: Congress should not cut Medicare to pay for tax breaks for the wealthy.

Mr. President, the current Republican budget, which has yet to be sent to President Clinton, violates this basic principle because the heart of the Republican plan cuts Medicare by $270 billion, and it is going to be used to pay for $245 billion in tax breaks. The President has made it quite clear that these Medicare cuts for tax breaks are a quid pro quo and totally unacceptable. It is a basic matter of principle.

I also want to remind my colleagues about some of the other objectionable provisions in the Republican reconciliation bill. The budget proposed by the Republicans also cuts Medicaid by $163 billion. This will mean huge cuts in nursing home care for seniors and care for the disabled.

The bill includes a $23 billion cut in the earned income tax credit, and this means that 17 million working families, who make less than $30,000 a year, will have to pay more in taxes. They will get a tax increase because the earned income tax credit, which helped them sustain themselves, will no longer be available. At the same time, the top 1 percent, who make over $350,000 a year, will get an $8,400 tax break. It is unnecessary and, frankly, it is unconscionable.

The bill also tears apart the safety net for poor children. Under the Republican so-called welfare reform provisions, between 1.2 and 2.1 million children will be thrust into poverty, potentially going hungry.

Mr. President, the basic thrust of this legislation is to balance the budget on the backs of working families and senior citizens, while handing out billions in tax breaks for the rich and powerful. It is an extreme approach. I know that Speaker GINGRICH and his followers believe in it strongly, but, in my view, it is fundamentally wrong.

Mr. President, when you get right down to it, the Republican budget forces all of us to answer a simple question, one that I have discussed many times here. It is very directly saying: "Whose side are you on?" That is the question being asked. Are you on the side of the rich and the powerful and the special interests? Or are you on the side of those who go to work every day worrying about how they will pay their bills, get their kids to college, sustain a lifestyle they have worked so hard to get, and worry about what happens in their later years? Or are you on the side of those who do not need help, but who have influence down here, who get to talk to a lot of people in Government, those who make the decisions?

That is the fundamental question that we are discussing as we consider the budget. The Republican reconciliation bill is pay dirt for the rich and the special interests, while senior citizens and working class families get stuck footing higher bills. This is an outrage.

We Democrats are going to continue to resist it as a basic matter of principle. We saw what happened with the continuing resolution when the public caught on to this scheme.

Under the spotlight, our friends on the Republican side blinked. They retreated. They ran away. They wanted to escape the public wrath and quickly abandoned their deep principles for political cover. They quickly backed off their large increases in Medicare part B premiums.

Mr. President, the Republican budget makes the biggest cuts in the history of Medicare. I have heard the case made, "No, we are not making cuts. What we are doing is increasing the pot." Yes, but there are a lot more people who are aging and who will be part of the Medicare population, and on a per capita basis they get hit very, very hard.

Republicans build their case around a false premise. They argue that in order to save Medicare they want to destroy its fundamental mission. That is not true. They ought to be frank with the American people about two major Republican misstatements.

The PRESIDING OFFICER. Does the Senator from New Jersey wish to request additional time?

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to speak for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. The first misstatement that our Republican friends make is we need $270 billion to save Medicare. That is simply untrue.

The Republicans are using this $270 billion, as I said before, to finance their $245 billion in tax breaks for the rich folk. It is no coincidence that Medicare cuts are $270 billion and the tax breaks for the wealthy total $245 billion.

These figures are remarkably similar because one is being used to finance the other. They are taking from our senior citizens who paid the bills, signed the contract, worked hard and weathered the storm, and they are giving it back to the wealthy and the special interests.

The second Republican falsehood is that we need to cut $270 billion to make Medicare solvent. Not true. The chief Health and Human Services Medicare actuary has said that we only need $89 billion in savings to make Medicare solvent until the end of the year 2006.

Let me give some examples of what kind of tax breaks these Medicare cuts are paying for: Under this bill, approximately 2,000 large corporations will get a tax break of $2 million apiece because of changes in the alternative minimum tax calculations; the bill also gives an $800,000 tax break to people with estates over $2.5 million to be able to pass on to their heirs an additional $800,000 tax break. It is not fair. It is not right.

Additionally, this bill contains hundreds of millions of dollars in giveaways to the oil companies.

Finally, the capital gains tax cut included in this bill is a tax break for the superrich. Anyone can claim this tax break. We saw that in a vote here. Even those who make more than $1 million a year can get this tax break.

Mr. President, I tried to draw a line in the tax sand, to use the expression, and put the money back into Medicare and Medicaid. I offered an amendment when we discussed our reconciliation bill that would have precluded the tax breaks from going to those who make over $1 million in a single year. That is one-tenth of 1 percent of all our taxpayers. This small group, I felt, did not need a tax break—making $1 million a year, that is a lot of money.

I thought this amendment could pass substantially. Maybe even unanimously. I thought that people here would finally say, "No, we think that is fair, that people who make over $1 million a year ought not to get an additional tax break." I thought we could all agree that millionaires, billionaires, do not need a break when we are cutting Medicare, especially when 75 percent of all the Medicare recipients earn under $25,000 each year.

However, 52 of 53 of the Republican Senators voted against my amendment. In essence, they said their preference is cut Medicare, cut Medicaid, and we will keep on giving tax breaks to those millionaires and the billionaires—show them what good guys we are.

Mr. President, Medicare is not just a health insurance program. Medicare is a contract. It is a commitment we made to our citizens. It is a promise for those who worked hard for their entire lives that your health care needs will be taken care of when you retire. They paid for it.

This Republican budget uses the Medicare Program as a slush fund for the tax breaks for the wealthy.

Mr. President, I hope that the Republican leadership will give up their plan to cut Medicare to pay for tax breaks for the rich, give up deep cuts in Medicaid, give up tax increases on working families, give up the destruction of the safety net that will put millions of children into poverty, give up the huge cuts in education and the environment. It is time to start over.

If the Republicans are serious about moving towards the balanced budget, they will give up on these draconian cuts, those cuts that hurt so much. They will honor a basic principle that declares whose side Government is on, that no Medicare cuts will be used to pay for tax breaks for the rich, that they will confirm that the Government is here to help give assistance to those who need help the most. Those who are wealthy do not need special assistance from the Government.

It is time to start over, Mr. President, and put together a budget that protects Medicare and Medicaid and working families, poor children, provide education to help get the population to lead our country into the next century, to provide the kind of leadership that can make us more competitive, to continue the kind of position that the United States of America has had for so many years, and to provide our future generations with a decent and clean environment.

I hope that will get consideration, Mr. President. I yield the floor.

SAFE DRINKING WATER ACT

Mr. KERREY. Mr. President, yesterday the Senate passed S. 1316, the Safe Drinking Water Act. I did not have the opportunity to speak on it while it was under consideration and I want to point out some things in that bill that I believe are very constructive.

I will call to the attention of my colleagues that I think we passed a piece of legislation that will enhance voters' confidence, citizens' confidence, that we can, in fact, take a law that has accomplished a great deal.

The Safe Drinking Water Act has improved the quality of life in America considerably, and has been a great success story, but it needed to be changed. There was an urgent need to change the legislation. We passed it last year in this body. The House was unable to pass a piece of legislation, and as a consequence it died.

I want to thank Chairman JOHN CHAFEE. He was very instrumental. Without his leadership this bill would not have passed. Chairman KEMPTHORNE, as well, was very diligent and determined to pass the legislation. Senator BAUCUS, Senator REID, both from rural States, understand the importance of changing this legislation. They, like me, have heard from local communities talking about if we are going to maintain the consent to regulate safe drinking water that we have to change the current law.

I will talk about a few issues, Mr. President. I will go through them real quickly. First is the issue of radon in the drinking water. Under the current law, the EPA was required to promulgate a standard for radon by a court-ordered deadline.

Unfortunately, that standard was a much higher standard than any scientist said was necessary to protect the people. There is no dispute here. This is not a situation where we have anybody coming forward and saying that the standard that was required under this rule was too low.

This standard was set so high that it was going to cost rural communities, in some cases, $5,000 per user to implement. We had withheld the appropriations for several years to promulgate this rule, and this piece of legislation now will take the appropriators off the hook. It changes the law. It gives EPA the authority to promulgate a rule of 3,000 picocuries per liter, which is what all science is saying is needed. It will save rural providers of water in Nebraska nearly $1 billion over a 7- to 10-year period. It is a substantial amount of money that is at stake.

The second issue is the current law, that is the issue of sound science and using sound science in evaluating both the risk and what we do. In the 1986 amendments, we decided we were going to regulate 25 contaminants every 3 years whether those contaminants needed to be regulated or not. This strict method of establishing standards caused some contaminants to be regulated without a sound scientific basis. It is an issue that is very irritating when you are, again, at a local level and are required to spend money looking for a contaminant that has never been there. It has never been in the water. Nobody expects it to be in the water. Nobody has any reasonable basis to believe it is going to be in the water. But because of this strict standard, we were required to regulate it anyway.

The new law authorizes EPA to use $10 million from the State revolving fund on health effects research. EPA is to establish a priority risk of unregulated contaminants and gather health effects and occurrence information on the listed contaminants. The Administrator of EPA must consult with the Centers for Disease Control as it does this analysis. In other words, it cannot just come to a regulatory conclusion without some reference to what our scientists, particularly our health scientists, are telling us about what is going on with drinking water. The States are to monitor for up to 20 unregulated contaminants to collect information for future standards.

The next issue is the standard setting itself. Under current law, EPA has established standards for more than 80 drinking water contaminants. The 1986 amendments required EPA to promulgate 25 new standards every 3 years. The cost to small communities, again, are not considered at all when these standards are set. This legislation, this change in the law, repeals the "25 every 3 years" rule and establishes a new mechanism to identify contaminants for future regulation by consulting with the Centers for Disease Control.

Again, if we are trying to have safe drinking water, it seems to be reasonable to reference those individuals who have the responsibility for telling us what is causing Americans to get sick from drinking our water. EPA is to conduct a benefit-cost analysis for each new standard before it is promulgated, and if EPA determines the benefits of a standard issued under current law would not justify the cost of the systems that must comply with the standard, EPA must issue a less stringent standard that maximizes health risk reduction at a cost that is justified.

I have heard people come and say we are weakening standards. We unquestionably are not. This is a change that will allow us, again with reference to what is causing Americans to get sick, if there is a health problem that the Centers for Disease Control—Mr. President, is there a limitation on time?

The PRESIDING OFFICER. There is a 5-minute limitation and the Senator has consumed slightly over 5 minutes.

Mr. KERREY. Mr. President, I ask unanimous consent for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, this was a particularly difficult and important issue. The Nebraska League of Cities sent me a petition with 60 signatures, which specifically asked the Senate to "include provisions that changed the current process for setting standards to include public health benefits and costs as factors in determining new requirements." I will guarantee these local community leaders are not going to send me a letter asking me to do that if they did not have the support of their community to get it done. Many people have said I am selling out, weakening standards. You are not weakening the standards if the people at the local level say, "This is what we want done." As I said at the beginning, I think there is safe drinking water legislation that has been a great success. But we keep getting example after example after example of citizens saying, "Change the law to give us the flexibility so we can make more of our own decisions. We want to reference science. We want to reference the health people. We do not want to make our people sick. We want them to be able to drink the water and know that water is safe. But we have to have some flexibility to be able to do that because we are paying for this with property taxes." Most of these smaller communities are up against imposed lids and they have a tough time getting that job done.

The next issue was the issue of monitoring. One of the largest costs of compliance with the Safe Drinking Water Act is monitoring. Again, it comes out of the local property tax base, typically, to get this done. All Nebraska communities have asked that the current system be revised to let them test for contaminants that exist in Nebraska. Again, all. This is not one where there is any dissent. Every single community is asking that they be allowed to test for contaminants that exist in Nebraska.

We may have some contaminants that Missouri does not have, and you may have some we do not have. You do not want to test for ours, and we do not want to test for yours, because it costs money. If we require them to test for contaminants that do not exist, again, it just undercuts the citizens' confidence you could ever get into an environment where Government can regulate, where we can collectively regulate for the purpose of improving the capacity of our lives.

Let me go through this a bit. Under current law, States go through a waiver process to get some monitoring requirements changed. But this process is very expensive, it is very time consuming and it has been very frustrating for people at the local level. The benefits accrue to the local system while the costs are incurred by the States. The States that do have waivers have seen huge decreases in monitoring costs. These potential savings should be spread to all States, according to the example that has been set by those who have been granted the waivers.

The bill says we revise the current monitoring rules for at least 12 contaminants within 2 years. It allows the States to establish their own alternative monitoring requirements that may be less stringent than Federal monitoring requirements, provided they ensure compliance and enforcement of Federal health standards.

There are other changes in this legislation having to do with ground water disinfection. The current law requires the promulgation of a mandatory ground water disinfection rule, requiring all systems to treat their water. This bill delays the enactment date of this rule to occur at the same time the States do a rulemaking as established for disinfectants and disinfection products.

This legislation also helps us by authorizing some additional new programs: $1 billion for State revolving funds for safe drinking water; States provide 20 percent match. It authorizes $53 million for health effects research. It has been brought to my attention at the State level that in Nebraska there is $717 million worth of infrastructure needs that will have to be put in place over the next 20 years.

The chairman of the committee, quite appropriately—I am on the VA-HUD Committee—the chairman of the committee quite appropriately pointed out one of the weaknesses of this bill is that you are sort of promising money that is going to be there and it may not be there. We are authorizing more than we have. I take this opportunity to point out that the problem here is that we still have a growing cost of entitlements that erode our ability to make these kinds of investments.

I heard yesterday the chairman of the Appropriations Committee, Senator HATFIELD, indicates that he thinks it is likely that we are going to come up with a way to satisfy the requirements of the continuing resolution by the 14th of December—not by cutting defense, now that we are going to Bosnia. Nobody seems to be inclined to do that. But we are going to get $4 billion of savings out of entitlements to get the job done. And we are going to get it—and the biggest entitlements are going to be in health care, they are going to be in retirement—we are not likely to touch retirement. We should, to get the job done.

I know the Senator from North Dakota wants to speak, and I will wrap up with this one statement having to do with a pet issue of mine. The cost of entitlements under the Republican budget and under the Democratic alternative—a group of 20 of us or so that have an alternative that balances the budget in 7 years as well—in either case, the cost of entitlements, health care and retirement, continue to grow and displace all other expenditures. If you think it is not a problem, imagine what it would be like to pass 13 appropriations bills if all we had was $445 billion. You say, oh, $445 billion is a lot of money. But $445 billion is what we would have in the year 2002 if you adjust for inflation.

Gosh, the most liberal Member of this body, in the House or the Senate, probably would not spend less than $250 billion on defense, $260 billion, leaving you with $170 or $180 billion for all nondefense spending. I urge colleagues to look at that number because it is going to get tougher and tougher and tougher for us to get the job done. I, for one, hope, as we look for a compromise on reconciliation, not only will we consider adjusting the CPI down—I would go a full point—but I hope we look at some other adjustments that produce savings.

I think it is reasonable to put an affluence test on all entitlements, including farm payments, to say, basically, we are going to adjust it as income goes up. I think it is reasonable for us to say now we have to adjust the eligibility age, both for Medicare and Social Security. We can hold harmless everybody over the age of 50, if that is what we choose to do. I think it is reasonable to phase it in. It is reasonable to phase those changes in. Nobody listening to this who is over 65, or 60, or 55, ought to think we are talking about them. But, unless we make that kind of a change, this baby boom generation is going to rank out about 2008. When we start retiring, our kids are not going to be willing to have their payroll taxes increased by the amount that is going to be necessary to pay for our Medicare and Social Security. We are not going to be able, I say to my colleagues—we are not going to be able to adjust rapidly enough to come up with the $717 billion that Nebraska is going to need for its infrastructure investments or for any other thing in the appropriated accounts.

So, Mr. President, I appreciate the additional time.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I ask unanimous consent that I be able to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELECOMMUNICATIONS

Mr. DORGAN. Mr. President, I know the Senator from Nebraska will probably want to stay for a couple of minutes. The Senator from Nebraska and I wanted to visit for a couple of minutes about the conference that is now taking place between the Senate and the House on the telecommunications bill. The Senate has passed a telecommunications bill, and so has the House, and it is now in conference.

The impact of the telecommunications legislation will be very substantial all across this country. What is happening in the conference, and the reason that I came to the floor today, is very disturbing to me. The issue of reforming the telecommunications laws and regulations in this country is very real, and very necessary. It is also very important. The Communications Act has not been changed significantly since it was written in the 1930's.

Clearly, we ought to pass a telecommunications bill. But it ought to be in the right way. If it is done in the wrong way rural areas in America will be left out.

I voted against the legislation that we passed in the Senate. I also believe that the Senator from Nebraska voted against, because we saw some very serious problems. We hope some of those problems will be fixed in conference, but it appears that some of them will be made worse in conference.

Before I talk about the larger issues, I want to talk about one that is most important to me: universal service. From the standpoint of someone who comes from a rural State, the market system is not going to decide that the income stream in a rural State is going to persuade people to come and engage in robust competition to provide new services in rural areas. That is why the notion of universal service is critical to rural areas.

What kind of a telephone system do you have in rural areas? Do you have a telephone in the smallest town in North Dakota? Sure, we do. Why do we have a telephone there? Because the existing universal system has made that possible. It is much more expensive, per person, to have a small number of telephones in a small community in terms of fixed cost than it is to have millions of telephones in New York City. But we have decided that it is a matter of universal importance for everyone to have modern communications equipment so that everyone can communicate with one another.

The fact that there is a telephone in Regent, ND, makes a telephone in New York City more valuable because that New York telephone can communicate with someone on the receiving end in Regent, ND. It is a very small community, and I am guessing it does cost more to have telephones in Regent, ND, than in New York City. However, we have a universal service fund that is designed to equalize those costs and make sure that we have universal opportunity and universal service in a critical area called communication.

What will be the result of this new telecommunications bill? What about new kinds of communications? What about new technology? Will they be available in rural areas, or will they only be available in some of wealthiest neighborhoods? Will they only been available in some of the largest cities?

There were 24 Senators, 13 Republicans and 11 Democrats, including myself, who joined together in a bipartisan group to write to the Senate conferees in support of the rural provisions that are in the Senate bill. These provisions are very important to rural States. The problem we have at this point is that the conferees from the House side are trying to strip those provisions out. This is not a partisan fight. It is a bipartisan determination on the part of the Senate to want to retain those provisions. I want to speak a little more about those provisions later.

Let me go on to a couple of the larger issues in the bill that deal with macroeconomic things that Senator KERREY and I have also been involved in. I am concerned about the two areas in this bill dealing with competition. One, the legislation lifts entirely the limits on how many TV stations one person can own in America. We now have a limit of 12. I think it is in the public interest to say one can only own 12 TV stations and no more than 12. Currently, it is no more than 12 TV stations reaching no more than 25 percent of the population.

The bill says, on the other hand, that one can own as many TV stations as one likes. Let us just take the cap off, the sky is the limit. One can go right ahead and by as many TV stations as one can muster up the money to buy. One can also own as many radio stations as one wants to buy. That makes no sense to me. That kind of concentration moves in exactly the wrong direction. Concentration is the opposite of competition. One cannot support a bill like this and call it competition—when, in fact, it provides for more concentration. Yet, that is exactly what is happening.

It also true with respect to the question of when the Bell systems are allowed to go compete in long distance. They should not be allowed to compete in long distance service until there is competition in the local service exchange. The question is, when is there meaningful competition in the local service exchange so that competition in the long distance industry will not be harmed? We had a big fight about that on the floor of the Senate. It was a close vote.

The Senator from Nebraska and I offered an amendment that said let us let the Justice Department, using the Clayton standard, evaluate whether or not a baby Bell's entrance into long distance will lessen competition or tend to create a monopoly before they should be permitted to compete in the long distance area. The fact is, we lost. We lost because a lot of folks wanted to vote for a position that is, in my judgment, anticompetition and proconcentration.

I want to read what a few of the editorials say about the telecommunications bill that is now in conference, and why I and many others think it desperately needs reform.

USA Today says: "Monopolies win, you lose." That is their simple description of the bill.

Business Week says: "If Congress really wants a free phone market, with the competition and lower prices that will come with it, it shouldn't be quite so generous to those local monopolists, the Baby Bells."

The Oregonian says: ". . . a single owner could control all the media outlets and communications links in a given market—a scary monopoly."

The Tennessean says: ". . . the problem with the bill is that it removes most telephone and cable rate restrictions without first assuring that competition is in place."

The Denver Post says: "If the current bill becomes law, phone prices may rise and consumers will have fewer—and not more—choices."

The Charleston Gazette says: ". . . the bill trashes long-time rules that have restricted concentration of media ownership . . . Deregulation and 'reform' have increasingly become code words for freeing huge corporations from the Government oversight that prevents them from gouging the public and developing stifling monopolies."

Some of us feel very strongly that we ought to pass a bill that promotes competition, that opens the marketplace to more competition, and, yes, eliminates some regulations where competition can replace regulations. But there are two premises that are troublesome with that point. One is, you do not have competition in many rural areas. Often you have a circumstance where you only have one interest willing to serve, and that service sometimes has to be required. The economics simply do not dictate service. So you cannot deal with that quite the same way; ergo, we have the question about universal service and the need to make sure that exists in the legislation.

Second, we are very concerned about a circumstance where legislation in the telecommunications area allows such concentration that one entity really in a community can own the newspaper, can own the major television station, can own the cable company, can own it all, control ideas, control thought, and determine what is published, what is not. That is pretty scary. It is not moving in the direction of competition. It is moving in the direction of concentration, and it is exactly in the wrong direction.

So my hope is that those in the conference will understand that if they bring to the floor of the Senate a conference report that backs away on the protections in this bill for rural States, they are going to have a lot of trouble. If they bring to the floor the piece of legislation that they left the floor with and do nothing in the area of concentration or fixing those problems, they will have very big trouble because some of us will not want to let a conference report like that continue to move.

So I would be happy to yield some time to the Senator from Nebraska on this subject as well.

Let me yield the floor and ask if the Senator from Nebraska seeks time.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Nebraska.

Mr. KERREY. I really quite agree with the Senator from North Dakota. I think the legislation passed here was well intended. People who voted for it understand there is a lot of change going on out there, and we need to embrace that future and try to change our regulatory structure. But it is possible for us to change it in a fashion that reduces competition. In fact, without some kind of meaningful role for the Department of Justice as we move from a monopoly to a market situation, as we move from a situation where the Government is making all the decisions to a situation where it is the marketplace making the decisions, if we do not have the agency that in fact has demonstrated the ability in this area as it did with AT&T to manage that kind of situation, I think we will end up with less, not more, competition.

I bring a story told at church Sunday by Father Jim Schultz from Omaha, NE. He told the story that kind of describes what happens out there right now in the marketplace when you are dealing with a monopoly.

The story is about a man who dies and goes to the pearly gates, and St. Peter says, "Well, you are right on the edge. We can't decide whether you are going to go to Heaven or Hell, so you get to decide." There are two doors. One goes to Heaven and one goes to Hell. St. Peter opens up one door and there is a big party going on with a band and everything, everybody is happy and great looking people inside there. St. Peter says, "Well, this is Hell." The man says, "That's odd."

So St. Peter looks at the next door. He opens up the door and goes inside, and there are a bunch of people sitting around in chairs, real sad and angry. He says, "That's Heaven." He says, "Take an hour and decide and let me know."

An hour later the man comes back and says to St. Peter, "I think I'll do Hell." He opens up the door. The people are dead. The smell is stale, trash all over. He goes to St. Peter and he says, "What happened? An hour ago there was a great party, looked like a lot of fun, looked like the place to go." St. Peter says, "An hour ago, you were a prospect. Now you are a customer."

In a monopoly, that is the situation. I had a recent example of that in Nebraska where a school trying to get enhanced services was told by the telephone company: "You do not need it. You really do not need that enhanced service. We are not going to provide it to you because we do not think you really need it. We do not think you really should have this kind of service."

When you have a situation where the company can say to you, "We are not going to satisfy your needs," you do not have competition. When you have that kind of a situation going on, you really do have two choices—take it or leave it. That is the only thing you can do.

We have built a tremendous telecommunications system in this country by using a combination of Government regulation and market forces, and as a consequence we not only have a tremendous telecommunications system but in any community in the country you get high quality service. You can go to Alliance, NE, or Ainsworth, NE, or a rural community in Nebraska and find your telephone service is going to be as good as it is in Omaha because you have the same kind of service and same high quality of service as a consequence of the law of the land saying that is what universal service is to mean, that is what our customers as citizens ought to be able to have.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. KERREY. Be pleased to.

Mr. DORGAN. The people who are living in Nebraska or North Dakota in a small community know when they make a long distance call, they have the opportunity to choose from literally hundreds of long-distance carriers. What they have experienced is that, because of hundreds involved in competition, long-distance service prices have been driven down substantially for long-distance service. Competition, good competition generally provides the consumers with a better price.

The debate we had in the Senate was when should the Baby Bells, which are local monopolies at this point, engage in long-distance service and to try to capture the long-distance market. The answer should be when there is competition in the local phone service in the communities. It is only when the Bells have competition, then, and only then, they should be released to go compete in long distance.

On the question: How do you know when there is competition? I say: let those who know about competition make that decision—the Justice Department. Of course, a lot of folks did not want that to happen. I think we had 43 votes that supported the notion that the Justice Department should have a meaningful role. But we need to make sure that competition really exists. That is what is in the interest of the consumers. Otherwise, we move right back towards recreating phone monopolies that control not only local service but long distance as well.

Mr. KERREY. The Senator is quite right. As a matter of fact, in the language last year, we had a Justice Department role, and we replaced it this year. The committee decided to replace it this year with a 10-part competitive checklist. The real test of competition is a very simple test. One of the reasons I am of the belief that you have to have a Department of Justice role of some kind—I am willing to drop down to Clayton; I am willing to look at alternative standards—is that the 10-part checklist does not really satisfy the consumer. I know when I have choice. If I have choice, the person who is trying to sell me something knows that if they do not get the price and the quality in the range I think I am willing to pay for, I will shop someplace else. I will go someplace else.

If I have that kind of choice and that kind of alternative, then I have competition. If I do not have it, I do not have competition. If I have one company supplying all my news and one company supplying all my newspaper and one company that says here is your phone service and one company says here is your cable service, there is no choice. All I have basically is a question: Do I want it? Yes or no. I do not have any impact upon the quality and I do not have any impact upon the price.

Mr. President, I hope that colleagues do not suffer under the illusion that the Senator from North Dakota and I—I certainly do not want to create the impression that I am not willing to embrace the future and indeed make a bet. I think we have to risk here. I think we are talking about moving in a rather dramatically different direction.

I noted with considerable interest on the front page of the New York Times this morning—I think that is an old picture—Steve Jobs, cofounder of Apple, started a new company called Pixar—what is it? Hold on a minute here. Pixar Animation Studios is the name of the company, and he invested $68 million in it. They did a public offering yesterday, I believe, and thought it would go for about $22 a share. It turned out the market bid it up to close to $40, and all of a sudden he has $1.2 billion. His company created $1 billion worth of wealth yesterday. The United States of America is $1 billion wealthier as a consequence of this individual's decision to start a company that provides animation, in this case to Disney that put out a movie—what is it called? The Toys or something like that. I have not seen it, but it had $38 million worth of revenue over the weekend, which is pretty darned good.

In the article as well there is mention of a company I am familiar with. James Clarke started a company called Netscape. He also created $1 billion worth of wealth.

This is important for us. This country is a wealthy country as a consequence of somebody getting an idea and putting it out in the marketplace, and all of a sudden you have value, you have something that is worth something.

It is important that these men generate wealth. It is important that we continue to create ways that create wealth so we know the market is doing some extraordinary things.

What I see, both with Netscape and Pixar Animation, is that this old computer that we saw sitting around our kids' bedrooms, and so forth, over the years is being converted into a communications tool. It used to just calculate, and increasingly we are using it to communicate.

Indeed, I am working with the University of Nebraska trying to figure out a way to leverage intellectual property because they are pricing themselves out of the market. As the demand for college goes up and the demand for an educated person goes up, we are getting a doubling and tripling and quadrupling of what that university has to do. Our taxpayers do not have enough money to continue building and hiring more and more people. We have to leverage more intellectual property, and we are looking for a way to do it through computers. We know to get that done we essentially have to pass a three-part test.

Test No. 1 is, Are you willing to embrace the future? Because if you are not, it is not going to work. If you want to hold on to the old way of teaching, say so. Because if you hold on to the old way of teaching, you are not going to be able to get your costs down. And, secondly, you have to be willing to place a bet, which means not only more money in these areas, which unquestionably is the case, but you are going to risk your reputation a little bit. You are going to take a chance on a roll.

So I understand that at some point we cannot really be sure what this legislation is going to do. And I am an advocate of changing the law; I wish to break down the regulatory barriers so that consumers in their homes can make a single choice. What we have done is we have set up a system of regulation that says over here we have television, over here we have radio, over here we have dial tone, and over here we have print. That is what we have done. What has happened is the technology has obliterated those distinctions, and our regulatory structure still maintains them.

So instead of being able to go to a single provider and buy it all packaged together—which, in my judgment, is the only way 100 million people in residences are going to see a decline in price and an increase in quality—you still have to buy them separately. As a result, costs are higher.

So I hope that colleagues do not suffer under the illusion that I somehow want to hold down the status quo. I am willing to embrace the future and willing to place a bet, but I want to see real vigorous competition and choice at the local level. I want to see that. I want to vote for this bill. I want it to come back out of conference and to probably vote for it. I do not want to just stand over here and say "no," and hold my breath and try to hold it up.

But unless we get vigorous competition at the local level—and I do not want to hold up the RBOC's. I want to be able for them to go out and compete. I am uncomfortable watching their top-end customers whittle away while they do not compete in long distance itself. I would like to be able to liberate them, but I want them to be liberated at the moment when I am sure that we have very vigorous competition at that local level.

So I hope that conferees understand that the Senator from North Dakota and I are not sitting here saying that we do not realize the law needs to be changed. We know the law needs to be changed. We know there is an exciting and important opportunity for wealth generation, for job generation, for education, for improving the way that our own Government operates, trying to make it more efficient, trying to improve the quality of life for our citizens.

This piece of legislation, this law is extremely important, but it is important that we have in our own mind some kind of vision for what the world is going to look like. Otherwise, all we are doing is trying to fashion some sort of compromise between the various corporate entities, and I think at the end of the day it will not create the kinds of change that in fact are already occurring out there in the market.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me add just a couple comments to what the Senator from Nebraska said. The status quo has been monopoly and concentration. I do not believe in the status quo. I think competition, especially in market areas where competition is supportable, competition is a much better arbiter of what happens in the marketplace than the effects of concentration or monopoly. That is what we said with respect to whether the Bells should go compete in long distance.

We thought we ought to do it with competition with local exchanges, that true competition with local exchanges would help customers. And we think that makes a lot of sense. When there is true competition, they ought to be free to compete in long distance. If there is not true competition in local exchanges, to free them up to compete in a long distance market that has been competitive and has had the effect of driving down prices, that will, in fact, ruin a market system that has worked. That is what we are saying.

The second area is this issue of increased concentration that serves no one's interests, in my judgment. I was on a television program a while back because I asked for some hearings on bank mergers. The interviewer said, "Well, gee, these two big banks are merging and are able to get rid of 8,000 people who are duplicates." Getting rid of duplicate people, does that not make sense? Is that not efficiency? And is that not what is called efficiency? You can make that case for going to one bank.

Why not have one bank in America? That would be the most efficient, probably. It would not make the most sense. I mean, efficiency—my hometown had two grocery stores. I suppose you could make the case we should have only had one because it would be more efficient. I think people were probably advantaged by having a little competition on Main Street. It was a small town, but nonetheless competition in that little area probably served the people of my hometown pretty well.

So this area of concentration bothers me a great deal, and I hope through this conference they can address that once again.

I want to finally make this point. The Senator from Nebraska and I both represent rural States. The question of what kind of telecommunications service you have in a town of 2,000 people versus a town of 2 million is very important, and the proposals to drop in this conference what we put in on the Senate side, on a bipartisan basis, are these sorts of things. We put in on the Senate side requirements that rural areas have access to service that are reasonably comparable to those offered in urban areas, services that reasonably are comparable in rates as urban areas, the benefits of advanced telecommunications services for health care, education, economic development, as urban areas do.

Why is that important? Well, the universal service system in this country has guaranteed that up to this point, but if these guarantees are dropped—and one side wants to drop them at this point—and if this bill comes back without these kinds of provisions, this telecommunications bill, in my judgment, this telecommunications bill will be a full-scale retreat for a quarter century for many rural areas, and we will just be left in the dust here.

That is why we wanted at this point to at least serve notice to the conferees that this is not unimportant to some of us. If they think they are going to bring a bill back here that is not procompetition, but instead is proconcentration and promonopoly, and if they think they are going to bring a bill back here that says, rural people, you do not count much, well, we count in the Senate. That is for sure.

It is true that the population decisions are made with respect to the representation in the House. I mean, the House is, of course, apportioned by population. But at least rural States count in the U.S. Senate. Someone who lives in Hutchinson County, ND, finds it just as important to have an advanced telecommunications system and good telephone service and good health care service and other things as someone who lives in St. Louis.

So these are very important issues for all of us. And we hope—I notice that the conference committee did not meet today because there is a flareup that does not relate, I think, to what we are talking about. But we hope when these conferees meet they understand the importance of getting this right when they bring this bill back to the House and the Senate, because otherwise I do not think you will have a conference report pass the Senate.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, so people wonder what the impact of this is going to be, and 94 percent of American homes have telephones, 60 percent have cable—I believe those are the numbers—and nearly 100 percent have television sets, and more people have telephones and television sets than have running water. It is a substantial success story we have that kind of penetration into American households.

Every single household in America is going to be affected by this, and we are talking about trying to describe a significant change in the way they are going to be coming into contact with their providers. I think, as a consequence, it is very important for us to decide in our own minds what kind of an environment are we trying to create.

One of the pieces that is in here that seems a little contrary to my own desire for competition—in fact, a little more than just a little contrary, it is contrary, but it is necessary to build a bridge in that competitive environment—is the Snowe-Rockefeller-Exon-Kerrey provisions having to do with education.

I am very pleased, and I ask unanimous consent that a letter written by the chairman of the conference committee, Senator PRESSLER, indicating that he intends to hold and support the Senate's view on that provision, be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, November 28, 1995.

Hon. J. ROBERT KERREY,
U.S. Senate, Washington, DC.

DEAR BOB: Thank you for your cosigned letter regarding the amendment contained in S. 652 which will ensure affordable access to telecommunications services for schools, libraries, and rural health care providers.

As Chairman of the conference, I have the responsibility to advance the interests of the Senate. As your letter indicates, there is strong support for this amendment to S. 652 in the Senate, and I am aware that many in the House support the provision, too. I think this provision left the Senate with strong bipartisan consensus, and the view of the Senate that it should be adopted is strong. Since two of the sponsors of the amendment also are Senate conferees on the bill, I know they, too, will argue forcefully for its inclusion in the final bill.

Thank you for taking the time to contact me, Bob. I will try to keep you apprised of our progress in conference.

Sincerely,

LARRY PRESSLER,
Chairman.

Mr. KERREY. Mr. President, this idea of technology being a constructive force in our lives is sometimes a difficult sell to make to people, particularly with software, because they have experienced the joy of downsizing as we get more efficient. They sometimes wonder what good this is all going to be, or particularly in an educational environment, people, like myself, remember the old "talking head" environment that was there with the television sets coming into the classroom.

I really want to emphasize that I think the only way that we are going to be able to increase the amount of learning that goes on, whether it is in the home, which I think is the first line of defense in education—if we can increase the amount of learning that goes on in the home, it is going to be an awful lot easier to make an educational form work inside the school, since the homes were there before the schools were—it will make it an awful lot easier for any of our institutional efforts to succeed.

This technology gives us the opportunity to provide continuous learning inside of the home environment. It is going to be very difficult for us to do the sorts of things we want unless we embrace a future that changes the way we teach and changes the way we use technology unless we are willing to bet not only to change the law but also change the allocation of resources.

It is going to be very difficult to make this work unless we, as adults, with the responsibility to make these decisions, say that this is going to become part of our core competency, whether that is a school or that is in a university or whether that is a government agency that is trying to operate in some kind of an efficient fashion.

So I am here this afternoon to say that I want to embrace change. I do embrace change. I am working on it all the time, particularly in the environment of our schools. But we can put change in place that makes things worse.

I say to the men and women who are on the conference committee, my colleagues and Members of the House that are on this conference committee, I urge you to put a meaningful role in there for Justice, some kind of role in there for Justice or, in my judgment, you are going to regret that you did not. You will regret that you did not because we are not going to have the kind of competitive environment that we need to have at that local level to enjoy the benefits that we all promise at least when we talk about supporting change in the law.

THE BUDGET

Mr. KERREY. Mr. President, before I yield the floor and suggest the absence of a quorum, I noted earlier there were a number of Republican colleagues that came down and talked about the budget. There were some statements made that I feel compelled to respond to. Some came down and said the Democrats are not really serious. They do not have a plan. There is no attempt here, no willingness here to, in fact, address these budgetary difficulties.

(Mr. GORTON assumed the chair.)

Mr. KERREY. Mr. President, I respectfully say, just the opposite is the case. There is unanimous desire on the part of the Democrats to come up with a change in our law so as to get to a point where our budget is balanced, but we have a different vision. We have competing visions and competing ideas on how to do that.

I appreciate, for example, the willingness of Republicans to say that they want to preserve and protect Medicare. It is a very important change. At least I hear it as a change. One of the things that must be understood with Medicare as a fundamental principle is that we said in 1965, when people hit the age of 65, they are going to have difficulty purchasing health insurance, so we are going to create a change in the Federal law under the Social Security Act to provide a mechanism for Americans over the age of 65 to get insured.

The question is, has it worked? Ask your Representative or Senator, "Has this worked?" Is that an example of something that has accomplished the job? In 1965, 43 percent of people over 65 were uninsured. Today, it is less than 1 percent. The answer is unquestionably yes. Mr. President, 100 percent of the people over the age of 65 are today insured. It has worked surprisingly well.

However, there is a problem, and the problem is, first, we allowed customary and usual reimbursement, so we had no cost controls to begin with and the costs have blown completely off the chart. We came back in the eighties and implemented a system called perspective payment system and started to reimburse according to diagnostic groups and, unfortunately, that tended to shift costs over into the physician services and costs continued to escalate.

Today, they are growing, I guess, 10, 11, or 12 percent, somewhere in that area. We are facing a tremendous increase in costs. I completely agree with the Republicans who say that we have to control those costs. We do not need to cut Medicare, but we have to slow the growth of the program. There is no question that that needs to be done.

However, the point of departure that I have, and I have made it a number of times—I feel like I am running a broken record here in saying it—there is a short-term problem and a long-term problem with Medicare, and it is the long-term problem that is enormous.

The long-term problem with Medicare begins about the year 2008 when, as I indicated earlier, the largest population group, the largest generation in the history of this country, the baby boomers, begin to retire. We cannot meet the promises with the current rate of taxes. We do not even come close. We are either going to have a tremendous tax increase out there or a very quick cut, not in the growth of the program, we are going to have real cuts in the program itself. So we have to slow the growth, not just in the short term, we have to slow the growth in the long term for Medicare.

I hope as we move through these deliberations, the Democrats, in addition to coming to the floor and saying we want to protect Medicare and preserve Medicare and we want to make sure the cuts there and in Medicaid do not fall in a disproportionate or unnecessarily harsh fashion, I hope we also come to the floor and say, as I have done now two or three times, I think we should drop the tax cut.

I am for reforming our Tax Code so as to promote economic growth, but one of the odd anomalies in this whole debate is that a $245 billion tax cut, according to CBO, actually decreases growth. It does not increase growth, it decreases. I am for having a debate about how do you relieve, in a fair fashion, particularly not just on working Americans, but families from some of the penalties that they currently face.

But if we drop the tax cut—I ask unanimous consent for 2 minutes.

Mr. ASHCROFT. Mr. President, I want to propound a unanimous-consent request.

Mr. KERREY. I will be pleased to yield.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the period of morning business be extended, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, again, I will not go on this little diatribe about entitlements, but I will summarize what I was saying earlier.

I hope we do not get a continuation of visitations to the floor asserting that Democrats do not want to balance the budget or we do not have a plan or, conversely, that Republicans are all heartless and do not care about the poor and have no desire—it may score relatively well, but it will not enable us to solve this problem.

The problem, to be clear, is, not only is the budget out of balance, but the growth of entitlements are continuing at an unsustainable pace, not only eroding our ability to pay for appropriations but also, Mr. President, eroding our long-term ability to be able to do anything.

We will, by the year 2012, convert the entire Federal Government into an ATM machine if we continue. That is all we are going to be doing, is transferring money: collect it and transfer it. Everything else is going to be shut down.

To solve that problem, if you really want to create a revolutionary change, indeed, if you want to vote for something that is tough as heck this year, but every year afterward is going to get easy, as opposed to this budget—this budget is relatively easy to vote for because the cuts occur later—next year's vote is going to be tougher and the year after that is going to be tougher. It gets tougher every single year, because we are squeezing these appropriations accounts, and we have not tackled the entitlements as we ought to.

I will give you some things you have to do. Can we get it out of the farm program, cut defense? The answer is no, there is not much room in those things. Here is something you have to be willing to vote for: You have to be willing to vote to reduce the CPI, I would say at least by half a point. I would vote for a full point. The full point pushes the insolvency rate of Social Security back 30 years. That is the kind of revolutionary change which produces change not only in the short term, that enables us to put more money back into Medicare, Medicaid, and education, if that is what you want to do, which I think would be a reasonable thing, but in the long term the impact is tremendous.

Second, we ought to think about an affluence test not just on part B, not just on COLA's, but on the whole shebang. If you have a contract with a retiree where they paid in, that is fine; do not break a contract we have in place. But if it is merely a transfer of payment being made because we presume somebody needs it, when their income goes up, they do not need it; when their income goes back down, let them have it again. Do not take it away from them, but adjust it according to income. It produces tremendous savings, both in the short term and in the long term.

Lastly, if you want to produce some real change out there in the future that will enable us to look at beneficiaries under the age of 40 and say there is going to be a Medicare Program for you and a Social Security Program for you, let us adjust the eligibility age both for Medicare and Social Security to 70. That is what the entitlement commission recommended. The Kerrey-Simpson proposal on Social Security does that.

I say to all those who are listening, what will typically happen is I make a statement like that and somebody will interview a 70 year old: What do you think of that proposal to have the eligibility age changed?

That is a terrible idea. It would hurt me.

It does not affect anybody over the age of 50. We can phase it in. But the longer we wait, the quicker the change has to occur. The longer you wait, the more painful the decision is. Those are the kinds of things the Democrats need to come down and say to Republicans, as we look for a way not only to balance the budget but balance the growth of entitlements and enable us to have a Federal Government that can, when we agree what it ought to do—this whole thing started with me in a discussion of the Safe Drinking Water Act. Senator BOND, chairman of the committee, pointed out accurately that we are authorizing more than we have. We have a certain amount of infrastructure just for safe drinking water over the next several years, and we are going to struggle to come up with the money, as a consequence of being unwilling or unable, whatever, to vote a change in the law that will produce the changes in the outlays on those mandatory programs.

That is a tough vote. But if you had a bipartisan vote on something like that, I think we can take a lot of political rhetoric out of it and it would still be tough. But every year after that it gets easier. Whereas, whether it is the Republican proposal, by the way, or the Democratic alternative, either one, the easiest vote is this year. Next year is tougher, and it gets tougher and tougher and tougher. And these mandatory programs continue to grow.

So I hope that as we come to the floor and talk about our own ideas for solving this problem, we do not say that one party is insincere, or the other party is heartless; I hope we will actually come to the floor and suggest things that might not only balance the budget in 7 years, but put us on a track where we are able to say to every single beneficiary that there is going to be something there for you, and we are able to say to our people that once Republicans and Democrats have decided what we ought to be doing in research, education, space, defense, or law enforcement—once we have decided what it is we ought to do—and the disagreements are typically a lot more at the margin than meets the eye—once we have made a decision, I hope we have the money to do it.

I would like to see that happen. I do not have a lot of optimism given the current lay of the land. But I would like to see sooner, rather than later, us making those kinds of changes because it is inevitable to me.

I challenge any staff that happens to be listening—I assume Members would not listen to all this stuff—to try to figure out what I am talking about. Take the number $445 billion and then go to the 13 appropriations accounts and add up what we are currently spending, because $445 billion is what we are allocating in 2002 under the Democratic budget and under the Republican budget. You cannot do it. Take $260 billion out for defense—and very often people say, "I know how to save the money, we will cut defense." Well, you cannot cut it enough. You cannot cut waste, fraud, and abuse enough to be able to get it done. You can take our salaries to zero and it would not impact the sort of choices we are going to have to make. Constructive budget, defense and nondefense, was $445 billion. Then you begin to see the dilemma if we do not vote for the changes in our mandatory programs that will enable us to have the Federal Government do those things that I believe the American people want us to do.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Washington is recognized.

ENTITLEMENT SPENDING

Mr. GORTON. Mr. President, 4 years ago at this time, the distinguished Senator from Nebraska was a candidate for the Democratic nomination for President of the United States. That was an unsuccessful quest. But I will reflect on the fact that had that been a successful quest, we would not be faced with the challenge or the deadlock with which the Congress is faced today.

The Senator from Nebraska, very clearly, goes much further in his recommendations for dealing with entitlements than does the Republican budget, which will be vetoed by the President because it does much too much for this President with respect to entitlement spending. Each of the suggestions that he has made, each of the suggestions that his bipartisan organization has made have a great deal of merit. Each of them ought to be seriously debated here in the Congress of the United States and, for that matter, in the White House. Very bluntly, however, they are not because the person who is President of the United States essentially sets the agenda, or at least the parameters of the debate over matters of this nature.

So, at this point, we are faced with the proposition that, at best, we can do some of the things, take some of the steps toward a reform of our entitlement programs and the preservation of Medicare, advocated by the Senator from Nebraska and those who worked with him. But that is not the nature of the debate today.

In spite of the fact that the Senator from Nebraska speaks as a Democrat, speaks from the other side of the aisle, we are faced today with the proposition that this body, this Congress, without a single Democratic vote here in the Senate, and with only the tiniest handful in the House of Representatives, has, in fact, passed a balanced budget in the year 2002, and has in fact, for the first time that this Congress really has ever done so, proposed profound reforms in entitlement programs, both for their own preservation and in order to preserve some ability on the part of the Congress to fund these discretionary programs.

We are faced with the position of at least the vast majority of the other party, and certainly the President, that they will not propose any alternative which will reach the same goal. We struggled through bitter debates on this floor and much difficulty to pass a modest 3-week continuing resolution just a short time ago, just before Thanksgiving, the heart of which, as far as we were concerned, was the proposition —which the President signed— that we would come up with a balanced budget in the year 2002, using statistics provided by the Congressional Budget Office. Now, halfway from the date of that passage until December 15, we have no such proposal from the President, or, I may say, from the leaders of the party of which the Senator from Nebraska is a Member—none whatsoever. We have critiques of various elements of our proposal, including the critique of our tax reductions from the Senator from Nebraska. Well and good. Such criticisms are certainly appropriate within the frame of reference for reaching a balanced budget by 2002.

It would be wonderful to debate whether or not we ought to go further and to pass a set of reforms that would last longer and be more decisive. But the Senator from Nebraska knows that no such debate of any seriousness will go on during this administration.

So the real parameters are, is there a different way of reaching the goal set out in a law passed by this Congress just 10 days ago and signed by this President just 10 days ago? Do they want to make some kind of adjustments with various spending programs or with tax reductions? So far, the answer is, "no," they do not want to play the game at all. They are content with the status quo.

Last night, we were informed by the President of the United States that if we would simply pass appropriations bills with the items in it that he regarded as priorities, then he would sign the appropriations bills. Wonderful. Not a word about reforms in the entitlements, which are absolutely necessary in order to have any money left over in future years for any of these discretionary programs. Well, of course, that is an unacceptable offer. The only way we can determine whether or not there is money for any of the programs that we feel important, or that the President feels are important, is to operate within the same set of parameters, and to have the President submit to us something which his party will support and he will sign, which meets that goal of a balanced budget in the year 2002.

It can be as radically different as that which the Senator from Nebraska advocates here. That would clearly be a starting point. I suspect that if it were a program such as he proposed, he would find a great deal of support for many of its elements on this side of the aisle. But he knows we are not going to get any such proposal from his political party. I hope that he regrets that we have gotten no proposal at all that meets those requirements—none at all. We have simply a statement that "we have these priorities and those priorities," none of which includes balancing the budget. Now, this is not a zero-sum game, Mr. President, because built into the proposal which passed as part of the Balanced Budget Act of 1995 is a huge dividend of $170 billion to the Government of the United States—perhaps half a trillion more in income in the pockets of the American people in the form of higher wages and lower interest rates, a dividend which disappears if we do not reach the goal.

Almost precisely identical with the date of last year's elections, interest rates began to drop in the United States. Almost precisely with that time, productivity began to increase in the United States. Inflation is lower in the United States, as I read the statements of the Chairman of the Federal Reserve Board, due to anticipation of a balanced budget.

If this deadlock continues—if the President makes no proposal to reach that goal, no proposal, not that his own advisers think is a good one, but one that will stand the test of time and the financial markets of the United States—these improvements in our economy will be ephemeral. Interest rates will go up, the number of jobs will go down. We will be in a serious situation.

So I know that those Senators on this side who have heard the remarks of the Senator from Nebraska will admire them and in most respects agree with them, but the time has come that either he needs to persuade his party to adopt his position, or at least he needs to persuade his party to respond within the frame of reference that is now the law of the United States for the last 10 years, and come up with some alternative that reaches those goals using the same set of figures that will provide the dividend we have been told will be the dividend resulting from a balanced budget.

Somehow or another we have to get such an answer. We cannot negotiate a precise position on one side against no position at all on the other side. That is what we have from the President of the United States.

I return to the beginning of my remarks: 4 years ago the statement of the Senator from Nebraska would have been more widely heard in the United States, when he was a candidate for President. I do not think I would have voted for him against the candidate of my own party, but I certainly think the country would have been better off had he succeeded in being the Democratic nominee.

Mr. KERREY. In response to my friend from Washington, let me say that I do believe the President started off this year with a budget as everybody knows that he submitted, and I do not think there was a single vote for it when it came out. He understood he had to change and came on with a 10-year plan and, 10 or 14 days ago, agreed now to support a plan to balance the budget in 7 years.

What I was trying to do and am trying to do is not just persuade Democrats, but Republicans as well that we have, as we go into these negotiations, which is what we are doing now—I am part of a group that the Democratic Leader DASCHLE has put together to discuss and come up with a proposal so that we have something that we can try to reach agreement with Republicans over.

I am trying to say to Democrats as we do that, that yes, we should defend those things we think are important, make sure that Medicare has a sufficient amount of resources, for example, so that we do not have to unnecessarily punish particularly rural hospitals, and look for ways—I think block granting Medicaid is not a good thing, and rejected that.

We should object to things we do not like in the proposal, but in addition to looking for a way to bridge the gap, which if I was going to predict I think likely will knock the CPI back by half a point and shave the tax thing back by x amount of dollars and put more money in Medicare and Medicaid and go home and say we have a deal.

That is lying there to be done. I do not know if we will have the capacity to get it done, but we will now have a move toward balancing the budget in the year 2002.

The only impact we have with our vote is on this year's budget. The difficult thing I have is that according to the Congressional Budget Office, the proposal that was passed with all Republican votes actually increases the deficit next year and increases the deficit the year after.

Why? Because the tax cuts are front-end loaded. Again, if you examine the Congressional Budget Office's analysis of the tax cut, it produces less economic growth. The CBO is saying that the status quo produces more growth than what we have with the $245 billion tax cut.

Even if you could find a way to bridge the gap and say, "Use the CPI to eliminate the cuts in Medicare and figure out some way to bridge the gap," we are left with a tax cut proposal that does not promote economic growth, which I think ought to be mission No. 1 as we analyze our tax system.

I am merely saying that I am prepared and am in the negotiations as we meet on the Democratic side, and I find myself with an unusual opportunity with so much morning business—we have had very little of that lately. As I find myself with an opportunity to come to the floor and talk about this, I just want to waste no moment to stand up and say that not only do we need to balance the budget, but we need to change these mandatory programs, the laws that govern.

Democrats who say, "Gee, I want to spend more money on education; I want to put more money in child care; I want to put more money in rural health clinics; I think we ought to do more in research and science." Republicans who say, "I think we need more law enforcement," or Democrats the same way—once we decide, and there is a lot of agreement.

This whole diatribe started with praise from the Senator from Rhode Island and the Senator from Idaho for their work on the Safe Drinking Water

Act and I pause to note that the distinguished senior Senator from Missouri said quite accurately that we have authorized more than we will be able to appropriate for the infrastructure to keep our drinking water safe; that a dominant reason we are not likely to have the money for those kinds of investments is that we are seeing an increase year after year after year of money going to mandated programs.

Mr. President, 34 percent of the budget this year goes to appropriated accounts; 64 percent of the budget this year is mandatory programs and interest; 36 percent is left over for appropriated accounts. At the end of this 10-year cycle we have lost another nine points; another nine-point increase in mandatory and interest.

For all the rhetoric on both sides of the aisle about taxes, the one thing I say to taxpayers that has remained constant as a result of general success in keeping the economy growing, keeping the environment such that investors create the jobs like I mentioned with Steve Jones and Jim Clark earlier with Netscape and so forth, the companies that are creating wealth and creating more economic activity, that growth has enabled us even though we spend more money, the percent of the Federal budget of our economy has remained about 19 percent.

Unless somebody is proposing to increase that beyond 19 percent—that is your given—and what is happening is more and more money is going, a larger and larger share of that 19 percent, is going for mandated programs, leaving less for everything else.

I hope I persuade Republicans that there is an alternative course here for us, to vote to do something that will revolutionize our future. And I hope to persuade Democrats, as well, who want to collectively invest in education and so forth, that the only way we will be able to do that is to get our arms around these mandated programs in some more aggressive fashion than is even in the Republican budget proposal.

I appreciate the very kind remarks of the distinguished Senator from Washington, and I hope that the kindness begets kindness. I hope we end up into the day voting in a bipartisan fashion for something that does revolutionize our future, that does move us in a radically different direction than the one we are heading right now because, folks, we are heading in a direction we do not want to go.

We will end up in the future saying, why did we not do that when it was easy? It is easier today than next year. And it will be easier next year than the year after. This is not one where time is on our side.

As tough as adjusting the CPI by a point looks, as tough as it might seem to phase in over a 15- or 20-year period adjustment in the eligibility age from 65 to 70, as tough as those things look today, every year you wait it gets tougher to do it. Every year you wait we will have to impose changes that are more difficult for those Americans who have planned on those programs being there for them.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Tennessee.

A BALANCED BUDGET

Mr. THOMPSON. Mr. President, first of all I, too, want to commend the Senator from Nebraska. I am sure he will not get used to it, but, for today, I do. Because I think the work he and Senator DANFORTH and Senator SIMPSON and others have done regarding the Entitlement Commission is probably the single most important effort that has gone on in this town for a long, long time. They probably feel like voices crying in the wilderness right now. But it will not always be that way. It is something that will grow. People pay more and more attention, because it is the fundamental truth and the most important truth that is in existence with regard to this entire effort.

I think the Senator from Washington, a few minutes ago, was absolutely correct in terms of his assessment of the current situation. We are talking about a short-term consideration and we are talking about a long-term one. The current situation is we have struggled mightily this year, with great difficulty, and we have produced a balanced budget. The President, while giving lip service to that proposition, is apparently going to do everything he can to avoid a balanced budget because it means giving up power, it means giving up spending authority, it means giving up prestige with regard to certain interest groups that elect people in this country.

But, hopefully, we will resolve those differences and we will wind up with a balanced budget. I know we are committed to it. The Senator from Washington is committed to it. That is what we promised we would do. That is what the American people said they wanted. We are going to take them at their word. It is just that simple. We can negotiate around the edges, but, as far as a commitment to a balanced budget, a real balanced budget, we are there.

The Senator from Nebraska makes a very fundamental point. In the middle of all this, it is very important that we keep in mind what we are doing now is just child's play with regard to the important issues facing this country. He is absolutely right that we are doing the more easy part of it now and putting off the more difficult parts for later on.

The thing that has been disturbing, I think, to many of us throughout this entire debate who are somewhat new to this process and just having come to the Senate is, as we take a broad view of it, it becomes so difficult even to get to the first step. We are just really nibbling around the edges. The Government is still going to be growing at a tremendous rate. All these programs are going to be going at very substantial rates. Yet it is so difficult.

We are going to have to do more next year, as the Senator from Nebraska says. We are going to have to do more the year after that. We are going to have to behave and perform so well for so many years that, when you look at the current state of events, it is very depressing.

Frankly, that is one of the arguments I use for term limits. I am not at all sure we have what it takes as an institution to bite the bullet and do what we know has to be done, because we are bankrupting the next generation. These figures are not sustainable. The figures the Entitlement Commission has put out are not refuted. A handful of programs are going to take our entire gross national product in about 17 years in this country.

The question becomes, fundamentally, in a democracy can a democracy, once people have discovered that they can pay money to themselves, can they ever stop or can they ever restrain themselves or can they ever restrain the rate at which they are paying themselves from their own treasury?

Europe is going through the same kinds of problems that we are right now, and we do not have an answer to that question yet. So, either by getting people to come to this body and getting people in the White House with a different view, with a longer term view, or by having us have a change of heart in this body—these are the only ways that we going to solve these longer term problems that are lying out there, that are down the road.

I have always thought, and am more convinced every day, that in order to solve this problem, ultimately it is going to have to be both parties pulling in the same direction. It is going to have to be the White House and the Congress pulling in the same direction. As long as you have somebody in the White House who is going to demagog and scare old people and take millions of dollars worth of television time misrepresenting what the other side is trying to do, and as long as you have people in both parties who are timid about facing up to these problems that the Senator from Nebraska has been talking about and really just want to push them over and make the real tough cuts and heavy lifting 7 years down the road when they may or may not even be here, we are never going to get the job done.

I think it just points up, when we look down the road, the fundamental truths that the Entitlement Commission laid out before us, the disastrous consequences of even moving along the road we are on if we do not do even better. It sheds, really, I think, new light on what we are doing here. If we cannot do this, if we cannot make these incremental adjustments now without really hurting anybody—when we are talking about the difference of $4 a month in part B, the difference between what we are saying and what the President is saying—if we cannot get past that, if we cannot reduce the rate of spending by 3 or 3.5 percent a year in these programs that are eating us alive, if we cannot do that now, we do not have any hope as a nation.

Again, hopefully, the President will see fit to look past next year's election, on into the future and the kind of world our kids and grandkids will be growing up in, and try to do what is necessary to preserve these programs we say we all want, and we will get together and we will have a balanced budget for ourselves and for the benefit of our kids and the future and strength of this country.

I yield the floor.

SMALL FAMILY FARMS AND BUSINESSES

Mr. ABRAHAM. Mr. President, I rise today to talk about an important issue for small family farms and businesses in my State of Michigan and across our country.

Family businesses need estate tax relief. Federal estate or death taxes kill family-owned businesses. These taxes impose an unbearable burden on our Nation's most productive citizens—family business entrepreneurs. The estate tax eliminates jobs and permanently damages communities that depend upon these businesses.

Family businesses have the opportunity to continue growing and creating jobs for generations, instead of handing the business over to the IRS.

Current estate tax rates range from 37 to 55 percent. Faced with the tremendous burden imposed by this tax upon their death, business owners in my home State of Michigan and across the United States, will react in several of the following ways:

First, the business owner will not expand the business because large capital expenditures for long term growth make little sense when the family will soon be forced to sell or liquidate the business.

Second, the children will not participate in the business because the business owner, knowing that taxes will prevent children from continuing operation of a family business, will often discourage their children from working in the business and encourage them to gain experience elsewhere.

Third, the business owner will pay dearly in estate planning costs. Even if business owners have the foresight to plan early for their death, the expense of this planning, in insurance, legal and accounting costs, can be enough to eliminate the business' small profit margin. These extra insurance, legal, and accounting costs are especially burdensome because small businesses survive on cash flow, not profit.

Fourth, heirs may not be able to afford tax payments. Despite some planning, heirs are often still faced with a significant tax burden. Even paid out over time, taxes may be too much of a burden to survive in an internationally competitive market. Plus, what bank is going to loan money to a business that the IRS holds a first lien against?

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's Wall Street Journal, entitled "Will Uncle Sam Inherit the Family Business" by David Pankonin. This describes the terrible effects of estate taxes on his fourth-generation family business. Mr. Pankonin's story is typical of thousands of similar family businesses across the country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 28, 1995]

WILL UNCLE SAM INHERIT THE FAMILY BUSINESS?

(By David Pankonin)

Cleaning out a box in the back office a few Sundays ago, I came across the hand-written contract that passed the family business from my great-grandfather to my grandfather. it was dated Dec. 8, 1910. That was the day my grandfather became proud owner of Pankonin's retail farm equipment company for the princely sum of $518.09. Farther down in the same stack of papers, I discovered a second document, a partnership agreement between my grandfather and my father, dated 1946. Times having gotten considerably more complicated by 1946, the document ran to two pages. The value of Pankonin's had risen to $8,912.66.

I plan to put those pieces of paper in a glass case out in our showroom. When our customers come in to see next year's new tractors and combines, they can see the little bit of the history my family has put into the place.

Statistically, my company shouldn't have made it this far. The survival rate for family firms for a first- to second-generation transfer runs about 30%. For firms that stay in the family from the second to third generation, that number drops to 4%. For the fourth-generation transfer that put the company in my hands, it's a fraction of 1%. At 16, my son isn't spending every moment thinking about his chances of running the family business, but as his father, I'd like to know what I'm working toward. Will I be able to pass the company inherited from my father along to my son—or in spite of what my will might say—am I just working hard to pay an heir called Uncle Sam?

My worry is a real one. According to a recent Gallup Poll, one-third of all small-business owners will have to sell outright or liquidate a part of their firm to pay estate taxes. Of those who have to liquidate to pay the Internal Revenue Service, half expect they'll have to eliminate 30 or more jobs. Another 20% of those firms put the number of employees they'll have to let go as high as 100 or more.

My father died when I was 23 years old, one quarter away from completing my MBA at Northwestern. When I came home for the funeral and decided to stay to run the business, my mother became my banker, generously extending me 100% of my financing. We made it work. Making it work the next time won't be so easy. The reason is that for tax purposes, Pankonin's and our dealership building is worth substantially more than in those early years.

Today at my company we've got 16 employees. They're not family, but they're the next closest thing. If, after I'm gone, my wife has to shut us down, what will they do? Maybe it's not something you can measure in dollars and cents, but they've got a stake in this company, too.

At our store, we see plenty of people in the same situation. Farming is a high-investment, low-margin business. It's not uncommon to meet farmers who are paper millionaires—asset rich, cash poor. That may be hard for the rest of America to imagine; then again, maybe not. Think of all the retirees who own homes on either coast, bought 30 years ago for $30,000 but worth $350,000 today. I'll bet they don't feel "rich" either—at least until they sell their home and see that capital gains tax bill.

When my time comes, I'd like my son to be thinking about whether it's right for him to run the family business, not whether he's ready to saddle himself with a lien against the paper value of the business to pay the inflated estate tax—or whether he's calculated how many employees he'd have to let go to clear the bill with the IRS.

The best solution would be to exempt the hundreds of thousands of small family businesses across this country from the estate tax altogether. Congress and the president could haggle over how small is small, but the principle would be carried into policy. If the political climate isn't right for a complete exemption, then President Clinton ought to adopt the proposals Congress has built into its budget plan: Raise the federal tax exemption for family-owned business assets to $1.5 million, institute a $750,000 personal exemption and cut the tax rate for qualified small businesses in half for assets between $1.5 and $5 million.

President Clinton calls the tax reforms Congress is backing "tax cuts for the rich," and says he's holding out for cuts that help American families. Nice rhetoric. If he's serious, he'll take a second look and support the tax reforms in Congress' plan. If the small family businesses of America don't get some relief, federal taxes may just be the death of us yet.

A FURTHER STEP TOWARD LASTING PEACE IN NORTHERN IRELAND

Mr. PELL. Mr. President, yesterday, British Prime Minister Major and Irish Prime Minister Bruton took a significant step toward breaking the deadlock that had beset the Northern Ireland peace talks for the last several months. The two governments agreed to establish an international commission headed by former Senator George Mitchell which will make recommendations regarding decommissioning and to work to hold all party talks by the end of February 1996. Their announcement, on the eve of President Clinton's visit, revives the twin-track approach to achieving a lasting peace in Northern Ireland. This is good news indeed.

Both Prime Minister Major and Prime Minister Bruton deserve a great deal of credit for moving the process along. The challenge now is to bring the various parties on board. All parties must recognize that it is in their interest to move forward. The situation in Northern Ireland today is completely different than it was just 16 months ago—prior to the cease-fire. There are, for example, fewer British soldiers occupying the streets of Belfast; no longer do Protestant and Catholic mothers have to worry that their sons and daughters will be struck down by terrorist violence; and both communities in Northern Ireland are beginning to focus their efforts on economic development rather than continued conflict.

I am certain that President Clinton will reinforce this message—that the momentum needs to continue—during his visits to London, Belfast, Derry, and Dublin. The Clinton administration's unfailing support for the peace process has been a significant factor in getting us to this point. I am hopeful that his visit will contribute to the momentum.

Finally, from a personal standpoint, I am particularly pleased that George Mitchell will head the international commission on the decommissioning question. I have a great deal of regard and respect for Senator Mitchell, and believe that he will bring a great deal of wisdom and creativity to this position. I can think of no better person for this important post.

THE IMPACT OF DESIGN ON COMMUNITY AND PRODUCT DEVELOPMENT

Mr. PELL. Mr. President, I rise today to note the extraordinary impact of design on community and product development. Many years ago I helped establish an Institute of Research and Design in Rhode Island. But to my regret, I was not able to get it properly launched. The organization was intended to help my State take advantage of the enormous economic benefits of new designs created by our citizens. Design impacts our economy, environment, education and social sphere. It is a strategic national resource with potential to improve the global competitiveness of U.S. products. Design is a tool to analyze problems, develop critical thinking and communicate solutions. It offers numerous opportunities for creative partnerships with government, manufacturing and technology industries, social and community planners, scientists and educators. As the following speech documents, all of us make design decisions in nearly every life activity.

Because of the presence of the internationally-acclaimed Rhode Island School of Design [RISD], Rhode Island attracts a large number of people to the State to discuss design issues. Last March, RISD hosted a National Design Conference, sponsored by the National Endowment for the Arts, that explored the main challenges for design in the coming century and ways in which design strategy can be better employed to increase American economic competitiveness. In mid-November, the National Assembly of State Arts Agencies held its annual meeting in Providence where the professional and volunteer leadership of the Nation's State and jurisdictional arts agencies discussed the challenges of leadership in the changing environment of public support for the arts. NASAA devoted the better part of a day to discussions of design programming, and featured Roger Mandle, president of the Rhode Island School of Design since 1993, as a keynote speaker.

An art historian, educator and current member of the National Council on the Arts who served as deputy director at the National Gallery of Art for 5 years following 11 years as director of the Toledo Museum of Art, President Mandle possesses a comprehensive perspective of the societal importance of arts and design. Rhode Island and the Nation as a whole have benefitted enormously from his work. Mr. President, I would ask unanimous consent that this important address delivered by Roger Mandle be printed in the RECORD following my statement.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DESIGNING TO MEET THE NEEDS OF THE FUTURE

(By Roger Mandle)

Thank you for being here today. It is more important than ever that we come together through gatherings such as this to plan the future of design in America, to in fact design the progress of our culture and our society. I am convinced that issues of design hold the key to the future, which isn't surprising, perhaps, considering my current role.

What I am going to talk about today is the importance of design in terms of community development and economic impact, and the potential of design for meeting the needs of the future. By "design," I am referring here to both the noun and the verb. When I refer to the noun—the art of design and the discipline of design—I am thinking of good design, design that is appropriate, well thought-out and aesthetically pleasing. When we think of the verb "design," we think of the creative process, the act of conception and invention. Today, I want to talk about how both aspects of design—the practice and its outcome—play a pivotal role in the world in which we live.

Practically everything we do in life—as individuals and as communities—involves a design decision. Whether consciously or not, we solve problems and make choices by following the design process, using creativity, experimentation, intuition and thought to come up with the ideal solution to the challenges we're confronted with on a daily basis.

As individuals we design everything from our careers to our homes, our dream vacations, even our own look. The process involves: examining the circumstances, defining the problem, considering the resources, trying certain arrangements, establishing probabilities and testing outcomes. In many ways, it is similar to the process a research scientist follows in testing a theory.

In making these day-to-day design decisions, however, we don't just want our homes or clothes to look good, we also need them to be comfortable and functional. Good design is the effective use of available resources in patterns, combinations and arrangements that provide pleasing solutions to needs. Good design makes the things you use everyday work better for you. It also makes good business sense, because products that are well-designed sell better.

To most of us in this room it's clear that art and design are essential to the health of our communities not only from aesthetic, philosophical, psychological and emotional vantage points, but due to sheer economics. As communities, corporations and countries have become ever more multinational in scope, they have come to recognize that to remain competitive in the world marketplace, they must rely on strong design.

Here at RISD we've noticed in the past five years that increasingly more business leaders and heads of state and local governments are awakening to the fact that design matters, that it, in fact, is among the most important components of community and product development.

On a national level, the importance of innovation in design is now recognized through the annual Presidential Design Awards. It is also recognized through such critical conferences as this and the one the NEA is planning for this winter, with RISD as a major sponsor and organizer.

Internationally, there are lessons to be learned from countries such as Finland, Sweden, Denmark, Germany and Switzerland—to name but a few—where good design is a way of life. I recently returned from a trip to Korea, where art and design have long been valued not only for contributing to culture but for strengthening the economy as well.

At RISD and the country's other leading art and design colleges, the correlation between good design and a strong economy is underscored through a wide range of industry- and community-related projects. U.S. News & World Report's annual guide to the best colleges in the country, which was released earlier this fall, points out that contrary to popular perception, an education in the arts and design to no longer destined to lead to a life as a starving artist precisely because of this correlation. "Reality and art education may sound like contradictory notions," the article suggests, "but they are quietly merging at the nation's leading colleges of art and design." (I am happy to add that in this same issue of U.S. News & World Report RISD was evaluated as the top visual arts college in the country.)

Projects that connect students with the real world and have a tangible economic impact not only provide them with practical skills for future employment, but serve industry by providing research and development services at a minimal cost. Corporations currently working with art and design colleges throughout the country have tapped into the creative energy and talent on these campuses to research and develop a wide range of products.

In addition, municipalities turn to institutions such as RISD for a range of design services, including help in planning basic infrastructure needs. For instance, RISD runs a Road and Land Institute that brings engineers, landscape architects, city planners and others together to discuss the aesthetic as well as practical needs of new and expanding roads.

Art and design schools also offer the commercial sector access to creative think tanks where students and faculty can actually develop such innovations as the ideal "Universal Kitchen" for the 21st century, an example of a current collaboration between RISD and Frigidaire. RISD students have been working with MBA candidates from Harvard and MIT to design, develop and market innovative products of the future, many of which have formed the seeds of successful new businesses.

While RISD has been collaborating with Nissan, the Art Center College of Design in California is renowned as a training ground for the world's leading auto designers and in return, enjoys support from General Motors and other industry leaders. By the same token, nearly every animated film since the 1980s has been produced by alumni of California Institute of the Arts, founded in the '60s by Walt Disney and his brother Roy. Thanks to industry support for CalArts, the college has in essence returned the investment by educating the creative talents behind every recent Disney blockbuster, from The Little Mermaid and Aladdin, to The Lion King and Pocahontas.

Art and design colleges also offer ideal settings for partnerships with the business world such as one RISD is undertaking with a local business school, Bryant College. Together, we are creating a Center for Design and Business as a joint venture with regional companies. The Center will offer a wide range of educational programs and services to help artists and designers develop competitive business skills. It will also promote design excellence in all areas of business and foster innovative product development. Through the Center, we will help local companies to translate ideas, technologies and resources into viable commercial products and will also stimulate the region's economy and create new jobs.

All of these examples emphasize the importance of design education to the future of our economy and the well-being of our communities. Unless we offer design students a solid foundation in the economic, political, social and historic forces that shape our society, however, they have little understanding of the contexts in which they're expected to find innovative solutions. Before we can acknowledge them as some of society's best thinkers—the people we turn to for answers and breakthroughs—designers need to be educated to be socially responsible citizens of the world who are equipped to grapple with and solve problems of our own making.

We have been polluting the world with noxious fumes, poisonous words and violent acts for too long. Technology may bring us closer to these problems, promising to help us figure out solutions to them, yet it creates a more complicated network of issues to confront than before. The principles of good design can offer us a way out of this maze of self-destruction. But how?

Recently, entrepreneur and visionary Paul Hawken spoke to the RISD community about the importance of design to the future of our economy and the environment. Hawken's message, which some of you may be familiar with through his books The Ecology of Commerce, Growing a Business and The Next Economy, is essentially this:

"If every company on the planet were to adopt the best environmental practices of the 'leading' companies—say, the Body Shop, Patagonia, or 3M—the world would still be moving toward sure degradation and collapse. So if a tiny fraction of the world's most intelligent managers cannot model a sustainable world, then environmentalism, as currently practiced by business today, laudable as it may be, is only a part of an overall solution. Rather than a management problem, we have a design problem, a flaw that runs through all business."

Hawken goes on to point out that: "Just as every act in an industrial society leads to environmental degradation, regardless of intention, we must design a system where the opposite is true, where doing good is like falling off a log, where the natural, everyday acts of work and life accumulate into a better world as a matter of course, not a matter of conscious altruism."

As a society, it's essential that we rectify this most fundamental of all design problems if we're to ensure our existence into the next century and beyond. Together, we need to use our heads—our collective creativity—to puzzle our way out of societal dilemmas and to design a sustainable future. Hawken proposes redesigning the manufacturing process along with the product so that the durability and recyclability of the end product and its by-products are accounted for at the beginning of the process. Here, more than ever, design matters.

By definition the arts and design are problem-solving pursuits capable of proposing answers to some of our most gnawing human dilemmas. In our communities, issues of design aid in rethinking public housing, strip malls and the layout of neighborhoods, and in creating optimal functionality in our classrooms, hospitals, libraries and parks. In education, the arts help build understanding across disciplines, create passion for learning, heighten the sensibilities of students, and give them tangible evidence of their progress.

Design, which by its nature requires exploration and experimentation, helps foster an open mind. It also fosters a mode of thinking that sounds very simple but eludes many of us: it enables people to think visually—to think creatively—and solve problems with speed and clarity.

At colleges of art and design around the world, we teach our students to see things others don't, enabling them to find solutions, alternatives and opportunities other people might overlook. If a manufacturer turns to RISD, for instance—as they frequently do—and asks for help in designing a better toaster, we might in fact design an economical, ecologically sound toaster that looks better than any you've ever seen. But we're also just as likely to interpret the request as an invitation to come up with a better way to make toast instead.

Young artists and designers use their unique ability to see and to think creatively to launch an astounding array of new businesses, capitalizing on their rigorous but flexible education to pursue careers that are deeply satisfying. As a result, you'll find graduates of these schools doing everything from creating magnificent public sculpture and making feature films, to designing software, weaving fabric from recycled plastic and inventing better bicycles.

People educated at art and design schools teach some of the most innovative classes in our nation's public schools, art direct some of the catchiest commercials on television, and produce some of the most popular music in the country. Not surprisingly, perhaps, the education tends to be flexible enough to allow others to go on to become successful doctors, lawyers, politicians, and nationally acclaimed restaurateurs.

"So what?" you may ask. Well, all of this activity—the result of artistic energy and talent—demonstrates that design is, in fact, integral to our lives, that design matters.

Paul Hawken urges us to find new ways to design business so that we effectively use natural resources in a sustaining, non-destructive manner. Stephen Sterling has shown us that our values relating to the use of our natural resources are based on the Western linear view of history and causation, which amplifies the idea of limitless maximization. Bigger must be better, regardless of whether it requires the use of more and more resources, further degrading our environment. Our approach to production has been literal; it now must be poetic. We must find solutions that are metaphors from continuity and for survival, that enable us to treat life as a cycle—as a spiral in which growth is controlled by intelligent use and replacement of resources. Here again, innovative design is the answer.

As we all recognize, the social and cultural problems facing America's cities and towns today are significant. At a time when our society promises so much material wealth, few are able to benefit from it; the great irony in this land of plenty is that so little is available to those who need it most. Now that Congress is proposing to eat away at the limited programs we do have, what will we design to replace them?

In a world so rich in resources, logic dictates that the most basic life sustaining options should be available to those who so desperately need them. In this context, of what value are design and the arts?

Maslow's hierarchy of needs places the arts and education at the top of the ladder, with food, shelter, and the more "basic" necessities at the bottom. But as a society we are just now beginning to recognize that the effective delivery of reasonable services and products to those with few means can be achieved through good design.

Right now a small team of RISD students, faculty and alumni are working to develop portable, low-cost housing for the world's refugee population in conjunction with the UN High Commission for Refugees and the Red Cross.

RISD is also working with Habitat for Humanity to develop new designs for affordable housing, and designers in a number of our urban centers are creating low-cost shelters for the homeless. In addition, we are looking to designers to work with engineers in developing electric cars and other more energy-efficient forms of personal and mass transportation to replace outmoded gas guzzlers of the past.

In order to enable artists and designers to lead in their chosen fields, those of us charged with guiding the country's art and design institutions need to work with schools to recreate curricula, reallocate resources, and expand experiences for students that teach appreciation and respect for human creativity and invention as well for limited resources.

The future into which these students will be launched is already at hand in many respects. We know that it will be technology-driven for communications, visualization, and information. We know that resources will be ever more scarce, and the options for using them constrained by the long-term effects of manufacture. We know that our nation, indeed the world, is filled with the tensions of boundaries that are ever more sharply dividing people by color, language, religion, and region. We know that the need to create educated, creative, and tolerant citizens is even more important than at any other time in history—and that our nation's willingness to invest now in the education of these citizens of the future is still in question.

Why? Because art and design, by their very nature, represent change. They may help us adapt to change, to express that change and create chances for it, but to many people this is more threatening than comforting.

"The artist and society have a tentative relationship," says Jane Alexander, chairwoman of the National Endowment for the Arts. "The artist is often the sentinel on the precipice, heralding change as it peaks over the horizon. Artists challenge, ask difficult questions, and rattle our cages. They can make our skin itch, or souls bristle, and touch us to the heart's deep core."

What this conference aims to do and we need to do as a nation is to recognize the values and thought-systems inherent in design-related fields. We need to help our neighbors understand the vital importance of the arts and design in creating strategies to rebuild and enhance our communities.

When former Apple CEO John Sculley spoke at RISD's Commencement last June, he challenged our graduates to be either a mirror of society and reflect what's going on, giving their interpretation or perspective, or to be a lens that shows what can happen, what the possibilities are.

Throughout history, of course, artists and designers have held a mirror up to society, producing work that chronicles where we are or suggests where we might go. Rosanne Somerson, head of RISD's new Furniture Design Department, reminded me of the other day that furniture, like clothing, speaks volumes about a society at any given point in history. When else but during the Sixties, for instance, would we have invented the bean bag chair and mini skirts? Next fall, to illustrate the symbiosis between design and society, RISD's Museum will host the first of a two-part exhibition on Dress, Art & Society, curated by Lorraine Howes, head of our Apparel Design Department.

Design and the manufacture of products not only captures the pulse-beat of society at any given time, but sends important signals about what we value. Urban planning also affects our lives, creating social strategies out of our living spaces.

Who had ever even heard of workstations a mere 10 years ago or considered the concept of phone books, encyclopedias or the entire collection of our National Gallery on CD? More importantly, how would any of these innovations have been developed without the critical input of designers?

What we are witnessing in the latter years of this century is the pivotal turning point when technology is being handed by the engineers who created it to us to use. It's artists and designers, however, who will help us make the most of it. Designers are creating the visual language of software, influencing not only what we see on screen, but how we explore and process information. Here again, as Sculley points out, it is not the technology that is important, it is the consequences of the technology—how artists, designers and others make use of it.

One hundred and eighteen years ago RISD was founded by women with foresight and commitment to the improvement of society. These 19th-century visionaries realized that the arts and design are an essential ingredient in the vitality of a community, of an economy and of a nation.

And they weren't alone. An intelligent appreciation of art and design has always been part of the American democratic promise. Our Founding Fathers recognized this and upheld it.

"I must study politics and war," John Adams wrote to his wife Abigail, "that my sons may have liberty to study mathematics and philosophy. My sons ought to study . . . navigation, commerce and agriculture in order to give their children a right to study painting, poetry, music, and architecture."

At times it is difficult to fathom that as a nation we seem to have strayed so far from the underlying sentiments that made this country strong. When our government spends less that 5/100ths of one percent of the national budget on all forms of cultural subsidies, how can Speaker Gingrich continue the pretense that the proposed elimination of federal funding for the arts has anything to do with the national deficit?

The politicians of the day somehow ignore the fact that art and design are serious business and that without a minimum federal investment as an incentive there will be a far smaller return. You have all heard the figures—that for every dollar of federal support, the NEA and NEH help leverage $16 in private funding. Yet our Speaker of the House still fails to acknowledge that the not-for-profit arts—organizations such as the ones many of you in this room work with and support—employ 1.3 million people, generate $37 billion a year in economic activity and most importantly for those concerned with the bottom line, return $3.4 billion a year to the federal treasury through taxes. This return is 20 times the dwindling budget of the NEA.

During its 30-year history, the overwhelming majority of NEA grants have supported projects that include such laudable design innovations as architect Bill Warner's plan for the Providence river front. If you haven't already had an opportunity, while you're here you should take a walk along the completed portion at the foot of the hill, just south of the train station. It was thanks to a small NEA grant that Warner originally proposed a major waterfront revitalization project in the city that is having enormous repercussions for business, industry and the state's economy. For Rhode Island, the vision of this one designer has definitely made a difference.

"Great artists and designers have always been discriminating people," says painter Alfred DeCredico, a RISD graduate and one of our associate professors of Foundation Studies. "The life work of great artists and designers constitutes a commitment to humanity and to what they believe is true. What is often perceived as arrogance and an insistence on control is in reality an adherence to an ethical stance," DeCredico goes on to point out.

This ethical stance can help illuminate and define the progress artists, designers, art educators and advocates make as a creative community. In a wider sense, the arts and design also help shape or mirror the values of society. In my view, artists and designers are central to each level of human existence, from the basic provision of food and shelter, to the sustenance of community, manufacturing and governance.

In conclusion, I want to reiterate that in this age of high-speed information and economic uncertainty, the need to recognize the value of good design has taken on great urgency. Either by plan or default, we are designing how we wish to be remembered as a society.

To maximize the potential impact of good design on solving the challenges facing our communities, designers need to be adequately educated, properly nurtured and competitively compensated. In short, they need to be recognized as invaluable contributors to the future health and well-being of society. Once that happens, the possibilities will be staggering.

CHINA'S ARREST OF DISSIDENT WEI JINGSHENG

Mr. PELL. Mr. President, last week, while the world's attention was focused on new hopes for peace in Bosnia, the Chinese Government formally arrested and charged its most famous dissident with sedition. Wei Jingsheng, who has been imprisoned without charge for the last 20 months, is known as the father of China's still-fragile democracy movement. Wei's formal arrest signals a renewed hardline approach on the part of the Chinese leadership to internal criticism of the Government.

The timing of Wei's arrest is telling. It comes alongside China's push for entry into the World Trade Organization as a developing economy. The United States, joined by the European Union, Japan, and Canada, insists that China has a strong exporting economy that can meet the open-trade standards demanded of other member economies. China continues to reject this standard and argues that it is being excluded from the organization and isolated by the United States and the West.

I strongly believe that we need to engage China and my reading of current United States policy is that we are doing so. The United States has no containment policy and we are not isolating China in any way. But if China wants the benefits of being an active member of the international community, it must accept the standards and play by the rules of that community. On human rights or on trade, China cannot expect to flagrantly violate international norms with impunity. United States criticism is not an attempt to isolate China, but the opposite; China's willingness to abide by international standards will make its acceptance into the international community all the easier.

On trade, I commend the administration for continuing to insist that China meet the standards which are commensurate with its economic status. On human rights, I urge the administration to lead the West by working for a resolution censuring China's human rights abuses at the next annual meeting of the U.N. Human Rights Commission in Geneva. There has been growing world support for such a resolution in recent years as China's treatment of its own citizens and of Tibetans continues to fall far short of the criterion of the international community. Now is not the time to reduce our efforts to pass this resolution; Wei Jingsheng's arrest shows the necessity for continued international focus on China's behavior.

China has urged the United States to overlook its human rights abuses and forgo working for a U.N. resolution, just as it has urged the United States to ignore its growing economy and allow its entry into the World Trade Organization using lower standards. In both cases, the U.S. response must be the same. If China wants to be respected as an important international actor, it must meet the expected behavior of one. If it wants the United States to stop criticizing its human rights practices, it must stop giving us reason to do so. Releasing Wei Jingsheng and other political prisoners would be an important first step.

HIGH SCHOOL COMPUTER USE IN VERMONT

Mr. LEAHY. Mr. President, I have spent a great deal of my time in the U.S. Senate working on telecommunications issues, and studying how changing technology is having an impact on our Nation. In particular, I have been interested and concerned about the effect of the so-called information superhighway on rural States like Vermont.

With this in mind, I asked a young student at Champlain Valley Union High School to take a broad survey on computer use in his high school. What I will include in the RECORD is the report that this student, Steve Waltien, sent to me recently.

I find his results fascinating and encouraging. You will see the vast majority of high school freshmen and seniors are familiar with computers, and use computers whether in school, at home, or both. Now, I realize that Champlain Valley Union High School is not necessarily indicative of the rest of Vermont or the Nation. It is no doubt on the cutting edge of new technologies, and is led by one of the finest principals in the country, Val Gardner.

But Mr. President, this study shows just how dramatically our lives are changing; in particular, it shows how dramatically our children's lives are changing. The decisions we make on issues affecting access to telecommunications issues will have a direct impact on our children, especially in rural areas like Vermont.

I am grateful to Steve Waltien for his well-written and thorough study. He and I have e-mailed each other on this subject, and am delighted to share his work with my fellow Senators.

I ask that a study on high school computer use be printed in the RECORD.

The study follows:

COMPUTER USE SURVEY

(By Stevenson H. Waltien III)

INTRODUCTION

The Internet and other rapidly expanding components of the so-called "information super-highway" are becoming more and more popular with all age groups. As of now, there is little government regulation of the "menu" available on the Internet. This presents an interesting issue for our law-makers: is use of these systems of great enough significance for the government to take some kind of role in their existence? The environment of a high school seemed to be of interest because of the growing technology being offered there. It was decided at an early point that it would be extremely difficult to survey the entire school, and therefore might be more beneficial and reliable to survey only the Freshmen and Senior classes to see computer use at both ends of the age spectrum at Champlain Valley Union High School. The intent was that the survey would provide Senator Patrick LEAHY with some statistics about rural high school use of computers and the Internet. These results could be used to indicate the extent students in a rural school use computers regularly and how they use them. The survey was conducted between September and November of 1995.

THE SCHOOL

Champlain Valley Union High School is located in Hinesburg, Vt. and is the public high school for the towns of Hinesburg, Charlotte, Shelburne, and Williston. The school is comprised of over 950 students. The communities that make up the school are mostly middle class. The school prides itself on having extremely high standards of technology. There are approximately 250 computers at CVU, the majority of which are Apple Macintoshes. The school has a computer lab which is open to all students during their free time. It is comprised of both IBM and Macintoshes. The Physics program has approximately 20 Power Macintoshes that make up the Physics lab. The school also has a foreign language lab and a business lab, with roughly 30 units each. The majority of computers in the lab are connected to the school's 128-kbps Internet connection. Students have access to most of what is available on the net, including the World Wide Web and other popular net services.

RESULTS OF THE SURVEY

The survey was distributed to the Freshmen through the Freshmen core program at CVU and there was an almost immediate result with 96% of the Freshmen responding. The seniors were harder to reach in that there is no single class which all seniors take. The surveys were distributed through the advisory program in which all students participate. Due to the difficulty of student and faculty schedules however, there was only a 70% response to the senior surveys. Although this number may be low, the data is statistically valid due to the similarities in answers for all seniors and the fact that those who responded do not leave out any particular group or type of student. The advisories that responded show a random group of students, therefore it is a good sampling of the class as a whole. Two hundred and seventeen Freshmen and one hundred-forty Seniors responded. The results are as follows:

Percent of those surveyed owning a home computer:

Freshmen—90%; Seniors—91%

Percent of those owning a home computer that use it:

Freshmen—97%; Seniors—98.5%

Percent of those owning a home computer with family members who use it:

Freshmen—86.5%; Seniors—96%

Amount of computer use per week by percentage (home computer owners):

Less than 1 hr.—Freshmen: 6%; Seniors: 5%
1–3 hrs—Freshmen: 20%; Seniors: 16%
4–6 hrs—Freshmen: 74%; Seniors: 79%

Primary uses of home computer:

Word Processing/Homework—Freshmen: 95%; Seniors: 97%
Internet/E-mail—Freshmen: 20%; Seniors: 20%
World Wide Web—Freshmen: 11%; Seniors: 9%
Games—Freshmen: 39%; Seniors: 30%

Percent of students who use school computers:

Freshmen—68%; Seniors—93%

Primary uses of the school computer:

Word Processing/Homework—Freshmen: 80%; Seniors: 82%
Internet/E-mail—Freshmen: 34%; Seniors: 70%
World Wide Web—Freshmen: 20%; Seniors: 27%
Games—Freshmen: 4%; Seniors: 6%

Degree of influence school computer usage has had on overall computer use:

High—Freshmen: 24%; Seniors: 47%
Moderate—Freshmen: 41%; Seniors: 40%
Little or none—Freshmen: 35%; Seniors: 13%

CONCLUSIONS

It is shown that usage of school computers is much higher for seniors even though home computer ownership is almost equal. According to the results, 25% more seniors use school computers than freshmen. The majority of seniors say that access to computers in the school has greatly influenced their overall computer usage. It would appear that computer education earlier in a student's career enhances additional use. The key seems to lie not in computer ownership, but rather with computer knowledge. The earlier students become fully computer literate, the earlier they utilize the tools they possess more effectively. There are possible reasons to account for the large discrepancy in the percentage of freshmen and seniors using computers in school. The freshmen have not been exposed to the computers as long, and the courses they take are not as challenging to require as much computer usage. Yet it is clear that seniors use computers for more than just class work, therefore their exposure must have left an over-all positive impression.

It is interesting that E-mail and Internet usage basically doubles for freshmen and triples for seniors when they are in school as opposed to at home. This can probably be explained by the fact that they may not have access to the Internet at home, or even if they do, they do not have the sophistication of technology available at the school. This does tell us that if these systems are available at schools, people will use it.

A fascinating statistic is that family computer use rises almost ten points between freshmen and senior years. This tells us that the computer education young people are getting in school may be influencing their families to try out computers with their children. According to the survey, about 90% of homes within this population own a personal computer. This can be compared with a national estimation of only 35%. This can be partially accounted for by the higher than average income in this area, but one has to wonder if the influence of computers in schools encourages people to go out and buy a home computer, and, further to avail themselves of high technology enhancements such as Internet access and on-line services.

CVU COMPUTER USE SURVEY

Participants: This is a survey that will be used to assist the United States Senate through the offices of Senator Patrick Leahy as they endeavor to craft legislation that will enhance computer access and resources to students throughout the country. Senator Leahy hand-picked CVU as a reliable source to retrieve this information. With this in mind, we ask that you take the time to complete the survey honestly.

1. What grade are you in?
   Senior Freshman
2. Do you have a computer at home?
   Yes No
   (if no, skip to question 7)
3. Do you use your home computer?
   Yes No
4. Do other members of your family use your home computer?
   Yes No
5. How extensive would you say that YOUR computer use is?
   Rarely used (less than 1 hour per week)
   Sometimes used (1 to 3 hours per week)
   Used Often (4 to 6 hours per week)
   Used very often (more than 6 hours per week)
6. What are your primary home uses for the computer?
   Homework/Word processing
   Internet/e-mail
   World-wide web
   Computer games
7. Do you use a computer in school?
   Yes No
   (if no, skip to question 9)
8. What are your primary uses of the school computer?
   Word processing/problem solving
   Internet/e-mail
   World-wide web
   Computer games
9. How has computer access in the school influenced your overall computer usage (both at home and in school)?
   Greatly influenced
   Somewhat influenced
   Had little or no influence

PARTIAL-BIRTH ABORTION BAN ACT HEARING

Mr. HATCH. Mr. President, I have had delivered to each Senator a copy of the transcript of the Judiciary Committee's November 17 hearing on H.R. 1833, the Partial Birth Abortion Ban Act, together with inserts and written submissions. Since the distribution of these materials, I have received answers to written questions from another one of the witnesses who testified at the hearing. I ask unanimous consent that a letter from Dr. Norig Ellison to me be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN SOCIETY
OF ANESTHESIOLOGISTS,
November 22, 1995.

Re H.R. 1833, the Partial-Birth Abortion Ban Act of 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR HATCH: Thank you for inviting my participation in your Committee's hearing on H.R. 1833.

I appreciate the opportunity to reply to the written questions of Senator Leahy. The only one of the six questions which falls within my area of expertise is number four:

4. Do analgesics and anesthetics given to a pregnant woman undergoing an abortion provide any pain relief to the fetus, even if the medication stops short of killing a fetus?

Drugs normally cross the placenta from mother to fetus according to a concentration gradient. The effect on the fetus of drugs administered to the mother will depend on (a) fetal condition, (b) the route of administration, and (c) the timing.

a. Fetal acidosis will facilitate transport of local anesthesia such as lidocaine, which is a weak base, into the fetus.

b. Drugs administered intramuscularly achieve peak concentrations lower than intravenous administration, with the resultant decrease in placenta transport of the former.

c. Drug administration intramuscularly will have no effect on infants born within one hour after administration; in contrast, birth 2–3 hours after intramuscular administration may result in depressed infants. Conversely, intravenous administration of drugs will have maximum depressed effect in babies born ½–1 hour after the administration.

d. Very little is known about fetal response and consciousness to pain prior to 24–25 weeks gestation. It is clear that a pregnant woman can receive an effective anesthetic for cesarean section, and the fetus when delivered within the next half hour will be exquisitely sensitive to pain stimulus and will respond by crying and avoiding the stimulus more than 95% of the time.

In direct answer to question number four, drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide not-to-little analgesia to the fetus.

In closing, I reiterate that the pregnant woman in need of urgent, even life-saving surgery, need not defer same due to misinformation regarding the effect of anesthetics on the fetus.

Sincerely,

NORIG ELLISON, M.D.,
President.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the impression will not go away: The $4.9 trillion Federal debt stands today as a sort of grotesque parallel to television's Energizer bunny that appears and appears and appears in precisely the same way that the Federal debt keeps going up and up and up.

Politicians talk a good game—and "talk" is the operative word—about reducing the Federal deficit and bringing the Federal debt under control. But watch how they vote.

Mr. President, as of the close of business, Wednesday, November 29, the total Federal debt stood at exactly $4,988,882,588,134.46 or $18,937.88 per man, woman, child, on a per capita basis. Res ipsa loquitur.

Some control.

THE ASSASSINATION OF YITZHAK RABIN

Mr. ABRAHAM. Mr. President, earlier this month, the whole world stopped to pay respects to Israeli Prime Minister Yitzhak Rabin, a soldier, a statesman, and a visionary committed to security and peace for the people of Israel and of the entire Middle East.

Yitzhak Rabin dedicated his life to the survival of the State of Israel and to the crusade for peace, a crusade that ultimately took his life. His death is not only a loss for his family, the people of Israel and Jews across the world, but also to all those dedicated to the search for a true and lasting peace between Israel and its Arab neighbors.

As a military leader, a diplomat, and a Prime Minister, Yitzhak Rabin was at the center of major events through his nation's five decade history. It was, after all, General Rabin who led Israel's armed forces to victory during the 1967 Six Day War. And it was Prime Minister Rabin who, 23 years later, on September 13, 1993, signed an historic accord that put Israel on a glidepath toward peaceful and normal relations with the Palestinian people.

During his professional life, Yitzhak Rabin did much to strengthen the relationship between the United States and Israel. As Ambassador to the United States, Mr. Rabin repeatedly communicated and demonstrated to officials of the United States Government Israel's unyielding commitment to United States interests in the Middle East and around the world. And in every other post in which he served—Army Chief of Staff, Defense Minister, and Prime Minister—Yitzhak Rabin always earned the respect, admiration, and friendship of American leaders from both parties.

While I did not know Yitzhak Rabin personally, I had the honor of joining him at the White House some weeks ago for the signing of the Oslo II Agreement, one of the many historic developments of which Mr. Rabin was an architect. I remember at that ceremony thinking about how much progress had been made in the Middle East over the past several years. I was impressed by the extent to which this fragile peace process had been kept on track despite what seemed at times to be insurmountable hurdles. Yitzhak Rabin was critical to keeping the delicate process moving forward. This, however, was not his only accomplishment since he began his second term as Prime Minister in 1993. Prime Minister Rabin orchestrated the Israel-Jordan Peace Treaty, the normalization of relations between Israel and Tunisia, Israel and Morocco, and the acceptance of Israel by many others in the Arab world and around the globe.

Mr. President, on November 6, I joined some 4,500 members of Detroit's distinguished Jewish community to pay tribute to Yitzhak Rabin at a memorial ceremony organized in my State by the Detroit Jewish Community Council and the Detroit Jewish Federation. It was an incredibly moving experience for me and my wife Jane. We listened to Jewish leaders from Detroit talk about their memories of the slain Israeli leader and all he had meant to the Jewish people. I especially was struck by the message of the last individual who spoke that evening, Rabbi Steven Wiel. During his remarks, Rabbi Wiel posed the following question: "Do we not love what we love more than we hate what we hate? Do we not love the chance for peace, do we not love the state of Israel, do we not love our Jewish brethren, do we not love human life more than we may hate decisions made by political leaders with whom we may disagree?"

Mr. President, the hatred that Rabbi Wiel spoke of may have been acted upon by Yigal Amir in Tel Aviv on November 4, but it exists in various forms throughout the Middle East and in too many other places in the world. This hatred can be found in individuals of all faiths and of all nationalities. And if we truly are committed to a lasting peace in the Middle East, we not only must help Israel overcome its most recent tragedy, but we must also unite leaders from the entire region against the hatred of those who have tried and will continue to try to derail this peace process through heinous and murderous crimes. In this vein, I have already pledged my strong support for Mr. Rabin's successor, Shimon Peres, and I commend Israel's leaders from across the political spectrum for seeking to unify the Israeli people during this tragic time. It is absolutely essential that the United States stand behind Prime Minister Peres and the citizens of Israel as they work to overcome this crisis and continue to work toward peace.

I believe the greatest way the United States can pay tribute to our partner, Yitzhak Rabin, is to continue to assist the efforts of those trying to make peace in the Middle East. Any peace that is achieved forever will be attached to the name of Israeli leader and peacemaker Yitzhak Rabin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I send a bill to the desk. I ask it be properly referred.

The PRESIDING OFFICER. The bill will be properly referred.

MR. GLENN. I thank the Chair.

(The remarks of Mr. GLENN and Mr. DEWINE pertaining to the introduction of S. 1439 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

BOSNIA

Mr. D'AMATO. Mr. President, our Nation has always been willing to fight for the values and freedoms that our Nation, our flag, and our Constitution represents. We have always met that test. America and Americans have always stepped forward. My father served in World War II, my uncles, our neighbors, sons, daughters. That was a time and a war when every American understood that our basic way of life was being threatened. There was a direct obligation for each and every American to do his or her part, and Americans met that challenge, and individuals were willing to face the dangers of loss of life to protect and preserve the freedoms that the next generation of Americans share today.

Mr. President, I submit, there is no compelling American interest in Bosnia that meets that standard that would jeopardize or put our children and our grandchildren in such a dangerous situation. It is an unwinnable, untenable civil war in a place called Bosnia.

As a parent, I do not wish my sons or daughters put in harm's way, and I cannot imagine that any other parent would be willing to risk the lives of their children in a peacekeeping operation in Bosnia.

The President has not made a compelling case to sacrifice one American life, let alone place 20,000 U.S. troops in a dangerous, dangerous situation. Sending American troops to Bosnia is unnecessary, it is wrong, and I will oppose it with every fiber in my body.

Mr. President, I will have more to say about that. But let me suggest to you, getting 20,000 troops in may look somewhat grand as they come marching off, as the tanks roll in, as there will be crowds well orchestrated for the TV cameras to see them cheering, but how long will they have to serve? How will they get them out? Do we really believe they are going to come out in 1 year? The administration is already wiggling on this. How many lives will be lost?

This administration's track record in being able to keep its promises and meet its obligations in similar situations has not been a good one. Certainly, it was a disaster in Somalia, when a mission that started out as one for peacekeeping and one to give food to people was changed.

Certainly, as things are unraveling today in Haiti, we have every reason to believe that upon the withdrawal, if our American troops are withdrawn on time, there will be an unraveling, once again, and the citizens of Haiti will find themselves, once again, at war.

I think it is naive to really think that by putting 20,000 troops—and by the way, there are going to be about 40,000 troops in that region, 20,000 in Bosnia. The cost is astronomical, not to mention the danger to our troops.

I think it is absolutely disingenuous for the administration to now come forward and say the United States will lose prestige abroad because they brokered this peace on the basis of sending U.S. troops there. They were warned repeatedly by this Congress, by this body, by the House of Representatives, that clearly we were opposed to sending troops there, and to say now that we are going to be having them there and for us to be less than supportive, and that this would embarrass the President, embarrass the Nation, endanger our relations with NATO is to ignore the fact that the President deliberately undertook this operation, was well aware of the opposition of the citizens of the United States and of the Congress and does not—and does not—deserve at this point in time our support.

Our support should be to protect the lives of our U.S. troops, to see to it that if we are going to enter a conflict—and this is a conflict that has been brewing for hundreds of years—that there is a vital national interest.

Should we work to bring about peace? Yes. But I suggest putting 20,000 troops in and promising to take them out in 1 year is not going to end over 500 years of hostility. It is wrong.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, are we in morning business?

The PRESIDING OFFICER. Yes.

THE DEPLOYMENT OF UNITED STATES TROOPS TO BOSNIA

Mr. DOLE. Mr. President, the entire Nation has its attention on the deployment of United States Forces to Bosnia. Congressional hearings on the peace agreement began this week. The President received a NATO troop deployment plan for the implementation force today. Many of my colleagues have made statements on the issue.

I have long urged that we lift the arms embargo in Bosnia and let the Bosnians defend themselves. This would have been the best option for Bosnia and the United States. It would have been the legally, morally, and strategically correct approach. Lifting the arms embargo would have also been the best way to avoid sending United States troops to Bosnia. In fact, had we done that, lifted the arms embargo, we would not be talking today about deployment of U.S. Forces.

The record should be clear. We are where we are today because the President repeatedly—and let me repeat, repeatedly—rejected Congress' bipartisan effort to lift the embargo.

We should also be clear at this end of Pennsylvania Avenue. It is time for a reality check in the Congress. The fact is that President Clinton has decided to send United States Forces to Bosnia. The fact is that these troops will be sent—and indeed some are already there. The fact is by next week, there will be a couple thousand American soldiers on the ground in Bosnia.

The President has the constitutional power as Commander in Chief to send these forces. The Congress cannot stop this troop deployment from happening. The President and senior advisers have repeatedly said they will proceed with the deployment, whatever the Congress does. If we would try to cut off funds we would harm the men and women in the military who have already begun to arrive in Bosnia.

So we should find a way, if possible, to support the American men and women in uniform on their way to Bosnia and who will be in Bosnia—I assume a full 20,000, they say, by February.

Like all Americans, I have real concerns about this operation. First, I am concerned about the possibility of American casualties. The men and women of our Armed Forces are volunteers. But that does not make their lives any less valuable than those of draftees or any other category. They know the risks. We have an obligation to do all we can to reduce those risks. We can reduce the risk to American Forces by limiting their mission to enforcing only military provisions of the peace agreement: That means no Somalia-like nation-building.

We can also reduce the threat to U.S. Forces by making it crystal clear that any attack on our troops will be met with an overwhelming, rapid, and decisive response. No more cumbersome command arrangements limiting ability to retaliate—no more U.N. second-guessing or dual key veto authority. The United Nations will not be involved. This is a NATO operation. It will be an American general making these decisions.

The second major concern is that American Forces will be drawn into a quagmire with no way out. Many people are concerned about that because the administration has not articulated an exit strategy; and setting an arbitrary date is not an exit strategy.

Bring them out in a year—what does that mean? That is not a strategy. Who knows what the strategy is?

The President has a plan to get us into Bosnia but no realistic plan to get us out. Keeping Bosnia defenseless is not an exit strategy. Relying on Utopian arms control schemes is no exit strategy. Relying on unnamed third parties is not an exit strategy.

The United States must have its own exit strategy to control its own destiny. We should not be dependent on the good will or actions of other nations. The only way to make certain that United States Forces will be able to leave in a timely and honorable way is to ensure that the Bosnians are provided the means to defend themselves when we leave.

What is needed is a concrete effort, led by the United States, to arm and train the Bosnians. This effort should not be contingent on so-called builddown provisions in the Dayton agreement.

I understand administration officials said this morning that the United States or NATO would not be involved in enabling Bosnia to defend itself. In my view, it is an abdication of responsibility to rely on unspecified third countries to create the conditions that allow withdrawal of American forces. The sooner we start to enable Bosnians to defend themselves the sooner United States Forces can come home.

In my view, the definition of success of this deployment must include a real end to the war—that is only possible with the creation of a stable military balance which enables Bosnia to defend itself. Anything less simply exposes American Forces to great risks in order to monitor a temporary interlude in the fighting. In other words, I guess if they all came home next year there might be a temporary interlude to get us through the November activities of 1996, and I am not certain it would last very long.

Over the coming days—in fact, we have been working on it a couple of days—we will be working on a resolution that I hope the majority of my colleagues can support. We have not yet seen the final NATO implementation plan. In fact, as I said earlier, the President just received it today. I do not want to make a snap judgment. I hope we can fashion a resolution that offers support to our military forces, that helps reduce the risk they face, and that ensures American Forces come home as soon as possible with a successful mission accomplished.

I urge my colleagues to not make this a partisan issue. I have been debating issues like this in the Senate floor for 20-some years. I was debating cut off of funds in the Vietnam war, and my colleague, Senator MCCAIN was a prisoner of war. We stood on this floor day after day after day beating off efforts to shut off funding which I thought would have a direct impact on men in the service like JOHN MCCAIN and others who were in that part of the world. We had some success.

Let me suggest that the overwhelming votes to lift the arms embargo were bipartisan. They were Democrats, Republicans, and they were bipartisan with bipartisan leadership.

I believe the best foreign policy is conducted with bipartisan support. I know that the Senate votes on Lebanon and the gulf war were much more partisan in my view than they should have been.

Indeed, I was dismayed, as I have said before, in the gulf crisis there was not a single member of the Democratic leadership in either the House or the Senate, when we already had troops on the ground, that would support President Bush's decision to protect American interests in the operation Desert Storm.

I have had a long feeling that once the troops were deployed—which is going to happen; it is already happening—that we have some obligation to ensure their safe and honorable return. I have often and long felt it is too important for partisan posture. I know the easy vote on this is "no, no."

I hope that some of my colleagues will look at it very carefully. We are talking about troops that have been committed. They are on their way. They will be there next week. We are going to be debating this next week on the Senate floor. Someone will say no troops should be deployed. It will be a little late for that, so it is probably not a difficult vote.

Others of us, hopefully on both sides of the aisle, want to make certain, as I have said, that we have a way to get out. It is not hard to get in, but we need a way to get out. We need an exit strategy. We need to make certain that the Bosnians are armed and trained. We need to take on that responsibility.

I know the Bosnians tried to secure that assurance in Dayton, OH, without success. If we do not have that, how do we leave? When do we leave? How long will it take?

I just hope we can all work together in the coming days to fashion a resolution which supports our military forces, reduces the risk they face, and brings them home as soon as possible. Some would say, "Well, if you do this, you are supporting the President of the United States." I say that is all right with me. We have one President at a time. He is the Commander in Chief. He has made this decision. I do not agree with it. I think it is a mistake.

We had a better option, many better options. But as I said, he repeatedly rejected those options. Now it is up to high noon. The troops are on the way. They are from Kansas, from Arizona, from Tennessee, they are from Ohio, they are from all over America. They are looking to us for support. They are looking for us to make their job just as safe and just as secure as possible.

I believe we do that. The bottom line, the President intends to send these troops one way or the other. He has made it very clear. He has told us that. It has been in the paper. I think we have the responsibility, as I said, in the Congress, to try to ensure to our best ability, that as this deployment goes forward, that we create the conditions to end it quickly and successfully so that the U.S. Forces can return to their families.

I am very happy to yield the floor. I know my colleague from Arizona wanted to make a statement.

OUR MISSION IN BOSNIA

Mr. MCCAIN. I congratulate the distinguished majority leader on a statesmanlike and nonpartisan statement. I will briefly add to it. Again, I hope his statement is paid attention to by colleagues on both sides of the aisle.

I would like to restate in my opening remark what the distinguished majority leader has just stated, what we must understand, and what should be a framework for whatever debate ensues next week on the floor.

The American people and my colleagues should understand one salient fact. The President will be sending 20,000 Americans to Bosnia for 1 year, whether we approve or disapprove.

We can argue about whether the President should have made the commitment almost 3 years ago to participate in the peace implementation force in Bosnia. As Senator DOLE just stated, there are many other options I would have preferred to have employed besides this one. I would not have made that commitment. But the reality is the President did so commit and those troops are going to Bosnia.

The President has the authority under the Constitution to do so, and he intends to exercise that authority with or without our approval. We can cut off funding, but the President will veto, and his veto will, without any doubt, be sustained. Even if we should force the President to renege on his commitment, we should understand that there would be very negative consequences to such an action. The credibility of the word of the U.S. President is an enormous strategic value of the American people and essential to our security. I urge my Republican colleagues to consider, in their deliberations on this question, how high a premium they would place on the credibility of a Republican President and place that same premium on this President's credibility. Our friends and enemies do not discriminate between Republican and Democratic Presidents when the word of an American President is given. When the President's word is no longer credible abroad, all Americans are less safe.

Another consequence would be the severe damage to the stability of NATO, the most successful defensive alliance in history.

And, finally, all signatories to the peace agreement have stated that, absent United States participation in the implementation force, the war in Bosnia will reignite. I repeat, the war in Bosnia will reignite and the atrocities we have all come to abhor will continue.

Therefore, I intend to do everything in my power to ensure that our mission in Bosnia is, as the President said it would be, clear, limited and achievable, that it has the greatest chance for success with the least risk to the lives of our young men and women. That is our responsibility as much as the President's, and I intend to take that responsibility very seriously.

We can best achieve this by ensuring that our Armed Forces do not engage in any nonmilitary activities such as refugee resettlement or other nation-building activities for which they are not trained. Therefore, we should condition our authorization of this deployment on the prohibition against our forces enforcing any other aspect of this agreement, other than the military provisions of the military annex to the general framework agreement.

Further, we must ensure that the goals of their mission are clear and achievable and will justify, to some extent, the risk we will incur. A clear exit strategy is not time based but goal based. We must ensure that the peace we enforce for 12 months has a realistic prospect to endure in the 13th, 14th, 15th month and, hopefully, for years beyond that.

Essential to that goal is a stable military balance. To achieve that balance, we will have to see to it that the Bosnian federation has the means and the training to provide for its own defense from aggression after we have withdrawn. Therefore, I believe our authorization of this deployment must be conditioned on the concrete assurance that the United States will do whatever is necessary, although without using our soldiers who are part of the implementation force, to ensure that the Bosnians can defend themselves at the end of our mission.

Some will want to pursue military equilibrium through the arms builddown envisioned in the agreement, but to assume in a few months we can persuade all parties to build down to rough military equilibrium is incredibly naive. We should rightly have little faith in the prospects of arms control negotiations in such a short period. Therefore, we must insist that before we leave in a year there is a stable military balance which will have been achieved by helping the Bosnians to acquire the arms and the training to defend themselves that we have denied them for 4 years.

In closing, let me again urge my Republican colleagues to consider very carefully the institution of the Presidency as they deliberate on this very difficult question. I spent much of my life defending the credibility and the honor of the United States. I have no intention of evading that responsibility now.

Therefore, I intend to work on a resolution with Senator DOLE and, hopefully, all of my Senate colleagues, that will maximize the prospects for the success of the mission and minimize American casualties. I am fully aware that in doing so, I will bear some of the responsibility in the event the mission fails. I do so readily, because my first responsibility is to do everything in my power to support and protect the fine young Americans we will send to Bosnia and to ensure that whatever sacrifices they will endure, they will have done so for a cause that was worthy and winnable.

I yield the floor.

Mr. DOLE. Mr. President, let me just take a moment to thank my colleague from Arizona. He knows as well as I do what the public opinion polls are showing; 80 percent, in some cases higher, "Do not send the troops." As we have tried to point out, that is not the option anymore. The option is to have an exit strategy and to make certain that in that exit strategy we train the Bosnians so they can be an independent force to defend themselves so we can come home; second, to take every step we can to ensure the casualties will be as low as possible.

The Senator from Arizona is not unaccustomed to courage and making courageous stands—this is another example—in the face of public opinion. But that is what leadership is all about. I have to believe, once the Americans are there starting next week and once the images on television are of Americans and the children and the families and the security they have, the attitude of Americans will change.

The Senator from Arizona made a point that I think deserves repeating. That is, NATO—NATO has been very important. It has preserved freedom for a half century. We have given our word. In effect, we are NATO, as far as I am concerned, the United States. Without the United States as a partner in NATO, you would not have NATO.

But, in addition, the President of the United States, without consulting Congress, but it was the President of the United States in 1993 who, in effect, gave his word that the United States, if there were peace to keep, would send 20,000 Americans as part of a 60,000-member force. Then we invited all the parties to come to Ohio, to Dayton, OH, where they stayed for about 3 weeks. The implication was clear. The Americans had taken over the negotiations. The peace talks had broken down. I talked with the Prime Minister of Bosnia less than 3 hours ago. They were all packed, ready to go home; then Mr. Milosevic, the President of

Serbia, made some concessions. But the implication throughout was that the United States would be the principal player. You cannot have peace, according to him, unless the United States is present. Not that they do not have great respect for the Europeans who have been there and the U.N. Protection Forces for the past several years, who lost about 200 lives total.

So, it seems to me that our responsibility now is not to say we are going to pass some resolution here that says—it is only two lines long: "The Senate is opposed to deploying U.S. forces." Let me repeat. They are going to be there next week, about 3,000. They are already deployed and the others will follow.

We do have some responsibility, when the President of the United States, whoever that may be, gives his word to the international community that this is what will happen and this is a responsibility we will assume.

So, I hope we have a good debate. We hope to start it next Wednesday, if we can. It is not going to be easy. It is not politically popular. But it is the right thing to do, and sometimes it takes a while for people to understand when you do the right thing.

So I commend my friend from Arizona, Senator McCAIN. I know he understands, probably better than anyone on this floor, what loss of freedom and loss of liberty might be like—what it was like for him for several years. So this is about America. This is about American forces. This is about our responsibility as Congress—not about Republicans and Democrats. It is about the Congress. As the Senator said, we could cut off funds. That would be vetoed. I do not think anybody wants to cut off funds.

And I do not suggest everybody who has a different view is posturing. But there will be some of that. There always is. So, this is a very important time in American history.

It is a very important commitment that the President has made. We wish he would have listened to us—this Senator, the Senator from Arizona and the Senator from Connecticut—about lifting the arms embargo a year ago. We would not be talking about sending American troops now. But that did not happen. So here we are.

I believe the Congress will do the right thing. We will end up supporting U.S. forces. We will attempt to do everything we can to reduce casualties, and we will have an exit strategy in the resolution. We believe it will be bipartisan. We hope that we can have the same spirit of bipartisanship in the House and that we can send a resolution to the President for his signature —if not next week, the first part of the following week.

I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. There is very little I can add to the eloquent words of the majority leader, except that I would also like to note the presence of the Senator from Connecticut, Senator LIEBERMAN, who has labored long and hard on this issue in a very bipartisan fashion. He and I, the majority leader and others, will be working on this resolution so we can get it to the floor, get it debated, and get it passed as quickly as possible.

Mr. President, often bandied about by politicians is reference to the Constitution of the United States. It is very clear to me that the President of the United States, by virtue of his election by a majority of the American people, has the authority to send these troops. I believe that it is up to us to do everything we can to ensure their safety, and if that means that there is some political damage inflicted by that decision I will hearken back to my first responsibility, and that is to minimize the loss of a single American life. I believe we can do no less.

I want to thank the majority leader, and I look forward to hearing the views of my colleagues. I hope that we can work together with as little rancor as possible on this very emotional, divisive issue.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Mr. President, I rise to offer respectfully a word of thanks to the distinguished majority leader and to the Senator from Arizona.

The Senator from Arizona described the remarks of the majority leader as statesmanlike. I say that the remarks of the majority leader were more than statesmanlike. They were, in fact, patriotic in the sense that, in taking the position that he has, he has put the interest of his country ahead of politics. All that I know about the majority leader says to me that one should not be surprised to see him do that. Nonetheless, the action he has taken today should not pass without being commented on, and should be appreciated.

Senator DOLE and I, Senator McCAIN and others, Senator BIDEN on this side, have been working in a bipartisan way now for almost 4 years through the administration of President Bush, and now President Clinton, trying to create a reaction that was effective to what we have seen all along—acts of aggression against Bosnia, taking advantage of its military weakness, and ultimately becoming not just acts of aggression but acts of genocide.

The four of us, and others on both sides, ultimately becoming a resounding majority, a bipartisan majority, cried out for the raising of the arms embargo, feeling it was immoral, it was unfair, and it was unrelated to reality to continue to impose on the warring parties there an embargo that was adopted in 1991 as an attempt to stop the war from breaking out. But the war did break out.

On one side, the Serbs possessed most of the military war-making capacity of the former Yugoslavia. On the other side, the Bosnians had little or none, and, as a result, they were victimized.

Particularly after the attack by the Serbs on the undefended, so-called "safe haven" of Srebrenica and the brutal, inhumane slaughter that occurred there, this brought the United States-led NATO to carry out a series of air attacks that finally convinced the aggressors that the rest of the world would not stand by and watch wars spread in Europe, watch people be slaughtered because of their religion, watch NATO and the United States lose their credibility and the respect that they enjoyed throughout the world. President Clinton led the effort in NATO to carry out those air strikes and then designated Secretary Christopher and Ambassador Holbrooke to bring the stature and force of the United States of America to bear to bring the parties to peace. No other country in the world could have done this. It is remarkable that each of the warring parties trust the United States more than any other country in the world. That is to say, that all three of them trust us. In Bosnia, in the Middle East, and perhaps in Northern Ireland, we have credibility, and we have strength. With that strength comes responsibility. But I would say also that with that strength and credibility comes increased security for each and every citizen of the United States.

I agree with the commitment that President Clinton has made to send these 20,000 troops to be part of an international force of 60,000 because I understand that without that commitment, there never would have been peace, the three warring parties would never have come to the peace table and our allies in NATO would never have joined to keep the peace. So while I strongly support the commitment that was made—and I understand that my friends and colleagues who have just spoken do not—what I particularly respect and appreciate is that the Senate majority leader and the Senator from Arizona understand that the question now is not whether we all agree with the commitment that was made; the question now is whether we will honor that commitment. What is on the line there is the credibility and reliability of America's word in the world, of America's leadership in the world.

Somebody asked in the Armed Services Committee hearing that we held on Tuesday of a panel of witnesses, three people who had served in various administrations, "Is Bosnia worth dying for?" And, of course, each and every one of us hopes and prays and believes that there will not be casualties among our forces, that we are taking every precaution, learning from Somalia and Haiti, and how important it is to limit our objectives here with the military objectives easily carried out, to make sure that our troops have robust rules of engagement, which means if their safety is threatened in the slightest they can strike back with overwhelming force. But we understand that there are risks involved in any military operation, any sending of American troops to a zone where there may be combat, even if it is to keep the peace as it is today.

While we understand all of that, what is important here is that my colleagues have to answer the question which the former Under Secretary of Defense answered on Monday when the question was asked, "Is Bosnia worth dying for?" He said, "That is not the right question." In the gulf war situation, after Saddam Hussein moved into Kuwait, the question appropriately would not have been, "Is Kuwait worth dying for," because there was much more on the line there as there is here. What is on the line here is the credibility and the reliability of the word of the President of the United States, who alone has made this commitment and is authorized to execute the foreign policy of the United States.

Five-hundred and thirty-five Members of Congress cannot be at every meeting, every negotiation that the President of the United States is involved in. The Presidency, beyond this President, must have that reliability, that credibility, that strength. In that strength and reliability rests not just some distant esoteric governmental structure or authority point of view; in that reliability rests the security of each and every American.

So I thank my colleagues for understanding that there is more at work here. The reliability and credibility of our word, the controlling of a conflict, hopefully ending a conflict that could have spread and become a wider war and drawn us in later on at a much higher price, the renewed strength of NATO on which we will rely to help us share the burdens of peacekeeping, not just here but around the world.

We called on NATO allies in 1990 and 1991 in the gulf war and said we needed their help, and our allies came to our assistance, fought by our side. Today, in effect, they in Europe are asking our help—not to do it all, but to provide one-third of an international force. Who knows? A year or two from now, we again may find that some strategic interest or moral principle of ours has been challenged around the world and we will turn to our allies in Europe and NATO and ask them for help. If we say no today, then what can we reasonably expect them to say to us tomorrow?

So, Mr. President, I thank again the majority leader and the Senator from Arizona for rising above politics and partisanship, doing what is not popular but doing what they have concluded and I believe is best for our country and best for those 20,000 soldiers who are going into peacekeeping in Bosnia.

The last thing I think we would want to do is to send those 20,000 soldiers into Bosnia wondering whether they have the support of anybody besides the President of the United States. It is up to us in Congress, as representatives of the people of this country, every State and district of this country, to say to those brave soldiers—the finest fighting force that has ever existed in the history of the world, in my opinion—we are with you. We stand behind you. The time for partisan debate is over. You have a mission to do, and now we are focused on doing everything we can to support your mission and to help, as Senator DOLE has said, to make sure that it can be carried out swiftly, successfully, and with good effect.

I agree with my colleagues that part of that is to make sure that the Bosnian military is adequately armed and equipped to deter aggression once the NATO peacekeeping force leaves Bosnia.

Mr. President, there are moments when not only the people of the United States but Members of Congress are disappointed, frustrated, discouraged by what happens here. There are other moments when we are elevated and inspired and encouraged because we see among our distinguished colleagues an extraordinarily able group that has been sent here from around the country. We see really the finest, in a sense I would say the most noble of human behavior, real acts of leadership, and I respectfully suggest that we have seen such an act from the Senate majority leader today and from the Senator from Arizona.

I look forward to working with them and, hopefully, with a strong bipartisan majority of colleagues, to draft and then pass an appropriate resolution of support for those 20,000 troops and for the President and the Presidency that has made this commitment.

I thank the Chair, and I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

The nominations received today are printed at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on November 30, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

H.R. 2525. An act to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

Under the authority of the order of the Senate of January 4, 1995, the enrolled bills were signed on November 30, 1995, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1638. A communication from the Chairperson of the United States Commission on Civil Rights, transmitting, pursuant to law, the report entitled, "Funding Federal Civil Rights Enforcement"; to the Committee on the Judiciary.

EC-1639. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations on disclaimers on campaign communications; to the Committee on Rules and Administration.

EC-1640. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Selected Acquisition Reports for the period July 1 to September 30, 1995; to the Committee on Armed Services.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Darcy E. Bradbury, of New York, to be an Assistant Secretary of the Treasury.

David A. Lipton, of Massachusetts, to be a Deputy Under Secretary of the Treasury.

Joseph H. Gale, of Virginia, to be a Judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

David C. Williams, of Illinois, to be Inspector General, Social Security Administration.

Melissa T. Skofield, of Louisiana, to be an Assistant Secretary of Health and Human Services.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S. 1438. A bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes; read the first time.

By Mr. GLENN (for himself, Mr. DEWINE, and Mr. GORTON):

S. 1439. A bill to require the consideration of certain criteria in decisions to relocate professional sports teams, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 1440. A bill to amend the Social Security Act to increase the earnings limit, and for other purposes; to the Committee on Finance.

By Mr. HELMS:

S. 1441. A bill to authorize appropriations for the Department of State for fiscal year 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes; read the first time.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN (for himself, Mr. DEWINE, and Mr. GORTON):

S. 1439. A bill to require the consideration of certain criteria in decisions to relocate professional sports teams, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FANS RIGHTS ACT OF 1995

Mr. GLENN. Mr. President, I want to address the situation we face in professional sports at the moment. What I am introducing today is a bill we call the Fans Rights Act. I believe we truly are at a crossroads in professional sports. When we talk about professional sports and introducing legislation, obviously the first question is why on Earth do we want to get the Government involved in professional sports? Keep our mitts out of that area. Stay away from it. We have no business getting into the area of professional sports.

Yet, I would say that we are into a situation now that I think is very important. I think it is important for the country. It does involve professional sports. Why get Government involved? Professional sports, the way they are organized, do have to come to Government for antitrust exemptions and for permission to use broadcast money for various purposes and spread across interstate—a whole host of things where Government does, indeed, get involved.

Beyond that, Americans are sports minded. Part of the fabric of the daily life of the United States is looking at the ball scores, looking at the scores on the weekends, and watching the professional sports teams operate. I think Senator SPECTER, at a hearing we had yesterday, put it well when he said, "America has a love affair with professional sports." Indeed we do have a love affair with professional sports. We even have sports idols, of course, that are the role models for many of our young people. It goes into the whole fabric of this country. I will not belabor that idea any further.

The shock waves of the Cleveland Browns' proposed move to Baltimore extend far beyond just the State of Ohio. Every community with a professional sports team needs to know this: Any city in America can fall victim to a bidding war in which the interests of loyal fans and communities are given very little consideration.

Quite simply, if it can happen in Cleveland, where loyal fans supported the Browns through thick and thin, then, Mr. President, it can happen anywhere. Other communities may have been willing to grin and bear it, but in Cleveland, we are drawing a line in the sand and we are here to say that enough is enough.

The new economics of sports is a zero sum game in which teams seem to bounce around the country and taxpayers too often are left holding the bag.

Unfortunately, professional sports leagues, like the NFL, actually have little ability to regulate the movement of their own member teams. They cannot enforce their own bylaws that franchise holders agree to when they become members of the league. There is no process involved to allow a community to have any protection or input before such moves. A team simply picks up and goes, leaving behind fans, businesses, and a community that has invested vast emotional and financial support.

Judging by the barrage of reports during football games each Sunday on nightly hockey broadcasts or in the sports pages each day, it would seem to lead us to believe that almost half of America's sports franchises are looking for greener pastures.

Let me run through just a few of the things being considered right now.

In Texas, the Houston Oilers have announced they are moving to Nashville. In Florida, the Tampa Bay Buccaneers are rumored to be moving up to Orlando. The Chicago Bears are considering an offer to move over the border to Gary, IN.

If that is not confusing enough, this past weekend various NFL commentators reported that:

The Buccaneers will end up in Cleveland with the Browns' name;

The Buccaneers will end up in Baltimore and the Browns will be sold;

The Oilers transfer is not a done deal; and

Both the Seattle Seahawks and Arizona Cardinals are talking about relocating to Los Angeles, which lost both its teams in moves before this season.

Does anyone find it ironic that the Cardinals are talking about relocating to Los Angeles to replace the Rams who moved to St. Louis to replace the Cardinals after they moved to Phoenix?

No wonder the sports fans find it tough to even follow those moves. These are the people we are concerned about, not just those in the skyboxes. We are talking about the average American whose family has supported a franchise through season tickets, parking fees, T-shirts, and paraphernalia through concessions for decades and decades and decades, because it is those people who are the true fabric of American sports.

It is those people who are truly hurt when a flagship team like the Browns threatens to leave town.

We are here today to say that it is time to give a voice to the fans of America. That is what the Fans Right Act we are introducing today is all about.

I think the league knows they have a basic problem. We have talked to Commissioner Tagliabue about this, and actually the league does not have control over where these franchises go even though their own bylaws say that a vote of the league owners will determine where the teams go.

The problem has been that a few years back one of the owners decided to move anyway, even though the league had voted against him, on a move of the Oakland Raiders to Los Angeles, in effect thumbing his nose at the league when they voted that he could not move. He was taken to court. The league lost, and there was about a $50 million penalty assessed against the league, even though their own bylaws that the owner had agreed to said that the league could control the move.

That is the situation we find ourselves in.

Let me hasten to add that this is not an antiowners bill in any way, shape, or form. It does not prohibit the owners from making money. It does not limit the amount of money they can make. It does not stop them from cutting the best deals they can with their host cities. It does not even bar them from moving their teams to the other locations if there are good reasons for doing so. But it does require them to play by the rules that they themselves set and vote upon. It lets the league have the final say whether a transfer will be made or will not be made. Right now the league does not have that authority because it has been taken to court and shown that they did not have it.

I realize that professional football, like all big league sports, is a business. It is a big business. But a business is comprised of its owners, its workers, and its customers. Team owners have rights. They do not hesitate to enforce them. Team players have rights, and they do not hesitate to enforce them either. The third part of that is I believe the team customers—the fans—have some rights also, and that is what this addresses.

I say it is time that we help them enforce those rights—not just in Cleveland but all across this great country. If it were just one move, well, all right. I would doubt that would be the subject of any legislation here on the floor of the Senate. But, as I indicated earlier, this has become a basic problem in professional sports, and we are trying to address that problem.

So while we recognize that professional sports franchises are clearly business and we must consider profit, we also believe Congress should take a number of steps to, in effect, help the league in its ability to control the destiny of the league. That is a power they do not now have. It gives them the power to increase stability and ultimately preserve the integrity of professional sports.

Let me turn to some of the details. We accomplish the first by providing sports leagues with a very narrow, limited exemption to antitrust laws if the league has voted to block a move. Let me read that again. We accomplish it by providing sports leagues with a very limited antitrust exemption if the league has voted to block a move. This exemption would say that if the league prevails, they could not be taken to court in a situation like that. And the exemption would shield sports leagues from the likes of the $50 million antitrust lawsuit that we saw the Raiders win in the 1980's and from the types of lawsuits the NFL is currently fighting in court. What we are trying to do is let them run their own business but do it fairly.

Yesterday, at a hearing before the Judiciary Committee, Commissioner Tagliabue asked for such an exemption so that the NFL could enforce its own bylaws. I discussed this with him in my office several weeks ago when I had written him a letter and told him what I was thinking about doing and the proposal we were about to make.

So today we propose that Congress give the NFL and other sports leagues the legal ability to block the move of a team if they think it is not in the best interest of their sport. By law, we will require that these leagues abide by their own bylaws, which currently take into account fan loyalty and community support, their own bylaws that some owners see fit to not go along with even though they have agreed to those bylaws when they accepted the franchise in the league.

Second, our legislation would also require that teams give communities at least 6 months' notice before a relocation can occur. This would allow communities facing a team relocation the opportunity to put together bona fide offers to purchase the team or induce it to stay. The sports league would be required to take these efforts into consideration as it considers a team relocation. And it would require a hearing so that people like Mayor Mike White in Cleveland and Art Modell, the owner of the Browns, could sit down together, with Cleveland and the Nation watching, and publicly discuss whether it is such a great idea for the Browns to leave Cleveland and what the reasons are for leaving.

Third, our bill has a fair play clause. It says to owners thinking about moving their teams that no longer can they give a so-called relocation fee to the league, which I understand may be even distributed to the other owners before their vote, before the league votes on whether or not they should relocate.

This is something Mayor White has talked a lot about, and my colleague, Senator MIKE DEWINE, made a strong case for it in yesterday's hearings and at a press conference we had this morning. I know he will make his own statement on that shortly. He is on the floor now. But there are two things you can say about it. First, it is just plain fair, and it makes sense to put that kind of a limitation, a fair play clause, in there.

This bill sends a very clear message to the league and to the owners. "We are giving you the tools that you yourselves have said you need to put your house in order. We are giving you authority to enforce your own bylaws that you all agree to and say you will play by. Congress does not want to run your business." I do not want to be involved in running the business out there.

I think this legislation is much needed so that it can bring some order to what is a rather chaotic situation in the league now. I hope that this will be looked at very, very carefully at the January 17 meeting of the league in Dallas, which I believe is their current schedule.

I believe this legislation, simple though it is, can fix the problem. It can fix the problem. Make no mistake, there are far harsher proposals out there that Congress may be inclined to consider. I know the distinguished Senator from Washington, who is in the chair right now and is the Presiding Officer of the Senate, has proposed some legislation in the past and has had experience with this in his home State in getting a team to stay and in setting up conditions that go along some of this same line. I know he feels that programs do not go far enough in what we are proposing here and has said so publicly this morning. So I am not telling tales that were private conversations of a day or two back.

All I am pointing out is that there are harsher proposals out there. I do not want to see Congress forced to take these harsher steps, these tough steps. I would rather see the league take this authority we are giving them now and act on it, control their own league, and get on with the business of making sure that everything is very fair.

Baseball has its own set of problems, of course, and there have been proposals in the past to take the antitrust exemption away from baseball. But the one thing to say about baseball is they have had authority to keep teams where they were and to not just float teams around willy-nilly, all over the United States.

I was told this morning that it has been 24 years since a major league baseball team moved, that the new teams we have in the league are expansion teams. I have not checked that out, but I guess that is correct. It indicates that if you have authority to go ahead and run the league and to pass on the franchises and where they will be, there can be some stability.

I will be introducing separate legislation which would allow a community to keep the team name in the event of a relocation. That will not be part of this legislation I have just submitted today. But the team name in the event of a relocation would remain, and the community could waive this right if it wishes to do so. I am working with Congressman HOKE in the House and Senator DEWINE on that bill, and it will be introduced separately at a later date.

I cannot think of any football team or any sports team for that matter that has enjoyed more loyal and fervent support from its community than the Cleveland Browns. Week in and week out, whether their record might be 13 and 3, or 3 and 13, just the opposite, over 70,000 fans regularly pack Cleveland Municipal Stadium to show their support to the Browns.

At the hearing we had yesterday, Senator THURMOND, who was chairing the hearing, talked about how in his home State of South Carolina there is a loyal band of Cleveland fans, "dawgs" as we call them around Cleveland, as they call themselves, and the "dawg pound," as they call the area where this particular group always sits in Cleveland Stadium, and Senator THURMOND said they have 800 South Carolinians who are loyal Cleveland fans and meet every time there is a Cleveland game. I told him then I had not been aware that we have a remote dawg pound, as we call it in Cleveland, down in South Carolina.

I relate that only to indicate the loyalty of Cleveland fans all over the country. So this move cannot take place because anyone thinks there has been a lack of fan support or lack of fan interest in the Cleveland area.

Mr. President, with this legislation, we say to fans in Cleveland and across the country, any sport that boasts it is played in America and made in America, as football has been termed, should be operated fairly in America also. So I think once again we are at a crossroads in professional sports, and I think this legislation will take us down the right path from that crossroads. Let me just say for all of you outside of Cleveland who may be listening, it happened to us in Ohio, in Cleveland, and it could happen to you. I think the legislation we are proposing today will go a long way toward giving the National Football League the ability, the legal ability, which they do not now have, to control their own league. It gives them the legal ability, and I think they will use it judiciously and properly and stop some of this turmoil of disruption that we see in the league right now, the way it has been operating in the last few years.

I yield the floor.

Mr. DEWINE. Mr. President, I am very proud to join my colleague from Ohio today in cosponsoring this piece of legislation. The senior Senator from Ohio has very eloquently outlined the need for this legislation. Let me also talk about a few items that I feel are important, because this legislation is not just about the Cleveland Browns. Really, this legislation is about how tax dollars are spent. This legislation is about equity. It is about fairness. It is a bill that would ultimately help protect professional football fans everywhere. The question is asked many times, particularly this week when we are talking in this city about important issues such as Bosnia and the budget, why should Congress even think about becoming involved in professional sports?

I think the answer is threefold. First, in 1966, the NFL-AFL wanted to merge, and they came to this Congress to ask for specific exemption of the antitrust law, and that was granted. Later on, when they wanted to pool their resources, pool the TV money, again the NFL came to this Congress, to the House and the Senate, to the American people, and said we want special legislation. That legislation was passed and signed into law, and they operate under that law today.

In virtually every move that is contemplated today in professional sports, certainly in regard to the purported move by the Browns from Cleveland to Baltimore, tax dollars are involved, Federal tax dollars indirectly, local tax dollars both indirectly and directly. No move takes place today without subsidization by the taxpayers. In the case of the Baltimore-Cleveland situation, you have the Cleveland community that has not only supported the Browns with its individual money by the people who go to the game, not only watch the game on TV, not only the great loyalty of almost 50 years of the Cleveland Browns fans, but the community through tax dollars has put tax dollars back into Municipal Stadium over the years, and there has been a contribution. And so we see that case now in Baltimore with additional tax dollars. Yes, I know they are called lottery dollars. They are. But again they are public funds that are used to lure Cleveland over to Baltimore. So public dollars are involved and involved in virtually every single move. And so these are three good reasons I believe why Congress is already involved in the NFL, already involved in professional football. The only question before us is to what extent we want to be involved.

Senator GLENN has outlined the major provisions of this bill. The one provision which will give a limited antitrust exemption to the NFL owners if they turn down a move is, as Senator GLENN said, very limited, and it does have the effect, in my opinion, of facilitating the NFL in doing what they ought to do anyway, and that is, frankly, follow their own nine-point criteria. That is all anyone can expect them to do.

When anyone looks at the nine-point criteria that the NFL drew up to guide them, that they did in lieu of the Al Davis case—and they drew up nine points, very objective criteria—it is abundantly clear that if you objectively apply the criteria, the Cleveland Browns would simply never be allowed to move. It is not even a close call.

Here we have a community that has put an average of 70,000 people in the stands Sunday after Sunday after Sunday in good years and some years that maybe were not so good—almost 50 years of football tradition, NFL football in Cleveland.

The day after it was announced that the Browns wanted to move to Baltimore, a day after the infamous press conference in Baltimore was held, less than 24 hours later, the voters of Cleveland, in Cuyahoga County, voted by a 72 percent margin to tax themselves to keep the Browns in Cleveland—72 percent in 1995, with the antitax climate that we have today.

Here is a team that is rated No. 1 in the NFL, No. 1 in the NFL in TV penetration of their market. They get a bigger share of the TV market in the Cleveland area, throughout the Cleveland market, northeast Ohio, central Ohio, than any other team in the NFL.

So if you look at the criteria that is applied, objective criteria, how well has the community supported the team, how willing is the community willing to try to negotiate and to provide the things that are needed for the team to solve any problems the team might have, when you look at all the criteria, it is abundantly clear, on an objective basis, the Browns did not qualify. It is not even close. Baltimore should get a team, but it should not be the Cleveland Browns.

Let me turn, Mr. President, to another provision in this bill, and it has to do with something that I discussed yesterday with Commissioner Tagliabue when he testified in front of our Judiciary Committee, and that is this thing that is called the franchise relocation fee. This is, in essence, to boil it down, money that is given by the team that is moving to all the other NFL owners.

The last time this was done, the amount was, if you count the direct money and the indirect money, $46 million. The last time there was a move in the NFL, $46 million, they spread it among the other NFL teams. These are the same owners, same teams that have to judge whether or not it is in the best interest of football and the fans for a team to be able to move.

What this bill does is say you cannot have this franchise relocation fee. It is not right. It is not fair. It does not accomplish anything for the fans, for professional football, and certainly it does not make the decisionmaking process any more objective as carried on by the owners.

The deal between the Cleveland Browns and Baltimore in Maryland provides a specific provision. In that contract it provides that up to $75 million can be used for a franchise relocation fee, up to $75 million. I would submit, Mr. President, that it is not too far a stretch of the imagination to argue that the lottery funds, other public money, from Baltimore, from Maryland, will then go to the Browns, the Browns would then turn around and distribute this, on this relocation fee, to the other owners. I think it is abundantly clear what the problem is with this franchise relocation fee.

Mr. President, we are not in any way with this bill arguing or saying that teams should not be able to move. Teams should be able to move. They should be able to move if the market is not good, if there are problems locally that cannot be resolved. What we are simply saying, though, is that the movement should be based on merit, and there should be some logic behind that.

In yesterday's hearing, Mr. President, I talked with some of the witnesses, particularly witness Tagliabue, the commissioner of the NFL, about a couple changes I thought the NFL could make without any intervention by Congress. The franchise relocation fee is one. The NFL does not have to wait for legislation. They could do that tomorrow. They could change the rules and do away with that. And I think they should.

Another thing that the NFL could do would be to change their very, very strange—I do not know, Mr. President, a better word to describe it—but the very, very strange structure by which they share revenues in regard to people who go into those coliseums and ballparks every weekend.

Mr. President, if you or I buy a ticket, go in to see an NFL football game this coming Sunday, if we just buy a regular ticket, part of the money from that ticket will go to the visiting team, part will go to the home team. It is the way most professional sports divide the money up. The home team does get more, but there is a certain percentage. It works no matter where you buy the ticket. There is one exception to that.

This has to do with the luxury boxes. If you are lucky enough to be seated up in a luxury box, in comfort, looking down, the money you have paid or the money someone else has paid for that luxury box, for that seat, whatever you want to call it, that all goes to the home team. Well, this was a decision made apparently a few years ago by the NFL.

It did not take the owners and teams very long to figure this out. And so if you got extra money, if you got all the money from the luxury boxes, it put a premium on building more luxury boxes, in fact, put a lot of pressure on the teams to build these luxury boxes, because not only, Mr. President, do the teams get all of the money instead of just part of the money——

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. DEWINE. Mr. President, I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Not only does all this money for the luxury boxes then go to the individual owner of the home team, but it also has the effect—I will not take the time on the floor of the Senate today to explain all the math of this—but it has the effect of driving up these salary caps because that salary cap is based on total gross revenue and based on formulas. Basically, it is 62 percent times the designated amount of revenue.

And so if one team, let us say team A, has no luxury boxes, but team B builds luxury boxes, not only does team B get all the money for the luxury boxes, not split at all with team A, who they might be playing that weekend, but team B, by getting that luxury box money, drives up the salary cap, not just for them but for everybody. So team A has their costs go up. So it is almost like being on a treadmill.

The NFL has created a system by which everybody has a real incentive to go out and build luxury boxes. What that means is they are either going to build them in the home coliseum or the home park, or they are going to make the incentive to move somewhere else.

So the NFL has created a situation with this structure that really puts a premium on movement, and I do not think it is in the best interest of football. Again, it is something that the NFL should change and can change themselves, and I think it is a fair representation of Commissioner Tagliabue's testimony yesterday that he simply did not disagree with this at all.

Mr. President, let me conclude by stating that the thing that I have found most interesting in the last several weeks in regard to the controversy surrounding the Cleveland Browns' reported move to Baltimore has not been the reaction of fans in Ohio—and that has been absolutely unbelievable. People are up in arms. But we sort of expected that. What I think is interesting is that people across this country, who are sports fans, and who are not Browns fans, have looked at this and said this is not right, something is wrong, there is a problem. Maybe this move or attempt to move by the Browns to Baltimore is sort of, or should be, a wakeup signal to the NFL that something is absolutely wrong.

Mr. President, the NFL has a nine-point criteria. I think they should apply that nine-point criteria to determine if this move—I think they would, if they applied the nine-point criteria, determine this move is not right, does not fit the criteria, and should not take place, and is not in the best interest of football.

I believe that the bill that Senator GLENN introduced, that I have cosponsored, today will help in this situation. It will help the NFL do what it should do anyway, and is one more step toward trying to rectify a situation in professional football and other professional sports that is really very much out of hand and out of control.

I will be talking more about this on the floor in the weeks to come, Mr. President. I thank the Chair and the Senate for the additional time, and I yield back.

By Mr. BIDEN:

S. 1440. A bill to amend the Social Security Act to increase the earnings limit, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY EARNINGS LIMIT LEGISLATION

• Mr. BIDEN. Mr. President, today I am introducing legislation that would increase the Social Security earnings limit—the amount that senior citizens can earn before they start losing Social Security benefits.

As my colleagues know, the earnings limit is currently $11,280, and it is increased each year for inflation. For seniors between the ages of 65 and 69, every $3 earned over that limit means a $1 reduction in Social Security benefits.

It is almost hard to believe this issue is still around. I remember back in my first term in the Senate—in 1977—when I introduced similar legislation. At the time, the earnings limit was $3,000, and I tried to increase it to $6,000. I was prompted to do so in part because of a Delaware woman who came up to me at a meeting and told me that she was breaking the law.

I wondered what crime could this sweet, frail, elderly woman be guilty of. And, she told me. She had a part-time job and was being paid in cash so that she would not have to report her income and thereby lose her Social Security benefits. She needed both to survive financially.

In the years since then, I have heard other stories—they are practically endless.

Imagine an elderly couple whose adult child develops some medical problem. Like most parents, they want to help their child—they do not abandon their parental instincts and concern just because they have turned 65. But, to meet the costs of caring for their child, they need to go back to work—and as a result, they will lose some of their Social Security benefits.

Or imagine the case—and it happens all too often—where the husband dies. And the wife, who he supported financially, now faces a dilemma. Her widow's Social Security benefits are not enough. She must get a part-time job to maintain a living. So, she goes to work, but loses part of her Social Security benefits.

Or imagine those senior citizens who just want to supplement their Social Security income—so they do not become dependent on welfare or on their own children, who are facing a financial squeeze of their own between their mortgages and putting their kids through college. Those seniors who want to ensure that they do not become dependent on others are penalized by having their Social Security benefits reduced.

Mr. President, these stories illustrate the perversity of a low Social Security earnings limit. It discourages some seniors from working, penalizes other seniors for working, and makes criminals of some seniors who need both a paycheck and a Social Security check to survive. This is not right.

So why does this policy even exist? Well, believe it or not, at one time, it had a very legitimate purpose.

In the midst of the Great Depression roughly 60 years ago, unemployment was rampant. And, the plain fact was, we wanted senior citizens out of the work force so that there would be more jobs for young workers with young families. That is part of the reason why Congress created the Social Security earnings limit—to discourage seniors from working.

A legitimate rationale at the time. But not today. Today, unemployment stands at a low 5.5 percent. And, the American economy, with a shrinking labor pool, is facing competition within an ever expanding global marketplace.

So, just when we need experienced workers in the labor force, we are wasting the greatest source of experience—our senior citizens. Just when we should be encouraging seniors to stay in the work force, many elderly workers are better off earning less than earning more. These are seniors who wish to work—in some cases, must work—who would work hard, and who could add millions of dollars to our economy. But, many are not working because the Social Security earnings limit penalizes them for doing so.

This is simply not fair to our seniors, and it is not good for this country. We should not penalize anyone for wanting to work and for wanting to supplement their income. And, we should not make criminals of those who do.

Now, unlike some of my colleagues, I do believe that some earnings limit still has a place. Social Security is, after all, a retirement program, not a reward for becoming old. But, an earnings limit set at $11,280 simply has no rational basis whatsoever. And those it hurts are too often those who are already struggling.

I find it interesting that the effect of such a low earnings limit is that working, middle-class seniors are penalized. They lose part of their Social Security benefits. But, the wealthy are treated differently. The elderly Donald Trumps and the elderly Ross Perots of the country have far greater incomes than $11,280, but they get those incomes from investments and unearned income. Therefore, they do not face the reduction in Social Security benefits that the middle-class faces.

This needs fixing. So, Mr. President, the legislation I am introducing today would increase the Social Security earnings limit to $14,500 next year and then gradually increase it over the following 6 years until the limit reaches $30,000 in the year 2002. In other words, seniors could earn up to $30,000 per year before their Social Security benefits begin to be reduced.

Earlier this month, the Senate debated and failed to pass similar legislation introduced by Senator MCCAIN. I want to commend the Senator from Arizona for his dedication to this issue over the last several years. And, I say to my colleagues that the bill I am introducing today is the same as the Senate considered—and unfortunately rejected—a few weeks ago, except in a couple of respects.

First, my bill would also apply the increase in the earnings limit to blind recipients of Social Security benefits. Currently, blind individuals aged 55 and over qualify for Social Security disability benefits if their earnings are below the level of the retirement earnings limit. My proposal would retain this parallel treatment between the retired and the blind.

The second major difference between my bill and the earlier McCain legislation is that my bill does not include an offset. I believe we must find a way to pay for this bill. But, it was clear that the vote to defeat an increase in the earnings limit earlier this month was based in part on the proposed offset. So, my hope is that by not specifying an offset now, we can work together in a bipartisan fashion to find a suitable way to pay for the costs of this proposal and increase the Social Security earnings limit.

Mr. President, those senior citizens who want to work and those who must work to make ends meet should be honored and commended, not penalized by the Social Security system. I urge my colleagues to support this legislation.

ADDITIONAL COSPONSORS

S. 673

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 673, a bill to establish a youth development grant program, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 706

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 706, a bill to prohibit the importation of goods produced abroad with child labor and for other purposes.

S. 969

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1245

At the request of Mr. ASHCROFT, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

At the request of Mr. HELMS, his name was added as a cosponsor of S. 1271, supra.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, November 30, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Thursday, November 30, 1995, beginning at 10 a.m. in room SD–215, to conduct a confirmation hearing on nominees currently pending before the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 30, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, November 30, 1995, at 10 a.m. in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 30, 1995, at 2 p.m., in room 226 Senate Dirksen Office Building to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 30, 1995, at 9:30 a.m. to hold a closed hearing regarding intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

THE CHARITABLE GIVING PROTECTION ACT

• Mr. DODD. Mr. President, last night the Senate passed the Charitable Giving Protection Act, which Senator HUTCHISON and I originally introduced earlier this year. This legislation will help charities use contributions effectively and ensure that these vital organizations can continue their good work. I commend Senator HUTCHISON for her diligent efforts and thank all of my colleagues for their help in passing this legislation in the Senate.

Every day across this country, charitable organizations help millions of Americans. Whether its giving disadvantaged children meals or clothing, providing shelter to the homeless, or working to support the educational and medical needs of the less fortunate, charities help weave a stronger social fabric for our Nation.

Regrettably, the benevolent endeavors of charities have been jeopardized by a lawsuit, Ozee versuse American Council on Gift Annuities, currently before a Federal district court in Texas. That lawsuit, which has been certified as a class action against almost 2,000 charities, asks that all money donated to charities through charitable gift annuities be returned, along with double that amount in damages. I have heard from a broad spectrum of charitable organizations in Connecticut and they fear that this lawsuit will undermine their work.

Over the years, charities have used gift annuities as a means of making it easier for people to donate money. Generally, these transactions work as follows: A person donates money or some other asset to a charity and receives a tax deduction. The charity then invests the money and makes fixed, periodic payments to the donor. When the donor dies, the remainder of the gift goes to the charity. These arrangements help both donors and charities, and it was never the intent of Congress to unduly restrict their use.

In order to ensure that the lawsuit does not bankrupt charities and to facilitate the work of charities in the future, the Charitable Giving Protection Act clarifies Federal law. The legislation provides that the activities of charities relating to charitable gift annuities do not violate antitrust law. It also codifies certain exemptions that the Securities Exchange Commission has recognized for charitable organizations that pool and invest donations.

However, none of these changes would make it easier for charities to commit fraud. The legislation would not change the antifraud provisions in Federal securities law or affect Federal tax laws relating to fraud. People could still bring appropriate lawsuits against cheats or swindlers attempting to disguise themselves as charities, or charities acting fraudulently.

Mr. President, in recent years, charitable organizations have stepped forward and filled some of the gaps in the American safety net, gaps that will widen if extreme Republican budget cuts are enacted. Although charities will not be able to come up with the funds necessary to repair the terrible damage these cuts will cause, charities will try to help. They always have in times of crisis. The Charitable Giving Protection Act will help them in that effort. Once again, I applaud Senator HUTCHISON's hard work on this legislation, and I thank all of my Senate colleagues for helping to move it forward expeditiously.•

TRIBUTE TO JUDGE GERALD W. HEANEY

• Mr. WELLSTONE. Mr. President, on the eve of his 50th wedding anniversary, I take this opportunity to pay tribute to Judge Gerald W. Heaney, a distinguished jurist who is beginning his 30th year of service on the U.S. Court of Appeals for the Eighth Circuit. Although Judge Heaney assumed senior status on December 31, 1988, he continues to handle an impressive workload, bringing to each case the same unyielding compassion, fairness, and sense of justice that has marked his tenure on the bench since his appointment on December 1, 1966.

Gerald Heaney was born on January 29, 1918, in Goodhue, MN, a rural community in the southeastern part of the State. In that productive farming community, he learned the values of close family, honesty, and hard work: qualities that have distinguished his public service. Judge Heaney received his undergraduate education at the College of St. Thomas and his law degree from the University of Minnesota in 1941.

At the outbreak of World War II, Gerald Heaney enlisted in the U.S. Army. Serving with the distinguished 2d Ranger Infantry Battalion, his extraordinary bravery in the Battle of La Pointe du Hoc during the D-day landing at Normandy earned him the Silver Star. He was also decorated with the Bronze Star and five battle stars before he was honorably discharged with the rank of captain on January 18, 1946.

At the end of World War II, Judge Heaney married Eleanor Schmitt. Of his wife, Judge Heaney recently said, "I am fortunate to have married Eleanor. She has been the love of my life and my friend, my companion. She has brought stability to me, to our children, and to our grandchildren." In December of this year, Gerald and Eleanor Heaney celebrate their 50th wedding anniversary by renewing their wedding vows at the College of Saint Scholastic Chapel in Duluth, MN.

Judge Heaney began his legal career with the firm of Lewis, Hammer, Heaney, Weyl & Halverson. During his 20 years of private practice, Gerald Heaney dedicated himself to serving the disadvantaged and those seeking equality. To cite one example of this dedication, Judge Heaney represented teachers in their successful fight to make Duluth the first school district in Minnesota to adopt the same pay scale for both male and female teachers. While in private practice, Judge Heaney continually demonstrated his commitment to the improvement of the State's educational system. He worked actively with the Governor and State legislature to develop a State school aid formula, which remains in use today and continues to serve as a model for the rest of the Nation. Judge Heaney also served on the board of regents of the University of Minnesota, an institution to which he has devoted a lifetime of loyal service in recognition of its importance to the lives and welfare of Minnesota citizens.

In 1966, with the support of Senators Eugene McCarthy and Walter Mondale, Vice President Hubert H. Humphrey, and congressional representative John A. Blatnik, President Lyndon B. Johnson appointed Gerald Heaney to the Eighth Circuit of Appeals. Former Vice President Walter Mondale said of Judge Heaney: "I have served many years in public life and one of the best things I did was to support the nomination of Gerald W. Heaney to be a Circuit Judge for the Eighth Circuit."

Since his appointment, Judge Heaney has authored over 2,000 judicial opinions in which he has demonstrated leadership in many different and complex areas of law including school desegregation, civil rights, employment discrimination, Social Security disability cases, criminal law, labor relations, first amendment jurisprudence, and commercial litigation. These opinions evidence Judge Heaney's guiding principle: All persons—regardless of race, color, or creed—are entitled to equal protection under the law. At the unveiling of his portrait at the Federal courthouse in St. Paul, MN, Judge Heaney commented on the challenges facing our society and those in public service, "It has been no simple task to preserve freedom, and it will not be simple in the future. Every democracy is fragile. It needs our constant and unwavering support. This is the task to which we must all rededicate ourselves."

Judge Heaney continues to leave his mark on the landscape of the law in this country. As his colleague, Judge Donald P. Lay, former chief judge of the Eighth Circuit Court of Appeals, has said,

> In my judgment he is the most outstanding judge ever to serve, not only on the Eighth Circuit but throughout the United States, in the last 25 years. He is the most well-prepared judge in the circuit. His industry and dedication to law are unparalleled. His compassion and understanding of human problems is unique. He is a scholar and true gentleman in all respects.•

THE ODDS AREN'T WORTH IT

• Mr. SIMON. Mr. President, during the November elections, voters in 19 communities from seven States were asked to voice their opinion on the expansion of gambling. Many of these initiatives pitted grassroots efforts and coalitions against well-financed gambling interests. Election results supported more gambling in only 4 of the 19 communities.

It is difficult to determine whether this represents a shift in public opinion. However, it is clear that in order to make informed decisions at the ballot box, voters need objective and authoritative information. Conflicting claims remain unresolved. Nagging questions linger.

A recent editorial from the Boston Globe, "The Odds Aren't Worth It," clearly describes the need for a national study. I as that it be printed in the RECORD.

The editorial follows:

[From the Boston Globe, Saturday, City Edition, Nov. 25, 1995]

THE ODDS AREN'T WORTH IT

Gambling tempts high-rolling risk-takers, it tempts the luckless with little to lose, and it tempts politicians. Since Atlantic City mortgaged Boardwalk to the chance industry 18 years ago, legalized gambling has expanded with amazing speed. Where once there were only two states that allowed or sponsored gambling, now there are only two—Utah and Hawaii—that don't.

In the past few weeks, however, what had seemed an inexorable acceleration has suddenly slowed to a trickle as voters and public officials across the country have fastened on gambling's dubious benefits and hidden costs.

Last week the Connecticut Senate rejected Gov. June Rowland's plans for a mammoth casino in Bridgeport. What had seemed a done deal was undone. In Maryland, a study commission recommended against increased gambling there, and most politicians agreed. On election day this month, voters in Washington state and Jefferson City, Mo., killed proposals to expand gambling, and voters in three Massachusetts communities rejected casinos; only New Bedford voted yes.

Now Congress is considering proposals to set up a national study commission that would examine the history of legalized gambling, explore the tradeoffs and provide credible data on which states and municipalities could make their own choices. The chief sponsors are Sen. Paul Simon of Illinois, a Democrat, and Rep. Frank Wolf of Virginia, a Republican. President Clinton and Sen. Dick Lugar of Indiana, a Republican seeking to challenge Clinton, both support it. Wolf believes that the commission will be approved, possibly before Christmas.

It should be. What is needed most urgently is a sober study that will sort out the conflicting claims—not only the moral arguments but also the actual economic and social effects.

Clearly, many people like to gamble. In Mississippi, which has had a no-limits attitude since 1992, a gaming publication estimated that $29.7 billion was wagered in 1994—an amazing $2.1 billion more than the state's total taxable retail sales. The phenomenal growth of the Foxwoods casino in Connecticut hints at the demand that might be tapped.

Yet what are the economics of gambling? It is an industry that creates no wealth but only redistributes it—mostly from the poor to the rich, and often the rich are not even local people. A good study would provide the details.

But the signs are obvious. In the subway, and advertisement for the lottery portrays a pastel rainbow with a pot of gold at the end. Right next to it is a public service announcement describing how to apply for food stamps. The striking thing is that the two messages are addressed to the same audience: People who can't even afford to buy their own food without government help are encouraged by the government to throw what little they do have at a mirage.

Lotteries may turn out to be the most regressive form of state gambling. One of the few arguments for them other than the revenue they raise is that they closely mimic the illegal numbers games that have thrived in many communities, therefore drawing money away from organized crime.

Casinos raise additional concerns. Successful ones do provide jobs, and some older cities have looked to casinos as potential saviors. New Bedford is as good an example as any. With textiles and other industries gone and fishing on the wane, people in New Bedford are desperate for help. They voted nearly 3-1 for a casino this month. And they argue that half the cars in the Foxwoods lot are from Massachusetts anyway, so the state is exporting the gambling dollar needlessly.

Yet other casino towns have found not only that crime and vice rise rapidly with gambling but that the net effect on the economy is not salutary. Local restaurants and other retail businesses suffer; the problem of addiction to gambling, including among young people, grows; and in many places population drops. Also, the casino sometimes drives out better options. In Bridgeport, for instance, city officials said last week they would dust off a waterfront development plan—one that might provide stronger economic stimulation in the long run than gambling. The plan had been sidetracked by the casino proposal.

A solid study would give substance to all these questions.

Those selling New Bedford on a casino may be no different from the hucksters touting the pot of gold at the end of the pastel rainbow. What provides the spice, as with all gambling, is the fact that someone, sometime, actually wins the gold. But many cities and states have found the odds are no better for them than for the gamblers whose pockets they empty.•

MEASURE READ THE FIRST TIME—S. 1438

Mrs. HUTCHISON. Mr. President, I understand that S. 1438, introduced today by Senator DOLE, is at the desk, and I would ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows.

A bill (S. 1438) to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

Mrs. HUTCHISON. Mr. President, I now ask for its second reading, and I would object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1833

Mrs. HUTCHISON. I ask unanimous consent that at 4 p.m. on Monday, December 4, the Senate turn to the consideration of Calendar No. 249, H.R. 1833, the partial-birth abortions ban, for debate only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. And for the information of all Senators, debate will begin on the partial-birth abortion ban at 4 p.m. on Monday. However, no votes will occur during Monday's session of the Senate.

ORDERS FOR MONDAY, DECEMBER 4, 1995

Mrs. HUTCHISON. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 3 o'clock p.m. on Monday, December 4; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until the hour of 4 o'clock p.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

PROGRAM

Mrs. HUTCHISON. For the information of all Senators, at 4 p.m. on Monday, the Senate will begin consideration of H.R. 1833 regarding partial-birth abortions. There will be no rollcall votes during Monday's session of the Senate.

Also, as a reminder to all Senators, under a previous consent agreement, at 9:30 a.m., Tuesday, the Senate will begin debate on the conference report to accompany H.R. 1058, the securities litigation bill. Senators can therefore expect rollcall votes during Tuesday's session.

ORDER FOR ADJOURNMENT UNTIL 3 P.M. MONDAY, DECEMBER 4, 1995

Mrs. HUTCHISON. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENDING UNITED STATES TROOPS TO BOSNIA

Mrs. HUTCHISON. Madam President, I wish to say briefly that I have just heard the majority leader, Senator DOLE, and Senator McCAIN state that they would be introducing a resolution—I am sure a bipartisan resolution—to support the President's efforts to send troops to Bosnia.

Madam President, there are no two people I know in the Senate that I respect more, and certainly no two people in the Senate who have given more in the military service of our country than Senator McCAIN and Senator DOLE. I respect them, and I know that they are coming to this decision in a way that is very thoughtful and statesmanlike.

I am very sad that this is going to happen because I disagree totally with the conclusions they have reached. I think every Member is going to have to really search his or her conscience to decide what is the responsibility of a Senator or a Member of Congress in this type of action. I know all of us are going to vote our conscience. I do not think anyone will come to their conclusion based on anything except what they think is right.

I am sure debate will be heated, but I think it is very important that we have an alternative to the resolution introduced by the majority leader because many of us feel that this is the wrong decision and that for us to exercise our responsibility as Members of the Senate, we must speak out against deploying troops to Bosnia. So there will be an alternative and I hope we will be able to vote on a clear alternative, and that is a resolution to disapprove this deployment of our troops.

We will go into debate more in the next week, and I do appreciate the fact that we are going to have the opportunity next week, rather than some later time after it is too late to try to have an impact on the President's decision.

I have read the Constitution. It is very clear to me that the Founders of our country were specific in not giving the war powers to the President alone.

In fact, in The Federalist Papers, both Mr. Madison and Mr. Hamilton specifically said this is not a monarchy, therefore, the President alone should not be able to wage war. So the question becomes, what is a war? Are we sending our troops into a hostile situation in which they will be in harm's way? And does that mean that they are in a war?

I believe sending troops into a situation in which we believe there is a good chance for fatalities must be done by the President and Congress together, not by the President alone. I think it is most important, and I think it was part of the balance of powers, that the founders of our country were very careful to put in our Constitution that this kind of decision not be made by one person.

I am very concerned that we are also setting a precedent for our troops to be deployed on the ground in border conflicts, in ethnic conflicts, in civil wars that were never contemplated when we signed on to in the NATO Treaty. Nowhere in the NATO Treaty does it say that we should be required to go into a country that is not a NATO country, a country which has not been invaded by a hostile force, a country which is, in fact, in a civil war.

So, Madam President, the debate will come. And people will be very emotional about it. I am very emotional about it. I want to take my responsibility as a Member of the U.S. Senate, as a person given that responsibility by the voters of my State with obligations that are constitutional, to try to make sure that not only do our young men and women in the armed services have everything that we can give them when they chose to give their lives to protect our freedom, but that they also have the leadership that has the judgment to know that only when it is a U.S. security interest at stake is it worth the risk of their lives. And, Madam President, I hope we can make the case that that is not the situation in Bosnia.

I want to help the Bosnian people. We have done our part. We have shouldered about 60 or 70 percent of the cost of this effort so far. We have been there for the parties to come together. We have been a catalyst for the peace agreement. And I give the President credit for that. He deserves credit for bringing the people to the peace table and for hammering out this peace agreement.

But I think it is most important that we have many options to help the people of Bosnia. I do not think United States troops on the ground are among the best things that we can do for the Bosnian people, not for NATO, and not for America. It is not in our best interest to send ground troops to Bosnia. The President of the United States has unfortunately allowed our allies and others in the world to somehow argue that the only way we can show our commitment to peace is to have ground troops.

I think there are many other ways we can support this peace agreement. We can continue to provide air support. We can continue to play a strategic role. We are giving money now, and we will continue to give money. We can provide intelligence support for them, which we have been doing, and which we can do. We can arm and train the Moslems without being part of this peacekeeping force. In fact, I think that would be a far better policy. So, many options are there for us to help the Bosnian people. But placing American troops in harm's way is not an option that I think is right, not for America, not for NATO, and not for the people of Bosnia.

Thank you, Madam President.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent I be allowed to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. INHOFE. Madam President, I think what has happened today, in my own view, as tragic as it might be, is refreshing to some of the American people, the people who feel this is a partisan place up here, where there is nothing but partisan politics, that the Republicans stand for something and the Democrats stand for something. But what we witnessed a short while ago should defuse that because we now have the majority leader of the United States Senate supporting the President in his effort in sending American troops into Bosnia on the ground.

I listened briefly to the Senator from Texas, Senator HUTCHISON, and I concur in her remarks. There certainly are no two people I have higher regard for, in terms of their war record and patriotism, than the Senator from Arizona, Senator McCAIN, and the Senator from Kansas, the majority leader, Senator DOLE. However, I think there is an honest difference of opinion here.

I think what the President has been attempting to do seems to be working. But what the President has been doing is staying out of the fray until troops can be deployed long enough and far enough into Bosnia that it puts us in the position of where we are going to have to support the effort because we are supporting the troops. I do not buy that.

I think you can support the troops—and I will always support the American troops, wherever they are, anywhere in the world. But if we have the option right now of stopping the deployment of troops into Bosnia, it is our moral responsibility to do that. And I believe that option is still there.

I said this morning on this floor that there are not going to be any free rides on this one. We are going to have a vote, not a vote on a soft resolution saying, well, we oppose the effort but we support the troops, we are going to have a vote on whether or not we send our troops into Bosnia.

The environment in Bosnia is not one the likes of which we have seen in any of the wars that we have been involved in because we have always been able to identify the enemy. You cannot identify the enemy. Sure, we have chosen sides. We have been supplying the Croatians and the Bosnian Moslems against the Serbs now for quite some time. I think perhaps that was not the right thing to do, but nonetheless we have taken sides. We have taken sides through our air attacks.

Now it looks as if we are going to deploy troops over there to take sides. But who are the good guys and who are the bad guys? In this case we do not know. You might say, well, this year—any snapshot in history would give you a different answer to that question. There was a time when clearly the Croatians would have been the bad guys and a time when clearly the Serbs would have been the bad guys. But here we have more than just three major factions. We have many, many elements. We have rogue elements. And some of these elements are Serb elements, some are Moslem elements, such as the Black Swans. That is a rogue element. Nonetheless, they are there.

We are sending troops into an environment where only in this morning's newspaper we see a quote from the guy who is working directly for the general with whom I have spoken in the very sector where we are proposing to send our troops, General Haukland from Norway, where they say that there are literally millions of mines all throughout that area—millions. Not 10, not 100, not 1,000—millions of mines of all sizes, all shapes. And we do not know where they are. They are now in a position where, even though they have been going centimeter by centimeter trying to defuse these mines, we are now in a position where the winter is setting in, the ground is frozen, the snows are coming, and there is not any way in the world that we are going to be able to protect our troops that are going over there from stepping on these mines.

Remember, just a short while ago we were faced with a similar situation down in Nicaragua. And what were most of the losses? They were from mines. And the amputees were the result of what was happening.

Now, that is what we are faced with again. Only in today's newspaper, this is happening right now. We have already sent troops over there. I know that the President is hiding out in Europe. He is going to stay there until we have more troops. Then he will come back and say, "Now you have to go with me because we have to protect our troops that are over there."

Madam President, our troops are not there yet. We only have a few there. But a lot are on their way. I went to the training area in Germany of the 1st Armored Division. I know they are training them to go. They are going to go up through Hungary and then come down south through the Posavina corridor and into the Tuzla area.

When you look at that area, there has never been an area anywhere in the world that is so conducive to guerrilla warfare. There has never been an area in the world that has more guerrillas in it that are not identifiable. We have identified nine rogue elements that are there that are not even related in any way to anyone who was around the table in Dayton, OH.

So, Madam President, I just wanted to be sure that it is crystal clear that I do not stand alone. There are many others who feel just as strongly as I do that we are going to do everything we can to stop this mass deployment of troops into Bosnia. It was a bad idea 2½ years ago when the President first started talking about it, when he took sides and started airdrops. It was a bad idea 1½ years ago when the President decided he was going to have airstrikes. And it is a bad idea today. And I will continue to do anything within my power to stop the deployment of troops into Bosnia.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, first I wish to compliment my friend and colleague Senator INHOFE for his statement on Bosnia. I will have a statement soon on that subject. But I compliment him, one, for his courage and conviction, and also the fact he went through the trouble of going to Bosnia recently, and I think his observations are very correct. I think we are in the process of getting bogged down in a quagmire.

So I compliment him for that. Again, I will add to my remarks at a later time.

TRIBUTE TO THE REVEREND DR. RICHARD HALVERSON

Mr. NICKLES. Madam President, I wish to make a couple of remarks concerning a very sad event that happened this week, and that was the death of our friend, Richard Halverson, the Chaplain of the Senate for the last 14 years.

I first want to express my condolences to Chaplain Halverson's family—his wife, Doris, his son, Chris and daughter-in-law Maura, his son, Steve and daughter-in-law Paula, and his daughter, Debbie and son-in-law Fred, and his nine grandchildren.

Chaplain Halverson was a friend, not only to myself but to all Senators as well as the Senate staff and the entire Senate family. He certainly was a pastor of exceptional repute, a person who has been defined by many as "a man of God," as a person who certainly loved the Lord and showed that love by his words and by his actions. It was evident when he would sit in his chair in the Senate Chamber and greet people on a daily basis. This love for people was not reserved for Senators only, but it was generously given to people who sweep the floors or those who work in the restaurant or the elevator operators. Chaplain Halverson was a friend, and he will certainly be missed.

He is loved by many thousands from his service in the pulpit and for his 14 years as Chaplain of the Senate. I really consider it a blessing to have known him, to have worked with him, to have shared many good times with him. To have been with him with families in prayer. To have worked along side him with the National Prayer Breakfast, in which he had been instrumental. He has left a very valuable mark on our lives.

A friend of mine from Oklahoma once commented to me about Dr. Halverson. He asked me if I knew him. I asked, "Why?"

He said, "I will tell you, I've had the pleasure of knowing him for years," and my friend paid him the highest compliment I ever heard paid anyone. He said Chaplain Halverson was the most Christ-like man he had ever known. I think that was an appropriate definition for a wonderful servant of God who also served this body.

So we extend our sincerest condolences to the Halverson family and we want them to know we love Chaplain Halverson and that our thoughts and prayers are with them and will continue to be.

I might mention to the Senate that it is our intention—and I am working with Chaplain Ogilvie on this—to have a memorial service for Dr. Halverson a week from Tuesday, at approximately 11:30 a.m. Once the arrangements have been finalized, I will make a formal announcement to my colleagues early next week.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1441

Mr. NICKLES. Madam President, I understand that S. 1441, introduced today by Senator HELMS, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

> A bill (S. 1441) to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United

States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes.

Mr. NICKLES. Madam President, I now ask for its second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

UNANIMOUS-CONSENT AGREEMENT

Mr. NICKLES. Madam President, I further ask unanimous consent that the morning business period on Monday be amended to provide for up to 30 minutes under the control of Senator BRADLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, DECEMBER 4, 1995, AT 3 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 3 p.m. on Monday.

Thereupon, the Senate, at 4:25 p.m., adjourned until Monday, December 4, 1995, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate November 30, 1995:*ERR08*

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

LUIS D. ROVIRA, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2001, VICE LORRAINE MINDY MEIKLEJOHN, TERM EXPIRING.

DEPARTMENT OF JUSTICE

JOHN R. LACEY, OF CONNECTICUT, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1998. (REAPPOINTMENT)

HOUSE OF REPRESENTATIVES—*Thursday, November 30, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GILLMOR].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *November 30, 1995.*
>
> I hereby designate the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.
>
> NEWT GINGRICH,
> *Speaker of the House of Representatives.*

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your word, O God, commends us to seek justice and mercy and in this our petition we ask that our words will be translated into actions that promote justice and the blessed gifts of mercy. Increase our understanding how we may be good stewards of righteousness so that all people are treated fairly and enjoy the liberties and freedoms that we cherish. May we use our abilities and resources so we are good custodians of the riches of the land so that in all things, we are faithful to Your word and walk in Your way. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. KNOLLENBERG] come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

> H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes; and
>
> H.R. 2525. An act to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 2539. An act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 1341. An act to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 956) "An Act to establish legal standards and procedures for product liability litigation, and for other purposes", disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PRESSLER, Mr. GORTON, Mr. LOTT, Mr. STEVENS, Ms. SNOWE, Mr. ASHCROFT, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. EXON, and Mr. ROCKEFELLER to be the conferees on the part of the Senate.

LEAD, FOLLOW, OR GET OUT OF THE WAY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, Americans are asking Congress and the President to balance the budget. Allow me to share excerpts of a letter to the President sent to me by one of my constituents, Carol Ault, of Ellicott City, MD.

> The Democrats have spent 40 years getting this country in the financial mess it is in. The Republicans have started cleaning up the mess. And one of the first steps is to produce a balanced budget as soon as possible.
>
> And Mr. President, your statement on TV recently that your job is to "take care of the American people" is totally wrong. We do not want you and the U.S. government to take care of us. We want you to leave us alone to pursue our own economic interests. You do not know what is best for us. We know what is best for us. You do not know how best to spend our tax money. We know best how to spend our tax money.
>
> I am not sure if the following statement originated with Iococca, but I heard him say it: "Either lead, follow, or get out of the way."
>
> Sir, you are not leading.

IS IT ANY WONDER THAT SPEAKER GINGRICH REFUSES TO ACT PROMPTLY ON MEANINGFUL CAMPAIGN FINANCE REFORM?

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, new revelations about the intrigues at GOPAC have just been brought to light in documents filed in Federal court here in Washington. While now-Speaker GINGRICH chaired GOPAC, apparently the go in GOPAC meant go beyond the law. GOPAC was little more than a slush fund to subvert the Federal election law.

Quoting from those documents:

> GOPAC routinely and continuously provided what was described as Newt support, expenditures for projects especially for Newt. GOPAC paid political consultants to help Newt think. Helping Newt was described as probably the single highest priority we've got in dollars. The expenditures total for Newt's support a quarter of a million dollars, not one dime of which was reported in accordance with Federal law.

Is it any wonder that Speaker GINGRICH refuses to act promptly on meaningful reform of our campaign finance laws when he would not even comply with the laws that we have on the books today? The GOPAC scandal is not going to go away. It is a serious violation of our laws. The Ethics Committee cannot duck it and this House cannot dodge it.

THE AMERICAN PEOPLE WANT A BALANCED BUDGET NOW

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, on November 20, 1995 President Clinton signed the following statement in a continuing resolution: "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002." Yet, just a couple of days ago when asked whether the White House would prefer to put off the larger budget debate until next year's elections, the White House press secretary, Mike McCurry, responded in saying, "Debate next year during the national election, campaign when we should, as Americans have that kind of debate."

They are trying to avoid balancing the budget this year, but we know what the American public want. They proved it in 1992 when Mr. Clinton told them that he could balance the budget in 35 years. They proved it in 1994 when they elected a Republican Congress. They proved it in 1995 when the people and the Congress wanted a balanced budget again. Now, against the will of the American public and against the will of the American people, the President is trying to avoid balancing the budget.

Again, Mr. Speaker, we know what the American people want. It is a balanced budget. Let us give it to them now.

WE MUST REDUCE THE AMOUNT OF TAX BREAKS TO THE WEALTHY IF MEDICARE AND MEDICAID ARE TO SURVIVE

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, it is crucial in the budget negotiations that are now taking place that the amount of the tax breaks for wealthy Americans be reduced in order to provide sufficient funds for Medicare and Medicaid. Otherwise, seniors and low-income Americans will not have quality health care, or in many cases will not have any health care at all.

As we see from this scale that we have shown before, the amount of tax breaks almost equals the amount of Medicare cuts for seniors. if we do not reduce this, there is no way we are going to have sufficient funding for both Medicare and Medicaid.

The Treasury Department recently came out with some statistics that showed conclusively that the Republican tax cut is heavily weighted toward the rich. They estimated that the richest 1 percent would rake in almost twice as much, or 17 percent of the tax cut.

Mr. Speaker, the message has to go to these budget negotiators that they have to reduce these tax breaks for wealthy Americans if Medicare is going to survive, if Medicaid is going to survive, and if we are going to continue to provide quality health care under those two Federal programs.

DEMOCRATS AND FEARMONGERING

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I wonder if, since the gentleman who just spoke is concerned about the cuts that the Republican plan is going to make in Medicare, if he would prefer then that we have a freeze. Would that satisfy the gentleman since, if he is concerned that we are cutting all of these programs, perhaps he would feel better about having a freeze in the programs? Would that work?

Of course it would not work, and the reason it would not work is that we are not cutting anything. In fact, if you see these numbers, you can see that the budget for 1995, the Federal budget, is $1.5 trillion. It goes up to $1.85 trillion in 2002.

What is unfortunate is that the minority wants to obscure the truth and obscure the facts and confuse the public about what is really happening, because by resorting to demagoguery and fearmongering and scare tactics, they believe that they can maintain a kind of tenuous political edge in the most disingenuous and exploitive way.

CONGRESS MUST VOTE ON SENDING TROOPS TO BOSNIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, when our Founders drafted the Constitution, the hottest debate centered around the power to declare war. Legislative history, legislative debate, legislative intent is absolutely clear. The Founders painstakingly articulated what they felt ensured, that in America no one person, no one person could place America at war or place Americans in harm's way.

Now after all of the political rhetoric, after all of the opinions by the military experts, after all of the analysis, after all of the newspaper writings and all the speeches, the fact remains that one person, one man, has decided to place troops in harm's way.

I believe that the Congress of the United States, who has abdicated the power in America where the people govern and turned it over to the White House, must vote on this issue. In America, no one man is deigned by the Constitution to have that power to place troops in harm's way. I think it is time to literally take our Government back.

NO MORE EXCUSES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, for years politicians in Washington have paid lip service to the idea of balancing the budget. But when it came time to get the job done, special interests and weak backbones have always carried the day.

The new Republican majority made a commitment to end business as usual in Washington. We promised the American people that we would balance the budget so they could have more jobs, lower interest rates, and more take-home pay.

We have kept our word. After months of hard work and several tough votes, we put America's families and America's children above the politics of the past and passed the first balanced budget in 26 years.

Mr. Speaker, we have provided President Clinton with the opportunity to do the right thing. I sincerely hope that he seizes the day. The American people cannot afford to have the same old excuses and Washington gimmicks kill the Balanced Budget Act of 1995.

ELISA IZQUIERDO

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, last week, when we were all giving thanks, 6-year-old Elisa Izquierdo was beaten to death. Her death has been added to the brutal slaying of Debra Evans as the latest ploy for attacking assistance to the needy. This type of outrageous opportunism that takes tragedies and twists them for political gain is shameful and immoral.

Many have claimed that the welfare system is to blame for these deaths. Instead of getting to the heart of the problem we have engaged in mindless fingerpointing that blames adversity on the system.

This rhetoric of blaming the victim and the poor must stop. Death's like these have occurred because of the systematic destruction of America's social safety net.

We must invest in our fellow human beings instead of turning our backs on them. If we fail to do this, there will be thousands more like Elisa and Debra.

It should not take these heinous crimes to serve as a wakeup call that we must change our course. Stop making excuses and start funding change.

SHOW US WHERE CHANGES SHOULD BE MADE IN THE REPUBLICAN BUDGET PLAN, AND BE SPECIFIC

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, shortly after Bill Clinton took over as President, he presented his 1993 budget plan. He was, of course, criticized by Members of Congress on his spending and taxing priorities. He responded to his critics by demanding specifics on how they would do things differently.

In fact, here is a quote from February 18, 1993. In St. Louis, MO, the President said, "My answer is: Show me where, but be specific. No hot air. Show me where, and be specific."

Well, today Bill Clinton criticizes Congress' balanced budget proposal. In fact, he was willing to shut down the Government to prove his point.

He criticizes, but he provides no specifics. He trashes our budget, but he does not say how he would do things differently.

Mr. Speaker, the President should end the hot air campaign and show us exactly where he would do things differently. Show us where, and be specific.

DEMANDING AN ETHICS COMMITTEE REPORT ON ACTIVITIES OF SPEAKER GINGRICH

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, it is becoming clearer and clearer now why Speaker GINGRICH is pressuring Members of the Republican majority not to support the privileged resolution for the Ethics Committee to give the Members of this House and the American public a progress report on their 14-month-old investigation into the speaker's activities.

Today on the front page of nearly every major newspaper in America we are treated to the fact that the Speaker mixed campaign fundraising and his activities as a legislator. We see now tens of thousands of dollars contributed to the Speaker by those individuals that sought his legislative favors before the Congress of the United States, people who sought his favors dealing with asbestos regulation, with cement trade problems with Mexico, where the Speaker, in exchange for those $10,000 contributions, wrote back to those individuals telling them he was terribly interested in their problems, he will look into it, or that he thanks them for their counsel on capital gains.

Mr. Speaker, the House rules are clear on the ethics. You cannot engage in that kind of activity when you are raising money from individuals, and then engage in favors for those individuals later on. The Ethics Committee ought to report to this House and to the American people.

□ 1015

AMERICAN PEOPLE DO NOT WANT TROOPS IN BOSNIA

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, we have no business sending troops to Bosnia—plain and simple. That is the message I am hearing from the people I represent, Mr. Speaker, and one the President would do well to heed. I pray he's listening. •

The President proposes to send troops trained for combat to somehow enforce an uneasy peace among antagonists who have been at each other's throats for five centuries. He's sending heavy armor in an area totally unsuited for modern armored warfare. He is placing Americans in contact with radical factions that have no love for the United States. Remember, not all of the combatants on the ground have embraced the peace agreement, adding further to a long list of factors which add up to a potential disaster.

In the final analysis, Mr. Speaker, we should never deploy combat troops abroad unless a national security interest is at stake. This deployment does not meet that simple test. Congress has spoken on this matter. The American people are speaking loud and clear. Listen to them, Mr. President. Stay out of Bosnia.

TRIBUTE TO PATRICIA SCHROEDER

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I take the floor this morning to offer words of tribute to the gentlewoman from Colorado, PATRICIA SCHROEDER, my colleague. The gentlewoman took us all by surprise yesterday with her announcement. She deserves the thanks not only of thousands of grateful Coloradans but from an entire Nation.

Mr. Speaker, whether on issues of military reform or women's rights or the interests of the kids of America, she has been known to rock the boat when that was needed and to set a courageous course for America so many, many times. Her intelligence, her irreverence, her integrity has set the standard, but in no area more than in her wit and turn of phrase has she been an inspiration to so many of us over so many years.

The House of Representatives and the United States have been the richer for PAT SCHROEDER's selfless service.

ROOT OUT MEDIA BIAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, in order to form opinions and reach conclusions, the American people trust the media to present the facts objectively. Unfortunately, all too often this is not done.

Editorials, in the guise of news stories, regularly appear on the front pages of newspapers. Some reporters don't wait beyond the first paragraph to reveal their bias.

In the age of 15-second sound bites, positions on complex issues are reduced to "for" or "against," with no explanations.

The lack of the public's trust in the media is glaringly revealed by two 1995 public opinion surveys.

A CNN/USA Today/Gallup Poll found that 60 percent of those surveyed think the media is out of touch with average Americans. In a Wall Street Journal/NBC News Poll, only 21 percent said the media are very or mostly honest.

Publishers, editors, producers, and reporters can better protect our democracy if they will initiate efforts to root out bias and present the facts objectively to a public yearning for the truth.

ALLOWING DEBATE ON PRIVILEGED RESOLUTION

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, in my new quasi-emeritus status, let me talk to the Members of the other side of the aisle. We are going to have a very important privileged resolution come in front of this House today, and that resolution we should be allowed to debate. If they vote to table it, we cannot even debate it. That resolution is about what is the status of the Committee on Standards of Official Conduct's report on all the many, many charges against the Speaker.

Please, I say to my colleagues on the other side of the aisle, get your voting cards back, get your spines out of the Cloakroom. We ought to have that kind of a report, especially on a day when the newspapers in America are filled with articles talking about how the Federal Election Commission has said the appearance of corruption is spread all over GOPAC and the Speaker's fundraising. If he cannot abide by the laws that are in force, if there is not an appearance of corruption, we must get a report from the Ethics Committee, or we are part of the coverup. If you vote to table, you are covering up. Do not do it.

MORE COMPASSION FOR WORKING FAMILIES

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. The Gingrich Republicans just do not understand the problems facing working families, but do not take my word for it. Take the word of the Consumers Union. I hope you are familiar with this organization. They publish Consumers Report. They are noncommercial, nonpolitical.

Yesterday, they analyzed the Gingrich Republican budget and its impact on working families, particularly when it comes to Medicaid, the program that pays for over half the cost of nursing homes across America.

Mr. Speaker, if you have a member of your family in a nursing home or if you anticipate that possibility, it is a troubling challenge to every family. It costs on average $38,000 a year to keep a person in a nursing home, and the Federal Government picks up the lion's share of that cost so that families will not be decimated and bankrupted by this experience. The Gingrich Republican budget, according to Consumers Union, will force 395,000 long-term care patients off these Medicaid payments for nursing homes.

Now, what will happen to these working families? I wish they had the same sensitivity for working families as they have when they give tax breaks to the wealthy.

JOIN WITH US TO GOVERN

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my colleague from Illinois, and I dare say to find some of the most stunning fiction in this Nation one no longer needs to visit bookstores, one no longer need go to the library. Simply listen to the rhetoric chanted almost as a mindless mantra from those disciples of big Government who fail to understand one basic principle. You work hard for the money you earn, you ought to hang on to more of it and send less of it here to Washington.

The fact is, and we will repeat it again, we are not making these draconian cuts the other side attributes. We are restraining the rate of growth to save the very programs they purport to champion. Sooner or later, my friends on the other side of the aisle, the liberals in this Chamber and at the other end of Pennsylvania Avenue will have to step forward with us and govern.

Once again, Mr. Speaker, we extend our hand. Join with us and govern. The American people deserve no less.

IMPOVERISHING FAMILIES IS NO WAY TO BALANCE BUDGET

Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Ms. DELAURO. Mr. Speaker, no, we will not join in an effort that, as the report issued on Wednesday by the Consumers Union says, and these are the folks, my friends, when you go to buy your car, you look at the Consumer Reports to find out if you are getting a bum deal or if you are going to get a good deal.

Let me tell you what kind of a bum deal that the folks in this country are going to get. The Republican plans for the transformation of Medicaid may force thousands of American families into financial ruin.

Mr. Speaker, Medicaid pays the bills of 60 percent of nursing home residents in this country. Under the Republican plan, 395,000 of our Nation's long-term care patients are likely to lose Medicaid payment for their care.

Most appalling is that the Republican plan would repeal current regulations that protect the assets of the families of nursing home patients.

In fact, this bill would actually allow a State to place a lein on your home if your mother or father is in a nursing home and cannot pay the bill. Mr. Speaker, families should not have to hawk their homes to pay for the medical care of loved ones. Impoverishing American families is no way to balance the budget.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The Chair would remind the Members that we are in 1 minute, and the Chair would appreciate it if Members would stay within 1 minute.

VOTING CARD WORLD'S MOST EXPENSIVE CREDIT CARD

(Mr. WELLER asked and was given permission to address the House for 1 minute.)

Mr. WELLER. Mr. Speaker, as one of those who came to Washington to change how Washington works, I found the last year so very interesting.

Mr. Speaker, all of us in the House use this plastic card. It is a card that we carry, and the interesting thing is, our friends on the left, the Democrats, for the last 26 years have used this card, their voting card, as the world's most expensive credit card, running up a $4.9 trillion national debt.

What does that mean to the people in the land of Lincoln, my home State of Illinois? Well, everybody's share is $19,000 if we wanted to pay off that national debt. We have been operating under deficit spending for 26 years. Not since Neil Armstrong has Congress balanced the budget.

Just like every American family, Republicans are committed to living within our means. We have a plan which balances the budget over 7 years. We increase spending for Medicare by $724 billion over 7 years. We increase Medicaid funding for the State of Illinois by 55 percent. We have a plan to balance the budget. We reform welfare.

Where is the Democrat leadership plan? Where is the President's plan?

CONGRESS OF BUSINESS, BY BUSINESS, AND FOR BUSINESS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, a year ago Speaker GINGRICH signed what he called a solemn Contract With America to end Congress' cycle of scandal and disgrace. Yet all we see today is government as usual, even worse than usual.

Record levels of campaign contributions. The Washington Post reports that the majority whip is known as the hammer because he hammers people for contributions. Yesterday, we saw again more of this as we read in the Wall Street Journal how contributions are becoming more and more closely linked to legislative favors. While business should certainly be at the table, this has become a Congress of business, by business, and for business.

Then, finally, today we read, according to the FEC, that GOPAC, the Speaker's fat-cat PAC, gave him a quarter of a million dollars in hidden Newt support. Yes, we said yesterday disclosure for lobbyists but, of course, no disclosure for the Speaker. This bill came 5 years too late.

BALANCED BUDGET BONUS FOR CURRENT AND FUTURE GENERATIONS

(Mr. CHRYSLER asked and was given permission to address the House for 1 minute.)

Mr. CHRYSLER. Mr. Speaker, a balanced budget by 2002 means a bonus for current and future generations. Lower interest rates, for example, will mean that people from Michigan will save $3,914 per year on an average fixed-rate mortgage. Students at Michigan State University would save, on average, $584 on a 10-year student loan.

Republicans have passed a budget that balances by 2002, paving the way for American families to reap the benefits it will bring for our economy.

The President has produced no specific plan to balance the budget. His refusal to offer his own details not only risks missing this opportunity to have a balanced budget, lower mortgages, cheaper student loans, and a more secure future. It would deny the people of Michigan, and all Americans, a brighter future.

TRUTH IS STRANGER THAN FICTION

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, truth really is stranger than fiction.

These budget negotiations are beginning to remind me of a movie that come out a few years ago.

You might remember it. A television weatherman wakes up in the twilight zone. He finds himself living the same day over and over and over again.

It was an amusing premise for a movie.

But, for the last month, the American people have been waking up every morning to the same budget nightmare. Only it is not a nightmare, it is inescapable reality.

It is a budget crafted by Speaker GINGRICH. Everyday the American people wake to confront the same Republican budget, the same deep cuts in education, in Medicare, and environmental programs.

Its a monument to misplaced priorities. They have put tax breaks for the wealthy first, and the interests of working families last.

Fortunately, a group of Democrats have put forward a sensible, 7-year budget—a budget that offers a path out of the twilight zone of posturing and positioning that now consumes Washington.

We owe it to the American people to take a look at this budget—a Democratic budget that protects our priorities and achieves real, concrete deficit reduction.

□ 1030

MISSING INGREDIENTS IN BUDGET PLAN

(Mr. TATE asked and was given permission to address the House for 1 minute.)

Mr. TATE. Mr. Speaker, when I talk to people at home, their biggest fear is that their children will not have the same future as they have had. One way to change that is to balance the budget so their children can have more jobs and more opportunities.

The Republicans have come out with a plan. The President says, "Well, I am for a balanced budget plan." Well, where is his plan?

We have come out with a reasonable plan that increases education and job training and student loan programs by $25.7 billion over the next 7 years; Medicare spending by $724 billion over what we spent over the last 7 years; a $40.6 billion increase for veterans and welfare programs. All the important programs are increasing, but yet my friends across the aisle keep saying these are cuts.

That is incredible. Not only is the truth missing, Mr. Speaker, but also the President's plan to balance the budget.

CALL FOR ETHICS COMMITTEE REPORT ON SPEAKER OF THE HOUSE

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, yesterday the House quite properly voted unanimously for lobby reform. Last week it voted for Speaker GINGRICH's amendment, which I supported, to ban trips and dinners and even T-shirts. Why? To restore public credibility in this Congress.

But now the front pages of today's newspapers say that the Federal Elections Commission is filing a civil suit against GOPAC, the political action committee set up and run by Speaker GINGRICH. One concern: A $10,000 check and a letter objecting to a regulatory problem.

Let me get this straight. No trips, no T-shirts, no ball caps, and yet the same person who voted against requiring the Ethics Committee to give a status report after many months of investigation of other charges against the Speaker will say that they stand up for reform. If ball caps are bad, how about $10,000 checks in the mail? Or can you accept a T-shirt if it is wrapped around a check to GOPAC?

If you voted yesterday saying you were cleaning up Government, you must vote today to have the Ethics Committee give a status report on what cleaning up it is doing.

REPUBLICANS PROMISE BALANCED BUDGET

(Mr. BASS asked and was given permission to address the House for 1 minute.)

Mr. BASS. Mr. Speaker, we hear all this Chicken Little talk about how the end of the world is coming because of what the Republicans are doing to save this country for our children and our children's children. We hear that we are increasing spending on defense and we are making draconian cuts in social programs.

Let me just advise you that under the Republicans' plan defense spending will go down $146.8 billion less than spending over the last 7 years, welfare up $386 billion over spending in the last 7 years. The total increase for the Republican budget is $2.5 trillion over the next 7 years.

When I was running for election last year people said to me, "Let's freeze Federal spending. Isn't freezing Federal spending a good way to balance the budget?" Well, we are not freezing Federal spending, we are increasing Federal spending substantially.

I think it is time that we laid the facts on the line here. We have a plan that will save this country for the next generation and the generation after that.

AGAINST REPUBLICAN BUDGET PLAN

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, the Republican budget plan cuts to ribbons programs that are crucial to the development of our Nation's youth and the security of our Nation's seniors. Head Start, the summer youth employment program, and student loan programs are shredded. Medicare and Medicaid are bled by $450 billion, doubling Medicare premiums and shredding the level of medical care, and forcing millions of families to choose whether to mortgage or sell their homes to pay for their parents' stays in nursing homes.

Yet while the sledgehammer falls on the heads of millions of middle- and low-income Americans and all our seniors and children, the Republicans want to eliminate all Federal income taxes on profitable multinational corporations, and they want to give people earning $350,000 a year a $10,000 tax break.

I do not support balancing our Nation's budget in this manner, on the backs of our seniors, the middle class, our children, and the poor. I commend the President for insisting on the wellness of seniors, children, and the environment, and I urge the President to continue to stand firm against the Republican budget agenda.

THE PRESIDENT'S FOREIGN POLICY

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, in order to judge Bill Clinton's policy in Bosnia, remember this President's track record.

First, he has opposed every legitimate use of American power for the last 30 years. When we deployed American troops to protect our national security interests, one thing was certain, Bill Clinton opposed it. He opposed it in Grenada, Panama, and the Persian Gulf.

Second, he turned over direction of our foreign affairs to the whims of the United Nations high command. He turned a humanitarian mission in Somalia into a $2 billion nightmare and wasted the lives of our finest soldiers in pursuit of something called nation building.

He then turned his attention to Haiti and used American troops to restore Aristide to power. Well, Aristide says he wants to stay in power and we have spent about $3 billion making Haiti a virtual province of the United States. And the White House calls that a foreign policy triumph.

So, Mr. Speaker, the next time you are asked about Bosnia, take a look at where Bill Clinton has been and if that does not frighten you I do not know what will.

TRIBUTE TO THE HONORABLE PATRICIA SCHROEDER

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, today I rise to pay tribute to one of the most principled and courageous Members of Congress—I speak of none other than my dear friend, colleague, and mentor, PAT SCHROEDER.

PAT is not only an inspiration and role model for me, she is also a shining example of what all women and people of conscience should strive to be. Over the years, PAT has stood by her beliefs and the beliefs of our party, even when it was unpopular to do so. She is more than just a leader, she is the moral compass of our generation.

Mr. Speaker, PAT SCHROEDER came to Congress as a defender of those in our society with no voices and no lobbies. I am proud to say that she will be leaving Congress still untainted by the system, true to her beliefs.

Thank you, PAT, for your service to our country, and thank you for making the women of America proud. Things just will not be the same without you.

POLITICS AS USUAL

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, for months my Republican colleagues have come to the well of this House and said their top priority is to balance the budget. That is good rhetoric but most Americans would be surprised to find out if you look at it, the Republican budget increases the deficit in each of the next 2 years.

Let me repeat that for you. The Republican budget increases the deficit in each of the next 2 years. What they do is they give tax breaks for wealthy Americans this year and say, "Trust us, 3, 4, 5 years from now, we will make those tough spending cuts." That is politics as usual, and it is irresponsible.

I call the Republican budget plan the dessert budget. It is like a person saying, "I care so much about going on a diet that I am going to start out with a dessert on the first day of my diet and have a hot fudge sundae." That does not work in diets and it is not going to work in deficits.

My friends, Republicans must decide if they care more about pushing their rhetoric of balancing the budget or whether they care more about giving tax breaks for the wealthiest Americans.

GOP CUTS AFFECT CHRISTMAS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, only 25 more shopping days until Christmas.

All around the country, children wonder what goodies they will unwrap.

Now, kids, what do you think you will get?

Well, I hope you do not have your heart set on a college education. The Republicans cut student loans, so a diploma is going to be pretty hard to come by this year.

How about a clean environment? Well, I hope that is not too high on your list either.

Even if you do not find a lump of coal in your stocking, you will find more coal—and soot and ash—in the air you breathe and the water you drink.

Why? Because the GOP had to give a present to their big business buddies. After all—those lobbyists gave them some very nice campaign checks.

And, sorry, we cannot go "over the river and through the woods to Grandma's house." You see, when the Republicans scrapped Medicare and Medicaid, Grandma had to get rid of her house.

So kids, load up on all the candy canes you can find—it is not too nutritious, but if the GOP takes away your school lunch, that might be the only thing to eat this season.

REPUBLICANS COMMITTED TO BALANCED BUDGET

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, in 1952 the Federal Government taxed the American family 4 percent of its income. In 1995, the Federal Government taxes the average American family 24 percent.

In 1950, the Federal Government spent a little over 10 percent of the gross national product. Today the government spends about 25 percent of the gross national product.

In 1950, the Federal deficit was about $3 billion. This year it is around $200 billion.

Mr. Speaker, is there a trend here?

Bigger Government, more and more debt, and less take home pay for the American family. Well, the time has come to turn these trends around. This Republican-led Congress is committed to balancing the budget. We recognize that Government is too big and taxes too much. The Balanced Budget Act of 1995 represents an end to the tax and spend policies that have produced a huge Government and $5 trillion debt. It also says to America's families: you earned it, you keep it, it is yours in the first place.

RELEASE CHINESE POLITICAL PRISONER

(Ms. PELOSI asked and was given permission to address the House for 1 minute.)

Ms. PELOSI. Mr. Speaker, this House of Representatives has for a long time now been a bulwark of support for pro-Democratic reform in China. So it is very sad for me today to rise and call upon my colleagues to join in calling upon the Chinese Government to immediately release Wei Jing Shing.

As many Members know, Wei Jing Shing is the father of the prodemocracy movement in China. He was arrested at the time of the prodemocracy wall activities and served mostly in solitary confinement for about 15 years. He was released when China wanted to get the Olympics.

He was rearrested 6 months later for giving interviews to the press as well as meeting with the Assistant Secretary of State for Human Rights John Shattuck. After 20 months he was held incommunicado. Last week he was charged with trying to overthrow the government, a capital offense punishable by death.

It is very important that the United States of America, the Clinton administration, and this Congress speak out loudly and clearly to the Chinese Government and join with the 15 dissidents who risked their own personal safety to call for Wei's release, a commutation of the charges brought against him and, if he goes to trial, a fair and open trial for Wei Jing Shing.

PRIORITIES

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, Republicans passed a balanced budget with specific plans that reflect the priorities of the American people. However, the President has said we did not increase spending as much as he would like. So we asked him to tell us exactly how much more he wants to spend and where exactly he is going to get the money from: Higher taxes or other cuts. So far he has refused to tell us.

Once the President comes forward with his priorities and how much more he wants to spend, I am confident negotiations will move quickly toward a balanced budget.

NOTHING COULD BE MORE CLEAR

(Mr. LEWIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the cat is out of the bag. According to articles in papers across the country, Speaker GINGRICH's personal political slush fund—GOPAC—was illegally providing funds and resources to Federal candidates in 1990. And lo and behold, who appears to have been the primary recipient of such funds, Speaker GINGRICH himself.

All of this has come to light in a lawsuit brought against GOPAC by the Federal Election Commission. Among the documents filed yesterday were internal memos and minutes from GOPAC planning meetings. According to one, an unidentified GOPAC source said "we're supplying, my guess would be a quarter of a million dollars in NEWT support per year." A quarter of a million dollars in an election he won by just 974 votes.

Mr. Speaker, the Ethics Committee has now been stonewalling the appointment of an independent counsel for more than 14 months. The committee must act, they must act. We need an outside counsel to investigate NEWT GINGRICH. Stop the stonewalling.

□ 1045

ETHICS COMMITTEE SHOULD GIVE A FULL REPORT

(Mr. WARD asked and was given permission to address the House for 1 minute.)

Mr. WARD. Mr. Speaker, I planned to rise today to sing the praises of my friend, the gentlewoman from Colorado [Mrs. SCHROEDER], who is retiring, and to honor her dedicated service. You know, when I mentioned to PAT that that is what I was going to do, she said, "No, don't do that. Please, get up and tell the American people about the ethics problems that Speaker GINGRICH is facing."

She told me that I should make sure that in a time when the Wall Street Journal, the New York Times, even the Washington Times, are talking about the illegal contributions made by GOPAC to Speaker GINGRICH's reelection, that at that same time the Committee on Standards of Official Conduct is refusing to give us a simple report, and the Republican majority has voted down our attempts to give that report.

Today they will have a chance again. Today we will be asking the Republican majority to have the Committee on Standards of Official Conduct just come up and tell us what they found, come up and give us a report, tell us if there is something going on there that we need to know about. Please, today follow our lead, have the Committee on Standards of Official Conduct give us a full report.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. FUNDERBURK. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Commerce, Committee on House Oversight, Committee on International Relations, Committee on National Security, Committee on Resources, Committee on Science, and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from North Carolina?

Mr. WISE. Mr. Speaker, reserving the right to object, the gentleman is correct. The minority has been consulted and has no objections.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMTRAK REFORM AND PRIVATIZATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 284 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 284

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1788) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered by title rather than by section. The first section and each title shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. Before consideration of any other amendment, it shall be in order without intervention of any point of order to consider the amendment printed in part 2 of the report of the Committee on Rules. That amendment may be offered only by the chairman of the Committee on Transportation and Infrastructure or his designee, shall be considered as read, may amend portions of the bill not yet read for amendment, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished ranking member of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 284 is an open rule providing for the consideration of H.R. 1788, the Amtrak Reform and Revitalization Act of 1995. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule makes in order an amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of the report of the Committee on Rules.

All points of order are waived against consideration of the bill and against the amendment in the nature of a substitute, as modified.

The rule allows for the consideration of the manager's amendment printed in part 2 of the report which is not subject to amendment or division of the question and is debatable for 10 minutes equally divided between the proponent and an opponent.

All points of order are waived against the amendment and, if adopted, the amendment is considered as part of the base text for further amendment purpose.

The Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to consideration may be given priority in recognition, and the rules provides one motion to recommit with or without instructions.

Mr. Speaker, Amtrak is an integral part of this country's intermodal transportation system, providing safe, efficient, affordable travel to millions of Americans to many places across the country.

However, according to the GAO, Amtrak's financial and operating condition have declined in recent years, which threatens Amtrak's future ability to continue to provide its current services and will seriously impede any plans for expansion.

This is of particular concern to me. Back in the early seventies, when Amtrak was created, I pursued the implementation of the Amtrak route from Washington, DC, to Roanoke, VA, continuing to Bristol, Knoxville, and Chattanooga and on to Atlanta. At that time, Amtrak told me they planned to get started on such a route in a year. They did not say which year. But I hope that year is just around the corner.

You know, it was pointed out in the Committee on Rules in my colloquy there that this extension of the Amtrak to Bristol, TN, and on to Knoxville would be through my district. But I want to inform the House Members that the railroad was in existence through that area before I was born. So it is not a personal request. It is for the benefit of the people.

The reforms provided in this bill will allow Amtrak to become financially secure as a private corporation by removing Federal requirements which have interfered with its ability to act as a private entity. Hopefully, these reforms will enable Amtrak to expand its services to include a route through Tennessee, along with other needed routes across the country.

Mr. Speaker, this is an open rule. It will allow all Members to offer any relevant amendments, and I urge my colleagues to support the rule and the bill.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of November 29, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	55	65
Modified Closed[3]	49	47	20	24
Closed[4]	9	9	9	11
Total	104	100	84	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of November 29, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of November 29, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from Tennessee for yielding me the customary half hour.

Mr. Speaker, hundreds of thousands of people in the Commonwealth of Massachusetts rely on Amtrak. It is the foundation of our transportation system.

The Northeast corridor which travels from Washington to Boston, carries over 100 million passengers a year. It is the most traveled route in the country.

But, despite our heritage, despite our Federal commitment to passenger rail service. We still have one of the most outdated rail systems in the world.

I believe we have a long way to go before our railroads are where they should be. But this bill is a start.

As my colleague from Tennessee said. The rule we are considering today is open. It will allow Members to offer any germane amendments for as long as they like.

The bill is also a good start.

It will allow rail employees their collective bargaining rights, and enable us to make long overdue improvements to our national passenger rail system.

I urge my colleagues to support this open rule.

Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the rule for H.R. 1788, the Amtrak Reform and Privatization Act of 1995. The open rule is appropriate for the compromise legislation that will be considered today.

I plan to support the rule and urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF], chairman of the Subcommittee on Transportation of the Committee on Appropriations.

Mr. WOLF. Mr. Speaker, the rule is a fine rule, and I am not speaking on the rule but I want to speak about an issue that is in the bill.

It is with regard to Pennsylvania Station redevelopment project. Let me quote from prior years of the Committee on Appropriations reports: In fiscal year 1994 we stated the committee is concerned over the reports of architectural extravagance in this project, including a sweeping parabolic arch rising 120 feet into the air. Given the austere budget situation facing this country, it is extremely doubtful that taxpayers should contribute to such a project.

In fiscal year 1995 the House recommended no funding, because we were in a tight budgetary process. The New York Times has recently quoted State and city officials as saying because of the fiscal problems being experienced by the State and city there is a big question whether or not they will be able to contribute their share of the renovation. So we know the commitment is soft.

This year, in the appropriations bill, 1996, the House did not provide any funds for this project. The decision was agreed to by the conference committee. That decision was agreed to by this body only a few weeks ago.

However, to address some of the concerns of the project, the conferees provided Amtrak the option to use up to $20 million of its limited Federal dollars to support emergency lifesaving repairs at the existing Penn Station. Now, this thing is beginning to spread out in other ways, and maybe there is an end run to put more money in this project than anyone thought was going to be in the project.

I think, and there may be a Hefley amendment offered today, and if it is, I will talk more about it, I think if the Hefley amendment is offered, it ought to be adopted, but I am concerned that everything that the proponents of Penn Station wanted for safety we said we would address and take care of the problems because I did not want anyone to go to Penn Station and be involved in a fire and die or something like that.

There now seems to be a method to go around and get additional money and different money. I am asking the inspector general of the Department of Transportation to investigate this, to look into it. I am also looking today, with a letter to the GAO, asking the GAO to investigate and look into it.

□ 1100

After we get the information, we can make a decision. But based on where I am today and what I have seen is taking place, and I think this is one of the frustrations that the American people are beginning to have with this whole process, authorizing, appropriation, what you are doing, slipping these things in, going around. I personally am of the opinion, based on the information that I now know, that the Hefley amendment, if it is offered today, should be adopted.

Second, I, for one, would not put one red cent, one penny, one nickel, one dime, one more dollar, into this project. I do not want to say specifically, but I think maybe Amtrak has been involved in some activity up here on Capitol Hill, lobbying and doing some things of which we are not quite sure.

Let me tell the Members, we are going to scrutinize this. I think the Members ought to be worried. This may be, I am not sure, but it may be kind of the bait and switch and move things around, and Penn Station has been limited whereby we have given money for all the safety projects. Now we see things coming that I think maybe this Congress, if it really knew all the facts, may not be doing what it is in the process of doing. I will speak on this issue if the Hefley amendment comes up.

Since fiscal year 1994, the House Appropriations Committee has strongly opposed the Pennsylvania Station redevelopment project and recommended not to provide funds for this project. Let me quote from prior years' Appropriations Committee reports:

In fiscal year 1994, we stated "the Committee is concerned over reports of architectural extravagance in this project, including a sweeping parabolic arch rising 120 feet into the air. Given the austere budget situation facing this country, it is extremely doubtful that taxpayers should contribute to such a project."

In fiscal year 1995, the House recommended no funding for this project because "in such tight budgetary times, a project of this uncertainty and magnitude is not justified." Furthermore, although the administration intends to fence the Federal funds until a binding commitment is signed for the non-Federal funds, at present the only commitment is a memorandum of agreement which does not legally bind any of the non-Federal parties.

The New York Times has recently quoted State and city officials as saying that because of the fiscal problems being experienced by the State and city of New York, there is a big question of whether or not they will even be able to contribute their share of the renovation funds. So we know the commitment is soft.

This year, in the appropriations bill for fiscal year 1996, the House did not provide funds for this project, a decision agreed to by the conference committee. That decision was agreed to by this body only a few weeks ago. However, to address some of the concerns of the project's supporters, the conferees provided Amtrak the option to use up to $20 million of its limited Federal dollars to support emergency life safety repairs at the existing Penn Station.

However, now the National Highway System Act authorizes both the Pennsylvania Station redevelopment project and the engineering, design, and construction of a major renovation to the James A. Farley Post Office Building to enable its use as an Amtrak station and retail shopping center. In addition, the same bill provides $26,200,000 in direct funding for this project.

Not only is this project controversial and unnecessary, its 11th-hour inclusion in an unrelated bill violates the normal protocol for conference reports. Because of time constraints and the desire to free up billions in highway funds to States, there was very little time for Members to review the conference report.

In fact, in the rush this conference report was passed in this body on a Saturday without even a vote. This project was not included in the original version of either Chamber's bill. The addition of this project was improper, I believe, because this bill was for the Federal Highway System. It should not have included authorization or funding for the renovation of a train station and development of retail shops at Federal expense.

Let me mention one other concern I have about the Farley Building project. The funding in the NHS bill for this project and the Amtrak reauthorization bill even allows the Federal Government to provide more than our share of the project's cost. Even project supporters say the Federal Government should provide no more than $100 million for this project. The NHS bill brings the total amount up to $77,700,000, and the Amtrak bill authorizes an additional $30,000,000 over the next 3 years, which would bring the Federal share to $107,700,000.

As chairman of the Transportation Appropriations Subcommittee, I was extremely upset to see these provisions. I had worked long and hard to strike a deal with the Senate, and particular with Senator MOYNIHAN, to limit how taxpayer dollars could be spent on the Pennsylvania Station redevelopment project. The sections in the National Highway System bill obliterate congressional intent for this project and does an end-run around the appropriations process.

Today, I am sending letters to the General Accounting Office and the Department of Transportation inspector general requesting each of them to analyze the need for such a project, and the existing financial arrangements. If these reports come back next year and support the project, we will certainly look at it again. We owe the project that much, and I will continue to work with the Transportation and Infrastructure Committee, the New York delegation, Amtrak, and others to address the legitimate transportation needs of passengers in New York City. But from what we know now, this is the wrong approach at the wrong time, and too expensive for the Federal Government to bear.

In summary, what the National Highway System bill has done is authorized and provided direct funding for the building of what its supporters advertise as an architectural wonder and a new retail shopping area in New York City. Slipped in an unrelated bill in the dead of night, and going around the appropriations process. This was little more than a Thanksgiving gift to the city of New York, and it is a real turkey—with all the trimmings. The gentleman from Colorado's amendment would assure that, in these tight budgetary times, taxpayers all across the country do not see their gasoline taxes going to pay for a new train station and to build new shopping spaces in New York City.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT], defender of the American work force.

Mr. TRAFICANT. I appreciate the gentleman's comments, Mr. Speaker.

Mr. Speaker, I have a little amendment on this bill. One of the problems we have that it seems to work out, it seems that Amtrak buys an awful lot of manufactured track line, and that it seems to end up buying its track line, most of it, from overseas in Europe. The reason for it is we make excellent track line, it is even of superior quality; but the U.S. manufacturers say the limited specifications under Amtrak have almost prohibited them from becoming a part of this procurement process.

So my amendment does not compel anybody to do anything, it is not protectionist, it does not shackle anybody. What it does is it creates an outreach program that says that Amtrak shall sit down with American manufacturers of track work to discuss the specification process and to see how that specification process in all fairness can be tailored to give American track work manufacturers a better opportunity of getting some of these contracts.

I find it highly unusual where we are really almost bankrupt in this country, but we would have a procurement specification in a situation like Amtrak that would force most of the sales and purchases of track coming from Europe. That does not make good sense. It is a modest amendment. It makes a lot of sense.

In addition to that, my amendment would also require Amtrak to report back to Congress within 2 years of enactment on the progress it is making in awarding such contracts to American firms, so with that it is not a protectionist amendment. From what I understand, the chairman is going to accept it. I appreciate the time from the distinguished chairman. It is great to have him back here, full time, working on behalf of us and all of us.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I urge adoption of the rule. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 284 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1788.

□ 1104

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1788) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, with Mr. ALLARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation to make fundamental changes to Amtrak. This legislation represents months of hard work by our chairman of the Subcommittee on Railroads, the gentlewoman from New York, SUSAN MOLINARI. It has also benefited from constructive bipartisan contributions on both our subcommittee and full committee level from the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from West Virginia [Mr. WISE], and the gentleman from Illinois [Mr. LIPINSKI].

Amtrak has been sick and is sick, and much of the illness has been Government inflicted. The GAO has confirmed that Amtrak cannot survive, even with indefinite funding, if it remains subject to all the legal mandates that Congress has piled onto Amtrak over the years. One good indicator is the average age of the fleet, which is now 22 years.

Right now Amtrak is a patient on artificial life support. Through some painful one-time austerity measures, it has managed to get through this past fiscal year, but its future is very doubtful unless it can be fundamentally restructured in the way it does business. Normally, a corporation can turn itself around by simply getting labor and management together to implement a sound strategy, but in Amtrak's case, this decision has been effectively taken out of the company's hands because of the incredible array of Federal laws that hamstring Amtrak at every turn.

Mr. Chairman, I want to emphasize, I have confidence, great confidence, in Amtrak's management. I think Tom Downs, the president, is doing an outstanding job, and I think the management team that he has assembled is very competent and capable. However, they are bound to failure unless we give them the flexibility that is provided in this legislation that is before us today to give them the opportunity to streamline and modernize and reform Amtrak.

For example, Amtrak is presently forbidden by law from utilizing maintenance and service centers from other railroads and other suppliers no matter how much money they can save. I know, for example, the freight rail industry has many modern maintenance facilities that are not operated at full capacity, operated by very capable labor people, union rail labor people. If Amtrak were freed of legal restrictions and could negotiate for the best price on maintenance, both sides would win. Amtrak would save the cost of replacing its decrepit maintenance facilities and with the private sector dollars, private sector railroads would bring in additional business for themselves. This is exactly the kind of mutual benefits these reforms can bring. This is exactly the kind of footing that we should put Amtrak on today.

Any kind of fundamental change is uncomfortable for a company and its workers. It is true of any company, including Amtrak. But this bill makes collective bargaining the central feature of changes in matters affecting Amtrak employees, something the current law did not do. The bill provides for an accelerated bargaining process of about 6 months, during which labor and management would fashion new contracts dealing with severance matters and with procedures for contracting out work. This is the proper approach to take so that we do not micromanage Amtrak from the Congress.

Mr. Chairman, I am very proud of the work that the committee has done on a bipartisan basis. I strongly urge Members to support the passage of this bill. I do not agree with everything that is in this bill, but it is a compromise. It is a legitimate compromise. We need to maintain the delicate balance that is in this bill. For that reason, I strongly support the passage of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that it be in order for me to offer the Traficant amendment to title I at any point during consideration of this bill under the 5-minute rule.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1788, the Amtrak Reform and Privatization Act of 1995, which our chairman has already so ably described, despite his obvious hoarseness of voice, and unusual hoarseness of voice. I hope he recovers soon.

I want to thank our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], for the splendid job of managing this legislation through a very rocky time of overcoming some very complex questions, and the gentlewoman from New York, the chairman of the subcommittee, along with the gentleman from Illinois [Mr. LIPINSKI], our ranking Democrat on the Subcommittee on Railroads for most of this year, and our current ranking member, the gentleman from West Virginia [Mr. WISE]. Clearly it was the gentleman from Illinois who bore the burden of the day throughout these many months of negotiation to bring this legislation to its present point.

I really compliment the gentleman from Illinois for his persistence for bringing all the parties together, plumbing the depths of these issues, and ultimately bringing us to a point where we could have this bill under consideration on the floor today with these issues largely resolved, because America does need a comprehensive passenger transportation system, one that is truly intermodal, that respects the contributions that each mode of transportation brings to our national picture: highways that give us universal access to anywhere in America; airlines that offer rapid service to any part of this country where surface transportation might take many hours or even days or weeks; water ferries that play a crucial role in areas like Puget Sound and Alaska where people live on islands, and places that are difficult to access except by water.

We rely mostly on these modes for our passenger transportation, but they are not without their limitations. For example, virtually every other mode of transportation uses enormous amounts of energy. That consumption of energy has adverse environmental impact. Or, for many people, owning a car or taking a plane is too expensive. In some transportation corridors we already have five highway lanes in each direction, and those lanes are seriously congested. I was astonished myself to be visiting my brother in San Diego and driving up toward Los Angeles with an endless wall-to-wall, as far as the eye could see and as wide as the eye can look in either direction, headlights on one side and red lights on the other side, jammed with people traveling, congested, late at night. It is impractical in those areas to build more highways.

Our air service in many parts of this country moves through air corridors that equally are congested. It is extremely difficult to overcome the environmental objections or to raise the money necessary to build new airports or even, in some cases, to build new runways at existing airports.

Enter Amtrak. Enter passenger rail, a crucial role where other modes face their greatest limitations, especially in our high density transportation corridors, like New York to Washington, Chicago to Detroit, San Diego to Los Angeles. That is where Amtrak provides the relief and serves as a pressure relief valve for pressures that otherwise would jam our highways and our Airways unconscionably.

Think of Logan Airport in Boston, seriously congested. Forty percent of the traffic in and out of Logan is trips to New York City. It would be extremely difficult to find the land, clear the environmental hurdles to build a new airport in the Boston metropolitan area, certainly at least until tilt rotor technology is perfected and commercialized, and we can build vertiports that take up land about the size of this Chamber. We are not there yet, and we are not there for another 20 years.

Think of Denver, CO. Denver was thought at the time to be a relatively simple case, build a new airport on an empty prairie space, and yet cost overruns, delays, complications, difficulties, and then the resulting increased cost to airlines in landing fees for this new $5-plus billion airport. How much more difficult would it be in the congested suburbs of the District which my friend, the gentleman from Chicago, represents, to build a new airport? Unthinkable.

So for much smaller amounts of money and with a much smaller environmental impact, we can have passenger rail service. We can, in fact, on existing lines with some improvements improve those lines to accommodate high-speed rail travel that would allow people now crowding our highways and our airways to move quickly and comfortably by rail, as they do in France. I would just like to take the example.

During my years as a student at the College of Europe in Belgium, I traveled in 1957 from Paris to southeastern France, Lyons, the second largest city, in 4½ hours on an old steam-powered locomotive.

□ 1115

Fifteen years later, I traveled the same route, same rail route, now with a diesel locomotive, 4½ hours.

In 1989, as chair of the Subcommittee on Aviation, with a bipartisan delegation, we traveled that same route on a high-speed train in 2 hours and 1 minute; 2 hours and 1 minute, traveling 186 miles an hour.

Now, in 1980, 2 million people took the train from Paris to Lyons; a million flew. Now, 5 million people take the train from Paris to Lyons, and only 5,000 fly that same route. That is dramatic. The French, of course, have expanded high-speed rail service, so now they have 225-mile-an-hour speed trains traveling in many routes throughout France and in Spain and from Spain to France.

We ought to be able to do the same thing in America. We ought to keep Amtrak alive, and we ought to keep it competitive and public, and we ought to support rail transportation, our passenger rail transportation system now so that, in the future, we can at least do as much as our European allies have done, at least as much as the Japanese have done in their country with high-speed trains.

Mr. Chairman, if you live in towns like Staples, MN, in the western part of my State, or in Meridian, MI, Amtrak is the only public transportation available. For people that do not drive and who do not own a car, as my father never owned a car, and he said, if you cannot walk there or take a train or take a bus, you do not deserve to go there. That was the way of transportation.

We ought to recognize the savings in economics, we ought to recognize the savings to our environment and support Amtrak, maintain this base so that we have something to build on as the need for a modern, high-speed rail transportation system becomes more evident or as such a system is thrust upon us by some future energy crisis, when we will find ourselves all on the Nation's highways, sitting there behind our wheels, run out of gas, grasping our steering wheels and wondering how are we going to get where we want to go. Then we will say, why did somebody not have the wisdom to protect passenger rail service?

The enterprise we are about today in this legislation will preserve that base, maintain our passenger rail system network and allow us to build upon it for the future.

Mr. Chairman, I now ask unanimous consent to yield the balance of my time to the distinguished gentleman from Illinois [Mr. LIPINSKI] for him to control for our side.

The CHAIRMAN (Mr. ALLARD). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentlewoman from New York [Ms. MOLINARI], the distinguished chairwoman of the subcommittee, and for her to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Ms. MOLINARI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this carefully crafted bipartisan legislation to reform Amtrak. I want to commend our committee chairman, Mr. SHUSTER, our ranking member, Mr. OBERSTAR, and the current and prior subcommittee ranking members, Mr. WISE and Mr. LIPINSKI, for their hard work on this bill.

H.R. 1788 reflects the first top-to-bottom reexamination of Amtrak since it began operating in 1971. When our committee began considering Amtrak reform early this year, we heard from the General Accounting Office on Amtrak's current condition and its prospects. The bottom line of the GAO report was that, even with status quo funding levels, Amtrak could not maintain its current operations.

This state of affairs reflects Amtrak's shortage of capital and its high costs, which are aggravated by restrictions imposed at almost every turn by Federal law. Numerous details of Amtrak's operations are dictated by statute—which routes to operate and where, what kinds of services may be contracted out, formulas for reimbursement of expenses, and even where Amtrak must locate its corporate headquarters. This kind of micromanagement has virtually eliminated the value of the congressional decision in 1970 to make Amtrak a corporation—not a government agency. Amtrak has been prevented from running its operations on a business-like basis. Instead of making operational decisions based on market opportunities and cost savings, Amtrak has been forced to perform various tasks the hard way—because the law required Amtrak to do it just that way.

Let me give just one example. GAO reported that Amtrak's principal maintenance facilities are totally outdated and in bad repair: the main one was built in the 1890's. The cost of replacing these facilities on an in-house basis is almost $300 million. Yet Amtrak is presently forbidden by Federal law to have any work other than food service performed by outside contractors. This means that Amtrak is arbitrarily prevented from utilizing other railroads and suppliers to avoid this $300 million capital requirement.

This bill gives Amtrak a fresh start. The company is placed in full control of its own assets, and is allowed to deploy its resources where the opportunities are the most promising. The restrictive Federal laws that dictated Amtrak's labor benefits and practices are replaced through an accelerated collective-bargaining process between labor and management. New opportunities for Amtrak to engage in individual or multistate cooperative arrangements through interstate compacts are encouraged. Most important Amtrak is given the benefit of private sector business expertise in two ways—first, through the appointment of a reform board of directors, and second, through a Temporary Rail Advisory Council of business experts who will help Amtrak develop its strategy for the future.

These far-reaching reforms are absolutely essential if Amtrak is to survive in an era of limited Federal resources. The funding provisions of this bill conform exactly to the budget resolution recently approved by the Congress. We recognize that Amtrak must reduce its dependence on Federal funding, and the best way to accomplish that is to free Amtrak to operate on the basis of sound business principles—not Government mandates. This bill is not only the best way to maintain intercity rail passenger service, but it also is the best way to get maximum value for the taxpayer's dollar. I urge all Members to support its passage.

Ms. MOLINARI. Mr. Chairman, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield 4 minutes to the gentleman from West

Virginia [Mr. WISE], the present ranking member of the Subcommittee on Railroads.

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate all that he has done.

Mr. Chairman, I rise in support of H.R. 1788, the Amtrak Reform and Privatization Act of 1995. I commend Chairman SHUSTER, Chairwoman MOLINARI, and ranking Democratic member JIM OBERSTAR and thank them and our former ranking Democratic member on the Subcommittee on Railroads, BILL LIPINSKI, for their leadership on this issue.

Mr. Chairman, I would like to emphasize the crucial role that Amtrak plays in the Nation's intermodal transportation system. My State, like many other rural States, has many communities that do not have access to good air service but that do have access to Amtrak service. Amtrak provides a lifeline for many small towns in America.

Moreover, Amtrak provides relatively low-cost, fuel-efficient service to our Nation's most crowded and congested highways and airport corridors, providing travel options to our Nation's youth, elderly, and others who cannot drive or fly. It also provides a stress-free way to see many scenic parts of our beautiful country.

Although this bill had a rocky start, including two aborted markups, since then there has been a good deal of hard work and many difficult compromises on various issues, which now enables me to support this final product.

This bill will allow Amtrak to reduce its costs of operation and get by on a smaller Federal subsidy, thus placing less of a burden on the American taxpayer. While I am concerned about some of the increased burdens the bill places on the States by ending the basic system concept—a fixed network of routes that Amtrak is required to serve—and encouraging Amtrak to negotiate with the States on subsidies that will maintain rail service through those States, I am satisfied that the bill is a reasonable compromise and that it is needed to keep Amtrak moving ahead.

Also, I was initially concerned that the Amtrak employees might not be treated equitably in the bill. However, after some changes were made to the bill, a reasonable compromise was reached which ends both statutory 6-years labor protection and prohibitions on contracting out and turns these issues over to Amtrak and the unions to negotiate under an accelerated 254-day Railway Labor Act process.

Additionally, the bill limits Amtrak's liability for punitive and noneconomic damages, and allows Amtrak to indemnify freight railroads for their liability, so that Amtrak can operate on the freight railroads' right-of-way at a lower cost.

Again, the bill will enable Amtrak to downsize and control its costs, while ensuring the fair treatment of Amtrak's employees if there is a loss of jobs. Mr. Chairman, H.R. 1788 will help preserve Amtrak for years to come. I support this bill and urge an "aye" vote.

Mr. LIPINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. CLEMENT], successor of Davey Crockett, Andrew Jackson, and Sam Houston.

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for those wonderful comments.

Mr. Chairman, I rise in strong support of H.R. 1788, the Amtrak Reform and Privatization Act of 1995. I want to first commend Chairman BUD SHUSTER and ranking member, JIM OBERSTAR, for crafting a bill that will ensure the future of Amtrak into the 21st century.

The future of passenger rail service in this country—a service used by 22 million travelers nationwide—depends on our ability to force powerful partnerships between Amtrak and States, cities, and its passengers. H.R. 1788 strengthens those partnerships while phasing out the Federal operating subsidy for Amtrak. At the same time, H.R. 1788 gives Amtrak the opportunity to operate like any other private business.

Significant reforms are embodied in H.R. 1788 that remove longstanding mandates from the law. For example, the bill will allow Amtrak to run routes where they make economic, rather than political sense. Current law hamper's Amtrak's ability to shape its route structure and schedules. H.R. 1788 provides Amtrak with the flexibility to respond quickly to consumer demand and to make timely service adjustments.

H.R. 1788 also includes carefully crafted language to allow Amtrak and its employees to collectively bargain over key issues involving contracting out and worker protections. This provision, which is supported by the labor unions, will provide greater flexibility to management to improve Amtrak's economic performance.

The bill includes my amendment adopted by the Subcommittee on Railroads which ensures that Amtrak audits its book by a certified public accountant. We are all concerned about Amtrak's financial situation.

We in Congress cannot do our job of overseeing Amtrak unless we have some assurance that the financial numbers coming out of Amtrak have been audited and are reliable. The amendment ensures that these financial numbers have been audited and fairly reflect Amtrak's financial condition.

In closing I just want to say this is an excellent bill which deserves unanimous support on both sides of the aisle.

□ 1130

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1788, the Amtrak reform bill.

Mr. Chairman, during my tenure as the ranking Democrat on the Railroads Subcommittee in the first 10 months of the 104th Congress, I worked with the members of the subcommittee to assure a future for passenger railroads in this Nation. As we worked toward this goal, we have been all too aware of the importance of the railroad in the history of this country and the role of the U.S. Government in the development of the railroad.

The transcontinental railroad, with its golden spike driven into the ground in 1869, was a product of Government involvement and Government financing. As the transcontinental railroad was conceptualized in the 19th century, the costs were tremendous, and the prospects for recovery of those costs were far into the future. With populations in Missouri, California, and nowhere in between, no private sector business would have dared attempt such a project. It was up to the Federal Government to make the investment for the future.

The same thinking led to the birth of the National Railroad Passenger Corporation—Amtrak—a century later. Saddled with a common carrier obligation to provide intercity passenger rail services the freight railroads were struggling. Eliminating the significant losses on passenger service was viewed as essential to keeping the freight railroad system financially sound. Today, the freight railroad industry in the United States is stronger than ever. While Amtrak will never see the kinds of profits the freights have, I continue to believe there is a place for Amtrak in our national transportation system.

The mandate of Amtrak is to provide modern, cost-efficient, and energy-efficient intercity rail transportation between crowded urban areas and other areas of the United States. In creating Amtrak, Congress recognized the significance of passenger rail service as a component of an efficient, integrated national transportation system. It is in our national interest to have efficient, accessible passenger rail transportation in the United States.

During 1994, a total of 55 million passengers depended on Amtrak to provide reliable rail passenger service. Twenty-two million of these passengers traveled on Amtrak nationwide. Amtrak connects many urban areas in the United States, serving 68 of the 75 largest metropolitan areas. In addition, Amtrak provides a vital link to the 62 million Americans who live in small towns and rural areas. Amtrak serves 33 communities which have no air service, 18 communities which have no bus service, and 9 communities which have neither.

As congestion increases on our Nation's roadways and airport runways, we should look to rail to alleviate the problem. Amtrak provides an invaluable alternative in heavily urbanized regions that have crowded highways and airports.

The benefits of passenger rail transportation—congestion alleviation, safety, energy-efficiency, environmental soundness and the other benefits—make a strong case for inclusion of passenger rail in our national transportation system and as a funding priority. Some argue that if Amtrak cannot be self-supporting, it should not be continued. For the long term, this may indeed be true. However, we must consider the historical Federal role in the development of other modes of transportation. Investment in passenger rail now will provide a substantial return in the future.

Mr. Chairman, this compromise legislation removes Amtrak from much of the congressional micromanagement that it has faced since its establishment, and makes it more like every other business in America. Passenger rail service can have a future in the United States if the American people support it. Since Amtrak restructured and announced route eliminations and adjustments late last year, Governors across the country have come forward with funding to continue the service that is needed in their States.

We are working toward an Amtrak which operates without a Federal operating subsidy, which provides quality service, and which is financially stable. Yet we also know that no intercity rail passenger service anywhere in the world operates without some degree of public sector financial support. As its operating subsidy decreases in the next few years, we have encouraged Amtrak to look for innovative approaches to financing in partnership with States and localities that rely on passenger rail service.

When Congress passed ISTEA in 1991, we moved toward a multimodal transportation system in which each mode complemented the other. Railroads do not serve every area and may not be the best form of transportation for every American. Yet in our national transportation system, every mode, including rail, highway and air, should be well represented. Used together, the various modes assure a transportation system which will exceed our needs into the 21st century.

As a child in Chicago, I used to watch as the Burlington Zephyr passed by my house en route to California. That was the way people traveled years ago, and it is the way many continue to travel today. Amtrak will never be the answer for every American traveler. However, it can be one of America's travel options for many years to come.

Mr. Chairman, if I were to design my dream Amtrak legislation, this would not be it. But this bill is a real compromise that comes as a result of very hard work by individuals on both sides. I want to commend Chairman SHUSTER and Chairwoman MOLINARI for the manner in which they have worked with us to build legislation we can all support. Although this bill is not what any of us would have predicted or desired when we began hearings on Amtrak in February, it is a true compromise product which protects the interests of Amtrak management and labor. I also want to thank the new ranking member of the full committee, my good friend JIM OBERSTAR, and the new ranking member of the Railroads Subcommittee, BOB WISE, for their involvement on this bill.

Mr. Chairman, as a result of blood, sweat, tears, and the willingness of all parties to compromise, this is a bill we can all support. I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Ms. MOLINARI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I congratulate the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the full committee, and the gentlewoman from New York [Ms. MOLINARI], the chairman of the subcommittee, for the excellent work they have done in crafting this legislation.

Mr. Chairman, the Amtrak Reform and Privatization Act is truly a bipartisan compromise, and it will enable Amtrak to be a sustainable and hopefully profitable private enterprise. Tough decisions were made to ensure that Amtrak will have the needed tools to succeed on a declining Federal subsidy while continuing to reduce its operating loss each year. Compromise between labor and management was essential and it was achieved. This legislation goes a long way toward treating Amtrak as a business by changing the necessary provisions in Federal law to accomplish this aim.

An amendment may be offered today which seeks to accelerate the reduction in Amtrak's Federal subsidy. The House should oppose any attempts to weaken the structure which has been carefully laid out in the bill before us. Amtrak is still burdened with many federally mandated expenditures which greatly affect its operating budget. These Federal mandates inhibit Amtrak's ability to transition to a private enterprise. To accelerate the reduction in its Federal subsidy without taking into account these federally mandated obligations would be a major mistake.

Mr. Chairman, let us pass the Amtrak Reform and Privatization Act without further delay. The result will be significant reform to Amtrak, while ensuring the people in the towns and cities across America a strong and viable passenger train service.

Ms. MOLINARI. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, again, as every other Speaker has done today, let me congratulate Chairman SHUSTER and Chairman MOLINARI for the fine work they have done. The legislation in front of us today takes an important step forward in trying to allow Amtrak to stand on its feet and begins to integrate some of the privatization principles I so strongly believe in.

But let me also say that I had some narrow political interest in this case, as someone who represents the State of Wisconsin. Last year, as my colleagues know, Amtrak decided to cut about 24 percent of its budget in order to deal with a severe financial crisis, and as part of that decisionmaking process they made the informed decision to close down the line between Milwaukee and Chicago.

I think, given Amtrak's financial constraints, they should have the ability in the future to make other decisions, especially about cross-country routes which frankly cannot be justified by anybody, except for political expediency for Members who want to make sure they continue to get train service to their districts even if Amtrak takes a financial bath on it.

When Amtrak decided to pull out of the Milwaukee and Chicago route, we found, much to our delight, that a half dozen firms stepped forward, private firms, to say, "We would be delighted to run this, because we think we could make money on doing it and also provide passenger service between the largest cities in Wisconsin and Illinois," and there are six trains a day that go back and forth.

But we were astonished, as the Governor's office was astonished, to learn that under the current Amtrak laws Amtrak does not have the ability to allow private companies to use those tracks. In fact, the State of Wisconsin did not have the opportunity and legally was forbidden to contract out with the private train service to provide that passenger transfer every day between Milwaukee and Chicago.

Today, we find ourselves in a situation were we have been able to keep Amtrak service in place until next July, but it has been done with chewing gum sticking together money from the State and from the Federal Government and from passenger service.

This provision today will allow, we think, one of those private companies to step forward and work out an arrangement between the State of Wisconsin and the State of Illinois to provide private passenger service between Chicago and Milwaukee. It will allow similar innovative experiments to take place, for example in Missouri, where the Kansas City to St. Louis route has been abandoned with nobody to step forward and run train service there, as well.

There is also frankly tucked into this bill another important provision which will allow Amtrak, currently prohibited from contracting out work outside of food and beverage service, to begin to look at private sector vendors to do that. If they can provide service on airplanes and they can provide service at stadiums, they clearly can provide service to Amtrak and the passengers on trains as well.

It is interesting to go back and look. That is from one of those private Wisconsin firms interested in providing service between Milwaukee and Chicago who said, "In our efforts to privatize the Hiawatha service between Milwaukee and Chicago, we have viewed the subcontracting provision as an obstacle that could eventually be overcome with protracted legal expenses and time. Removing the restrictions by statute ends this debate and saves potential private passenger rail providers, in Wisconsin and elsewhere, considerable time and money."

Again, I want to thank the gentleman from Pennsylvania [Mr. SHUSTER] and the gentlewoman from New York [Ms. MOLINARI] for the fine work they have done on this legislation, and urge my colleagues to vote "yes" as we begin to track Amtrak into the next century and begin to crack the door to allow the eventual privatization of Amtrak, which I and many of my colleagues completely agree with.

Mr. CASTLE. Mr. Chairman, I rise in strong support of H.R. 1788, the Amtrak Reform and Privatization Act. I would like to commend Representative MOLINARI and Chairman SHUSTER, who have worked hard on this legislation and who have made a commitment to supporting and protecting the future of Amtrak. Amtrak is important to our national infrastructure and transportation needs. The people of Delaware and their neighbors on the east coast depend on Amtrak for business and personal transportation.

The Amtrak Reform and Privatization Act makes much needed reforms to Amtrak. Amtrak's current problems are due to the fact that Amtrak has been operating like a Government agency, not like a private business. H.R. 1788 allows Amtrak to eliminate unprofitable routes and focus on the profitable ones. Moreover, this legislation ends the practice of awarding 6 years of severance pay to employees who lose their jobs because a route is discontinued, and allows Amtrak to contract out work, like other private entities. These provisions will give Amtrak's management the much needed flexibility it desires to operate more successfully. Further, the bill authorizes the necessary funds for the next 3 years to aid Amtrak in the transition from a publicly funded entity to a privately controlled business.

I am most familiar with the Northeast corridor and Amtrak facilities in Delaware. The Northeast corridor, which includes my commute from Delaware to D.C., is the most heavily traveled Amtrak route, and is the key mode of transportation for thousands of people on the east coast. The line extends from Washington to Boston with the heaviest service density from Washington to New York. The Amtrak Reform and Privatization Act replaces the current method of cost-sharing agreements between Amtrak and other operators on the Northeast corridor with one which allows Amtrak to negotiate terms with these operators. This will allow Amtrak to recoup shared capital costs that are not addressed under the current system.

I believe this Nation needs passenger rail service. The Northeast part of our country certainly needs it. I believe the Amtrak Reform and Privatization Act will help provide cost-effective rail service to Americans without placing an undue burden on the Federal Government and, more importantly, the taxpayers.

Again, I applaud the leadership of Representative MOLINARI and Chairman SHUSTER, and urge my colleagues to support the bill.

Mr. BEREUTER. Mr. Chairman, this Member rises in opposition to H.R. 1788. Amtrak provides an especially important long-distance transportation alternative for sparsely settled States such as Nebraska and others in the northern Great Plains and Rocky Mountain West. This Member supports the continuation of Amtrak and believes that long-distance train service should maintain its role in the Nation's overall transportation strategy. Unfortunately, this bill facilitates the elimination of routes and increases the likelihood that long-distance rail service will be impaired or eliminated in many areas, especially sparsely settled States.

This Member does not want to see passenger train service confined only to high-density corridors. If Federal subsidies are provided to Amtrak, then it should continue to serve as a truly national system. Federal subsidies from taxpayers from throughout the Nation for a limited, regional system would not be justified.

Although H.R. 1788 contains some positive reforms, this member is concerned that it will hasten the demise of long-distance routes. Mr. Chairman, for that reason this Member must oppose the legislation.

Mr. SMITH of Michigan. Mr. Chairman, as a chairman of the Budget Committee working group on physical capital, I rise to support H.R. 1788. Our Budget Committee recommended we make major cuts in transportation subsidies. Our inefficient rail programs have been losing money hand over fist for dozens of years. It is time to stop throwing good money after bad. Ultimately, we will phase out operating subsidies for mass transit.

Amtrak railroad has been losing tons of tax dollars—so we need to phase out operating and capital subsidies. And to give Amtrak a chance to make it on its own, we get rid of the thicket of regulations that keep Amtrak from being more competitive.

BACKGROUND

In 1970, the Congress created Amtrak as a for-profit corporation to provide nationwide intercity passenger rail service. Amtrak was expected to help alleviate the overcrowding of airports and highways, and to offer the public a convenient and efficient transportation alternative.

Like all major national intercity rail services in the world, Amtrak operates at a loss, and it has always needed Government funding. In 1995, Amtrak received nearly $1 billion in operating subsidies from the Federal Government. Amtrak's financial and operating conditions have declined steadily since 1990.

FINANCIAL CONDITION

From 1991 to 1994, revenues were $600 million lower than expected, while expenses were higher than planned. In the same time period, passenger, revenues have fallen 14 percent in real terms. Amtrak's revenues and subsidies did not cover operating expenses, and Amtrak also deferred maintenance on train equipment. It also reduced staffing levels and some services.

Even with the proposed route downsizing and other savings initiatives, Amtrak expects that operating expenses will exceed the sum of operating revenues and the Federal subsidy by $1.3 billion from 1996 through 2000. Plus, Amtrak will still need over $4 billion for capital investments. Unmet capital needs in the Northeast Corridor alone now total $2.5 billion.

To cope with funding shortages, in the late 1980's Amtrak started reducing train car maintenance. By the end of 1993, costly heavy overhauls where overdue for 40 percent of its nearly 1,900 cars. Amtrak also deferred renovating and modernizing its outdated maintenance facilities, contributing to its spiralling costs of inefficiency.

In the immediate future, Amtrak will face new negotiations with its labor force, the costs of which presently represents 52 percent of Amtrak's operating costs. Also, Amtrak faces certain cost increases for track leases, which will be renegotiated in 1996 for the first time since their agreement in 1971. H.R. 1788 helps Amtrak to survive.

PRIVATIZATION

None of Amtrak's routes—even those in the Northeast Corridor—are profitable when capital costs are taken into account. Revenue in the Northeast Corridor cover 65 percent of the costs on the routes, compared to about 50 percent for routes elsewhere.

Amtrak's fastest growing sources of revenues is contracts to operate local commuter rail systems. These contracts generated over $270 million in 1994. Over the long term, Amtrak believes that high-speed rail service will increase ridership and revenues. High-speed service is now limited to track between DC and NYC, with extension to Boston underway. Amtrak has a 45 percent market share between DC and NYC. Private sector efforts to sponsor high-speed rail without substantial Government funding have been unsuccessful.

Mr. Chairman, the American people have had enough of big bureaucracies and increased taxes for handouts. By saving billions of dollars out of the physicial capital budget, we help put our Nation on the path to a balanced budget. H.R. 1788 is a modest but necessary beginning.

Mr. DELAY. Mr. Chairman, my good friend and noted railroad expert Ray Chambers put it correctly. It is entirely possible to have healthy passenger rail service again in America. Congress would like it, and the American public would like it. But Amtrak today is fatally dependent on Federal operating subsidies.

This bill is the big first step toward allowing Amtrak to be self-sufficient. It makes many concessions that allow passenger rail service to flourish.

For years, passenger rail transportation has been weighted down with rules, regulations, and politics. Amtrak's board is controlled by the Federal Government. Many of the routes

Amtrak travels have been designated right here by Members of Congress. Because of the long-distance trains that are politically designated, schedules to connect to these long-distance trains are driven by necessity rather than passenger demand. Under the legislation, Amtrak would decide the merits of various routes according to commercial potential, not arbitrary statutory preference. What a novel idea. Supply and demand.

This legislation allows Amtrak to climb out of another hole. The tremendous weight of Labor restrictions. Although I would have like to have seen the committee go much further, there are several provisions in the legislation that enable Amtrak to crawl out from under the Labor rock and begin to function competitively and efficiently.

A Seattle-based think tank, Discovery Institute, has taken a close look at Amtrak and its problems. They have devised a six-step approach that takes a reasonable approach toward creating self-sufficient, private, and competitive Amtrak. Their plan is forward thinking and deserves a close look.

There is already strong congressional support for a plan such as the Discovery Institute and other plans that offer privatization, self-sufficiency, and competition. With public support, these ideas could be instituted in a matter of a few years. Until the 1950's, the American train system was the best in the world. The airplane did not kill passenger rail service, Government and Labor's rules, regulations, and demands did. We in Congress have the ability to make passenger rail in the United States a success.

This bill is the necessary first step toward that goal.

Mr. KIM. Mr. Chairman, I rise in opposition to the amendment and in strong support of H.R. 1788 as it was reported from committee.

As a member of the Railroad Subcommittee and the full Committee on Transportation and Infrastructure, I can assure you that the authorization levels included in our bill are necessary for Amtrak reform.

Let me be clear, our bill puts Amtrak on a glide path to zero Federal subsidies.

Our bill conforms to the House budget resolution which eliminates Federal spending on Amtrak by the year 2002.

Our committee made substantial reforms to Amtrak that will make it operate like a private company and survive without Government subsidies.

Our bill makes some tough changes to Amtrak, and it will require major sacrifices by Amtrak and its employees.

These reforms will be difficult, but they are essential if Amtrak is going to survive into the next century.

For example, our bill eliminates Amtrak's mandated route system.

Amtrak will now be able to open routes that are profitable and close routes that lose money.

Under current law, Amtrak can't eliminate some routes without congressional approval. That's ridiculous.

Our bill also eliminates several labor provisions in law and transfers them to a collective bargaining process.

The labor unions strongly support these reforms and agree that Amtrak will save millions of dollars as a result.

But make no mistake. Amtrak will not experience significant savings for a few years.

It will take time for Amtrak to shut down money losing routes and contract out unprofitable operations.

As a result, Amtrak will need Federal subsidies for the next few years.

The Hefley amendment cuts Amtrak's budget immediately. Each year Amtrak's budget would be cut an additional 20 percent.

Now this may sound like a good idea, but the result will be the death of Amtrak.

Amtrak cannot survive the proposed cuts in the gentleman's amendment.

If Amtrak's subsidies are cut before the reforms are made, Amtrak will be forced to cut service on all of its routes.

Amtrak simply cannot afford to cut its revenue operations. This would only exacerbate Amtrak's financial problems and lead it to bankruptcy.

This amendment would devastate Amtrak.

You do not have to vote for this amendment to cut Federal subsidies for Amtrak.

Our bill already does that. Our bill makes the reforms needed to get Amtrak off Federal subsidies entirely.

If you want to save Federal dollars and save Amtrak, vote against this amendment.

Again, I urge my colleagues to vote against this amendment and support H.R. 1788. Thank you.

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Mr. LIPINSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. MOLINARI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 104-370, shall be considered by title as an original bill for the purpose of amendment. The first section and each title are considered read.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in part 2 of the report, if offered by the gentleman from Pennsylvania [Mr. SHUSTER] or his designee. That amendment shall be considered read, may amend portions of the bill not yet read for amendment, is not subject to amendment, and is not subject to a demand for division of the question. Debate on the amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

If that amendment is adopted, the bill as then perfected will be considered as an original bill for the purpose of further amendment.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Reform and Privatization Act of 1995".

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER: Page 33, line 14, insert ", and with respect only to the facilities it jointly uses with Amtrak, a commuter authority," before "shall not be".

Page 33, line 18, insert "For stations jointly used by Amtrak and a commuter authority, this subsection shall not affect the allocation of costs between Amtrak and the commuter authority relating to accessibility improvements." after "January 1, 1998.".

Page 36, after line 21, insert the following new section:

SEC. 617. MAGNETIC LEVITATION TRACK MATERIALS.

The Secretary of Transportation shall transfer to the State of Florida, pursuant to a grant or cooperative agreement, title to aluminum reaction rail, power rail base, and other related materials (originally used in connection with the Prototype Air Cushion Vehicle Program between 1973 and 1976) located at the Transportation Technology Center near Pueblo, Colorado, for use by the State of Florida to construct a magnetic levitation track in connection with a project or projects being undertaken by American Maglev Technology, Inc., to demonstrate magnetic levitation technology in the United States. If the materials are not used for such construction within 3 years after the date of the enactment of this Act, title to such materials shall revert to the United States.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

This is a bipartisan amendment which has the support of both sides of the aisle. The first part of the amendment gives Amtrak 1 additional year to comply with the station modification deadlines imposed by the Americans With Disabilities Act.

Amtrak has an ongoing program to make stations accessible, but is not able to meet the 1997 deadline. This provision covers both Amtrak-only stations and stations which Amtrak shares with commuter rail operators.

The second part of the amendment directs the Department of Transportation to transfer title to the State of Florida for some leftover aluminum materials used in magnetic levitation research in the 1970's. The materials are now stored in Pueblo, CO. This provision merely confirms what the Department of Transportation was directed to do in the House report on the

National Highway System. It involves no expense to the Department of Transportation.

I would ask for its support.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the 5 minutes on our side.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the manager's amendment which simply clarifies, first, that where a commuter railroad shares a facility with Amtrak, the two railroads are subject to the same compliance date under the Americans With Disabilities Act, and the second deals with the request by the gentleman from Florida [Mr. MICA] to transfer property that the Federal Railroad Administration has at its test center in Pueblo, CO, to the State of Florida for use by the State.

The Federal Railroad Administration does not need this test equipment any further. The State of Florida wishes to do so. There is a reversion clause that if the State does not use this equipment, it can be returned to the Federal Railroad Administration.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman for yielding.

I simply want to say that I stand in support of the manager's amendment.

Mr. Chairman, I support the manager's amendment. It has two components.

Section 610 of H.R. 1788 allows Amtrak to delay compliance with certain provisions of the Americans With Disabilities Act, but does not afford the same benefit to commuter railroads which share stations with Amtrak. Without this provision, commuter rail authorities could bear the entire cost of making stations accessible to people with disabilities when the stations are renovated. The amendment assures that commuter railroads are given the same treatment as Amtrak and are not penalized in any way.

The second element of the manager's amendment requires the Federal Railroad Administration to transfer some unused magnetic levitation test track equipment to the State of Florida. Since Florida needs the equipment and the FRA doesn't this move makes sense. In the event Florida is unable to use the equipment, it will be returned to the FRA.

Mr. Chairman, I support this amendment and urge its adoption.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute, as modified, as amended, be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute, as modified, as amended, is as follows:

TITLE I—PROCUREMENT REFORMS

SEC. 101. CONTRACTING OUT.

(a) AMENDMENT.—Section 24312(b) of title 49, United States Code, is amended to read as follows:

"(b) CONTRACTING OUT.—(1) When Amtrak contracts out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak, Amtrak is encouraged to use other rail carriers for performing such work.

"(2)(A) Amtrak may not enter into a contract for the operation of trains with any entity other than a State or State authority.

"(B) If Amtrak enters into a contract as described in subparagraph (A)—

"(i) such contract shall not relieve Amtrak of any obligation in connection with the use of facilities of another entity for the operation covered by such contract; and

"(ii) such operation shall be subject to any operating or safety restrictions and conditions required by the agreement providing for the use of such facilities.

"(C) This paragraph shall not restrict Amtrak's authority to enter into contracts for access to or use of tracks or facilities for the operation of trains.".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 254 days after the date of the enactment of this Act.

SEC. 102. CONTRACTING PRACTICES.

(a) BELOW-COST COMPETITION.—Section 24305(b) of title 49, United States Code, is amended to read as follows:

"(b) BELOW-COST COMPETITION.—(1) Amtrak shall not submit any bid for the performance of services under a contract for an amount less than the cost to Amtrak of performing such services, with respect to any activity other than the provision of intercity rail passenger transportation, commuter rail passenger transportation, or mail or express transportation. For purposes of this subsection, the cost to Amtrak of performing services shall be determined using generally accepted accounting principles for contracting.

"(2) Any aggrieved individual may commence a civil action for violation of paragraph (1). The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce paragraph (1). The court, in issuing any final order in any action brought pursuant to this paragraph, may award bid preparation costs, anticipated profits, and litigation costs, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(3) This subsection shall cease to be effective on the expiration of a fiscal year during which no Federal operating assistance is provided to Amtrak.".

(b) THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.—(1) Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

"(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 10922(d)(1)(F)(i) of this title, other than a recipient of funds under section 18 of the Federal Transit Act;

"(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

"(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

"(B) Subparagraph (A) shall not apply to transportation funded predominantly by a State or local government, or to ticket selling agreements.".

(2) Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.".

SEC. 103. FREEDOM OF INFORMATION ACT.

Section 24301(e) of title 49, United States Code, is amended by striking "Section 552 of title 5, this part," and inserting in lieu thereof "This part".

TITLE II—OPERATIONAL REFORMS

SEC. 201. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "90 days" and inserting in lieu thereof "180 days";

(B) by striking "a discontinuance under section 24704 or 24707(a) or (b) of this title" and inserting in lieu thereof "discontinuing service over a route"; and

(C) by inserting "or assume" after "agree to share";

(2) in subsection (a)(2), by striking "section 24704 or 24707(a) or (b) of this title" and inserting in lieu thereof "paragraph (1)"; and

(3) by striking subsection (b).

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking ", 24701(a),".

SEC. 202. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24301 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(o) NONAPPLICATION OF CERTAIN OTHER LAWS.—State and local laws and regulations that impair the provision of mail, express, and

auto-ferry transportation do not apply to Amtrak or a rail carrier providing mail, express, or auto-ferry transportation.".

SEC. 203. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 204. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 205. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

(a) REPEAL.—Section 24704 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(b) EXISTING AGREEMENTS.—Amtrak shall not, after the date of the enactment of this Act, be required to provide transportation services pursuant to an agreement entered into before such date of enactment under the section repealed by subsection (a) of this section.

(c) STATE, REGIONAL, AND LOCAL COOPERATION.—Section 24101(c)(2) of title 49, United States Code, is amended by inserting ", separately or in combination," after "and the private sector".

(d) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking "or 24704(b)(2)".

SEC. 206. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 24301(f) of title 49, United States Code, is amended to read as follows:

"(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.".

(2) Subsection (a) of this section shall not affect any trackage rights held by Amtrak or the Consolidated Rail Corporation.

SEC. 207. COMMUTER COST SHARING ON THE NORTHEAST CORRIDOR.

(a) DETERMINATION OF COMPENSATION.—Section 24904 of title 49, United States Code, is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (b);

(3) in subsection (b), as so redesignated by paragraph (2) of this subsection—

(A) by striking "TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES" in the subsection head and inserting in lieu thereof "FREIGHT TRANSPORTATION";

(B) by inserting "relating to rail freight transportation" after "subsection (a)(6) of this section" in paragraph (1); and

(C) by inserting "to an agreement described in paragraph (1)" after "If the parties" in paragraph (2); and

(4) by inserting after subsection (b), as so redesignated by paragraph (2) of this subsection, the following new subsection:

"(c) BINDING ARBITRATION FOR COMMUTER DISPUTES.—(1) If the parties to an agreement described in subsection (a)(6) relating to commuter rail passenger transportation cannot agree to the terms of such agreement, such parties shall submit the issues in dispute to binding arbitration.

"(2) The parties to a dispute described in paragraph (1) may agree to use the Interstate Commerce Commission to arbitrate such dispute, and if requested the Interstate Commerce Commission shall perform such function.".

(b) PRIVATIZATION.—Section 24101(d) of title 49, United States Code, is amended to read as follows:

"(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out this part, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment, that produce income to minimize Government subsidies, and that promote the potential privatization of Amtrak's operations.".

SEC. 208. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended—

(1) in subsection (e), by inserting "financial or" after "Comptroller General may conduct"; and

(2) by adding at the end the following new subsection:

"(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.".

TITLE III—COLLECTIVE BARGAINING REFORMS

SEC. 301. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—(1) Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to—

(A) employee protective arrangements and severance benefits, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973; and

(B) contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees,

applicable to employees of Amtrak shall be deemed served and effective on the date which is 90 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee.

(2) In the case of provisions of a collective bargaining agreement with respect to which a moratorium is in effect 90 days after the date of the enactment of this Act, paragraph (1) shall take effect on the expiration of such moratorium. For purposes of the application of paragraph (1) to such provisions, notices shall be deemed served and effective on the date of such expiration.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to each dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 180 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to any dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 180 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—(1) With respect to any dispute described in subsection (a) which—

(A) is unresolved as of the date which is 180 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c),

Amtrak and the labor organization parties to such dispute shall, within 187 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 194 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad. Nothing in this subsection shall preclude an individual from being selected for more than 1 dispute described in subsection (a).

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 224 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 302. SERVICE DISCONTINUANCE.

(a) REPEAL.—(1) Section 24706(c) of title 49, United States Code, is repealed.

(2)(A) Any provision of a contract, entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees, relating to—

(i) employee protective arrangements and severance benefits, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973; or

(ii) contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees,

applicable to employees of Amtrak is extinguished. This paragraph shall not apply to provisions defining the scope or classification of work performed by an Amtrak employee.

(B) In the case of provisions of a collective bargaining agreement with respect to which a moratorium is in effect 90 days after the date of the enactment of this Act, subparagraph (A) shall take effect 164 days after the date of the expiration of such moratorium.

(3) Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

(4) Paragraphs (1) and (2) of this subsection shall take effect 254 days after the date of the enactment of this Act.

(b) INTERCITY PASSENGER SERVICE EMPLOYEES.—Section 1165(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1113(a)) is amended—

(1) by inserting "(1)" before "After January 1, 1983";

(2) by striking "Amtrak, Amtrak Commuter, and Conrail" and inserting in lieu thereof "Amtrak and Conrail";

(3) by striking "Such agreement shall ensure" and all that follows through "submitted to binding arbitration."; and

(4) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of law, agreement, or arrangement, with respect to employees in any class or craft in train or engine service, Conrail shall have the right to furlough one such employee for each employee in train or engine service who moves from Amtrak to Conrail in excess of the cumulative number of such employees who move from Conrail to Amtrak. Conrail shall not be obligated to fill any position governed by an agreement concerning crew consist, attrition arrangements, reserve boards, or reserve engine service positions, where an increase in positions is the result of the return of an Amtrak employee pursuant to an agreement entered into under paragraph (1). Conrail's collective bargaining agreements with organizations representing its train and engine service employees shall be deemed to have been amended to conform to this paragraph. Any dispute or controversy with respect to the interpretation, application, or enforcement of this paragraph which has not been resolved within 90 days after the date of the enactment of this paragraph may be submitted by either party to an adjustment board for a final and binding decision under section 3 of the Railway Labor Act.".

(c) Technical Amendment.—Section 11347 of title 49, United States Code, is amended by striking "sections 24307(c), 24312, and" and inserting in lieu thereof "section".

TITLE IV—USE OF RAILROAD FACILITIES

SEC. 401. LIABILITY LIMITATION.

(a) Amendment.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§28103. Limitations on rail passenger transportation liability

"(a) Limitations.—(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, in a claim for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State—

"(A) punitive damages shall not exceed the greater of—

"(i) $250,000; or

"(ii) three times the amount of economic loss; and

"(B) noneconomic damages awarded to any claimant for each accident or incident shall not exceed the claimant's economic loss, if any, by more than $250,000.

"(2) If, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the claimant may recover in a claim limited by this subsection for economic and noneconomic damages and punitive damages, subject to paragraph (1)(A) and (B).

"(3) For purposes of this subsection—

"(A) the term 'actual damages' means damages awarded to pay for economic loss;

"(B) the term 'claim' means a claim made, directly or indirectly—

"(i) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State; or

"(ii) against an officer, employee, affiliate engaged in railroad operations, or agent, of Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, any rail carrier, or any State;

"(C) the term 'economic loss' means any pecuniary loss resulting from harm, including the loss of earnings, medical expense loss, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities, and any other form of pecuniary loss allowed under applicable State law or under paragraph (2) of this subsection;

"(D) the term 'noneconomic damages' means damages other than punitive damages or actual damages; and

"(E) the term 'punitive damages' means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

"(b) Indemnification Obligations.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsection (a), incurred after the date of the enactment of the Amtrak Reform and Privatization Act of 1995, shall be enforceable, notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.

"(c) Effect on Other Laws.—This section shall not affect the damages that may be recovered under the Act of April 27, 1908 (45 U.S.C. 51 et seq.; popularly known as the 'Federal Employers' Liability Act') or under any workers compensation act.

"(d) Definition.—For purposes of this section, the term 'rail carrier' includes a person providing excursion, scenic, or museum train service, and an owner or operator of a privately owned rail passenger car.".

(b) Conforming Amendment.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

"28103. Limitations on rail passenger transportation liability.".

TITLE V—FINANCIAL REFORMS

SEC. 501. FINANCIAL POWERS.

(a) Capitalization.—(1) Section 24304 of title 49, United States Code, is amended to read as follows:

"§24304. Employee stock ownership plans

"In issuing stock pursuant to applicable corporate law, Amtrak is encouraged to include employee stock ownership plans.".

(2) The item relating to section 24304 of title 49, United States Code, in the table of sections of chapter 243 of such title is amended to read as follows:

"24304. Employee stock ownership plans.".

(b) Redemption of Common Stock.—(1) Amtrak shall, within 2 months after the date of the enactment of this Act, redeem all common stock previously issued, for the fair market value of such stock.

(2) Section 28103 of title 49, United States Code, shall not apply to any rail carrier holding common stock of Amtrak after the expiration of 2 months after the date of the enactment of this Act.

(3) Amtrak shall redeem any such common stock held after the expiration of the 2-month period described in paragraph (1), using procedures set forth in section 24311(a) and (b).

(c) Elimination of Liquidation Preference and Voting Rights of Preferred Stock.—(1)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no liquidation preference.

(B) Subparagraph (A) shall take effect 90 days after the date of the enactment of this Act.

(2)(A) Preferred stock of Amtrak held by the Secretary of Transportation shall confer no voting rights.

(B) Subparagraph (A) shall take effect 60 days after the date of the enactment of this Act.

(d) Note and Mortgage.—(1) Section 24907 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 249 of such title, are repealed.

(2) The United States hereby relinquishes all rights held in connection with any note obtained or mortgage made under such section 24907, or in connection with the note, security agreement, and terms and conditions related thereto entered into with Amtrak dated October 5, 1983.

(3) No amount shall be includible in Amtrak's gross income for Federal tax purposes as a result of the application of this subsection or subsection (c).

(e) Status and Applicable Laws.—(1) Section 24301(a)(3) of title 49, United States Code, is amended by inserting ", and shall not be subject to title 31, United States Code" after "United States Government".

(2) Section 9101(2) of title 31, United States Code, relating to Government corporations, is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (M) as subparagraphs (A) through (L), respectively.

SEC. 502. DISBURSEMENT OF FEDERAL FUNDS.

Section 24104(d) of title 49, United States Code, is amended to read as follows:

"(d) Administration of Appropriations.—Federal operating assistance funds appropriated to Amtrak shall be provided to Amtrak upon appropriation when requested by Amtrak.

SEC. 503. BOARD OF DIRECTORS.

(a) Amendment.—Section 24302 of title 49, United States Code, is amended to read as follows:

"§24302. Board of Directors

"(a) Emergency Reform Board.—

"(1) Establishment and Duties.—The Emergency Reform Board described in paragraph (2) shall assume the responsibilities of the Board of Directors of Amtrak 60 days after the date of the enactment of the Amtrak Reform and Privatization Act of 1995, or as soon thereafter as such Board is sufficiently constituted to function as a board of directors under applicable corporate law. Such Board shall adopt new bylaws, including procedures for the selection of members of the Board of Directors under subsection (c) which provide for employee representation.

"(2) Membership.—(A) The Emergency Reform Board shall consist of 7 members appointed by the President, by and with the advice and consent of the Senate.

"(B) In selecting individuals for nominations for appointments to the Emergency Reform Board, the President should consult with—

"(i) the Speaker of the House of Representatives concerning the appointment of two members;

"(ii) the minority leader of the House of Representatives concerning the appointment of one member;

"(iii) the majority leader of the Senate concerning the appointment of two members; and

"(iv) the minority leader of the Senate concerning the appointment of one member.

"(C) Appointments under subparagraph (A) shall be made from among individuals who—

"(i) have technical qualification, professional standing, and demonstrated expertise in the fields of intercity common carrier transportation and corporate management; and

"(ii) are not employees of Amtrak, employees of the United States, or representatives of rail labor or rail management.

"(b) Director General.—If the Emergency Reform Board described in subsection (a)(2) is not sufficiently constituted to function as a board of directors under applicable corporate law before the expiration of 60 days after the date of the enactment of the Amtrak Reform and Privatization Act of 1995, the special court established under section 209(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C.

719(b)) shall appoint a Director General, who shall exercise all powers of the Board of Directors of Amtrak until the Emergency Reform Board assumes such powers.

"(c) BOARD OF DIRECTORS.—Four years after the establishment of the Emergency Reform Board under subsection (a), a Board of Directors shall be selected pursuant to bylaws adopted by the Emergency Reform Board, and the Emergency Reform Board shall be dissolved.".

(b) EFFECT ON AUTHORIZATIONS.—If the Emergency Reform Board has not assumed the responsibilities of the Board of Directors of Amtrak before March 15, 1996, all provisions authorizing appropriations under the amendments made by section 701 of this Act for a fiscal year after fiscal year 1996 shall cease to be effective.

SEC. 504. REPORTS AND AUDITS.

Section 24315 of title 49, United States Code, as amended by section 208 of this Act, is further amended—

(1) by striking subsections (a) and (c);

(2) by redesignating subsections (b), (d), (e), (f), (g), and (h) as subsections (a), (b), (c), (d), (e), and (f), respectively; and

(3) in subsection (d), as so redesignated by paragraph (2) of this section, by striking "(d) or (e)" and inserting in lieu thereof "(b) or (c)".

SEC. 505. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by inserting "The preceding sentence shall cease to be effective on the expiration of a fiscal year during which no Federal operating assistance is provided to Amtrak." after "with comparable responsibility.".

SEC. 506. EXEMPTION FROM TAXES.

Section 24301(l)(1) of title 49, United States Code, is amended—

(1) by inserting ", and any passenger or other customer of Amtrak or such subsidiary," after "subsidiary of Amtrak";

(2) by striking "or fee imposed" and all that follows through "levied on it" and inserting in lieu thereof ", fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority, directly or indirectly on Amtrak or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or a rail carrier subsidiary of Amtrak, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom"; and

(3) by amending the last sentence thereof to read as follows: "In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1995.".

TITLE VI—MISCELLANEOUS

SEC. 601. TEMPORARY RAIL ADVISORY COUNCIL.

(a) APPOINTMENT.—Within 30 days after the date of the enactment of this Act, a Temporary Rail Advisory Council (in this section referred to as the "Council") shall be appointed under this section.

(b) DUTIES.—The Council shall—

(1) evaluate Amtrak's performance;

(2) prepare an analysis and critique of Amtrak's business plan;

(3) suggest strategies for further cost containment and productivity improvements, including strategies with the potential for further reduction in Federal operating subsidies and the eventual partial or complete privatization of Amtrak's operations; and

(4) recommend appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles.

(c) MEMBERSHIP.—(1) The Council shall consist of 7 members appointed as follows:

(A) Two individuals to be appointed by the Speaker of the House of Representatives.

(B) One individual to be appointed by the minority leader of the House of Representatives.

(C) Two individuals to be appointed by the majority leader of the Senate.

(D) One individual to be appointed by the minority leader of the Senate.

(E) One individual to be appointed by the President.

(2) Appointments under paragraph (1) shall be made from among individuals who—

(A) have technical qualification, professional standing, and demonstrated expertise in the fields of transportation and corporate management; and

(B) are not employees of Amtrak, employees of the United States, or representatives of rail labor or rail management.

(3) Within 40 days after the date of the enactment of this Act, a majority of the members of the Council shall elect a chairman from among such members.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide to the Council such administrative support as the Council requires to carry out this section.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection which is a trade secret or commercial or financial information that is privileged or confidential.

(g) REPORTS.—(1) Within 120 days after the date of the enactment of this Act, the Council shall transmit to the Amtrak board of directors and the Congress an interim report on its findings and recommendations.

(2) Within 270 days after the date of the enactment of this Act, the Council shall transmit to the Amtrak board of directors and the Congress a final report on its findings and recommendations.

(h) STATUS.—The Council shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.) or section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

SEC. 602. PRINCIPAL OFFICE AND PLACE OF BUSINESS.

Section 24301(b) of title 49, United States Code, is amended—

(1) by striking the first sentence;

(2) by striking "of the District of Columbia" and inserting in lieu thereof "of the State in which its principal office and place of business is located"; and

(3) by inserting "For purposes of this subsection, the term 'State' includes the District of Columbia. Notwithstanding section 3 of the District of Columbia Business Corporation Act, Amtrak, if its principal office and place of business is located in the District of Columbia, shall be considered organized under the provisions of such Act." after "in a civil action.".

SEC. 603. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking "rail carrier under section 10102" and inserting in lieu thereof "railroad carrier under section 20102(2) and chapters 261 and 281"; and

(2) by amending subsection (c) to read as follows:

"(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11303, 11342(a), 11504(a) and (d), and 11707. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.".

SEC. 604. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking "1996" and inserting in lieu thereof "2001".

SEC. 605. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 606. RAIL SAFETY SYSTEM PROGRAM.

Section 24313 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 607. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC. 608. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 249 of such title, are repealed.

(b) CONFORMING AMENDMENT.—Section 24902(a)(1)(A) of title 49, United States Code, is amended by striking "and 40 minutes".

SEC. 609. BOSTON-NEW HAVEN ELECTRIFICATION PROJECT.

Section 24902(f) of title 49, United States Code, is amended—

(1) by inserting "(1)" before "Improvements under"; and

(2) by adding at the end the following new paragraph:

"(2) Amtrak shall design and construct the electrification system between Boston, Massachusetts, and New Haven, Connecticut, to accommodate the installation of a third mainline track between Davisville and Central Falls, Rhode Island, to be used for double-stack freight service to and from the Port of Davisville. Amtrak shall also make clearance improvements on the existing main line tracks to permit double stack service on this line, if funds to defray the costs of clearance improvements beyond Amtrak's own requirements for electrified passenger service are provided by public or private entities other than Amtrak. Wherever practicable, Amtrak shall use portal structures and realign existing tracks on undergrade and overgrade bridges to minimize the width of the right-of-way required to add the third track. Amtrak shall take such other steps as may be required to coordinate and facilitate design and construction work. The Secretary of Transportation may provide appropriate support to Amtrak for carrying out this paragraph.".

SEC. 610. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—Amtrak shall not be subject to any requirement under section 242(a)(1) and (3) and (e)(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162(a)(1) and (3) and (e)(2)) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 611. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2), (3), and (11);

(2) by redesignating paragraphs (4) through (8) as paragraphs (2) through (6), respectively;

(3) by inserting after paragraph (6), as so redesignated by paragraph (2) of this section, the following new paragraph:

"(7) 'rail passenger transportation' means the interstate, intrastate, or international transportation of passengers by rail;";

(4) in paragraph (6), as so redesignated by paragraph (2) of this section, by inserting ", including a unit of State or local government," after "means a person"; and

(5) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

SEC. 612. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC. 613. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

(a) AMENDMENT.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Amtrak,".

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978.

SEC. 614. CONSOLIDATED RAIL CORPORATION.

Section 4023 of the Conrail Privatization Act (45 U.S.C. 1323), and the item relating thereto in the table of contents of such Act, are repealed.

SEC. 615. INTERSTATE RAIL COMPACTS.

(a) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities and intermodal passenger facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

SEC. 616. CONFORMING AMENDMENT.

Section 10362(b) of title 49, United States Code, is amended by striking paragraph (5) and redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 24104(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

"(1) $772,000,000 for fiscal year 1995;
"(2) $712,000,000 for fiscal year 1996;
"(3) $712,000,000 for fiscal year 1997;
"(4) $712,000,000 for fiscal year 1998; and
"(5) $403,000,000 for fiscal year 1999,

for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C).".

(b) ADDITIONAL AUTHORIZATIONS.—Section 24104(b) of title 49, United States Code, is amended to read as follows:

"(b) ADDITIONAL AUTHORIZATIONS.—(1) In addition to amounts appropriated under subsection (a), there are authorized to be appropriated to the Secretary of Transportation—

"(A) $200,000,000 for fiscal year 1995;
"(B) $200,000,000 for fiscal year 1996;
"(C) $200,000,000 for fiscal year 1997;
"(D) $200,000,000 for fiscal year 1998; and
"(E) $200,000,000 for fiscal year 1999,

for the benefit of Amtrak to make capital expenditures under chapter 249 of this title.

"(2) In addition to amounts appropriated under subsection (a), there are authorized to be appropriated to the Secretary of Transportation—

"(A) $21,500,000 for fiscal year 1995;
"(B) $10,000,000 for fiscal year 1996;
"(C) $10,000,000 for fiscal year 1997;
"(D) $10,000,000 for fiscal year 1998; and
"(E) $10,000,000 for fiscal year 1999,

for the benefit of Amtrak to be used for engineering, design, and construction activities to enable the James A. Farley Post Office in New York, New York, to be used as a train station and commercial center and for necessary improvements and redevelopment of the existing Pennsylvania Station and associated service building in New York, New York.".

(c) CONFORMING AMENDMENTS.—Section 24909 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 249 of such title, are repealed.

(d) GUARANTEE OF OBLIGATIONS.—There are authorized to be appropriated to the Secretary of Transportation—

(1) $50,000,000 for fiscal year 1996;
(2) $50,000,000 for fiscal year 1997;
(3) $50,000,000 for fiscal year 1998; and
(4) $50,000,000 for fiscal year 1999,

for guaranteeing obligations of Amtrak under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831).

(e) CONDITIONS FOR GUARANTEE OF OBLIGATIONS.—Section 511(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(i)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall not require, as a condition for guarantee of an obligation under this section, that all preexisting secured obligations of an obligor be subordinated to the rights of the Secretary in the event of a default.".

AMENDMENT OFFERED BY MR. CLEMENT

Mr. CLEMENT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLEMENT: Page 36, after line 21, insert the following new section:

SEC. 617. RAILROAD LOAN GUARANTEES.

(a) DECLARATION OF POLICY.—Section 101(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801(a)(4)) is amended to read as follows:

"(4) continuation of service on, or preservation of, light density lines that are necessary to continued employment and community well-being throughout the United States;".

(b) MAXIMUM RATE OF INTEREST.—Section 511(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(f)) is amended by striking "shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market," and inserting in lieu thereof "shall not exceed the annual percentage rate charged equivalent to the cost of money to the United States.".

(c) MINIMUM REPAYMENT PERIOD AND PREPAYMENT PENALTIES.—Section 511(g)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(2)) is amended to read as follows:

"(2) payment of the obligation is required by its terms to be made not less than 15 years nor more than 25 years from the date of its execution, with no penalty imposed for prepayment after 5 years;".

(d) DETERMINATION OF REPAYABILITY.—Section 511(g)(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g)(5) is amended to read as follows:

"(5) either the loan can reasonably be repaid by the applicant or the loan is collateralized at no more than the current value of assets being financed under this section to provide protection to the United States;".

Mr. CLEMENT. Mr. Chairman, earlier this year, I introduced legislation with my good friend and colleague, SPEAKER BACHUS, to amend the section 511 Railroad Loan Guarantee Program and make it more accessible for small carriers. This legislation enjoys strong bipartisan support from Members both in committee and in the whole House.

The section 511 Loan Guarantee Program is tremendously important to the 530 small railroads that operate in every State and provide access to the Nation's major rail network for thousands of shippers. Authorized since 1976, this loan program provides a source of long-term capital for infrastructure and equipment.

However, in recent times funds have not been available for investment in regional and short line infrastructure projects at the very time these companies have taken over 35,000 miles of failing railroad lines. And more lines will be headed for abandonment as the major railroads merge and consolidate their operations.

Regional and shortline railroads are businesses operating on lines that otherwise would have been abandoned. Many of these lines had been undermaintained for decades. Furthermore, most commercial banks do not understand railroading and are leery of rail loans. Track and infrastructure loans to maintain and upgrade 30-year assets are made available only at high interest rates and short payback periods. These terms are not viable for these small businesses.

In addition, acquisition of a line by the railroad often requires high-cost, short-term debt which drains internally generated cash which could otherwise be devoted for rehabilitation. This has created a credit crunch throughout the regional and short line industry. A 1993 report to Congress from the Federal Railroad Administration stated that there is a $440 million shortfall in routine maintenance funding for class II and class III freight railroads that cannot be generated by internal cash or borrowed on acceptable terms. There is clearly a demonstrated need for the section 511 program.

The amendment proposed by myself and Congressman SPENCER BACHUS would make several modest, some may even say technical, changes to the section 511 program to make it more compatible with the needs of small railroads and for its use in the commercial banking sector. Specifically, the amendment would set the interest for guaranteed railroad loans at the Federal Treasury rate and establish a minimum repayment period of 15 years. The amendment also allows the asset being financed to be used as collateral for the loan.

These changes are necessary to allow small railroads to complete larger, multiyear track and bridge projects. More importantly, in this new era of fiscal consciousness, these changes to the section 511 railroad loan guarantees program have a negligible budget impact. The program is already permanently authorized at $1 billion, of which approximately $980 million is currently available for commitment.

Mr. Chairman, this amendment will help an important segment of our transportation system. The amendment is supported by the Regional Railroads of America, the American Short Line Railroad Association, and the American Association of State Highway and Transportation Officials. I urge the adoption of the Clement-Bachus amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a good amendment. It makes the loan guarantee program more user-friendly. We support it on this side and urge its adoption.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my good friend from Tennessee, BOB CLEMENT.

Mr. CLEMENT's amendment is based on legislation he has introduced, H.R. 2205, the Rail Infrastructure Preservation Act of 1995. I am an original cosponsor of this legislation, and I fully support Mr. CLEMENT's effort to include the relevant portions of that bill in the Amtrak reauthorization.

H.R. 1788 authorizes $50 million annually for loan guarantees under the program created by section 511 loan guarantee program. Although the section 511 loan program has been used principally to support rehabilitation of branch lines in rural areas, the bill expands the program for use on Amtrak's infrastructure. I strongly support inclusion of this provision in this legislation.

Mr. CLEMENT's amendment amends section 511 to make it easier for borrowers to qualify for loans. It clarifies the program's purposes to favor continuation of service on or preservation of light density rail lines. It reduces the interest rate for guaranteed railroad loans to the Treasury bond interest rate. It establishes a 15-year repayment period for the loan, but allow prepayment without penalty after 5 years. Finally, the amendment enables the Secretary of Transportation to waive collateral requirements if he thinks repayment is likely.

This amendment will remove arbitrary barriers currently preventing the most effective use of the program. It takes a good program and makes it better. I urge adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield to me?

Mr. LIPINSKI. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time.

I, too, rise in support of the Clement amendment.

The problem that it addresses is that of rehabilitation of branch lines in rural areas, and it addresses that problem in a very reasonable, responsible, thoughtful way by providing financing mechanisms that would make it possible through loan guarantee programs to lower the interest rate and provide a penalty-free prepayment period after 5 years, empower the Secretary of Transportation to waive collateral requirements. Those are financial impediments to investment in those branch lines that are so important to service in rural areas.

Believe me, I know. I have got a rural district, and we need this kind of service, and I think the amendment comes too late for most of my district. Those branch lines were abandoned a long time ago. Had we had such language 20 years ago, many small towns in the 8th District of Minnesota and elsewhere in the State of Minnesota would still be competitive economically because they would have branch line rail service.

I commend the gentleman for offering the amendment. I commend the gentleman from Illinois for working it out, and I appreciate the support of the chairman of our committee on this amendment.

Mr. FILNER. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, I, too, rise in support of the Clement-Bachus amendment.

Mr. OBERSTAR talked about rural help. This will also help urban areas.

In San Diego, for example, the 511 program will help us revise a railroad that will go from the port of San Diego to connect up with the national rail system to the east coast. It will completely transform the economy of San Diego if we were able to revive this line under the program that 511 authorizes.

So, Mr. Chairman, both sides, this amendment is important. It will help the economy of the United States in many, many areas.

Mr. Chairman, I want to rise in support of the proposal put forward by Congressman CLEMENT to amend the 511 Loan Guarantee Program. I commend Congressman CLEMENT for his initiative. In my view this program is essential to the continuation of service on light density Rail lines that are necessary to continued employment and community well-being throughout the United States.

This is an area of great interest to me. As the House may recall, together with my colleague, Congressman COOLEY and Congressman RAY LAHOOD, I engaged in a colloquy with the chairman of the Transportation Appropriations Subcommittee to support this basic policy.

This is an excellent proposal to help support the critical rail infrastructure of this country. The directly competitive truck and barge industries receive great funding windfalls from transportation infrastructure investment. Critical regional and shortline railroads have no access to similar funds. Reactivation of the 511 program will insure the reconstruction and repair of a significant portion of America's rail infrastructure which is operated by regional and shortline railroads.

The 511 Loan Guarantee Program has been authorized since 1976. In the 1970's and 1908's it was primarily used to assist large financially troubled railroads. The Clement amendment will help meet the infrastructure needs of small railroads. In recent times, funds have not been available for investment in regional and shortline infrastructure at the very time these companies have taken over 35,000 miles of failing railroad line. Most of these lines were headed for abandonment by the large railroads.

An example of such a small railroad can be found in my own district. In 1984, a Texas firm which operates shortline railroads, established the San Diego & Imperial Valley Railroad, which provides freight service over a central line at night when the municipal trolleys are not operating. This small railroad has provided good service and been profitable.

Unfortunately, in 1976, major sections of the track were destroyed on the Desert Line which connects the San Diego & Imperial Valley to the National Railroad System. It has long been a major objective of the San Diego Association of Governments to reconnect the railroad to the National Rail Network in the Imperial Valley. This will have major benefits for shippers in the San Diego area and will provide relief for the transit lines which currently carry both freight and passengers into Los Angeles. Even though the track itself is owned by the transit district, management of the San Diego & Imperial Valley Railroad has informed us that they will finance the reconnection if section 511 loan guarantees are made available.

I strongly urge my colleagues to support Congressman CLEMENT's amendment that will allow the small regional and shortline railroads, such as the San Diego and Imperial Valley, to maintain their infrastructure needs and continue to provide essential freight service.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Let me simply say this: We have all seen branch lines and spur lines across this country, and a lot of those lines, to us, look like two iron rails with a lot of weeds in the middle, and sometimes you even think that they are abandoned. But about once a week or once a day a train will go down that track, and it will haul two or three box-cars or haul a tank car or a hopper car, and it is always headed for a factory or to a grain elevator. We may say, "What is the use of saving these lines that are used only once or twice a week or once a day? Why don't we just let them die?"

What we have to understand is when we let those lines die, we kill jobs. We kill jobs in rural America. We may have a branch line that runs 100 miles and serves seven or eight grain elevators. When that line dies, not only do we lose three or four jobs on that railroad but we also lose those jobs at the grain elevators and we lose those farmers' opportunities to get their grain, to sell their grain, to have that grain go overseas and contribute to a trade surplus, not a trade deficit like we have today.

□ 1200

I have a factory in my district that employs 14 people. Once every 10 days, two tank cars are delivered to that factory. The railroad loses about $2,000 every month supplying that factory, but that factory makes a $40,000 a week payroll to that community. So we have to in certain cases not only protect those lines, not for the railroad jobs, but for the factory jobs, because that is also the largest employer in a small town in my district.

So this bill is absolutely critical. If you vote against this amendment, then you are voting against small business and you are voting against some large businesses in some very small towns. You are going to kill some small towns. You are going to kill some factories. This is as good an amendment as you will see on the floor of this House, and I urge its passage.

I also say one day, if this bill is defeated, the entire bill, we are going to lose another opportunity. Today in Paris, France, 1,500 trains will leave Paris, France, delivering passengers. Amtrak has about 200 trains a day. France is the size of Texas. We do not have much of a passenger system left in this country.

In Japan, 20 percent of the people that travel today will travel on trains. Here, less than 1 percent will travel by train. When we talk about future generations, we owe it to future generations to work out not only this short-term solution to preserving passenger rail transportation, but also a long term solution. The Japanese, the Germans, the British, and the French, they all have excellent train travel. 15, 20, 25 percent of their citizens take advantage of that on either a daily or a weekly basis. We can do the same. We can compete, and, in doing so, we can end the gridlock on our highways and the dangerous situation we have in our skies today.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I compliment the gentleman on his vision of transportation and his understanding of the interrelationships of short line rail service and small town economics. That is what we are talking about. The gentleman painted it in very graphic terms. Also his larger vision of high speed rail service, which I addressed in my opening remarks on the bill today.

I just want to compliment the gentleman and associate myself with his observations.

Mr. BACHUS. Mr. Chairman, we are going to spend much less than $1 billion each year over the next few years on passenger rail travel. The Germans today are building one 86-mile rail corridor at the cost of $5.7 billion. They are putting people to work building for the future.

If this bill goes down, we lose our dream of having a good transportation system in this country. We can put people to work, we can build on that dream, or we can turn our backs on viable transportation in this country. I would urge a "yes" vote on the bill and on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. CLEMENT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: Page 5, after line 14, insert the following new section:

SEC. 104. TRACK WORK.

(a) OUTREACH PROGRAM.—Amtrak shall, within one year after the date of the enactment of this Act, establish an outreach program through which it will work with track work manufacturers in the United States to increase the likelihood that such manufacturers will be able to meet Amtrak's specifications for track work. The program shall include engineering assistance for the manufacturers and dialogue between Amtrak and the manufacturers to ensure that Amtrak's specifications match the capabilities of the manufacturers.

(b) ANNUAL REPORT.—Amtrak shall annually report to the Congress on progress made under subsection (a), including a statement of the percentage of Amtrak's track work contracts that are awarded to manufacturers in the United States.

Mr. TRAFICANT. Mr. Chairman, the Traficant amendment deals with an issue where the track that is being purchased, new track, much of it is being purchased from Europe. One of the reasons that Amtrak is buying most of its track from Europe is because their limited specifications have made it almost impossible for American manufacturers to bid competitively in this arena.

The Traficant amendment basically says that Amtrak and the American manufacturers shall get together, sit down, talk about these specifications, see how they can be in fact worked out, and see how engineering assistance and some engineering advice could be granted to the American manufacturers of trackwork so they would have an opportunity to make it and get some of that business.

Finally, it calls for a report to the Congress within 2 years after the date of enactment of this bill on the progress they are making, including a statement on the percentage of America's trackwork contracts that are awarded to American manufacturers.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, this is an excellent amendment. We support it on this side and urge its adoption.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate the gentleman yielding. The gentleman from Ohio really is justifiably known in this Congress as Mr. Buy-American, and he constantly raises the consciousness of this body to the needs of protecting the American workplace against unfair practices from our foreign competitors. The instance in which the gentleman addresses us today is one such example of unfair competition from abroad.

The Subcommittee on Investigations and Oversight during the years when the gentleman from Pennsylvania [Mr. CLINGER] and I were working together on those matters, held hearings on the Buy American Act as it applied to rail, intracity rail transit systems, Corps of Engineers, and the highway program. We found that the Federal Highway Administration was 100 percent in compliance with the Buy American Act. All the steel going into our highways was American steel. The Corps of Engineers was about 90 percent. We brought them into compliance. Horrible was the Urban Mass Transit Administration, overlooking, turning the other way, not enforcing the existing law. As a result, we have lost capacity which has flown overseas, and foreign manufacturers have now changed the standards which American manufacturers invented and created, and now they cannot compete because they cannot comply.

The gentleman's amendment will put us back on track toward compliance and toward competitiveness again. I compliment the gentleman for raising this issue and bringing this amendment to us. I support the amendment.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I want to compliment the ranking member for all the work he has done before Members like myself got here. The gentleman deserves a lot of credit for most of these initiatives.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I want to thank the gentleman from Ohio, "Mr. Buy American," for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

There may be no one in this body who is as strong a supporter of American workers as Mr. "Buy American." I have consistently supported the gentleman's efforts on this issue, and today is no exception.

Although Amtrak is already covered by a buy-American provision, because the so-called trackwork used by Amtrak is not produced in the United States, Amtrak is permitted to buy from a foreign manufacturer. Trackwork for freight railroads is manufactured in the United States, but these manufacturers do not presently build trackwork of the quality standards required for Amtrak's passenger trains.

This amendment requires that Amtrak and the American manufacturers work together to find ways to increase the ability of the manufacturers to meet Amtrak's specifications for trackwork. Amtrak will report back to Congress within 2 years on its progress.

Both Amtrak and the American trackwork manufacturers want Amtrak's trackwork to be procured from American firms. This amendment will enable them to work toward that goal.

Mr. Chairman, this is a well-reasoned buy-American amendment. I commend Mr. TRAFICANT for his leadership and urge adoption of the amendment.

Mr. Chairman, I also would like to compliment him on his performance yesterday on the sports talk show that I watched on television. The gentleman is not only an outstanding legislator, but he also happens to be one of the most knowledgeable people that we have here in Congress—not only football, which he played at the University of Pittsburgh, but also on baseball, basketball, and just about any other sport one can think of.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I welcome the opportunity to once again support the gentleman's amendment. It is a good amendment to a very good bill.

We are moving in the right direction with respect to Amtrak. I hope all of our colleagues are paying attention, because if they have not had personal experience with Amtrak, I encourage them to do so. It is more efficient, it is cleaner, it is doing a magnificent job, it saves energy, and it is energy efficient, and, boy, is that not refreshing these days, and it is environmentally clean. We should support Amtrak for all the right reasons. So I am glad to have a good amendment to a good bill for a worthy cause.

Mr. Chairman, I believe this is a good bill and will help Amtrak to become more business-like, cut costs, and become less dependent on Federal subsidies. In preparing for the reauthorization of Amtrak we listened to numerous expert public witnesses, Amtrak, and others associated with transportation. From these discussions it became clear that without significant cost-cutting reforms, Amtrak would not survive as a national system. This bill does bring about real reform for Amtrak in a number of key areas. More important, however, it gives Amtrak the tools it needs to become less dependent on direct Federal subsidies.

There are many of us on the committee who have Amtrak in their districts and know how vital that service is to the communities. When Amtrak came before the Railroad Subcommittee in February to testify, the corporation was faced with a huge deficit. Over the past 12 months, Amtrak has cut routes, has reduced frequencies on other routes, and has cut back its staff. Amtrak's efforts have led to significant cost savings and closed a significant shortfall in the past fiscal year.

As of the end of the fiscal year, passenger revenues are up, the work force has been pared down, and on-time and safety performance continues to improve. In the business plan put forth by Amtrak at the beginning of the fiscal year, the corporation projected a bottom-line improvement of $174 million. But the improvement exceeded expectations—Amtrak improved the bottom line by $193 million. The internal reforms being implemented and the aggressive business strategy being pursued at Amtrak are showing success.

Today we will take legislative actions to allow Amtrak to manage their system free from inefficient structures and legislatively imposed impediments. These next few years will be pivotal in determining Amtrak's future, and it is my desire to help Amtrak adhere to, and succeed at, the plan for self-sufficiency. Enactment of this bill is a significant step down that path, and I hope you will support it.

Mr. TRAFICANT. Mr. Chairman, I say if Amtrak does not restate their service to my valley, there is going to be hell in the Congress over the next several years. I ask for an affirmative vote.

Mr. FRANKS of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of H.R. 1788, and I want to particularly congratulate the gentlewoman from New York [Ms. MOLINARI], and the gentleman from Pennsylvania [Mr. SHUSTER] for producing this excellent bill. It would be a disgrace for our Nation not to have a national passenger railroad. If Congress does not pass this legislation, that is precisely what will happen.

In my home State of New Jersey, the gridlock on our highways and congestion at our airports would be enormous if Amtrak were to shut down. Anyone who doubts this fact should take a ride on the most heavily traveled roadway in all of the world, the New Jersey Turnpike, or try to catch a flight out of Newark Airport, one of the busiest airports in the Nation. Without the option to take the train, millions of travelers would be forced to drive or fly. As New Jersey's highways and airports are already operating at or near capacity, the delays and congestion would simply be intolerable.

Mr. Chairman, this bill represents a reasonable compromise that gives Amtrak a fighting chance to become financially self-sufficient. Without this bill, Amtrak goes out of business. I urge my colleagues to keep the trains running by supporting this legislation.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to rise in support of H.R. 1788, the Amtrak Reform and Privatization Act. I want to commend the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, the gentlewoman from New York [Ms. MOLINARI], the subcommittee chairman, the gentleman from Minnesota [Mr. OBERSTAR], the ranking minority member, and others in the committee for their fine work on this piece of legislation.

Earlier this year I had introduced H.R. 832, the Amtrak Flexibility Act of 1995, which would have repealed the current statutory requirement that Amtrak pay every employee on a discontinued route severance pay equal to 1 year of full pay for every year of service up to 6 years maximum service. This bill repeals that requirement and does allow Amtrak to renegotiate its labor agreements.

The committee members and the Amtrak officials and union representatives have all worked on this particular section of the bill, and while no side is totally happy, they all agree that this is a good compromise. I support that compromise.

Mr. Chairman, I would like to point out that Amtrak has suffered a decline in ridership over the last several years and, as a result of that, their operating costs as a percentage of their total revenues have gone up, which has made it very difficult for them to make a profit. Hopefully with this legislation, Amtrak can reform itself, it can discontinue those routes that are uneconomic and maintain those routes that are, and there will be Amtrak passenger service in the parts of the country that support it.

So, Mr. Chairman, I rise in support of the amendment, in support of the bill, and again want to thank the leadership for this.

The bill revises a number of existing laws to enable the National Railroad Passenger Corporation [Amtrak] to operate less like a Government agency and more like a profitable business;

It eliminates restrictions on contracting out many services, and allows Amtrak to renegotiate labor agreements with its unions; and

It lifts the burdensome requirement that Amtrak continue operating the entire system of routes it inherited in 1971.

Part of Amtrak's current quagmire is a result of their statutory severence package, which this legislation finally deals with. This bill, H.R. 1788, permits management to renegotiate labor agreements without having a mandated 6-year provision in place.

H.R. 832, The Amtrak Flexibility Act of 1995, would have repealed the current statutory requirement that Amtrak pay every employee on a discontinued route severance equal to 1 year of full pay for every year worked for Amtrak up to a 6-year maximum, which the majority of employees quality for. H.R. 1788 achieves many of the goals addressed in my bill.

These labor protection requirements are relics of a bygone era. This statute was mandated to protect rail workers moving to the public sector when Amtrak was created in 1971. Only 35 of those original employees still work for Amtrak. Today, Amtrak employs 24,000 people. This legislation will permit Amtrak management to make the necessary reforms, so they have a chance to become profitable.

The State of Texas—according to Amtrak's own figures, their Texas ridership plummeted from 299,083 in 1993 to 202,412 in 1994. That's a loss of 32 percent. At the same time, Amtrak has only lost 13 of its 161 Texas employees. Additionally, non-payroll Amtrak spending has increased in Texas from $5.3 million to $8.5 million—an increase of 60 percent. This bill will permit Amtrak reduce unneeded routes in Texas while saving taxpayer's dollars.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. COLLINS of Illinois: In Section 401, strike lines 9 through 12 on page 18.

Mrs. COLLINS of Illinois. Mr. Chairman, the amendment I am offering today corrects a highly discriminatory provision of H.R. 1788 which caps the amount of noneconomic damages that a victim of a railroad accident may recover at $250,000 above the level of economic damages. This provision pertains not only to a claim against Amtrak, but would also apply to a claim against any railroad, subway system, or any other defendant, so long as the accident involved passenger rail operations. This is wrong, it is nonsensical, it is simply unfair.

My amendment would strike this provision from the bill and I urge its adoption.

Although not as highly publicized as airplane crashes, train accidents are occurring in alarming numbers every year. According to the latest Federal Railroad Administration statistics, there were 21,730 total train accidents in 1993 resulting in 1,279 deaths and 19,121 injuries. Many of these train accidents involved the provision of rail passenger transportation services. In fact, about 8.5 times more people died in accidents involving Amtrak in 1993 than died in all U.S. scheduled commercial airline accidents. A cap on noneconomic damages could exacerbate the situation without resulting in any significant cost savings.

The noneconomic damages in this bill would unfairly impact the most seriously injured accident victims; create an arbitrary and inflexible limit on recovery of pain and suffering damages regardless of the underlying circumstances of each case, that is, loss of eyesight is worth a maximum of $250,000 above economic damages and so is loss of eyesight combined with loss of hearing; and discriminate against women, the young, the elderly, and others who may not have large economic losses.

Here's how the cap would work: Recall that five children died, and many others were injured recently when a train smashed into a schoolbus at a grade crossing in Fox River Grove, IL. The noneconomic damages cap in this bill could limit the recovery of those children and their families to a paltry sum. Because the typical child does not suffer lost wages or other economic damages, even the most catastrophically injured children could be limited to just $250,000 if they cannot show economic harm.

Congress should be focusing on the critical need for improved rail safety in the United States, not hindering the ability of our legal system to fairly compensate accident victims and to hold negligent rail passenger transportation providers fully accountable.

□ 1215

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment. I must strongly oppose my friend's amendment. The liability limitations reflect the seriousness of a long series of negotiations so we could bring this bill to the floor with support on both sides, as well as with Amtrak and the freight railroads.

Limitations on liability from passenger rail accidents are absolutely necessary because the current arrangement unfairly requires the freight railroads, which are not forced to ask Amtrak to operate over their property by law, to assume the potentially ruinous financial risk of a passenger rail accident.

Current Amtrak payments of approximately $80 million to the freight railroads for the use of their right of way do not come close to covering the potential risk posed by a passenger rail accident. In Chase, MD, for example, in which 16 people were killed, Conrail settled out of court for approximately $130 million.

Limitations on liability in domestic passenger transportation are common. There is a statutory limitation which was enacted last year for the Virginia Railway Express Commuter Service. In addition, there are liability limitations for aviation and some transit operations.

Let me emphasize, Mr. Chairman, without a reliable fix for liability which is in this bill and which the gentlewoman's amendment would strike, the freight railroads are unlikely to permit any passenger rail operators other than Amtrak to use their right of way. Amtrak's current operating agreements with the freight railroads expire in April 1996.

If Congress does not settle the liability dispute now, the successor agency to the ICC, which has no expertise in this area whatsoever, will be forced to resolve this important issue. If the liability reform in this bill is stricken, it puts in jeopardy the entire success of the bill in the long run, so I strongly urge defeat of this amendment.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, admittedly we had not had time in advance, before consideration of the bill, to examine this issue. It has been raised just prior to coming to floor consideration of the bill. But on the merits, on just an analysis of the limitation in the bill, it strikes me that the bill limits noneconomic damages in the following way.

If a person of some means suffers lost income of, say, $1 million, that person can collect the $1 million plus up to $1,250,000 for pain and suffering, whatever that person can prove in court. On the other hand, if a child is injured in an accident, say from a family of lesser means, that child would have no lost income. The child's noneconomic damages, that is, those for pain and suffering, would be limited to $250,000.

On the one hand, why would you allow a person of substantial means, a wealthy person, to collect $1 million plus $1,250,500 and limit a child to $250,000? Why, on the other hand, would you tie pain and suffering to economic damages? They have no relationship one to the other. Most of those matters anyhow are covered by the insurance that the railroads cover. Of course, they are going to have an increase, should they have a rash of accidents, an increase in their insurance costs, but that is a separate matter.

It just strikes me that in dealing with problems of Amtrak, that we should not go beyond and get into tort law limitations. There is an element of fairness that we ought to address and that the gentlewoman's amendment certainly does address.

Furthermore, the bill does protect freight railroads by requiring—they expect agreements of Amtrak to indemnify the railroads for damages for Amtrak passenger operation injuries. So I think there is plenty of protection in this legislation for the freight railroads, but it is the passenger that comes up short. Regrettably, this is an issue we did not sufficiently address prior to coming to the House floor. It is now being addressed, and I think it should be. I think the gentlewoman's amendment should pass.

Ms. MOLINARI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment strenuously. This amendment would subject Amtrak and the freight railroads providing infrastructure to Amtrak to unlimited noneconomic damages. This would effectively destroy a carefully crafted reform bill that addresses the current unworkable liability situation on Amtrak.

The cap that this amendment would eliminate is parallel to the one that the House approved in certain situations, such as medical malpractice, under the recent product liability bill. The key fact to keep in mind about liability reform the Amtrak is that it is the taxpayer who has to pay for excessive liability awards. Amtrak's liability either hits Amtrak directly or hits the freight railroad who furnished the track. Either way, the costs get passed back to the taxpayer, because Amtrak pays access charges to the freight railroads. Those charges necessarily include liability as a so-called incremental cost.

So be very clear about this. Under this amendment, the taxpayers of the United States who helped to finance Amtrak would have their fees increased in order to pay for this.

Remember also, this is not a voluntary service by the freight railroads, Amtrak, its access to their tracks by Federal law, whether the freight railroad wants to or not. This is in stark contrast to companies who sell a product or a service voluntarily.

So, in closing, let me just advise the Members here that we are talking about passing these costs on to the Amtrak riders and to the taxpayers in general who subsidize Amtrak service, and that this is a double penalty on freight railroads who, by Federal statute, have been allowed to service Amtrak.

We may in future years, if we are lifting this cap, have to rethink the Federal obligation to mandate services upon the freight railroads, because it seems to me that we cannot penalize in two situations, which is precisely what this does.

I urge all my colleagues to vote for the collins amendment.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentlewoman from Illinios [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just wanted to point out just a few weeks ago on November 2, a toddler stroller got struck in the train door in the Greenwich Village subway station in New York; and however, you know, Esmae Pender was able to snatch Anthony, her 9-month-old son from the stroller seconds before the train pulled out of the station, and he escaped injury. However, this lady's incident occurred just 1 week after the November 25 accident in which a child was pulled from beneath a stroller caught in doors between a subway stop at Fifth Avenue subway station. My amendment would have enabled the parents of that little child to in fact have more than the economic damages of $250,000 that we are talking about here. I think it is a fair thing to do. I thank the gentleman for yielding.

Mr. LIPINSKI. I would like to say that this particular issue has been debated, discussed, negotiated upon to a great extent since we first started hearings on the Amtrak legislation. The language that exists in the bill at the present time from my perspective is a considerable improvement over what was in the bill originally.

By the same token, it has always been my position that I seriously question tort reform being involved in this Amtrak reform legislation. I also think that it is to a great degree really a matter of fairness. As I mentioned earlier, since the start of the Amtrak deliberation we have gone over this issue and gone over it and gone over it, and perhaps even though we were unaware of this amendment coming to the floor today until very recently, something like 5 minutes after we started a debate on the rule for this bill, I am happy that it has come to the floor.

I do support it, and I believe that it is only fitting and proper that in a democracy, that ultimately the Representatives of the people in total have an opportunity to vote on this particular, to vote on this particular issue. It should not be restricted simply to the members of the Committee on Transportation and Infrastructure.

So even though I know we have debated it forever, this is another opportunity for us to debate it, but more importantly, for the other Members of the House of Representatives to have their opporutnity to vote "yes" or "no" on this type of amendment.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Really, if we want to run a passenger railroad in this country and we want it to be affordable and accessible, we really have to make these reforms. I appreciate the gentlewoman's concern about award of economic damages for those that are harmed, but you have to create a balance. That is what this legislation does, is try to get us to a position where we can have an affordable railroad.

If you will look at the two areas of concern, some labor reform, we have labor laws that go back to dozens and dozens of years ago that need adjustment, and we also have liability reform, which increased the costs and inability to run a railroad.

☐ 1230

I asked the founder of Autotrain, which started out as a private enterprise, what factor contributed to their demise. They were running very well, running a profit privately; and he said, it was the liability question. They suffered several accidents, and liability brought that private enterprise down, and Government has had to take it over.

So if we want to continue employment, if we want to continue opportunity, we have to strike a balance, and liability reform is one of those. This House overwhelmingly passed liability reform, and the chairman of the committee has cited other instances where we, in fact, have liability reform in public transit. So there is a precedent for this.

Ms. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentlewoman from New York.

Ms. MOLINARI. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I would like to respond to the original examples of the gentlewoman from Illinois [Mrs. COLLINS] that she gave regarding near accidents on the New York City subway system.

I would just like to point out that New York State has already and historically established limitations on liability for commuter operations, specifically because of the point that I raised, that in those instances if there was an unlimited cap, it is not the so-called Government who pays, it is the New York City subway rider or the taxpayer who has to pay that liability. So many, many States, including New York State, have actually taken the lead in what we are trying to do for Amtrak right now.

Mr. MICA. Mr. Chairman, reclaiming my time, I would just like to comment in closing that we tried to reach a compromise and a balance here, a balance between the rights of individuals and the ability of this country and this Government and Amtrak to operate. We have taken over this. We are trying to do our best to get Amtrak back on track, and we think that some of these reforms are both reasonable and needed, and I do oppose the amendment.

Mr. MASCARA. Mr. Chairman, I move to strike the requisite number of words.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MASCARA. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, let me just point out that on November 15, 1995, just a week or so ago, a 65-car CSX freight train loaded with orange juice smashed into a pickup truck just south of Dade City. The collision knocked the pickup truck 20 feet off the crossing and caused the train to derail. The intersection where the accident occurred had no flashing lights or crossing gate, just a crossbuck sign and a large faded stop sign. It also has a history of accidents and close calls.

The driver of the pickup truck is a 34 year-old man, Steve Matala of Dade City, and he is listed in stable condition at St. Joseph's Hospital in Tampa.

On July 12, 1995, a train crashed into a car at a rural Polk County crossing in Florida, killing Marie Meyer, 26, and her oldest son, Neil. Younger siblings, Douglas and Brenda, survived the crash. Now, some witnesses said they did not even see the red warning lights at all. These are people, the younger siblings, who apparently are going to be without their parent.

On January 14 of this year, a van carrying five people was crushed by a freight train at a Riviera Beach crossing, killing four of the passengers. Now, the sad thing is that the van was carrying mourners returning from a funeral, and it is believed that warning devices and gate barriers at the crossing may have failed to operate because of mechanical problems and weather conditions, et cetera.

It just seems to me that with these kinds of things happening that we, in fact, have to take some caps off for economic damages. Mr. Chairman, there is a great loss here. Pain and suffering and economic damages should not have caps on them because they are important, they are important to people who have considerations that they are thinking about.

Mr. Chairman, I include the following data concerning my amendment in the RECORD at this point:

NEW YORK

A New York City subway train slammed into the rear of another train stopped on the Williamsburg Bridge on June 5, 1995, killing one person and injuring more than 50 passengers. An outdated safety system based on 1918 technology was supposed to prevent such rear-end collisions, but the system apparently malfunctioned in this instance. This was the fourth time in less than two years that a subway train rear-ended another train, raising noticeable questions about the system's safeguards. A modern computerized system that automatically slows or stops a train before a collision is readily available, but the local transit authority chose not to install this improved system in order to save money. This was the city's worst subway accident since five people were killed and 200 injured when a drunken motorman crashed his speeding train into a wall near Union Station in 1991.

On November 2, 1995, a toddler's stroller got stuck in train doors at the Greenwich Village subway station. However, Ismay Pinder was able to snatch Anthony, her 9-month-old child, from the stroller seconds before the train pulled out of the station. Anthony escaped serious injury. It was learned that door-obstruction sensors that could have prevented this mishap were not in place on this train, despite the fact these safety precautions were recommended back in 1988. This latest incident occurred just one week after an October 25 accident in which a tot was pulled from beneath a train car after being knocked off a stroller trapped in the doors of a subway train stopped at the 42d St.-5th Ave. station

Brown, a 25-year-out student, was attempting to board a subway train when it began to move, causing her to fall between the cars. She was then run over by the train, causing her right foot to be crushed beyond repair and resulting in so much damage to her left leg that it had to be amputated below the knee. Her left foot was successfully implanted into her right leg, but she nonetheless walks with great difficulty. Brown alleged negligence on the part of the transportation authority in allowing the train to begin moving unannounced while she was boarding. A structured settlement with a present cash value of $1.25 million was reached.

Orlando, a 62-year-old clothing store manager, had his dominant arm traumatically amputated when he fell beneath the wheels of a Long Island Railroad passenger train while trying to board. Eyewitnesses testified that they saw Orlando attempting to catch the train. As he tried to jump through the open doors, the train began to move, knocking him beneath the car. Orlando asserted that the railroad was negligent in that the train should not have left the station with its manually operated doors open, in violation of the company's own rules. In addition, there were not enough crew members to adequately observe each other's hand signals indicating whether all the doors were closed when the train was ready to depart. A settlement was reached for $750,000.

FLORIDA

On November 15, 1995, a 65-car CSX freight train loaded with orange juice smashed into a pickup truck just south of Dade City. The collision knocked the pickup 20 feet off the crossing and caused the train to derail. The intersection where the accident occurred has no flashing lights or crossing gate, just a crossbuck sign and a large faded stop sign. It also has a history of accidents and close calls. The driver of the pickup, 34-year-old Steve Matala of Dade City, is listed in stable condition at St. Joseph's Hospital in Tampa.

On July 12, 1995, a train crashed into a car at a rural Polk County crossing, killing Marie Meyer, 26, and her oldest son, Neil. Younger siblings Douglas and Brenda survived the crash. Some witnesses to the accident stated that they did not see the red warning light flashing at the railroad crossing on the CSX-owned tracks.

On January 14, 1995, a van carrying five people was crushed by a freight train at a Riviera Beach crossing, killing four of the passengers. The van was carrying mourners returning from a funeral. It is believed that warning devices and gate barriers at the crossing may have failed to operate because of mechanical problems or weather conditions. Several witnesses stated that one or both of the barrier arm gates at the crossing were broken off or locked in an upright position because of high winds.

Gresham, 59, was traveling on an Amtrak passenger train when it derailed on a poorly maintained track. He suffered massive head trauma and died of his injuries 28 days later, leaving behind seven adult children. Amtrak stipulated that it would not contest liability in exchange for a waiver of punitive damages. The jury awarded about $2.8 million (contact Joseph Slama in Fort Lauderdale for more info/clippings)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. MASCARA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I am sure the gentlewoman from Illinois [Mrs. COLLINS], my good friend, would not want to misstate the facts. There is no limit on economic damages, a very important point.

Second, all of the examples that the gentlewoman gave are very interesting and very sad, but they have nothing to do with this bill, because they all relate to freight, and they would not be addressed in any fashion by this legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MASCARA. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I misspoke. I said noneconomic damages. Children, of course, would not have economic damages. They, of course, would have noneconomic damages, and that is what the cap is on, not economic damages.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and colleagues, this amendment I think probably has a good intent behind it, but, first of all, it is unnecessary; and, second of all, it is actually a dangerous amendment. Let me explain why that is. It is unintendedly so.

Presently, Mr. Chairman, Amtrak must run on private railroad, freight railroad tracks, and when it does so the freight railroads really have no say. We, as the U.S. Government, say to the freight railroads, you will allow our passenger trains to run on your tracks, and we actually command them to do so. They have no choice.

What we are simply saying in this amendment is when we run a passenger train on a freight line and there is an accident, we say we will limit your liability, and we do not limit the economic liability. Medical bills, lost wages, hospital bills, if someone receives a disability of 10 percent, 15 percent, they are paid for any disability.

Any permanent injury, they are compensated for.

The one thing that we simply say is we will only pay $250,000 for pain and suffering, and that is money that the railroads, which do not want us on their tracks to begin with, and which we say we are going to run on your tracks, even if you say you do not want us there.

For us to turn around and say, we are going to run on your tracks, and when there is an accident, people can sue you, and they can get $10 million or $20 million is wrong. It goes beyond being wrong, and it becomes dangerous, and let me tell my colleagues why it becomes dangerous.

Because of Amtrak and because of the Federal Government, we are spending literally millions of dollars every year eliminating dangerous grade crossings. That is what is killing people in this country is grade crossings. They are crossing these tracks, and they are getting killed.

Presently, because of this legislation and because we have an Amtrak, we are eliminating every year over 100 grade crossings, and we are saving lives. But if we attach this amendment to this bill, we will kill Amtrak. We will increase the cost. In fact, two years from now we will appropriate $403 million for Amtrak.

We have actually had court settlements in these accident cases of over $100 million. So we are talking about potentially one accident costing Congress and the United States, because we indemnify all of these. If there is an accident and we pay out all of this money, then we, the taxpayers, turn around and, out of Amtrak, we have to pay that money.

Mr. Chairman, can my colleagues imagine us giving $400 million to Amtrak to operate these trains and then them having to pay $100 million of that for one accident? This will bankrupt Amtrak, and it will also end this elimination of these dangerous grade crossings.

Other countries do not have this problem for two reasons. One is the government owns the tracks, and the people of those countries have chosen to use taxpayer money to eliminate the grade crossings. Now we have done that between Washington and New York. That is the long-term solution. That is the solution that we ought to both join in.

We are both interested in one thing. We do not want people hurt; we do not want people injured. The long-term solution is for this government to eliminate more grade crossings and to put more money into that.

Between Washington and New York, there is not a single grade crossing, so there will not be any grade-crossing accidents. Between New York and Boston, there are 13 grade crossings. Between Birmingham and Atlanta, Birmingham being in my district, there are 400 grade crossings. The answer is not this amendment; the answer is cleaning up some of those grade crossings.

Mr. Chairman, I want to make one final point. The gentleman from Pennsylvania [Mr. SHUSTER] I think said it all when he said, we are not making these grade crossings any safer with this legislation, because most of the trains over those tracks are freight trains, and this amendment and this bill has no application to those.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. BACHUS was allowed to proceed for 2 additional minutes.)

Mr. BACHUS. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I would point out that in the committee the bill originally had a ban on punitive damages, zero, and we thought we had negotiated a compromise here, so we agreed to drop that ban and put in its place $250,000. So I am a bit disappointed that in thinking we were coming to the floor today with a compromise, and had we known there was not going to be an agreement with what we thought was an agreement, then we would not have put this in, and of course, that matter perhaps can be corrected in conference.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, let me just say to the gentleman from Pennsylvania [Mr. SHUSTER] that probably I am the culprit here. The gentleman did have, as I understand it from the gentleman from Illinois [Mr. LIPINSKI], a deal in committee; but as Mr. LIPINSKI also said, there are others of us who are not on the committee who have amendments; and at the last minute I, quite frankly, decided that this was something that I personally wanted to do, to bring this amendment to the floor of the House of Representatives which each of us has the right to do. So do not blame anybody on the committee for what I have done, please, because that is not the case.

Mr. BACHUS. Mr. Chairman, reclaiming my time, I want to say this. The amendment of the gentlewoman I think was meant to apply to freight railroads, but this bill and this limitation only applies to passenger trains, and I think there is a lot of confusion there.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to emphasize that I totally respect the gentlewoman's right to offer any amendment she wants. I was not referring to any Member's right. I was referring to the committee members on both sides of the aisle, who I thought would come to the floor united in support of the bill and in opposition to these kinds of amendments.

Mr. BACHUS. Mr. Chairman, reclaiming my time, I would say to the gentleman from Pennsylvania that when the amendment came up, I was one of the ones that said, we do need to raise the limitations.

PARLIAMENTARY INQUIRY

Mrs. COLLINS of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. COLLINS of Illinois. Mr. Chairman, when I offered the amendment, I reserved the balance of my time, and I would like to ask now how much time did I reserve?

The CHAIRMAN. The gentlewoman cannot reserve time under the 5-minute rule.

Mr. SHUSTER. Mr. Chairman, I ask unanimous consent that the gentlewoman be given an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman from Pennsylvania for his kindness.

Mr. Chairman, let me say that I wanted to point out that my amendment applies to the Amtrak bill that we are working on now, not to the freight legislation whatsoever.

□ 1245

I wanted to say two more things. First of all, I feel that this Congress is not the judge and the jury. That is why we have tort laws in our courts, so that people, the jurors and the judges, can make some decisions about these kinds of matters. I do not think that 535 Members of Congress can do this on an individual basis, nor should we. That is why we have those laws in place that have worked ever since we have had tort legislation. Now we have the responsibility to change it, but I think we ought to change it with a great deal of thought in mind before we do so.

Let me say one other thing. The statements have been made that my amendment will bankrupt Amtrak. My amendment is not going to bankrupt Amtrak. The bills that we pass that underfund Amtrak might bankrupt Amtrak, but not this amendment. This amendment is not going to bankrupt Amtrak at all.

Finally, let me say this. This is a good amendment. Believe me, it should be passed. If we have feelings for Americans who are suffering because of accidents that they have incurred while on Amtrak, I think that they should have the benefit of the doubt. They should have the benefit of a fair judicial system to award them the kind of damages that they deserve.

Mr. BACHUS. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I am somewhat confused. You have used the analogy of a CSX freight train hitting a pickup truck.

Mrs. COLLINS of Illinois. Reclaiming my time, I have a better one than that.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

(By unanimous consent, Mrs. COLLINS of Illinois was allowed to proceed for 2 additional minutes.)

Mrs. COLLINS of Illinois. Mr. Chairman, on September 22, 1993, Amtrak's Los Angeles to Miami Sunset Limited jumped the CSX-owned track it was traveling on while crossing a bridge in Mobile and plowed into a bayou, submerging a number of passenger cars. Forty people died in this catastrophe, and approximately 150 were injured. This accident was the worst in the history of Amtrak.

Mr. BACHUS. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, that accident occurred in my home State. It was a passenger train. This legislation would apply to that, but I would point out to the gentlewoman that it would reimburse each of those passengers not only for the loss of their lives but for any permanent injuries, for any medical expenses, for any lost wages, and in addition to that punitive damages and noneconomic damages with a cap, under this legislation.

I would further say that that train was running by command of Congress over that freight line.

Mrs. COLLINS of Illinois. Mr. Chairman, reclaiming my time, I also reaffirm my comments that this is a good amendment and it should be supported.

Mr. BACHUS. I would ask for one last point of clarification.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has again expired.

Mr. BACHUS. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Without objection, the gentleman from Alabama is recognized for 1 additional minute.

There was no objection.

Mr. BACHUS. Mr. Chairman, I would urge all Members to realize that this legislation that we are voting on applies only to passenger trains. Yet this amendment that is being offered puts liability on not only passenger trains but also the freight companies. It is a wide-reaching amendment and it applies to the freight company. If the gentlewoman wants to stand up and say that this does not impose liability on the freight line, she needs to do so at this time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 239, not voting 29, as follows:

[Roll No. 830]

AYES—164

Andrews
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flanagan
Foglietta
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hoyer
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ensign
Everett
Fawell
Fields (LA)
Fields (TX)
Flake
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Ackerman
Borski
Chapman
Costello
Crane
Ewing
Hastert
Herger
Hinchey
Hostettler
Johnston
Kennelly
King
Laughlin
Maloney
Manton
Markey
McNulty
Moran
Rose
Stupak
Tauzin
Torkildsen
Torricelli
Tucker
Volkmer
Waldholtz
Walsh

☐ 1308

The Clerk announced the following pair:

On this vote:

Mr. Costello for, with Mr. Hastert against.

Messrs. FARR, RAHALL, GILLMOR, SKAGGS, DINGELL, and Ms. JACKSON-LEE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Chairman. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NADLER: Page 11, after line 11, insert the following new section:

SEC. 209. TRACKAGE RIGHTS FOR FREIGHT TRANSPORTATION.

Section 24904 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "rail freight or" in paragraph (6);

(B) by striking "and" at the end of paragraph (7);

(C) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(D) by adding at the end the following new paragraph:

"(9) consistent with safety and with priority for intercity and commuter rail passenger transportation, make agreements for rail freight transportation over rights-of-way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), notwithstanding and provision of law or contractual provision restricting the ability of Amtrak to enter into such an agreement."; and

(2) in subsection (c) (1) and (3), by inserting "or (9)" after "subsection (a)(6)".

Mr. NADLER. Mr. Chairman, this amendment is vitally important to the States of New York, Connecticut, and Rhode Island, and affects virtually no one else in the country one way or the other. This amendment seeks to bring competitiveness and viability to the rail freight industry in the northeast corridor, especially north and east of New York City.

Amtrak owns the northeast corridor tracks. Conrail, by reason of a 1976 contract signed at a time when both Conrail and Amtrak were totally owned entities of the Federal Government, in other words, this contract was signed between one Assistant Secretary of Transportation and another one down the hall; by reason of this contract, Conrail has had an exclusive easement in perpetuity, forever, for freight usage of the northeast corridor tracks.

The major problem that this causes is that Conrail, with minor exceptions, does not utilize this privilege north of New York City and prevents anyone else from using the northeast corridor for freight, leaving an entire region effectively barred from rail freight service.

☐ 1315

Taking advantage of its exclusive easement agreement, Conrail, with minor exceptions, does not allow any other rail freight carrier to use these tracks for freight. This monopoly privilege was purchased from the American taxpayer for the whopping price of $1. While the rest of the country enjoys competition in transportation, this produces the fact that 38 percent of all freight in the country is carried by rail. But in the region of New York City, Westchester and Putnam Counties, Long Island, Rhode Island and Connecticut, rail freight accounts for only 2.4 percent of traffic. In that geographic area, only 2.4 percent of freight travels by rail, compared to 40 percent in the country as a whole. This is caused to a large extent by the monopoly Conrail has and its refusal to service freight east of the Hudson River south of Boston.

The lack of rail freight service to these areas compels us to bring our freight by truck to and from Conrail terminals in northern New Jersey. This classic monopoly conduct, in which they say "bring your business to us, we will not go to your shippers and manufacturers and ports and companies," this classic monopoly conduct greatly increases shipping costs, congestion, wear and tear on our roads, and pollution in the entire region, and increases the cost of doing business.

The majority in this Congress has been seeking the free market. Should we not allow private competition to give consumers a choice, to give them lower prices, and a better standard of living. This is our chance to bring competition in transportation services to the region east of the Hudson River.

This amendment quite simply opens up the possibility of competition for rail freight service to the northeast. It accomplishes this by saying "Amtrak may, not shall, may, consistent with safety and with priority for intercity and commuter rail passenger transportation, make agreements for rail freight transportation over rights-of-way and facilities, et cetera."

By allowing competition into the Northeast corridor, the area's economy, as well as the bottom lines of Amtrak and other rail freight carriers, which could be Conrail, if they so choose, could benefit enormously.

Mr. Chairman, this amendment mandates nothing. It simply opens up what is currently a monopoly area to open and fair competition. This unreasonable monopoly power is the result of another government give away to big business courtesy of the U.S. taxpayer. In the spirit of the free market, I urge my colleagues to vote against this amendment.

Mr. Chairman, there are several arguments against this amendment which are bogus. Let me summarize them very quickly.

First, this is a hazard to safety in the Northeast corridor, to the safety of commuter or passenger transportation. Nonsense, for two reasons: First, 50 years ago, in the 1940's, the Pennsylvania Railroad carried three times as much passenger transportation on the corridor as at present, the same number roughly of commuter transportation, and huge freight traffic, with no problems. Today we have sunk over $1 billion, I believe, of Federal money into improving the corridor. It is in much better shape. We can handle the traffic. We do not have that traffic on the corridor now. So there are no safety problems.

Second, Amtrak, which runs the passenger operations, by the terms of this amendment, Amtrak controls the track, we give them permission to allow freight transportation in the corridor. We do not tell them they must. They are in charge of the passenger transportation. They will not make any deals that would hazard the safety of the passengers that they run.

The other major argument that is made is we should not break a contract. Conrail and Amtrak made a contract giving Conrail an exclusive monopoly on freight usage of the northeast corridor forever, and we should not break it.

There are three answers to that. First, in the interests of the public in three great States, we should. The public in three States suffers from this monopoly. Second, this bill breaks other contracts, labor contracts. Why should this contract be sacred?

Third, more important than those two arguments, this is not a real contract. Conrail is now a private company, like any other private company. Amtrak, according to this bill, in a couple years will be a private company. When this contract was signed, both of them were wholly-owned subsidiaries of the Federal Government. So the so-called contract was an agreement between one finger of the Federal hand and the other finger of the Federal hand, an agreement between the Federal Government and itself. Why should it now bind two private companies?

In summation, Mr. Chairman, this amendment is important to the economy of the Northeast, of the State of Connecticut, New York and Rhode Island, and hurts nobody, and I urge my colleagues to support it.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose this amendment for several reasons. Before I get into those reasons, I am sure the gentleman did not want to misstate something when he said that this bill we bring before the House today in other places breaks labor contracts. That is not true. One of the most significant aspects of this legislation is that we do not break existing labor contracts. That is why we have such a longer period of time in which there can be negotiations, and that is why labor felt so strongly that they did not want the labor contracts broken. We agreed with that. So this bill does not break labor contracts.

But more to the point of the amendment before us, this is a contractual agreement between two corporations, Conrail and Amtrak, both held at the time by the Federal Government, but, nevertheless, two corporate entities, a contractual agreement which would be broken by this amendment.

It is very important to emphasize that Conrail owned this track. Conrail had exclusive rights in perpetuity over this track. And it was only because the Federal Government said "You have got to give the ownership over to Amtrak" that Conrail did so. As part of this agreement, the agreement was that Conrail would continue to have exclusive freight rights over that trackage, rights which they always had had because it was indeed Conrail's track.

Now, the Nadler amendment could also reverse efforts to minimize freight traffic on the Northeast corridor. Currently there are over 1,000 commuter trains per day on the corridor. Listen to what the distinguished former president of Amtrak had to say about this, Graham Clayton, the former president of Amtrak:

> "If we are to effectively prevent passenger train accidents caused by freight traffic on the line between New York and Washington, we must eliminate the intermixture on the same right-of-way of heavy freight trains and high speed passenger commuter operations. It is not only feasible, but necessary if we are really to solve all aspects of the problem permanently and definitely."

We had a debate on the last amendment that dealt with the problems of safety. Here we have the former highly respected president of Amtrak saying that having any freight on that corridor is a safety problem.

So the gentleman's amendment now would open it up to more freight. We want to minimize that, because we want to continue to focus on increasing the safety in the Northeast corridor.

So for all of those reasons, it is important that we defeat this amendment, because if we do not defeat this amendment, we will be making it possible to load up more freight on an already jammed up corridor. We will be creating safety problems, and we will be abrogating contracts that Conrail entered into.

Mr. Chairman, for all of those reasons I strongly urge defeat of this amendment.

Mr. LIPINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. NADLER]. The gentleman is without a doubt one of the most involved, knowledgeable, dedicated members of the Subcommittee on Railroads. The gentleman has identified a regional problem affecting freight rail service in the New York metropolitan area.

Today there is only one railroad that provides freight service on Amtrak's Northeast corridor. It seems logical that an area of such economic importance as the Northeast corridor would have service from more than one single railroad. But the exclusive use agreement that was granted to Conrail gives it no competition on Amtrak's Northeast corridor.

The Nadler amendment would allow other railroads the use of the Northeast corridor. Competition certainly makes sense to me, and I urge support of this amendment.

Mr. Chairman, I would also like to say that I concur with the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the full committee, that there are no labor contracts being broken in this bill. I am quite sure that the gentleman from New York [Mr. NADLER], because of his anxiety of presenting this amendment, misspoke, and I am sure if he has another opportunity the gentleman will correct the RECORD in regard to that.

Mr. CLEMENT. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from Tennessee.

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman from New York [Mr. NADLER] for offering this amendment today. I believe it raises a very important issue about access onto Amtrak rail right-of-way. The issue is should Amtrak track be made available to others? In this case, freight railroads want access on Amtrak's track to ship their goods. Certainly one would think it is in the public interest to allow such access.

Alternatively, should privately owned track be made available for passenger service if it is in the public interest and, if so, should we require freight railroads to provide the access?

I do not have the answers today, but as the class I railroads merge and we are left with just a few companies controlling 75 percent of the track in this country, maybe it will be necessary for Congress to take a closer look at what is happening in the industry. As we consider the committee's hearing schedule next year, I would ask the gentlewoman from New York [Ms. MOLINARI] to consider taking a closer look into the issue of access. I know that there are other Members who share my concerns.

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman from Tennessee for his support of this amendment. I would just like to say in conclusion we are in the day of trying to privatize. We are in the day of advocating free enterprise. Competition in this amendment will create competition for probably the largest economic area in the entire United States of America.

So I urge all Members to support the Nadler amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from New York brings to us an amendment that just makes a lot of practical sense. It is an amendment that addresses an issue regional in nature. It does not apply to the rest of the United States, but it is of intense local interest and importance.

Conrail has an agreement with Amtrak under which Conrail has exclusive right to provide freight service on Amtrak's tracks in the Northeast corridor. Conrail is not using that authority to provide freight service to New York and parts of Connecticut and southern New England. The amendment of the gentleman from New York would permit, it would not require, Amtrak to grant rates to other freight carriers when consistent with safety and when consistent with the needs of passenger service.

Conrail has written in opposition to the gentleman's amendment, making the thrust of its argument a safety concern. But the gentleman's amendment says very clearly that Amtrak may grant rights to other freight carriers when such grant of authority is consistent with safety and when it is consistent with the needs of Amtrak's own requirement to provide passenger service.

This is not a mandate, this is not a requirement. It is permissive authority. Why Conrail would be opposed to that is beyond me.

The main argument the gentleman from New York makes is that improved service to New York City and Connecticut will result if Amtrak has authority to grant rights to other freight railroads to use that corridor. Now, the Federal Government has invested already substantial sums of money in improving the Northeast corridor where portions of that corridor are going unused because of monopoly rights held by Conrail. The gentleman would not, I know, have offered this amendment if it would abrogate an agreement between private parties.

□ 1330

As he has already pointed out, this really is an agreement between two arms of the Federal Government. In fact, two branches within the same department of the Federal Government. It makes sense. It is permissive authority. It will offer an opportunity for improved service and use of now unused track authority.

Mr. Chairman, I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I thank the distinguished gentleman. I would simply like to add a comment in response to the comment of the distinguished chairman from Pennsylvania where he read from Mr. Claytor's—Amtrak's then President Claytor—testimony at a hearing that we must eliminate the intermixture on the same right-of-way of heavy freight trains and high speed passenger and computer operations.

As a general rule, Mr. Chairman, that is true, but there are things such as road-railer freight operations. I will not go into what that is, but it is not heavy freight but it is freight. It is these truck trailers with retractable rail wheels, which we could use on the corridor, which can go 75 or 80 miles an hour and which have a low center of gravity and which present no safety concerns and no problems mixing with passenger transportation at all. In addition to which they do not have to be on the same track. Even slow freight trains, as long as they are on a different track, we have no problem, even if it is the same right-of-way.

Having said that, Mr. Chairman, the key to this amendment is that Amtrak, which owns the track, would have the ability to make those decisions, subject to whatever safety regulations the Federal Rail Administration, et cetera, sets up. We are not mandating them. We are saying Amtrak may do this. We are simply asking that three States, New York, Connecticut, and Rhode Island, be given the opportunity to talk to Amtrak, to talk to freight railroads, and maybe we will get some rail freight service for that entire region of 15 or so million people that has no rail freight service and needs it for economic benefits.

Mr. Chairman, I urge my colleagues to vote for this amendment so that we can have the freedom to talk to Amtrak.

Mr. OBERSTAR. Mr. Chairman, again I urge support of the gentleman's amendment.

Mr. MARTINI. Mr. Chairman, I rise in opposition to the Nadler amendment.

This is a safety issue, my colleagues.

If passed, increased freight traffic on the Northeast corridor will result in a much more dangerous arrangement on an already crowded stretch of track, and will place the lives of thousands of commuters and rail workers in jeopardy every day.

The corridor already handles about 1,100 trains each day, almost 90 percent of which are commuter trains.

The heavy volume of traffic makes safety the top priority and ever since the tragic accident between a freight train and a commuter train in Chase, MD, that killed 16 people, the freight companies that operate on the line have been very careful to operate as often as possible during off hours when commuter trains are not running.

Thankfull there has not been a repeat of the Chase incident.

But opening up the track to greater amounts of freight traffic would only make it more difficult to keep the freight and commuter traffic apart, and would invite disaster again.

You will see more and more trains line up on the same crowded track, and another Chase accident will become increasingly likely.

This is not a wise amendment, and I urge my colleagues to vote against it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 249, not voting 22, as follows:

[Roll No. 831]

AYES—161

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Chrysler
Clay
Clayton
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Forbes
Ford
Frank (MA)
Franks (CT)
Frisa
Frost
Furse
Gephardt
Geren
Gibbons
Gonzalez
Graham
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hoyer
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kildee
Kolbe
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Martinez
McCarthy
McDermott
McKinney
Meehan
Meek
Meyers
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Myrick
Nadler
Neal
Oberstar
Obey
Olver
Owens
Parker
Pastor
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Richardson
Rivers
Roemer
Rohrabacher
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Skelton
Spratt
Stark
Stokes
Studds
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Yates

NOES—249

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Fattah
Fields (TX)
Flanagan
Foglietta
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kennedy (RI)
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Peterson (FL)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Rogers
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Ackerman
Borski
Chapman
Costello
Dicks
Ewing
Hastert
Hinchey
Hostettler
Kennelly
King
Laughlin
Maloney
Manton
Markey
McNulty
Moran
Stupak
Torkildsen
Tucker
Walsh
Wilson

☐ 1350

The Clerk announced the following pairs:

On this vote:

Mr. Costello for, with Mr. Ewing against.

Mr. Markey for, with Mr. Hastert against.

Messrs. NUSSLE, REED, WYNN, and COOLEY changed their vote from "aye" to "no."

Mr. KASICH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of doing a colloquy with the distinguished chairman of the committee over a situation that I know has arisen in a community in my district, and I think affects some other communities as well.

In this particular case there is a bridge in the borough of Parksburg, PA, that the Pennsylvania Public Utility Commission regards as being in such a state of disrepair that they have ordered the town to demolish the bridge. Parksburg is probably going to have to bear the expense and cost of the demolition of the bridge, but the problem is that because it crosses Amtrak tracks, Amtrak is coming in and saying that you have to pay them for review of the plans for demolition, for flagmen, and all kinds of costs.

It is my understanding that in the bill as presently drafted, there are provisions that would say that instead of Amtrak having to use its own personnel for activities, that in fact these things can be contracted out. In the case of Parksburg, this could mean some of the savings. We are talking about the difference between $250,000 and $1 million to demolish the bridge.

Mr. Speaker, I would ask the gentleman if he could confirm for me that in fact one of the beneficial aspects of the contracting-out language may well be that in communities such as this that are facing these kinds of enormous costs connected with the present situation, Amtrak might well find some relief.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I would say first, the gentleman is correct. Section 101 repeals the current contracting-out prohibition so Amtrak would be able to go out and contract out and presumably get a more competitive price; but beyond that, it is quite possible that in addition to that, the community you referred to, or any community, would have a cause of action against Amtrak if, indeed, the costs were excessive. If the job could be done for $250,000 but Amtrak was saying it cost $1 million, it seems to me that there may be a cause of action that the community might have.

Mr. WALKER. I thank the gentleman very much, because the situation is just one that is almost mind-boggling in its characteristics, because it costs $250,000 to knock the bridge down, but almost three times that much for Amtrak to review the plan and do the kinds of things Amtrak is involved in.

The contracting-out language may well be a case where it can help this small community and others like it across the country that face similar kinds of situations. I thank the gentleman very much and I appreciate what he has done in his bill.

The CHAIRMAN. Are there any other amendments to the bill?

AMENDMENT OFFERED BY MR. REED

Mr. REED. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REED: Page 39, after line 18, insert the following new section:

SEC. 702. ADMINISTRATIVE FUNDS REDUCTION.

Of the funds provided in Public Law 104-50, under the heading "National Railroad Passenger Corporation Operating Losses", $9,250,000 is rescinded. This reduction shall be allocated entirely against Amtrak's administrative expenses in its headquarters and Northeast Corridor Strategic Business Unit.

Mr. REED (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

POINT OF ORDER

Mr. WOLF. Mr. Chairman, I raise a point of order against the amendment, in that it violates clause 7 of rule XVI, which rules that the amendment must be related to the pending subject matter, and the amendment is not germane.

Mr. REED. Mr. Speaker, I would like to be heard on this point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Rhode Island.

□ 1400

Mr. REED. Mr. Chairman, as I stated, my amendment is a straightforward cut of 5 percent in Amtrak's administrative funds. I am concerned that, while this bill asks for many sacrifices on the part of blue-collar Amtrak workers, it may not make the same demands on Amtrak management.

With this need for shared sacrifice in mind, I would urge my colleagues to support the cutting of Amtrak's administrative account by a very small 5 percent, which is approximately $9 million in fiscal year 1995.

Mr. Chairman, I believe my amendment is fair. It does not ask Amtrak management to do anything beyond what Amtrak's management has asked of its workers. I urge my colleagues to support it.

The CHAIRMAN. The Chair is prepared to rule. The bill authorizes appropriations for Amtrak and revises the statutory authorities under which it operates. The amendment rescinds appropriations made available for Amtrak in the Transportation Appropriation Act for Fiscal Year 1996. A proposal to rescind funding provided in an appropriation act falls within the jurisdiction of the Committee on Appropriations and, as such, is not germane to this authorization bill.

The Chair sustains this point of order.

Mr. REED. Mr. Chairman, I move to strike the last word.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. REED. Mr. Chairman, I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I would say that we do recognize the State of Rhode Island's concerns, and we have written the Federal Railroad Administration in an effort to address the concerns of the gentleman, and the issue will be addressed during the subcommittee hearing next year. We do insist on the point of order. I understand what the gentleman is trying to do.

Mr. REED. Mr. Chairman, I thank the gentleman from Virginia [Mr. WOLF], who has been a strong supporter of my State and has been very helpful, and I know he will take this into consideration and make the right judgment in the months ahead.

Mr. MASCARA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a colloquy with my distinguished colleague from Illinois, Mr. LIPINSKI, who played a very important role in the drafting of this legislation, along with the gentleman from Pennsylvania, Mr. SHUSTER, the chairman of the committee, and other members of the Committee on Transportation and Infrastructure.

My question is with section 503 of the bill and the changes it would mandate to the Amtrak Board of Directors.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. MASCARA. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I will be very happy to discuss this issue with the gentleman.

Mr. MASCARA. Mr. Chairman, I would say to the gentleman, section 503 of the bill would replace the current Amtrak Board of Directors with an entirely new board or with a director general if the new board were not fully constituted within 60 days of the enactment of the legislation.

It is my understanding that the current board has performed quite ably. Based on the experience of the gentleman, Mr. LIPINSKI, on the subcommittee and his work with Amtrak, could the gentleman comment on the present board's commitment and dedication to Amtrak and a restructuring of its operations?

Mr. LIPINSKI. Mr. Chairman, if the gentleman would yield to me, the present Amtrak board has done an excellent job in providing guidance to the corporation during these difficult financial times.

Last year, Amtrak was faced with a $200 million shortfall. Rather than come to the Congress for supplemental appropriations, as has been the past practice of the board, this board worked with Amtrak management to undertake the painful cuts necessary to make Amtrak live within its means.

These efforts were successful because Amtrak finished fiscal year 1995 with a $15 million cash balance. This board has demonstrated its ability to make the tough decisions.

Within the last year, train miles have been reduced 20 percent and employment has been reduced by 8 percent. Clearly, this board is up to the challenge of moving Amtrak off its dependence on Federal operating subsidies.

Mr. MASCARA. Mr. Chairman, reclaiming my time, I agree with the assessment of my colleague of the current accomplishments of the board. I recognize that this is a compromise bill and that we need to move the bill through the House without delay so that we will be able to conference with the Senate when it has finished action on this bill. Nonetheless, I believe the accomplishments of the current board should be recognized and that we should not be removing successful and knowledgeable leadership at the same time we are providing Amtrak with the tools it needs to carry out the restructuring. I would hope that this will be one of the issues that receives careful consideration during the conference.

Mr. LIPINSKI. Mr. Chairman, if the gentleman would continue to yield, I certainly agree with the gentleman that we should carefully evaluate this during our conference with the Senate, and I thank the gentleman for the colloquy.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 38, line 12, strike "$10,000,000" and insert in lieu thereof "$2,300,000".

Mr. SHUSTER. Mr. Chairman, this is a typical amendment pertaining to the Penn Station amendment. This is to keep the authorization level from Penn Station redevelopment to a maximum total of $100 million.

Because the NHS bill included partial funding for the Penn Station redevelopment after we had reported this Amtrak bill, total authorizations for the project would have exceeded $100 million. That was not our intent, and we are offering this amendment to reduce that total authorization and to correct this situation.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I have a technical inquiry on the chairman's technical amendment. Can the gentleman tell us what the resulting outlays will be with this reduction in budget authority?

Mr. SHUSTER. Mr. Chairman, reclaiming my time, it will be a total of $7.6 million, if it is appropriated. Of course, there will be nothing if it is not appropriated.

Mr. OBERSTAR. Mr. Chairman, if the gentleman will continue to yield, the reduction in budget authority is $7.6 million.

Mr. SHUSTER. Mr. Chairman, in response to the gentleman from Minnesota, I would say not budget authority, but authorization.

Mr. OBERSTAR. Mr. Chairman, if the gentleman will yield further, yes, that is budget authority. Appropriations, or actual outlays, could be substantially less than that, or they could be the same amount.

Mr. SHUSTER. Mr. Chairman, it could be zero, depending on what the Committee on Appropriations does.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Pennsylvania. I just wanted to get an understanding of where we are.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY:

Page 37, line 19, strike "(1)".

Page 37, line 23, through page 38, line 2, redesignate subparagraphs (A) through (E) as paragraphs (1) through (5), respectively.

Page 38, line 4, insert closing quotation marks and a period after "of this title.".

Page 38, lines 5 through 19, strike paragraph (2).

Mr. HEFLEY. Mr. Chairman, I originally had two amendments, one which would have made sure that we were putting Amtrak on a glidepath to getting rid of the Federal subsidy, and the committee has done that, and I want to commend the gentlewoman from New York [Ms. MOLINARI] and the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee, for doing that. So I withdraw that amendment.

Mr. Chairman, I am proud of the Republican majority. We are in the midst of passing legislation which will balance the Federal budget in 7 years. Not since 1969 has that happened. I am proud of the Republican majority, and I am proud of many of my colleagues on the other side of the aisle that think this is important.

It is not easy to balance the budget. We are all finding that we have had to make some tough choices on what this country's priorities must be. Each and every time we authorize a single dollar, we have had to ask the question, should the Federal Government be involved in this? If the answer to that question is yes, then we ask another question: Can we afford it?

There are many expenditures that the Federal Government never should have made, but there have been a host of other items that we would love to fund if we had the money. But the fact is, we just cannot afford many of them.

That is why I need to be able to go back home, as all of us do, and tell our constituents that we think the priorities set in Congress were priorities we believe in. I need to be able to defend why one program was cut and another authorized.

That is why I have to offer this amendment. I simply cannot go back home and defend authorizing almost $4 million over 4 years, even with the technical amendment which we just passed here, for a train station in New York that has already received, and I wish my colleagues would listen to this, it has already received $60 million in taxpayer money, and that many people argue is not even necessary.

I am not going to argue whether the train station should be moved from its current location at the Farley Post Office. Only the local community can answer that. But I must disagree that with these lean budget times we should tell the American people that one of our priorities is a project to move a train station across the street where bigger and better shops can be built to create a Union Station atmosphere in New York City. It will be tough enough to tell them that legislation has already been signed into law this year that provides this project $26 million.

The National Highway System legislation was able to creatively include funding for this project. In fact, one Member of this Chamber described the efforts of Senator MOYNIHAN as a masterful use of the process in getting that money allocated.

Supporters of the Penn Station project may tell you the current location is rundown and unsafe, but that is why the Transportation appropriation legislation appropriated $20 million to Amtrak and Penn Station for important life safety improvements. So that makes $46 million so far this year.

Here we are in lean budget times and one train station gets not only $20 million to improve its current home but another $26 million to help build its new home. Except for my colleagues from New York, I am not sure there is anyone in this Chamber that can look their constituents in the eye and tell them this should be a priority project.

Supporters of the project will also tell you that this is a $315 million project, and only $100 million is asked for from the Federal Government. Where is the other money coming from? Some $115 million is coming from private investors that, to the best of my knowledge, have not anted up a dime; another $75 million from the State of New York, who has not appropriated a dime; and New York City, whose $25 million contribution is really only $8 million so far. How much more will this black hole of taxpayer money receive?

Mr. Chairman, we all need to ask ourselves the question, is the Penn Station project one that the Federal Government should be involved in, and, if it is, can we afford to fund it? I am convinced that each and every Member of this body, if they really look at the budget and what we are trying to do, will answer that question by supporting this amendment and supporting fiscal responsibility in these lean times.

Ms. MOLINARI. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

Mr. Chairman, let me just state that this is not a New York-specific project we are talking about. The northeast corridor between Washington, DC, and Boston, which passes through New York City, is Amtrak's most traveled route. Ten million passengers a year, nearly half of Amtrak's annual ridership, travels on this route.

Penn Station serves not only Amtrak passengers but Long Island Railroad, New Jersey Transit and New York City subway passengers as well. Five hundred thousand passengers pass through Penn Station every day. That is more passengers than many of Amtrak's routes support annually.

Penn Station is in a current deplorable state. Conditions are crowded, and traffic will soon exceed the capacities of current facilities. In addition, there have been nine major fires or emergencies since 1987, and the New York City Fire Department has identified many inadequacies in the current safety systems that need to be addressed.

Let me just state for the record, however, we have spent the last few months on appropriations and authorizations bills dealing with the situations that confront States all over this country. This Chamber has nearly unanimously agreed on spending tens of billions of dollars on highway projects throughout this Nation. We have spent hundreds of billions of dollars on airport projects throughout this Nation.

That is OK for many Members in this Chamber, but come to an urban area that does not have the highways and does not have the airports, and then all of a sudden it is no longer a Federal responsibility to deal in transportation, because it is a transportation system that perhaps is not available in other areas of the country. Well, highways are not available in New York City to the extent that they are in many, many urban and rural areas in the country.

So in the spirit of fairness I say, rejuvenating and renovating Penn Station helps tourism in America, it helps Amtrak, it helps local commuters, and it creates a sense of parity between those people who come to this Chamber and support the appropriations of billions of dollars of highway, bridges, airport improvement funds, so that we can, in some urban areas, receive some Federal assistance when it comes to some mass transportation assistance like Penn Station.

Mr. Chairman, I urge strong opposition for this amendment.

□ 1415

Mr. NADLER. Mr. Chairman, I move to strike the last word, and I rise in strong opposition to this amendment. I am also speaking on behalf of the ranking member of the committee and the subcommittee in opposing this amendment.

Let me just say that the gentlewoman from New York expressed most of what I was going to say so I am not going to repeat it.

There is no reason to take this money away from this project. It is an important, worthy project. That it is in my district does not detract from that. It is a very important, worthy project for this entire country.

We spend money on airports, on highways, all over the country. This is the premier jewel of the rail system in this country. It ought to be, and we ought to do what we have to do for Penn Station. I urge my colleagues to vote against this amendment.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. An article recently appeared in the National Train Journal which interviewed European tourists who had come to America. The vast majority of them said they wanted to see America by rail, and they were satisfied with Amtrak, and the average tourist, European tourist, spends several thousand dollars here when he comes or when she comes.

What they did criticize Amtrak for were two things. One was on-time performance. The other one was some of the stations. They said the South Bay Station in Boston was a crown jewel. They talked about the station, Union Station. They talked about Philadelphia and Harrisburg, PA, as being outstanding stations.

At the same time they said that some of the stations, and I will not name all of them, they said they were disaster areas. They said they almost turned them off. We are talking about a Pennsylvania station where many of these tourists form their first opinion of our rail transportation and of our country.

If we are going to continue to attract European tourists and Japanese tourists, who feel much the same way, this is money, I think, at least that we ought to consider in making this investment or not making this investment, the fact that that is one major point that they say we do need to improve, and that is our station. This is our most heavily traveled area.

I rise in opposition to the amendment.

Mr. FORBES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hefley amendment. I think this is a good amendment, and if not now, when? If not us, who?

As a gentleman from New York, I have to tell you that it is a new time, it is a new place. We are supposed to be ferreting out this kind of excessive spending, spending particularly that is without need.

In New York, we have just seen a state-of-the-art renovation to the train station there, and I would say that the Hefley amendment is well-timed and it is necessary. We do not need this kind of pork. I would move in support of the Hefley amendment and ask my colleagues to embrace it.

Ms. LOWEY. Mr. Chairman, as a great New Yorker, Yogi Berra, once said, "This is like deja vu all over again."

Time and time again we have debated this issue on the floor. We have gone back and forth and back and around.

Frankly, it's time for these gratuitous attacks on Penn Station to stop.

Seventy-five million passengers pass through Penn Station every year—that's 500,000 passengers a day. Penn Station is Amtrak's busiest station in the country. In fact, it serves more than 40 percent of all of Amtrak's passengers nationwide. It is also the hub for the New York City Transit System, the Long Island Railroad, and New Jersey transit. But Penn Station is falling apart. It's dark, it's dangerous, and within 10 years the station is projected to exceed its maximum pedestrian occupancy level.

In order to address this situation, the Federal Government, the State of New York, and New York City have embarked on a cooperative plan to rebuild Penn Station. This project enjoys bipartisan support, including that of Senators MOYNIHAN and D'AMATO, Gov. George Pataki, and Mayor Guiliani.

And despite all the roadblocks put up in our way we are almost there.

So why has Penn Station generated such fierce opposition?

Opponents of the Penn Station project don't like it because it's in New York. Plain and simple. We have learned time and time again that New York bashing is always in season here in Washington. We know that our friends on the other side of the aisle just can't help themselves—New York is just too inviting a target.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. INGLIS of South Carolina) having assumed the chair, Mr. ALLARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1788) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, pursuant to House Resolution 284, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 406, nays 4, not voting 22, as follows:

[Roll No. 832]

YEAS—406

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—4

Beilenson
Bereuter
Flake
Watt (NC)

NOT VOTING—22

Ackerman
Borski
Chapman
Costello
Ensign
Ewing
Hastert
Hinchey
Hostettler
Kennelly
King
Laughlin
Lincoln
Maloney
Manton
Markey
McNulty
Moran
Stupak
Torkildsen
Tucker
Walsh

☐ 1441

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on H.R. 1788, the bill just passed.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2539, ICC TERMINATION ACT OF 1995

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Transportation and Infrastructure, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. SHUSTER, CLINGER, PETRI, COBLE, Ms. MOLINARI, and Messrs. OBERSTAR, RAHALL, and LIPINSKI.

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. HYDE, MOORHEAD, and CONYERS.

There was no objection.

☐ 1445

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. LIVINGSTON. Mr. Speaker, notwithstanding the order of the House of

November 14, 1995, I ask unanimous consent that the veto message of the President to the joint resolution (H.J. Res. 115) making further continuing appropriations for the fiscal year 1996, and for other purposes, together with the accompanying joint resolution, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Louisiana [Mr. LIVINGSTON] would explain to the House the effect of his motion.

Mr. LIVINGSTON. If the gentleman would yield, Mr. Speaker, as the gentleman will recall, shortly after the President vetoed the second continuing resolution, the House acted to postpone to a date certain further consideration of the veto message. That date was December 1, this Friday.

Since then, we have had a successful negotiation with the administration regarding the content of a continuing resolution that takes us through December 15 and a resolution of the language regarding the President's commitment to a balanced budget in 7 years. So I am pleased to say no further action on the veto of the continuing resolution is necessary, and that is why I am proposing to refer the message to the Committee on Appropriations, effectively putting this chapter of the debate behind us. I hope everyone would support this request.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 1, 1995, TO FILE CONFERENCE REPORT ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tomorrow, December 1, 1995, to file a conference report on the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1350, THE MARITIME SECURITY ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–375) on the resolution (H. Res. 287) providing for consideration of the bill (H.R. 1350) to amend the Merchant Marine Act, 1936 to revitalize the U.S.-flag merchant marine, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 2667

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the gentleman from Virginia [Mr. DAVIS], the gentleman from Virginia [Mr. WOLF], and the gentlewoman from Maryland [Mrs. MORELLA], be removed as cosponsors of H.R. 2667, a bill which I had introduced.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRIVILEGES OF THE HOUSE—REQUEST FOR REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING COMPLAINTS AGAINST SPEAKER

Mr. JOHNSTON of Florida. Mr. Speaker, I rise to a question of the privileges of the House on behalf of myself and the gentleman from Florida [Mr. PETERSON], and I offer a privileged resolution (H. Res. 288) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established.

Whereas—although complaints against Speaker Gingrich have been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than December 12, 1995, concerning:

(1) The status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

The SPEAKER pro tempore. The resolution states a question of privilege.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 170, answered "present" 9, not voting 35, as follows:

[Roll No. 833]

AYES—218

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo

Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—170

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Mascara
Matsui
McCarthy
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

ANSWERED "PRESENT"—9

Cardin
Goss
Hobson
Johnson (CT)
McDermott
Pelosi
Sawyer
Schiff
Wilson

NOT VOTING—35

Ackerman
Borski
Chapman
Chenoweth
Condit
Costello
Edwards
Ensign
Ewing
Flake
Geren
Hastert
Hayes
Hinchey
Hostettler
Kennelly
King
Kolbe
Laughlin
Lincoln
Maloney
Manton
Markey
McNulty
Moran
Morella
Peterson (MN)
Quillen
Quinn
Stupak
Torkildsen
Torres
Tucker
Volkmer
Walsh

□ 1509

Mr. BACHUS changed his vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STUPAK. Mr. Speaker, on Thursday, November 30, 1995, I was unavoidably absent from the House on official travel and missed four recorded votes. Had I been here, I would have voted "No" on rollcall No. 833, the motion to table the measure House Resolution 288; "yes" on rollcall No. 832, the vote on final passage of H.R. 1788, to authorize appropriations for AMTRAK; "yes" on rollcall No. 831, the Nadler amendment to H.R. 1788; and "yes" on rollcall No. 830, the Collins Illinois amendment to H.R. 1788.

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PERSONAL EXPLANATION

Mrs. KENNELLY. Mr. Speaker, on November 30, I was absent from the House of Representatives on official business and missed rollcall votes 830, 831, 832, and 833.

Had I been present I would have voted "aye" on rollcall No. 830, "aye" on rollcall 831, "aye" on rollcall 832, and "nay" on rollcall 833.

LEGISLATIVE PROGRAM

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, I yield to the gentleman from California [Mr. DREIER] for the purpose of discussing the schedule for next week.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, this vote marks the end of legislative business for the evening and for the week.

For next week, we plan on a pro forma session on Monday, December 4. There will be no legislative business that day.

On Tuesday, December 5, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business to take up a number of bills under suspension of the rules. I won't read through the bills now, but Members should be advised that a list will be distributed to their offices this afternoon.

The suspensions are as follows:

H.R. 33, Stuttgart National Aquaculture Research Center Act of 1995;

H.R. 1253, renaming San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge;

H.R. 255, designating the James Lawrence King Federal Justice Building;

H.R. 395, designating the Bruce R. Thompson U.S. Courthouse and Federal Building;

H.R. 653, designating the Thurgood Marshall U.S. Courthouse;

H.R. 840, designating the Walter B. Jones Federal Building and U.S. Courthouse;

H.R. 869, designating the Thomas D. Lambros Federal Building and U.S. Courthouse;

H.R. 965, designating the Romano L. Mazzoli Federal Building; and

H.R. 1804, designating the Judge Isaac C. Parker Federal Building.

Members should also be advised that we do expect votes soon after 2 p.m. on Tuesday, December 5.

After consideration of the suspensions on Tuesday and for the balance of the week, we expect to consider the following bills, all of which will be subject to rules:

H.R. 1350, the Maritime Security Act of 1995;

The conference report for H.R. 2076, the Commerce, Justice, State & Judiciary Appropriations Act for fiscal year 1996;

The conference report for H.R. 2099, the VA, HUD Appropriations Act for fiscal year 1996;

The conference report for H.R. 1058, the Securities Litigation Reform Act;

The conference report for H.R. 1868, the Foreign Operations Appropriations Act for fiscal year 1996;

The conference report for H.R. 1977, the Interior Appropriations Act for fiscal year 1996;

The conference report for H.R. 2546, the District of Columbia Appropriations Act for fiscal year 1996; and

H.R. 2668, the Social Security earnings limit increase.

Mr. Speaker, that should give us a pretty action-packed week, and I thank my friend for yielding.

Mr. LEWIS of Georgia. Mr. Speaker, let me say to my friend and colleague from California that we received a schedule that indicated votes every weekday until December 15. We have not kept to that schedule exactly. In order to help Members plan better, could the gentleman tell us what he expects in terms of votes next Friday?

Mr. DREIER. If the gentleman will yield, I appreciate his comments, and, as he knows, we are trying to move as expeditiously as possible, but there are so many questions that at this point remain as we try to adjourn for the year that we cannot say for certain as to how closely we will be able to adhere to that schedule.

Mr. LEWIS of Georgia. Mr. Speaker, I appreciate that from my friend, but also, in light of the coming holiday season, does he have a sense yet for the schedule after December 15?

Mr. DREIER. Mr. Speaker, if the gentleman will continue to yield, at this point there are just so many questions that remain, we are hoping to see a budget agreement, we are hoping to see a wide agreement of other things, and until those are resolved we do not know what the schedule will be after the 15th.

Mr. LEWIS of Georgia. I thank the gentleman, Mr. Speaker.

ADJOURNMENT TO MONDAY, DECEMBER 4, 1995

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 5, 1995

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, December 4, 1995, it adjourn to meet at 12:30 p.m. on Tuesday, December 5, 1995 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT FRIDAY, DECEMBER 1, 1995, TO FILE REPORT ON H.R. 2684, SOCIAL SECURITY EARNINGS LIMIT INCREASE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight tomorrow, Friday, December 1, 1995, to file a report to accompany H.R. 2684, Social Security earnings limit increase.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING TECHNICAL CORRECTIONS IN RULES OF THE HOUSE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order, without intervention of any point of order, to consider in the House the resolution (H. Res. 254), making technical corrections in the Rules of the House of Representatives; that the amendments recommended by the Committee on Rules now printed in the resolution be considered as adopted; and that the previous question be considered as ordered on the resolution, as amended, and on any further amendment thereto, to its adoption, without intervening motion or demand for division of the question, except a further amendment, if offered by the chairman of the Committee on Rules or his designee, and one hour of debate on the resolution, as amended, and on any further amendment thereto, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1515

Mr. DREIER. Mr. Speaker, I call up the resolution (H. Res. 254) making technical corrections in the Rules of the House of Representatives, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Pursuant to the order of the House of today, the amendments printed in House Report 104-340 are adopted.

The text of the resolution, as amended, is as follows:

H. RES. 254

Resolved, That the Rules of the House of Representatives are amended as follows:

(1) In clause 3 of rule III, insert "as may be requested by such State officials" after "the legislature of every State".

(2) In clause 3(d) of rule VI, insert "the minority leader," after "the majority leader,".

(3) In clause 1(k)(8) of rule X, strike "the Defense" and insert "Defense".

(4) In clause 1(o)(2) of rule X, strike "and (its" and insert "(and its".

(5) In clause 3(e) of rule X, strike "and nonmilitary nuclear energy and research and development including the disposal of nuclear waste".

(6) In clause 3(h) of rule X, strike "energy" and insert "energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste".

(7) In clause 2(l)(5) of rule XI, strike "(excluding Saturdays, Sundays, and legal holidays)" and insert "(excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day)".

(8) In clause 2(l)(6) of rule XI, strike "the third calendar day, excluding Saturdays, Sundays, and legal holidays" and insert "the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day)".

(9) In the designation of clause 3 of rule XI, insert "and Meetings" after "Hearings".

(10) In clause 3(f) of rule XI, amend the matter before subparagraph (1) to read as follows:

"(f) Each committee of the House shall adopt written rules to govern its implementation of this clause. Such rules shall include provisions of the following effect:".

(11) In clause 6(b)(2) of rule XI, strike "This paragraph" and insert "Subparagraph (1)".

(12) In clause 4(a) of rule XIII, place the period after the designation of the "Corrections Calendar" inside the closing quotation mark.

(13) In clause 4(b) of rule XIII—

(A) insert "shall be" before "debatable";

(B) insert "and" before "shall not be subject to amendment"; and

(C) strike "committee, and the previous question" and insert "committee or a designee. The previous question".

(14) In clause 4(c) of rule XIII, strike "members" and insert "Members".

(15) In clause 9 of rule XVI, strike "bills raising revenue, or".

(16) In clause 7 of rule XXI, strike "(excluding Saturdays, Sundays, and legal holidays)" and insert "(excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day)".

(17) In clause 5(c) of rule XXIII, strike "section 424(a)(1) of the Unfunded Mandate Reform Act of 1995" and insert "section 424(a)(1) of the Congressional Budget Act of 1974".

(18) In clause 2(a) of rule XXVIII, strike "(excluding any Saturday, Sunday, or legal holiday)" and insert "(excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day)".

(19) In clause 2(b)(1) of rule XXVIII, strike "(excluding any Saturday, Sunday, or legal holiday)" and insert "(excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day)".

(20) Clause 4 of rule XLIII is amended to read as follows:

"4. A Member, officer, or employee of the House of Representatives shall not accept gifts excepted as provided by the provisions of rule LII (Gift Rule).".

(21) The last undesignated paragraph of rule XLIII of the Rules of the House of Representatives is repealed.

SEC. 2. EFFECTIVE DATE.

The amendments made by the first section of this resolution shall be effective on the date of the adoption of this resolution except that paragraphs (20) and (21) of that section shall be effective on January 1, 1996.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, debate on House Resolution 254 should not take more than a few minutes, because the resolution makes technical and conforming changes to reflect the intent of the amendments adopted in the 104th Congress.

January 4, 1995, ushered in the era of the reform Congress when the House of Representatives approved sweeping changes to the rules under which the House previously operated. That legacy of reform continued this month with adoption of a gift ban resolution and lobbying disclosure reform.

Also this year, the House approved changes in House rules to discourage the imposition of unfunded Federal mandates on State and local governments, and to establish a Corrections Calendar.

As a result of these changes, a number of duplicative provisions and grammatical and typographical errors need to be corrected to ensure that the rules of the House reflect their true intent. In addition, the resolution clarifies a number of longstanding parliamentary interpretations to ensure consistency of parliamentary practice in the House.

House Resolution 254 is not intended to address any of the controversial aspects of House rules. I understand the minority's concerns regarding the three-fifths vote requirement on tax rate increase, subcommittee assignment limits, and committee meetings while the House is considering amendments under the 5-minute rule. Chairman SOLOMON and I will be undertaking a comprehensive review of all of the House rules in a continuing effort to improve deliberation and accountability, and I look forward to working with my colleagues in the minority on the effort.

In the meantime, Mr. Speaker, it is important that we make these technical and conforming corrections to the rules of the House to reflect the intent of changes adopted this year.

Mr. Speaker, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER: Page 4, insert after line 25 the following:

(22) Clause 1(c) of rule LII, as in effect January 1, 1996, is amended by adding at the end the following:

"(22) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(23) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.".

Page 5, line 4, strike "and (21)" and insert ", (21), and (22)".

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, the amendment makes two technical changes to the gift ban rule that was adopted by the House on November 16. These changes were inadvertently left out of the Gingrich-Solomon amendment to institute a tougher gift ban than the one contained in House Resolution 250. This amendment simply reinstates the exemptions for donations of home State products intended primarily for promotional purposes, and items of nominal value, such as greeting cards and baseball caps. The Gingrich-Solomon amendment was not intended to force Members to return Christmas cards to our constituents.

Mr. Speaker, I am informed that the gentleman from Massachusetts [Mr. MOAKLEY] has been detained, but has no objections to the resolution or the amendment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the previous question is ordered on the resolution and the amendment.

The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CHRISTMAS GIFT DRIVE FOR CHILDREN OF DISTRICT PRISONS AND LORTON REFORMATORY

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. WOLF. Mr. Speaker, a group of Members, Republicans and Democrats, have gotten together to try to urge congressional offices and others to donate a Christmas present for the children of residents of D.C. Lorton Reformatory or District jail. This is a program under the auspices of Prison Fellowship and Chuck Colson and a number of offices and congressional wives are doing it.

Mr. Speaker, I would urge any Member or staff that is watching to call the office of the gentleman from Kentucky [Mr. BUNNING] or the office of the gentleman from Ohio [Mr. HALL], or my office, or call the Prison Fellowship office at 265-4544 to donate a gift for children of parents who are serving either in D.C. Lorton Reformatory or District jail at this time of the year.

If these children do not receive a gift this way, many will not receive anything.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DO NOT SEND TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, today American troops are in Bosnia. There are approximately 10 troops in Bosnia already, Mr. Speaker. By the end of the week, it will be 700. By the end of the year, probably 35,000 directly involved and 140,000 indirectly involved.

Today, Secretary Christopher, Secretary Perry, and General Shalikashvili came to the Committee on National Security to try to convince Congress to support the commitment to place ground troops in Bosnia. Soon, we here in Congress will be asked to support an agreement that we not only had no input in drafting, but also repeatedly have expressed our opposition to.

Mr. Speaker, the American public and Congress is opposed to placing troops in Bosnia. To those that are in support of placing troops in Bosnia, I think that they will be subject to change when we see the first widow handed a flag at a grave side next to their children whose eyes will be filled with tears.

Mr. Speaker, it is a very serious issue. There may be an agreement between those involved in the crisis over in Bosnia, and I have a copy of that agreement that was signed in Dayton, OH, on November 21. It was signed for the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia. In this agreement, Mr. Speaker, there is no requirement for U.S. troops. Nowhere does it call out that United States troops must be on the ground in Bosnia.

If there is no written requirement for troops being on the ground in Bosnia, why are we there? Today Secretary Christopher said, "We are going to place troops on the ground in Bosnia because of our commitment to NATO." That is why we are placing troops there. Further, he said if we do not lead in this matter by placing troops on the ground in Bosnia, no one in the international community will ever follow the lead of America again.

Mr. Speaker, I respectfully disagree with Secretary Christopher, because there is no written requirement in this agreement to place troops. I do submit that there are ways that we can lead in the effort to stop the atrocities that are occurring in Bosnia by other means. We can lead within this agreement. We can lead without placing ground troops in Bosnia. We can lead through air support, as we have done in the past. We can lead through logistical support and we can lead through intelligence gatherings and through provisions of hardware, through strategy.

In closing in the presentation that is going to be made by General Shalikashvili, he said that this operation is going to be tough and we must be prepared for casualties. We must be prepared for casualties. What is the acceptable level of casualties, general? Mr. President? The American public? Congress? What is the acceptable level of casualties? Is it 1,000 a week of young men and women, of Americans dying? Is it 250 per week?

Mr. Speaker, I do not know what that answer is, but I do know what the answer is in Kansas; what the people of Kansas are telling me. They are telling me that the acceptable level of casualties in Bosnia of United States men and women is zero. No casualties. That is what is acceptable, yet we are sending in troops now and they are going to be in harm's way.

Recently, I heard General Schwarzkopf talk about his lessons learned in Vietnam. No. 1, there is no such thing as a limited war. What we are entering into is allegedly peacekeeping. It is more like peacemaking. It may become an occupation. It will probably be termed as a limited war when the fighting starts.

Mr. Speaker, there are 45,000 to 60,000 Serbs who are opposed to this agreement. Our troops will be landing at Tuzla, within 1 mile of Serb positions, within mortar range. When those aircraft come on final approach, they will be in harm's way. There are Azerbaijan troops, which are Moslems, 4,000, who also do not agree with this peace agreement.

The second thing that General Schwarzkopf said is there must be a clear mission. I do not think that has been established.

The third is never, never put troops in a conflict without the support of the American public. Mr. President and Mr. Secretary, we do not have the support of the American public and we do not have the support of the Congress. Let us not send troops to Bosnia.

REMOVE THE ETHICAL CLOUD FROM THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, the question this afternoon is how long our Republican colleagues will be able to hold the lid down on the pressure cooker, the pressure cooker of the desires of the people of this country to see justice, to see the ethical cloud removed from the operations of this Congress.

Today, we have seen that it will take a little bit longer, for, for the second time, this Congress has refused to even discuss in the light of day whether a committee of this Congress should come forward and tell us what it has been doing for the last 14 months with regard to charges concerning the Speaker of the House.

Mr. Speaker, I believe that our Republican colleagues can hold that pressure cooker lid down. They can stand on it. They can sit on it. They can jump up and down on it. But sooner or later, enough people in this country are going to care about the operations of this House and the ethics of this House that they are going to demand a report and demand action.

We see the same concern with reference to the broader issue of the way all Members, the Speaker, myself, every Member of this institution, gets to this body with reference to the cost of campaigns.

All over this country, people are expressing their concern about the operation of the campaign finance system. I think they are pleased that despite the Speaker, we moved forward and banned gifts from lobbyists to Members of this Congress. They are pleased that despite the Speaker holding at his desk for month, after month, after month, a lobby reform bill, there was finally enough pressure built up that the lid came off that pressure cooker and we passed a lobby reform bill this week, despite his effort.

Now, Mr. Speaker, the big issue is campaign finance reform and whether there will be enough public interest to do something about that. The Speaker shook hands with President Clinton back in June in New Hampshire. They smiled at each other, it was a nice moment, and agreed that they would do something about campaign finance reform and what did they do? Well, the Speaker waited from June until November and then he came along and said, "You know what we need is a commission to study this." A stall commission to delay it past the next election. Then the Speaker went on to elaborate in testimony in front of a committee of this House that what we need is not less money in the political process; we need more money. The Speaker said there is less money going into all these campaigns than the equivalent of two antiacid campaigns.

□ 1530

I think that is enough to give Americans heartburn, as they think about the future of our political system and the ethics of our system. If they had reason for concern, they certainly have reason for concern today when they look at papers across this country and reports about the improper activities of GOPAC, a committee that—essentially the "go" in GOPAC meant it was OK to go beyond the law.

In fact, after reading these stories, I now understand why it is that the Speaker thinks we need more money in the political process, that we are not spending enough on campaigns. That is because he has had a little more all along. He has had a little more through an organization called GOPAC that did not bother to comply with the Federal election laws, that according to the documents filed by the Federal Election Commission in Federal court here in Washington, apparently spent a quarter of a million dollars to benefit him in his reelection campaign a few years ago, an election campaign that he just barely made it back to this Congress, a pretty nice sum of additional money, maybe enough to promote antacid in Georgia, but certainly enough to get a person reelected outside and improperly, under our laws.

Let me just speak a little bit about those court documents and quote from some of them. The Federal Election Commission told the Federal judge here in Washington:

> Hiding the identity of large contributors to organizations associated with elected officials and Federal candidates creates the appearance of corruption and makes enforcement of the act's other provisions unnecessarily difficult.

This is exactly what GOPAC did. I am quoting the FEC on this.

It did it for the avowed purpose of electing a majority of Republicans to the U.S. House of Representatives.

GOPAC's failure to register and file disclosure reports creates the appearance of corruption, and it is that appearance of corruption that the American people are learning about and eventually, no matter how many people you put on top of that pressure cooker, that lid is going to explode, and the demands of the American people for justice on this matter are going to be realized.

I refer again to the documents filed in Federal court here by the Federal Election Commission. It said that, unlike the Republican National Committee and the other two Republican Party committees, where Gingrich's idea might be too controversial, GOPAC could be as bold as it wanted to be, and its only restriction was whether or not its donors wanted to keep donating.

The only restriction on this issue is whether the American people will speak up firmly enough to demand we have justice both on the ethics charges against the Speaker and on the need to see that this kind of GOPAC big spending is ended.

D.C. FISCAL PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, this is day 16 of my countdown to December 15. I will be here every day we are in regular session.

Next Wednesday, there is a hearing on the D.C. Fiscal Protection Act. I am here to protect the District of Columbia from another shutdown on December 15. I am here to protect 600,000 residents who are not parts of a Federal agency but tax-paying citizens of the Capital City of the United States, who got shut down in the last shutdown, even though they had no part in the struggle between the Congress and the Executive.

I thank the gentleman from Virginia [Mr. DAVIS], who is a cosponsor of the D.C. Fiscal Protection Act which will get its hearing next Wednesday. The act has been well named; fiscal protection because the District of Columbia needs to be protected from any further blows to its fiscal health. Surely I do not need to tell my colleagues that the District is in delicate condition. There is a control board which is seeking to help the District return to financial solvency.

A shutdown of the District for the second time simply puts the city in the hospital. The Congress wants the opposite. If it indeed expects the opposite to occur, it must take action to make sure there is no shutdown.

Mr. Speaker, when the Federal Government shut down, for most Americans there was no direct hit, even though there was very direct inconvenience; and where there might have been something approaching a direct hit, the Congress took action to protect Americans and, I might add, to protect Members from the wrath of Americans, such as the exceptions that were passed to allow workers on Social Security to come to work.

The District of Columbia, on the other hand, was hit in three direct ways, three direct hits. First, the District Government was shut down. Second, District residents had their vital services wiped out and could not receive them. Finally, Federal employees who work in the District had to remain home.

Let me say a word about Federal employees today. I have not talked about them as much in past days. This is a home of the Federal Government. Of course, it follows that our largest employer is the Federal Government and, therefore, we have a disproportionate number of employers, about 60,000, who were forced to stay home on forced administrative leave. These are some of the most stable employees. We are trying hard to keep them.

Imagine what they might be thinking now: "At least if I lived in the suburbs, if they shut down the Federal Government, my vital services would still be available to me."

Please help us keep our tax-paying residents. If we have to shut down, give us an exception for D.C. employees. Let me say what has happened to these employees. The effect on them is simply intolerable. Because of the District's financial crisis, they have already given back 12 percent of their income to the city last year and took 6 furlough days. This year our unionized employees will give back 3 percent to the city and have 6 more furlough days. Would my colleagues like to tell folks like that that they might risk not getting their pay or that they probably will get their pay but they have to stay home and let backlogs of work build up?

What about my cops, the cops who are now working straight time, not overtime, on the weekends and at night? These sacrifices are being made by D.C. employees at a time when the American standard of living has been stable or going down for two decades. Front-line services, from trash collection to day-care centers that happen to be in libraries, were closed because libraries were closed.

There was a plethora of services that were closed for business, vital services, services that keep the residents alive and going. One of the most vital actions that was closed down, however, had to do with the multiyear plan which is due here in early February, the plan that is central to reviving the District. If we missed that deadline, there will be howls throughout this body.

Virtually all Members directly involved recognize that something has to be done, and I thank them all. I thank the Speaker for recognizing it and telling me that he thought something special should be done for the District if we shut down the Federal Government. I thank Mr. DAVIS for the hearing coming up and for his cosponsorship of my bill. The gentleman from New York, [Mr. WALSH], our subcommittee chairman, recognizes it as well. He is now with the President heading a bipartisan delegation, as he is in this House, Chair of Friends of Ireland. I applaud that. I have no objection to his going and applaud opportunities for Members to work together like this in a bipartisan line.

I hope he comes back not only as a friend of Ireland but as enough of a friend of the District of Columbia so that we can guarantee that the city will not be closed down December 15.

BOSNIA POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise today to discuss our Bosnia policy. In the past 4 years, nearly 250,000 people have been killed in that war-torn region, 2 million people have become refugees. Atrocities have been committed that have truly shocked the world.

The region has been a tinder box for European instability for centuries. Thus the peace agreement agreed to by the Presidents of Bosnia, Croatia, and Serbia in Dayton, OH is indeed an historic step toward bringing peace and ultimate stability to this region.

However, the deployment of over 20,000 United States troops to Bosnia to enforce the peace raises many questions. One lesson I have learned from history is that when Congress and the President are not at once with the American people, our Nation suffers. First, the Nation must be committed, and only then should we send troops. Sending troops to Bosnia without broader public consensus will prove to be a mistake.

The President's recent efforts to convince the American people fell short of achieving that public support. May I ask, why in this post-cold war era, when our U.S. citizenry has been clamoring for more defense-burden sharing by our allies, has the United States again been asked to assume the central role in resolving this situation, even convening the peace talks in Dayton, OH rather than on the European continent. The short-term cost of U.S. participation will equal $2.6 billion.

This entire matter is a defining moment in U.S. foreign policy in that the United States is being asked to substitute for European resolve in this post-cold war era.

In the NATO nations of Europe, we have thousands of European trained, deployable troops that could be dispatched immediately to Bosnia in the event a final peace accord is signed in Paris. Let me read to you the list of European countries associated with NATO and the number of their combat ready troops. This does not even count their reserve forces:

In Belgium, 63,000 troops. In Denmark, 27,000 troops. In France, 409,000 troops. In Germany, 367,000 troops. In Greece, 159,300 troops. In Italy, 322,300 troops. In Luxembourg, 800 troops. In the Netherlands, 70,900 troops. In Norway, 33,500 troops. In Portugal, 50,700 troops. In Spain, 206,500 troops. In Turkey, 503,800 troops. In the United Kingdom, 254,300 troops, bringing the total NATO active forces to over 2½ million war-ready forces.

Identifying 20,000 ground troops from among these forces would represent less than a 1-percent additional commitment for NATO's European partners to enforce the peace. Is that too much to ask of them? If the United States maintains our logistical and our air support.

The administration has stated that Europe, since 1914, has been unable to effectively maintain the peace and there was no other recourse but for the United States to assume the lead in bringing the warring factions to peaceful resolution. They have urged us not to become isolationists. The truth is, the long-term prospects for peace in this troubled region are very slim. Once the NATO troops withdraw, it will require 50 years of cooling off between the warring factions and maintenance of borders by external forces to give peace a chance. A 1-year quick fix is not going to do it.

Who will commit to that long-term maintenance of peace? And who will pay for it? Is it not time for NATO's European partners to measure up to their common defense? The United States, as a partner in NATO, has a role in logistical and air support, but we should not be sending ground troops to Bosnia. NATO in Europe is perfectly capable of doing that on its own, if it wished to.

ON BOSNIA AND BUDGET NEGOTIATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 60 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, although I am going to be speaking today primarily on the need to balance the budget for the American people, I would like to echo some of the sentiments that the gentlewoman from Ohio just stated before this House, all and all, to those that may be watching at home.

I just returned from a national security meeting where we had the Secretary of Defense, the Secretary of State, and the Chairman of the Joint Chiefs of Staff, General Shalikashvili, coming and testifying before our committee one more time telling us why American troops need to be sent to Bosnia. Unfortunately, while we saw a lot of good charts and saw that General Shalikashvili obviously had done his homework and was going to try to carry this mission out in as impressive a way as possible, unfortunately, there was one question that was not answered over there. That question was, why? Why are we sending young Americans to get involved in a 1,000-year-old civil war where everybody admits there will be bloodshed and young Americans will die? Why are we doing that?

□ 1545

Is there a vital American interest involved in the Bosnian civil war? Absolutely not, and that is something unfortunately that the administration has not been able to convey to the American people. They have not been able to make their case that getting involved in a three-way civil war halfway across the world is worth the death of young American men and young American women that would be sent to Bosnia.

The fact of the matter is that we in the post-Vietnam era have set up some basic requirements to make sure, to make sure, that before young Americans go to get involved in a war where there will be casualties, and everybody who has testified before the Committee on National Security admits there will be casualties in Bosnia, we set up a framework to make sure that we do not repeat the mistakes of Vietnam.

Remember what happened in Vietnam? The fighting did not just go on in the jungles of Vietnam halfway around the world. The fights went on in the streets of America, and the streets of the Capital, in the Halls of Congress, on college campuses across this country, and what did that do? That undercut American forces' ability to do what they needed to do to win the war in Vietnam. In fact, after the war North Vietnamese generals were quoted in the press as saying, "We knew we would never win the war militarily in Vietnam, we knew the Americans would continue to rout us in battle after battle after battle. But we knew one thing. If we kept fighting long enough, we would win the war on the streets of America and in the Halls of Congress."

So what happened? Young Americans, white and black, rich and poor, northern and southern, died in the jungles of Vietnam, and very little was accomplished when the Americans retreated and pulled out of Vietnam.

So in 1980, in the mid-1980's, we came up with a doctrine and said, "Before we send Americans, we're going to have a few requirements. The first requirement is that there is a vital American interest involved in that war." And that is important because, when you are the President of the United States, and you have to pick up the phone and tell a mother and a father that their 18-year-old boy or girl has just died on foreign soil, away from home and away from their country, you better have a good reason, you better be able to explain to them that their son or daughter died for the best interests of the United States of America, and that is that vital American interest that we are all clamoring about, that we are all asking for: What is the vital American interest?

Quite frankly there is none, and the administration in the beginning said that it was because it would look bad to our NATO allies. Mr. Speaker, that is no reason to send Americans off to die. The fact of the matter is the United States is and has been NATO for the past generation. We have protected our NATO allies from the threat of communism, we have provided them with troops, we have provided them with protection, we have gone beyond the call of duty to NATO. Just because we do not get involved in a European civil war that has been going on for almost a thousand years does not mean that we will be traitors to NATO and NATO will kick us out.

The fact of the matter is we are the lone superpower in this world, the lone superpower on the world stage. So that is the first straw man. Second straw man is that this war will somehow explode beyond the borders of Bosnia. Well, in all the testimony we have heard before the Committee on National Security that is also a straw man that has been set up and knocked down. It is just not the case, and a few weeks ago in Philadelphia the Secretary of Defense admitted that this may not be a war in which a vital American interest is at stake. But then they started backtracking, and Time magazine quoted several sources that started saying maybe we do not even need a vital American interest in this post-cold-war world, maybe we can go ahead and send our volunteer troops to die in Bosnia.

Let me tell you that is just—it is sickening to think that we have people here that are willing to allow young Americans to die abroad for an interest that is not even our own.

Certainly it is horrible to see what is going on in Bosnia. I was watching a newscast a few months back, and there was a 7-year-old boy that had literally been blown off his bicycle, and they had him on a stretcher, and he was screaming, "Please don't cut off my leg, please don't cut off my leg," and the news reporter came on and said they did not cut off the young boy's leg, but he died 2 hours later.

Now I have a 7-year-old boy myself, and that touched me, it tore me up, and I thought we have got to do something about it, we have got to stop the killing in Bosnia. There has to be something we can do. We need to send American troops over there.

But then I backed up and started thinking about it and started thinking about the fact that we had said the same thing in Somalia, and what happened? We sent troops over to Somalia, but it was not Somalians 2 months after we sent our troops in dying on TV screens. It was young American GI's who had been beaten, and tortured, and burned, and drug through the streets of Mogadishu.

And what happened? This same emotional impulse that pulled America into the civil war in Mogadishu pulled them back out, and the same emotional response that this administration is feeling right now when we see Bosnians dying on the TV screen, that will cause American troops to be pulled over into the middle of that conflict, it will also pull them back because it would not be Bosnians that we see dying on our TV sets 2 months from now or 3 months from now, it will be Americans, and make no mistake of it.

General Shalikashvili just today, 30 minutes ago, testified before our committee that we need to expect casualties, young Americans will die.

And let us personalize this because I have heard a lot of talk from a lot of people over these past few weeks saying, well, it is a volunteer force, it is a volunteer army, they signed up for it, they should not be afraid to go and fight. It is our military, we spend money on our military, they should be willing to go and fight.

Let us make no mistake about it. It is not just a faceless military man or woman that is going to die if we go to Bosnia. It is going to be somebody's son, it is going to be somebody's daughter, or it is going to be a father or mother or somebody. In the class of my 7-year-old boy, he has several friends whose fathers are in the military who are waiting to be called and may be going over to Bosnia, and on December 15 or December 16, when we are all planning for Christmas, and when hopefully I will be able to go home and be with my family, and we can prepare for Christmastime, they are going to be saying goodbye to their fathers, they are going to be saying goodbye to their mothers, they are going to be parents who are going to be crying and kissing their young men and women, their sons and daughters, going to be kissing them goodbye, knowing that they are not going to see them Christmas morning.

And the question we have to ask is why. What is the vital American interest that we have that is worth sending Americans to get involved in a three-way civil war that will certainly end in conflict and will end in Americans' deaths? And I am not saying that we, as Americans, need to be isolationists. I am not an isolationist. There are vital American interests that need to be protected across the globe. But in this case we are not going to be able to make a difference.

Fact of the matter is this civil war has been raging for centuries, and it was brought home in testimony before the Committee on National Security by a general of the United Nations who came to us and said, "I want you Americans to understand what you are about to get involved in." He said to us that he was a monitor for the human rights abuses that went on, and, monitoring those abuses, he said, one morning he had to go out and survey a situation where the Serbs had slaughtered young and old Muslims, and as he saw the young victims and the elderly victims in the ditches of Bosnia, he was surveying the scene and through how horrendous it was.

And a Serb came up to him, and he said, "It serves them right," and the general turned around and said, "It serves them right for what?"

And the Serb responded, "It serves them right for what they did to us 600 years ago."

Then the general paused, and he said to us, "And you Americans believes that you are going to be able to end a thousand-year-old civil war that you do not even understand in 1 year and with one division." He laughed. He said it was not doable.

And the fact of the matter is we have a bipartisan group in the U.S. Congress that is urging the President to please hold back and not send troops until he gets the support of this Congress. The last speaker that was just up was a Democrat. I would guess she votes with the President 80 to 90 percent of the time. But she and several others of her colleagues on the Democratic side realize that this is a war that we cannot win.

This is a situation where young Americans will be sacrificed, and when the press turns bad, and the body bags start coming home, and inside those body bags will be the sons and daughters of Americans, when those body bags start coming home, we will have an emotional response, and we will quickly yank those troops out, and for what? I say today for absolutely nothing. We know we cannot bring about a peace to a country that has been fighting a three-sided civil war for a thousand years, and it is sheer folly and idealism to believe today that we can do that.

Also another important thing we have to take into consideration is public support of a mission. You know then Secretary of Defense Cap Weinberger talked about how the lack of overwhelming public support torpedoed our efforts in Vietnam. It was about a 50–50 split, if I am not mistaken, over having troops in Vietnam. We are not even at 50 percent today. The overwhelming majority of Americans from some of the polls that I have seen recently oppose sending troops to Bosnia.

□ 1600

So what is going to happen? If they are already thinking that right now, what is going to happen a month from now, or 2 months from now, or 6 months from now, when young Americans are killed and taken, paraded through the streets of Bosnia and brought back in body bags? What is going to happen?

Chances are good that we will see what happened in Vietnam. Fighting will erupt in Congress, demonstrations will occur in the streets of America, and we will have a President responding once again based on emotion rather than based on solid, hard military principles.

I have to say again, following up from what the previous speaker said, we should not send troops to Bosnia until the President can convince the overwhelming number of Americans from coast to coast that not only do we have a vital American interest getting involved in a 1,000-year-old civil war, but that interest is so essential to this country that it would damage America directly if we did not send those troops. Those are the questions that the President is going to have to answer.

Outside of Bosnia, we have other issues that are involved, issues that are every bit as important, and every bit as important to where we go as a country in the 21st century. For too long in this Congress we have had Members on both sides of the aisle willing to spend this country deeper and deeper and deeper into debt. Today we are $4.9 trillion in debt.

I spoke of my two boys, my 7-year-old and my 4-year-old. The fact of the matter is both of those boys are $20,000 in debt, as are all of you, and everybody who is watching owes $20,000, if you divide the $4.9 trillion that we owe. It also means that every child born today will have to pay $175,000 in taxes over their lifetime just to pay the interest on the Federal debt, just to pay the interest, $175,000.

When we talk about $4.9 trillion, a lot of people's eyes glaze over. My eyes glaze over. We cannot really begin to fathom how much $4.9 trillion is, but I want you to consider this. Think about this for a second. Starting with the day that Jesus Christ was crucified, if you made $1 million a day from the day that Jesus hung on the cross to today, made $1 million a day over those almost 2,000 years, you could not pay off the national debt that the United States of America now has. Can you fathom that? Do you know, you would have to go through seven more time periods making $1 million a day over seven more time periods, just to pay off the national debt that we owe today?

That is absolutely incredible. Yet, we still have people in this Chamber and in the media and across the United States of America that say, "Maybe it does not matter whether we balance the budget sooner or later." That astounds me. That absolutely astounds me, because let me tell you what is going on here. Let us brush aside all the political rhetoric that you have heard, let us brush aside what the Republicans tell you, what the Democrats tell you, what independent demagogues tell you. Let us just look at the facts.

The fact of the matter is that this is how it works in Washington, DC. One year ago when I was a citizen sitting on my couch in Pensacola, FL, never being elected to the U.S. House of Representatives or to any other position, I had never run for office until a year ago, but the simple fact is this; this is what is happening in the House of Representatives and in the Senate and in the White House: We are stealing money from our children and our grandchildren's pockets to pay off special interests on this bill or that bill, paying out money that we as a Federal Government are not even constitutionally empowered to pay out.

Whatever happened to the words of Thomas Jefferson in our deliberations, where Jefferson said "that the government that governs least governs best?" Why have we forgotten the words of the 10th amendment that says:

> All powers not specifically given to the Federal Government are reserved to the States and to the citizens?

And we certainly have forgotten the words of James Madison, one of the Framers of the Constitution, who said:

> We have staked the entire future of the American civilization not upon the power of government, but upon the capacity of each of us to govern ourselves, control ourselves, and sustain ourselves according to the Ten Commandments of God.

Yet, today we have a Federal Government that has ignored these pleas of our Founding Fathers on both sides of Pennsylvania Avenue. They have continued to spend more, they have continued to overregulate, they have continued to punish people for daring to be productive. They have continued to let Federal bureaucracies explode.

This House has continued to allow the Federal Government to step in and tell us how to educate our children and how to protect our communities. It just makes absolutely no sense, but this Congress, after a generation, after 40 years of not being able to balance its budget, this Congress finally passed a Balanced Budget Act for the first time in a generation. What does it do? It makes sure that this Congress does exactly what Americans are required to do by law. That is, spend only as much money as we take in.

Right now, even though given the fact that we are $4.9 trillion in debt, we as a government this past year spent $4 for every $3 that we take in. What happened at the White House when the real crisis came, and we refused to raise the debt ceiling in Congress until the White House committed to balancing the budget, where they simply went in and raided the trust funds of our Federal employees, simply decided that they would go in when it suited them to raid the trust fund of Social Security recipients and to raid the trust funds of Medicare?

Let me ask this, as a rhetorical question. If you were running a business and you were spending $4 for every $3 that your company took in, and you piled up such a massive debt that you decided to raid your employees' retirement funds, what would happen to you? You would be sent to jail. But what has happened in Washington, DC? We have reelected these people for years and years and years.

Up until 1994, when 72 freshmen who campaigned on balancing the budget came to Washington, and we told the Speaker of the House, we told the majority leader, we told the President of the United States, we told everybody who listened that we as a freshman class were going to draw a line in the sand and not allow this Federal Government to continue its runaway deficit spending, that we were going to say no to higher debts, we were going to say no to higher taxes, we were going to say no to more regulation, we were going to say no for punishing people for daring to be productive, and that we were finally, as a principle, going to stop stealing money from our children and our grandchildren, and it has worked.

We passed the first Balanced Budget Act in a generation's time, but what have we heard? What have we heard from the media? You would think that all of America would rejoice, that the media would come out and say, "Good job, guys." Some have, but unfortunately two many have listened to the scare tactics from the liberals and have listened when they told them that we have massively cut all these programs.

You heard about the massive cuts in Medicare, you heard about the massive cuts in student loans, you heard about the massive cuts in the earned income tax credit, you heard about all these massive cuts in education and environment. I guess as a freshman I did not understand how it worked in Washington, DC, but I figured it out. I am not too good at math, but there is some new math going around in Washington, DC. You see, a spending increase is actually now called a spending cut. I say that because you hear how we are slashing all these programs. You have heard about the draconian cuts, but let us talk real numbers. If you want the budget, call your Congressman or Congresswoman and they will send it to you.

These are the real numbers. Under the Balanced Budget Act of 1995 that the Republicans passed, spending on the following programs will increase. In the school lunch program that we heard that we savaged, spending increases 37 percent, from $4.5 billion to $6.17 billion at the end of our plan.

Under the earned income tax credit, spending increases 28 percent.

In student loans, and how many of us have heard that student loans are going to be cut, in student loans spending increases 48.5 percent, and it increases from $19.8 billion to $25.4 billion in student loans.

Why is the White House angry? Why are the liberals angry? Because we actually want to keep the power in the communities, so students who want to go to college do not have to kowtow to a Federal bureaucracy in Washington, DC, to get student loans. That is what the Clinton administration wants.

They actually want, and they are arguing against history here, they actually wanted to consolidate power in Washington, DC, so if you are a student who wants a student loan you have to come to Washington, to the Department of Education bureaucracy here, and crawl on your hands and knees for a loan instead of getting it in your local community.

Despite the fact that we are spending about 50 percent more under our plan for student loans, they still characterize that as a cut.

Mr. TIAHRT. Mr. Speaker, will the gentleman yield?

Mr. SCARBOROUGH. I yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Speaker, I think in our effort to balance the budget, we see some honest differences on what money should be spent in education between the States and the Federal Government. I know, as a Member of Congress from Kansas, that our State constitution does have a requirement to educate the children in that State. We have a State board of education, and through State funding it provides 94 percent of the funding requirements and the needs of the children to get a public education for Kansas. So where does the authority come to override that constitution in the State of Kansas?

There are some things we could do, I think, as niceties, and providing student loans is one I advocate. I was able to go through college on student loans, as was my wife, and I am glad to see we are supporting student loans in a strong fashion. But to say that kids will not be educated if the Federal Government does not take that role is somewhat misleading. I think it is a violation of the 10th amendment; where States can provide that need, I think we should allow them to provide it.

In your home State of Florida, I know they have a magnificently large building that would house the Department of Education or whatever it is termed in Florida; and again, they have plenty of requirements there to meet the needs of the children in Florida.

So I guess what I am saying is that there is an honest difference when it comes to Federal spending for education that we have with the liberals. We think that the States have that responsibility through their constitutions, and I am unable to find that requirement in the Federal Constitution that I have sworn to uphold.

Mr. SCARBOROUGH. I would say to the gentleman, the fact of the matter is he mentioned the 10th amendment. All powers not specifically given to the Federal Government and in the Constitution are reserved to the States and the citizens. Read the Constitution of the United States. There is no mention of a Federal role in having an education bureaucracy to micromanage education at the State and local level.

Then read the constitutions of all 50 States. Did you know all 50 State constitutions have contained in them provisions for the States controlling education? That is why, as you know, I have introduced a bill that 120 people have cosponsored, including most of our leadership, I think all of our leadership, to abolish the Department of Education bureaucracy and send all those education dollars back home, send them back to the communities. So instead of a bureaucrat in Washington, DC, educating my children and your children, we will have parents, teachers, principals, school boards, and communities empowered to make choices about education, because our Founding Fathers envisioned this country as being a nation of communities and a nation of families and a Nation of individuals who could be empowered to control their own life, and not have those decisions made by a highly centralized Federal bureaucracy.

Mr. TIAHRT. If the gentleman will continue to yield, going back to Kansas again, we do have recent legislation that addressed the concern that Kansas had that their students were not getting the quality of education that they would like. If they looked at test scores, there was a degradation in test scores, and they passed measures called quality performance accreditation, QPA. It has been very volatile, very controversial, but it was in fact duplicative of what is going on with American Goals 2000.

□ 1615

So now we have a Federal entity in the Department of Education, as I join with the gentleman to abolish, duplicating the effort of the State board of education in Kansas and duplicating paperwork, duplicating effort, duplicating, all under the guise of getting a world-class education for our students. So I think that we are struggling at the State level trying to provide the quality of education that we need, and we really do not need big brother Government looking over our shoulder asking for twice the amount of paperwork.

We have spent hundreds of millions, close to billions of dollars here in Washington, DC, in the Department of Education and not educated one child. I think it is a little unique that we have wasted so much money when our goal is to provide a world-class education for our students.

Mr. SCARBOROUGH. Mr. Speaker, I will tell my colleagues some interesting facts that people do not understand about the Department of Education is that it was just recently created. A lot of people said to me, what in the world will we do without a Federal Department of Education bureaucracy? I said, we will do what we did for the first 203 years of this constitutional Republic. We will allow parents, teachers, principals, school boards, and communities to make decisions on how to best educate their children.

It was not until 1979, when Jimmy Carter struck a deal with the National Education Association, that we even had a Federal Department of Education bureaucracy. Since that time, spending has gone from $14 billion to $33 billion, while test scores have plummeted. That is $33 billion in education money that is being drained, literally drained out of the education programs at the local level and brought up to Washington, DC, and for what?

The fact of the matter is the Department of Education only gives States 6 percent of their funding for education, and yet they give them over 55 percent of their paperwork.

Mr. Speaker, I do not know if my colleagues watch "Baywatch." I do not watch "Baywatch," but I know what it is about. Did you know that your money, your Department of Education money goes into an educational program to provide closed caption for the hearing impaired for "Baywatch"?

Did you also know that the Department of Education said that they had to slash $100 million this year from the education budget in money that was to go to keep schools safe, to stop roofs from caving in, to make sure that children had a good learning environment and safe learning environment? While they slashed and chopped $100 million from that upkeep, that building upkeep program, they added $20 million to upgrade their own bureaucracy building here in Washington, DC.

So they are literally taking our education dollars, robbing money from our school children to build their bureaucracy here in Washington, DC, and that is not what people in my community think is a wise investment for education dollars.

Mr. Speaker, I yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Chairman, I would say to my colleague that I did not realize that there was any educational or intrinsic educational value to "Baywatch." I have never seen the program myself. As you, I have heard that it is not worth watching.

Be that as it may, I think it is ironic that we spend this money here that has no educational value as far as fully teaching children, which is where the rubber meets the road. This goes back to the overall picture, why are we spending money in certain portions of our Government that have no constitutional authority, that have no apparent success, and there is no correlation between the spending of additional funding and the quality of education?

Much of what has occurred in the past in the educational realm has not been related. I mean, if you track it on a graph, how much money has increased, and test scores, as they have either held stable or increased or decreased, there has been no correlation between spending more money. So we have not really addressed the problem, the problem of seeing that our children have a better education.

So, again, we are going back to these attempts to balance the budget. Why should we waste money on funding areas that are not effective and that have no constitutional background?

Mr. SCARBOROUGH. Mr. Speaker, I agree with the gentleman. We need to ask that constitutional question. We need to hold everything that we pass up and see how it does in the light of the 10th amendment.

Mr. Speaker, let me in the remaining minutes that we have discuss some things about Medicare. Because, again, talking about the big lie that has been promulgated and all of these other issues that we are gutting funding for, all of these other things when, in fact, we are increasing funding, the same thing occurs in Medicare where we hear the President saying that he is going to shut down the Federal Government because our plan cuts too much in Medicare.

Well, the fact of the matter is that the President of the United States himself came out with a report with the Medicare trustees, with three people in his own Cabinet telling us that Medicare was going bankrupt and we needed to reform it, and we dared to step forward and reform it. And yet, remember when the Government shut down, the President said, I will not allow them to slash Medicare benefits. Well, it ended up that it was a sham. His plan was just like ours.

If I could read a few quotes from The Washington Post. Now, mind you, the Washington Post has not been a Republican ally, but they have been very straightforward and fair, and this was written actually by Matthew Miller, who is a former administration budget official for Bill Clinton.

Mr. Miller wrote in the Washington Post last weekend:

> Though many of the President's advisors think the Republican premium proposal plan on Medicare is sensible and that it differs very little from the President's own plan, the President fired sound bites from the Oval Office daily, taking the low road in ways that only Washington pundits can recast as standing tall.

Also on Medicare, the Washington Post wrote on November 15, 1995:

> The Democrats have been prospecting harder for votes among the elderly and against the Republican proposal than they have for the savings to bring the deficit down.

Finally, on November 16, in what I believe is one of the most important editorials that has been written this year, the Washington Post wrote that "The budget deficit is a central problem of the Federal Government and one from which many difficult problems flow.

"Bill Clinton," again, this is the Washington Post, not me, "Bill Clinton and the congressional Democrats were handed an unusual chance this year to deal constructively with the effect of Medicare on the deficit, and they blew it. The chance came in the form of a congressional Republican plan to balance the budget over 7 years.

"Some other aspects of that plan deserve to be resisted, but the Republican proposal to get at the deficit, partly by confronting the cost of Medicare, deserved support. The Democrats, led by the President, chose instead to present themselves as Medicare's great protectors."

Again, this is the Washington Post. "They have shamelessly," and this is what they say, "They have shamelessly used the issue, demagogued on it, because they think that is where the votes are and the way to derail the Republican proposals generally.

"The President was still doing it this week. A Republican proposal to increase Medicare premiums was one of the reasons the President alleged for the veto that shut down the government, but never mind the fact that the President himself, in his own budget, would count it as a similar increase.

"We have said it before, but it gets more serious. If the Democrats play the Medicare card and win, they will have set back for years, for the worst of political reasons, the very cause of rational government in behalf of which they profess to be behaving."

Again, I want to show my colleague, just so no one will think I wrote this, this is the Washington Post saying that Democrats have shamelessly demagogued on this issue and have tried to scare senior citizens into believing that the President is the protector, when his plan is just like our plan.

Mr. TIAHRT. Mr. Chairman, if the gentleman will yield, Medicare, just in a short review of the 1960's BlueCross/BlueShield plan that was put in place 30 years ago, the medical industry has progressed some considerable amount, and yet BlueCross/Blue Shield in this Medicare Program has been stagnated, frozen in time. So what we are proposing to do is not cut Medicare at all. In fact, the average payment per beneficiary goes from $4,800 per recipient this year to $6,700 per recipient in the year 2000, with more recipients.

Mr. SCARBOROUGH. If the gentleman will yield, actually, they have redone the numbers, and it actually goes from $6,700 up to $7,100 per Medicare recipient. We go from spending $900 billion on the program this year to $1.7 trillion on Medicare in the year 2002. Now even in the schoolrooms that I went to that is considered a spending increase.

Mr. TIAHRT. Mr. Chairman, I think if we could talk to someone in elementary school and showed them a basket that had 47 baseballs in it and a basket that had 71 baseballs in it and ask them which one has more, everyone would realize that there is more in the basket with 71.

That is kind of a simplistic example, but there are no cuts to Medicare. There is a reduction in projected growth, but, good grief, it was growing at 11 percent per year. Medical inflation is growing at about 4 to 5 percent per year. Something needs to be done.

I think the plan that we have before us that the Republican Party has come forward with, the Republican Conference, is a good plan, because it not only preserves and protects Medicare, but it also gives options, it empowers individuals, seniors. They can choose alternate plans or they can stay in Medicare, as they choose. I think it is still within the realm of balancing the budget. We have been able to preserve and protect Medicare and provide some options.

I do not know how much time we have here, but I do want to say before we close, talk about some of the recent agreements that have been signed in a continuing resolution as far as making a commitment to balance the budget by 2002.

Briefly, most of America knows that for a long, long time, a man or a woman's word was their bond. Well, my grandfather bought cattle and bought grain. His word was his bond. He would return some day later and pay cash for it. When my father purchased farm equipment, his word was his bond. My father-in-law taught me many lessons about honest and integrity. His word was his bond.

Yet we have just recently signed a agreement on November 20, 1995. The President signed a continuing resolution that said this:

> The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002.

Now, the first session of the 104th Congress ends on December 31, so we do not have a whole lot of time to do this.

Mr. SCARBOROUGH. Does it say Congress and the President "shall" or "may"?

Mr. TIAHRT. It says the President and the Congress shall.

Mr. SCARBOROUGH. So it is required by law. The President is required by law.

Mr. TIAHRT. Required by law to enact legislation to balance the budget by fiscal year 2002.

I want to quote something that was reported on the Fox Morning News on November 28. It was in the White House Bulletin on November 28 and in the Associated Press on November 28. This is quoting White House Secretary Mike McCurry when he was asked whether the White House would prefer to put off the larger budget debate until after next year's election and operate the Government on a continuing resolution, and here is what he said. "There are big differences between the President and Congress." That is a true statement.

He continues by saying, "and I suspect that those kinds of issues will have to be settled in November 1996. But, in the meantime, we can avert the crisis, avert the shutdown, get on with the orderly business and have our debate next year during the national election campaigns when we should, as Americans, have that kind of debate."

I would put to Mr. McCurry and the American public that this was a signed agreement. This is not something that is debatable. This has the power of law.

Mr. SCARBOROUGH. Mr. Chairman, if the gentleman will yield, the next day Presidential Spokesman McCurry said, "I think they will get a compromise that everyone will agree needs to really be a placeholder until we have a national election. Pragmatically, that is what is going to happen anyhow."

So the gentleman is correct. It astounds me that this White House can waffle the way it does. Remember Leon Panetta saying the day after they signed this law, "The President and Congress shall by law enact a balanced budget to save future generations in 7 years." The day after, 24 hours after that, Leon Panetta had the audacity to go on national TV, being smug, and say, "Well, maybe 7, maybe 8; we really do not know."

Now, this is the same Leon Panetta that said, Congress is holding a gun to the President's head. He called us terrorists right after the terrorist attack in Israel.

□ 1630

This is the same Leon Panetta who said we were being terrorists for attaching something to the continuing resolution requiring the President to balance the budget. This same Leon Panetta did the same exact thing when he was sitting on that side of the aisle in this House of Representatives and did it to two different Republican administrations.

These people feel so free to use the English language any way they want to use it to try to get around the fact that we must balance the budget for the sake of our children. And they think they are cute playing these semantics games.

Well, we are $5 trillion in debt. My children and your children and their children are $20,000 in debt apiece. My children and your children and their children will spend over $150,000 in their lifetimes just to service interest on the debt.

Mr. ABERCROMBIE. Will the gentleman kindly yield?

Mr. SCARBOROUGH. My children, your children and their children are the ones who this Congress has been stealing money from for the past 40 years and the past generation and the time has come to say enough is enough.

I see the gentleman from Hawaii is asking for time. We have to close right now. I will say this, though. I am looking forward to working with the gentleman from Hawaii who yesterday appeared to say that we did not go far enough and we actually needed to find another trillion dollars, and I would welcome the gentleman's help in figuring out a way to get Social Security off budget and find a way for us to go that final step, to find the additional trillion dollars to do what we need to do.

But I have got to tell you this: If we are $1 trillion short, then the President of the United States is $1.85 trillion short.

I look forward to working with the gentleman. I certainly look forward to working with the gentleman from Kansas.

Mr. DORNAN. Would the gentleman yield for a second?

Mr. SCARBOROUGH. Unfortunately I believe we are out of time.

Mr. DORNAN. I just wanted to say that I am going to do an hour special order later on Bosnia. I will not have to say it now.

Mr. SCARBOROUGH. I thank the gentleman. Unfortunately, we are going to have to wrap this up. I thank the gentleman from Kansas for helping us out.

I ask Republicans and Democrats alike on both sides of the aisle to dare to make a difference.

Bobby Kennedy, a Democrat, said the future belongs to those who dare to make a difference.

I got a letter from a constituent in Pensacola, FL, thanking Congress for daring to make a difference and going where this Congress has failed to go for the past 40 years.

He said a South African missionary once wrote to David Livingstone, "Have you found a good road to where you are? We want to know how to send some men to join you."

The missionary wrote back, "If you have men who will come only if they know there is a good road, I don't want them. I want those who will come if there is no road."

For 40 years this Congress provided no road to balance the budget. For 40 years this Congress shamelessly stole money from future generations to pay off their political interests, and for 40 years this Congress did not have the guts to do what we have done as middle-class Americans for the past 40 years, and that is to balance our budget and to spend only as much money as we have.

Well, we have made the difference now. I ask people on both sides of the aisle to come forward and dare to make a difference, and stop trying to scare senior citizens. Follow what the Washington Post tells you to do: Save Medicare, balance the budget, pass true welfare reform, and ensure that our future generations will have a lifestyle in America that is even better than our own.

THE BUDGET

The SPEAKER pro tempore (Mr. WHITE). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I will try not to use the entire 60 minutes, but I do appreciate the opportunity to address my colleagues about the budget.

As I am sure that most of us can tell from listening to the debate on the House floor, the biggest issue right now is the budget which is being negotiated between the President, the White House, and Congress, both the Senate and the House, and over the next couple of weeks or so hopefully decisions will be made so that there can be a compromise worked out between the Republican leadership budget which passed the House and the Senate about a week ago and the priorities that have been articulated by President Clinton and most of the Democrats in Congress.

The chief concern of myself as well as most of the Democrats is the fact that the Republican budget as passed essentially cuts Medicare and Medicaid by significant amounts in order to provide tax breaks primarily for wealthy Americans. If you look at the chart over here which I have pointed to many times, you can see that the cuts in the Medicare Program, the health care program for seniors, of $270 billion roughly translate into the tax breaks primarily for wealthy Americans of $245 billion.

I contend that during this budget negotiation, the only way that we are going to preserve and protect Medicare as well as Medicaid, which is the health care program for low-income Americans, is if we eliminate most if not all of these tax breaks for the wealthy and put that money back into the Medicare or Medicaid Program. Without that happening, and I hope that the budget negotiators accomplish that, but without that happening, it would not be possible in my opinion to preserve the Medicare and Medicaid Program.

The consequence would be that many seniors and many low-income people would not have health care, would not have health insurance, or if they do have it, they would have the quality of that care significantly reduced. This not only impacts seniors and low-income people but also all Americans, because the cuts in Medicare and Medicaid directly impact every hospital in this country, every health care provider. The quality of our hospitals will deteriorate. Many of our hospitals will close because we are taking so much money out of the health care system, because of the dependence of hospitals and health care providers on the Medicare and the Medicaid programs and the Federal dollars that go along with it.

One of the things that I wanted to start out with this evening is to point out that repeatedly the Republican leadership has suggested that these tax breaks that are in the budget bill that they approved would somehow be helpful to all Americans, it would not primarily be for well-to-do Americans. In fact, the gentleman from Texas [Mr. ARCHER], who is the chairman of the House Committee on Ways and Means, has repeatedly defended the budget bill by saying that there will be benefits for all Americans, proportionately and in a fair way.

Well, the Treasury Department just came out in the past couple of days with an analysis of this Republican budget, and it was put forward or summarized, so to speak, in an editorial a few days ago on November 23 in the New York Times that definitively showed, in my opinion, that the Treasury's analysis is correct and essentially shows that most of the tax breaks go to wealthy Americans.

I just wanted to read briefly, if I could, from the editorial in the New York Times. It says that the Treasury Department estimated that the richest 1 percent would rake in almost twice as much, or 17 percent of the tax breaks. The Treasury figures are solid evidence that the Republican tax cut is heavily weighted toward the rich.

If you look at this analysis on the chart here, it shows the Treasury's version based on the fully phased-in law, and as can be seen, the significant amounts of the tax breaks go to wealthy Americans: 23.8 percent to those that make more than $200,000; 23.7 percent to those that make between $100,000 and $200,000; 19 percent for those who make between $75,000 and $100,000; 19 percent again to those who make between $50,000 and $75,000; to the point where if you are making less than $20,000, you actually pay a tax increase under this Republican budget.

I just want to put that to rest, because I know we have heard a lot of discussion and statements on the other side of the aisle suggesting that this is not the case, but it is the case.

One of the reasons why, and again I will go back to the New York Times editorial, one of the reasons why the Republican analysis is wrong and the Treasury Department is correct is because of the Republican distribution tables and the way they distort the bill. The New York Times says that the Republican distribution tables are distorted in at least four ways. I would like to go through those four ways.

First, they underestimate the benefit to wealthy investors of the cut in the tax on capital gains. There is a major cut in capital gains that goes mostly to wealthy Americans.

Second, the Republicans' estimates ignore the distribution of corporate tax cuts which help the wealthy more than the poor. Again, a big part of these tax cuts are for corporations.

Third, the gentleman from Texas [Mr. ARCHER], again the Republican chairman of the Committee on Ways and Means, his numbers look only at the first 5 years of the tax cut. The Treasury's estimates calculate the benefit when the taxes are fully phased in, so we are looking here at the full phase-in of the taxes over the 7 years of the budget bill.

And, fourth, the figures of the gentleman from Texas [Mr. ARCHER] fail to consider the fact that many low-income families will lose rebates they now receive under the earned income tax credit, a subsidy for low-wage workers. Again, the Republican analysis ignores the fact that if you are in this $20,000 or below, you are getting what we call an earned income tax credit, which means that if that is taken away, which the Republican bill does in significant ways, you are actually going to pay more in taxes than you pay now.

I think that this is important because I honestly believe that the only way, and I will repeat, the only way that we can arrive at a budget bill negotiated between the President and the Republicans in Congress that actually saves Medicare and Medicaid is if we eliminate or at least significantly cut back on these tax breaks for the wealthy. I hope, I sincerely hope, that that is a big part of the budget negotiations, so that we can save Medicare and save Medicaid.

I wanted to next, if I could, move to two reports that came out in the last week that talk about the impact of these Republican budget cuts on Medicare and Medicaid.

The first report was done by the Leadership Council of Aging Organizations. They put out a report this Tuesday, November 28, that essentially identifies nine different ways how the budget hurts older Americans, our senior citizens. I would like to just go through those nine points and then maybe give a little more detail about some of the more important ones.

The nine ways that the budget hurts older Americans, according to the Leadership Council are, first, that Congress cuts Medicare by $270 billion, and that means that part B premiums rise from $46.10 to almost $90 a month by the year 2002. Beneficiaries needing certain hospital outpatient services would pay even more than the 50 percent co-insurance they now pay, and many would lose extended home care coverage.

So not only are we cutting Medicare, but we are also charging our senior citizens more. Part B is the health insurance program that covers their physician's care. The premiums that they pay for part B are doubled over the 7 years of the budget.

Second, Congress cuts Medicaid long-term care. Medicaid spending would be cut by $164 billion over 7 years. Federal standards for eligibility, services, payment and quality would be seriously weakened. In other words, in order to accomplish this cut in Medicaid, the health insurance program for low-income people, Federal standards would either be eliminated or relaxed.

There would no longer be an entitlement to Medicaid. It would be up to the States, because the money from the Federal Government, a reduced amount of money in real terms, would go in a block grant to the States and they would decide who they would cover and how. So a lot of low-income people, whether they be children, senior citizens, disabled, would simply not be covered by Medicaid any longer because the States would not have the money to pay for their care. That includes seniors.

Third, Congress cuts Medicaid acute care. So current Federal requirements to pay Medicare deductibles and co-insurance for low-income Medicare beneficiaries would be ended.

What that means is that right now if you are a senior citizen, instead of paying your premium for your part B Medicare which covers your physician's care, right now if you are below a certain income, Medicaid pays that premium.

□ 1645

However, under the Republican bill, Medicaid would no longer be required to pay that premium. Again, it would be up to the States, and if the States decided they did not want to pay, then Medicare part B premium for low-income seniors, they would not have to, and a lot of those seniors would go without having part B and having their physicians' bills covered by Medicare or Medicaid.

Fourth, under human services, the Older Americans Act, Legal Services, aging research, training senior volunteers, cuts would mean 6.2 million fewer meals at senior centers, 5.6 million fewer to homebound elders, research on aging issues funded under the Older Americans Act. Right now, a lot of the programs that exist and that help senior citizens are funded under the Older Americans Act. Those of you who have been to a senior center in your community know a lot of times meals are provided to seniors at the senior center, nutrition programs, or if they are homebound, meals are delivered to them in their home. There are other services the Older Americans Act provides for senior citizens.

That takes a huge cut in this budget and can be translated into fewer meals and fewer services for the elderly.

Fifth, during the last decade the number of grandparents raising grandchildren climbed 40 percent, and most have household incomes under $20,000 per year. Reforms in the welfare system will make it more difficult to obtain aid for grandchildren.

So incorporated in all of this is the fact, and in this budget, is the fact that a lot of children who are now raised by their grandparents will not get assistance to pay for various activities that are important to child care.

Sixth, food stamps; block grants offer no assurance even minimal protections for older people would be retained by States by making access to benefits still more difficult. A lot of senior citizens depend on food stamps. The cutbacks in that will affect them.

Seventh, supplemental security income, individual States may slash or eliminate SSI supplementary benefits. Again, a lot of senior citizens who are disabled and who receive cash benefits pursuant to social security disability programs would be cut.

Eighth, housing assistance, older people make up approximately one-third of all public housing residents. Operating subsidies and modernization funds for public housing would be cut by 3.5 and 33 percent, respectively, from 1995 levels. When we talk about public housing, a lot of people forget a third of the public housing is for senior citizens. If you cut back on money available for new construction, modernization, they are also impacted and, again, have fewer and fewer places to live or more expensive costs to continue to rent or to live in subsidized housing.

And lastly and ninth on this list is low-income home energy assistance programs. The Senate recommendation is for a 32-percent cut. Nearly 2 million households could lose their energy assistance. A lot of senior citizens right now basically have their energy assistance, their utility bills, if you will, supplemented through what we call this LIHEAP program. That also is cut.

So our point and the point I am trying to make here is that not only with regard to Medicare and Medicaid but also with a lot of other programs, the impact on senior citizens in this budget is really great. They are disproportionately singled out for cuts that will make it much more difficult for them to have health care, for them to have proper nutrition, for them to be able to live in decent housing, and that is not fair.

What we are doing is making those cuts in order to provide tax breaks primarily for wealthy Americans.

The other report that came out this week and that I would like to briefly mention was a report that was put out by the Consumers Union and the National Senior Citizen Law Center. It is entitled "What the Congress Isn't Telling You." Families of nursing home residents may face financial ruin under Federal Medicaid bills. And basically, what the report shows is that, under the Republican budget, an estimated 395,000 nursing home patients are likely to lose Medicaid payments for their care next year. Families of nursing home patients will face significant new financial burdens.

This was actually put out; this is the report here that was put out within the last week or so, and again trying to highlight some of the people that the report makes, again it talks about the impact of the cuts in the Medicaid program which, again, is for low-income people, but affects seniors, children, disabled people. Basically, what they stress is that the budget transforms the Medicaid Program into a block grant called a Medigrant, a cash grant to each State, and there are few requirements as to how the money is spent, virtually no guarantees for benefits for any individual regardless of how poor or sick the individual is. Cuts in the Medicaid Program are $163 billion, and these cuts will reduce projected Federal spending on Medicaid by approximately 30 percent by the time the seventh year of the 7-year program goes into effect.

What the Republican budget does is it caps the amount of money that is spent on Medicaid, and it basically sends a block grant to the States with that smaller amount of money than is necessary to keep the Medicaid going as a viable program.

So what we are saying is that because of that reduced level of funding and because the States now have to administer Medicaid with less funding, millions of current Medicaid recipients and those needing services in the future are likely to lose all access to health insurance and not have their health care provided for.

Now, this report basically says that an estimated 395,000 long-term patients are likely to lose Medicaid payments for their nursing home care if this bill is approved. The combination of drastic cuts and projected spending and elimination of important patient and family protections will cause State Medicaid programs and private nursing homes to adopt policies that will place additional financial pressures on families of people needing long-term care.

Right now, Medicaid pays for the nursing home care for all of these low-income people that are on Medicaid. But if this bill passes, not only will the same amount of money not be available, but what the States will do, because they do not have enough money to pay out to nursing homes for these patients' care, is they will simply go after the families, the children, the grandchildren, whatever, and the assets, if you will, of those nursing home patients in order to make up the difference.

Just to give you an idea of the type of things that will go on, if the Medicaid law is changed, basically families of nursing home patients may be forced to spend funds previously earmarked for their children's education or retirement. Family assets may be sold or even seized by Medicaid liens. Adult children, previously protected from liability, may now be held responsible for the nursing home bills of their patients. Protections against nursing homes that charge more than the amount Medicaid pays are weakened by the bill. Right now it is difficult for the nursing home to charge you more than what Medicaid pays. Families become vulnerable; there is no longer a guarantee of Medicaid eligibility for anyone. Liens on property and claims against the States are unrestricted under the proposed legislation. Hearings to dispute issues, such as who receives coverage, are completely eliminated. Financial planning for disabled children is no longer protected. States may even narrow coverage to exclude chronic nursing home care from their programs, and the limited income protections included in the bill for husbands and wives do not provide financial security for families.

What we are basically saying here, and it is very clear, and this is what this study demonstrates, that the proposed transformation of Medicaid may force American families into financial ruin if a loved one needs a nursing home. It is a major change from the current law which provides, which basically says Medicaid right now guarantees nursing home coverage for those low-income seniors or any senior who runs out of money and does not have enough money to pay for their nursing home care. I am not sure if a lot of people realize that there are very few Americans who, if they become disabled and have to go to a nursing home, can afford to pay for that nursing home care for very long. Sometimes people can pay privately for a few months or even a couple of years, but eventually they run out of assets. That is where Medicaid comes in and pays for the care under current law, but would no longer be guaranteed under this Republican budget.

I talked mostly so far about the impact of this budget on health care, and I believe that that is the worst impact of this Republican budget, the fact that our health care system, in general, will be negatively impacted and a lot of people will not receive health care or have access to health care and the quality of care will also be reduced.

But there are other major impacts and other major impacts that President Clinton has specifically talked about. He has talked also about the need to make sure there is adequate funding for education, particularly student loans, and he has also talked about the need to prioritize funding for the environment. Because if you look at this budget, this Republican budget, as well as some of the appropriation bills that have been moving through the House of Representatives, you certainly notice that, again, like with senior citizens, the environment and the effort to protect the environment has taken too much of a cut in this overall budget bill. In other words, the amount of money that is taken away from those agencies on a Federal level that protect the environment or the money that goes to the States in grants and loans to protect the environment is cut back considerably more than a lot of other areas. Again, that is not fair, and that is totally inconsistent with the priority that most Americans give to environmental protection.

Just to give you an idea of how this budget, not only the budget but also some of the appropriation bills that have been moving in this House, would impact the environment, again, a report was recently put out by the National Wildlife Federation that is entitled "Funding Worth Fighting For: Your Guide to Proposed Reductions for Environmental Spending in Congress' Budget and Appropriation Bills." Again, this was produced and made available within the last couple of weeks or so.

Essentially, it points out how this budget and how the appropriation bills make drastic cuts in environment protection. It is a very sinister aspect of this whole budget process because I think that many people in the beginning did not realize that the Republican leadership was trying to make such drastic changes in environmental protection. And so in putting together this report, the National Wildlife Federation, I think, did a very good job in explaining how these cutbacks affect the quality of our environment in this country.

Basically, in its introduction, the report says that the congressional leadership intends to achieve its aims to weaken, dismantle, or dismiss environmental safeguards through the budget process. The tactic is to legislate through appropriations, to tear away at the enforcement and fabric of environmental laws in the budget process without the scrutiny of public debate and the straight votes on the merits. Oftentimes these things are put into the bills, and we are not necessarily made aware of it. There have not been public hearings. There has not been an opportunity to even comment on it, which is one of the reasons, I think, this report takes note of these changes.

The budget and appropriation bills passed to date by Congress contain a regressive environmental and natural resource agenda that has no precedent in modern American history. If enacted, these measures will mark the first time the Nation has legislated a retreat in water and air quality, in conserving valuable wetlands, protecting beaches from being fouled by contamination and enforcing environmental protections for public health.

In effect, this Republican leadership is proposing lower environmental quality of life for the average American as well as huge public land and asset giveaways to narrow special interests.

As documented in this report, the hallmarks of this assault, and they basically say four areas where this budget assaults, if you will, the environment: One, sharp cuts to the core budgets of the agencies that protect the environment; two, elimination, in some cases, of entire environmental programs; third, suspension of environmental safeguards; and, last, expansive concessions to narrow interest groups.

Now, I say this in the overall context of knowing, not only because I talk to people in my own district but also because of public opinion surveys that have been done, that show that Americans are very supportive of environmental protection and seek to prioritize funding for environmental protection and not have these kinds of cutbacks. I think the solid majority of Americans support upholding the environmental progress that we have seen in the last 10 or 20 years in this country and do not want to see us turn back the clock as is being proposed by the Republican leadership in this budget and these appropriation bills.

I just want to summarize, if I could, because again I do not want to use all the time allotted to me, but I do want to summarize, if I could, some of the major provisions, some of the major changes that the National Wildlife Federation in its report points out are occurring or will occur if this Republican budget is passed, if these Republican appropriation bills are passed.

Congress' fiscal year budget bill that we have talked about and the five appropriation bills discussed in this report contain changes in environmental, public lands, wildlife, and natural resources policy that would do the following, and let me just list some of these: First, it would open the Arctic National Wildlife Refuge to oil and gas drilling. Many are not aware that in Alaska the Arctic National Wildlife Refuge now is a very pristine area where oil and gas drilling is not allowed. This would allow it to occur.

Second, the budget and appropriations would trigger sale of public lands under an industry-sponsored rewrite of the 1872 mining law. Essentially, what we are doing is giving away a lot of our public lands. It would also end the EPA's enforcement of wetlands law, very important in my home State of New Jersey. We have a lot of area that needs to be protected, a lot of wetlands that could be the subject of development, and right now the EPA provides a certain amount of protection for those wetlands.

□ 1700

That would be eliminated under this budget and under these appropriations bills.

It would also slash national wetlands inventory funding by 48 percent, reduce wetlands habitat conservation funds by 24 percent, and cut endangered species funding. Right now we have a very good endangered species protection program. This would cut out a lot of the funding for that protection. It would also suspend new listing for imperiled species and terminate endangered marine species research.

It would slash funds for stabilizing world population by 38 percent. The United States contributes through international organizations in efforts to basically support family planning around the world, in many parts of the world. That is also slashed by a third under this budget.

The Republicans would also reduce the Superfund budget by $400 million. We have in the United States and at the Federal level now a program that seeks to clean up the most seriously polluted hazardous waste sites pursuant to what is called the Superfund Program. The program has been successful in starting and in many cases actually completing the cleanup of many of these hazardous waste sites around the country. That budget would be reduced by $400 million under this proposal. It also stops new cleanups at hazardous waste sites, so if you are not already a Superfund site, the site cannot be added to the Superfund list for possible cleanup.

It increases timber cuts in the Tongass National Forest. It cuts funding for drinking water and wastewater treatment. In my own area, I represent a good part of the New Jersey shore. We have made great progress in cleaning up our water, basically because of grants and loans from the Federal Government to upgrade sewage treatment plants. These are severely slashed under this budget proposal.

It also cuts enforcement for strip mining law by 28 percent. It cuts funds for international environmental programs by 32 percent. It allows agribusiness to avoid $117 million in repayment obligations in unbudgeted new Army Corps of Engineers construction projects, and cuts global climate change research funds.

Those of you who have been reading the newspapers in the last few weeks have noticed, I am sure, there has been a lot of information that has come out about how global climate changes are having negative impact on the environment around the world. We have contributed over the years to research on an international basis to try to study the problems related to global climate change. Again, that is cut significantly by this budget bill and by some of the appropriations.

The list goes on and on. I do not want to continue going through it tonight. I think it is important over the next few weeks, as the negotiations take place between President Clinton and the Congress over where this budget bill is going and how a compromise is going to be achieved, that we continued to prioritize environmental protection, that we do what is necessary to make sure that Medicare and Medicaid are good programs and continue to serve our senior citizens and our low income people, because ultimately, I believe that if environmental protection is significantly degraded or if our health care system is significantly impacted in a way that the quality suffers or a lot more people are no longer eligible for health insurance, that ultimately, if any of those things happen, it is going to impact every American, and it is going to impact the quality of life for every American.

So I think we need to continue to speak out to say that it is very important that money be put back in the budget for those health care programs, for environmental protection, and the easiest way to do that is to eliminate these tax breaks for wealthy Americans.

U.S. MILITARY POLICIES

The SPEAKER pro tempore (Mr. WHITE). Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, I said last night that I would come back with some other freshmen Members. Some of them are in their offices watching, so they may join me in this continuing special order on Bosnia. But I was not here during the Vietnam years. I came right after our Bicentennial election in 1976, and I remember my campaign consultant, he now is principally doing the best polling I have ever seen in the country, although he concentrates mainly on California. His name is Arnie Steinberg. That is his company name, Arnie Steinberg & Associates. He knew how deeply I felt about the loss of Laos, Cambodia, and the southern part of Vietnam south of the 17th parallel to vicious Communist conquerors. And he said to me, "I will consult in your campaign, if you will promise me that in this entire year of 1976, you will not mention Vietnam."

I looked at him. I knew instantly what he meant, that Americans were exhausted and did not want to hear any longer about the tragic fate of people who wanted freedom so desperately in Southeast Asia. I made the promise to him, I would go through the whole campaign without mentioning Vietnam, and I did.

I got elected in November of 1976, and within weeks, days, a House select committee voted to shut down their investigation as to whether or not Americans were alive in Indochina. Americans were alive in Indochina. We had left them behind in Laos, and there was a good case there were some left in the north, because we had an ex-Marine CIA agent who had been captured in Saigon when it fell to Communist armored units on April 30, 1975, named

Tucker Gugelman, and he was beaten to death, tortured to death, over many weeks in the Saigon prison system. His screams were heard by other people that were later released, and he was alive when this committee was investigating. The committee for some strange reason was an even number of people, 10. It was 6 Democrats and 4 Republicans, and when they voted whether or not to continue to be in existence when I was sworn in on January 4, 1977, the vote split 5-5, and the committee shut down.

Two Democrats came over and voted with the Republicans. One of them is still here, JOE MOAKLEY. The other is now a Republican, but he retired or was beaten by DAVID DREIER, Jim Lloyd.

Lloyd and MOAKLEY voted not to shut the committee down. One Republican kind of had earned the right to be contrary, had the Navy Cross the hard way in hand-to-hand combat as a Marine in Korea, Pete McCloskey, left voluntarily in 1988 to run for the Senate seat won by Pete Wilson. He finished ahead of me in that 13-man race, I was fourth, he was second, Barry Goldwater, Jr., was third. But Pete McCloskey voted to should it down with 4 Democrats. One of those Democrats announced their retirement yesterday, PAT SCHROEDER. Another one is over in the Senate, fell in love with the Communists in Hanoi and is still making a case for them, and the other on Republican side, Tenny Guyer is now dead, died while he was chairman of the POW task force. It was this strange split. One Republican went one way, two Democrats came from this side. We shut it down, and we have been left with an agony ever since.

This morning, here we are almost two decades later, 19 years later, and I chaired a committee, subcommittee hearing, my Subcommittee on Military Personnel, taking evidence again on what is called the comprehensive review of all the missing in Vietnam.

Now, we have not resolved the missing from the cold war period, with all of our Ferret air crews around the periphery of the very, very evil empire where they shot down dozens of our planes and captured or killed on the ground or killed in the shutdown over 300 of our air crewmen. I do not think we ever killed a single Soviet pilot in any of their Bear aircraft intelligence-gathering missions or any of their fighters that went astray and crossed the border. We never murdered anybody. They murdered some of our lost pilots in cold blood and had no compunction in shooting down our intelligence pilots. There were Americans with Russian or Slavic or Ukrainian surnames that were full American citizens that were in camps overrun by the Red army in 1945 that disappeared into the gulag camps never to be heard of again.

Korea is especially painful. In the Hall today in the Rayburn Building, while taking testimony on Vietnam, Laos, and Cambodia, and about to go in at 2 o'clock to hear the Secretary of State, Warren Christopher, Secretary of Defense, Mr. Perry, and the Chairman of the Joint Chiefs, the man who came directly after Colin Powell, Shalikashvili, I am out in the hall looking at a prison picture, and I learned from my wife, Sally last night that the cameras cannot cooperate and will not come in for a closeup. But this is a very clear photograph, it must be taken with the very biggest cameras we had in our RB-29's, slant photographic imagery of a major north Korean prison camp called Camp No. 5. It is a huge facility. Across the Yellow River, this is the Yellow River I am looking at and it is much wider than I had ever expected, is a graveyard. In other words, they buried Americans on the Chinese side, and then there is a graveyard in the foreground on this side.

In this camp, like many camps in North Korea, were Americans, called category 1 prisoners, known to be alive and healthy that were never returned from Korea. The major problem with Korea, and it seems that we in the Congress and in the Senate have convinced Clinton not to go into Bosnia under U.N. colors or U.N. flags, Specialist Michael Ngu, whose father I had the pleasure of meeting last Sunday, Daniel Ngu, he is being court-martialed for refusing to wear the U.N. blue beret and blue arm patch on assignment to Macedonia, where we have a blocking action of 494 Americans by last count. But in Bosnia, the troops that Clinton is moving in there as we speak, making a lot of the debate on this floor moot, they will go in under NATO colors, not under U.N. colors.

Here is a haunting, excellent photograph, of very healthy American prisoners in this Korean Camp No. 5. Here is a banner in perfect English letters, "soccer ball champions, No. 5 camp," and I cannot read what it says, It looks like "united by." All of the prisoners are at top military weight,they are all laughing and cheering at some game. The man who gave me this circles one very clear picture that he says is his brother. This was taken in 1953, very close to release. They all have full prison uniforms on with scarfs and T-shirts, and almost everybody in the picture must have been by order, yes, every single person is wearing what I would call a Dutch boy hat or a soft garrison hat without grommets, and they all look healthy.

This brother of a prisoner in this picture told me that not a single man in this picture came home. I told him I have no reason to disbelieve you, and this is not an insult, but my instinct tells me that just simply cannot be true.

Then I was told by other activists in the POW cause that the Pentagon, and I have no way to confirm this until tomorrow, has blown this picture up to maximum clarity and size, and has sent it to the Veterans of Foreign Wars and the American Legion to ask for identification of people in this picture.

My staff counted about 100 people, including North Korean camp workers, many of them women, in the background, and of these 100 at least 60 or 70 can be clearly identified by families as their loved ones.

If it turns out nobody from this picture came through, then this is a majority of the 389 American soldiers still carried on the books at 8th Army Headquarters in South Korea as category 1 prisoners, known to be healthy, no amputations, no head wounds, no amoebic dysentery, looking as healthy as the men in this picture, never returned from North Korea.

What is the problem with North Korea? Every time I educate fellow Americans, they seem to react in disbelief that the problem is so simple. Why, it is worse than Indochina and why did we not get these people back? It is simply because the Communists in P'yongyang in North Korea said if you want to talk about live American prisoners left behind or about all the graveyards that we overran, with Chinese forces helping us in November and December of 1953, 42 years ago, then talk to us unilaterally.

□ 1715

Our response for 42 years has been, and this is the part that Americans cannot seem to grasp as being true, no, we will not talk to you directly, unilaterally, one-on-one, about our prisoners. You must go through the United Nations command at P'anmunjom, where they argued for 2 years about the shape of the negotiating table. Relived that nightmare in 1968, in Paris, while they argued for months while Americans died at the rate of 200, 300, 400 a week while we argued about the shape of the table in Paris. How many years later would that have been? Fifteen years later, same nightmare.

The North Koreans said no, you fought the war, 98 percent of the casualties are yours. Of course. South Vietnamese ROK forces, Republican Korean forces, suffered worse than anyone, but of those there to help, we took 98 percent of the casualties. You paid for almost all of the war. The NATO contingents that were there under the U.N. colors, some did not lose a single man and did not have anybody wounded. The names of these countries, wonderful little countries, Norway, Denmark, Netherlands, they did not have anybody killed or wounded, yet their names are carved in the stone leading up to the Korean War Memorial that, at its dedication, Clinton talked about the armistice. There is no armistice, it is merely a cease-fire between the belligerents and could flare up at any moment. And the U.N. command there really was the United States, but we keep telling the North Koreans you knuckled under to the U.N. command that voted because of China being absent on the Security Council, then called Red China.

Communist China did not have the same powers that they have now to influence national debate. They had taken the free China seat of Chiang Kai-shek, and the Communist victories in 1949. But because of an absentee on the part of one of the five permanent members of the National Security Council, we got a vote to go in with the U.N. effort in Korea. If we had not gotten that vote, the United States would have still gone and done the job alone, taking 100 percent of the casualties instead of 98-point something percent of the casualties.

So all of that, Mr. Speaker, is by way of prologue that the nightmares of World War II, the bloody part of the cold war with our crews shot down all around the periphery of the very evil empire, and then the nightmare of Korea, with missing in action men; and then the nightmare of three remains not being returned from Somalia; the nightmare of my hearings this morning, all of that is by way of prologue to say here we go again in Bosnia, without a definitive exit strategy and with very few options left to the United States Congress.

Now, Mr. Speaker, never, since I came here in 1977, with Vietnam, Cambodian and Laotian problems on my mind of our men left in some cases behind alive; reliving the nightmare of Korea and remains; expecting us to relive the tragedy of what the French went through, paying regularly blackmail money to the Communists in Hanoi for all of the remains, including Charles de Gaulle's own grandson, who died fighting in Indochina in Vietnam. Here we go again.

Now, at the hearing just now, to the Secretary of Defense, Secretary of State, and to the Commander of the Joint Chiefs of Staff I read from Gerald Seib's article. He was all wrong on Colin Powell and why he should run, and how he thought Bill Bennett had it all figured out, but Gerry Seib wrote, I think, the definitive column for this week on Bosnia. He said there are only four things we can do in the Congress, and I read all four of them slowly just an hour and 15 minutes ago to Clinton's first team that had been given the job.

And I told them, you give new meaning to the word good soldiers. I said a triple draft evader is now ordering you to put men in harm's way and in his speech deliberately leaves out the word Vietnam. Even put in North Ireland, where he is today, but no mention of what Reagan called the noble cause of trying to keep freedom in the southern half of Vietnam as we bought freedom for the southern half of Korea over the last 42 years, including the Olympic Games being in Seoul in 1988.

Here are the four things, and I could not add a fifth. Imagine you are the Secretary of Defense, Secretary of State and Chairman of the Joint Chiefs listening to this. I do not know if they saw yesterday's Wall Street Journal column on the political page, A-16.

First, we can pass a resolution disapproving of the deployment. We have already done that, Mr. Speaker. Forcing Clinton to decide whether to send the peacekeeping troops on his own. He is already doing that. This is a recipe for disaster, to have another vote and redo the vote of a few days ago that was 243 to 171, two people voting present. I do not grasp that at all. That is usually reserved for a financial interest in some vote. You vote present to clear your conscience. Seventeen people missing the vote. We have already had that vote. But if we vote again, then Mr. Seib said this is a recipe for disaster. Constitutionally it is a disaster, diplomatically and militarily.

Troops will be sent anyway. They are already on their way. They are landing there now. We have had advance units in a different world there for a long time. These plans have been drawn up. I know my friends in the Pentagon. These contingency plans now being enacted have been drawn up for years and discussed in depth. The troops are moving. The trains are leaving the stations in Europe. And we are going to stage out of Hungary, no matter what they say, because the rail lines go through Budapest. Troops will be sent anyway, though with an explicit signal that they do not have national support.

We have sent those signals twice. The calls are coming into my office, still not a single call saying to my staff in Garden Grove, CA, or here in Washington, the Congressman must support Clinton, let the troops go. I have had a few call in saying tell the Congressman to shut up. This will probably trigger a few more. Don't waste your time. I have earned the right through nine elections, very tough elections, to hold a Democrat seat, which some people think should be a safe Democrat seat, and I wore the uniform for 22 years and 4 months. Got back in an aircraft after they had tried to kill me.

I deliberately chose the most difficult and dangerous thing you could do in peacetime, because after the spasm of killing in Korea, I anticipated that I would get to serve under a 5-star general, Eisenhower, my years of active duty; over 5 years that there would be no one going to take on the man who had driven Hitler to suicide in less than 3 years and 5 months. Nobody was going to take on Eisenhower.

Conversely, if Clinton were to pull the plug on the peacekeeping mission, which my sons thought he was going to do up until yesterday, Republicans in Congress would find themselves blamed for whatever horrors followed in Bosnia. This may have been in the back of their heads in the White House, certainly not the three distinguished cabinet people that faced me today.

Second, avoid a vote entirely. I think that is what we are heading toward. This is for all the people that phoned my office during special orders or right afterward and that are particularly leaning on all the freshmen Members, Mr. Speaker, probably yourself included. They are saying you must vote again, you must debate again, you must let Clinton know the Nation does not want this.

But, if we avoid a vote entirely, leaving Clinton out on a limb alone, and I think this is what is going to happen, this option appeals to some younger lawmakers. Yes, freshmen have told me this is what they expect. Some senior Members have told me that we should leave it alone now. The train has left; we must support our men in the field. But in practical terms this is not much better than the first option.

Troops are going anyway, without any sense of national support, either in the polling data or by their calls to the Senate and the House. Worse for Congress, this will look like washing its hands. I added the words Pontius Pilate approach, and told the secretaries and General Shalikashvili that I added those words Pontius Pilate. It would forfeit a chance to influence how the troops are used.

Third, Pass a resolution, Gulf War style. In other words, repeat the vote from a few days ago and switch about 30, 40 Members. Give Clinton the support that Bush got that simply endorses the Bosnian mission. This is Clinton's best dream. He looks definitive, resolute, masculine, macho, changed enough votes through the power of his oratory Monday night—not—and his speech in front of the prime minister, parliament, Madam Hillary sitting there, that we will not go down the course of isolationism again.

He has referred to the League of Nations, 1919, World War I, Congress not supporting Colonel House's dream exorcised through Woodrow Wilson. He has changed the image of the campaign, the youthful farm boy Arkansas image of biting the lower lip, which some of my Democrat friends said drove them nuts, that biting the lower lip and shaking his head as though it was early Parkinson's disease, like this, biting that lip. That is all gone. Now it is Mussolini style, the jaw muscles tensed, the head raised and the chin thrust forward in the air, resolute. I am a decisive leader.

This would be his dream, to get us to debate it again and turn the debate and give him a Bush-type resolution. Bush had 250 to 183. Would that not be nice, if he could change the 243 to 171 to a victory of 250? That is not going to happen, No. 3, because of the phone calls. Congressmen do not vote that courageously against their own self-interest when America is furious that our men are going in by Christmas, not being pulled out by Christmas.

I told General Shalikashvili and Mr. Perry and Mr. Christopher, I said, and they flinched, they did not have any comment when I said, gentlemen, whether it is the movie "Gone With The Wind", truthfully reflecting every Civil War year, 1861, the men will be home by Christmas. The South said that and the North said that. That was all changed by the battle of Bull Run out here in Manassas. The second battle of Manassas kind of ruined it in 1862. Even Antietam did not help. The troops will be home by Christmas of 1862. Certainly Chancellorsville, Gettysburg, did not change optimists from saying the men will be home on both sides by Christmas of 1863. 1864 it was a cry all year long, in spite of the siege at Petersburg. We were going to have those troops home by Christmas of 1864.

World War I, the troops will be home by Christmas of 1918. We made it. Not 1917, though. World War II. 1943, no, they did not. 1944, Eisenhower said the troops from Europe will be home by Christmas and they were. Eisenhower got elected President. He said if I am elected President, if I win, I will go to Korea as president-elect and everybody will be home by Christmas of my first year. He won, he did go, and he was correct, they were home by Christmas of 1953.

LBJ. We can get this all done in 1965. All the troops that I am putting on the beach, all the Marines in I-Corps that are hitting the beach March 8 of 1965, they will all be home by Christmas of 1965. No, they were not home by 1965 or 1966 or 1967 or 1968. Tet offensive year. He was home in Texas by Christmas of 1968. Humphrey was home by Christmas of 1968. Nixon had no secret plan whatsoever, and he was home by Christmas of 1974 in California at Casa Pacifica, and the Vietnamese were in all of Vietnam, and Americans were rotting in cells and being tortured to death in Saigon prison. As I said, ex-marine Tucker Googelman.

□ 1730

By Christmas of 1975, it was a nightmare for the boat people, and by Christmas of 1976 and 1977, 2 million people were being slaughtered in Cambodia if they wore eyeglasses or had finished the seventh grade.

Here for the first time in my life I am hearing, and this is what I told the Secretaries, I am hearing the most unusual thought I have ever heard of in Christendom, we think we can have the troops in by Christmas.

The mines that are there, and General Shalikashvili asked us not to say 6 million, because he does not know who created that figure. All right. So it is only a million or 500,000, and when the snow covers the ground, maybe that will give us a feeling of false security, but we will not know where the mines are. Maybe we will not venture off the proven road paths.

Knowing the quality of man and woman that serves, I can hear from hero's bed in Ramstein, the Air Force base there, I can see some American that lost a leg saying, "Better I lost this leg. I got to play sports as a kid. Better that it happened to me than to some little Bosnian boy or girl, no matter that they are Moslem, Serbian, or Croatian. I have had most of my youth."

Mr. Speaker, I know the heroism of the people that we are sending there. To a man, they all want to go. They are all seeing it as a humanitarian peace mission to stop atrocities, three-way atrocities, but most of them Bosnian-Serbian atrocities.

So, No. 4, pass a resolution approving the deployment. This is a derivation of No. 3, but expressing misgivings and attaching some conditions. This final option may seem the coward's way out, but under the circumstances it makes a lot of sense.

There are some legitimate policy questions to be decided. How far will America go in arming the Bosnian Moslems so they can defend themselves, while also playing the role of peacekeeper? I proposed that question on the floor yesterday and put it in the RECORD the day before and proposed that during the debate. That is one of my 50 questions to Clinton.

What are the outer limits on the size, the scope, and the duration of an American deployment? What are the outer limits? It has crept up from 20,000 to 37,000. Some of my colleagues who are becoming experts at this say it is more like 40,000 or 45,000. The chain of support is generally, if you use Vietnam numbers, 7- or 10-to-1. For every young American taking it on the chin in some jungle or snow-covered hill in the Balkans, there are 7 or 10 people in a chain of command having to be financed to keep that person in the front lines.

So, there are the four options given to us by the Wall Street Journal, and I told the three witnesses in the Committee on National Security, "God bless you. Good luck. I am going to be an optimist and expect the people in Bosnia to hunker down and wait for us to leave on the election cycle, the Presidential election cycle."

I reminded them that Ho Chi Minh, although he died September 3 of 1969, had planned the Tet offensive; two of them. Big Tet, starting January 29 and Mini Tet in September. I was there that whole month, end of August and early September of 1968. He planned both of those offensives to influence the American Presidential election of 1968. He planned some of the terrorist attacks in 1964, and the Tonkin Gulf incident in 1964 was all based on American Presidential elections.

Do not think they did not learn in Somalia, on the third and fourth when 18 Americans died, and on the sixth when Sergeant Mike Rearson was killed with a direct hit by a mortar shell. At the front door of headquarters hangars of Mogadishu and a dud landed at the feet, or we would have lost a 2-star general named Garrison. Do not think that in Somalia on Columbus Day, do not think that those Haitians when they were chanting, "Remember Somalia," in French and English, do not think that they were well aware of the price that Americans put on the sacred, human lives of our men in uniform, and our women.

Gerald Seib goes on to finish: Republicans in Congress should have some say on those kinds of decisions, and the resolution of approval can give them the opening to do that. But he is recommending we vote for it and put conditions on it.

Clinton is not going to pay any attention to our conditions. He is in a full-time, 24-hour-a-day election mode. The one thing he does effectively in life is campaign. He is in full campaign mode. Everything is geared to what is good for November 5, 1996. No matter what conditions we as armchair generals, with or without varying levels of experience, including all the 73 freshmen, no matter what we put down in open amendment process, which would probably take a week of 8-hours-a-day debate, he is going to ignore them all.

He is going to be as smart as George Bush was to leave this in the hands of the military people to minimize the risk and be out of there in 11 months. And if the Bosnians of all the 3 sides are smart, they will do what I predicted they probably will do: Hunker down; tell the killers and the terrorists from Iran that are all over that area now that want to kill Americans, tell them to, "Shut up or we will kill you," the Serbians will tell them. "Do not touch Americans. Hunker down for 11 months. We have been doing this since the Battle of Kosovo in the mid-1300's. If we waited 600 years to kill one another, and if we hunkered down under a Croatian named Joseph Tito, and hunkered down for half a century waiting to kill one another until he died, we can wait 11 months."

So, I am predicting that Clinton is going to look like he has a victory here in time for election, but it will not help him because people will remember Somalia, and Haiti will have exploded in his face.

So, do not worry. He is going to be beaten on domestic issues. Republicans in Congress should have some say. Just as a Democratic Congress tried to define the limits on American paramilitary activity in Central America in the 1980's, a Republican Congress can now try to define the limits on American peacekeeping activity in Bosnia in the 1990's. One idea is to pass a resolution prohibiting troops, but one that gives Clinton an escape clause. This seems too cute. The Republicans' practical problem is that after 12 years of arguing for presidential latitude in foreign policies, they are not well-positioned to cut down that latitude.

Remember, I and about four other senior Members fought our freshmen to take away the War Powers Act to give a President, not necessarily this President, more latitude in emergency situations, which I do not think the Balkans constitutes at this point.

The case for peacekeepers in Bosnia, while a close call, is defensible. I have always conceded that. It is that this particular person, Mr. Clinton, makes it exceedingly difficult to send people in harm's way when in his own speech he pours salt into the wounds of every person who felt Vietnam was a noble cause, however poorly, politically, it was fought or not fought, given the political constraints on the commanders and the war fighters, to leave that word "Vietnam" out of that speech and then to talk about in a macho way under he, the Commander in Chief, "Fire will be met with fire, and then some," good grief. What an afront. But a case can be made for stopping the killing and for not having any more Jasenovac concentration camps. That was the World War II camp with a museum and a beautiful memorial that I visited with former Members Helen Bentley and Bob McEwen of Ohio, which Tudjman bulldozed months later after the Croatians overran this dreaded concentration camp, the biggest in all of that area; the only one in what was the former Yugoslavia in which hundreds of thousands of Yugoslavian Jewish people were executed, and hundreds of thousands of Serbs were executed by Nazi-style Ustasa Croatian who had gone psycho with the blood of killing.

The Republicans' practical problem is we do not have latitude to cut down Clinton's power as Commander in Chief. The case for peacekeepers is defensible, I can see that. Two arguments count above all others. The first is the moral argument. If a great power has the chance to stop horrible atrocities, it sometimes has the obligation to do so. I accept that on its face. And when my friend, the gentleman from California, TOM LANTOS, who is the last survivor of the Holocaust to serve in this Chamber, when he made that point, I understood that point.

The second is the realpolitik argument. This is a Frederick the Great term, "realpolitik." What is the real politics of this? If the United States backs out on Bosnia now, it probably means the end of the trans-Atlantic alliance as we know it. Some may want to take that chance, that it is the end of the alliance. Most do not.

Who is "most"? I find myself agreeing with the gentlewoman from Colorado [Mrs. SCHROEDER] in her 5-minute question period a few hours ago. The gentlewoman who, the day after announcing her retirement saying that she was at the top of her game, finally had me agreeing with her.

She was talking about burden sharing. She asked the Secretary of State and Secretary of Defense and they did not answer directly. She asked what is the percentage of our contribution in the intelligence gathering? They kind of equivocated. Strategic is there anyway, Mr. Perry said. The fallout of our strategic intelligence is like it is a freebie, because we are going to be collecting it anyway. Combining tactical and strategic, which is done in a tough situation like this.

Mr. Speaker, 98 percent of the intelligence comes from us. The Turks are flying some photo-recce missions. The Germans, that is their only way of helping, because out of guilt, they do not want to fire any guns in the name of their once-great, and now-great nation, so they fly photo-recce.

We control the intelligence process there. The gentlewoman asked what is the sea power in the Adriatic? She got doubletalk. It is true we have our own fleet there. They neglected to name it, the 6th Fleet. We have an Adriatic force there. The direct answer was: Mrs. SCHROEDER, 90 percent of the naval force at sea is ours, and one of the drawings on the briefing paper was a picture of a C-17. It is rescued like a Phoenix from the canceled programs. Now we are going to go with a full, robust C-17 program. There was a lot of hard management work to get over some Douglas Aircraft scandals. McDonnell Douglas now has the contract of their dreams. Boeing wants to grab them and swallow them into the world's biggest defense company. The two of them alone are in the top three, or four, and now they are going to combine into a mammoth defense company. Boeing's commercial contracts, combined with McDonnell Douglas'. A great breakthrough on C-17 Globemaster III. And this was the image of the C-17 on one of the things talking about airlift. Mrs. SCHROEDER did not get a direct answer on that.

The airlift is 95 percent ours, for pete's sake. What do the Germans have? A little Transvaal, 2-engine transport. It is all U.S. airlift. Airlift, sealift, air power, sea power, all the sorties flown. The French that I mentioned last night, for anybody who did not hear the special order last night, I have been around like an annoying conscience of Jimminy Cricket showing this picture of the French pilots to everybody. SAM JOHNSON who lived this nightmare, lived this terror being captured on the ground, enemy country, his eyes focused in on this fast.

So did DUKE CUNNINGHAM, who bailed out in combat, hit with a SAM missile into the water off of Vietnam and was rescued out of the sea as they were coming out on boats to get him.

Here is the backseater, Souvignet, Jose Souvignet, when they turned inside and I showed him the picture. I wish we had the camera capability to zoom in. Look at this stern face of the frontseater, Captain Frederique Chiffot. Frederique Chiffot, shot down while I am over there. I am at Aviano on the phone getting an intelligence briefing in the Ops room when he was shot down. Two good parachutes on American television that night.

Mr. Speaker, why is he being held up by these tough-looking Serbian fighters? Look at the young Serbian boys in the background. Like the Bosnian Moslems, like the Croatians, they all look like Americans, because there are enough Croatian-Serbians and Moslem people from that area living over here in the United States. The Moslems have blond hair and blue eyes, some of them, and the Croatians look like ever single American graduation picture we have ever seen in a lot of our high schools.

☐ 1745

The only thing they are lacking is people of African or Asian heritage. But there is the picture of the front seater from that Mirage 2000 state-of-the-art European fighter, giving a face of defiance like I am not cooperating, I am going to hang out here.

Here is another picture of the back seater, Lieutenant Souvignet, S-O-U-V-I-G-N-E-T, Jose Souvignet. There he is. Neither feet touching the ground, being held up by a very young, handsome Serb fighter and an older fighter with this beard. Here is a young American looking guy with a beautiful ski type sweater tucked into his European camouflage fatigues, American probably. His suspenders, their gun belts, their weapons of every type.

Where are these two Frenchmen? Everybody on both sides of the aisle in the Committee on National Security agreed with me. I will mention TILLIE FOWLER of Florida by name. She said, I agree with you, BOB. If this had been an American shot down with these two pilots missing, particularly, as I said, if one of them was 1 of our 14 Air Force female pilots now, if we had an American man or woman missing and they had not been jerked out of evasion like Captain Scott O'Grady, Clinton could not have made the speech Monday night.

This is only Thursday. Everybody on both sides of the aisle agreed. An American air crew missing? No peace negotiations at Dayton, OH at Wright-Patterson Air Force Base.

Do you know what SAM JOHNSON said to me, Congressman from Dallas, 7 years in Hanoi, 3½ in solitary confinement? He said, why were these two allied airmen not brought up at Dayton?

Why was not Milosevic, who flew there from Belgrade, and a lot of people think he is a war criminal. Would the ethnic cleansing have taken place without his OK from up in Belgrade, when a lot of the units were all fleshed out and the leadership was coming from the former Yugoslavian Army. He said, why were they not brought up at Dayton?

I asked the Secretary of Defense. I asked the Secretary of State. I showed him these pictures. I asked General Shali, did not the three rescue operations, was not the first rescue operation only Americans? Was not a joint French-American rescue operations, this Paris Match cover story says it all took place off the *Teddy Roosevelt*, our biggest battle carrier in that area at that time.

It says in here that two of our men were wounded on the first mission. That means Americans. Why is this kept silent? Why are they not on the cover of People magazine, Life, Time, Newsweek, U.S. News? Why are we not told about the two Americans who were wounded trying to get the Frenchmen out? Probably because we want to try again, so it is closely held, it is top secret.

Why was I not informed on my 7th year on the Intelligence Committee? What is the fate of these Frenchmen? Two days in August, 30 in September, that is 32; 31 in October, that is 53. Today is 30 days in November, 83 days missing. On day 52, Karadzic, who is an indicted war criminal by an international war tribunal in The Hague in Netherlands, says they were kidnaped from the hospital on day 52. Why were they in a hospital for 52 days? These minor leg injuries? Their wits are about them. There are no battle wounds anywhere but limping. Were they beaten to death, as the French foreign minister suspected, when he called it a grotesque statement that they were captured by Bosnian Moslems? The Moslems would have given us these two men to stay in our good graces within hours, if they had kidnaped them.

Radovan Karadzic says, they were taken maybe by rogue groups. Both Mr. Perry and Mr. Christopher used that term, "rogue groups." How we are ready to punish rogue groups if they kill Americans, but we are ready to accept a lot of casualties, they also said.

If a rogue group took them, Karadzic said it would be for ransom. Not a single ransom request has been put forward or a hostage payoff in 31 days. If these were Americans, what a different situation it would be.

I consider them our warrier brothers, French allied pilots flying out of Villa Park in Italy a few kilometers between Milan and Venice from our bases at Vicenza and Aviano. I visited all of them. Drove by Villa Park, asked Congressman LAUGHLIN of Texas, let us go to Villa Park and see the French crews. We do not have time, my escort officers said. You cannot see it all, Mr. DORNAN. We have had an amazing trip. We have been to Albania. We have been to Slovenia. We have been to Slavonia. We have been to Qatar. We have seen where the Serbians destroyed the international airport. You witnessed two secret programs. You have witnessed a supposed-to-be-secret-program of the predator unmanned aerial vehicles getting us close-in tight intelligence. It has now been in all the press. Who leaked that secret program that I thought I had as privileged information? We have been all over. The only thing you did not get to do was fly into Sarajevo like CHARLIE WILSON, on a Russian airplane, one of our retiring Democrats who served well here, helped save Afghanistan from the evil empire, which we won by a vote of one person in a secret vote in the intelligence committee. No, you have seen plenty. There will be another trip coming up.

And I told Shalikashvili, and he nodded, in confirmation, and he will help me, I said, I know one thing, God bless you, good luck. I know you are prepared to take more casualties now than 19. That is what I learned at the hearing today.

I have been saying for weeks that half of the 19 who died in Somalia, actually 30 killed over the whole year and a half in hostile fire and another 14, including shark bite, suicide, and a drowning in a pool on recreation at Mombasa, 44 died in Somalia, 30 in combat, 19 at the end. I thought that 8 or 10 would drive us out of there. I said, if you bug out of here like Vietnam, if you bug out of here like Somalia, if you turn around like the Norton Sound on Columbus Day in Haiti before we went in in force later, I said, it is the end of us as a superpower. I do not care how big our defense budget is, we are finished.

But I said, I can see you are conditioning us to take serious casualties. So all I will do is move the figure up.

Do you know what I think the benchmark is now? Desert Storm, not the 19 or the 30 in Somalia. It is the 148, with one man dying of his wounds later, 149, let us throw in the allied, the British and the French deaths, that was 99. So let us make it 248. Somewhere between 149 and 248, this Congress will go ballistic, berserk, and we will demand a pullout to the detriment of our standing in the world and to the joy of every war criminal in Burma, in East Timor, in Tibet, in China, in North Korea, in poor, crushed Communist-controlled Vietnam. In Cuba, Fidel Castro will say, I told you the United States are paper tigers. I am going to stay in office until I drop dead.

Every killer everywhere in the world will say, all you have to do is what Ho Chi Minh taught us, kill Frenchmen, kill Americans, they will both pull out. They have European Judeo-Christian standards. Kill them. It is the bloodletting that goes on in the West Bank of Israel, on both sides, killing the flower of their youth to see which one is going to cave in first.

Mr. Speaker, let me look at some of the articles here that have come out today. Memorandum to me, a seven-page fax from a lawyer named Clancey, a good friend in California. Is this not all breaking down because of the chickens, interesting word, the chicken coming home to roost. I said in committee today that the jokes are out there now. When the troops deploy, Clinton goes to England. It is not funny anymore. I said then there are the rumors around. I told this to them in private. The rumors that Shalikashvili was in the room when Clinton expressed, properly, concern about the Hamas and the secret police of Tehran and the evil Mujahidin, the Iranian Mujahidin, the bad Mujahidin, there is a good Mujahidin, just like there were good and bad Mujahidin freedom fighters in Afghanistan, there is good and bad in Iran.

In spite of all that, Clinton asked, concerned, as he should be, over casualties, what are we going to do to keep them tamped down. Then he said, do not let the Congress find out about this, try and downplay this.

We have accomplished some things. Chain of command. The top, General Joulwon, USA; Sarajevo, Air Force NATO South, Adm. Leighton Smith, several Congressmen had met with him at his headquarters in Naples. He will probably move his headquarters to Sarajevo, right next to Sniper Alley where little boys and girls and mothers have been murdered right in front of their children by both sides. In that case the Croatians get a pass because they were not in Sarajevo.

Air South, the beautiful Lion of St. Mark, the evangelist, the symbol of southern NATO, General Ryan, he has been there for years. I met with him two or three times, great commander.

Now we have a little joint endeavor, as this mission is called, Lieutenant General Walker, British general, land forces, under Admiral Smith, the United States admiral. And we let the Italians come in here, naval command south, Admiral Angelli, there is the Italian flag.

Then it comes down to the forces on the ground, gave a very difficult area along this Serbian Serb border to the Russians. The commander in Bihac, where the fighting has been going on for 600 or more years, the point of the Ottoman-Turk penetration into the heart of Europe, when they were rolled back from having burned Prague and Buda and Pest to the ground but being stopped, no, being stopped at Prague and stopped at Vienna, they were pushed back to the arrow shape that is the Bosnian part of Bosnia and Herzegovina, the tip of the Islamic spear at the heart of Europe pointing right at Paris, that is Bihac, the Bihac pocket. Not so small a pocket any longer. Who is the commander there? Major General Kievenaar, probably a Dutch general.

Then we have the multinational division at Sarajevo but down at Mostar, a beautiful city where I had lunch on the way to Majaguria on that trip of March 1991 in beautiful Mostar where they dumped a bridge, 500 years old, that stone bridge, they are going to try and rebuild it with United States and world money through the NATO cultural aspects of the U.N. headquarters in New York. This is commanded by Major General Rideau, sixth French division. There is a French command.

Back to another British command, the multinational division, this is the rapid reaction force. They do not wear U.N. paraphernalia. Michael New would not have had any problem serving in this unit. This is NATO and they wear their uniforms.

Southwest, this is in Gornji Vakuf. I thought they were going to take Gornji Vakuf, the Croatians, if we had not told them to back off after they had cleaned up the whole Krajina area, Major General Jackson, third UK division.

And then the multinational division northeast, right there in old downtown Tuzla, this is going to be one of the big ground headquarters, Major General Nash, probably one of the last of our Vietnam combat experienced men. He was probably a brandnew second lieutenant out of the academy or ROTC in Vietnam. He is the 1st Armored Division. I have seen him on television. The last of our combat trained divisional commanders. They will all be gone in 2 years or so. He is there in Tuzla.

Here is an interesting thing. I see on the news the operational commander of this operation out of the Pentagon is a top notch West Pointer named Wes Clark, was the commander of the 1st Cavalry Division when he and I were spun in kind of a trap that I detected, probably by Carville and Stephanopoulos. Listen to this story, Mr. Speaker.

On Halloween day of 1992, 25 days after the House had adjourned and Mary Matalin told me, Bush's principal fighter in his campaign, that her then boyfriend, James Carville, was chewing nails with Stephanopoulos that war heroes SAM JOHNSON, DUKE CUNNINGHAM, and DUNCAN HUNTER and this peacetime fighter pilot might cost Clinton the election. On or about the 30th or 31st of October, a gentleman calls my office, serious voice and says, I never thought it would come to this. Congressman DORNAN is the only man can handle this. Clinton tried to renounce his citizenship in Oslo, Norway and a West Point Rhodes scholar, Wesley Clark, was sent up to Oslo to talk him out of it.

My staff panicked. Congressman, we almost did not tell you. You are not going to go public with this without checking it out. Relax, I said, smells like a trap to embarrass me. Called the Pentagon to get the general officer biography of Gen. Wesley Clark. If he is the commander of the first cav, I will call him there. We get his bio within the hour.

I go to a Halloween parade for one of my grandchildren at the Mission San Juan Capistrano. I call from the principal's office. Do you have the general's bio? Yes. Is he a Rhodes scholar? It does not say anything about Rhodes scholar. Does it have Oxford on it? Oh, my God, yes, it does. He was at Oxford with Clinton.

What year does he graduate from West Point? 1966. Does not work, I said. It was a trap.

What year does he graduate from, get his Rhodes scholarship? 1968. Where does he go? Sill Artillery School, then to Vietnam. He has the Silver Star. He has the Bronze Star. He was in combat so his 2 years as a Rhodes scholar set him up for the noble cause of Vietnam.

□ 1800

I said, "OK, he left in June. Clinton was on the SS *United States* in August. I have seen the powder blue picture, blown-up, overweight, on his way as a Rhodes scholar, has already managed to put the draft board off the first time because graduate school didn't count any more, how he worked that politically through the Buick dealership, political power of his stepuncle; who knows how he did it. He arrives in August of 1968."

I said, "Get me Wes Clark on the phone." I called Fort Hood in Texas.

"He's on the golf course."

"Get me his aide-de-camp."

I get his aide-de-camp.

"Have the general call me when he comes off the golf course. Give him my daughter's home number in Capistrano."

He calls me.

"General, have you gotten any media calls that you or young Rhodes scholar, West Point graduate, that went up to Oslo to talk Clinton out of renouncing his citizenship? I think it's a trap."

"Yes, Congressman, AP has already called me, I sense it is a trap. I never met the man."

"How many other Rhodes scholars were there from Annapolis, Air Force Academy?"

He said, "Four."

He gave me their names. One of them was the skipper of the *Kitty Hawk*.

I said, "So they would have overlapped Clinton; right?"

But I questioned about other things. I said "What was it like when you left Oxford as a young Army second lieutenant on your way to train to go to Vietnam?"

Quote, Wesley Clark, three stars, operational commander of this whole operation under the Joint Chiefs of Staff, so when I see him on television, do not think I do not have some interesting feelings for Gen. Wesley Clark. I have been meaning to have lunch with him for 3 years now.

He says, "Congressman,"—now listen to this, and think of Clinton at Oxford 26 years ago: "Congressman, it was the most hate-America environment I have ever been immersed in or witnessed in my life. We academy men from the Air Force Academy, West Point, and Annapolis hung out together, studied, avoided all this hate-America madness going on, got our degrees." Clinton, no record of his ever going to classes second year. One of 3 in his class of 32 who did not get any degree, got an honorary one on the way home from Normandy memorials, could not miss that photo op, although Tony Lake and others said:

"Don't go. It will recall what you did in England and why you couldn't go to Grosvenor Square for the big ceremony with Bob Hope and all of the other people before they left for the Normandy beaches."

He told me about that hate-America climate and the other academy men that were there overlapping Clinton's first year. I will bump into one of them. The skipper of the *Kitty Hawk* is a two-star admiral now. He is over there at the Pentagon. I will bump into him someday.

But this is what makes all of this uncomfortable: Mr. Speaker, Roosevelt was 35 years of age when he was Assistant Secretary of the Navy and we went to war in World War I. He could name every single ship of the line, and after him we had a run of five naval officers, four of them back to back, George Bush the last, and we had an artillery captain named Harry, like my dad, an artillery captain in World War I named Harry, then a five-star general during all of my years of active duty, then an Army Air Corps lieutenant who was also, like Roosevelt, 35. People say, "Why wasn't John Wayne in combat?" He was 35 when the war started, with three small children.

After this a long run of military people, I think of Roger Patterson, the trooper who told me to my face that Clinton said to him once driving around at night when they were out catting around; he said, "You know, Roger, why is it that the American people accept somebody to have worn the uniform or served? I don't think that is necessary." And his dream came true.

And now all the editorials are coming out saying of all people, of all people, to be in the commander in chief's job, to be sitting in the Oval Office, of all people to be there, it is this man who deliberately leaves Vietnam out of his speeches and who is going into what

Churchill called the tinderbox of Europe, into the Sarajevo area.

Ironically our headquarters, our ground headquarters, will be in Tuzla. What is Tuzla? Tuzla is the last atrocity photographs on American television. On Friday, August 25, I met with the Japanese envoy, direct representative of Boutros Boutros-Ghali, Secretary General of the United Nations, Mr. Akashi. I have GREG LAUGHLIN and three military escorts as witnesses. I said, "Mr. Akashi, you are not qualified to pick military targets."

"Oh, I picked good targets back in April."

I said, "You mean an outhouse with some ammunition in it? You must let General Ryan and his people, we just left him, we just left Admiral Layton; they say they are ready to use severe force if there is another atrocity."

This is Friday, the 25th; the bombing, the mortaring, of Tuzla was the 28th. I said, "I will do everything I can to get you removed from this position if you set yourself up as an armchair general under the U.N. chain of command, and you're going to pick out these meaningless targets. It's been 14 months since you unleashed the first strikes here. We never had but two ships elements ever go in here. We lost a British Harrier. It's been a miracle that we got Scott O'Grady back. Don't you pick the targets."

And I will close on this, Mr. Speaker. Monday the mortars hit the marketplace in Tuzla where we are setting up our headquarters and men are arriving now. Bodies were blown in every direction, a man draped over a railing, children killed, people with their limbs, bones sticking out of their limbs. We are there, and I will close with what I told Clinton's team:

God bless you, good luck, we will be tracking the casualties, and may they be smart enough to hunker down for 11 months until we are out of there.

Clinton may posture as a winner on this case; we will beat him on domestic policy, on balancing the budget.

I will be back again next week with more special orders.

THE MINIMUM WAGE AND EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I will take 28 minutes and would like to yield the balance to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. Speaker, I think today is November 30. A continuing resolution has been passed which will take us to December 15. So, the countdown that I mentioned on Tuesday now moves forward. We have about 16 days left before the budget decision will be made. Hopefully there will not have to be another continuing resolution.

So the countdown continues, and tonight I would like to talk about two basic questions related to what is going on here as this budget process unfolds. The negotiations are taking place in various quarters, and we will expect probably next week to begin to see the outlines of some proposed negotiating positions by both the Democratic White House and the Republican-controlled Congress.

There are two basic questions I would like to ask tonight which relate directly—not so directly, but certainly indirectly, to the budget process that is going forward. One of these questions relates to the minimum-wage issue.

This morning we had a forum on the minimum wage. We called it a response to the 100 leading American economists, a congressional forum on minimum wages. One hundred and one leading American economists said more than a month ago that the American economy could not only benefit from a minimum-wage increase, but it was highly desirable, and we have not responded here adequately on Capitol Hill to that statement by the leading economists in the country.

We have a bill here, H.R. 940, sponsored by the minority leader, the gentleman from Missouri [Mr. GEPHARDT], which calls for an increase in the minimum wage in two steps; 45 cents an hour 1 year, and then a second year, another 45 cents, so a too-little 90-cent increase in the minimum wage would take place under the Gephardt bill.

The Gephardt bill has only 110 sponsors, only slightly more than the 101 economists, so there is a big question about why there is not more enthusiasm, on the one hand, among Democrats since we have 195 Democrats. I hope soon we will be joined by my good friend, Jesse Jackson, Jr., and there will be 196 Democrats, but the 195 Democrats are hesitating. Only 110 are on the minimum-wage bill; so there is a question there.

The President has endorsed the Gephardt minimum-wage bill. The President has endorsed the increase in the minimum wage to 90 cents over a 2-year period.

But there is a great opposition. First of all, there is not much enthusiasm among the whole Democratic Party, and then there is a great opposition among the Republicans, the majority Republicans refusing to even have a hearing on the minimum wage.

I am on the Committee on Economic and Educational Opportunities which has direct responsibility for the minimum-wage law. I am the ranking Democrat on the Subcommittee of Workforce Protections which has even more specific jurisdiction over the minimum-wage law, and we have not been able to get a hearing.

So we had an unofficial forum today to replace the kind of thing that would have happened at a hearing.

Why is there such great opposition? Why cannot we have at least a discussion of an increase in the minimum wage? Why does the majority leader of the Republican Party here in the House state that not only is he against any increase in the minimum wage, but he would like to see the minimum wage abolished altogether? He would like to see the law repealed. What does this have to do with balancing the budget? You know, what does it have to do with the Contract With America? The balancing of the budget will not be impacted in any significant way by an increase in the minimum wage.

You know, it is not—taxpayers do not pay workers; you know, the various enterprises where they are engaged, they pay the minimum wage. So why if there is a great concern about balancing the budget, why do we have to go off to the side and wage war against workers by saying that we will fight any increase in the minimum wage? Why? You know, it is a question that needs to be answered.

The other question I want to ask is also why do we have such tremendous cuts in the education budget? You know, I think that, you know, jobs and education are inextricably interwoven. That is why when I came to Congress I signed up for the Committee on Education and Labor, as it was called at that time, it was not the Committee on Economic and Educational Opportunities, because you cannot separate the two. Education and the ability, the capacity, of people to qualify for jobs and to stay, to keep up with this fast-moving economy and the complexities of our present highly technological world, make education absolutely necessary in order for people to be able to take advantage of jobs, and the employment question cannot be separated from the education question.

Today the Committee on Education funding has dubbed this day as Save Education Day, and they are battling to save education from $4 billion in Federal cuts, $4 billion, and the $4 billion in Federal cuts have stimulated a wave of cuts across the country at the State level and the local level.

So why is education being cut? Why are we trying to abandon the public education system?

The polls show that the American people clearly favor education as a high priority for government expenditures at every level. The polls show this. They show it this year, and as a matter of fact right now the No. 1 priority, according to the taxpayers and the voters that we serve, the No. 1 priority is education. Education is ahead of health care, and health care is a great concern; but now education is the No. 1 priority.

So why are politicians refusing to read the polls? Why is there talk about a compromise at the White House where they are not going to insist that we not accept these $4 billion in education cuts? Why was it placed on the chopping block in the first place?

After years of bipartisan support for Federal involvement in education and Federal support for education, all of a sudden education is placed on the chopping block, despite the fact that the American people say that is a priority we want to support. We want to support education.

□ 1815

So these are two basic questions. There is something happening here in this Capitol which is not related to balancing the budget. There is something else going on. In fact, balancing the budget becomes questionable when you look at these other activities.

Why is there war being waged against workers in terms of the OSHA, Occupational Safety and Health Agency? Why are we so determined to make the workplace less safe? Why is the Republican majority driving so hard to take away safeguards against accidents in the workplace? Why is there is war being declared on the Fair Labor Standards Act which determines what the hourly wages are going to be and also the conditions under which we set those wages in terms of overtime and various other provisions? Why is there an attack on that? Why is there an attack on the National Labor Relations Board? What does that have to do with balancing the budget?

Yes, it is true they have cut the budget, partially, of the National Labor Relations Board. It is such a tiny budget. The cuts clearly have nothing to do with trying to get more revenue out of the system in order to help balance the budget, the cuts are punitive. The cuts are designed to make the agency work less effectively. So the war against labor has nothing to do with balancing the budget.

There is a class war going on here, maybe; I don't know. Every time you mention class war, the Republicans on the floor get very upset. "How dare you accuse us of waging a class war?" I am not accusing the Republicans of waging a class war; it is not a war, it is a massacre. When you have a war, you have contending parties of some kind of equal strength. What we have against the working people of America is a massacre. They are using their overwhelming power against the workers in every way.

Whether you are talking about OSHA and worker safety, fair labor standards or the National Labor Relations Board activities, or you are talking about minimum wage, there is a massacre going on directed against the American working people. It is not a class war, but certainly there is great contempt being shown for working people. There is great contempt being shown for the people at the very bottom in this society.

Yes, Wall Street now, the Dow Jones industrial average I think is up above 5,000. The boom is going on and on, great amounts of money are being made, executives are being paid the highest salaries ever. Everything is great for the management class, the ruling class, the elite that controls the House at this point. Why can there not be some generosity, some sense of sharing? Why can we not give a lousy 90-cent increase in the minimum-wage law? Why can we not have a 90-cent increase over a 2-year period?

The history for this minimum wage is that since 1938 we have had about six increases, and right now the last increase took place 6 years ago. That is when we last enacted legislation increasing the minimum wage. At that time the Senate majority leader, who is the leader of his party in both the House and Senate, and right across the country, he made a statement which I will quote.

Six years ago Senator DOLE said:

> This is not an issue where we ought to be standing and holding up anybody's getting a 30 to 40 cents an hour pay increase at the same time that we are talking about capital gains. I never thought the Republican Party should stand for squeezing every last nickel from the minimum wage.

That is the end of the quote by Senator DOLE 6 years ago.

Apparently the Republican Party has changed their minds. Today it seems the Republican Party does stand for squeezing every last nickel and every last penny from the minimum wage. As I said before, the Republican majority leader of the House of Representatives has recommended that we repeal the minimum age law completely, wiping it out. We are talking about pennies, 90 cents an hour, 45 cents this year and 45 cents next year. But beyond the money and the pennies at stake here is more than money. It is the work ethic itself.

When we permit the value of the minimum wage to erode, as we have in recent years, we not only cause economic pain to working people, we do violence to the work ethic that we all profess to revere. Our words as elected officials exhort Americans to work hard, but our actions ridicule them by making work pay less and less year after year.

The value of the minimum wage is now at its second lowest level since the 1950's. It has lost nearly one-third of its value over the last decade. When Speaker GINGRICH graduated from high school in 1961, the real value of the minimum wage was $5.41. That is $1.16 cents more than it is today in value.

When Speaker GINGRICH completed higher education in 1971, the wage was worth $5.67. That is a value of $2.42 more than it is today. In 1978, the year Mr. GINGRICH was first elected to Congress, the wage was worth $6 an hour, fully $1.75 cents or more than 41 percent more than it is worth today.

We had some people testify who bring home this whole matter of how important this 90 cents per hour is. We had a gentleman who I would call a noble American worker, the best that we can offer, who testified today. I am proud to cite Mr. Donald Knight of Elizabeth, PA, who had to endure quite a bit of hardship to get to our hearing, our forum today.

I am going to read Mr. Knight's testimony in its entirety because I think it drives home the fact that we are not talking about something which is paltry. It may seem that 90 cents an hour does not mean much to a lot of people, but for the people out there making minimum wage, it means a great deal.

Mr. Donald Knight, I quote:

> My name is Donald Knight. I am 61 years old. I live in Elizabeth, PA. My wife Barbara and I have raised three sons. Life in my area was good for as long as I can remember: Good jobs, and friendly communities. When your kids grew up, they got good jobs and you could depend on them in your old age. All of that changed in the 1980's. All of the good jobs in the steel mills and other manufacturing industries disappeared when the companies closed. For years there were almost no jobs, especially for someone like me in their fifties.
>
> Now there are jobs, but they don't pay much and there are few benefits. We had an economic recovery, but it was a minimum wage recovery for us. Our kids, the ones that didn't leave the area for jobs somewhere else, they can hardly take care of their own families.
>
> I started working in 1952 at a glass factory. In 1966 they closed down, and I went to work in a steel mill. From then until the 1980's I worked for U.S. Steel. We had layoffs and it wasn't always easy to support my family, but the mills always called us back to work. In 1982, U.S. Steel laid me off from the national tube mill, and when they closed that place in 1984 I knew things were going to be different. My unemployment checks ran out in 1984 and my wife and I were forced to swallow our pride and take welfare.
>
> I cashed in my pension in 1987 to help us survive but that money went to bills and we were back on welfare soon after.
>
> My wife and I took any jobs we could get. Some were under the table and all were temporary. We cleaned houses, got paid to walk other people's picket lines.
>
> Then in 1990 I finally got a permanent job. It was for Allied Security as a guard. I worked many different places, guarding other people's property. I even guarded a slag dump where they put the waste from steelmaking though I never understood why someone would want to steal the slag.
>
> The only problem then was that I never made more than $5.00 an hour and have had no health insurance for myself or my family. I have no pension and last made $4.80 an hour for Allied Security after 5 years with the company.
>
> My wife and I had bought a house and had it paid for by the time I lost my first good job. But over the last 10 years I haven't been able to take care of it. The water main broke and the water has been shut off for 3 years. The thermostat broke and we have had to use a kerosene heater for 2 years. Now my house has been condemned and all of the housing projects where we have tried to get into have waiting lists for at least a year.
>
> My eyesight and hearing are getting bad and my wife has back problems but we can't afford to go to a doctor. They tell me I got

> clinically depressed when all the good jobs left my area but I never could find any place to go get help. When we absolutely have to, we go to the emergency room and somehow try to make payments on the bills. My wife and I were shocked to hear the Republicans here in Congress say that we don't need national health insurance because the current system is working fine. They say "let the private sector run things" but I can't find out who that is to go get the help I need. We guess they just don't know what it is like out where we live.
>
> So working at about the minimum wage allowed us to survive, always falling further behind in our taxes and bills, but able to eat and buy kerosene. If a person makes a lot of money, the increase in the minimum wage proposed by President Clinton of 90 cents an hour might not seem like a lot. But to my family the additional couple thousand dollars a year would make a big difference. I probably couldn't pay all my debts but I would not be falling further behind all the time.
>
> Just one final thing. Last week, just before Thanksgiving, I got fired from my job. After making my rounds I was sitting in my shanty and put my feet up on the table. Someone turned me in and said I must have been sleeping and the company fired me. I hope the Mon Valley Unemployed Committee can help me get unemployment checks and they told us about food stamps and medical assistance so I guess we will survive.
>
> I only hope I can hang on until July next year when I can get Social Security. That and another minimum wage job will be the best standard of living Barb and I have had in more than 10 years. Lots of people, friends and family have helped us over these tough years but I always took pride in taking care of my family. A higher minimum wage would help me help myself.

That is the testimony of Mr. Donald Knight of Elizabeth, PA at our forum on minimum wage this morning.

There were other people who testified; a Mrs. Wong, a Mandarin garment worker from New York. Mrs. Wong spoke in Chinese and had to have an interpreter. Mrs. Wong told us that she would be happy to work for the present minimum wage, but the present minimum wage law is not being enforced in Chinatown in New York, so people are being forced to work below the minimum wage. She would like just to have greater enforcement of the minimum wage.

Why are we opposing a 90-cent increase in the minimum wage, which would help these very poor people who are trying to help themselves?

I think perhaps most of the Members of Congress have lost contact with what real working people are all about and with what poverty is all about. They do not understand that an increase of 90 cents can make a great deal of difference. On the other hand, we are closing off the opportunity for the people who are forced to work at minimum wage to move beyond the level where they have to work at minimum wage. The only road out for people who are on poverty, in poverty now, is education. So I ask the second question.

In addition to us having a situation where the Republican majority opposes, adamantly opposes, an increase in the minimum wage, that same Republican majority is calling for great, deep cuts in education. Why are we cutting education when the American people have clearly said, "We don't want education cut, we would like an increase instead"?

Recently 71 percent of those polled say that President Clinton should reject a budget if it makes major cuts in Federal support for public education. Seventy-two percent said he should not accept any budget that cuts the student loan program and makes it harder for the middle class to afford college. This is reported by Peter D. Hart Associates, November 15, 1995.

> Americans ranked education as the top legislative priority for Congress, 39 percent did, and improving education as the most important goal for the Federal budget, 35 percent. Lowering taxes and balancing the budget ranked last in the six choices.

This is an NBC News-Wall Street Journal poll taken September 16 and 19 of 1995. Ninety-two percent of all Americans believe that the Federal Government should spend the same or more on education, and 68 percent of those polled believe that the Government should spend more than current levels. Only 8 percent answered that the Government should spend less money on education. This was an NBC News and Wall Street Journal poll, again of January, 1995. Seventy-eight percent of Americans polled opposed cuts to Federal aid in education as a means of reducing the budget deficit. This is a New York Times poll and CBS News poll that was taken in December 1994.

Every time you take the polls and ask the question, education comes up clearly as a high priority. Why is the Republican majority insisting on cutting education so drastically? Where in the Contract With America is there a promise, a commitment to cut education?

There is something happening here which has nothing to do with balancing the budget. There is something happening here that has nothing to do with economics. There is something vicious happening here that needs to be looked at more closely. I enjoy watching the animal movies, the nature movies. I do not have any children, so I do not have an excuse for watching them. I will have to confess, I like to watch them myself.

There is a particular animal movie about the competition between lions and hyenas, and maybe some of you have seen it, because it has been shown over and over again, a lot of reruns, and it is fascinating because what it says is that in the jungle, in the jungle, in nature, animals sometimes behave as irrationally as human beings.

We always thought, I was always raised to believe that the animal kingdom is pure. They only kill for food, when they need food. They do not get into revenge and hatred. But the competition between the hyena and the lion, the hyenas and the lions, it demonstrated that there was something else at work, something else was happening other than the battle for survival, other than the desire to survive from day to day, and the competition for food. They were not necessarily in competition for food. They fought each other like human beings fight each other in Yugoslavia and Rwanda. There is a kind of hatred there which makes them almost human, unfortunately.

The hyenas taunted the lions, and one hyena is murdered by a lion because he gets caught while he is taunting the lions, not trying to get food. The hyenas find a lioness out by herself and they murder her, not to eat her, but they murder her because they want revenge. There is an evil at work there. There is something that has not been figured out by the naturalists and the people who study animals in biology. There is something at work here in Washington that we have not quite put our hands on also. It has nothing to do with saving money. It has nothing to do with streamlining the budget. It is something else. There is a contempt, a hatred for working people, a desire to wipe out a segment of the population.

A lot of the budget cuts are not designed to save money, they are designed to destroy programs. They are not designed to reform, they are designed to wreck. There is a mentality that the elite minority deserves to have an America that belongs just to that elite minority. Otherwise, how do you justify the intense opposition against an increase in the minimum wage? How do you justify the Republican majority fighting a 90-cent increase in the minimum wage?

□ 1830

How do you justify the Republican majority waging war on education programs, cutting education when our future is clearly wrapped up in our educational advances and the possibility that we will be able to survive in the future will depend on the degree of education that we have? That is pretty much understood. National security is very much interwoven with our ability to educate the population and to stay ahead of the tremendous unfolding of more and more complex knowledge all the time.

Mr. Speaker, we need to have the best educated, the most educated population possible. The rhetoric clearly understands this. Speeches that have been made by Republican presidents, started by Ronald Reagan and then continued by George Bush, have always said that America is at risk, that we are a nation at risk if we do not provide proper education, and yet the Republican majority has undertaken budget cuts that are devastating. If enacted, this will be the largest setback in education in our history. They will be cut by 17 percent, while overall spending is only being cut by 4 percent.

We need to come to grips with why is this being done by the Republican majority. The proposal would deny millions of America's children, youths and adults precious opportunities for education. They would slash funding for basic and advanced skills.

The bills would deny access to college by eliminating student aid Pell grants for 280,000 students. The budget bill would jeopardize the education of children with disabilities by shifting some $1 billion in Medicaid costs for health-related services for more than 1 million children with disabilities to the States.

The legislation would eliminate help for safe and drug-free schools, eliminate most of the program that exists throughout the school system all over the Nation. The legislation would halt progress on school reform and innovation. The cuts would deny access to Head Start for 180,000 children in the year 2002, compared to the present 1995 enrollment in Head Start.

These are devastating cuts, the combination of the two. Why do we have the assault on the minimum wage, the assault on workers in every way, minimum wage, safety, Fair Labor Standards Act? Why do we have these cuts in education which would allow the poor to help themselves, allow the poor to get into the mainstream and be able to become part of the great middle class?

America has built a middle class over the years through education, something called the GI bill of rights which helped hundreds of thousands all in one program. Then we had aid to higher education that existed long before we had aid to any other form of education.

Mr. Speaker, I am going to close at this point and yield to my colleague, but the question here I want to end with is, what is it at work here in Washington that goes beyond a concern with balancing the budget? What is at work here that goes beyond a desire to streamline government?

There is a desire by an elite minority to wipe out a certain segment of the population. A massacre has been organized against the defenseless people at the lowest rungs in our society, and that has to be examined closely if we are to understand where we are going in the next 16 days.

In the next 16 days, the people out there who have let it be known through the polls that they support education, in the next 16 days the people out there who have overwhelmingly supported an increase in the minimum wage, they have to let it be known that they are watching; and their common sense should prevail over the kind of strange behavior that is predominant here among the Republican majority who control the House of Representatives.

THE 7-YEAR BALANCED BUDGET IS A CHARADE

The SPEAKER pro tempore (Mr. WHITE). Under the Speaker's announced policy of May 12, 1995, the Chair recognizes the gentleman from Hawaii [Mr. ABERCROMBIE] for 33 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for yielding to me.

The point that the gentleman was making and has been making so clearly about the minimum wage and the necessity for having a living wage in order to be able to sustain one's self in today's world is more than amply demonstrated if we consider the budget negotiations now underway.

Mr. Speaker, this is not the first time that I have appeared on the floor on this subject, but obviously you and other colleagues and other citizens, friends tuning in to our proceedings, may not have heard everything it is that is at stake. You see and hear the headlines about balancing the budget, but Mr. Speaker, I am here to tell you today, and I am not the only one, that that is not what is taking place.

The budget is not being balanced. I feel very, very strongly that every time the national media in particular, whether linear or in newspapers or electronic with radio and television, report the balanced budget negotiations going on, they are doing a disservice. I do not want to say it is a question of lazy journalism. It may simply be the fact that not sufficient homework is being done or that we have moved into a situation in which news is reported simply on the basis of what is said by one side and another on an action-reaction basis, and then no one bothers to research any more as to whether anything anybody says is true or not.

Mr. Speaker, let me put forward to you the simple proposition that I am contending is the actual situation with the nonbalancing of the budget. I do not know if we want to call it a truth-in-budgeting proposition, but we most certainly do not have a balanced budget. Very simply, very plainly, I want to state, and so far there has been no repudiation of this whatsoever by anyone in the majority, that there is in fact no balanced budget, that the budget that is printed has been available to us right straight through from the beginning from the majority, does not contain a balancing by the year 2002.

I can understand why the Speaker of the House said that he arrived, or is reported to have said that he arrived at the 7-year number by intuition. I can understand that, because it is all guesswork. The No. 7, the 7 years, 2002, is something that was picked out of the air because they were able to balance the budget on paper, but on paper only. It is a charade. It is an illusion.

What is happening, Mr. Speaker, is as follows: Every year, including this year, there is going to be a deficit, and the deficit will be here this year to the tune of some $245 billion; and the deficit in the year 2002 will be in the neighborhood of $105 to $108 billion, all assuming that there are no bumps in the economic road. In order to mask, in order to mask those deficits put forward by the Republican majority, put forward by the Speaker of the House, they are going to take from the Social Security trust fund billions upon billions upon billions of dollars, starting in the neighborhood of $63 billion this year and billions upon billions every year thereafter, up until the year 2002, in which they will take approximately $115 billion.

So you see, Mr. Speaker, that if the deficit in the year 2002 is approximately $105 billion and you borrow $115 billion, you can claim on paper that you have a $10 billion surplus.

So I am stating yet once again today—and I hope the proposition will attract some interest at some point—that the negotiations now going on between the White House and the Republican majority are not geared toward balancing the budget. No one who examines this budget can come to that conclusion.

Now it is going to be said that it is balanced, but it is not. Because on the day that the budget is supposed to be balanced, we will need an explanation from Mr. GINGRICH as to how we are to pay the approximately $636 billion that has been taken from the Social Security Trust Fund, plus interest.

My calculations and those of Senator HOLLINGS and Senator DORGAN in the other body indicate that that will probably be in the neighborhood of $1 trillion owed to the Social Security trust fund by the people who say they are balancing the budget.

Now I have been a single voice so far, at least on the floor of this House, trying to bring out what the truth of all of these budget negotiation shams are all about. But I can assure you I am not the only one and will not be the only one by the time this process is over. I am going to continue to speak out; I am going to continue to bring to this floor the quotations from columns and observations by others who are beginning to catch on to what this is all about.

Does anybody out there, do any of our colleagues really believe that if it was possible to balance the budget in 7 years that it would not have been done already? In time to come I will show how this kind of proposition has been put forward before. President Reagan said he was going to do it. President Bush said he was going to do it. President Clinton indicated he would certainly like to do it.

President Reagan was unable to balance the budget. He put forward a plan on paper; never worked out. President Bush said he wanted to do it. Put forward a plan on paper, never worked out. President Clinton has been unable to do it.

President Clinton, to give him credit, as a result of his first budget proposition, has been able to bring down both the rate of the deficit as well as the deficit itself, since his first budget came to the Congress and since we passed it in 1993. But the plain fact is that bringing down the deficit, either in absolute numbers or the rate of the deficit, is not the same thing as balancing the budget.

Now, everybody in the country, when they are told by the Speaker of the House that we are to use honest numbers in balancing the budget in 7 years, expects that that will be a reflection of the budgets that they understand.

Mr. Speaker, in your home and my home I think we know what we mean by balancing our budget at the end of the month or at the end of the year. We have so much revenue come in; we have so much revenue go out. And if those books balance at the end of the year, we say we have balanced our budget.

But you do not balance your budget, Mr. Speaker, I am certain that you do not balance your budget in your household any more than I do in mine, by telling your spouse that you have balanced the budget, your family has balanced your budget for the year by stealing your mother's and father's Social Security.

I am going to emphasize that. Maybe stealing is a bit of a harsh word, because it is only being borrowed, but some people might call it stealing if they did not know that it was being borrowed; and I do not think the average American taxpayer knows that that is what is happening.

I am frankly surprised, Mr. Speaker, that the American Association of Retired Persons has not gotten on this, the AARP. The various committees to protect Social Security seem to be silent.

I notice that the Consumers Union and some of the tax groups, tax justice groups have been very vocal with respect to Medicare and Medicaid cuts and expenditures, but in this area of actually balancing the budget, they have all been strangely silent. I wonder about those among our colleagues and across the Nation who are paying dues to these organizations. I wonder whether they might begin to inquire of the leadership of some of these organizations that say they are trying to protect Social Security and provide tax justice, some of these people that supposedly analyze what is going on in government, Common Cause.

There is a whole range of organizations out there that seem to be silent on this. Why is it that they have not come forward to indicate that we are not balancing this budget, unless someone has put forward a proposal that I am unaware of that indicates how we will pay more than $1 trillion that will be owed in the year 2002 to the Social Security trust fund in order to make up for the money that, on paper, is supposedly balancing the budget?

□ 1845

Just bringing down the deficit does not balance the budget. And robbing—there I go again—I suppose I should not use that word—borrowing is perhaps the more appropriate term as far as accountants are concerned. But I can assure you as far as the average taxpayer is concerned, he or she is going to feel a little bit upset about the idea of taking their Social Security trust fund dollars and putting that money toward so-called balancing the budget.

I have here in front of me the National Journal's Congress Daily from Wednesday, yesterday, November 29. Budget negotiators must close a $730 billion gap.

And I read through this learned publication. It is depended upon by you Mr. Speaker, and I, I think, as a source, a reference point, depended upon by other members of the public as being reliable.

It says here the Democratic and Republican budget negotiators began meeting Tuesday night, face the daunting task of trying in a few weeks to bridge the differences totaling at least $730 billion in entitlement savings, discretionary spending levels and tax cuts if they are to agree on a 7-year balanced budget path this year.

Mr. Speaker, this is not the first time that you have heard that phrase, the glide path to a balanced budget. It keeps coming up. But I notice the more time I spend on this floor talking about the fact that there will not be a balanced budget, there is no glide path, except to budget oblivion in 7 years, the greater the silence that accompanies it.

I have invited over and over again the Speaker to come down and refute what I am saying, but I understand he is probably over at the White House or in touch with those people who are at the White House doing the negotiating on this illusory, phony, 7-year nonbalanced budget. Now I do not think they are going to be able to fool Senator DORGAN with it.

I will at some point in the near future be reading into the record some of the points that Senator DORGAN has made, a Democratic Senator from North Dakota who is on top of this and understands it as well as Senator HOLLINGS. But the fact is, is that Senate Budget Chairman DOMENICI says, "We're making progress. We will meet every day this week including Saturday. This is a serious effort."

If it is a serious effort, I would like the good Senator to indicate whether or not they are negotiating how much money they are going to take out of Social Security to mask the budget deficits that they in fact have in this budget and have in the next budget and the budget after that all the way up to the year 2002.

Has anybody come forward to explain what happens in 2003? Do we suddenly disappear? Is there some Biblical implication from this that I am unaware of? Is there something in the book of Revelation that says that the world as we know it and particularly the budget of the United States ends in the year 2002 and somehow we will not have to pay that $1 trillion in principal and interest that we have taken from Social Security?

Now, if it is indeed a surplus, and so we can borrow from it and keep it, as the budget wizards say, off-budget, now think about that, Mr. Speaker. How many of us in our lives when we talk about a balanced budget to our families are able to say, Oh, by the way, that credit card payment? Well, that's off-budget. We're not counting that, because that credit card came in the mail. I didn't really solicit that, so even though I've spent money, even though I've used that card, in this instance the Social Security trust fund card, I'm not going to count it. That's just a surplus.

Well, if it is a surplus, why do we not give it back? If it is a surplus that is not needed to pay Social Security to those who are eligible for it, then why do we not give it back? Why does a bill not come forward tomorrow from the Speaker's office saying, We're going to give that surplus back. We don't need it?

I will tell you why. Because we want to give a tax cut. I hear everybody saying they want a tax cut on the Republican majority side. They want a tax cut. Well, let us give a tax cut to those people who really need it, the people who pay into the Social Security trust fund. We have increased taxes before on Social Security. Why? to make it solvent. We did that in the early 1980's as a result of the Greenspan Commission report which said unless we increased the amount of taxes that we pay out of our paychecks every week to Social Security, we would not have that trust fund, the trust fund would not be sound, it would flounder. We would be unable to make our obligations to Social Security recipients.

And so we raised the taxes on ourselves. Take a look. It is called FICA on your paycheck every week. Just take a look down, when you get all of the deductions, your State taxes, your Federal taxes and all the other deductions that you have, FICA. That is your Social Security tax.

Well, if there is a surplus in there, why not give that back? There is your middle-class tax cut, I submit to you, Mr. Speaker. There is your middle-class tax cut. Cut that Social Security tax.

Well, this is not original with me. Senator MOYNIHAN and others previously have indicated, "Well, look, if you indeed have this surplus, let's give the money back."

Well, the hue and cry that went up when Senator MOYNIHAN first broached the subject was something to behold. No one wanted to give it back because no one believes for an instant that there is in fact a surplus there that we will not need to call upon.

So what we have is a situation in which a supposed surplus is available for the picking. And so if you want the illusion of having a balanced budget, why not go to the Social Security fund, take the money, promise at some vague time in the future to pay it back with no plan as to how that is to occur, and then be able to claim to the voting public that you have a balanced budget?

There is the real tax cut. No, what do we propose? What does the Republican majority propose instead? No, let us have a tax break for the wealthiest people, and let us take away the tax incentives that we have at the very bottom, the so-called earned income tax. If your wages are below a certain level for a working family, your taxes are cut in order to give you more money to spend to increase your prosperity.

No, we take billions from them, at the bottom, and give it to those at the top, when the real tax cut if we wanted to do that would be to give back the Social Security surplus.

But if you gave back the Social Security surplus, then you could not borrow from it, could you, to try and fool people into thinking you have balanced the budget.

And so the policy hurdle, it says in the Congress Daily, negotiators have to scale after they finish process issues is evident in six big ticket items.

Tax cuts, which I just mentioned, and savings from Medicare, Medicaid, welfare reform, agriculture, and reform of the aforementioned earned income tax credit.

Now, do you think that you are really saving money if you cut Medicare, if you cut Medicaid? And the welfare reform does not include that which is already available to those who can go to work in terms of child care, in terms of health insurance, in terms of education credits? Of course not. These are no savings. This is going to be tremendous pain inflicted on people. And for what? In order to achieve the illusion of a balanced budget when no balanced budget exists.

How is it possible for us to raid Social Security on the one hand, and at the same time make a claim that taking money from Medicare and Medicaid, those people least able to help themselves, is in fact a step forward toward the balancing of that budget?

Some of my good friends, my Republican friends have indicated, well, if what you say is true, and one or two of them even indicated they would do a little homework on it, and I am pleased that they have that kind of attitude, that they are always willing to learn as I hope I am.

They have indicated that if it is in fact the case that we are going into Social Security, into the trust fund, and that that could be construed as a breach of good faith, if you will, with the public in terms of actually balancing the budget, if that is the goal, then they indicate, "Well, we'll have to make even deeper cuts."

And I said, well, maybe that's your solution. I'm not sure how much more pain you want to inflict on people than that which would already occur if we adopted the proposals that are forthcoming right now.

But I can assure you in order to do that, you are going to have to come up with some $636 billion in addition just to make that number come out in 7 years.

That may be the proposal. The sentiment was expressed to me by freshman members of the Republican majority, and inasmuch as at least a reputation of some sort has grown in the media that freshman representatives in the republican majority are trying to work together, perhaps they can figure out a way to add an extra $636 billion to at least attempt to bring the budget into balance in 7 years.

How they are going to do that without inflicting the pain that I have mentioned, I have no idea. That is not my problem. After all, I am not in the majority right now. that may change by 1996. I can assure you, Mr. Speaker, if and when the public makes a determination that when you tell them you are going to balance the budget and take their Social Security money instead, that they are sorely afflicted by that notion.

Now, I have had discussions with a great many people in their thirties and forties and those in their fifties as well, but particularly the younger voter, that they fear they will not have their Social Security available to them when they get into their sixties, 62, 65, or whatever number we set as being the number at which you would be eligible to collect Social Security, if we change it.

Now, think about it. if you are in your thirties out there, and you are working hard, you are in your forties and you are beginning to think about, gee, maybe I have had a career and I am going to be moving down the road towards a pension and I am counting on my Social Security. How many of those people, Mr. Speaker, do you believe would like it that their Social Security trust fund is going to be raided over the next 7 years in order to accomplish the illusion of a balanced budget?

So I say to those of my colleagues here, some of whom have made it quite clear that they do not intend to make Congress their career, although as I understand if the Constitution is still operative, none of us can make it a career past 2 years, every 2 years we have to renew our license or the people renew a license for us in order to sit here, none of us have a right to be here except by leave of our constituents. And those constituents may take offense if they believe that we have abused the privilege of our office by saying to them that we have balanced the budget in 7 years and taken their Social Security funds in the process. I think some questions are going to start to come up for people when they have to answer those questions.

Senator GRAMM of Texas, from the other body has said, I am quoting again from the National Journal. He is concerned the way it is going to be breached—he is talking about the balanced budget in 7 years—concerned the way it is going to be breached is by assuming away the problems by changing the economics so negotiators have to cut less to get to balance.

□ 1900

That very well may be. Maybe Senator GRAMM knows more than some of the other negotiators over there. I wish he would be a little more specific about it.

The National Journal seems to say that, seems to feel that the GOP, and I am quoting again, the GOP reconciliation bill over 7 years calls for the savings, again, of $270 billion in Medicare, $163 billion in Medicaid, $75 billion from welfare reform, $32 billion from the working poor and the earned income tax credit, $13 billion from agriculture, plus the $245 billion in tax cuts.

We keep seeing those numbers. Why did we not see in all of these reports that come out the $636 billion in Social Security that is being taken?

Mr. Speaker, I think that if our good friends in some of the organizations that I mentioned previously would examine the issue, they would find that what I am talking about is, in fact, taking place.

Now, it may be said that in the past, and going back as far as Mr. Truman's administation, let us go back to World War II, and I have the figures here in front of me, courtesy of Senator HOLLINGS, it may be said that as far back as in 1945 and 1948, the last said that as far back as in 1945 and 1948, the last year of Mr. Truman's administration before his election in 1948 over Mr. Dewey, that they actually ran a surplus, and I may say to you that in 1948 the U.S. budget outlays in billions of dollars was $29.8 billion, $3 billion of which came from trust funds. The real deficit was nonexistent. We had a $5.1 billion surplus in that year, and the gross Federal debt, as opposed to the deficit, for that year, the debt that we owed was some $252 billion. Now, do not forget we had just concluded World War II.

Obviously, the investment that had to be made by this country in advancing the cause of World War II was such that our debt, our national debt, was $252 billion. We were on our way toward moving on that debt, reducing the deficit by not only balancing the budget but by actually producing a surplus of $5 billion.

By the time we got to the end of President Bush's time in office, by the time in 1992 we finished that particular year, the budget for the year in terms of outlays had risen to $1,381,000,000,000. Trust funds we were into to the tune of $113 billion. The real deficit was $403 billion, and our gross Federal debt had moved to $4 trillion. The interest alone, Mr. Speaker, at that point had come to $292 billion.

I submit that we are not making any changes in that except for the budget that President Clinton put forward. Whatever fault President Clinton may be assigned by the Republican majority, they can not deny, or rather should not deny, obviously they can if they wish, but it would be a political statement as opposed to a statement which is borne out by the facts, the fact is that the budget deficit and the rate of the deficit has gone down under President Clinton. We can have arguments about that, whether that is a good thing or a bad thing in terms of the overall prosperity of the Nation.

On the whole, there seems to be agreement that it has been a good thing. The economy as a whole has prospered, if this has not been shared, as my good friend, the gentleman from New York [Mr. OWENS], has indicated in remarks just previous to my own, but that remains another issue to be resolved.

The facts are that in terms of the deficit, in terms of the rate and the absolute numbers of the deficit, President Clinton has succeeded to this point.

So now comes Mr. GINGRICH with his contract, saying the budget will be balanced and picking this number. Now, it may be fair. And, Mr. Speaker, at this juncture to indicate that in future discussions, hopefully with other Members who feel as I do, that I will be indicating to you how it might be, how a genuine deficit reduction, debt reduction and balancing of the budget can take place.

There are no magic formulas involved. There is no sleight of hand, no legerdemain, no David Copperfield illusions to it. It is a tough, hard road to go, and it is lengthy. It will take discipline of many Congresses, not just whatever time the good people of this country might give to you or to me, Mr. Speaker, to be here. It involves separating capital expenditures from operating expenditures, just the way you do in your own family, just the way we do and did and do now in the city council in Honolulu on which I served, just the way we did and do now in the State legislature in the State of Hawaii, and I am sure you do in your area, Mr. Speaker.

I guess my timing was pretty good then as I got to my conclusion about what is to be done. We will be bringing forward that proposition, Mr. Speaker, about the sensible way to solve the problem of long-term debt, of balancing the budget with using true and honest figures and not raiding or embezzling money, as the late Senator John Heinz put it, money from the Social Security trust fund.

With that, Mr. Speaker, it remains only to say this: that if we are going to use honest numbers and we truly want to balance the budget, let us do it forthrightly, let us do it honestly, let us not try and fool the American people. Let us see to it that we are able to bring forward a budget that we can stand here and say with veracity to the American people: We have truly acted in your interest.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. HOSTETTLER (at the request of Mr. ARMEY), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. PALLONE, for 60 minutes, today.

Ms. MCKINNEY, for 60 minutes, today.

Mr. OWENS, for 60 minutes, today.

Mr. ABERCROMBIE, for 60 minutes, today.

Mr. BARRETT of Wisconsin, for 60 minutes, today.

(The following Member (at the request of Mr. TIAHRT) to revise and extend his remarks and include extraneous material:)

Mr. DIAZ-BALART, for 5 minutes each day on December 5 and December 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TIAHRT) and to include extraneous matter:)

Mr. MARTINI, in three instances.
Mr. YOUNG of Alaska.
Mr. ISTOOK.
Mr. SPENCE.
Mr. BARTON of Texas.
Mr. CUNNINGHAM.
Mr. HUTCHINSON.
Mr. BEREUTER.
Mr. HUNTER.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. BERMAN.
Mr. TEJEDA.
Mr. BARRETT of Wisconsin.
Mr. HAMILTON.
Mr. FOGLIETTA.
Mrs. COLLINS of Illinois.
Ms. DELAURO.
Mr. POSHARD.
Ms. FURSE.
Mr. SERRANO.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. CONYERS.
Mr. LEVIN.
Mr. FIELDS of Texas.
Mr. PACKARD.
Mr. RICHARDSON.
Mr. PORTER.
Mr. MFUME.
Mr. ROEMER.
Mr. FARR.
Mr. SMITH of Michigan.
Ms. PELOSI.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1341. An act to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes; to the Committee on Resources and the Committee on Banking and Financial Services.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes; and

H.R. 2525. An act to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

ADJOURNMENT

Mr. ABERCROMBIE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes p.m.), under its previous order, the House adjourned until Monday, December 4, 1995, at 12 noon.

OFFICE OF COMPLIANCE NOTICE

Notices of Proposed Rulemaking: For the text of the Notices of Proposed Rulemaking regarding the extension of the rights and protections of various federal statutes made applicable by the Congressional Accountability Act of 1995, see page S17603–17664 of the RECORD dated November 28, 1995. The 30-day period for public comment on these proposed regulations ends December 28, 1995.

For the text of the Notice of Proposed Rulemaking regarding the procedural rules of the Office of Compliance, see pages S17012–17019 of the RECORD dated November 14, 1995. The 30-day period for public comment on these proposed rules ends December 14, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1726. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation entitled "Rural Performance Partnership Initiative Act of 1995"; to the Committee on Agriculture.

1727. A letter from the Assistant Secretary (Legislative Affairs and Public Liaison), Department of the Treasury, transmitting notification of a 1-week extension for the monthly report thats to be made pursuant to the Mexican Debt Disclosure Act of 1995, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

1728. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the first annual report of compliance by FDIC-supervised institutions, pursuant to Public Law 103–325, section 529(a) (108 Stat. 2266); to the Committee on Banking and Financial Services.

1729. A letter from the Deputy and Acting CEO, Resolution Trust Corporation, transmitting the corporation's semiannual comprehensive litigation report and the corporations semiannual progress report on professional conduct investigations, pursuant to Public Law 103–204, section 3(a) (107 Stat. 2374); to the Committee on Banking and Financial Services.

1730. A letter from the Secretary of Education, transmitting final regulations—student assistance general provisions regulations—Equity in Athletics Disclosure Act [EADA], pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1731. A letter from the Secretary of Commerce, transmitting notification that the Department intends to expand foreign policy export controls on specifically designed implements of torture, pursuant to 50 U.S.C. app. 2405(f); to the Committee on International Relations.

1732. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 96–17), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1733. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 1103, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Reform and Oversight.

1734. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 2394, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Reform and Oversight.

1735. A letter from the Comptroller General, General Accounting Office, transmitting the list of all report issued or released in October 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

1736. A letter from the Chairman, Federal Maritime Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1737. A letter from the Chairman, Federal Reserve System, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1738. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by H.R. 1905 and H.R. 2002, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Reform and Oversight.

1739. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by H.R. 2020 and H.R. 2492, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Reform and Oversight.

1740. A letter from the Staff Director, U.S. Commission on Civil Rights, transmitting the Commission's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1741. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1995, through September 30, 1995, pursuant to 2 U.S.C. 104a (H. Doc. No. 104–139); to the Committee on House Oversight and ordered to be printed.

1742. A letter from the Secretary of Transportation, transmitting the 13th annual report of accomplishments under the Airport Improvement Program for the fiscal year 1994, pursuant to 49 U.S.C. app. 2203 (b)(2), to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 826. A bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas; with an amendment (Rept. 104–371). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R.308. A bill to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the Beaver County Corporation for Economic Development to provide a site for economic development (Rept. 104–372). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. H.R. 632. A bill to enhance fairness in compensating owners of patents used by the United States (Rept. 104–373). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOORHEAD: Committee on the Judiciary. H.R. 1295. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks; with an amendment (Rept. 104–374). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 287. Resolution providing for consideration of the bill (H.R. 1350) to amend the Merchant Marine Act, 1936 to revitalize the U.S.-flag merchant marine, and for other purposes (Rept. 104–375). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROYCE:

H.R. 2692. A bill to amend the Internal Revenue Code of 1986 to provide for deductible contributions to medical finance accounts and to reform the earned income credit; to the Committee on Ways and Means.

By Mr. COOLEY:

H.R. 2693. A bill to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. FLANAGAN, Mr. LEVIN, Mr. MCINNIS, and Mr. SALMON):

H.R. 2694. A bill to provide that it shall be a Federal crime to misappropriate a person's name in connection with lobbying; to the Committee on the Judiciary.

By Mr. KLINK:

H.R. 2695. A bill to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania; to the Committee on Commerce.

By Mr. MINGE:

H.R. 2696. A bill to extend and revise the agricultural price support programs for rice, upland cotton, feed grains, wheat, and oilseeds, and for other purposes; to the Committee on Agriculture.

By Mr. PAYNE of New Jersey (for himself, Mr. HOUGHTON, Mr. RANGEL, Mr. PORTER, Mr. LANTOS, Mr. MFUME, Mr. FRAZER, Ms. MCKINNEY, Mr. ACKERMAN, Mr. ENGEL, Mr. JOHNSTON of Florida, Mr. SMITH of New Jersey, Ms. PELOSI, Mr. WYNN, Mr. CHABOT, Ms. WATERS, and Mr. SALMON):

H.R. 2697. A bill to impose sanctions against Nigeria, and for other purposes; to the Committee on International Relations, and in addition to the Committees on the Judiciary, Banking and Financial Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 2698. A bill to require States that receive funds under the Elementary and Secondary Education Act of 1965 to enact a law that requires the expulsion of students who are convicted of a crime of violence; to the Committee on Economic and Educational Opportunities.

By Mr. STOKES:

H.R. 2699. A bill to require the consideration of certain criteria in decisions to relocate professional sports teams, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TEJEDA:

H.R. 2700. A bill to designate the U.S. post office building located at 7980 FM 327, Elmendorf, TX, as the "Amos F. Longoria Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. WICKER (for himself, Mr. HEINEMAN, and Mrs. CLAYTON):

H.R. 2701. A bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSTON of Florida:

H. Res. 288. Resolution relating to a question of the privileges of the House; laid on the table.

By Mr. SANDERS (for himself and Mr. BASS):

H.J. Res. 129. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MCCRERY introduced a bill (H.R. 2702) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Jive Devil;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. WELDON of Florida.

H.R. 44: Mr. MCCOLLUM and Mr. COSTELLO.

H.R. 89: Mr. OBEY.

H.R. 103: Mr. LEVIN.

H.R. 263: Mr. LEWIS of Georgia.

H.R. 264: Mr. BORSKI.

H.R. 311: Mr. VENTO.

H.R. 313: Mr. RAMSTAD.

H.R. 326: Mrs. FOWLER.

H.R. 468: Mr. BROWN of Ohio.

H.R. 497: Mr. BLILEY.

H.R. 499: Ms. DANNER and Mr. TIAHRT.

H.R. 862: Mr. ROGERS, Mr. HILLEARY, and Mr. EMERSON.

H.R. 1023: Mr. DOOLEY and Mr. HUTCHINSON.

H.R. 1221: Ms. LOFGREN and Mr. FOGLIETTA.

H.R. 1227: Mr. FUNDERBURK, Mr. BARRETT of Nebraska, Mr. NORWOOD, and Mr. HUTCHINSON.

H.R. 1363: Mr. KIM.

H.R. 1416: Mr. DIAZ-BALART, Mr. OBERSTAR, Mr. JOHNSTON of Florida, Mr. FRAZER, Mr. MANTON, Mr. ENGEL, Mr. TORRES, Ms. KAPTUR, Mr. NADLER, Mr. WAXMAN, and Ms. WOOLSEY.

H.R. 1496: Mr. BILBRAY.

H.R. 1627: Mr. MANTON and Mr. MYERS of Indiana.

H.R. 1709: Mr. ANDREWS and Mr. WAXMAN.

H.R. 1733: Mr. WARD and Mrs. LINCOLN.

H.R. 1742: Ms. LOFGREN and Mr. STUMP.

H.R. 1757: Mr. SANDERS and Mr. MCDERMOTT.

H.R. 1946: Mr. DEAL of Georgia, Mr. LAUGHLIN, Mr. DREIER, Mr. SCARBOROUGH, Mr. ARMEY, and Mr. COBLE.

H.R. 1950: Ms. JACKSON-LEE and Ms. BROWN of Florida.

H.R. 1973: Mr. MYERS of Indiana, Ms. SLAUGHTER, and Mr. WILLIAMS.

H.R. 2019: Mr. TATE.

H.R. 2036: Mr. STUPAK.

H.R. 2138: Mr. MORAN.

H.R. 2180: Mr. LINDER and Mr. CALVERT.

H.R. 2190: Mr. WELDON of Florida, Mr. HEFNER, Mr. MICA, Mr. ACKERMAN, Mr. TRAFICANT, and Mr. TORKILDSEN.

H.R. 2193: Mr. WISE, Mr. PETRI, and Mr. LAUGHLIN.

H.R. 2209: Mr. COBLE, Mr. GILCHREST, Mr. WELDON of Pennsylvania, Mr. TEJEDA, Mr. PAYNE of Virginia, and Mr. LIPINSKI.

H.R. 2273: Mr. EVANS.

H.R. 2310: Mr. FOGLIETTA, Mr. MFUME, and Mr. FRISA.

H.R. 2320: Mr. BONO, Mr. WICKER, Mr. LARGENT, Mr. BASS, Mr. DELAY, Mr. HASTINGS of Washington, Mr. LOBIONDO, Mr. MORAN, Mr. HOSTETTLER, Mr. BURTON of Indiana, Mr. RAMSTAD, Mr. LIVINGSTON, Mr. DORNAN, Mr. DURBIN, Mr. CALVERT, Mr. SENSENBRENNER, Mrs. VUCANOVICH, Mr. BRYANT of Tennessee, and Mr. NORWOOD.

H.R. 2323: Mr. WALKER, Mr. MURTHA, Mr. MCINTOSH, Mr. GEKAS, Mr. LATOURETTE, Mr. SHUSTER, Mr. NEY, Mr. ROEMER, Mr. COBLE, Mr. WELDON of Pennsylvania, and Mr. KOLBE.

H.R. 2375: Mr. DELLUMS.

H.R. 2472: Ms. ROYBAL-ALLARD, Mr. OLVER, Mr. CONYERS, Ms. DANNER, Mr. KLINK, Mr. COLEMAN, Mr. MATSUI, Mr. KILDEE, Mr. CLAY, Mr. HOLDEN, and Mr. BERMAN.

H.R. 2500: Mr. BILBRAY and Mr. NORWOOD.

H.R. 2507: Mr. BAKER of Louisiana, Mr. FRAZER, Mr. STUMP, and Mr. COOLEY.

H.R. 2548: Mr. BATEMAN.

H.R. 2579: Mr. LIPINSKI, Mr. JOHNSTON of Florida, Mr. HUTCHINSON, Mr. BREWSTER, and Mr. COYNE.

H.R. 2598: Mr. WATTS of Oklahoma, Mr. TIAHRT, and Mr. COSTELLO.

H.R. 2599: Mr. EHRLICH.

H.R. 2608: Mr. RANGEL.

H.R. 2617: Mr. CALVERT.

H.R. 2634: Mr. BARCIA of Michigan.

H.R. 2651: Mr. TIAHRT and Mr. DUNCAN.

H.R. 2654: Ms. WOOLSEY, Mr. BALDACCI, Mr. VENTO Ms. ROYBAL-ALLARD, Mr. FOX, Mr. SERRANO Mr. BROWN of Ohio, and Mrs. COLLINS of Illinois.

H.R. 2664: Mr. DEFAZIO, Mr. FIELDS of Texas, Mr. HOLDEN, Mrs. MORELLA, Mr. CANADY, Mr. LATHAM, Mr. CAMP, Mr. BROWDER, Mr. SHADEGG, Ms. DANNER, Mr. MCDERMOTT, Mr. SHAW, Mrs. SCHROEDER, Mr. TANNER, Ms. KAPTUR, Mr. BAESLER , Ms. ROS-LEHTINEN, and Mr. SERRANO.

H.R. 2665: Mr. FOGLIETTA and Mr. LAZIO of New York.

H.R. 2682: Mr. MCHUGH.

H.R. 2686: Mrs. ROUKEMA and Mr. BARRETT of Wisconsin.

H. Con. Res. 10: Ms. MCKINNEY and Mr. TORKILDSEN.

H. Res. 255: Mr. JACOBS and Mr. GENE GREEN of Texas.

H. Res. 285: Mr. BROWDER, Mrs. MEEK of Florida, Mr. CONYERS, Mr. OLVER, Mr. FRAZER, Mr. DELLUMS, Mr. GENE GREEN of Texas, Mr. DIXON, Mr. BRYANT of Texas, Mr. FLAKE, Mr. WYNN, Mr. TUCKER, Ms. NORTON, Mr. WATT of North Carolina, Mr. PAYNE of New Jersey, Mr. FOX, Mr. RUSH, Mr. OWENS, Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. YATES, Ms. JACKSON-LEE, Mr. THOMPSON, Ms. BROWN of Florida, and Mr. ACKERMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of the XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2667: Mr. DAVIS, Mrs. MORELLA, and Mr. WOLF.

PETITIONS, ETC.

Under clause 1 of rule XXII,

49. The SPEAKER presented a petition of the city council of the city of Compton, CA, relative to opposing congressional reform legislation shifting liability for securities fraud State and local elected officials; which was referred to the Committee on Commerce.

EXTENSIONS OF REMARKS

A SHORT HISTORY OF HAITI

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. RICHARDSON. Mr. Speaker, I would like to call to my colleagues' attention the following article by one of America's preeminent authorities on Haiti. Robert Pastor has been deeply involved in issues affecting Haiti in his capacity as director of the Latin American and Caribbean Program at the Carter Center. It would serve my colleagues well to take Mr. Pastor's views under consideration.

[From the Foreign Service Journal, Nov. 1995]

A SHORT HISTORY OF HAITI

(By Robert A. Pastor)

In 1791, stirred by the spirit of the French Revolution, Haitian slaves began a punishing, 13-year war for independence against Europe's most powerful army. The proclamation of the world's first independent black republic on Jan. 1, 1804, posed a dual challenge for Haiti and the world. The challenge for Haitians was to fulfill the ideals that moved them to insurrection—liberty, equality and fraternity. The challenge to the world was to accept a black republic as a sovereign and equal state. Neither passed the test then. Today, presidents Jean-Bertrand Aristide and Bill Clinton are doing better in meeting the dual challenge than at any point in Haiti's 200-year history.

Haitians rid themselves of colonialism in 1804 but not of oppression. Its new leaders exploited the people while transforming the richest colony in the Caribbean into the poorest country. A peaceful, democratic process never took hold. Instead, a succession of civil wars and brutal dictators devastated the country. Only the pride of Haiti's birth helped Haitians to withstand 200 years of abject poverty, international isolation and brutal dictatorship.

In the 19th century, Europe feared that slave revolts could spread through their colonies, and so they tried to contain and isolate the new republic. The U.S. response was similar, but more tragic because Haitians also had been inspired by the U.S. revolution, and the United States owed them a debt for preventing Napoleon from using the island as a base to capture North America. The United States only contemplated relations with the republic after emancipating its own slaves.

Haitians were saddened by the imposed isolation, but they adjusted, becoming a kind of political Galapagos island with unique political and spiritual forms. Its politics became virtually impervious to outside influence until U.S. marines landed in 1915. But when the marines departed 19 years later, a new generation of dictators returned, culminating with the 30-year Duvalier dynasty.

On Feb. 7, 1986, Jean-Claude "Baby Doc" Duvalier fled to France, and the most recent and promising phase in Haiti's liberation struggle began. The issue, once again, was whether a new government would meet the people's democratic and material needs or whether the corrupt alliance between Haiti's armed forces and its wealthiest elite would maintain its grip on the country. The challenge for the international community was whether it would take the steps necessary to bring Haiti into the fold of democratic nations, or whether it would simply wash its hands of Haiti.

After trying unsuccessfully to manipulate the electoral process, the military grudgingly allowed a free election in 1990. This did not happen by accident. Since the lessons of 1990 were lost by the June 1995 elections, it might be useful to review them.

In 1990, the provisional president Ertha Pascal-Trouillot invited the international community to Haiti to observe and, indirectly, help construct an electoral process. The U.N. and the OAS advised the Provisional Elections Council (CEP) and did a quick count—a random sample of results—that permitted a reliable prediction of the final results of the presidential election. In addition, she invited former president Jimmy Carter, chairman of the Council of Freely-Elected Heads of Government, an informal group of 25 current and former presidents of the Americas. The council, working with the National Democratic Institute for International Affairs mediated for five months among the political parties, the CEP and the government.

One "mediates" an electoral process by listening to the opposition parties, distilling their complaints, and helping the government and the CEP fashion fair responses. This process increased confidence in the electoral process so that all the candidates and parties felt a sense of ownership in the elections and would therefore accept the results even if they lost. In addition, the council, through two incumbent members—Venezuelan President Carlos Andres Perez and Jamaican Prime Minister Michael Manley—persuaded the United Nations to send security observers to monitor the elections and prevent violence that had aborted the election in November 1987.

The Bush administration supported these efforts, but, correctly, kept some distance from the mediation. The proud, nationalistic Haitians preferred to negotiate the rules of the election with international and non-governmental organizations rather than with the U.S. government.

On December 16, 1990, Haitians voted for 11 presidential candidates, but Jean-Bertrand Aristide, a young priest, won two-thirds of the vote. Because of the effective mediation during the campaign, all the political parties accepted the results. Jean Casimir, who was the executive secretary of the CEP in 1990 and is currently Haiti's ambassador to the United States, acknowledged: "Without electoral observation, it would have been totally impossible for Haiti to rid itself of its dictators and their armed forces."

Aristide was hardly a typical politician, anymore than Haiti's politics were classically democratic. Artiside was connected to the people by a spiritual bond, and this was evident during his inauguration on Feb. 7, 1991 as the people chanted passionately: "Thank you God, for sending Titi [Aristide]."

The election turned the Haitian power pyramid upside down. The vast majority of Haitians are poor, and for the first time, they had their champion in the presidential palace. The elite found themselves on the outside, fearful that the masses might treat them as they had treated the people.

It was a delicate transition, and it did not last. Barely seven months after his inauguration, the military overthrew Aristide with the consent of the oligarchy and perhaps at its invitation. When he later reflected on what had gone wrong, Aristide acknowledged that perhaps he had won the election by too much. He had little incentive to compromise, and he showed too little respect for the independence of the Parliament. One of his mistakes was replacing the commander-in-chief of the Army, Gen. Herard Abraham, with Gen. Raoul Cedras. Abraham, a skillful political actor, had secured the election and stopped a military coup led by Duvalierist Roger LaFontant in January 1991.

In exile, Aristide tired to marshal international support for his return. The international community was eager to help. During the previous 15 years, a democratic wave had swept through the hemisphere. When the OAS General Assembly met in Santiago in June 1991, every active member had had free and competitive elections. (Cuba was not an active member. Mexico and the Dominican Republic had competitive elections, but their integrity was questioned.) The foreign ministers understood the fragility of democracy in the Americas, and they passed the Santiago Commitment on Democracy and Resolution 1080, pledging that if a coup occurred in the Americas, they would meet in emergency session to decide on action to discuss ways to restore democracy.

Three months later, in September 1991, Haiti provided the first test case. Within days of the coup, the OAS Foreign Ministers met in Washington, quickly condemned the coup, and sent a delegation to Haiti to demand the return of Aristide. The military humiliated the group, and the OAS responded by imposing an economic embargo on the regime. President Bush supported President Aristide's return, but some in his administration did not, and that might have influenced his decision to limit the means he would use to accomplish that goal. He ordered the U.S. Coast Guard to return refugees to Haiti, and this reduced the pressure on him to restore Aristide to power.

During the campaign, Bill Clinton criticized Bush for his refugee policy, but after his election, Clinton adopted the same policy and gained Aristide's support by promising to restore him to power. Making good on that promise proved far more difficult than the new president thought. The Haitian military and the elite did not want Aristide to return, and no diplomatic effort would succeed unless backed by a credible threat of force. The credibility of U.S. and U.N. diplomatic efforts was undermined significantly when the Harlan County, a Navy ship carrying 200 U.S. soldiers on a humanitarian mission, was prevented from docking in Port-au-Prince by thugs organized by the armed forces.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

While the president remained committed to restoring Aristide, the difficulty of accomplishing that goal tempted the administration to put the issue aside. However, intense pressure by Randall Robinson, the director of TransAfrica, and the Congressional Black Caucus compelled the administration to take a giant step forward. In July 1994, the United States persuaded the U.N. Security Council to pass a resolution calling on member states to use force to compel the Haitian military to accept Aristide's return. This was a watershed event in international relations—the first time that the U.N. Security Council had authorized the use of force for the purpose of restoring democracy to a member state. The following August, President Clinton decided that the U.S. would take the lead in an invasion.

The next month, on Sept. 15, President Clinton publicly warned the Haitian military leaders to leave power immediately. He said all diplomatic options were exhausted, but in fact, the U.S. government had stopped talking to the Haitian military six months before. Nonetheless, Gen. Raoul Cedras, the commander of the Haitian military, had opened a dialogue during the previous week with former president Jimmy Carter, whom he had met during the 1990 elections. The president, who had been told by Carter of the talks, decided on Friday, Sept. 16, to send Carter, Sen. Sam Nunn (D-Ga.) and General Colin Powell to try one last time to negotiate the departure of Haiti's military leaders.

The Carter team had a deadline of less than 24 hours. They arrived Saturday afternoon and began their meeting with the Haitian military high command about 2:50 p.m. After one hour, the three statesmen had convinced the generals, for the first time, that force would be used against them if the talks failed. But the Carter team understood what some in the Clinton administration did not—that the Haitian military leaders were not interested in negotiating their exit, wealth or safety. Representing the traditional elites, the military were desperately fearful that Aristide would unleash the masses against them. Moreover, like President Aristide, the generals were proud Haitians, who did not want to surrender or be lectured.

By about 1 p.m. on Sunday, Sept. 18, the Carter team had succeeded in gaining agreement to allow the peaceful entry of U.S. forces into Haiti and the restoration of President Aristide. But there were some details that needed to be negotiated, and time was running out. Suddenly, Gen. Philippe Biamby burst into the room with the news that the men of the 82nd Airborne were being readied for attack, a fact not known to the Carter team, and he accused the three Americans of deception. He informed the three he was taking Cedras to a secure area. The negotiations were over.

It is hard to find a better example of the difference between a credible threat, which was essential to reach an agreement, and the actual use of force, which in this case, was counterproductive. Although ready to sign the agreement, Cedres would not do so after learning the attack had begun. Carter reached deep into his soul to try to persuade the generals to complete the agreement, but he could not overcome their anger and fear. He then tried a different tactic—to change the venue of negotiations, and he asked Cedras to accompany him. At the new site, the presidential palace, de facto President Jonnaissant announced that he would sign the agreement. This created problems for President Clinton and for President Aristide, who was in Washington, and was reluctant to accept any agreement with the military or the de facto government. With the U.S. Air Force halfway to Haiti, President Clinton finally turned the planes around and authorized Carter to sign the agreement on his behalf.

The president asked Carter, Nunn and Powell to return to the White House immediately, and they asked me to remain to brief the U.S. Ambassador and Pentagon officials, who had not participated in the negotiations, and to arrange meetings between Haitian and U.S. military officers. This proved to be extremely difficult because the Haitian general went into hiding, and U.S. government officials in Port-au-Prince did not trust the Haitian generals to implement the agreement; they feared a double-cross like Harlan County. With less than two hours before touch-down by the U.S. military, I was able to arrange the crucial meetings by sending a mixed harsh-and-intimate message to Cedras through his wife.

U.S. forces arrived without having to fire one shot and 20,000 U.S. troops disembarked without a single casualty or injured civilian.

There was no question that U.S. forces would prevail, but because of the Harlan County, the Somalia experience, and the need to minimize U.S. casualties, the U.S. military plan called for a ferocious assault that would have involved hundreds, perhaps thousands, of Haitian casualties, and inevitably, some Americans. Moreover, as Gen. Hugh Shelton, the commanding officer, told me, such an invasion would have engendered long-term bitterness in some of the Haitian population, making it more difficult for the United Nations to secure order and for the country to build democracy.

Gen. Cedras stepped down from power on Oct. 12 and only then, at the moment that he had the fewest bargaining chips, sought to rent his houses and find a place for asylum.

On Oct. 15, Aristide returned to the presidency and Haiti. He had a second chance, and he showed that he had learned some lessons. He called for national reconciliation and assembled a multi-party government. He proposed an economic program that elicited both praise from the international community and pledges of $1.2 billion. He establishes a Truth Commission to investigate human rights violations during the military regime but not in a vindictive way. A Police Academy was established to train a new, professional police force. A project on the administrative of justice aimed to train justices of the peace and dispatch them throughout the country. The armed forces had been so thoroughly discredited that Aristide moved quickly to reduce their size and influence and, by spring of this year, to virtually dismantle the institution. In the year since Aristide's return, there have been some political assassinations, but to most Haitians, it has been a period of less fear than ever before.

In December 1994, Aristide created a CEP to prepare for municipal and parliamentary elections. Virtually all of the political parties, including KON-AKOM, PANPRA and FNCD, which had been partners of Aristide in the 1990 election, criticized the CEP for being partial to one faction of the president's supporters, Lavalas, and for being completely unresponsive to their complaints. Unfortunately, there was no mediation between the parties and the CEP and no quick count. Three political parties boycotted the June 25 election, and many of the 27 parties that participated were skeptical that the CEP would conduct a fair election.

An estimated 50 percent cast their ballots, according to OAS estimates. But the most serious problem occurred after the voting stopped, and the counting began. Officials were poorly trained, and I witnessed the most insecure and tainted vote count that I have seen in the course of monitoring 13 "transitional" elections during the last decade. Even before the results were announced, almost all of the political parties, except Lavalas, called for an annulment and the recall of the CEP members. On July 12, the CEP finally released some of the results that showed Lavalas doing the best, with the FNCD and KONAKOM trailing far behind. Perhaps as many as one-fifth of the elections needed to be held again, and the majority of the Senate and Deputy seats required a runoff. Of the 84 main mayoral elections, Lavalas won 64, including Port-au-Prince, by a margin of 45–18 percent over incumbent Mayor Evans Paul.

The CEP went ahead with the rerun of some elections on Aug. 13 and the runoff of other elections on Sept. 17 despite the boycott of virtually all the political parties. Again, there was practically no campaign, and despite great efforts by President Aristide to get people to vote, the turnout was very low.

Therefore, the parliamentary and municipal elections cannot be viewed as a step forward. Moreover, the government hurt the fragile party system by seducing opposition candidates to participate in the runoff contrary to their parties' decision. Partly because of the opposition boycott, and partly because of Aristide's continued popularity, Lavalas swept the runoff elections, giving it 80 percent of the Deputy and two-thirds of the Senate seats.

The opposition parties condemned the Parliament as illegitimate, and many feared that Haiti was moving to a one-party state. Lavalas could prove as fractious as the original Aristide coalition, but regardless, an opportunity for a more inclusive democracy and an impartial electoral process was lost.

If an effective mediation does not enlist the participation of the opposition parties in time for the presidential elections next month, the new president's authority will be impugned, especially if the Constitution were changed illegally to permit Aristide to run again. If the U.N. forces depart on the inauguration of the new president, the old elite of the country will no doubt try to use the questionable authority of the new president to weaken him even as they try to seduce the new police force. The only way that democracy can be preserved in Haiti is if the new police force remains professional and accountable to the rule of law. If the force is co-opted by the rich, as has occurred in the past, then a popular democracy cannot survive.

The international community and Haiti formed a remarkable partnership in the summer of 1990 to reinforce the democratic process and to respond positively to Haiti's double challenge—to respect Haitians and to make the country a part of a democratic hemisphere.

Returning to Haiti with Carter and Powell last February, Sen. Nunn said, "We have a one-year plan for a 10-year challenge." Haiti's democratic experiment will be endangered if it does not ask the United States and the United Nations to remain after February 1996, and if those two entities do not agree to stay. To keep the process on track, the Haitian government needs to respond fully to the legitimate concerns with the electoral process raised by the opposition parties. Only then can meaningful presidential elections occur. The second step is for the international community to ensure that a multi-party democracy takes root in Haiti.

HISPANIC BUSINESS WEEK

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. MARTINI. Mr. Speaker, I rise today in honor and recognition of Hispanic Business Week, acknowledging the contributions of the Hispanic community. This week was recognized the week of October 30—November 4, 1995.

The Hispanic community exemplifies daily the strong work and business ethic so very important in every career and in our lives. Our proud Hispanic-American community in New Jersey is indeed one of the reasons the Garden State is a national leader in job creation and economic growth. Through the work of the statewide Hispanic Chamber of Commerce of New Jersey, Hispanic business leaders expand their enterprises and develop a strong work ethic. I thank them for their special and invaluable contributions to my home State.

On behalf of my colleagues, I would like to acknowledge our appreciation of, and pride in, the Hispanic community and congratulate them for a successful celebration this year of Hispanic Business Week.

TRIBUTE TO DEV ANAND

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Dev Anand, one of the giants of Indian cinema, who will be honored this fall by the National Federation of Indo-American Associations. Mr. Anand made his first film in 1945. Since then he has not only starred in countless films, but has produced, written, and directed numerous projects under the banner of Navketan Films. He is both a prolific and talented performer.

The key to Mr. Anand's continued success lies in his willingness to change and mold himself according to the times, as well as in his never-say-die spirit. He is always involved in new projects which sustain his bubbling enthusiasm and dynamism. These range from being the first to use Himalayan backgrounds for love stories, to producing a smash hit based on the hippie phenomenon as seen from the point of view of the Indian popular establishment, to singing rap songs. The word "impossible" simply does not exist in Mr. Anand's dictionary. His impact on the Indian film industry is such that many producers ask their heroes to imitate Dev Anand.

In 1963, Mr. Anand collaborated with Pearl S. Buck on an award-winning film entitled "Guide," which was recorded in Hindi and English. In the film, he stars as the scurrilous guide who redeems himself by fasting to death for rain to save the lives of millions of drought-stricken villagers.

Mr. Anand is celebrating his 50 years of work in the Indian film industry with the release of "Gangster," which will premiere in eight U.S. cities. This will give American audiences the rare treat of being able to see Mr. Anand's skills for themselves. Prior to his U.S. appearances, he will be exhibiting his film at the Shanghai Film Festival, and is invited to address the union at Oxford University.

I ask my colleagues to join me today in saluting Dev Anand, a legend in Indian cinema, and a true artist. All Americans who care about film and culture are honored by his presence on our shores.

CONGRATULATIONS TO ST. JOSEPH'S HIGH SCHOOL

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. ROEMER. Mr. Speaker, I rise today to honor and pay tribute to one of the most dominant teams in the history of Indiana high school football: the South Bend St. Joseph's Indians. On Saturday, November 25, the Indians and Head Coach Frank Amato defeated favored Jasper High School 28–0 to claim the 1995 Class 3–A State Championship, the first football title for the city of South Bend since the Washington Panthers won the 3–A crown in 1973.

This victory was an appropriate climax to an unforgettable season. In finishing the year with a perfect 14–0 record, St. Joe's outscored its opponents by a combined 588–72. The offense, which averaged 42 a game, compiled close to 300 yards on the ground in the championship. Thanks to a powerful offensive line, St. Joe's quarterback Blair Kyle, tailback Sean Waite, and fullback Christian Hurley each rushed for close to or over 100 yards.

The defensive unit of Marques Clayton, Ben Downey, Trevor Dokes, Jeff Harris, Dan Luther, Pace McCormick, Jason Pikuza, Jeremy Remble, Pete Riordan, Rashwan Seward and Sean Waite, was just as spectacular. The Championship victory was their seventh shutout in a season in which they allowed an average of just 5.1 points a game. In the second half of the victory over Jasper, the defense gave up just 1 yard of offense until the final 2 minutes.

It is often commented that no team in the National Football League will ever be able to duplicate the undefeated season of the 1972 Miami Dolphins. Mr. Speaker, I believe the same can be said of the 1995 South Bend St. Joseph's Indians. They have set a standard of excellence which champions of the future will have a difficult time equalling or even approaching.

LOBBYING REFORM: FINALLY

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, in the last 2 weeks, we have witnessed an incredible change in the balance of power here in Washington. The influence of lobbyists is declining, and the layer of wealthy special interests that shields the American people from their elected officials has begun to disappear.

On November 16, the House adopted a rule prohibiting Members and staff from accepting almost all gifts. And yesterday, we unanimously passed a Senate bill requiring increased disclosure by those who are paid to lobby Congress and the executive branch. This bill, the first substantial change in lobbying disclosure requirements in 50 years, now goes to the President for his signature.

Up until the final vote, however, the lobbying bill was in grave danger of death by amendment. Senate passage of the tough new requirements in July represented a hard-fought compromise painstakingly crafted by Members of both parties. In the House, some Members were not satisfied and proposed to amend the bill, knowing that the adoption of any amendments would send the measure back to the Senate and would threaten that body's fragile compromise. In other words, amending the bill would mean the end of lobbying reform.

During consideration of the bill in the House, I voted against each of the four amendments that was offered. Most of them have merit, and under different circumstances would win my support. But on this occasion, I joined a majority of my colleagues in demanding that a clean bill be passed and sent on to the President.

Last year, both the House and Senate passed similar lobbying reform bills, but the effort was derailed in conference by those who opposed the cause of reform. For that reason, it was imperative to avoid a conference this time around. The Senate sent us a good bill, and I am delighted that we passed it unanimously without change. Once the President signs it, this chapter in the history of reform will be complete.

MEDICARE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. PACKARD. Mr. Speaker, I was proud to cast a historic vote to save Medicare for current and future beneficiaries. This is a serious effort to deal with a tough problem. We simply cannot sustain Medicare's current astronomical growth.

Our plan gives seniors new choices. Now, they will have the same access to health care their children and grandchildren have—whether it is managed care, preferred provider networks, medical savings accounts, provider services, or traditional fee for service.

Each and every senior will have all of these health care providers competing for their business. Once market forces do their magic, seniors will find they have better health care at less cost. For the first time, beneficiaries will be able to take advantage of new, advanced technologies that previously were unavailable under the old Medicare. Medicare-plus will provide seniors with new choices. Each year, beneficiaries will receive information outlining all of their choices. Every plan offered must be at least as good as the current Medicare.

Mr. Speaker, there is only one plan to save Medicare. The Republican plan. The plan offered by my colleagues on the other side of the aisle is simply a Band-Aid. The substitute they have proposed reveals, yet again, that Democrats are willing to let Medicare go bankrupt. It is not an alternative for seniors who rely on Medicare now or in the future.

Medicare needs a big fix, not a Band-Aid.

INTERNATIONAL CONFERENCE ON SUSTAINABLE CONTRIBUTION OF FISHERIES TO FOOD SECURITY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. YOUNG of Alaska. Mr. Speaker, December 4 through December 9, 1995, the Government of Japan will host an international conference on Sustainable Contribution of Fisheries to Food Security in collaboration with the Food and Agriculture Organization [FAO] of the United Nations. This Conference will provide an excellent opportunity for international awareness and understanding of the varied economic, social, and cultural diversity of the utilization of marine resources throughout the world. Delegates representing government and nongovernmental organizations will discuss options and strategies to ensure the sustainable contribution of fisheries to the world's food security in the future.

While the present food fish production throughout the world is approximately 72 million tons, it is projected that the demand for food fish will reach 105 million tons in the year 2010, when the world population reaches 7 billion. Clearly, nations must initiate measures to achieve a sustainable increase in fish production through cooperation on rational utilization measures and implementation of sound conservation programs. It is clear that those of us living at the end of the 20th century have the responsibility to provide a stable food supply system and maintain those reasonable resources for present and future generations. Living aquatic resources are renewable and can provide increased food for human consumption through responsible management and appropriate harvest and handling practices. Such a goal can be achieved if utilization of these resources is based on objective scientific and socio-economic data and principles that recognize and respect the importance of culture and traditions, guarantee the integrity of ecosystems that support living aquatic food resources, and encompass sound management measures through national, and where appropriate, multinational management programs.

I commend the Government of Japan for taking the initiative in hosting this important Conference and I wish the delegates to the Conference much success in their deliberations. As chairman of the Resources Committee of the House of Representatives, I look forward to reviewing their observations, conclusions, and recommendations.

SUPPORTS CATS AND YOUTH PROGRAMS

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Ms. FURSE. Mr. Speaker, I rise today in support of the Community Action Teams Program [CATS], and other summer youth programs that provide children with healthy alternatives to engaging in gang activity and criminal behavior. Last summer, I had the opportunity to visit with children who participated in this unique summer youth program which emphasizes helping others and teaches the value of hard work, I learned firsthand of the positive difference the CATS programs and other similar programs are having nationwide on our children and in the community. The CATS program is primarily sponsored by the Yamhill County Sheriff's Department in partnership with local schools and the community. This strong partnership between law enforcement and the community enables traditionally poor and underserved areas such as Yamhill County, to pool together their resources to provide a service to children and families.

Yamhill County is rural area in my home district of Oregon with limited resources. Through its creative partnership, Yamhill County has been able to offer this quality program which benefits the community. I applaud Yamhill County's efforts to collaborate and deter our children from criminal activity and I urge other Members to recognize the importance and value of summer youth programs and crime prevention.

LIBERTYVILLE HIGH SCHOOL STUDENTS PROTEST AGAINST HUMAN RIGHTS ABUSES IN NIGERIA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. PORTER. Mr. Speaker, I always have said that I am honored to represent one of the most educated, enlightened, caring districts in our country. Today, the meritorious actions by some of the younger members in my district have proven my point, making me proud once again. I want to commend the Libertyville High School students in my district, who last week waged a protest outside a local Shell gasoline station in response to the barbarous executions of Ken Saro-Wiwa and eight other Ogoni leaders by the Nigerian military regime. Under the banner of Amnesty International, these students hope to put pressure on Shell, whose Nigerian branch alone accounts for half the government's income, to use their financial power to influence positive change in Nigeria.

In a time when we question our ability to influence global change, I praise these high school students not only for their global awareness, but also for heir compassion and drive that has compelled them to rise from the classroom and take their cause to a forum where their demands cannot be ignored. Refusing to be silent, these half-dozen students have no inhibitions about sending a loud message to an oil giant that it has a moral and ethical responsibility to use its power to help influence the Nigerian Government to stop committing these atrocious human rights violations.

I fully support these students who have reiterated my own outrage at the Nigerian regime. As cochairman of the Congressional Human Rights Caucus, I have sent numerous letters to the Nigerian Government demanding reform. Additionally, I held hearings in response to the latest tragic executions. Today, Representative DON PAYNE of New Jersey and I and a number of other original cosponsors will introduce a bill calling for sanctions against Nigeria. We must all continue putting pressure on the Nigerian Government any way we can, until democracy and the rule of law is restored to Nigeria. I am pleased to work with the Libertyville High School students to this end.

PUERTO RICAN HERITAGE MONTH

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. MARTINI. Mr. Speaker, I rise today in honor and recognition of November 1995, as Puerto Rican Heritage Month. The achievements and contributions of Puerto Rican-Americans should be acknowledged by us all.

I especially would like to discuss an organization from my home State, Comite Noviembre de New Jersey. Founded in 1987, Comite has clearly promoted a holistic understanding of Puerto Rican culture in New Jersey and all over the United States. By highlighting social, economic, cultural, and political accomplishments, Comite has etched the history of the Puerto Rican people in the minds of all Americans. Widespread education has served a dual role: the Comite has strengthened a sense of cultural pride among young Puerto Ricans and has simultaneously generated respect for the Puerto Rican culture amongst non-Puerto Rican Americans.

Puerto Rican Heritage Month serves to further our understanding and appreciation of Puerto Rican leaders of the past and the present. It also unifies Puerto Rican Americans by instilling a sense of pride in where they have been, and where they are going as a people. As head of the Comite Noviembre, Jose Angel Villalongo has recognized November 30, 1995, as a day to pay tribute to Puerto Rican leaders of the State of New Jersey and the youth of the State. This day is dedicated to local Puerto Ricans in recognition of their outstanding contributions to the community and the family unit. They are not only models for this generation but also for generations to come, and of most importance, they are inspirations to us all.

Comite is committed to supporting people and inspiring and educating future generations. By the year 2000, the Comite Noviembre de New Jersey hopes that all Americans will realize and appreciate the richness of culture and heritage found within the Puerto Rican community.

I would like to offer my most sincere admiration and praise to the Puerto Rican-Americans of my congressional district and across the Nation as we celebrate Puerto Rican Heritage Month. This is a time of celebration to be enjoyed by all.

TRIBUTE TO A SAN DIEGO EMPLOYER WORKING FOR TECHNOLOGY IN EDUCATION

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to a local employer in San Diego which has made a special commitment to advancing the use and availability of high technology in education. That employer is Sony Electronics, Inc., which has a major plant in Rancho Bernardo, in my congressional district.

Technology in education is one of my great interests and top priorities. For several years, and in several ways, Sony Electronics Inc. has demonstrated a strong interest in the education of children.

Sony has been an active participant in all five of my annual TechFair education-high technology symposia. TechFairs bring local high school students together with San Diego's leading high-technology employers and researchers. The students learn about career opportunities in high technology, and speak one-on-one with men and women who work in high-technology fields every day. They learn what kind of education they need to succeed in the good paying, high-technology careers of today and tomorrow. This year's TechFair, held at the new Scripps Ranch High School, featured a demonstration of Sony's new digital satellite communications technology. Partly as a result of Sony's longstanding commitment to technology in education, the 1995 TechFair was the biggest and best ever.

They have also sponsored the 24 Challenge mathematics competition I initiated with San Diego schools.

I have also had the privilege of addressing students participating in Sony's Student Project Abroad. Under this program, Sony selects top math and science from around the country in an educational and cultural exchange. They spend 2 weeks visiting Sony plants in San Diego and Japan, and learn about high-technology manufacturing.

Most recently, on October 12 and 13, Sony participated in a distance learning conference based in Johnston, IA, with Gov. Terry Branstad and other State and local officials. They explored and shared ways to affordably link rural areas, particularly our schools, through new telecommunications technologies.

The future of our work to expand the technological literacy of the next generation of Americans depends not on larger Federal programs run from Washington, or on an expansion of the huge national debt. Our promise lies in the ingenuity of individuals and private enterprise, and companies like Sony, who are willingly volunteering their personnel and expertise to inspire and teach tomorrow's scientists and engineers.

SALUTING THE CONGREGATION OF THE SALEM LUTHERAN CHURCH OF ROSEHILL, TX

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. FIELDS of Texas. Mr. Speaker, faith is a wonderful but mysterious thing. It enhances our lives when times are good, and sustains us when life seems almost unbearable. Faith in God and love for one's fellow man are two of the most valuable gifts a person can possess.

The men, women, and children who attend the Salem Lutheran Church in Rosehill, TX, realize that their faith springs from within. They recognize that their church's foundation is built on more than brick, concrete, and glass. They understand that that foundation is built upon the faith, the kindness and the compassion of each and every one of the church's members.

Sadly, I must report that on the evening of Tuesday, November 21, a four-alarm fire destroyed the sanctuary of the Salem Lutheran Church. More than 25 fire trucks from Rosehill and nearby communities responded to the blaze, and only because of the decisive action of one fire fighter was the church's family center saved from destruction.

Mr. Speaker, Salem Lutheran Church is the oldest Missouri Lutheran Church in the State of Texas. When founded in 1852, Salem Lutheran Church was the first church in the Tomball area, which then was known as Peck. In 1870, the one-room sanctuary was transformed into the Salem Lutheran School, with students in grades one through eight attending. A new sanctuary was erected nearby.

Despite its long and proud history, Salem Lutheran Church has also known tragedy and heartache. In 1964, the church pastor and his wife were killed in an auto accident. Then, several months later, the church burned to the ground. Finally a new structure was built, and it was dedicated in 1967.

Now that the sanctuary is gone, church services will be held at Salem Lutheran School. The 2,000 members of the church's congregation can look forward to better days ahead, however.

Even before the November 21 blase, the church had begun a new, 2,000-seat sanctuary, which, when completed, will be the largest Missouri Synod Lutheran Church in Texas. While construction of the new structure will continue for at least another year, I am confident that the congregation of Salem Lutheran Church will get through this difficult time because of its faith.

No one knows why this latest disaster has struck Salem Lutheran Church. When adversity strikes, we often ask ourselves what we did to arouse God's wrath. The fact is that God has a plan for each and every one of use who believes in Him, including the men, women, and children who attend the Salem Lutheran Church.

This latest tragedy, no matter how difficult it is for us to understand, is a part of that plan. And that knowledge will, I hope, sustain senior pastor Wayne Grauman; administrative pastor Doug Dommer; pastor of care and counseling Craig Whitson; and the entire congregation of the Salem Lutheran Church of Rosehill in the weeks and months ahead.

Mr. Speaker, I know you join with me in keeping the congregation of the Salem Lutheran Church in our thoughts and prayers, and wishing them a full and speedy recovery from this most recent tragedy.

TRIBUTE TO ANETA CORSAUT

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. BERMAN. Mr. Speaker, we are honored to pay tribute to Aneta Corsaut, a dear friend, who died much too young from cancer this November. Aneta was a spirited, warm, and lovely woman who had a heartfelt compassion for others. Those who knew her well were touched by her selflessness and feelings of empathy. She was a special person, and we will miss her very much.

Born in Hutchinson, KS, Aneta came to southern California in 1950's to pursue her dream of being an actress. She landed a part in "The Blob," which has become a science fiction cult classic and, later, had a recurring role on the Andy Griffith Show as Helen Crump, Andy's girlfriend. Whether on the New York stage—where she started—or a Hollywood soundstage, Aneta found success in a profession that is notoriously difficult. All of her friends were so proud of her accomplishments.

But there was another side to Aneta, a side that brought her into our world. Aneta had a passion for politics, especially Democratic Party politics—a rarity for a person from Kansas. We would like to think that her political affiliation was a direct result of her selfless, caring nature. Most important, she was an unapologetic liberal to the end.

We both had the good fortune to work with Aneta. Her dedication to causes and issues was heartening. At a time of widespread cynicism and apathy Aneta was the perfect counter, a living, breathing example of how essential it is for people to get involved. We—all of us—need more Aneta Corsauts in this world.

Mr. Speaker, we ask our colleagues to join us today in saluting Aneta Corsaut, whose life is an inspiration to all. We were lucky indeed to have known her.

TRIBUTE TO PENN HIGH SCHOOL

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. ROEMER. Mr. Speaker, I rise today to honor and pay tribute to the 1995 State of Indiana Class 5–A football champions: my alma mater, the Penn Kingsmen. On Saturday, November 25, Head Coach Chris Geesman and the Kingsmen completed a perfect 14–0 season by crushing favored Evansville North 35–13 in the State final.

Penn's second State football championship marked the end of what might be considered the most spectacular title run in Indiana playoff history. The last seven teams which Penn faced had a combined record of 55–8. Not only did the Kingsmen emerge victorious in each of these games, they did so by an average score of 25–6.

For the season, which marked Penn's 23d consecutive winning year, the Kingsmen outscored their opponents by a total of 424–84 and finished with a plus-36 turnover ratio. In the final, their Wild Bunch defense forced five turnovers, which the Gold Rush offense converted into victory.

I would also like to commend Penn quarterback, Matt Geesman, for being the recipient of the coveted Phil Eskew Mental Attitude Award. Matt is more than a talented quarterback and team leader. He is also an extraordinary student who is first in his class with a perfect 4.0 grade point average.

In closing, Mr. Speaker, I would once again like to congratulate Coach Geesman, the assistant coaches, and the entire team on their first State football championship since 1983. Few people thought this team had what it took, but in the end, hard work, unselfish play, and flawless execution combined to bring the Indiana Class 5–A trophy to Mishawaka.

THE SKY IS NOT FALLING

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. ISTOOK. Mr. Speaker, I would like to commend my fellow Oklahoman, Paul Harvey, for correctly pointing out that the theory of global warming is not supported by the facts. The scare mongers would have us shut down our domestic energy production based upon falsehoods. The scare mongers are receiving grants from taxpayers to attack taxpayers' livelihoods. I thank Paul for letting America know the truth.

[From the Climatology, Oct. 17, 1995]

THE SKY IS NOT FALLING

Many scholars and institutions secure grant money for research by scaring people—by producing bad news about population, about resources, about environment.

One recent-years bogey has been the claim by some academics that "the sky is falling."

Specifically, these scaremongers argue that our use of fossil fuels is figuratively burning a hole in the sky, letter in too much sun, threatening global warming.

This year's Nobel Prize was awarded to three disciples of that theory—that chemical actions are breaking down atmospheric ozone.

Robert Balling, Junior is director of the Office of Climatology at Arizona State University.

He says those peddling this pessimistic prognosis are false—alarmists.

And, he notes, the New York Times is parroting this apocalyptic view of the future, giving its front page to the theory of planetary temperature increases over the past 40 years, retreating glaciers, increasing sea levels and the increase in both drought and heavy rain.

In rebuttal this climatologist responds with satellite measurements. Rather than global warming, this most accurate of all ways of measuring the Earth's temperature shows a slight "global cooling" since 1979.

The Arctic area, where most warming should be expected, has warmed not at all over the past sixteen years according to our satellite observations. According to the measurement of standard weather stations there has been no measurable warming over the past 50 years.

And, says, this climatologist, while some glaciers have retreated—others have advanced—including large ice sheets in Antarctica and Greenland.

Organizations within the United Nations, anticipating the inevitability of budget cuts, are desperately seeking to justify their existence.

The United Nations Intergovernmental Panel on Climate Change (PCC) is composed of 2,500 scientists around the world.

Its recent book-length report, clearly labeled, "FOR INTERNAL USE ONLY. DO NOT DISTRIBUTE" . . . was nonetheless distributed.

It was intended to be circulated among contributors for their further evaluation and further contributions.

Instead it was "leaked" to media people who focused on the summary section and sounded an alarm which has embarrassed many of the scientists who contributed to the study.

There is just enough "Chicken Little" in all of us so that the tabloids with the most gross headlines are the ones which sell best.

I promise, before the sky falls, to let you know.

OUR TROOPS IN BOSNIA

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. SMITH of Michigan. Mr. Speaker, I question the President's decision to send 20,000 American ground troops to Bosnia. With the additional military personnel the President has committed to the Balkans, our total presence will be over 30,000 men and women.

I believe that, as Americans, we best serve our Nation's foreign policy interests when we present a single, unified voice. The President, however, hasn't yet presented a compelling case for American combat troops.

I am willing to listen to the President, and will base my decision on the following criteria: Is the deployment of troops in our national interest? Are the mission's objectives clearly defined and obtainable? Can the mission be accomplished and finalized within a reasonable time period?

I will evaluate all the facts and, in consultation with the Defense Department and other military experts, reach a decision at the appropriate time.

INTERNATIONAL CHILDREN'S WISH WEEK

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. MARTINI. Mr. Speaker, I rise today in honor and recognition of International Children's Wish Week: November 26 to December 2, 1995.

This special week recognizes the courage of terminally ill children who while facing horrible, debilitating diseases manage to remain strong, and the organization that aims to keep their hopes up. Their high spirits send a message of joy and hope to be emulated and celebrated by us all.

Devoting this 1 week to victims of terminal medical diseases, Children's Wish Foundation International, an outstanding organization committed to fulfilling the dreams of terminally ill children, invites volunteers to support these wonderful children and their families.

The Children's Wish Foundation International is a non-profit service organization that brings happiness, comfort, and warmth to children and their families whose most lucid memories involve hospitals, doctors, and a sterile environment. To alleviate their pain, the foundation strives to fulfill a child's wish. The only payment received by the foundation is witnessing the joy that they have brought to a child and their family.

Thousands of wishes have come true all over the United States and throughout the world. Celebrities and professionals of all types volunteer their time and money to make wishes into realities. The joy that is generated fills the hearts of everyone involved, from the child and their family to the member of the Children's Wish Foundation who made the wish come true.

To the Children's Wish Foundation International and International Children's Wish Week, I would like to extend my sincerest admiration and gratitude. The special services you provide and your ceaseless generosity are models for us all.

A TRIBUTE TO BROTHER BOOKER T. ASHE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, I pay tribute today to the outstanding accomplishments of one of Milwaukee's most beloved citizens. As Brother Booker T. Ashe steps down from his duties at the House of Peace in Milwaukee, I would like to take a moment to reflect on his remarkable contributions to our city and our country.

Brother Booker as he is fondly known has dedicated his entire life to the cause of helping others. For 28 years, Brother Booker has been an unfailing presence in our community. In 1967, he founded Milwaukee's House of Peace, one of the Nation's most successful nonprofit institutions created from a central city storefront with one mission: to provide help for those in need. Brother Booker has always been there. Whether he is providing food to strangers in the middle of the night, counseling youth about the vital importance of education, or helping adults to read and write, Brother Booker's every act has been selfless and charitable.

Brother Booker has long been a voice of conscience in Milwaukee. When he speaks, people literally hang on to his words and stop in their tracks. Aside from his personal contributions to the community, Brother Booker has been instrumental in convincing others to provide financial backing for scores of community development projects which have strengthened our neighborhoods. The Milwaukee Journal-Sentinel put it best when it recently wrote, "Ashe is a man with an extraordinary social conscience . . . this champion of the poor has as much compassion as Job had patience."

Milwaukee has been truly blessed by his presence in our community. We know that no one can fill Brother Booker's shoes. Fortunately, he has inspired a countless number of people in our community to continue his good works and uphold his principles. Indeed, Brother Booker will remain a spiritual force in Milwaukee well into the next century. Despite his retirement, his work will be carried on by the thousands whose lives he has touched.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Brother Booker T. Ashe. I join with the city of Milwaukee in praising this outstanding individual and friend to all, and wish him health and happiness in his retirement.

DON'T HURT VETERANS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. FARR of California. Mr. Speaker, on Wednesday, November 29, the House of Representatives voted to return the VA–HUD appropriations bill to conference. By doing so, Congress recognized that the bill was unfair legislation which neglected the needs of our Nation's veterans and military retirees.

The bill underfunded many important veterans programs. It eliminated educational help for those willing to work at VA facilities. It cut money for construction, modernization, and improvement of VA facilities. It reduced funding for VA programs by over $40 million from last year.

But above all, the VA–HUD bill provided insufficient funding for veterans medical care—$400 million less than the President requested. In my district, tens of thousands of veterans and military retirees rely on VA medical programs. The cuts in the bill would have threatened the quality care they depend on.

I joined the 217 other Members—Democrats and Republicans—to recommit the VA-HUD bill in order to fix this serious flaw. Our motion to recommit specifically requested that $213 million be restored to veterans' health care programs. Without this additional funding, the bill would have forced our veterans and military retirees to make an extra and unfair sacrifice in the name of deficit reduction.

Veterans and military retirees are willing to take their fair share of spending cuts in order to eliminate the deficit. But they do not deserve burdensome cuts which unfairly target them.

Our bipartisan vote yesterday will go a long way toward making the bill better, one that treats all our Nation's veterans and retirees fairly.

QUESTIONS CONCERNING TROOPS IN BOSNIA REMAIN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on November 29, 1995.

SPEECH DIDN'T BUILD CONFIDENCE; QUESTIONS ABOUT BOSNIA REMAIN

People who looked for a specific, confidence-building explanation for sending American troops to Bosnia were entitled to be disappointed with President Clinton's speech Monday night.

Clinton addressed the nation to seek support for his proposal to send 20,000 troops into an arena where political, ethnic and religious factions have been waging war for centuries. He said 20,000 troops are needed to help NATO enforce the peace agreement negotiated at Dayton, Ohio, by the presidents of Bosnia, Serbia and Croatia.

The president was unconvincing even on the central question of why the national interest requires placing American men and women on the ground in the middle of this ancient conflict. (The U.S. Air Force and Navy already are heavily involved.)

Yes, as he said, America has ideals. Yes, it has fought in Europe twice before to "triumph over tyranny." Yes, it has certain international responsibilities that come with being the world's most powerful nation. And certainly the suffering of innocent civilians in Bosnia-Herzegovina has touched hearts around the world.

But a recitation of those facts doesn't constitute a reasoned argument for putting American ground troops in extreme peril. This isn't World War I, when America came to the aid of Western democracies to prevent their being crushed by imperial powers. Neither is it World War II, when America entered and ultimately led the great struggle to prevent the Nazis and fascists from enslaving a good part of the world.

The conflict in the Balkans is a regional problem. No one has demonstrated that it is a threat to Western civilization in general or to America's national interests.

The president said, "We're all vulnerable to the organized forces of intolerance and destruction, terrorism, ethnic, religious and regional rivalries, the spread of organized crime and weapons on mass destruction and drug trafficking. Just as surely as fascism and communism, these forces also threaten freedom and democracy, peace and prosperity. And they, too, demand American leadership."

Few would question the world's vulnerability to those forces. But what does any of that have to do with sending U.S. troops to Bosnia? If these "organized forces" are the primary reason for committing troops, why doesn't the United States have an infantry division in Rwanda, in Northern Ireland, in India, in Pakistan?

Clinton said the Americans would fight back if attacked. "We will fight fire with fire, and then some," he said. Clinton said the mission would take about a year.

How does anybody know that? As * * * noted, animosities have been known to lie dormant in the Balkans for years, then break out in bitter, bloody warfare. What guarantee does Clinton have that fighting wouldn't resume as soon as the Americans left?

What assurances does he offer that the mission won't go on indefinitely? How could anybody be sure that the fighting wouldn't escalate if American troops were attacked and forced to defend themselves?

In promising that the troops would help restore normal life for the people of Bosnia, Clinton made it sound as though the people of Bosnia were one society. They are badly divided, however. What Clinton didn't say is that the peace treaty, to accommodate the fact that the factions detest each other deeply, provides for the partition of the country into a Bosnian-Serb sector and a Muslim-Croat sector. * * *

TRIBUTE TO ELLEN JEPSON

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. HUNTER. Mr. Speaker, I rise today to recognize the truly remarkable life and accomplishments of a constituent in my district, Mrs. Ellen Jepson, of Imperial, CA. Mrs. Jepson recently passed away in La Jolla, CA, after surgery at a local hospital. A mother of three and grandmother of six, Ellen can best be described as an extraordinary woman who never missed an opportunity to give of herself.

A native of Oklahoma, Ellen devoted much of her time and energy as a volunteer for various senior citizen organizations in the Imperial Valley. Her reputation as a considerate and caring human being was well known throughout the communities of the Valley. Ellen's desire to help others was an overriding concern that occupied her life until her final days.

One of Ellen's previous responsibilities included directing the senior information and referral service for the Salvation Army. During a period in her life when many people would have been content simply pursuing leisurely activities, Ellen opted to make assisting others her passion. Regularly acknowledged for her outstanding conduct, Mrs. Jepson was honored by numerous local organizations and three California Governors for her selfless work.

Most recently, Ellen served as the volunteer director of senior emergency services for the

United Way of Imperial County. She tirelessly assisted seniors in a variety of ways: arranging for transportation to medical appointments, filling out paperwork, and providing help with utility bills and medication payments. Moreover, as a member of the advisory board to the Agency on Aging, Ellen was able to further assist seniors by providing Government officials with the input necessary to formulate policy for the region's aged population.

Mr. Speaker, in an age where our own personal needs and requirements seem to monopolize our priorities, I feel people like Mrs. Ellen Jepson should be recognized as heroes. I believe that perhaps we should all take note of Ellen's productive and esteemed life and modify our own accordingly. Too often, our lives are filled with news and accounts that revolve around the negative; Ellen was a positive assurance that this Nation is made up of generous and considerate human beings. I will sorely miss her.

AMOS F. LONGORIA POST OFFICE BUILDING

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. TEJEDA. Mr. Speaker, I am pleased to announce to the House that I have introduced legislation today to designate the United States Post Office building located at 7980 FM 327 in Elmendorf, TX as the "Amos F. Longoria Post Office Building."

During the August district work period, the citizens of Elmendorf presented me with a petition requesting that their new postal building, opening in December 1995, be named in honor of Pvt. Amos F. Longoria.

Amos Longoria was born in Elmendorf, TX on September 12, 1924. He was the son of humble parents, Bonaficio and Juanita F. Longoria. He had four sisters and two brothers: Pauline Longoria, Marie Longoria Welch, George Longoria, William Longoria, Tommie Longoria Lynch, and Bonnie Longoria de Leon.

Amos F. Longoria also had many close friends who grew up with him and shared love and caring during his short life. Amos is remembered as a happy person. He had many friends, and was kind and considerate to all. He enjoyed hunting, fishing, and many other sporting activities. He enjoyed music, played the guitar and sang. He is said to have had a good sense of humor, liked to laugh and make others laugh.

During his last year of school at Elmendorf, Amos F. Longoria was drafted into the U.S. Army in April of 1943. World War II was raging. Amos, though only 18 years old, was excited to report for basic training at Fort Sam Houston in San Antonio, TX. He was then sent to Camp Wheeler in Georgia.

Amos F. Longoria volunteered to serve overseas in the European theater. He had hopes of being near his older brother, George, who was serving in the 36th Infantry Division. Amos F. Longoria was assigned to the 30th Infantry, 3d Division, and soon saw combat in the Italian campaign. Military history records that some of the hardest and most hazardous fighting in World War II was in the Italian campaign. On a more personal note, my father, Frank M. Tejeda, Sr. and his close friend George Longoria, honorably served our country in the Italian campaign and were both seriously wounded in Italy in November of 1943.

Less than 6 months after joining the military, Amos was lightly wounded in combat, but returned to duty shortly thereafter. A few days later, only 2 months into his 19th year of life, on November 13, 1943, Amos was mortally wounded at the famous Crossing of the Rapido River in Italy. Amos F. Longoria died in an army hospital in Italy on November 19, 1943.

A Biblical verse, John 15: 9–13, states, "My commandment is this: Love one another, just as I love you. The greatest love a person can have for his friends is to give his life for them."

Private Amos F. Longoria is among the many persons who have shown their greatest love for country and friends. He is part of that great tradition of service to country, even to the point of giving up one's life for our country.

I could not think of a more appropriate honor for the town of Elmendorf and for the Longoria family than the designation of the United States Post Office at 7980 FM 327 in Elmendorf, TX as the "Amos F. Longoria Post Office Building." This designation will commemorate the service and sacrifice of Pvt. Amos F. Longoria and will further serve to remind all that the price of freedom can never be taken for granted.

I would like to urge my colleagues to support the noble effort of Elmendorf's citizens to honor one of its native sons. I commend the citizens of Elmendorf for their thoughtfulness on this project, and I look forward to visiting the Amos F. Longoria Post Office many times in the future.

CONNECTICUT HOSPICE HONORED ON 21ST ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Ms. DELAURO. Mr. Speaker, this Saturday, December 2, the Connecticut Hospice will celebrate its 21st anniversary with a holiday celebration, "Lumieres de Noel." It is with great pleasure that I rise today to salute this wonderful organization, and to thank all of its supporters for brightening the lives of terminally ill patients and their families.

Twenty-one years ago, the Connecticut Hospice pioneered a new approach for treating terminally ill patients by addressing their emotional and spiritual needs in addition to their physical ones. The individuals who began the Connecticut Hospice understood the need for patients to be cared for in a familiar, comforting environment, surrounded by their loved ones. Their work helped to transform how our society handles terminal illness and brought dignity and comfort to those in the last stages of life.

Under the leadership of the Connecticut Hospice, the hospice movement has brought the science of comfort and the art of caring to a new level, providing release from pain to ensure quality of life. Families are both recipients and partners in high-touch care, while hospice staff are the givers of high-technology care. Physicians, nurses, social workers, pastors, pharmacists, dieticians, and artists combine their competence with compassion to make life full and meaningful.

The John D. Thompson Hospice Institute for Education, Training, and Research, an affiliate of the Connecticut Hospice, Inc., enables hospice expertise and information to be shared with health care institutions throughout the world. Through the institute, medical students and other health care personnel are educated in all aspects of hospice care. The institute also provides the means to conduct in-depth research, allowing the Connecticut Hospice to benefit from the latest in health care technology and to be able to upgrade constantly the standards of patient care.

As the JDT Institute and the Connecticut Hospice carry their 21 years of experience into the 21st century, they are able to reach the Nation and the world. This year, "hospice.com" was established as a home page on the World Wide Web. Requests for information have been received from all over the United States, from Japan, Malaysia, and countries in Africa, widening the circle of the hospice community.

I congratulate the Connecticut Hospice for inspiring a nation, for what it has done for America, and for what it can do for the world. I urge all communities around the Nation to support hospice care in every way possible.

ROMANIAN NATIONAL DAY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. SPENCE. Mr. Speaker, I would like to take a few moments to talk about Romania on the occasion of its National Day on December 1.

As it celebrates its fifth National Day after its defeat of communism, Romania remains committed to joining the West as a modern democratic state.

Romania demonstrated its early desire to join the West by being the first Central European nation to join the Partnership for Peace [PFP], officially joining the program on January 26, 1994. Since then, Romania has had far more bilateral military exchanges with the United States than any other PFP nation. Likewise, the United States commitment to joint training with Romania's Armed Forces has grown in size and complexity. Romanian troops have participated in NATO exercises in Europe and in the United States, most recently in Fort Polk, LA.

Since emerging from a Communist dictatorship in 1990, Romania has demonstrated in significant ways its commitment to becoming a strong ally of the United States. The Romania-United States military-to-military cooperation program is one of the strongest in central Europe.

In 1990, Romania chaired the United Nations Security Council during the debate over the invasion of Kuwait. In that capacity, Romania helped lead efforts to authorize military intervention and impose economic sanctions against Iraq—despite costing its developing economy billions of dollars. Furthermore, Romania sent a military medical unit to Kuwait as a part of Operation Desert Storm and a medical battalion to Somalia in concert with the United States-led peacekeeping mission there. More recently, Romania has been at the forefront of support to peacekeeping efforts in Bosnia by offering logistical support to NATO forces.

Mr. Speaker, the fall of the Iron Curtain has brought great promise to the people of Central and Eastern Europe while posing great challenges to the governments of these once Communist countries. On the occasion of its National Day, I congratulate Romania for its accomplishments over the short 5 years since its democratization began and I ask my colleagues to join me in wishing Romania well as it continues to meet its political, military, and economic challenges.

IN HONOR OF LAMBDA THETA PHI, AN OUTSTANDING ORGANIZATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Lambda Theta Phi, service social fraternity emphasizing Latin unity and the celebration of Latin culture. It will be celebrating its 20th anniversary at a dinner on December 2.

In 1975 at Kean College of New Jersey, 10 students founded the first and only nationally recognized Latino Greek letter fraternity, Lambda Theta Phi. Gus Garcia, a founding member, served as the fraternity's first president. As the first national Latin fraternity, it was created in the image of great Latin thinkers, such as Jose Marti, Simon Bolivar, and El Cid.

In addition to active chapters in New Jersey, Pennsylvania Connecticut, and Florida, the fraternity has chapters at Saint Peter's College and Stevens Institute of Technology in my district.

The fraternity's goals are to promote scholarship, Latin unity, respect for all cultures and brotherhood. Although the fraternity is only 20 years old, it represents 500 years of culture. I am privileged to be an honorary member of the fraternity. Although the fraternity was created at a time when there was disunity among the Latin community, the concept of celebrating Latin culture became a unifying factor for members who had diverse interests. The fraternity believes "En La Union Esta La Fuerza" (In Unity There is Strength). Membership is open to all college males who wish to work together to reach the organization's goals.

The diverse membership has a social conscience and a commitment to the community. By working in neighborhoods, the fraternity hopes not only to provide service, but also to enhance the image of Latin culture and provide positive role models for the Latin community. Brothers have gone on to become accountants, attorneys, engineers, entrepreneurs, politicians, recording artists, scientists and leaders in various areas.

A few of the fraternity's activities include voter registration programs, citizenship drives, disaster relief, anti-drug rallies, and Hispanic college days, which introduce thousands of high school students to college.

Please join me today in honoring Lambda Theta Phi fraternity on its 20th anniversary as it continues to provide service to the community and guarantees the strongest in brotherhood while upholding the best in Latin culture.

FRAUD IN LOBBYING

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. LEVIN. Mr. Speaker, I am pleased to join Mr. DINGELL today as an original cosponsor of legislation to make it a Federal crime to misappropriate a person's name in connection with lobbying Congress. I want to commend Mr. DINGELL for bringing this important legislation to the floor.

During the recent debate on the telecommunications bill, Members of Congress were deluged by thousands of telegrams in opposition to the measure.

It turns out that most of the telegrams were sent without the knowledge or consent of our constituents. Their names and addresses were wrongfully expropriated by opponents of the telecommunications bill as part of a massive lobbying scam.

Before the extent of this fraud was uncovered, my office responded to 650 telegrams. I subsequently wrote these constituents a second letter, informing them that their names may have been used without their knowledge.

I received dozens of replies from constituents who were outraged that a lobbying group would use their names without permission. I would like to read just one of them to you:

SEPTEMBER 29, 1995.

Hon. SANDER LEVIN,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN LEVIN: I found the attached letter at my father's home while sorting through his things following his recent death. He had written my name on the envelope, so I assume he wanted me to handle this matter for him.

The letter you sent was not addressed to my father, but to my brother. My brother died 13 years ago. I don't know where the list firm would have gotten his name. I personally had his name withdrawn from the voters rolls many years ago to avoid the somewhat painful mail being delivered to my parent's home.

I believe I can guarantee you that [my brother] did not authorize a telegram to be sent to you in support or opposition to any legislation

Good luck in your investigation.

Sincerely,

THOMAS H. SHIELDS.

Mr. Speaker, this telegram lobbying campaign was a blatant attempt to mislead the House of Representatives. Congress should take whatever steps are necessary to prevent this abuse from happening ever again.

That's why we're here today. This legislation makes this type of misrepresentation a Federal offense punishable by up to 1 year in prison, fines, or both.

Another one of my constituents hit the nail on the head. Referring to lobbying firms such as the one that orchestrated the telegram scam on the telecommunications bill, she wrote, "I hope ya get the stinkers." This legislation is a good start.

HAYMARKET HOUSE'S CSAT GRANT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, Nov. 30, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I would like to announce that Haymarket House in my congressional district has recently been selected to receive a grant to provide residential substance abuse treatment to more than 20 women and their children by the Center for Substance Abuse Treatment [CSAT] Residential Women and Children [RWC] grant program.

Haymarket House currently provides comprehensive and integrated treatment services to approximately 13,000 clients each year, making it the largest drug abuse treatment center in the State of Illinois. With the CSAT demonstration grant, Haymarket intends to provide 22 chemically dependent women and up to 31 drug-exposed children with a continuum of care.

The goals of Haymarket House's recovery recovery program are to reduce the recidivism rate among chemically dependent women and to enhance the maternal-child attachment and promote independent living.

One of the greatest barriers that high-risk women currently face when seeking substance abuse treatment is lack of child care. CSAT's grant will enable Haymarket House to address this problem by establishing a model recovery home providing drug abuse prevention and treatment, health services, child care, parent training, vocational education, and job placement. This integration helps treatment centers like Haymarket improve their prevention and treatment services so that drug addictions can be treated more quickly.

I commend Haymarket House for their innovative approach to substance abuse and encourage my colleagues to visit this facility in my congressional district to see for yourselves what a remarkably successful drug treatment program Haymarket House has established.

REMEMBER THE NIXON DOCTRINE

HON. Y. TIM HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. HUTCHINSON. Mr. Speaker, considering the high level of interest in the President's plan to deploy 20,000 American servicemen and servicewomen to Bosnia, I thought my colleagues might find the accompanying article of special interest.

It should be noted that Jim Webb, a former counsel on the Veterans' Affairs Committee, was a highly decorated marine in Vietnam, as Assistant Secretary of Defense, as well as Secretary of the Navy.

[From the New York Times, Nov. 28, 1995]

REMEMBER THE NIXON DOCTRINE

(By James Webb)

ARLINGTON, VA.—The Clinton Administration's insistence on putting 20,000 American troops into Bosnia should be seized on by national leaders, particularly those running for President, to force a long-overdue debate on the worldwide obligations of our military.

While the Balkan factions may be immersed in their struggle, and Europeans may feel threatened by it, for Americans it represents only one of many conflicts, real and potential, whose seriousness must be weighed, often against one another, before allowing a commitment of lives, resources and national energy.

Today, despite a few half-hearted attempts such as Gen. Colin Powell's "superior force doctrine," no clear set of principles exists as a touchstone for debate on these tradeoffs. Nor have any leaders of either party offered terms which provide an understandable global logic as to when our military should be committed to action. In short, we still lack a national security strategy that fits the postcold war era.

More than ever before, the United States has become the nation of choice when crises occur, large and small. At the same time, the size and location of our military forces are in flux. It is important to make our interests known to our citizens, our allies and even our potential adversaries, not just in Bosnia but around the world, so that commitments can be measured by something other than the pressures of interest groups and manipulation by the press. Furthermore, with alliances increasingly justified by power relationships similar to those that dominated before World War I, our military must be assured that the stakes of its missions are worth dying for.

Failing to provide these assurances is to continue the unremitting case-by-case debates, hampering our foreign policy on the one hand and on the other treating our military forces in some cases as mere bargaining chips. As the past few years demonstrate, this also causes us to fritter away our national resolve while arguing about military backwaters like Somalia and Haiti.

Given the President's proposal and the failure to this point of defining American stakes in Bosnia as immediate or nation-threatening, the coming weeks will offer a new round of such debates. The President appears tempted to follow the constitutionally questionable (albeit effective) approach used by the Bush Administration in the Persian Gulf war: putting troops in an area where no American forces have been threatened and no treaties demand their presence, then gaining international agreement before placing the issue before Congress.

Mr. Clinton said their mission would be "to supervise the separation of forces and to give them confidence that each side will live up to their agreements." This rationale reminds one of the ill-fated mission of the international force sent to Beirut in 1983. He has characterized the Bosnian mission as diplomatic in purpose, but promised, in his speech last night, to "fight fire with fire and then some" if American troops are threatened. This is a formula for confusion once a combat unit sent on a distinctly noncombat mission comes under repeated attack.

We are told that other NATO countries will decline to send their own military forces to Bosnia unless the United States assumes a dominant role, which includes sizable combat support and naval forces backing it up. This calls to mind the decades of over-reliance by NATO members on American resources, and President Eisenhower's warning in October 1963 that the size and permanence of our military presence in Europe would "continue to discourage the development of the necessary military strength Western European countries should provide for themselves."

The Administration speaks of a "reasonable time for withdrawal," which if too short might tempt the parties to wait out the so-called peacekeepers and if too long might tempt certain elements to drive them out with attacks causing high casualties.

Sorting out the Administration's answers to such hesitations will take a great deal of time, attention and emotion. And doing so in the absence of a clearly stated global policy will encourage other nations, particularly the new power centers in Asia, to view the United States as becoming less committed to addressing their own security concerns. Many of these concerns are far more serious to long-term international stability and American interests. These include the continued threat of war on the Korean peninsula, the importance of the United States as a powerbroker where historical Chinese, Japanese and Russian interests collide, and the need for military security to accompany trade and diplomacy in a dramatically changing region.

Asian cynicism gained further grist in the wake of the Administration's recent snubs of Japan: the President's cancellation of his summit meeting because of the budget crisis, and Secretary of State Warren Christopher's early return from a Japanese visit to watch over the Bosnian peace talks.

Asian leaders are becoming uneasy over an economically and militarily resurgent China that in recent years has become increasing more aggressive. A perception that the United States is not paying attention to or is not worried about such long-term threats could in itself cause a major realignment in Asia. One cannot exclude even Japan, whose strong bilateral relationship with the United States has been severely tested of late, from this possibility.

Those who aspire to the Presidency in 1996 should use the coming debate to articulate a world view that would demonstrate to the world, as well as to Americans, an understanding of the uses and limitations—in a sense the human budgeting of our military assets.

Richard Nixon was the last President to clearly define how and when the United States would commit forces overseas. In 1969, he declared that our military policy should follow three basic tenets:

Honor all treaty commitments in responding to those who invade the lands of our allies.

Provide a nuclear umbrella to the world against the threats of other nuclear powers.

Finally, provide weapons and technical assistance to other countries where warranted, but do not commit American forces to local conflicts.

These tenets, with some modification, are still the best foundation of our world leadership. They remove the United States from local conflicts and civil wars. The use of the American military to fulfill treaty obligations requires ratification by Congress, providing a hedge against the kind of Presidential discretion that might send forces into conflicts not in the national interest. Yet they provide clear authority for immediate action required to carry out policies that have been agreed upon by the government as a whole.

Given the changes in the world, an additional tenet would also be desirable: The United States should respond vigorously against cases of nuclear proliferation and state-sponsored terrorism.

These tenets would prevent the use of United States forces on commitments more appropriate to lesser powers while preserving our unique capabilities. Only the United States among the world's democracies can field large-scale maneuver forces, replete with strategic airlift, carrier battle groups and amphibious power projection.

Our military has no equal in countering conventional attacks on extremely short notice wherever the national interest dictates. Our bases in Japan give American forces the ability to react almost anywhere in the Pacific and Indian Oceans, just as the continued presence in Europe allows American units to react in Europe and the Middle East.

In proper form, this capability provides reassurance to potentially threatened nations everywhere. But despite the ease with which the American military seemingly operates on a daily basis, its assets are limited, as is the national willingness to put them at risk.

As the world moves toward new power centers and different security needs, it is more vital than ever that we state clearly the conditions under which American forces will be sent into harm's way. And we should be ever more chary of commitments, like the looming one in Bosnia, where combat units invite attack but are by the very nature of their mission not supposed to fight.

TRIBUTE TO THE LATE JAMES T. MARTIN

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. MFUME. Mr. Speaker, I rise today to salute one of our Capitol Police Officers, a decorated soldier and a constituent of mine.

James T. Martin of Catonsville died of cancer on November 27, 1995. He was born in Newberry, SC; the son of Ida L. Martin and the late Frank Martin. Mr. Martin left Newberry and enlisted in the U.S. Air Force in 1948 and retired as a master sergeant in 1969. While serving during the Korean war, Mr. Martin was decorated with the Soldiers Medal for Valor, the Korean Service Medal, the Good Conduct Medal and the United Nations Medal.

Upon his retirement from the U.S. Air Force, Mr. Martin joined the U.S. Capitol Police Force, a branch of the House of Representatives and completed his second career serving as a sergeant and retired after 22 years.

Mr. Martin was an active member of St. Josephs Monastery Paris and was engaged in a number of organizations, including the Glad Men of Song, the VFW and the American Legion.

Mr. Martin is survived by his wife Regina T. Martin, four daughters, Theresa, Bridghe, Eileen, and Patricia, one brother and three sisters. He is also survived by 3 granddaughters and 11 grandsons.

Because of his service and dedication to our country, to the House of Representatives and to his family, I stand today to pay tribute to James T. Martin.

TRIBUTE TO THE TRADE UNION LEADERSHIP COUNCIL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 30, 1995

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to the Trade Union Leadership Council [TULC] which was organized nearly 40 years ago by a small but determined group of African-American trade unionists in Detroit. These men and women banded together to fight the blatant racism that existed in unions as well as in management.

From its modest beginnings in 1957, TULC developed into a powerful political and social force that was nationally recognized and praised. It attacked the racist policies in the unions and it literally changed the complexion of union leadership; it forced companies to desegregate their work forces; it operated skilled trades apprenticeship programs aimed primarily at young blacks who had been excluded from such programs, and it became a force to be reckoned with in the field of politics.

In its heyday in the 1960's and 1970's, TULC had some 10,000 members. The organization was applauded for its emphasis on self help and self development. It often was harshly criticized by union and management chiefs for its insistence on job equality, but it withstood the criticism and forced open the doors of opportunity.

Those gains did not come easily. In the decades of the forties, fifties, and sixties, discrimination was rampant across the Nation. As late as the mid-1940's, more than a dozen unions still had white-only policies. Through the 1950's and until the 1960's, the powerful executive board of the United Auto Workers was lily white.

It was in this atmosphere that TULC was forged. Its 19 founding members included the late labor activists Horace Sheffield and Robert (Buddy) Battle III, both of whom rose to key positions in the UAW. Also among that group was a local 600 activist and democratic State Central Committee member named Elizabeth Jackson who would later become one of the most powerful women in the UAW. Hubert Holley, head of Detroit's bus drivers and John Brown, the current TULC president, were founding members as was my late father, John Conyers, Sr. I was one of the lawyers who drafted TULC's articles of incorporation.

Initially, TULC planned to focus on unions and to restrict its membership to union members. But, as Robert Battle explained years ago in an interview:

> * * * we found that we could not separate the problems of the unions from the community because basically the union people are the community when they are at home. So we lifted the bar then and made it a community organization. We figured that the problem of job discrimination and discrimination within the unions were problems that should be dealt with within the community as well as within labor. We dropped the bar and said that all you had to believe in was the struggle, the fight of all mankind.

The TULC members knew the problems in the unions, and they tackled them head on. The organization's leaders repeatedly and publicly challenged the AFL–CIO to eliminate segregation from the locals and to remove the constitutional color bars that were part of the AFL–CIO philosophy. In its monthly publication entitled "The Vanguard," the TULC wrote an open letter in 1962 to AFL–CIO president George Meany. The letter warned Meany that African-American trade unionists would no longer tolerate the discriminatory practices of the AFL–CIO. "Discrimination, no matter how it is packaged or who does the wrapping, remains discrimination" the letter said. "Negroes insist on an end to job discrimination now. Not when Mr. Meany and his righteous followers get around to it, not when the so-called grievance 'machinery' is perfected, not when the NAACP (or any such organization) fills staff positions with people strictly suitable to AFL–CIO tastes—but now."

At the same time TULC was relentlessly pushing the AFL–CIO to change, the group was running classes to teach young people how to apply for and prepare for a job. Over the years, TULC continued on that two-tiered track—pushing unions, management, and government to increase opportunities and teaching people how to avail themselves of those opportunities.

The AFL–CIO wasn't TULC's only target. For years, TULC members were furious because the United Auto Workers' all powerful executive board was also all white. In 1959, Sheffield, Battle, and union activist Willoughby Abner set the stage for change when they forced the issue at the UAW's 17th Constitutional Convention in Atlanta. Sheffield told the gathering that the union leadership had promised some 16 years earlier to put an African-American on the executive board. He said blacks were tired of waiting.

In 1962, the color barrier was broken with the election of Nelson "Jack" Edwards, a region 1A staff representative, to the executive board. Although many thought Sheffield should have had that post, his outspoken criticism of the UAW leadership kept him from it.

TULC remained busy on the social and political fronts. In 1960, TULC rallied more than 1,400 people to form the National Negro American Labor Council. The late A. Philip Randolph was the first president. Around the same time, TULC was flexing its political muscle. TULC was instrumental in the election of African-Americans to government office and it successfully campaigned for the ouster of Louis Miriani, Detroit's incumbent mayor who was openly hostile to blacks.

TULC also campaigned vigorously to increase the minimum wage to a level where people earning it could afford to buy the products they produced. The organization also traveled the Midwest explaining to working people the dangers of "right to work" legislation.

On the job front, TULC forced many companies, including United Parcel and Wolpin Distributors, to hire their first black drivers. Also during the 1960's, TULC and the Building Trades Council jointly initiated an apprenticeship training program that became a national model for such efforts. By the mid-1970's, the program had recruited thousands of minority youths, and the majority of them were employed in the Detroit area.

Recognizing the need for educational enrichment programs for deprived youth, TULC established the Educational Foundation of all races. The foundation offered classes ranging from remedial reading to typing to job-seeking skills.

TULC also offered enrichment classes for preschoolers and helped 10 Detroit high schools establish sections on African-Americans in their school libraries.

John Brown, current TULC president, said that the founding members took a risk in forming TULC. "Quite a few people resented us for doing this," Brown said. The criticism did not deter the group from attacking gross discrimination wherever they found it.

Today, only four of the original members are still alive, Elizabeth Jackson, John Brown, former State Representative Daisy Elliott, and retired city of Detroit employee Mickey Welch. Membership stands at over 2,500. TULC works with the Detroit Board of Education, and it makes regular contributions to local charities. It also sponsors weekly programs for senior citizens, and it continues to sponsor cultural enrichment programs for local youths.

The bold efforts of the Trade Union Leadership Council have enabled thousands of African-American men and women to progress through the ranks of both unions and management.

That small group of people who gathered nearly 40 years ago today to demand equality deserve our praise and our respect. Their noble efforts must not be forgotten.

HOUSE OF REPRESENTATIVES—*Monday, December 4, 1995*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. PETRI].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 4, 1995.

I hereby designate the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Make right, O God, the conflicts of the day that seem to tear at the fabric of our society, that threaten the traditions that we hold dear. Even as we pray for Your might in our midst, we pray You will encourage our hands to do the good works that serve people in their need, that Your word of peace will speak to our words, that Your gift of grace will touch us with common purpose so our deeds will reflect the majesty of Your whole creation and the bounty of all Your blessings. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri [Mr. SKELTON] come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1316. An act to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

COMMUNICATION FROM THE HONORABLE MIKE PARKER, MEMBER OF CONGRESS

The Chair laid before the House the following communication from the Honorable MIKE PARKER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
December 1, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L(50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the Southern District of Mississippi.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

MIKE PARKER,
Member of Congress.

COMMUNICATION FROM THE HONORABLE JIM KOLBE, MEMBER OF CONGRESS

The Chair laid before the House the following communication from the Honorable JIM KOLBE; Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L(50) of the Rules of the House that this office has been served with a subpoena issued by the Pima County Consolidated Justice Court, Tucson, Arizona.

After consultation with the General Counsel, we have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JIM KOLBE,
Member of Congress.

MOURNING THE LOSS OF FORMER CONGRESSMAN JAMES C. CLEVELAND

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, New Hampshire today mourns the loss yesterday of former Congressman James C. Cleveland. Congressman Cleveland served ably from the Second Congressional District in New Hampshire from 1963 until 1980, when he retired and his seat was taken by now Senator JUDD GREGG.

Congressman Cleveland was a conservationist, a sportsman, an attorney. Indeed, he set up a law practice with my uncle in Concord in the fifties. I think what is most important to us was that Congressman Cleveland represented in the sixties and seventies many of the values that we as Republicans now hold dear to us, fiscal conservatism and a concern for the environment as well.

Mr. Speaker, I am saddened by the loss of Congressman Cleveland. He was a political ally. He was an adviser. But, most important to me, he was a dear friend.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FREE THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, according to this morning's paper, the majority leader of the Senate, Mr. DOLE, said, and I am quoting him, concerning a Federal Government shutdown, "I don't believe we should shut down the Government. I think it would be a mistake. I do not believe it should happen. I don't believe it will happen."

I think the majority leader is probably right. The Congress would be insane or close to it to shut the Government down 10 days before Christmas. A lot of folks who are not Federal employees and are nowhere close to Federal employees would regard that as the act that deserved the Scrooge Award of 1995.

But will the Congress overlook the District of Columbia and allow it the short continuing resolution that I am certain will come for Federal employees? My prediction is you will probably let the Government stay open until we get back from the recess.

Mr. Speaker, I am here to explain that for the District, that does almost

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

nothing, because we are not a Federal agency. We are a city of almost 600,000 people, and you cannot run a complicated city, down on its luck, with 2- and 3-week continuing resolutions. You then have to calibrate how much money you spend on the basis of for example, if it is 2 weeks, one-fourteenth, so you do not overobligate. With the city in the financial condition it is in, that should be unthinkable.

There is a very special congressional responsibility, therefore, to release in the next continuing resolution the District's money, raised solely in the District, until such time as an appropriation bill has been signed. I would hope that an appropriation bill will be signed before December 15. But, very frankly, our appropriation is stuck on stupid. It is stuck up here on controversial issues having nothing to do with the wishes of the people of the District of Columbia. So I cannot guarantee that by December 15 our appropriation will be signed.

I have a bill that would allow the District to spend its own money until such time as an appropriation bill is signed. That way we would have the flexibility to run the city. Otherwise, we are put in the position where, if unfunded mandates such as AFDC have to be matched on time, as they do, and a payroll has to be paid on time, as it does, we could overobligate.

The Congress has been most critical of the District for what it says has been overobligation in the past. The last thing the Congress, I am sure, would like to do, is put the District in the position where it is between the hardest rock and the worst hard place, where it had unfunded mandates and funded mandates that it had to meet and had no way to meet them because it can only spend a certain percentage of its funds.

The Washington Post said in an editorial recently:

> House Speaker Gingrich, Subcommittee on D.C. Appropriations Chairman Jim Walsh and other Congressional leaders who seek to bring financial order to this city should see the importance of separating the local functions as well as the responsibilities of the Control Board and chief financial officer from Federal stalemates. If their concern for the District's financial stability is genuine, they should press for immediate enactment of a continuing resolution, as well as for protections against any more situations like this.

Shutting the District down, when its own money is here only because the Congress requires it to come here, not because the Congress provides it, is an outrage. I ask this body, if and when such time should come that a continuing continuing resolution is needed to keep Federal agencies going, and if that continuing resolution is a short-term continuing resolution, that you allow the District to spend its own money—and about 80 percent of the money in our appropriation is raised by hard working D.C. taxpayers in the District of Columbia—and that you allow that money to be spent, so that the District will not be thrown into worse financial shape than is already the case.

That is not what this body desires. This body has been working beneficially with the District. So has the Financial Authority. We do not need another setback. I acknowledge that the District is responsible for many of its own problems, but the fact is, it is trying to get hold of those problems now. The District should not be thrown into further disarray because the Congress goes into short-term continuing resolutions, overlooking the difference between HHS, the State Department, and HUD and the District of Columbia.

The District is a living, breathing city that has suffered tremendously throughout this period. It is the innocent bystanders for whom I speak now, not the Mayor, not the City Council and not the Delegate, but the hard working residents who pay taxes in the District of Columbia. Free the District of Columbia.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE REPORT ON H.R. 2684, THE SENIOR CITIZENS RIGHT TO WORK ACT OF 1995

Mr. BASS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight to file a report to accompany H.R. 2684, the Senior Citizens Right to Work Act of 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

ILL-ADVISED MISSION IN BOSNIA SHOULD BE ABANDONED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Missouri [Mr. SKELTON] is recognized for 60 minutes as the designee of the minority leader.

Mr. SKELTON. Mr. Speaker, Friday evening, the Vice President was on ABC News "Nightline." In his comments, the Vice President stated that the task of bringing peace to Bosnia would be done at a minimal risk to American troops. This would be true, but for one provision to which the administration has signed up: namely, the guaranteeing and coordinating of the arming and training of one of the belligerents.

According to testimony by Secretary of State Warren Christopher, our Government policy is supervising—that is, guaranteeing and coordinating—the arming and training of Bosnian Moslem forces. This is a flawed and dangerous policy. It gives the appearance that we favor one side of this bitter internal struggle over another. It makes our Government appear to be a combatant. We cannot be both a combatant and a peacekeeper.

This policy of arming and training Bosnian Moslems—even through a third party, but guaranteed and supervised by us—concerns me greatly. Three points are to be considered:

First, already, there exists a parity between the warring factions, the Serbs on the one hand and the Croat-Moslem Federation on the other. Note the recent battlefield successes by the Federation. Further, the Moslems have been receiving arms by way of Croatia for some time.

Second, our allies are not in favor of arming and training the Moslem forces. The French and British, in particular, are against it. This was pointed out in news reports Thursday morning.

Third, the arming and training of the Moslem forces, quoting the Vice President: "we are going to see that it happens * * * we commit to making sure that is going to happen."

Mr. Speaker, this is a flawed policy. The Vice President concedes that it would be wrong for the American troops to directly arm and train the Bosnian Moslems, as it would destroy the even-handedness and perception of even-handedness of our troops in the field. I say that the United States guaranteeing and coordinating this effort is just as bad. Having America in charge of this effort—having other countries or other persons contracted to do the job—still destroys the even-handedness and perception of even-handedness of our Americans in uniform. This policy has red, white, and blue stamped all over it. This policy paints each American soldier with a bulls'-eye target.

In order for peacekeeping to work, there must be trust—trust of the former belligerents in the impartiality of the peacekeepers. This trust and confidence will not exist so long as our Government pursues the policy of supervising the arming and training of the Moslems. It is one thing, in the words of Secretary of Defense William Perry, to "be the meanest dog in town." It is another not to have to fight at all.

The U.S. Army Field Manual, regarding peacekeeping, states: "Peacekeeping requires an impartial, even-handed approach." Our National Security Committee heard testimony from retired generals and others who stressed the need for peacekeepers to be neutral, to be even-handed.

Soon, our American soldiers, some 20,000 of them, will arrive in Bosnia as peacekeepers between the three warring sides: the Croats, the Bosnian Serbs, and the Bosnian Moslems. A few weeks ago, in a White House meeting, Deputy Secretary of State Strobe Talbot told me of plans for the U.S. Government to arm and train the Bosnian Moslems. Being concerned with this policy, I wrote a letter to the President on October 31, criticizing this stance. After the peace agreement was signed, I wrote another letter on November 22. After I, along with several others, criticized this plan—which would clearly put our troops in danger by destroying their required impartiality—a new plan to arm and train then appeared. This new arrangement is one of farming out, contracting out, laundering out the task to third parties.

There is nothing in the Dayton peace agreement, initialed by the three belligerents, that requires the United States to arm and train anyone. This slightly altered policy still violates the required impartiality of the United States, and that lack of impartiality will be transferred to our soldiers serving as peacekeepers.

Ordinary military risk is one thing; inviting vengeance against our troops is another.

Those who came up with this wrongheaded policy should learn the wisdom of the Missouri Ozarks: "Those who aid my enemy become my enemy." The Serbs will look upon American troops as enemies and the Moslems will expect favors.

Bosnia is a snake pit of anger, hatred, and vengeance. We are putting our troops in a snake pit while we are angering half the snakes. This policy could well be a death warrant for scores of American men and women in uniform. Taking sides in previous peacekeeping efforts—1983 in Beirut and 1993 in Mogadishu—brought tragedy to Americans in uniform. We should learn from the past.

The President agreed to furnish 20,000 troops for peacekeeping—not 20,000 targets for vengeance.

Remember, this is the Balkans, the scene of centuries of hate, centuries of killing, and centuries of vengeance. I, for one, see no reason for American troops to be made victims of vengeance because of this wrong-headed policy of arming and training the Moslems.

As a matter of fact, our troops have not been forewarned of the additional security risk that our policy could bring. On December 1, I wrote the Secretary of Defense a letter, urging his Department to issue memorandums to the soldiers to be on extra alert, as this policy puts them at higher risk.

I understand the need for America to assume a leadership role in the world. I understand the need for America to be the leader of NATO. But I do not understand why American troops will be inserted into this war-torn country as both peacekeepers and combatants. The credibility of American soldiers as impartial peacekeepers will be lost.

I urge this administration to abandon this policy, as it will undoubtedly bring needless loss of life and injury to our fine troops in Bosnia.

I include for the RECORD my letters dated October 31, November 22, and December 1.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 31, 1995.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Please know that I very much want to help you in supporting the promising Bosnian peace initiative. However, I have great concerns about the effort to equip and train the Bosnian Muslims, especially while U.S. troops are operating in Bosnia.

I believe the "equip and train" effort corrupts the implementation force (IFOR) as a neutral peace force, and needlessly places the lives of American troops at risk. The effort will cause America to be perceived as a party to the conflict in the eyes of the Bosnian Serbs, their friends, and their allies. There will be no avoiding it, even if an attempt is made to keep the effort separate from IFOR. The message received in the region will be clear: American troops are not in Bosnia to implement a peace agreement, but rather to protect the Bosnian Muslims.

The purpose of the "equip and train" effort is to establish military parity. However, given what has happened in Bosnia over the last three months, I question the assertion that a military imbalance exists. On the contrary, I suggest a regional military balance has existed for sometime. Furthermore, I sense that the warring factions have grown weary of prolonging the fight.

We are walking down the dangerous path toward an arms race in Bosnia just at the time when American troops will attempt to bring peace to an area suffering from a savage war. Will not the Russians respond to the cries of their ethnic cousins, the Bosnian Serbs, who fear being driven from their homes in the future by a menacing Bosnian Muslim force? Our effort to equip and train Bosnian Muslims could bring more war to the region.

No matter how we try to separate it from IFOR, the effort to equip and train will have "RED, WHITE, AND BLUE" written all over it. This would jeopardize the safety of U.S. forces. The Serb partisans will have an incentive to make American troops pay the price, and American troops will become the object of Serb anger and acts of vengeance.

Therefore, I believe that we should defer any effort to equip and train until IFOR departs the country. My suggestion keeps faith with the Bosnian Muslims without needlessly jeopardizing the lives of American troops.

Again, Mr. President, I want to help you bring peace to Bosnia. But I would find it difficult to support U.S. participation in IFOR should we embark on the dangerous path of equipping and training Bosnians Muslims.

Sincerely,

IKE SKELTON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 22, 1995.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Now that a Bosnian peace agreement has been reached, our attention turns to the impending deployment of American troops to Bosnia as peacekeepers. With the proposal for American military participation in the implementation force, it is critical that Congress have the answer to the question I have raised with you and members of your Administration over the past few weeks. The question is:

Will the U.S. government or any of its allies supply training, armaments or equipment, either directly or indirectly, to any of the belligerents or former belligerents between now and the end of our troop involvement in Bosnia?

I ask the question because we have had the sad experience of American forces being viewed as favoring one side over another in previous conflicts, resulting in American injuries and deaths. I refer to Beirut in 1983 and Mogadishu in 1993. This is especially important in light of the news report on the BBC this morning that the Bosnian Serb leadership is sharply divided on this agreement.

I would appreciate hearing from you.

Very truly yours,

IKE SKELTON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 1, 1995.

Hon. WILLIAM J. PERRY,
The Secretary of Defense, Washington, DC.

DEAR SECRETARY PERRY: If the U.S. Department of State insists on arming and training the Croat-Muslim Federation—with an American guarantee and coordination of the effort, as testified to by Secretary Christopher yesterday—will the 20,000 American soldiers in the Bosnia-Herzegovina region be forewarned of this additional security risk? Will they be informed of the possibility of vengeful acts by the Serbs, or of hostilities from Muslims expecting but denied favorable treatment?

This is a major security issue. I urge the Department of Defense to issue memoranda to each soldier to be on extra alert, as this State Department policy will put them at higher risk.

Please respond at your earliest convenience. Thank you.

Sincerely,

IKE SKELTON,
Member of Congress.

CONFERENCE REPORT ON H.R. 2076

Mr. ROGERS submitted the following conference report and statement on the bill (H.R. 2076) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-378)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *That the following sums are appropriated, out of any money in the*

Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: Provided, That not to exceed 45 permanent positions and 51 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program only for the Offices of the Attorney General and the Deputy Attorney General, exclusive of augmentation that occurred in these offices in fiscal year 1995: Provided further, That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Executive Support program for the Offices of Legislative Affairs, Public Affairs and Policy Development: Provided further, That the latter three aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $16,898,000 to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: Provided, That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $38,886,000: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation for the Executive Office for Immigration Review and the Office of the Pardon Attorney shall be merged with this appropriation.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by sections 130005 and 130007 of Public Law 103–322, $47,780,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation under Title VIII of Public Law 103–317 for the Executive Office for Immigration Review shall be merged with this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,960,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,446,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $401,929,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the funds available in this appropriation, not to exceed $22,618,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: Provided further, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101–512 (104 Stat. 1289).

In addition, for Salaries and Expenses, General Legal Activities, $12,000,000 shall be made available to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of Public Law 103–322, $7,591,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $65,783,000: Provided, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $17,521,000: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996, shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $895,509,000, of which not to exceed $2,500,000 shall be available until September 30, 1997 for the purposes of (1) providing training of personnel of the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $10,000,000 of those funds available for automated litigation support contracts and $4,000,000 for security equipment shall remain available until expended: Provided further, That in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,595 positions and 8,862 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 190001(d), 40114 and 130005 of Public Law 103–322, $30,000,000 to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $20,269,000 shall be available to help meet increased demands for litigation and related activities, $500,000 to implement a program to appoint additional Federal Victim's Counselors, and $9,231,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program $102,390,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), which shall be derived from the United States Trustee System Fund: Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: Provided further, That notwithstanding any other provision of law, not to exceed $44,191,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended, shall be retained and used for necessary expenses in this appropriation: Provided further, That the $102,390,000 herein appropriated from the United States Trustee System Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from such Fund estimated at not more than $58,199,000: Provided further, That any of the aforementioned fees collected in excess of $44,191,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including service as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $423,248,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of Public Law 103–322, $25,000,000, to remain available until expended, which shall be derived from Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

(INCLUDING TRANSFER OF FUNDS)

For expenses related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $252,820,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

In addition, for Federal Prisoner Detention, $9,000,000 shall be made available until expended to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $85,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

COMMUNITY RELATIONS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $30,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $16,264,000, to become available on October 1, 1996.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $359,843,000, of which $50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,189,183,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1997; of which not less than $102,345,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $98,400,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That $58,000,000 shall be made available for NCIC 2000; of which not less than $35,000,000 shall be derived from ADP and Telecommunications unobligated balances; and of which $22,000,000 shall be derived by transfer and available until expended from unobligated balances in the Working Capital Fund of the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by Public Law 103–322, $218,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $208,800,000 shall be for activities authorized by section 190001(c); $4,000,000 for Training and Investigative Assistance authorized by section 210501(c)(2); and $5,500,000 for establishing DNA quality assurance and proficiency testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210306.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $97,589,000 to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,208 passenger motor vehicles, of which 1,178 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $745,668,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1997, and of which not to exceed $50,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of Public Law 103–322, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,394,825,000; of which $506,800,000 is available for the Border Patrol, of which $12,100,000 shall remain available until September 30, 1997; of which not to exceed $400,000 for research shall remain available until expended; and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1996: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses: Provided further, That the Attorney General may transfer to the Department of Labor and the Social Security Administration not to exceed $10,000,000 for programs to verify the immigration status of persons seeking employment in the United States: Provided further, That none of *the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless: (1) the checkpoints are open and traffic is being checked on a continuous 24-hour basis and (2) the Immigration and Naturalization Service undertakes a commuter lane facilitation pilot program at the San Clemente checkpoint within 90 days of enactment of this Act: Provided further, That the Immigration and Naturalization Service shall undertake the renovation and improvement of the San Clemente checkpoint, to include the addition of two to four lanes, and which shall be exempt from Federal procurement regulations for contract formation, from within existing balances in the Immigration and Naturalization Service Construction account: Provided further, That if renovation of the San Clemente checkpoint is not completed by July 1, 1996, the San Clemente checkpoint will close until such time as the renovations and improvements are completed unless funds for the continued operation of the checkpoint are provided and made available for obligation and expenditure in accordance with procedures set forth in section 605 of this Act, as the result of certification by the Attorney General that exigent circumstances require the checkpoint to be open and delays in completion of the renovations are not the result of any actions that are or have been in the control of the Department of Justice: Provided further, That the Office of Public Affairs at the Immigration and Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration and Naturalization Service: Provided further, That the Office of Congressional Relations at the Immigration and Naturalization Service shall conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant congressional committees on proposed legislation affecting immigration matters: Provided further, That in addition to amounts otherwise made available in this title to the Attorney General, the Attorney General is authorized to accept and utilize, on behalf of the United States, the $100,000 Innovation in American Government Award for 1995 from the Ford Foundation for the Immigration and Naturalization Service's Operation Jobs program.*

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130005, 130006, and 130007 of Public Law 103–322, $316,198,000 to remain available until expended which shall be derived from the Violent Crime Reduction Trust Fund, of which $44,089,000 shall be for expeditious deportation of denied asylum applicants, $231,570,000 for improving border controls, and $40,539,000 for expanded special deportation proceedings: Provided, That of the amounts made available, $78,000,000 shall be for the Border Patrol.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $25,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 853, of which 559 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,567,578,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1997: Provided further, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuba and Haitian entrants: Provided further, That no funds appropriated in this Act shall be used to privatize any Federal prison facilities located in Forrest City, Arkansas, and Yazoo City, Mississippi.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of Public Law 103–322, $13,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $334,728,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses," Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: Provided further, That of the total amount appropriated, not to exceed $22,351,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,559,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $99,977,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

VIOLENT CRIME REDUCTION PROGRAMS, JUSTICE, ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"), $202,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $6,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; $750,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; $130,000,000 for Grants to Combat Violence Against Women to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; $28,000,000 for Grants to Encourage Arrest Policies to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; $7,000,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act $1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of that Act; $27,000,000 for grants for residential substance abuse treatment for State prisoners authorized by section 1001(a)(17) of the 1968 Act; and $900,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section

240001(d) of the 1994 Act: Provided, That any balances for these programs shall be transferred to and merged with this appropriation.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $388,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $60,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"), the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"), $3,005,200,000 to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $1,903,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995 for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals; Provided, That recipients are encouraged to use these funds to hire additional law enforcement officers: Provided further, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: Provided further, That $10,000,000 of this amount shall be available for educational expenses as set forth in section 200103 of the 1994 Act; $25,000,000 for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; $147,000,000 as authorized by section 1001 of title I of the 1968 Act, which shall be available to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; $300,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; $617,500,000 for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 114 of this Act), of which $200,000,000 shall be available for payments to states for incarceration of criminal aliens, and of which $12,500,000 shall be available for the Cooperative Agreement Program; $1,000,000 for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; $9,000,000 for Improved Training and Technical Automation Grants, as authorized by section 210501(c)(1) of the 1994 Act; $1,000,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; $500,000 for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; $1,000,000 for Gang Investigation Coordination and Information Collection, as authorized by section 150006 of the 1994 Act; $200,000 for grants as authorized by Section 32201(c)(3) of the 1994 Act: Provided further, That funds made available in fiscal year 1996 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: Provided further, That any 1995 balances for these programs shall be transferred to and merged with this appropriation: Provided further, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $28,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: Provided, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: Provided further, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–566, of which: (1) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of the Act; (2) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $4,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by section 214B, of the Act: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,134,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993, as amended by section 112 of this Act, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980," shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18. United States Code; Provided, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction, Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 20 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 *of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.*

SEC. 108. For fiscal year 1996 and each fiscal year thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investment shall be deposited in the Commissary Fund.

SEC. 109. Section 524(c)(9) of title 28, United States Code, is amended by adding subparagraph (E), as follows:

"(E) Subject to the notification procedures contained in section 605 of Public Law 103–121, and after satisfying the transfer requirement in subparagraph (B) of this paragraph, any excess unobligated balance remaining in the Fund on September 30, 1995 shall be available to the Attorney General, without fiscal year limitation, for any Federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this subparagraph may be used under authorities available to the organization receiving the funds.".

SEC. 110. Hereafter, notwithstanding any other provision of law—

(1) no transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code; and

(2) no appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

SEC. 111. (a) Section 1930(a)(6) of title 28, United States Code, is amended by striking "a plan is confirmed or".

(b) Section 589a(b)(5) of such title is amended by striking ";" and inserting, "until a reorganization plan is confirmed;".

(c) Section 589a(f) of such title is amended—

(1) in paragraph (2) by striking "." and inserting, "until a reorganization plan is confirmed;", and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) 100 percent of the fees collected under section 1930(a)(6) of this title after a reorganization plan is confirmed.".

SEC. 112. Public Law 102–395, section 102 is amended as follows: (1) in subsection (b)(1) strike "years 1993, 1994, and 1995" and insert "year 1996"; (2) in subsection (b)(1)(C) strike "years 1993, 1994, and 1995" and insert "year 1996"; and (3) in subsection (b)(5)(A) strike "years 1993, 1994, and 1995" and insert "year 1996".

SEC. 113. Public Law 101–515 (104 Stat. 2112; 28 U.S.C. 534 note) is amended by inserting "and criminal justice information" after "for the automation of finger-print identification".

SEC. 114.

(a) Grant Program.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants

"SEC. 20101. DEFINITIONS.

"As used in this subtitle—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court may impose a sentence of a range defined by statute; and

"(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

"(2) the term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

"(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

"SEC. 20102. AUTHORIZATION OF GRANTS.

"(a) In General.—The Attorney General shall provide grants to eligible States—

"(1) to build or expand correctional facilities to increase the prison bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

"(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a part 1 violent crime; and

"(3) to build or expand jails.

"(b) Regional Compacts.—

"(1) In General.—Subject to paragraph (2), States may enter into regional compacts to carry out this subtitle. Such compacts shall be treated as States under this subtitle.

"(2) Requirement.—To be recognized as a regional compact for eligibility for a grant under section 20103 or 20104, each member State must be eligible individually.

"(3) Limitation on Receipt of Funds.—No State may receive a grant under this subtitle both individually and as part of a compact.

"(c) Limitations.—

"(1) Except as provided in paragraph (2), an eligible State may receive either a general grant under section 20103 or a truth-in-sentencing incentive grant under section 20104.

"(2) Exception.—An eligible State may receive a grant under both sections 20103 and 20104 if the amount that such State is eligible to receive under section 20103 in a year equals or exceeds the amount that such State is eligible to receive under section 20104 for that year.

"(d) Applicability.—Notwithstanding the eligibility requirements of sections 20103 and 20104, a State that certifies to the Attorney General that, as of the date of enactment of the Department of Justice Appropriations Act, 1996, such State has enacted legislation in reliance on subtitle A of title II of the Violent Crime Control and Law Enforcement Act, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible to receive a grant for fiscal year 1996 as though such State qualifies under sections 20103 or 20104 of this subtitle.

"SEC. 20103. GENERAL GRANTS.

"(a) In General.—To be eligible to receive a grant under this section, a State shall submit an application to the Attorney General that provides assurances that such State has, since 1993—

"(1) increased the percentage of persons convicted of a part 1 violent crime sentenced to prison;

"(2) increased the average prison time actually to be served in prison by persons convicted of a part 1 violent crime sentenced to prison; and

"(3) increased the average percentage of time of the sentence to be actually served in prison by persons convicted of a part 1 violent crime and sentenced to prison.

"(b) Indeterminate Sentencing Exception.—Notwithstanding subsection (a), a State shall be eligible for a grant under this section if such State submits an application to the Attorney General that provides assurances that the State on the date of the enactment of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996—

"(1) practices indeterminate sentencing with regard to any part 1 violent crime; and

"(2) since 1993 the State has increased—

"(A) the percentage of persons convicted of a part 1 violent crime sentenced to prison; and

"(B) the average time served in the State for the offenses of murder, rape, and robbery under the State's sentencing and release guidelines for such offenses.

"SEC. 20104. TRUTH-IN-SENTENCING INCENTIVE GRANTS.

"(a) Eligibility.—To be eligible to receive a grant under this section, a State shall submit an application to the Attorney General that provides assurances that—

"(1) such State has implemented truth-in-sentencing laws that require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior);

"(2) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State, not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed; or

"(3) if, in the case of a State that on the date of enactment of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime, such State demonstrates that the average time served for part 1 violent crimes in the State equals at least 85 percent of the sentences established for such crimes under the State's sentencing and release guidelines (not counting time not actually served, such as administrative or statutory incentives for good behavior).

"(b) Exception.—Notwithstanding subsection (a), a State may provide that the Governor of the State may allow for the earlier release of—

"(1) a geriatric prisoner; or

"(2) a prisoner whose medical condition precludes the prisoner from posing a threat to the public, but only after a public hearing in which representatives of the public and the prisoner's victims have had an opportunity to be heard regarding a proposed release.

"SEC. 20105. SPECIAL RULES.

"(a) Sharing of Funds With Counties and Other Units of Local Government.—

"(1) Reservation.—Each State shall reserve not more than 15 percent of the amount of funds allocated in a fiscal year pursuant to section 20106 for counties and units of local government to construct, develop, expand, modify, or improve jails and other correctional facilities.

"(2) Factors for Determination of Amount.—To determine the amount of funds to be reserved under this subsection, a State shall consider the burden placed on a county or unit of local government that results from the implementation of policies adopted by the State to carry out sections 20103 and 20104.

"(b) Additional Requirement.—To be eligible to receive a grant under section 20103 or 20104, a State shall provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle policies that provide for the recognition of the rights and needs of crime victims.

"(c) Funds for Juvenile Offenders.—Notwithstanding any other provision of this subtitle, if a State, or unit of local government located in a State that otherwise meets the requirements of sections 20103 or 20104, certifies to

the Attorney General that exigent circumstances exist that require the State to expend funds to confine juvenile offenders, the State may use funds received under this subtitle to build or expand juvenile correctional facilities or pretrial detention facilities for juvenile offenders.

"(d) PRIVATE FACILITIES.—A State may use funds received under this subtitle for the privatization of facilities to carry out the purposes of section 20102.

"SEC. 20106. FORMULA FOR GRANTS.

"In determining the amount of funds that may be granted in each State eligible to receive a grant under section 20103 or 20104, the Attorney General shall apply the following formula:

"(1) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20103.—Of the amount set aside for grants for section 20103, 0.6 percent shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealths of Puerto Rico and the Northern Mariana Islands shall each be allocated 0.05 percent.

"(2) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20104.—Of the amount set aside for grants for section 20104—

"(A) if less than 20 States are awarded grants under section 20104, 2.5 percent of the amounts paid shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealths of Puerto Rico and the Northern Mariana Islands shall each be allocated 0.05 percent; and

"(B) if 20 or more States are awarded grants under section 20104, 2.0 percent of the amounts awarded shall be allocated to each eligible State in a fiscal year for a grant under section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealths of Puerto Rico and the Northern Mariana Islands shall each be allocated 0.04 percent.

"(3) ADDITIONAL AMOUNTS BASED ON NUMBER OF PART 1 VIOLENT CRIMES.—

"(A) DISTRIBUTION OF REMAINING AMOUNTS.—The amounts remaining after the application of paragraph (1) or (2) shall be allocated to each eligible State in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by all such States to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

"(B) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is unavailable for the 3 years preceding the year in which the determination is made or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

"(4) REGIONAL COMPACTS.—In determining the funds that States organized as a regional compact may receive, the Attorney General shall first apply the formula in either paragraph (1) or (2) and (3) of this section to each member State of the compact. The States organized as a regional compact may receive the sum of the amounts so determined.

"SEC. 20107. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State that receives funds under this subtitle shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General, and shall ensure that any funds used to carry out the programs under section 20102(a) shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

"(b) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General under this subtitle in the same manner that such provisions apply to the officials listed in such sections.

"SEC. 20108. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this subtitle—

"(A) $997,500,000 for fiscal year 1996;

"(B) $1,330,000,000 for fiscal year 1997;

"(C) $2,527,000,000 for fiscal year 1998;

"(D) $2,660,000,000 for fiscal year 1999; and

"(E) $2,753,100,000 for fiscal year 2000.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—Subject to section 20109, and except as provided in subparagraph (B), of the amount appropriated pursuant to paragraph (1)—

"(i) one-third of such amount shall be allocated pursuant to section 20106 to eligible States under section 20103; and

"(ii) two-thirds of such amount shall be allocated pursuant to section 20106 to eligible States under section 20104.

"(B) ADDITIONAL FUNDS.—Subject to section 20109, if the amount appropriated pursuant to paragraph (1) exceeds $750,000,000—

"(i) half of such amount shall be allocated pursuant to section 20106 to eligible States under section 20103; and

"(ii) half of such amount shall be allocated pursuant to section 20106 to eligible States under section 20104.

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Except as provided in section 20111, funds made available pursuant to this section shall be used only to carry out the purposes described in section 20102(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available pursuant to this section shall be used for administrative costs.

"(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

"(5) MATCHING FUNDS.—The Federal share of a grant received under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

"SEC. 20109. PAYMENTS FOR INCARCERATION ON TRIBAL LANDS.

"(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this subtitle, from amounts appropriated under section 20108 to carry out sections 20103 and 20104, the Attorney General shall reserve, to carry out this section—

"(1) 0.3 percent in each of fiscal years 1996 and 1997; and

"(2) 0.2 percent in each of fiscal years 1998, 1999, and 2000.

"(b) GRANTS TO INDIAN TRIBES.—From the amounts reserved under subsection (a), the Attorney General may make grants to Indian tribes for the purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

"SEC. 20110. PAYMENTS TO ELIGIBLE STATES FOR INCARCERATION OF CRIMINAL ALIENS.

"(a) IN GENERAL.—The Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act and which meets the eligibility requirements of section 20104, in such amount as is determined under section 242(j) and for which payment is not made to such State for such fiscal year under such section.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated to carry out this section from amounts authorized under section 20108, an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for fiscal year 1996 equals $500,000,000 and for each of the fiscal years 1997 through 2000 does not exceed $650,000,000.

"(c) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.

"SEC. 20111. SUPPORT OF FEDERAL PRISONERS IN NONFEDERAL INSTITUTIONS.

"(a) IN GENERAL.—The Attorney General may make payments to States and units of local government for the purposes authorized in section 4013 of title 18, United States Code.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated from amounts authorized under section 20108 for each of fiscal years 1996 through 2000 such sums as may be necessary to carry out this section.

"SEC. 20112. REPORT BY THE ATTORNEY GENERAL.

"Beginning on July 1, 1996, and each July 1 thereafter, the Attorney General shall report to the Congress on the implementation of this subtitle, including a report on the eligibility of the States under sections 20103 and 20104, and the distribution and use of funds under this subtitle.".

(b) PREFERENCE IN PAYMENTS.—Section 242(j)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(j)(4)) is amended by adding at the end the following:

"(C) in carrying out paragraph (1)(A), the Attorney General shall give preference in making payments to States and political subdivisions of States which are ineligible for payments under section 20110 of the Violent Crime Control and Law Enforcement Act of 1994.".

(c) CONFORMING AMENDMENTS.—

(1) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

(A) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(B) FUNDING.—

(i) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(ii) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as such Act was in effect on the day preceding the date of enactment of this Act.

(2) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(A) TABLE OF CONTENTS.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V.

(B) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under title V of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as if such subtitle was in effect on the day preceding the date of enactment of this Act.

(C) Truth-in-Sentencing.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II and inserting the following:

"Subtitle A—Truth-in-Sentencing Grants

"Sec. 20101. Definitions.
"Sec. 20102. Authorization of Grants.
"Sec. 20103. General Grants.
"Sec. 20104. Truth-in-sentencing incentive grants.
"Sec. 20105. Special rules.
"Sec. 20106. Formula for grants.
"Sec. 20107. Accountability.
"Sec. 20108. Authorization of appropriations.
"Sec. 20109. Payments for Incarceration on Tribal Lands.
"Sec. 20110. Payments to States for Incarceration on Criminal Aliens.
"Sec. 20111. Report by the Attorney General.".

Sec. 115. Notwithstanding provisions of 41 U.S.C. 353 or any other provision of law, the Federal Prison System may enter into contracts and other agreements with private entities for a period not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

Sec. 116. (a) In General.—Subsection (b) of section 4 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–2(b)) is amended by striking "March 11, 1993" each place it appears and inserting "August 1, 1994".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the provisions of the National Voter Registration Act of 1993.

Sec. 117. Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

Sec. 118. Section 1344(b)(6) of title 31, United States Code, is amended to read as follows:

"(6) the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration;".

Sec. 119. (a) Authority of the Foreign Claims Settlement Commission.—The Foreign Claims Settlement Commission of the United States (the "Commission") is authorized to receive and determine the validity and amount of claims by nationals of the United States against the Federal Republic of Germany covered by Article 2(2) of the Agreement Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, entered into force September 19, 1995 (the "Agreement"). In deciding such claims, the Commission shall be guided by the criteria applied by the Department of State in determining the validity and amount of the claims covered by and settled under Article 2(1) of the Agreement.

(b) Application of Other Laws.—Except to the extent inconsistent with the provisions of this section, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et sec.), except for section 7(b) (22 U.S.C. 1626 (b)), shall apply with respect to claims under this section. Any reference in such provisions to "this title" shall be deemed to refer to those provisions and to this section.

(c) Certification and Payment.—

(1) Not later than two years after the entry into force of the Agreement, the Commission shall certify to the Secretary of State, in writing, its determinations as to the validity and amount of the claims authorized for decision under subsection (a).

(2) In the case of claims found to be compensable under subsection (a), the Commission shall certify the awards entered in the claims to the Secretary of the Treasury in accordance with section 5 of Title 1 of the International Claims Settlement Act of 1949 (22 U.S.C. 1624). Such awards shall be paid in accordance with subsections (a) and (c)–(f) of section 7 of such title (22 U.S.C. 1626) out of a special fund established in accordance with section 8 of such title (22 U.S.C. 1627), following conclusion of the negotiations provided for in Article 2(2) of the Agreement.

(d) Confidentiality of Records.—Records pertaining to the claims received by the Commission pursuant to subsection (a) shall not be publicly disclosed and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code.

(e) Separability.—If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section or the application of such provision to other persons or circumstances shall not be affected.

This title may be cited as the "Department of Justice Appropriations Act, 1996".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

Trade and Infrastructure Development

RELATED AGENCIES

Office of the United States Trade Representative

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,889,000, of which $2,500,000 shall remain available until expended: Provided, That not to exceed $98,000 shall be available for official reception and representation expenses.

International Trade Commission

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,000,000 to remain available until expended.

DEPARTMENT OF COMMERCE

International Trade Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $264,885,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,604,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $328,500,000: Provided, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: Provided further, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as *provided for by law, $20,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.*

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $32,000,000.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, $2,000,000, to remain available until December 31, 1995: Provided, That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $45,900,000, to remain available until September 30, 1997.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fee necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $138,812,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic census and programs provided for by law, $150,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,000,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for spectrum management, analysis, and operations and for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Services of the NTIA in furtherance of its assigned functions under this paragraph and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $15,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: Provided further, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: Provided further, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $82,324,000, to remain available until expended: Provided, That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: Provided further, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $259,000,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $80,000,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund": Provided, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: Provided further, That any unobligated balances available from carryover of prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 358 commissioned officers on the active list; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,795,677,000, to remain available until extended: Provided, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: Provided further, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1996, so as to result in a final general fund appropriation estimated at not more than $1,792,677,000: Provided further, That any such additional fees received in excess of $3,000,000 in fiscal year 1996 shall not be available for obligation until October 1, 1996: Provided further, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, $63,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": Provided further, That grants to State pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2)(A), 16 U.S.C. 1456a(b)(2)(B)(v), and 16 U.S.C. 1461(e).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $50,000,000, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,032,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management

Act of 1976, as amended (Public Law 100-627) and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $5,000,000.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $29,100,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $19,849,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $75,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: Provided, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: Provided further, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce to cover the costs of actions relating to the abolishment, reorganization or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. None of the funds appropriated under this Act or any other law shall be used to implement subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Act.

SEC. 208. Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration project Number 01-11-01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

SEC. 209. (a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b);

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority, on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

SEC. 210. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, that the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1996".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $25,834,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,313,000, of which $500,000 shall remain available until expenses.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $14,288,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,859,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,433,141,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,318,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $267,217,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): Provided, That none of the funds provided in this Act shall be available for Death Penalty Resource Centers or Post-Conviction Defender Organizations after April 1, 1996.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,028,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $102,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,914,000; of which $1,800,000 shall remain available through September 30, 1997, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $24,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,000,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,500,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 92–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services", shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: Provided, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 305. Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph, by striking, "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

This title may be cited as "The Judiciary Appropriations Act, 1996".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration $1,708,800,000: Provided, That notwithstanding section 140(a)(5) and the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: Provided further, That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: Provided further, That the preceding two provisos shall remain in effect through April 1, 1996: Provided further, That starting in fiscal year 1997, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,144,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended. Of the latter amount, $9,600,000 shall not be made available until expiration of the 15 day period beginning on the date when the Secretary of State and the Director of the Diplomatic Telecommunications Service submit the pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section

For an additional amount for security enhancements to counter the threat of terrorism, $9,720,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $363,276,000.

For an additional amount for security enhancements to counter the threat of terrorism, $1,870,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $16,400,000, to remain available until expended, as authorized by Public Law 103–236: Provided, That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,369,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (P.L. 96–465), as it relates to post inspections: Provided, That notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,579,000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Services Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $385,760,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative Expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8(93 Stat. 14), $15,165,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $125,402,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $700,000,000: Provided, That any payment of arrearages shall be directed toward special articles that are mutually agreed upon by the United States and the respective international organization: Provided further, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1996 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: Provided further, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $225,000,000: Provided, That none of the funds made available under this Act may be used, and shall not be available, for obligation or expenditure for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: Provided Further, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $3,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries expenses, not otherwise provided for, $12,058,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: Provided, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, 5,000,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $35,700,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information

Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $445,645,000: Provided, That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: Provided further, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That not to exceed $1,700,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorizing by 22 U.S.C. 2455.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1996, to remain available until expended: Provided, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1996, to remain available until expended.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

For necessary expenses of American Studies Collections as authorized by section 235 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, all interest and earnings accruing to the American Studies Collections Endowment Fund on or before September 30, 1996, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $325,191,000, of which $5,000,000 shall remain available until expended, not to exceed $16,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3), not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085, and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes, and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000 to remain available until expended: Provided, That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to south Florida, and that any funds available under the headings "International Broadcasting Operations", "Broadcasting to Cuba", and "Radio Construction" may be available to carry out this relocation.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $40,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $11,750,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $2,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. (a) No later than 90 days after enactment of legislation consolidating, reorganizing or downsizing the functions of the Department of State, the United States Information Agency, and the Arms Control and Disarmament Agency, the Secretary of State, the Director of the United States Information Agency and the Director of the Arms Control and Disarmament Agency shall submit to the Committees on Appropriations of the House and the Senate a proposal for transferring or rescinding funds appropriated herein for functions that are consolidated, reorganized or downsized under such legislation: Provided, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of State, the Director of the United States Information Agency, and the Director of the Arms Control and Disarmament Agency, as appropriate, may use any available funds to cover the costs of actions to consolidate, reorganize or downsize the functions under their authority required by such legislation, and of any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 402 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure

except in compliance with the procedures set forth in that section.

SEC. 405. (a) Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchanges Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

(b) Subsection (a) shall cease to be in effect after April 1, 1996.

SEC. 406. Section 36(a)(1) of the State Department Authorities Act of 1956, as amended (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

SEC. 407. Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1999".

SEC. 408. Sections 6(a) and 6(b) of Public Law 101–454 are repealed.

SEC. 409. It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this Act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

SEC. 410. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1996".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARTIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $162,610,000, to remain available until expended.

MARITIME NATIONAL SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States as determined by the Secretary of Defense in consultation with the Secretary of Transportation, $46,000,000, to remain available until expended: Provided, That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,600,000, to remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies and may be transferred to the Secretary of the Interior for use as provided in the National Maritime Heritage Act (P.L. 103–451): Provided further, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $40,000,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,500,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,750,000: Provided, That not to exceed $50,000 may be used to employ consultants: Provided further, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION IN IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,894,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $175,709,000, of which not to exceed $300,000 shall remain available until September 30, 1997, for research and policy studies: Provided, That $116,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at $59,309,000: Provided further, That any offsetting collections received in excess of $116,400,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C.

1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,855,000: Provided, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $79,568,000: Provided, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: Provided further, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $31,306,000, to remain available until expended: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: Provided further, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $278,000,000, of which $265,000,000 is for basic field programs; $7,000,000 is for the Office of the Inspector General, of which $5,500,000 shall remain available until expended and be used to contract with independent public accountants for financial audits of all recipients in accordance with the requirements of section 509 of this Act; and $6,000,000 is for management and administration: Provided, That $198,750,000 of the total amount provided under this heading for basic field programs shall not be available except for the competitive award of grants and contracts under section 503 of this Act.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) Funds appropriated under this Act to the Legal Services Corporation for basic field programs shall be distributed as follows:

(1) The Corporation shall define geographic areas and make the funds available for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within the geographic area, except as provided in paragraph (2)(B). Funds for such a geographic area may be distributed by the Corporation to 1 or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)), subject to sections 502 and 504.

(2) Funds for grants from the Corporation, and contracts entered into by the Corporation for basic field programs, shall be allocated so as to provide—

(A) except as provided in subparagraph (B), an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code (or, in the case of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, Alaska, Hawaii, and the United States Virgin Islands, on the basis of the adjusted population counts historically used as the basis for such determinations); and

(B) an additional amount for Native American communities that received assistance under the Legal Services Corporation Act for fiscal year 1995, so that the proportion of the funds appropriated to the Legal Services Corporation for basic field programs for fiscal year 1996 that is received by the Native American communities shall be not less than the proportion of such funds appropriated for fiscal year 1995 that was received by the Native American communities.

(b) As used in this section:

(1) The term "individual in poverty" means an individual who is a member of a family (of 1 or more members) with an income at or below the poverty line.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 502. None of the funds appropriated in this Act to the Legal Services Corporation shall be used by the Corporation to make a grant, or enter into a contract, for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

(1) a private attorney admitted to practice in a State or the District of Columbia;

(2) a qualified nonprofit organization, chartered under the laws of a State or the District of Columbia, that—

(A) furnishes legal assistance to eligible clients; and

(B) is governed by a board of directors or other governing body, the majority of which is comprised of attorneys who—

(i) are admitted to practice in a State or the District of Columbia; and

(ii) are appointed to terms of office on such board or body by the governing body of a State, county, or municipal bar association, the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)(ii)); or

(4) a substate regional planning or coordination agency that serves a substate area and whose governing board is controlled by locally elected officials.

SEC. 503. (a)(1) Not later than April 1, 1996, the Legal Services Corporation shall implement a system of competitive awards of grants and contracts for all basic field programs, which shall apply to all such grants and contracts awarded by the Corporation after March 31, 1996, from funds appropriated in this Act.

(2) Any grant or contract awarded before April 1, 1996, by the Legal Services Corporation to a basic field program for 1996—

(A) shall not be for an amount greater than the amount required for the period ending March 31, 1996;

(B) shall terminate at the end of such period; and

(C) shall not be renewable except in accordance with the system implemented under paragraph (1).

(3) The amount of grants and contracts awarded before April 1, 1996, by the Legal Services Corporation for basic field programs for 1996 in any geographic area described in section 501 shall not exceed an amount equal to $\frac{3}{12}$ of the total amount to be distributed for such programs for 1996 in such area.

(b) Not later than 60 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process for the recipients of such grants and contracts.

(c) Such regulations shall specify selection criteria for the recipients, which shall include—

(1) a demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving the needs;

(2) the quality, feasibility, and cost effectiveness of a plan submitted by an applicant for the delivery of legal assistance to the eligible clients to be served; and

(3) the experience of the Legal Services Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the record of the applicant of past compliance with Corporation policies, practices, and restrictions.

(d) Such regulations shall ensure that timely notice regarding an opportunity to submit an application for such an award is published in periodicals of local and State bar associations and in at least one daily newspaper of general circulation in the area to be served by the person or entity receiving the award.

(e) No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process.

(f) For the purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

SEC. 504. (a) None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a "recipient")—

(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or other statement of general applicability and future effect by any Federal, State, or local agency;

(3) that attempts to influence any part of any adjudicatory proceeding of any Federal, State, or local agency if such part of the proceeding is designed for the formulation or modification of any agency policy of general applicability and future effect;

(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of the Congress or a State or local legislative body;

(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any

person or entity receiving financial assistance provided by the Corporation;

(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this section;

(7) that initiates or participates in a class action suit;

(8) that files a complaint or otherwise initiates or participates in litigation against a defendant, or engages in a precomplaint settlement negotiation with a prospective defendant, unless—

(A) each plaintiff has been specifically identified, by name, in any complaint filed for purposes of such litigation or prior to the precomplaint settlement negotiation; and

(B) a statement or statements of facts written in English and, if necessary, in a language that the plaintiffs understand, that enumerate the particular facts known to the plaintiffs on which the complaint is based, have been signed by the plaintiffs, are kept on file by the recipient, and are made available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation:

Provided, That upon establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to such potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of any potential plaintiff pending the outcome of such litigation or negotiations after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiations: Provided further, That other parties to the litigation or negotiation shall have access to the statement of facts referred to in subparagraph (B) only through the discovery process after litigation has begun;

(9) unless—

(A) prior to the provision of financial assistance—

(i) if the person or entity is a nonprofit organization, the governing board of the person or entity has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)(i)), of the types of matters and cases to which the staff of the nonprofit organization shall devote time and resources; and

(ii) the staff of such person or entity has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with the written procedures of such board for such situations; and

(B) the staff of such person or entity provides to the governing board on a quarterly basis, and to the Corporation on an annual basis, information on all cases or matters undertaken other than cases or matters undertaken in accordance with such priorities;

(10) unless—

(A) prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged;

(B) any funds, including Interest on Lawyers Trust Account funds, received from a source other than the Corporation by the person or entity, and disbursements of such funds, are accounted for and reported as receipts and disbursements, respectively, separate and distinct from Corporation funds; and

(C) the person or entity agrees (notwithstanding section 1009(d) of the Legal Services Corporation Act (42 U.S.C. 2996h(d)) to make the records described in this paragraph available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation;

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who—

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(D) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section; or

(F) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity;

(12) that supports or conducts a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity, except that this paragraph shall not be construed to prohibit the provision of training to an attorney or a paralegal to prepare the attorney or paralegal to provide—

(A) adequate legal assistance to eligible clients; or

(B) advice to any eligible client as to the legal rights of the client;

(13) that claims (or whose employee claims), or collects and retains, attorneys' fees pursuant to any Federal or State law permitting or requiring the awarding of such fees;

(14) that participates in any litigation with respect to abortion;

(15) that participates in any litigation on behalf of a person incarcerated in a Federal, State, or local prison;

(16) that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation;

(17) that defends a person in a proceeding to evict the person from a public housing project if—

(A) the person has been charged with the illegal sale or distribution of a controlled substance; and

(B) the eviction proceeding is brought by a public housing agency because the illegal drug activity of the person threatens the health or safety of another tenant residing in the public housing project or employee of the public housing agency;

(18) unless such person or entity agrees that the person or entity, and the employees of the person or entity, will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action, and will not refer such nonattorney to another person or entity or an employee of the person or entity, that is receiving financial assistance provided by the Corporation; or

(19) unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of which shall render any grant or contractual agreement to provide funding null and void, and, for such purposes, the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

(b) Nothing in this section shall be construed to prohibit a recipient from using funds from a source other than the Legal Services Corporation for the purpose of contacting, communicating with, or responding to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

(c) Not later than 30 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate a suggested list of priorities that boards of directors may use in setting priorities under subsection (a)(9).

(d)(1) The Legal Services Corporation shall not accept any non-Federal funds, and no recipient shall accept funds from any source other than the Corporation, unless the Corporation or the recipient, as the case may be, notifies in writing the source of the funds that the funds may not be expended for any purpose prohibited by the Legal Services Corporation Act or this title.

(2) Paragraph (1) shall not prevent a recipient from—

(A) receiving Indian tribal funds (including funds from private nonprofit organizations for the benefit of Indians or Indian tribes) and expending the tribal funds in accordance with the specific purposes for which the tribal funds are provided; or

(B) using funds received from a source other than the Legal Services Corporation to provide legal assistance to a covered individual if such funds are used for the specific purposes for which such funds were received, except that such funds may not be expended by recipients for any purpose prohibited by this Act or by the Legal Services Corporation Act.

(e) As used in this section:

(1) The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "covered individual" means any person who—

(A) except as provided in subparagraph (B), meets the requirements of this Act and the Legal Services Corporation Act relating to eligibility for legal assistance; and

(B) may or may not be financially unable to afford legal assistance.

(3) The term "public housing project" has the meaning as used within, and the term "public housing agency" has the meaning given the

term, in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a).

SEC. 505. None of the funds appropriated in this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or nonprofit organization.

SEC. 506. None of the funds appropriated in this Act to the Legal Services Corporation may be used by any person or entity receiving financial assistance from the Corporation to file or pursue a lawsuit against the Corporation.

SEC. 507. None of the funds appropriated in this Act to the Legal Services Corporation may be used for any purpose prohibited or contrary to any of the provisions of authorization legislation for fiscal year 1996 for the Legal Services Corporation that is enacted into law. Upon the enactment of such Legal Services Corporation reauthorization legislation, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.

SEC. 508. (a) The requirements of section 504 shall apply to the activities of a recipient described in section 504, or an employee of such a recipient, during the provision of legal assistance for a case or matter, if the recipient or employee begins to provide the legal assistance on or after the date of enactment of this Act.

(b) If the recipient or employee began to provide legal assistance for the case or matter prior to the date of enactment of this Act—

(1) each of the requirements of section 504 (other than paragraphs (7), (11), and (15) of subsection (a) of such section) shall, beginning on the date of enactment of this Act, apply to the activities of the recipient or employee during the provision of legal assistance for the case or matter; and

(2) the requirements of paragraphs (7), (11), and (15) of section 504(a) shall apply—

(A) beginning on the date of enactment of this Act, to the activities of the recipient or employee during the provision of legal assistance for any additional related claim for which the recipient or employee begins to provide legal assistance on or after such date; and

(B) beginning July 1, 1996, to all other activities of the recipient or employee during the provision of legal assistance for the case or matter.

(c) The Legal Services Corporation shall, every 60 days, submit to the Committees on Appropriations of the Senate and House of Representatives a report setting forth the status of cases and matters referred to in subsection (b)(2).

SEC. 509. (a) An audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act (referred to in this section as a "recipient") shall be conducted in accordance with generally accepted government auditing standards and shall report whether—

(1) the financial statements of the recipient present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the recipient has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations; and

(3) the recipient has complied with Federal laws and regulations applicable to funds received, regardless of source.

(b) In carrying out the requirements of subsection (a)(3), the auditor shall select and test a representative number of transactions. Any noncompliance found by the auditor during the audit under this section shall be reported within 30 days to the Office of the Inspector General.

(c) Audits conducted in accordance with this section shall be in lieu of the financial audits otherwise required by section 1009(c) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)).

(d) Notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)), the Legal Services Corporation shall have access to financial records, time records, retainer agreements, client trust fund and eligibility records, and client names, for each recipient, except for reports or records subject to the attorney-client privilege.

(e) The Legal Services Corporation shall not disclose any name or document referred to in subsection (d), except to—

(1) a Federal, State, or local law enforcement official; or

(2) an official of an appropriate bar association for the purpose of enabling the official to conduct an investigation of a rule of professional conduct.

(f) The requirements of this section shall apply to a recipient for its first fiscal year beginning on or after January 1, 1996.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,190,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $350,000: Provided, That this shall be the final Federal payment to the Martin Luther King, Jr. Federal Holiday Commission for operations and necessary closing costs.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $287,738,000, of which $3,000,000 is for the Office of Economic Analysis, to be headed by the Chief Economist of the Commission, and of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel and transportation to or from such meetings, and (iii) any other related lodging or subsistence: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of one percentum to one-twenty-ninth of one percentum, and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: Provided further, That the total amount appropriated for fiscal year 1996 under this heading shall be reduced as such fees are deposited to this appropriation so as to result in a final total fiscal year 1996 appropriation from the General Fund estimated at not more than $103,445,000: Provided further, That any such fees collected in excess of $184,293,000 shall remain available until expended but shall not be available for obligation until October 1, 1996: Provided further, That $1,000,000 of the funds appropriated for the Commission shall be available for the enforcement of the Investment Advisers Act of 1940 in addition to any other appropriated funds designated by the Commission for enforcement of such Act.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $219,190,000: Provided further, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: Provided further, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504, $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $4,500,000, and for the cost of guaranteed loans, $156,226,000, as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000 shall remain available until September 30, 1997: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 1996, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under Section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $92,622,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $34,432,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $71,578,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $2,530,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

SEC. 510. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such *transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.*

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $5,000,000 to remain available until expended: Provided, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous Appropriations Act to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days, based upon all information available to the U.S. Government that the Government of the Socialist Republic of Vietnam is fully cooperating with the United States in the following four areas:

(1) resolving discrepancy cases, live sightings and field activities.

(2) recovering and repatriating American remains,

(3) accelerating efforts to provide documents that will help lead to fullest possible accounting of POW/MIA's

(4) providing further assistance in implementing trilateral investigations with Laos.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102–567.

SEC. 613. None of the funds made available in this Act may be used for "USIA Television Marti Program" under the Television Broadcasting to Cuba Act or any other program of United States Government television broadcasts to Cuba, when it is made known to the Federal official having authority to obligate or expend such funds that such use would be inconsistent with the applicable provisions of the March 1995 Office of Cuba Broadcasting Reinventing Plan of the United States Information Agency.

SEC. 614. (a)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by striking out the item relating to the Advisory Corrections Council.

(b) This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 615. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, $65,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $60,000,000 are rescinded.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $7,400,000 are rescinded.

TITLE VIII—PRISON LITIGATION REFORM

SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison

conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(B) The court shall not order any prospective relief that requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State or local law, unless—

"(i) Federal law permits such relief to be ordered in violation of State or local law;

"(ii) the relief is necessary to correct the violation of a Federal right; and

"(iii) no other relief will correct the violation of the Federal right.

"(C) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that—

"(i) crowding is the primary cause of the violation of a Federal right; and

"(ii) no other relief will remedy the violation of the Federal right.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of program facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party or intervener—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law; and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) may be authorized by a court to conduct hearings and prepare proposed findings of fact, which shall be made on the record;

"(B) shall not make any findings or communications ex parte;

"(C) may be authorized by a court to assist in the development of remedial plans; and

"(D) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by

government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages;

"(8) the term 'special master' means any person appointed by a Federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure or pursuant to any inherent power of the court to exercise the powers of a master, regardless of the title or description given by the court; and

"(9) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.".

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions.".

SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section.".

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section.".

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.".

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

"(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

"(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit that includes a statement of all assets such prisoner possesses";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from

the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.";

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief.".

(b) EXCEPTION TO DISCHARGE OF DEBT IN BANKRUPTCY PROCEEDING.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28.".

(c) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.".

(d) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.".

(e) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

SEC. 805. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

"§1915A. Screening

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief.

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

"1915A. Screening.".

SEC. 806. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.".

SEC. 807. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS.

Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.

SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD.

Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.

SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§1932. Revocation of earned release credit

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit.".

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence,"; and

(iii) by striking "such";

(C) in the third sentence, by striking "If the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (2), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.".

SEC. 810. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996".

And the Senate agree to the same.

HAROLD ROGERS,
JIM KOLBE,
CHARLES H. TAYLOR,
RALPH REGULA,
MIKE FORBES,
BOB LIVINGSTON,
ALAN B. MOLLOHAN,
Managers on the Part of the House.

JUDD GREGG,
MARK O. HATFIELD,
TED STEVENS,
PETE V. DOMENICI,
MITCH MCCONNELL,
JAMES M. JEFFORDS,
THAD COCHRAN,
ERNEST F. HOLLINGS (with reservations),
ROBERT C. BYRD,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and insert the Senate bill. The conference agreement includes a revised bill.

OVERSEAS STAFFING

The conferees agree with the concern expressed in the House report concerning the lack of a system for determining overall allocation of resources and costs among agencies for operations outside of the U.S. Expansion of staffing or presence overseas is to be brought to the attention of the House and Senate Appropriations Committees at the outset of the planning process, well in advance of the proposed use of any appropriated funds, preferably through the annual budget submission. The conferees are intent upon finding the proper way to assure control of the deployment of personnel and resources outside of the U.S.

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $74,282,000 for General Administration as provided in both the House and Senate bills. The conference agreement also includes a provision that limits the number of positions and amounts expended for the Department Leadership and Executive Support programs as included by the Senate, but modifies the provision to permit augmentation of the Department Leadership program by reimbursable and non-reimbursable personnel and to allow for continuation of reimbursable positions for the Office of Freedom of Information and Privacy Appeals. The House bill did not contain a provision on this matter.

The conference agreement also assumes elimination of the Office of the Associate Attorney General.

COUNTERTERRORISM FUND

The conference agreement includes $16,898,000 for the Counterterrorism Fund, instead of $26,898,000 as proposed by both the House and Senate bills. The conferees understand that balances of $24,445,000 remain available from the 1995 Supplemental Appropriation, Public Law 104–19, for authorized purposes of this Fund.

ADMINISTRATIVE REVIEW AND APPEALS

The conference agreement includes $86,666,000 for Administrative Review and Appeals as proposed by the Senate, instead of $87,516,000 as proposed by the House. Of this amount, the conference agreement provides that $47,780,000 will be provided from the Violent Crime Reduction Trust Fund (VCRTF) for both expedited asylum and deportation hearings as proposed by the House, instead of providing $14,347,000 from the VCRTF only for expedited deportation hearings as proposed by the Senate. The conferees agree that of the total amount provided, $85,252,000 is included for the Executive Office for Immigration Review and $1,414,000 is included for the Office of the Pardon Attorney.

The conference agreement also includes technical bill language that allows outstanding balances for these programs from prior years to be merged with this new appropriation account.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $28,960,000 for the Office of Inspector General, instead of $30,484,000 as proposed by the House and $27,436,000 as proposed by the Senate.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $5,446,000 for the U.S. Parole Commission as proposed by both the House and Senate bills.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDES TRANSFER OF FUNDS)

The conference agreement includes a direct appropriation of $409,520,000 for General Legal Activities, as proposed by both the House and Senate bills. Of this amount, the conference agreement provides that $7,591,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF) as proposed by the House, instead of $2,991,000 from the VCRTF as proposed by the Senate, to support immigration initiatives. In addition to this amount, the conferees agreed to provide $12,000,000 by transferring balances available in the Department of Justice Working Capital Fund. Thus, the total amount provided for General Legal Activities is $421,520,000.

Both the House and Senate bills assumed a transfer of General Legal Activities resources to the U.S. Attorneys program. The conference agreement does not includes this transfer of resources. However, the conferees agree that the Attorney General should report to the Committees on Appropriations of both the House and Senate by March 1, 1996, on the transfer of attorneys to field locations of the Environment and Tax Divisions and offices that are co-located with U.S. Attorneys.

The conferees have also agreed that funding for the Community Relations Service activities will not be provided from funds available under the General Legal Activities account, as proposed by the House.

THE NATIONAL CHILDHOOD VACCINE INJURY ACT

The conference agreement includes a reimbursement of $4,028,000 for fiscal year 1996 from the Vaccine Injury Compensation Trust Fund to the Department of Justice, as proposed by both the House and Senate bills.

SALARIES AND EXPENSES, ANTITRUST DIVISION

The conference agreement provides $85,143,000 for the Antitrust Division as proposed by both the House and Senate bills. Of the amount provided, the conference agreement assumes, based on latest estimates, that $19,360,000 will be derived from unobligated offsetting collections from the prior year, instead of $16,000,000 as assumed in both the House and Senate bills.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The conference agreement includes $925,509,000 for the U.S. Attorneys, instead of $911,556,000 as proposed by the House and $939,463,000 as proposed by the Senate. Of this amount, the conference agreement provides that $30,000,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF) as proposed by the Senate, instead of $14,731,000 from the VCRTF as proposed by the House. The conferees agree that amounts provided from the VCRTF shall be used to support expedited deportation of denied asylum applicants, Federal Victim's Counselors under the Violence Against Women Act, and increased demands for criminal prosecution and related activities.

The conference agreement provides for the following: (1) requested adjustments to base, including restoration of absorption of the 1996 pay raise; (2) $10,000,000 for security upgrades at U.S. Attorneys offices; (3) $2,158,000 for increased prosecution of violators of immigration laws; (4) $9,231,000 from the VCRTF for expedited deportation of denied asylum applicants; (5) $48,083,000 to maintain attorney and support personnel hired in fiscal year 1995 and for additional attorneys and support for violent crime prosecution; and (6) $500,000 to implement a program to appoint Federal Victim's Counselors. The conference agreement does not assume a transfer of resources from the General Legal Activities account to the U.S. Attorneys program, as proposed by the House. In addition, the conferees agree that to the extent possible within the resources provided, the Department of Justice should expand the pilot debt collection program, as stated in the Senate report.

The conference agreement also includes bill language to reflect the total number of positions and full-time equivalent (FTE) employment expected to be supported by the level of resources provided for the U.S. Attorneys in fiscal year 1996. Within the FTE provided, the conferees assume 300 FTE will support student interns. The conferees agree that this language is necessary as a result of the U.S. Attorneys mismanagement which led to the hiring of more employees in 1995 than could be sustained by the resource level provided in fiscal year 1995. The conferees' strong support for the mission of the U.S. Attorneys does not extend to careless hiring and fiscal management practices.

UNITED STATES TRUSTEE SYSTEM FUND

The conference agreement provides $102,390,000 in budget (obligational) authority for the U.S. Trustees, instead of $101,596,000 as proposed by the House and $103,183,000 as proposed by the Senate. Of this amount, the conference agreement provides that $44,191,000 will be derived from anticipated offsetting collections. In addition, under section 111, the conferees agree to include an extension of post-confirmation quarterly fee payments made under Chapter 11 as proposed in both the House and Senate bills and expect that these fees will apply to all pending

Chapter 11 cases with confirmed reorganization plans.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

The conference agreement provides $830,000 for the Foreign Claims Settlement Commission as proposed by the House, instead of $905,000 as proposed by the Senate.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

The conference agreement includes $448,248,000 for the U.S. Marshals Service, instead of $443,973,000 as proposed by the House and $454,639,000 as proposed by the Senate. Of this amount, the conference agreement provides that $25,000,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF) as proposed by the House, instead of $15,000,000 from the VCRTF as proposed by the Senate.

The conference agreement provides for the following: (1) requested adjustments to base; (2) $10,000,000 for security upgrades at existing courthouses; (3) $18,209,000 for additional security personnel to staff new and expanded courthouses scheduled to open in 1996; and (4) $11,066,000 for equipment and communications expenses in new courthouse locations. The conferees understand that the Marshals Service funded a number of requirements by reprogramming resources at the end of fiscal year 1995 and thus have not provided funding increases for requested items. The conferees agree that any additional funding for these items, if necessary, should be requested through a reprogramming of resources in fiscal year 1996.

FEDERAL PRISONER DETENTION

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $252,820,000 for Federal Prisoner Detention, instead of $295,331,000 as proposed by the Senate and $250,331,000 as proposed by the House. In addition to this amount, the conferees understand, that based on the latest carryover estimates, an additional $33,511,000 is available for this program from unobligated balances from the prior year. The conferees have also agreed to provide an additional $9,000,000 by transferring balances available in the Department of Justice Working Capital Fund. Thus, total funding provided for this account is $295,331,000.

The conferees have also agreed to change the name of this appropriation from "Support of U.S. Prisoners" to "Federal Prisoner Detention".

FEES AND EXPENSES OF WITNESSES

The conference agreement includes $85,000,000 for Fees and Expenses of Witnesses as proposed by both the House and Senate bills.

COMMUNITY RELATIONS SERVICE

The conference agreement provides $5,319,000 for the Community Relations Service (CRS) instead of $10,638,000 as proposed by the Senate and elimination of this program as a separate account as proposed by the House. The conferees agree that if emergent circumstances require additional funding for Conflict Prevention and Resolution activities of the CRS, the Attorney General may provide resources for these activities within transfer authorities provided under Section 605 of this Act.

The conferees have also agreed that the activities related to the resettlement of Cubans and Haitians should be transferred to the Immigration and Naturalization Service and that the costs of these activities should be supported by the Immigration Examinations Fee account.

ASSETS FORFEITURE FUND

The conference agreement provides $30,000,000 for the Assets Forfeiture Fund instead of $35,000,000 as provided in both the House and Senate bills. This reduction is based on a revised estimate of revenue from forfeited assets that will be available in fiscal year 1996.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

The conference agreement includes $2,655,000 for administrative expenses in accordance with the Radiation Exposure Compensation Act, as proposed by both the House and Senate bills.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

The conference agreement includes an advance appropriation of $16,264,000 for fiscal year 1997 for payments to the Radiation Exposure Compensation Trust Fund, as proposed by both the House and Senate bills.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

The conference agreement includes $359,843,000 for Interagency Crime and Drug Enforcement as proposed by the Senate, instead of $374,943,000 as proposed by the House.

The conferees recognize that over $76,000,000 of funds requested for this account are for agencies other than Department of Justice (DOJ) agencies and while the conferees have agreed to the level proposed by the Senate they have not allocated the reduction solely to non-DOJ agencies, as proposed by the Senate. Instead, the conferees expect the Office of Investigative Agencies Policy at the Department of Justice to allocate these resources based on current task force requirements and to notify the Committees on Appropriations of both the House and Senate of the proposed distribution of these resources pursuant to the reprogramming requirements in Section 605 of this Act. In addition, the conferees direct the Administration to submit the budget requirements of non-DOJ agencies for fiscal year 1997 within the budgets proposed for those agencies.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $2,407,483,000 for the Federal Bureau of Investigation (FBI), instead of $2,332,081,000 as proposed by the House and $2,506,671,000 as proposed by the Senate. Of this amount, the conference agreement provides that $218,300,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF), instead of $80,600,000 as proposed by the House and $202,500,000 as proposed by the Senate. In addition, the conferees agree that of the amounts provided, not less than $102,345,000 shall be used for counterterrorism investigations, foreign counterintelligence, and other activities related to national security, instead of $121,345,000 as proposed by the Senate.

The conference agreement provides for the following program increase: (1) $1,400,000 for personnel to staff the FBI Command Center; (2) $3,450,000 for FBI Legal Attaches; (3) $25,000,000 for tactical operations development and acquisition program; (4) $8,470,000 for 125 additional FBI staff; (5) $12,500,000 for FBI forensic services, including $9,900,000 to modernize FBI forensic laboratory equipment and $2,600,000 for 75 forensic examiners, technicians and support personnel; (6) $2,900,000 for equipment for Emergency Response Teams; (7) $5,000,000 to upgrade and develop FBI databases on gangs and hostage/barricade situations; (8) $4,000,000 for State, Indian Tribal and local training; (9) $33,400,000 only for research efforts and engineering services to develop new techniques and equipment to perform court-approved wiretaps and interceptions of communications and shall not be used for deployment of any technology that may be developed without authorizing legislation; (10) $3,000,000 for aviation maintenance and equipment; (11) $10,000,000 for wireless radio communications and leasing of antenna sites; (12) $5,000,000 for Safe Street Task Forces; (13) $4,200,000 for FBI's DRUGFIRE program, including equipping of State and local laboratories; and (14) $15,000,000 for FBI's Combined DNA Index System, including $9,500,000 to equip State and local laboratories with this technology.

The conference agreement does not include $28,737,000 requested to fully annualize positions approved in fiscal year 1995 because the FBI failed to hire personnel to fill these additional positions.

FBI international operations.—The conference agreement provides an increase of $3,450,000 for FBI Legal Attache offices. However, the conferees are concerned that the FBI has not adequately presented its short and long term plan for expansion of its international operations and activities. Therefore, the conferees agree that the additional funds provided in this Act may not be expended until a plan for FBI international operations has been developed jointly by the Department of Justice and the Department of State, and has been presented to and approve by the Committees on Appropriations of both the House and Senate consistent with the reprogramming requirements in Section 605 of this Act.

NCIC 2000.—The conferees agree that one of the highest priority projects of Federal, State and local law enforcement is the completion of NCIC 2000. The conferees are aware of delays in the scheduled completion and additional resource requirements that are necessary to bring this vital system on line. The conference agreement therefore ensures that funds will be available for completion of this project by directing balances available in the FBI ADP and Telecommunications account and the Department of Justice Working Capital Fund to be applied to this project. Furthermore, the conferees are aware that the FBI has an additional $34,548,000 in unobligated balances to be transferred into the Department of Justice Working Capital Fund and directs the FBI to transfer this entire amount immediately to the Working Capital Fund to support the NCIC 2000 project and other needs of the Department of Justice.

The conferees direct the Attorney General and the FBI to make oversight of the management of this project and the contractor a top management priority. Upon receiving information that the contract was severely behind schedule and that the cost for completion of the NCIC 2000 project had escalated to almost double the initial cost estimates, the Committees on Appropriations of both the House and Senate urged the FBI to consider a "firm-fixed" contract in its renegotiation process. The conferees are concerned that the FBI has entered into another "cost-plus" contract for this project. Congress has made completion of this project on time and within the resources provided a priority. The Department of Justice and the FBI should do the same. The conferees direct the FBI to provide a quarterly status report on this project and the performance of the contractor.

Similarly, the conferees are concerned about schedule delays within the Integrated Automated Fingerprint Identification System (IAFIS) project. The conferees are particularly concerned that while the FBI will have entered into contracts on each of the four IAFIS segments by the end of this calendar year, it does not appear that the issues related to integration of these components systems have been adequately addressed. Again, the conferees direct the Attorney General and the FBI to make management of this important project a top priority and expect to receive quarterly status reports on the IAFIS project.

CONSTRUCTION

The conference agreement includes $97,589,000 for Construction for the Federal Bureau of Investigation (FBI), instead of $98,400,000 as proposed by the House and $98,800,000 as proposed by the Senate.

The conference agreement provides for the following: (1) $10,000,000 for renovations, equipment and telecommunications upgrades to the FBI Headquarters Command Center; (2) $57,089,000 for architectural design, site planning and the first phase of construction for a new FBI Forensic Laboratory Facility to be located at Ft. Belvoir, Virginia; and (3) $30,500,000 for upgrades to the FBI Training Academy at Quantico, Virginia, including $21,350,000 to fully complete the modernization of the outdoor firing range and the tactical firearms training center and $9,150,000 for necessary maintenance.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $805,668,000 for the salaries and expenses of the Drug Enforcement Administration (DEA) instead of $793,488,000 as proposed by the House, and $850,000,000 as proposed by the Senate. Of this amount, the conference agreement provides that $60,000,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF) as proposed by the Senate, instead of $12,000,000 as proposed by the House. The conferees also agree that in addition to amounts appropriated, $47,241,000 will be available from the Diversion Control Fund for diversion control activities.

The conference agreement includes the following program increases: (1) $580,000 for DEA's legal attache program; (2) $5,000,000 for contract linguist support; (3) $1,650,000 for advanced telephony; (4) $7,400,000 for office automation; (5) $3,965,000 for 30 new agents for domestic heroin enforcement; (6) $4,950,000 for mobile enforcement teams, including teams to address illicit drug activities in rural areas; (7) $2,000,000 for wireless radio communications; and (8) $2,000,000 for DRUGFIRE systems.

The conference agreement does not include $15,400,000 requested to fully annualize positions approved in fiscal year 1995 because the DEA has failed to hire personnel to fill these additional positions.

The conferees understand that the funding provided for an additional DEA Legal Attache office is a portion of funds necessary to establish a joint FBI/DEA Legal Attache office in Beijing, China. Consistent with funding provided for FBI Legal Attache Offices, the conferees agree that these funds should not be expended by DEA until the Committees on Appropriations have approved the plan for FBI international operations.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

The conference agreement includes $1,711,023,000 for the salaries and expenses of the Immigration and Naturalization Service (INS), including the Border Patrol, instead of $1,725,023,000 as proposed by the House, and a total of $1,735,796,000 as proposed by the Senate ($1,119,296,000 for INS and $616,500,000 for the Border Patrol). Of the amounts provided, the conference agreement provides $316,198,000 from the Violent Crime Reduction Trust Fund (VCRTF), instead of $303,542,000 as proposed by the House and $175,662,000 as proposed by the Senate. The conferees also agree that in addition to amounts appropriated, $821,447,000 will be available from offsetting fee collections for the purposes outlined in the House and Senate reports. The conferees agree not to include funding for border control activities by doubling the current fee for 245(i) applications. Furthermore, the conferees agree not to implement a border crossing toll as proposed by the Administration.

The conference agreement provides for requested adjustments to base, including the full cost of the pay raise and the following program increases to support enhanced border control, detention and removal of criminal and other deportable aliens, and worksite enforcement and verification:

Border control.—The conference agreement includes 1,420 positions, 614 FTE and $152,172,000 for enhanced border control activities, of which $30,872,000 is from the Violent Crime Reduction Trust Fund, including (1) $83,500,000 for 800 new border patrol agents and 160 support personnel and the reallocation of 200 border patrol agent positions from interior stations to the front lines of the border; (2) $7,100,000 for border technology and an additional helicopter; (3) $20,000,000 for 400 new land border inspectors for the Southern border; (4) $6,000,000 for anti-smuggling units; (5) $4,700,000 for a pilot interior repatriation effort; and (6) $30,872,000 for automated border lookout systems, including a pilot exit control system.

Detention and removal of deportable aliens.—The conference agreement includes an increase of 1,400 positions, 702 FTE and $128,716,000, of which $33,116,000 is from the VCRTF, to apprehend, locate, detain and deport illegal aliens, including: (1) $46,116,000 to fully support the Institutional Hearing Program; (2) $42,700,000 for 418 detention personnel and for over 2,800 additional detention beds; (3) $26,315,000 for 279 deportation personnel to remove abscondees, criminal aliens and illegal aliens who have been denied asylum or apprehended from worksites; (4) $5,200,000 to add warrants for arrest into NCIC 2000 for aliens who are repeat offenders to reentry after deportation; and (5) $8,385,000 for the purchase of new vehicles and transportation costs.

Worksite enforcement and verification.—The conference agreement includes an increase of 384 positions, 192 FRE and $50,444,000, including $40,444,000 for investigations personnel to enhance employer sanctions activities and backfill 200 border patrol agents positions that will be reallocated to border patrol stations along with immediate border, and $10,000,000 to improve the accuracy of INS records and develop pilots for verification systems, including the expansion of the current INS telephone verification systems.

Border control systems modernization.—Within total amounts provided in the Violent Crime Reduction Trust Fund, $153,570,000 is recommended to continue the border systems modernization effort started last year. The conferees agree that within this effort, the INS should conduct a pilot program to collect records of departing passengers and should also extend fingerprint-based identification systems and automated case tracking systems to the entire Southwest border, as stated in the House and Senate reports.

Resource deployment.—The conferees expect that INS will deploy border patrol agent and inspector positions to the Southwest border to support the greatest areas of illegal traffic. The conferees direct INS to assign these new positions as "front-line" employees on the immediate border and to staff inspection lanes for the facilitation of traffic across the border. In addition, as mentioned in the House and Senate reports, the conferees expect INS to ensure that staffing levels at the Miami and Hawaii airports are consistent with past years INS staffing models plus projected passenger increases for fiscal year 1996 and that INS participates in the Unified Port Management Pilot Project. The conferees also expect INS to review the requirements of States and localities in the central region of the country in its allocation of additional personnel for interior enforcement initiatives. The conferees direct INS to consult with the Appropriations Committees of both the House and Senate before a final allocation of all of these positions is determined.

INS Offices of Congressional and Public Affairs.—The conferees have agreed to include language that clarifies the activities to be performed by the INS Offices of Congressional and Public Affairs, as proposed by the Senate.

BORDER PATROL

The conference agreement for the Immigration and Naturalization Service includes $584,800,000 for the Border Patrol, including $78,000,000 to be provided from the Violent Crime Reduction Trust Fund (VCRTF). For the past two years, the conferees agree that the Congress has made resources to hire additional Border Patrol agents a top priority. The conferees are concerned that despite clear guidance from Congress, those resources have in some instances been diverted to other activities within INS. At a time when budgetary resources are scarce and Congress has made difficult choices in order to ensure that funding is provided to maintain the integrity of our Nation's borders, mismanagement of resources by INS cannot be tolerated. To ensure that the funding provided by Congress is used for its intended purpose, the conferees have agreed to add bill language which directs INS to provide the level of funding for the Border Patrol assumed by the conferees in their determination of total funding levels for the INS.

The resource level provided by the conference agreement provides for an additional 1,000 border patrol agents on the front lines of the border by hiring 800 new border patrol agents and reallocating 200 border patrol positions from interior border patrol stations to stations that are on the immediate border. The conferees understand that INS must undertake a significant recruitment and training process in order to hire and train the new agents in addition to over 2,000 other INS employees. Therefore, the conferees expect INS to report to the Committees on Appropriations of the House and Senate on a quarterly basis, its progress and plans in meeting the hiring goals for new border patrol agents. In addition, the conferees urge the Department to seek, on behalf of INS, the allowable waivers from the Office of Personnel Management that would allow INS to reemploy retired (with no loss of retirement pay) Border Patrol agents and investigators, if feasible, in order to meet training and hiring requirements.

The resource level provided by the conference agreement includes $12,000,000 for the reallocation of 200 border patrol agent positions from interior stations to the front lines of the border. The conferees agree that effective border control is the most important means of controlling illegal immigration and that the INS must utilize its border patrol resources in a way that ensures that apprehension of illegal aliens at the border is its first priority. The conferees also agree that INS can no longer use border patrol resources on functions not directly related to border control. However, the conferees recognize the importance of an INS enforcement presence in parts of the country that have significant populations of illegal immigrants. Rather than close any of these offices, the conferees direct INS to restaff these offices with criminal investigative positions in order to ensure that the interior enforcement activities currently performed in these locations can continue. The conferees also recognize that some of the border patrol agents in these offices may opt to convert to the investigator positions and encourage INS management to consider personnel and relocation issues in implementing this action.

California checkpoints.—The conferees have agreed to eliminate the provision in the House bill that would have closed the border patrol traffic checkpoints in San Clemente and Temecula, California. However, the conferees agree that the current operation of these checkpoints is unacceptable. The conferees agree that the effectiveness of these checkpoints is contingent on full operation of these checkpoints on a continuous 24-hour basis and improvements to the current San Clemente checkpoint to reduce delays and increase the safety of agents, the persons being checked, and nearby communities. Therefore, the conferees have included language that prohibits operation of the checkpoints if the checkpoints are not operated on a continuous 24-hour basis and a commuter lane pilot program to expedite commuter traffic is not established. In addition, the conferees direct INS to immediately make the needed improvements, with $7,500,000 currently available in construction resources, to the San Clemente checkpoint and expect the procurements required to complete these improvements to be made on an expedited basis. The conferees further stipulate that if INS fails to complete these improvements by July 1, 1996, the checkpoint will close immediately until the improvements are completed. However, funds will be available, subject to the reprogramming requirements in section 605 of this Act, to reopen the checkpoint if the Attorney General certifies that exigent circumstances exist. The conferees also expect that INS continue its policy that eliminates high speed pursuits at these checkpoints and direct INS to seek approval by the Committees on Appropriations of both the House and Senate prior to any change in this policy. Furthermore, the conferees direct INS to assign staff to these checkpoints at the full authorized strength and provide additional permanent interior enforcement personnel to Oceanside, Vista, and Carlsbad, California in order to address the problem of alien smuggling operations and related criminal activity in the communities surrounding these checkpoints.

CONSTRUCTION

The conference agreement includes $25,000,000 for Construction for INS, instead of $11,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

The conference agreement provides for the following: (1) $7,000,000 for border infrastructure improvements; (2) $4,300,000 for a triple fencing pilot project along the San Diego border; (3) $2,700,000 to renovate Charleston Naval Base for a satellite training facility for the Border Patrol; and (4) $11,000,000 for construction costs for the planned joint INS/U.S. Marshals detention facility to be located in Batavia, New York.

Border Patrol training facility.—The Committees on Appropriations of the House and Senate approved a reprogramming for $2,300,000 submitted by the Department of Justice on August 11, 1995, to upgrade and modify facilities at the Charleston Naval Base to meet additional training requirements of the Border Patrol which exceed the capacity of the Federal Law Enforcement Training Center at Glynco, Georgia. The selection of Charleston Naval Base as the new Border Patrol training center was announced by the Department of Justice on July 28, 1995, following a competitive evaluation of several active and former Department of Defense facilities.

Justice Department officials recently informed the House and Senate Appropriations Committee of their desire to establish two INS training facilities, instead of the single Border Patrol facility at Charleston. Their latest proposal would establish a new training facility for INS personnel, other than the border patrol, at Charleston, and a new, separate Border Patrol training facility be constructed at another location.

The conferees have reviewed the most recent Department of Justice proposal and agree that only one additional training facility is necessary to meet INS training requirements for the Border Patrol and that INS should prioritize its remaining training requirements and accommodate this training at the FLETC and through exported training in INS field locations. The conferees have reviewed cost estimates submitted by the Naval Facilities Command and are confident of the accuracy of the Navy's cost estimates and schedule. The conferees question whether a training facility at another location can be constructed more expeditiously and for less cost and believe that the Department has already delayed the process needlessly. Accordingly, the conferees have agreed that construction and modifications at the Charleston Naval Base for the new Border Patrol Training Facility, the site already approved by both the House and Senate Appropriations Committees, should proceed without further delay.

IMMIGRATION EMERGENCY FUND

The conferees have included language in section 605 of this Act, which applies reprogramming requirements to the unobligated balances from prior years of all agencies covered in this Act, including all unobligated balances available in the Immigration Emergency Fund.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

The conference agreement includes $2,581,078,000 for the salaries and expenses of the Federal Prison System, instead of $2,588,078,000 as proposed by both the House and Senate. Of this amount, the conference agreement provides that $13,500,000 will be derived from the Violent Crime Reduction Trust Fund (VCRTF), as proposed by both the House and Senate. The conferees also agree that in addition to amounts appropriated, $47,000,000 will be available from unobligated balances from the prior year, instead of $40,000,000 as assumed in both the House and Senate bills. The amount provided is the full amount requested to activate all facilities that are scheduled to open in 1996 and is to be used for the purposes set forth in the House and Senate reports, including activations and expansions of prisons at the following locations: Beaumont, Texas; Taft, California; Forrest City, Arkansas; Tallahassee, Florida; Milan, Michigan; Lompac, California; Fort Worth, Texas; and Lexington, Kentucky. In addition the conferees agree that funding should also be provided so that facilities located in Yazoo City, Mississippi, and Brooklyn, New York are prepared for activation and to ensure that security is not compromised.

The conferees also agreed to include bill language prohibiting the privatization of Federal prison facilities located in Forrest City, Arkansas and Yazoo City, Mississippi, which were included as part of the Administration's proposal to privatize most future pretrial, minimum, and low security prisons.

National Institute of Corrections.—The conferees recognize the value of and support the continuation of activities and programs of the National Institute of Corrections (NIC). Beginning in fiscal year 1996, funding for NIC shall be included in the Bureau of Prisons Salaries and Expenses budget, Contract Confinement program. The conferees have included $8,000,000 for this purpose. The NIC shall continue to carry out all functions currently performed by the NIC as outlined in sections 4351–5353 of title 18 United States Code, with the exception of its grant program. Because these activities are primarily performed on behalf of State and local entities, the conferees expect the Bureau of Prisons, when practical and to the maximum extent possible, to pursue reimbursement from State and local entities for these services and to present a plan to the Committees on Appropriations of both the House and Senate by June 30, 1996, that outlines a reimbursement structure that will fully support these activities.

Health care privatization demonstration project.—The conferees understand that health care costs are one of the fastest growing components of the Bureau of Prisons budget. The conferees agree that the Bureau of Prisons should develop and provide a plan to the Committees on Appropriations of both the House and Senate by March 1, 1996, to utilize private and other contracts to provide medical care for inmates, including the use of telemedicine and electronic media. The conferees agree that the Bureau of Prisons should conduct a demonstration project at a minimum of one Federal correctional complex beginning in fiscal year 1996 and for the duration of not less than three years as outlined in the Senate report.

BUILDINGS AND FACILITIES

The conference agreement includes $334,728,000 for construction, modernization, maintenance and repair of prison and detention facilities housing Federal prisoners, instead of $323,728,000 as proposed by the House and $349,410,000 as proposed by the Senate. The conference agreement provides for the following program enhancements:

Beaumont, TX, Medium Security Facility	$64,500,000
Western Region, Architectural/Engineering design	11,000,000
Mid-Atlantic Region, Site/Planning and design	12,350,000
Lee County, VA, Medium Security Facility and Camp	96,550,000
Hawaii, Detention Space Site/Planning	14,253,000
Marshals Service Holding Facilities	20,051,000
Health and Safety Renovations	4,526,000

The conferees have agreed to provide funding for one facility in the Western Region, as proposed by the Administration. The conferees direct the Bureau of Prisons to select one of the two sites considered in their long range plan and to notify the Committees on Appropriations of both the House and Senate of this decision, with appropriate justification, by January 15, 1996.

FEDERAL PRISON INDUSTRIES, INCORPORATED

(LIMITATION ON ADMINISTRATIVE EXPENSES)

The conference agreement includes a limitation on administrative expenses of $3,559,000 for the Federal Prison Industries, as proposed by both the House and Senate bills.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

The conference agreement includes $302,377,000 for Justice Assistance, instead of $250,377,000 as proposed by the House and $345,245,000 as proposed by the Senate. Of this amount, the conference agreement provides that $202,400,000 shall be derived from the Violent Crime Reduction Trust Fund (VCRTF), instead of $152,400,000 as proposed by the House and $242,900,000 as proposed by the Senate.

The conference agreement provides for the following programs from direct appropriations and the VCRTF:

Direct Appropriation:	
National Institute of Justice	$30,000,000
Defense/Law Enforcement Technology Network	*(7,800,000)*
Bureau of Justice Statistics	21,379,000
Missing Children	5,971,000
Regional Information Sharing System	14,500,000
White Collar Crime Information Center	3,850,000
Management and Administration	24,277,000
Total, Direct Appropriation	99,977,000
Violent Crime Reduction Trust Fund:	
Violence Against Women Act Programs:	
General Grants	130,000,000
Court-Appointed Special Advocate Program	6,000,000
Child Abuse Training Programs for Judicial Personnel	750,000
Grants for Televised Testimony	50,000
Grants to Encourage Arrest Policies	28,000,000
Rural Domestic Violence	7,000,000
National Stalker and Domestic Violence Reduction	1,500,000
Federal Victims Counselors *(included under U.S. Attorneys)*	*(500,000)*
Training Programs	1,000,000
Study of State detadases	200,000
Total, Violence Against Women Act	174,500,000
Substance Abuse Treatment for State Prisoners	27,000,000
Safe Return Program	900,000
Total, Violent Crime Reduction Trust Fund	202,400,000

Defense/law enforcement technology transfer.—The conferees support the efforts of the Departments of Justice and Defense to identify defense and other advanced technologies for law enforcement purposes. The conference agreement provides $7,800,000 to assist the National Institute of Justice in its efforts to adopt technologies for law enforcement purposes. Within this amount, $5,000,000 is provided for continuation of the law enforcement technology network, as proposed by the Senate, and $2,800,000 is to expand the technology commercialization initiative, as proposed by the House.

Missing children.—The conference agreement provides $5,971,000 for the Missing Children Program as proposed by both the House and Senate. The conferees agree that within this amount, consideration be given to the establishment of an exploited child unit within the National Center of Missing and Exploited Children to assist in the nationwide investigation of child sex offenses.

National White Collar Crime Center.—The conference agreement includes $3,850,000 for the National White Collar Crime Center as proposed by the House, instead of $2,100,000 as proposed by the Senate. Of the amount provided, $2,100,000 is for the ongoing operations of the NWCCC and $1,750,000 is for the establishment of a State and local law enforcement support capability for computer crimes.

Management and administration.—The conference agreement provides $24,277,000 for Management and Administration expenses of the Office of Justice Programs. In addition, the budget assumes that up to one percent of the total appropriation for each program funded under the Violent Crime Reduction Trust Fund may be used for management and administration expenses of those programs. The conferees agree with that assumption. Further, if one percent is insufficient to support the administration of these programs, the Attorney General may request an increase in that percentage in accordance with the reprogramming requirements in section 605 of this Act.

Violence Against Women Act Programs.—The conference agreement provides $175,000,000 for Violence Against Women Act programs as proposed by the Senate, instead of $125,000,000 as proposed by the House. Of the total provided, $500,000 is included under the U.S. Attorneys appropriation for Federal Victim's Counselors. The conference agreement also includes language as proposed by the Senate, to clarify that funds provided for Grants to Combat Violence Against Women and to Encourage Arrest Policies are provided to States, units of local governments and Indian Tribal governments.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

The conference agreement includes $3,393,200,000 for State and Local Law Enforcement Assistance, instead of $3,333,343,000 as proposed by the House and $3,487,100,000 as proposed by the Senate. Of this amount, the conference agreement provides that $3,005,200,000 shall be derived from the Violent Crime Reduction Trust Fund (VCRTF), instead of $3,283,343,000 as proposed by the House and $3,147,100,000 as proposed by the Senate.

The conference agreement provides for the following programs from direct appropriations and the VCRTF:

Direct Appropriation	
Byrne Discretionary Grants	$60,000,000
Byrne Formula Grants	328,000,000
Total Direct Appropriations	388,000,000
Violent Crime Reduction Trust Fund:	
Byrne Formula Grants	147,000,000
Local Law Enforcement Block Grant	1,903,000,000
Upgrade Criminal History Records (Brady Bill)	25,000,000
State Prison Grants	617,500,000
Alien Incarceration	*(200,000,000)*
Cooperative Agreement Program	*(12,500,000)*
State Criminal Alien Incarceration Program	300,000,000
DNA Identification Grants	1,000,000
Information Technology Grants	9,000,000
Law Enforcement Family Support Programs	1,000,000
Tuberculosis in Prisons	200,000
Gang Information System	1,000,000
Motor Vehicle Theft Prevention	500,000
Total, Violent Crime Reduction Trust Fund	3,005,200,000

Edward Byrne grants to States.—The conference agreement provides $535,000,000 for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which $60,000,000 is for discretionary grants and $475,000,000 is provided under the Violent Crime Reduction Trust Fund for formula grants under this program.

Byrne discretionary grants.—The conference agreement provides $60,000,000 for discretionary grants under Chapter A of the Edward Byrne Memorial State and Local Assistance Program, instead of $50,000,000 as proposed by the House and $80,000,000 as proposed by the Senate. Within the amount provided, the conferees expect the Bureau of Justice Assistance (BJA) to provide:

$28,500,000 for the Weed and Seed program;

$4,000,000 for State and local law enforcement activities related to the 1996 Olympic Games;

$3,000,000 for the National Crime Prevention Council to continue and expand the National Citizens Crime Prevention Campaign (McGruff);

$1,750,000 to continue and expand the Drug Abuse Resistance Education (DARE) program;

$2,000,000 for continued funding for the Washington Metropolitan Area Drug Enforcement Task Force;

$1,000,000 for continued funding for the National Judicial College;

$4,350,000 for a grant to the Boys and Girls Clubs of America; and

$1,000,000 to SEARCH Group, Inc. to continue and expand the National Technical Assistance Program, which provides support to State and local criminal justice agencies to improve their use of computers and information technology.

Within the available resources the conferees also urge BJA to favorably consider funding for the Centers of Excellence on Violence Prevention; the National Night Out Program; and the Center of Advanced Support in Technology for Law Enforcement (CASTLE), as stated in the Senate report.

State identification grants.—The conference agreement does not include $60,000,000 or authorize a new State Technology Grant program as proposed by the Senate under section 119. The conferees understand the intent of the program is to grant funds to State and local governments to upgrade their criminal justice identification systems for linkage to national databases such as the Integrated Automated Fingerprint Identification System (IAFIS), NCIC 2000, ballistics testing systems, and DNA Identification Systems. However, the conferees also understand that the two primary systems, IAFIS and NCIC 2000, are not scheduled to be on-line until 1988. Thus, providing funding for State linkages to these systems at this time is premature. However, the conferees recognize that State and local governments could benefit from systems upgrades and linkages for ballistics testing and DNA identification and analysis. Therefore, the conference agreement provides a total of $21,000,000 under the FBI and DEA for the FBI's DNA CODIS system and DRUGFIRE system, including funding for State systems upgrades. In addition, $10,000,000 is provided under the Violent Crime Reduction Trust Fund for Information Technology and DNA identification grants and $25,000,000 is provided to upgrade criminal history records in order to implement the National Instant Criminal Background Check System (NICS), resulting from the Brady Handgun Violence Prevention Act.

VIOLENT CRIME REDUCTION TRUST FUND PROGRAMS

Local law enforcement block grant.—The conference agreement includes $1,903,000,000 for a Local Law Enforcement Block Grant program, as proposed by the House, instead of $1,690,000,000 for the Community Policing Program, $100,000,000 for Drug Courts, $10,000,000 for rural law enforcement, $2,000,000 for the Ounce of Prevention Council and $30,000,000 for crime prevention programs, as proposed by the Senate.

The Local Law Enforcement Block Grant will provide resources directly to local communities to permit them to combat violent crime according to their local needs and priorities. This includes putting more police on America's streets. The conferees have included language encouraging localities to use funding provided under this block grant to hire additional police and to build on the police hiring initiative funded in fiscal year 1995. the block grant requires a local match of 10 percent, as compared to 25 percent under the Community Policing Program, thereby enabling more communities to hire police.

The conference agreement provides that the funding will be distributed for this block grant to local governments by using the outline provided in H.R. 728, as passed by the House of Representatives on February 14, 1995, with some modifications, and may be used at the discretion of local governments for the following purposes:

(1) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel;

(2) Paying overtime to presently employed law enforcement officers and necessary support personnel;

(3) Procuring equipment, technology, and other material directly related to basic law enforcement functions;

(4) Enhancing security measures in and around schools and any other facility or location which is considered by the unit of local government to have a special risk for incidents of crime;

(5) Establishing or supporting drug courts;

(6) Enhancing the adjudication process of cases involving violent juvenile offenders; and

(7) Establishing multi-jurisdictional task forces, particularly in rural areas, composed of Federal and local law enforcement officials to prevent and control crime.

The conferees have also included language that clarifies that the types of prevention programs allowed under the law enforcement block grant are programs that involve cooperation between community residents and law enforcement in order to control, detect, or investigate crime or to prosecute criminals. Examples of these programs currently used in many local communities which have high rates of success include the Drug Abuse Resistance Education (DARE) program, National McGruff Network programs, Boys and Girls Clubs of America, and other direct police-sponsored programs such as neighborhood watch programs. The conferees have also included as an allowable use under the block grant the purchase of insurance to indemnify sworn law enforcement officers subjected to legal action as a result of the discharge of their duty, in cases where the officer acted in good faith and in a manner in which the officer reasonably believed to be in the best interest of public safety. In addition, the conference agreement provides that $10,000,000 of the total amount provided will be available for educational expenses under the Police Corps program.

National instant criminal background check system.—The conference agreement provides $25,000,000 for states to upgrade criminal history records as required under the Brady Bill and for the FBI to complete development of the national instant criminal background check system, as proposed by both the House and Senate.

State prison grants.—The conference agreement provides $617,500,000 for State Prison Grants pursuant to section 114 of this Act which amends the Prison Grant program included in the Violent Crime Control and Law Enforcement Act of 1994. Of this amount, $200,000,000 is provided for reimbursement to States for the incarceration of criminal aliens and $12,500,000 is provided for the Cooperative Agreement Program. The remaining $405,000,000 is intended for General Grants and Truth-in-Sentencing Grants and administration of the program and includes a $1,215,000 set-aside for Indian Tribes to build corrections facilities.

State Criminal Alien Assistance Program.—The conference agreement provides $300,000,000 for the State Criminal Alien Assistance Program for reimbursement to States for the costs of incarceration of criminal aliens, as proposed by both the House and Senate. In addition to this amount the conferees have also agreed to provide $200,000,000 for this purpose under the State Prison Grants program, as proposed by the House. Thus, the conferees recommend a total of $500,000,000 for reimbursement to states for alien incarceration, as proposed by the House. The conferees have also agreed to provide this funding pursuant to section 242(j) of the Immigration and Nationality Act as proposed by the Senate, instead of pursuant to section 501 of the Immigration Reform and Control Act of 1986, as proposed by the House, so that funds will also be available for political subdivisions of the State.

Youthful offender incarceration grants.—The conference agreement provides funding for youthful offender incarceration grants as an allowable use under the State Prison Grant program. Therefore, funding is not included under this separate program as proposed by both House and Senate.

DNA identification State grants.—The conference agreement includes $1,000,000 for DNA Identification State Grants, as proposed by both the House and Senate.

Improved training and technology/automation grants.—The conference agreement provides $9,000,000 for Improved Training and Technical Automation Grants, as proposed by the Senate, instead of $10,000,000 as proposed by the House. As stated in the House report, the conferees expect that within the overall amounts recommended, the Office of Justice Programs will examine the following proposals, provide grants if warranted, and report to the Committees on Appropriations of the House and Senate on its intentions for each proposal: (1) North Carolina fingerprint system, and (2) San Francisco communication system.

Law Enforcement Family Support Programs.—The conference agreement includes $1,000,000 for law enforcement family support programs, as proposed by the House, instead of $1,200,000 as proposed by the Senate.

Treatment of tuberculosis in correctional institutions.—The conference agreement provides $200,000 for treatment of tuberculosis in State and Federal Correctional institutions, as proposed by the House.

Gang investigation coordination and information collection.—The conference agreement includes $1,000,000 for improved information collection on gang investigations as proposed by both the House and Senate. The conferees are aware that the Regional Information Sharing System (RISS) is developing gang databases for use by State and local law enforcement agencies and encourage the Office of Justice Programs to utilize the RISS network to enhance the collection of gang investigative information.

Motor vehicle theft prevention.—The conference agreement includes $500,000 for grants to combat motor vehicle theft as proposed by the House, instead of $1,100,000 as proposed by the Senate.

WEED AND SEED PROGRAM FUND

The conference agreement includes $28,500,000 for the Weed and Seed program, instead of $23,500,000 as proposed by the House and $43,500,000 as proposed by the Senate. The conferees agree that the total amount provided shall be derived from discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs. Within the amounts provided, the conferees expect that $270,000 will be provided to the Gospel Mission of Washington, D.C., for the purpose of renovating the former Fulton Hotel and converting it into a drug treatment center for women.

JUVENILE JUSTICE PROGRAMS

The conference agreement includes $148,500,000 for Juvenile Justice programs as proposed by the House, instead of $168,500,000 as proposed by the Senate. The conferees have agreed to eliminate a provision proposed by the House that provided $10,000,000 of discretionary grants under this program to be used for the Weed and Seed program. The conferees suggest that these funds be used to enhance grants addressing youth gangs and related violence and have therefore agreed to also eliminate a provision proposed by the Senate that provided an additional $20,000,000 for youth gang prevention from discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.

Juvenile justice and delinquency prevention.—Of the total amount provided, $144,000,000 is for grants and administrative expenses for Juvenile Justice and Delinquency Prevention (JJDP) programs including:

1. $5,000,000 for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) (Part A).
2. $70,000,000 for Formula Grants for assistance to State and local programs (Part B).
3. $25,000,000 for Discretionary Grant for National Programs and Special Emphasis Programs (Part C). Within the amount provided for Part C discretionary grants, the conferees expect the OJJDP to provide:

$2,300,000 to continue and expand the National Council of Juvenile and Family Courts which provides continuing legal education in family and juvenile law;

$1,000,000 for the Teens, Crime and the Community program; and

$250,000 for the Low Country Children's Center.

In addition, the conferees also expect OJJDP to examine each of the following proposals included in the House and Senate reports, to provide grants if warranted, and to report to the Committees on Appropriations of both the House and Senate on its intentions for each proposal:

A grant to the Santa Fe Boys and Girls Club;

A grant to the Mable Dodge Lujan Foundation in Taos, New Mexico;

A grant to the Kids Peace national Center for Kids for its Intensive Treatment Family Program;

A grant to Parents Anonymous Inc.;

A grant to continue funding for an Institute for Families in Society Study; and

A grant to the Institute on Violence and Destructive Behavior.

4. $10,000,000 to expand the Youth Gangs (Part D) program which provides grants to public and private nonprofit organizations to prevent and reduce the participation of at-risk youth in the activities of gangs that commit crimes.
5. $10,000,000 for Discretionary Grants for State Challenge Activities (Part E) to increase the amount of a State's formula grant by up to 10 percent, if that State agrees to undertake some or all of the ten challenge activities designed to improve various aspects of a State's juvenile justice and delinquency prevention programs.
6. $4,000,000 for the Juvenile Mentoring Program (Part G) to reduce juvenile delinquency, improve academic performance, and reduce the drop-out rate among at-risk youth through the use of mentors by bringing together young people in high crime areas with law enforcement officers and other responsible adults who are willing to serve as long-term mentors.
7. $20,000,000 for Incentive Grants for Local Delinquency Prevention Programs (Title V), to units of general local government for delinquency prevention programs and other activities for at-risk youth.

Victims of Child Abuse Act.—The conference agreement includes $4,500,000 for the various programs authorized under the Victims of Child Abuse Act (VOCA). In addition, funding of $6,750,000 is provided for Victims of Child Abuse programs under the Violence Against Women Programs funded by the Violent Crime Reduction Trust Fund. The following programs are included in the recommendation:

$4,500,000 to Improve Investigations and Prosecutions (Subtitle A) as follows:

$500,000 to establish Regional Children's Advocacy Centers, as authorized by section 213 of VOCA.

$2,000,000 to establish local Children's Advocacy Centers, as authorized by section 214 of VOCA.

$1,500,000 for a continuation grant to the National Center for Prosecution of Child Abuse for specialized technical assistance and training programs to improve the prosecution of child abuse cases, as authorized by section 214a of VOCA.

$500,000 for a continuation grant to the National Network of Child Advocacy Centers for technical assistance and training, as authorized by section 214a of VOCA.

PUBLIC SAFETY OFFICERS BENEFITS

The conference agreement includes $2,134,000 for Public Safety Officers benefits as proposed by both the House and the Senate bills.

DEPARTMENT OF JUSTICE

GENERAL PROVISIONS

The conference agreement includes the following general provisions for the Department of Justice:

Section 101.—The conference agreement includes section 101 as proposed by both the House and Senate, which makes up to $45,000 of the funds appropriated to the Department of Justice available for reception and representation expenses.

Sec. 102.—The conference agreement includes section 102 as proposed by both the House and Senate, which continues certain authorities for the Justice Department in fiscal year 1996 that were contained in the Department of Justice Authorization Act, fiscal year 1980.

Sec. 103.—The conference agreement includes section 103 as proposed by both the House and Senate, which prohibits the use of funds to perform abortions in the Federal Prison System.

Sec. 104.—The conference agreement includes section 104 as proposed by both the House and Senate, which prohibits use of the funds in this bill to require any person to perform, or facilitate the performance of, an abortion.

Sec. 105.—The conference agreement includes section 105 as proposed by both the House and Senate, which states that nothing in the previous section removes the obligation of the Director of the Bureau of Prisons to provide escort services to female inmates who seek to obtain abortions outside a Federal facility.

Sec. 106.—The conferees have agreed to modify section 106 as proposed by both the House and Senate, which allows the Department of Justice to spend up to $10,000,000 for rewards for information regarding acts of terrorism against a United States person or property at levels not to exceed $2,000,000 per award, in order to clarify that the provision relates to rewards that are publicly-advertised and offered to the general public.

Sec. 107.—The conference agreement includes section 107 as proposed in the Senate bills, which allows the Department of Justice, subject to reprogramming procedures, to transfer up to 5 percent between any appropriation, but limits to 10 percent the amount that can be transferred into any one appropriation. The House bill excluded the Office of Justice Programs, Justice Assistance account from this authority.

Sec. 108.—The conference agreement includes section 108 as proposed in the House and Senate bills, which allows the Federal Prison System's Commissary Fund to invest amounts not needed for operations of the United States.

Sec. 109.—The conference agreement includes section 109 as proposed in the House and Senate bills, that allows balances remaining in the Assets Forfeiture Fund after September 30, 1995 to be available to the Attorney General for any authorized purpose of the Department of Justice.

Sec. 110.—The conference agreement includes section 110 as proposed in the Senate bill, which prohibits the transfer of Justice Department funds in fiscal year 1996 and hereafter, to other Departments and the Office of Management and Budget. The House bill prohibited this transfer only for fiscal year 1996.

Sec. 111.—The conference agreement includes section 111 as proposed in the House and Senate bills, which extends the quarterly fee payments for debtors under Chapter 11 of the Bankruptcy Code to include the period from when a reorganization plan is confirmed by the Bankruptcy Court until the case is converted or dismissed. The conferees intend that this fee will apply to both pending and new cases.

Sec. 112.—The conference agreement includes section 112 as proposed in the House and Senate bills, that continues the undercover operations authorities for the FBI and DEA for one year. No new authorities are provided.

Sec. 113.—The conference agreement includes section 113 as proposed in the House and Senate bills, that allows the user fee surcharge currently collected by the FBI to defray automation costs related to the development of the NCIC 2000 and Uniform Crime Report systems in addition to costs of the fingerprint identification system.

Sec. 114.—The conferees have agreed to include section 114 and have revised the language proposed in the Senate bill which authorizes a new Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants program to replace the program currently authorized in Title II of the Violent Crime Control and Law Enforcement Act of 1994. The House bill referenced the Prison Grant program authorized under H.R. 667 as passed by the House on February 10, 1995, for resources provided for this grant program under the Violent Crime Reduction Trust Fund Programs, State and Local Law Enforcement Assistance.

The conferees agree that the Prison Grant program should reward and provide an incentive to States that are taking the necessary steps to keep violent criminals off the streets. The conferees further agree that the program currently authorized in the Violent Crime Control and Law Enforcement Act of 1994 fails to provide an adequate incentive because it allows fifty percent of the funds to be awarded to States even if they have not moved toward truth-in-sentencing and even if they have not increased the percentage of convicted violent offenders sentenced to prison or the time served.

The revised language included in this section authorized $10,270,000,000 for fiscal years 1996 through 2000 for States to build or expand correctional facilities for the purpose of incarcerating criminals convicted of Part I violent crimes, or persons adjudicated delinquent for an act which if committed by an adult, would be a Part I violent crime. It does not allow funds to be used to operate prisons as provided in the current program and it requires a 10-percent match by the State instead of a 25-percent match as included in the current program. The conferees agree that in developing criteria for determining the eligibility for funding to build or expand bedspace, the Department of Justice should include a requirement that States demonstrate the ability to fully support, operate and maintain the prison for which the State is seeking construction funds.

The provision would establish two grant programs to States: (1) General grants which will receive one-third of the funds, and (2) Truth-in-Sentencing grants which will receive two-thirds of the funds; except when the appropriation exceeds $750,000,000 for the Prison Grant program in which case each grant program will receive 50 percent of the funds. The conference agreement increases the minimum grant award to 0.6 percent for General grants and to 2.0 percent or 2.5 percent for Truth-in-Sentencing grants (depending on the number of States qualifying for Truth-in-Sentencing grants). A State would qualify for a General grant if it practices indeterminate sentencing and since 1993 has increased the percentage of persons convicted of a Part I violent crime sentenced to prison and increased the average time served in the State for offenses of murder, rape, and robbery under the State's sentencing and release guidelines for such offenses. A State also would qualify for a General grant if it does not practice indeterminate sentencing but since 1993 it has increased the percentage of convicted violent offenders sentenced to prison, increased the average length of such offenders given sentences, and required that such offenders actually serve a higher percentage of their sentences. A State would qualify for a Truth-in-Sentencing grant if it has enacted truth-in-sentencing laws which require criminals convicted of Part I violent crimes to serve at least 85 percent of their sentences. A State also would qualify for Truth-in-Sentencing grants if it practices indeterminate sentencing and it can demonstrate that the average time served for Part I violent crimes in the State equals at least 85 percent of the sentence established under the State's sentencing and release guidelines.

Other provisions of the new authorization require that States share up to 15 percent of the funds received with counties and other units of local government for the construction and expansion of correctional facilities, including jails, to the extent that such units of local government house State prisoners due to States carrying out the policies of the Act. In addition, under exigent circumstances, States may also use funds to expand juvenile correctional facilities, including pretrial detention facilities and juvenile boot camps. States are also required to implement policies that provide for the recognition of the rights and needs of crime victims to be eligible for grants. The authorization also includes the availability of appropriations to reimburse States that satisfy truth-in-sentencing requirements for the incarceration of criminal aliens. In addition, funds are available, to the extent they are appropriated, for the Cooperative Agreement Program for the short-term housing of Federal prisoners in State institutions and a set-aside program has been included for Indian tribes to build correctional facilities.

Sec. 115.—The conference agreement includes section 115 as proposed by the Senate which allows the Federal Prison System to enter into contracts and other agreements with private entities for a multi-year period for the confinement of Federal prisoners.

The conferees have agreed not to include section 116 as proposed by the Senate, which would have provided the Federal Bureau of Investigation with the same overseas danger pay authority currently provided to the Drug Enforcement Administration.

The conferees have agreed not to include section 117 as proposed by the Senate, which would have removed restrictions on the commercial sale of goods and services produced or provided by the Federal Prison Industries if the President certified that the sale of such goods or services would not result in the loss of jobs in the private sector or adversely affect the sale of private sector goods or services sold on a local or regional basis.

Sec. 116.—The conference agreement includes section 118 as proposed by the Senate and changes the number to section 116, which amends the National Voter Registration Act of 1993 to exempt States which have adopted same-day registration laws prior to August 1, 1994, rather than March 11, 1993, as in current law.

The conferees have agreed not to include section 119 as proposed in the Senate bill which would have provided authorization for a new State grant program for identification systems and would have appropriated $60,000,000 for this program under the Office of Justice Programs.

The conferees have agreed not to include section 120 as proposed in the Senate bill which would have required the Attorney General to reserve not less than two percent, but not more than three percent of the funds appropriated for the Local Crime Prevention Block Grant program, the Weed and Seed program, and the Youth Gang program under Juvenile Justice, to conduct a comprehensive evaluation of the effectiveness of these programs.

However, the conferees are aware that there is a diverse group of programs funded by the Department of Justice to assist State and local law enforcement and communities in preventing crime. The conferees are concerned that there has not been a recent comprehensive evaluation of the effectiveness of all of these programs and expects that nine months after enactment of this Act, the Attorney General shall provide to the Committees on Appropriations of both House and Senate, a thorough evaluation of the crime programs funded by the Office of Justice Programs, with special emphasis on factors that relate to juvenile crime and the effect of these programs on youth violence.

The conferees further expect that research for this evaluation will (1) be provided directly or through grants and contracts, (2) be independent in nature, and (3) employ rigorous and scientifically recognized standards and methodologies. It is further expected that the evaluation will measure, but shall not be limited to: (a) reductions in delinquency, juvenile crime, youth gang activity, youth substance abuse, and other high risk factors; (b) reductions in the risk factors in the community, schools, and family environments that contribute to juvenile violence; and (c) increases in the protective factors that reduce the likelihood of delinquency and criminal behavior.

Sec. 117.—The conference agreement includes section 121 as proposed by the Senate and changes the number to section 117, which prohibits the use of voter registration cards by any Federal agency as proof of citizenship.

The conferees have agreed not to include section 122 as proposed by the Senate which would have required the reimbursement to localities for the incarceration of criminal aliens for both 1996 and 1995 expenses. However, the conferees have agreed to provide funding for the State Criminal Alien Assistance Program pursuant to section 242(j) of the Immigration and Nationality Act as proposed by the Senate, so that funds provided in 1996 will be available for political subdivisions of the State. This change is included under Violent Crime Reduction Programs, State and Local Law Enforcement Assistance.

Sec. 118.—The conference agreement includes section 123 as proposed by the Senate and changes the number to section 118, which gives the Administrator of the Drug Enforcement Administration the same authority provided to the Director of the Central Intelligence Agency and the Director of the FBI to use a government vehicle for home to work transportation.

Sec. 119.—The conference agreement includes new language that authorizes the U.S. Foreign Claims Settlement Commission to receive and determine the validity and amounts of claims by U.S. nationals against the Federal Republic of Germany covered by article 2(2) of the Agreement Between the United States and Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, which became enforceable September 19, 1995. In deciding claims under subsection (a) of this section, the conferees intend that the Foreign Claims Settlement Commission consider on the merits the claim of any person who has not benefited from the compensation provided under article 2(1) of the agreement. In applying the criteria set forth in article 1 of the agreement, the conferees expect the Commission will determine whether an institution should be considered a "concentration camp" based on whether the institution is recognized by relevant authorities as a concentration camp or whether conditions at the institution in question were comparable to conditions at a recognized concentration camp.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

The conference agreement includes $20,889,000 for salaries and expenses of the Office of the United States Trade Representative, the amount proposed in the Senate bill, and $60,000 below the amount proposed in the House bill.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $40,000,000 for the salaries and expenses of the International Trade Commission (ITC) for fiscal year 1996, instead of $42,500,000 as proposed by the House and $34,000,000 as proposed by the Senate.

The conferees expect ITC to apply any necessary staffing reductions proportionately to all agency offices, including program as well as administrative support offices.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The conference agreement includes $264,885,000 for the operations and administration of the International Trade Administration for fiscal year 1996 as proposed by the House, instead of $266,079,000 as proposed by the Senate. The following table reflects the distribution of these funds by activity agreed to by the conferees:

Trade Development	$56,485,000
Int'l Economic Policy	18,400,000
Import Administration	29,200,000
U.S. & F.C.S.	162,600,000
Carryover	−2,000,000
Total, ITA	264,885,000

The conferees intend that this distribution be used as the basis for any proposed reprogramming of funds under this account.

The conferees concur with the language included in the House report regarding the Office of Textiles and Apparels, the National Textile Center, and the Textile/Clothing Technology Corporation. Amounts provided for Trade Development include funding for each of these items in accordance with the House report. The conference agreement includes $1,500,000 for the Market Development Cooperator Program under Trade Development. Therefore, Trade Development operations are maintained at current services levels.

The conferees expect the funds provided for the Import Administration to support a personnel level sufficient to support the enforcement of trade laws.

The conferees intend that amounts provided above the base for the U.S. and Foreign Commercial Service are for domestic field restructuring and expansion of the Commercial Service in the big emerging markets.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The conference agreement includes $38,604,000 for the Bureau of Export Administration (BXA) as proposed by the Senate, instead of $38,644,000 as proposed by the House. In addition, the conference agreement includes a new proviso, not in either bill, allowing payments and contributions collected and accepted for materials or services provided to support export administration activities to be retained for use in covering the cost of such activities.

The conferees understand that BXA maintains carryover balances of approximately $3,000,000, and expect the Department to submit a notification of the proposed use of these carryover amounts in accordance with section 605 of this Act.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

The conference agreement includes $328,500,000 for the Economic Development Administration grant programs as proposed by the House instead of $89,000,000 as proposed by the Senate.

The following table shows the distribution of these funds by activity as agreed to by the conferees:

Public Works (Title I)	$165,200,000
Planning	24,400,000
Technical Assistance	9,900,000
Defense Conversion	90,000,000
Economic Adjustment (Title IX)	30,000,000
Trade Adjustment Assistance	8,500,000
Research and Evaluation ...	500,000

The conference agreement increases amounts for Economic Adjustment (Title IX) above the request in order to provide assistance to communities impacted by economic dislocations such as reduced timber harvests on Bureau of Land Management and Forest Service lands and coal industry downswings. Expenditure of funds provided over the amount of the request for this activity shall be subject to the reprogramming procedures outlined in section 605 of the accompanying Act.

SALARIES AND EXPENSES

The conference agreement includes $20,000,000 for salaries and expenses for the EDA as proposed by the House instead of $11,000,000 as proposed by the Senate. The conferees expect EDA to use either the Salaries and Expenses appropriation or the revolving fund (under 42 U.S.C. 3143) to pay the salaries and expenses of the EDA Liquidation Division.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

The conference agreement includes $32,000,000 for the programs of the Minority Business Development Agency (MBDA) as proposed by the House instead of $32,789,000 as proposed by the Senate. In addition, the conferees have deleted language included in the Senate bill which would have transferred $1,000,000 of prior year unobligated balances under this account to a new Commerce Reorganization Transition Fund.

The conferees endorse language included in the House report regarding funding for programs that further minority business participation in technology commercialization. Further, the conferees expect MBDA to reduce FTE in order to achieve an appropriate ratio of support staff to total program level.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $2,000,000 for the salaries and expenses of the U.S. Travel and Tourism Administration as proposed by the House instead of $12,000,000 as proposed by the Senate. These funds are to remain available through December 31, 1995.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

The conferees have provided $45,900,000 for salaries and expenses of the activities funded under the Economic and Statistical Analysis account instead of $40,000,000 as proposed by the House and $46,896,000 as proposed by the Senate.

ECONOMIC AND STATISTICS ADMINISTRATION REVOLVING FUND

The conference agreement includes language allowing the dissemination of economic and statistical data products as full cost as proposed in both the House and Senate bills.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

The conference agreement includes $133.812,000 for the Bureau of the Census Salaries and Expenses account as proposed by the Senate instead of $136,000,000 as proposed by the House. Within the amounts provided, the conferees expect the Bureau to continue the initiative to restructure standard industrial codes.

PERIODIC CENSUSES AND PROGRAMS

The conferees have provided $150,300,000 for the Census Bureau's Periodic Censuses and Programs account instead of $135,000,000 as proposed by the House and $193,450,000 as proposed by the Senate.

The conferees have included the following amounts for Census programs:

Economic Censuses	$25,000,000
Census of governments	2,000,000
Census of agriculture	10,000,000
Intercensal Demographic estimates	5,000,000
Decennial Census	50,000,000
Continuous measurement ..	9,000,000
Sample redesign	3,000,000
CASIC	4,000,000
Geographic support	36,000,000
Data processing systems ...	12,000,000
Less Deobligations	−3,100,000
Less carryover	−2,600,000
Total	150,300,000

The conferees intend that this distribution be used as the basis for any proposed reprogramming of funds in accordance with section 605 of this Act.

The amount provided under this account reflects the conferees' continuing concerns with the inability of the Census bureau to recognize budgetary realities. The Bureau is preparing to undertake the Year 2000 decennial census during a time of severe budget constraints within the Federal government. It is critical that the Bureau act now to reprioritize statistical needs and to streamline operations in order to function within these fiscal constraints. The conferees are concerned that the Bureau and the Department have failed to submit a proposal, requested in the House report, on reprioritization of statistical programs and possible program eliminations. The conferees believe that this review is critical, and expect the Department to submit this proposal to the House and Senate Committees on Appropriations no later than January 15, 1996.

Further, the conferees are disturbed that the Bureau continues to exceeds its full-time equivalent employment (FTE) ceiling. While the conferees understand the cyclical nature of the Bureau's programs, this continuing coverage is of particular concern since it has occurred during the Bureau's low point in the ten year census cycle. According to the National Research Council's report on census modernization, between 1970 and 1990 the cost of Bureau headquarters management increased from $30,000,000 to $105,000,000, a 350 percent increase, and headquarters staff increased by almost 3,000 FTE, a 67 percent increase. The conferees believe that there are areas which can and must be streamlined and reduced. The conferees expect the Bureau to include in the aforementioned report an explanation of the cause, cost, and duration of the FTE ceiling coverage and its plans to remedy this situation.

Census 2000.—The conferees continue to be concerned about progress related to the next decennial census. The Appropriations Committee of the House and Senate have for several years cautioned the Bureau that the cost of the Year 2000 Census had to be kept in check, and that only through early planning and decision making could costs be controlled.

The conferees recognize the fiscal year 1996 is a critical year in planning for the decennial census, and that numerous decisions will be made and preparations taken which will have a significant bearing on the overall cost of conducting the census, as well as the design selected. In light of the impact these decisions will have on future appropriations in an era of shrinking resources, the conferees expect the Bureau to consult with the House and Senate Committees on Appropriations, as well as the appropriate authorizing committees, and to submit a notification in accordance with section 605 of the accompanying Act before implementing plans for the Year 2000 Census final design, methodology, content, and pre-census and post-census operations.

In addition, the conferees expect the Bureau to include in its report to the Committees, as described above, a response to the serious issues raised by the National Research Council concerning cost increases surrounding the 1990 Census and its plans to avoid such increases in the Year 2000 Census. The specific raised by the NRC to be addressed in this report include: (1) dramatic increases in census headquarters staffing and costs; (2) data collection cost increases; (3) data processing cost increases; (4) data dissemination costs; and (5) census testing costs.

Finally, the conferees are disappointed that the Bureau has failed to act on the stipulation included in the fiscal year 1995 House report directing the Bureau to work to obtain reimbursement from other Federal agencies for the costs associated with obtaining information on the decennial census. The conferees expect the Bureau to include in its report to the House and Senate Appropriations Committees an explanation of its progress in implementing this action.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $17,000,000 for the National Telecommunications and Information Administration salaries and expenses instead of $19,709,000 as proposed by the House. The Senate bill included a total of $17,000,000 for NTIA salaries and expenses, of which $8,000,000 was provided through direct appropriations and $9,000,000 was provided by transfer from the Department of Justice Working Capital Fund for spectrum management. The conference agreement does not include a specific transfer of funds from the Justice Working Capital Fund into this account.

The conference agreement also includes language, as proposed by the Senate, expanding the purposes for which funds may be transferred to NTIA from other government agencies to include spectrum management, analysis and operations. The House bill addressed only funds transferred from other agencies for costs incurred in telecommunications research engineering and related activities by NTIA's Institute for Telecommunications Sciences. This language will allow NTIA to receive funds from other agencies to offset the cost of spectrum management, particularly those costs related to national security and law enforcement. The conferees expect NTIA, working with the Office of Management and Budget, to develop a proposal allowing for the reimbursement of spectrum management costs by other agency users and to provide a report on this proposal to the Committees on Appropriations of the House and the Senate no later than January 15, 1996.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

The conference agreement includes $15,500,000 for Public Broadcasting Facilities, Planning and Construction grants instead of $19,000,000 as proposed by the House and $10,000,000 as proposed by the Senate. The conference agreement allows up to $2,200,000 of this amount to be used for program administration, as provided in both the House and Senate bills.

INFORMATION INFRASTRUCTURE GRANTS

The conferees have provided $21,500,000 for NTIA's Information Infrastructure Grant program instead of $40,000,000 as proposed by the House and $18,900,000 as proposed by the Senate. Within the amount provided, the conference agreement designates $3,000,000 for program administration, instead of $4,000,000 as proposed by the House and $900,000 as proposed by the Senate.

The conferees have not included bill language proposed by the Senate requiring NTIA to add certain criteria to the factors taken into consideration in selecting projects funded under this program, including the extent to which a proposal is consistent with State plans and priorities and the extent to which particular applications have been coordinated with telecommunications and information entities within the State. However, the conferees support NTIA's use of such criteria as additional factors to be considered when selecting grants under this program.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

The conferees have provided $82,324,000 for the Patent and Trademark Office as proposed by the Senate instead of $90,000,000 as proposed by the House.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

The conference agreement includes $259,000,000 for the internal (core) research account of the National Institute of Standards and Technology instead of $263,000,000 as proposed by the House and $222,737,000 as proposed by the Senate.

The conferees concur with the House and Senate position that the Malcolm Baldrige Quality Program be funded under this account. The conferees expect the remaining funds provided to be distributed proportionately to the activities delineated in the House report.

The conference agreement deletes language proposed by the Senate which would have earmarked $1,200,000 within the amount provided under this account for continuation of the "green buildings" program. The House bill contained no similar provision.

INDUSTRIAL TECHNOLOGY SERVICES

The conference agreement includes $80,000,000 for the NIST external research account instead of $81,100,000 as proposed by the House and $101,600,000 as proposed by the Senate. The conferees have provided this amount to fund only the Manufacturing Extension Partnership Program as proposed by the House. The Senate bill would have allowed up to $25,300,000 to be used to support continuation grants for prior year Advanced Technology Program awards.

The conferees have provided $80,000,000 for the Manufacturing Extension Partnership Program instead of $81,100,000 as proposed by the House and $76,300,000 as proposed by the Senate. The conferees intend that these funds be applied in accordance with the direction given in the House report.

The conference agreement retains language included in both the House and Senate bills directing that no additional grants be awarded with carryover funds under the Advanced Technology Program, and that any remaining unobligated balances be used to fund continuation costs of ATP grants awarded in prior fiscal years.

CONSTRUCTION OF RESEARCH FACILITIES

The conference agreement included $60,000,000 for the NIST Construction account as proposed by the House instead of $27,000,000 as proposed by the Senate. The conferees have included the House language allowing these funds to be used for both construction of new facilities and renovation of existing facilities rather than the Senate language which would have limited use of the funds to renovation of existing facilities only.

The conference agreement also includes, in a later section, the rescission of $75,000,000 of prior year carryover amounts from this account. The result of the conference action will allow NIST to obligate $79,000,000 under this account for fiscal year 1996. The conferees intend that these funds be used for the purpose of proceeding with the construction of a new Chemistry building at the NIST Gaithersburg campus, with the remaining $9,000,000 to be applied to routine maintenance and repair of structures at both the Gaithersburg and Boulder campuses. The conferees are also concerned about the obligation of more than $50,000,000 from this account late in fiscal year 1995, and expect NIST to submit no later than January 15, 1996, a full accounting of funds obligated under this account during fiscal year 1995. The conferees are particularly concerned about the obligation of $22,150,000 of funds against an existing contract for "conservative estimates". The conferees expect NIST to submit a reprogramming of funds in accordance with section 605 of this Act for any amounts subsequently deobligated under any NIST construction contract.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

The conferees have provided an appropriation of $1,795,677,000 for the Operations, Research, and Facilities account of the National Oceanic and Atmospheric Administration (NOAA) instead of $1,724,452,000 as proposed by the House and $1,809,092,000 as proposed by the Senate. In addition, the conference agreement allows $3,000,000 in offsetting fees related to the aeronautical charting program to be collected to offset this amount, resulting in a final direct appropriation of $1,792,677,000 instead of $1,721,452,000 as proposed by the House and $1,806,092,000 as proposed by the Senate.

In addition to the new budget authority provided, the conference agreement allows a transfer of $63,000,000 from balances in the account titled "Promote and Develop Fishery Products and Research Related to American Fisheries", instead of $57,500,000 as proposed by the House and $62,000,000 as proposed by the Senate.

The conference agreement does not include language proposed by the Senate requiring the National Weather Service to expand not more than $700,000 to operate and maintain agricultural weather service centers. The House bill contained no similar provision. Funding for agricultural weather offices is addressed later in this report.

The conferees concur with instructions contained in the House and Senate reports regarding the development of a revised budget structure for NOAA in consultation with the House and Senate Appropriations Committees, and expect the submission of the fiscal year 1997 budget request to conform to this new structure.

The conferees are aware that, during the recent shutdown of Federal activities, NOAA utilized carryover funds from various programs, projects and activities to continue operating without following standard notification procedures required under section 605 of the Appropriations Act. Upon enactment of the accompanying Act, the conferees expect NOAA to submit to the House and Senate Appropriations Committees a detailed accounting of the carryover funds utilized for this purpose, including a plan for restoring those activities from which funds were redirected.

The conferees expect NOAA to use the Federal Ship Financing Fund to cover administrative expenses related to that account.

Unless specifically stated otherwise in this Statement of the Committee of the Conference, the conferees intend that amounts expended from the NOAA Operations, Research and Facilities account be allocated as previously described in the Committee reports of the House and Senate.

The following table reflects the distribution of the funds provided in this conference agreement:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
FY 1996 Budget

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
NATIONAL OCEAN SERVICE:					
Mapping, Charting, and Geodesy:					
Mapping and Charting	27,899	$31,086	$35,000	$31,086	34,000
Automated Nautical Charting System II	1,250	2,500	2,500	2,500	2,500
Subtotal........................	29,149	33,586	37,500	33,586	36,500
Geodesy	20,667	19,927	20,927	20,927	20,167
Total, Mapping, Charting, and Geodesy	49,816	53,513	58,427	54,513	56,667
Observation and Assessment:					
Observation and Prediction	12,358	12,899	11,000	11,000	11,000
Circulatory survey program.........	700	700	0	700	0
Chesapeake Bay observation buoys....	400	0	400	0	400
Ocean services.....................	4,418	4,451	3,000	3,000	3,000
Subtotal........................	17,876	18,050	14,400	14,700	14,400
Estuarine and Coastal Assessment	2,674	3,130	2,674	2,674	2,674
Ocean assessment program...........	24,528	21,925	14,600	21,925	21,925
Damage assessment..................	1,200	4,500	1,200	3,200	1,200
Transfer from Damage Assessment Fund	6,770	6,550	6,550	6,550	6,550
Oil Pollution Act of 1990...........	1,300	1,395	1,000	1,000	1,000
Subtotal........................	36,472	37,500	26,024	35,349	33,349

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Coastal Ocean Science					
Coastal ocean program..............	7,943	18,541	5,000	13,000	11,500
Oil Spill Research..............	800	0	0	0	0
National Institute of Envir. Renewal..........	500	0	0	0	0
Subtotal.......................	9,243	18,541	5,000	13,000	11,500
Total, Observation and Assessment...	63,591	74,091	45,424	63,049	59,249
Ocean and Coastal Management:					
Coastal Management					
CZM grants.........................	45,500	46,637	41,000	46,637	46,200
Estuarine research reserve system	3,350	4,214	0	0	1,000
Estuarine Management Plans	1,000	0	0	1,000	500
Nonpoint pollution control..........	5,000	8,000	0	0	0
Subtotal.......................	54,850	58,851	41,000	47,637	47,700
Ocean Management					
Marine sanctuary program...........	8,961	12,371	11,000	12,371	11,685
Subtotal.......................	8,961	12,371	11,000	12,371	11,685
Total, Ocean and Coastal Management.	63,811	71,222	52,000	60,008	59,385
TOTAL, NOS.....................	177,218	198,826	155,851	177,570	175,301

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
NATIONAL MARINE FISHERIES SERVICE:					
Information Collection & Analyses:					
Resource Information	73,677	94,171	76,285	83,171	83,171
Antarctic research	1,200	1,200	1,000	1,200	1,200
Chesapeake Bay Studies	1,890	1,890	1,000	1,500	1,500
Right whale research	214	214	0	214	200
Gear entanglement studies	651	651	0	0	0
MARFIN	3,780	3,780	3,000	3,000	3,000
SEAMAP	1,340	1,340	700	1,340	1,200
Aquaculture	2,500	2,500	0	2,500	1,250
Alaskan groundfish surveys	661	661	661	661	661
Bering Sea pollock research	945	945	945	945	945
West Coast groundfish	780	780	780	780	780
New England stock depletion	1,116	1,116	1,000	1,000	1,000
Hawaii stock management plan	500	0	0	500	500
Yukon River chinook salmon	700	700	500	700	700
Winter Run chinook salmon	250	250	0	250	0
Atlantic salmon research	710	710	500	710	710
Gulf of Maine groundfish survey	567	567	450	567	567
Dolphin/Yellowfin Tuna Research	500	500	0	500	250
Habitat research/evaluation	470	470	450	450	450
Pacific salmon treaty program	5,587	5,587	5,000	5,587	5,587
Fisheries Cooperative Inst.	410	410	0	410	410
Hawaiian monk seals	520	520	0	520	500
Stellar sea lion recovery plan	1,440	1,440	720	1,440	1,440
Hawaiian sea turtles	240	240	0	240	240
Atlantic bluefin tuna research	300	0	0	0	0
Halibut/Sablefish	1,200	1,200	1,200	1,200	1,200
Subtotal	102,148	121,842	94,191	109,385	107,461

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Fishery Industry Information					
Fish statistics..........................	11,937	14,187	13,000	13,000	13,000
Alaska groundfish monitoring..........	5,200	5,200	5,200	5,200	5,200
PACFIN/catch effort data..............	2,300	2,300	2,300	3,000	3,000
Rec. fishery harvest monitoring.......	2,900	2,900	2,900	2,900	2,900
Subtotal............................	22,337	24,587	23,400	24,100	24,100
Information Analyses & Dissemination	20,913	22,606	18,373	20,913	20,913
Computer hardware and software........	5,000	5,000	4,000	4,000	4,000
Subtotal............................	25,913	27,606	22,373	24,913	24,913
Total, Info., Collection, & Analyses..	150,398	174,035	139,964	158,398	156,474

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Conservation and Management Operations:					
Fisheries Management Programs	15,856	25,034	16,000	20,034	19,500
Columbia River hatcheries...........	10,300	10,300	9,000	10,300	10,300
Columbia River end. species studies..	288	288	140	288	288
Regional councils..................	8,556	10,200	9,000	10,200	10,200
International fisheries commissions..	1,250	400	395	950	400
Management of George's Bank.........	480	480	478	478	478
Beluga whale committee.............	200	0	200	200	200
Pacific tuna management...........	2,000	2,000	0	2,000	1,500
Subtotal..........................	38,930	48,702	35,213	44,450	42,866
Protected Species Management	4,939	6,368	5,000	5,000	6,225
ESA listing & status review..........	930	930	0	930	0
Tissue bank & stranding network......	295	295	0	295	0
Driftnet Act implementation..........	3,000	3,000	2,500	3,278	3,278
Marine Mammal Protection Act.........	8,000	10,250	6,000	10,250	9,000
Endangered species recovery plans	7,000	14,800	3,000	14,800	13,000
Fishery observer training...........	300	0	300	417	417
East Coast observers................	700	700	350	350	350
Subtotal..........................	25,164	36,343	17,150	35,320	32,270

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Habitat Conservation	7,979	10,665	8,000	8,000	8,000
Enforcement & Surveillance	15,460	18,445	15,500	16,061	15,800
Total, Conservation and Mgmt. Opns...	87,533	114,155	75,863	103,831	98,936
State and Industry Assistance Programs:					
Interjurisdictional fisheries grants	3,156	3,156	2,000	3,156	2,600
Anadromous grants..................	2,108	2,108	1,500	2,108	2,108
Anadromous fishery project..........	250	250	0	250	250
North Atlantic fishery project	2,800	0	0	0	0
Interstate fish commissions.........	4,000	4,000	2,000	4,000	4,000
Subtotal	12,314	9,514	5,500	9,514	8,958
Fisheries Development Program					
Fisheries trade promotion activities..	1,500	1,500	0	0	0
Product quality and safety...........	9,155	9,624	10,000	9,624	9,624
Hawaiian Fisheries Development	750	0	0	750	750
Marine Biotechnology..........	2,000	2,000	0	2,000	1,900
Seafood Inspection...................	5,000	5,000	0	5,000	5,000
Subtotal..........................	18,405	18,124	10,000	17,374	17,274
Total, State & Industry Assist. Progs.	30,719	27,638	15,500	26,888	26,232
Fisheries Add-On (Undistributed).......			20,000		
TOTAL, NMFS.....................	268,650	315,828	251,327	289,117	281,642

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
OCEANIC AND ATMOSPHERIC RESEARCH:					
Climate and Air Quality Research:					
Interannual & Seasonal Climate Research/ Climate & Global Change	64,837	97,788	60,346	64,000	65,500
Long-Term Climate & Air Quality Research	27,272	39,144	27,272	27,272	27,272
VENTS............................	2,496	0	0	2,500	2,500
High Performance Computing..........	5,500	15,558	6,500	6,500	6,500
Subtotal........................	35,268	54,702	33,772	36,272	36,272
GLOBE	7,000	7,038	0	7,000	0
Total, Climate and Air Quality......	107,105	159,528	94,118	107,272	101,772
Atmospheric Programs					
Weather Research	33,613	34,720	33,613	33,613	33,613
Wind profiler......................	4,350	4,350	4,350	4,350	4,350
Federal/state weather mod. grants...	3,100	0	0	0	0
Southeastern storm research.........	400	0	0	0	0
Subtotal.......................	41,463	39,070	37,963	37,963	37,963
Solar/Geomagnetic Research	5,483	7,839	5,483	5,483	5,483
Total, Atmospheric Program..........	46,946	46,909	43,446	43,446	43,446
Ocean and Great Lakes Programs:					
Marine Prediction Research	9,506	10,226	9,506	10,226	10,226
GLERL.............................	4,558	4,558	4,000	4,558	5,200
Great lakes nearshore research......	200	200	0	200	0
SE US/Caribbean FOCI program........	450	0	0	0	0
GLERL/Zebra mussel..................	911	0	0	911	0
Lake Champlain study................	150	0	0	0	0
Pacific Island technical assistance.	190	0	0	0	0

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Subtotal........................	15,965	14,984	13,506	15,895	15,426
Sea Grant					
Sea grant college program............	49,000	49,400	53,300	50,400	53,300
Sea grant oyster disease............	1,500	0	0	0	0
Sea grant-zebra mussel................	2,800	0	0	0	0
National coastal R&D instutute........	1,000	0	0	0	0
Subtotal........................	54,300	49,400	53,300	50,400	53,300
Undersea Research Program					
NOAA Undersea Research Program......	14,432	0	0	14,432	12,000
Regional marine research centers....	1,500	0	0	0	0
Subtotal........................	15,932	0	0	14,432	12,000
Total, Ocean & Great Lakes Programs	86,197	64,384	66,806	80,727	80,726
TOTAL, OAR.....................	240,248	270,821	204,370	231,445	225,944

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
NATIONAL WEATHER SERVICE:					
Operations and Research:					
Local Warnings and Forecasts	441,133	417,410	405,300	394,008	405,300
Susquehanna River Basin Flood Sys..	1,250	669	669	1,250	669
Aviation forecasts................	35,596	35,596	35,596	35,596	35,596
Flood Warning System/Colorado River	288	288	0	0	0
Regional climate centers...........	3,200	0	0	3,000	2,000
California data buoys..................	200	200	0	0	0
Subtotal.......................	481,667	454,163	441,565	433,854	443,565
Central Forecast Guidance	29,015	30,457	28,193	28,193	28,193
Atmospheric and Hydrological Research	2,487	2,669	2,000	2,000	2,000
Total, Operations and Research.....	513,169	487,289	471,758	464,047	473,758

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Systems Acquisition:					
Public Warning and Forecast Systems					
NEXRAD............................	**82,982**	**55,249**	**53,335**	**53,335**	**53,335**
ASOS...............................	**17,515**	**16,952**	**16,952**	**16,952**	**16,952**
AWIPS/NOAAPort...................	**34,947**	**52,097**	**50,000**	**50,000**	**50,000**
Computer Facility Upgrades.........	**9,985**	**12,745**	**12,000**	**12,000**	**12,000**
Total, Systems Acquisition.........	**145,429**	**137,043**	**132,287**	**132,287**	**132,287**
TOTAL, NWS.....................	**658,598**	**624,332**	**604,045**	**596,334**	**606,045**

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE:					
Satellite Observing Systems:					
Polar spacecraft and launching	146,228	198,824	184,765	184,765	174,765
Polar convergence/IPO	16,000	54,000	39,500	39,500	39,500
Landsat	0	12,000	0	10,000	10,000
Geostationary spacecraft and launching..	132,242	179,101	162,273	150,106	153,106
Ocean remote sensing................................	6,000	1,600	0	5,000	4,000
Environmental observing services	51,271	55,912	49,000	49,000	49,000
Total, Satellite Observing Systems....	351,741	501,437	435,538	438,371	430,371
Environmental Data Management Systems :	24,365	28,564	24,365	24,365	29,865
Data and Information Services...........	11,300	15,100	11,300	11,300	11,300
Total, EDMS..........................	35,665	43,664	35,665	35,665	41,165
TOTAL, NESDIS......................	387,406	545,101	471,203	474,036	471,536

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
PROGRAM SUPPORT:					
Administration and Services:					
Executive direction and administration	25,490	25,882	20,000	20,000	20,000
Systems Program Office (SPO)..........	1,798	2,607	1,500	1,500	1,500
Subtotal.........................	27,288	28,489	21,500	21,500	21,500
Central Administrative Support........	37,853	54,749	30,000	35,579	33,000
Retired Pay Commissioned Officers.....	7,706	7,889	7,706	7,706	7,706
Total, Administration and Services	72,847	91,127	59,206	64,785	62,206
Marine Services...........	62,011	62,202	60,000	62,202	61,100
Aircraft Services	9,153	9,853	9,500	9,153	9,153
Instrumentation............	1,300	395	0	0	0
Total, Aircraft Services.........	10,453	10,248	9,500	9,153	9,153
TOTAL, PS......................	145,311	163,577	128,706	136,140	132,459

(Dollars in Thousands)

	FY 1995 Appropriation	FY 1996 President's Budget	FY 1996 House Allowance	FY 1996 Senate Allowance	Conference Recom
Direct Obligations	1,877,431	2,118,485	1,815,502	1,904,642	1,892,927
Reimbursable Obligations....................	316,216	313,715	309,715	309,715	309,715
Anticipated offsetting collections	6,000	3,000	3,000	3,000	3,000
	322,216	316,715	312,715	312,715	312,715
TOTAL OBLIGATIONS	2,199,647	2,435,200	2,128,217	2,217,357	2,205,642
FINANCING:					
Deobligations..............................	(16,000)	(18,000)	(30,000)	(30,000)	(29,000)
Unobligated balance transferred, net	0	(2,650)	0	(2,650)	(2,650)
Federal Ship Financing Fund expenses					(1,700)
Anticipated offsetting collections..................		(3,000)	(3,000)	(3,000)	(3,000)
Federal funds............................	(280,607)	(279,911)	(272,207)	(272,207)	(272,207)
	(41,609)	(33,804)	(37,508)	(37,508)	(37,508)
BUDGET AUTHORITY	1,861,431	2,097,835	1,785,502	1,871,992	1,859,577
FINANCING FROM:					
Promote and develop American fisheries..........	(55,500)	(55,500)	(57,500)	(62,000)	(63,000)
Damage assessment & restoration revolving fu	(6,770)	(3,900)	(6,550)	(3,900)	(3,900)
Transfer from BPA	0	(10,300)	0	0	0
Mandatory Fish Fees (ITQs)	0	(10,000)	0	0	0
Administrative Overhead Resciss......					
	======	======	=====	=====	=====
APPROPRIATION, ORF	1,799,161	2,018,135	1,721,452	1,806,092	1,792,677

The following narrative provides additional information related to certain items included in the preceding table.

NATIONAL OCEAN SERVICE

The conferees have provided a total of $175,301,000 under this account for the activities of the National Ocean Service.

Mapping and charting.—The conferees have provided $34,000,000 for NOAA's mapping and charting programs for the purposes as described in the House report, with additional guidance given under the Fleet Modernization account addressed later in this report. In addition, the conferees would be willing to entertain a proposal to reprogram up to $1,000,000 of these amounts for observation and prediction activities to maintain tide and sea level measurements.

Coastal Ocean Program.—The conferees have provided $11,500,000 for the Coastal Ocean Program, of which $700,000 is for the continuation of research on high-salinity estuaries as proposed by the Senate. Within the total amount provided, the conferees expect the Coast Ocean Program managers to respond to the algae bloom in the Peconic Estuary system and adjacent Long Island waters that have devastated the commercial fishing industry. In addition to a concentrated research effort to understand the physiology of the brown tide organism, a systematic and comprehensive mapping of the bottom of the Peconic system should be conducted as soon as possible to identify containments and profile the problems being experienced by the shellfish industry. This action would supplement current efforts to maintain the health and integrity of the entire Peconic system through the Peconic Estuary Program.

Coastal zone management.—The conference agreement includes $46,200,000 for CZM program grants. An additional $1,000,000 is provided for the National Estuarine Research Reserve program, in addition to $3,300,000 provided under the Coastal Zone Management Fund described later in this report. The conferees have agreed to provide $500,000 to complete NOAA support for the special area management plan.

Marine Sanctuary Program.—The conference agreement includes $11,685,000 for the National Marine Sanctuary Program. The conferees are aware of concerns related to the proposal to designate a new marine sanctuary site in Puget Sound, Washington. The conferees also recognize the efforts being made by State and local officials, through existing programs, to manage the unique resources in Puget Sound. The conferees expect NOAA to continue the designation process without final designation of the Northwest Straits National Marine Sanctuary in the waters of Puget Sound prior to January 1, 1997 or until all of the county legislative bodies within or bordering the proposed marine sanctuary boundaries vote in the affirmative to ask for final designation.

Other.—Within the amounts provided for geodesy, the conferees have included $500,000 for continuation of geodetic survey work as described in the Senate report, and $1,000,000 for continuation of the land information system as described in the House report. Of the latter amount, $500,000 is included for the Orleans Parish and $500,000 is for the City of Sulphur to complete the Calcasieu Parish project. The conferees expect NOAA to provide a report within 30 days of enactment of the accompanying Act on the status of unobligated balances available under this program and a proposal to restore amounts previously appropriated for this program in order to complete this activity as soon as possible.

The conference agreement includes a total of $10,000,000 for NOAA's Coastal Services Center as requested in the budget and provided by the Senate.

Deep Ocean Isolation Study.—The conferees have been made aware of an innovative deep ocean waste handling and disposal system, featuring a patented tethered delivery technology, that could identify an environmentally safe method of subaqueous capping in isolated areas of the deepest ocean. The conferees expect NOAA to evaluate this proposal, and to develop a funding plan for an engineering analysis and preliminary design work on systems to transport dredge soil to a deposit site, transfer the material to a receiving platform, and deploy the tethered delivery system to safely conduct deep ocean waste isolation. The conferees expect NOAA to provide a report on its evaluation of this proposal to the House and Senate Committees on Appropriations and the appropriate authorizing committees, including an estimate of the cost to conduct an initial test of this new system, by April 1, 1996.

NATIONAL MARINE FISHERIES SERVICE

The conference agreement includes a total of $281,642,000 for the National Marine Fisheries Service.

Within the amounts provided in the above table for base fisheries resource information programs, the conference agreement includes funding at the fiscal year 1995 level for conservation engineering, marine mammal research and protected species research.

The conferees are concerned that the operations of the hatcheries funded in the NOAA Operations, Research and Facilities (ORF) and Construction accounts be performed in a manner to best support the Northwest Salmon plan. The conferees further understand that the current designation of use of the construction funds for screen diversions may be overly restrictive. The conferees intend that some of these Construction funds, not to exceed $3,500,000, may be available for operations and maintenance provided that the use of funds for such a purpose are subject to a reprogramming notification under the general provisions of this Act, and provided further that NOAA and the States can demonstrate that such a use would maximize the implementation of the Endangered Species Act requirements. The conferees further stipulate that such a plan anticipate no more than the fiscal year 1996 level of funding for these purposes in subsequent years.

Pursuant to the original intent of the Mitchell Act, it is the intent of the conferees that the hatcheries rearing or releasing fish at or below the Bonneville Dam include a program in fiscal year 1996 to release fish above the dam to rebuild upriver natural runs.

Within the funding provided for the Marine Mammal Protection Act, the conferees intend that NOAA provide $1,500,000 for marine resource observers in the North Pacific, $550,000 for harbor seal research by the State of Alaska, $250,000 to the State of Alaska to assist in the implementation of marine mammal take reduction plans in the fisheries off Alaska, and $350,000 to be allocated to the Alaska Eskimo Whaling Commission for the following purposes: (1) scientific research; (2) International Whaling Commission representation; and (3) implementation of the Alaska Eskimo Whaling Commission and NOAA cooperative agreement. The conferees also expect NOAA to complete a detailed cost-benefit analysis for the Atlantic and Gulf of Mexico menhaden fisheries which may be re-classified from Category III to either Category II or I before any final rule is implemented regarding the incidental taking of marine mammals by commercial fishermen as published in the *Federal Register* of June 16, 1995.

The conferees concur with the language included in the Senate report regarding RECFIN and MARFIN programs. The conferees also agree with the designations given in the Senate report, within the total amounts available for NMFS, for experimental bycatch research and funding for the Newport Marine Science Center.

The conferees have included funds for the implementation of the Atlantic Coastal Fisheries Cooperative Management Act, and strongly support the Atlantic States Marine Fisheries Commission (ASMFC) actions to improve the management of coastal fisheries. However, the conferees are concerned that in several areas involving public participation, the ASMFC's deliberative process has been inadequate. The conferees expect ASMFC to specifically improve: (1) the public hearing process; (2) the method by which the public is informed of Commission activities; and (3) the effectiveness of ASMFC's advisory committees in the fishery management process. Finally, the conferees expect ASMFC to implement a process for the peer review of fish population models upon which fishery management decisions are based.

Because the Endangered Species Act has not been reauthorized since 1992, the conferees find it inappropriate to fund the application of this law to new prelisting or listing activities associated with threatened or endangered species. These activities include designation of critical habitat, review of petitions to list species and/or revise critical habitat, or other activities the agency conducts as part of its prelisting and listing actions, except for activities associated with the development and/or implementation of habitat conservation plans. The conference agreement does, however, include funds for species currently listed under the law in order to avoid disruption of ongoing programs for these species as well as impacts on the activities of private parties. Section 207 of the accompanying Act also addresses the issue of ESA activities to be conducted by NOAA within the amounts provided.

The conferees concur with the House and Senate direction regarding the NMFS Sea Turtle/Shrimp Fishery Emergency Response Plan (ERP) except that it is the conferees' firm intent that the peer review requirements and revisions required by the House and Senate reports regarding the March 14, 1995 Emergency Response Plan shall also apply to the November 14, 1994 Biological Opinion which led to the Emergency Response Plan. The conferees expect NMFS and the Department of Commerce not to implement any shrimp fishery closures that may result from the March 14, 1995 ERP prior to October 1, 1996.

Any funding provided in this conference agreement for endangered species recovery plan are not to be used by NOAA for any sea turtle, shrimp fishery emergency response plan activities or sea turtle protection and Kemp Ridley recovery activities, except those activities, studies and recovery actions specifically outlined in the House and Senate reports and this statement of conferees. The increases provided for these activities in this conference agreement are intended to enhance salmon conservation efforts in the Pacific Northwest.

The conferees endorse the House and Senate direction regarding an independent survey and analysis of the red snapper stock and red snapper management plan and expect these to be conducted within the total amounts available for NMFS at the level provided in the Senate report. However, since passage of the House and Senate appropriations bills, the Commerce Department has approved an individual transferable quota (ITQ) system for red snapper in the Gulf of Mexico, despite recent House passage of authorizing legislation prohibiting ITQs. The conferees direct the Secretary of Commerce and the Administrator of NOAA not to expend any funds to implement or enforce an ITQ system in the Gulf of Mexico until the independent assessment and analysis of red snapper stock is completed. The conferees also direct the Secretary and the Administrator to immediately study the feasibility of establishing a commercial bycatch season allowing red snapper endorsed vessels to land restricted catch of red snapper that will utilize an amount of fish commensurate with current estimates of bycatch mortality during the closed directed harvest season. This relief quota for commercial harvesters should be evaluated and compared to the quota averages attributed to the recreational fishery in terms of its biological stock impact.

The conferees expect NOAA to include as a priority under the Saltonstall-Kennedy and MARFIN grant programs, proposals for research and education efforts directed at the protection of high-risk consumers from naturally occurring bacteria associated with raw molluscan shellfish. Specifically, the conferees expect these programs to support ongoing efforts by the Interstate Shellfish Sanitation Conference and the Gulf of Mexico Oyster industry in addressing concerns associated with *Vibrio vulnificus*.

The statement of the managers accompanying the fiscal year 1995 appropriation for NOAA included a designation of $500,000 in Saltonstall-Kennedy funds for comprehensive education program for at-risk consumers who consume raw molluscan shellfish. The conferees expect NMFS to transfer the remaining $250,000 of this amount to the Interstate Shellfish Sanitation Conference (ISSC) to continue implementation of the multi-year education program. The conferees expect the ISSC to manage the program in order to fully utilize its extensive network to ensure balanced participation between Federal and state agencies, the oyster industry and other affected parties in continuing this education program.

The conferees support the NMFS proposal to create an office to address issues related to the marine recreational fishing industry, within available resources. The conferees expect NMFS, as co-chair of the National Recreational Fisheries Coordination Council, to provide the expected guidance and leadership in the effort to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide.

Within amounts provided for fisheries management programs, the conferees expect NMFS to maintain a program for fisheries trade promotion.

OCEANIC AND ATMOSPHERIC RESEARCH

The conference agreement includes a total of $213,944,000 for Oceanic and Atmospheric Research activities.

Interannual and seasonal climate research.—The conferees have provided $65,500,000 for interannual and seasonal climate research under the structure proposed by the House, of which $575,500,000 is to continue the basic Climate and Global Change program. The remaining $8,000,000 is to carry out the base interannual and seasonal research programs.

Marine prediction research.—The conference agreement provided $10,226,000 for marine prediction research. Within this amount, the conferees intend that Lake Champlain and Southeast fisheries studies be funded according to the Senate report.

GLERL.—Within the $5,200,000 provided for the Great Lakes Environmental Research Laboratory, the conferees expect NOAA to continue to support the Great Lakes nearshore research and GLERL zebra mussel research programs.

Sea grant.—The conferees have included $53,300,000 for the National Sea Grant program, and expect NOAA to continue to fund oyster disease research, zebra mussel research and the National Coastal Research and Development Institute within these amounts. The conferees urge NOAA to fund proposals related to the *Vibrio vulnificus* issue and the education of at-risk consumers regarding raw molluscan shellfish.

NURP.—The conferees have provided $12,000,000 for the National Undersea Research Program, and direct that each NURP center receive at least $1,560,000 of these funds. The conferees direct that priority be given to the NURP centers which have received the greatest reductions from rescissions in the previous fiscal year in allocating excess funds after each center has received the minimum $1,560,000.

NATIONAL WEATHER SERVICE

The conference agreement includes a total of $606,045,000 for the National Weather Service.

The amount provided includes $405,300,000 for local warnings and forecasts, including the staffing related to the modernization of the weather service, data buoy maintenance, Pacific and Alaska regional headquarters, and specialized weather services.

The conferees expect that any reductions required within the amounts provided in this conference agreement be applied first to staffing levels at NWS central headquarters. Further, the conferees concur with language included in the House report regarding notification prior to NWS office closures.

While the conference agreement assumes the privatization of specialized weather services, the conferees recognized that it may be necessary, within the funds available, for the National Weather Service to continue to provide agricultural weather, fruit frost, and fire related services for a limited time in areas where private sector entities are not yet available to provide these services. The conferees expect NOAA to submit a report by April 30, 1996, on the status of these privatization proposals. The conferees expect NWS to continue the marine facsimile weather service program within funds provided under local warnings and forecasts.

NATIONAL ENVIRONMENTAL SATELLITE, DATA AND INFORMATION SERVICE

The conference agreement includes $471,536,000 for NOAA's satellite and data management programs.

The conferees have included $10,000,000 for NOAA's participation in the LANDSAT program. The conferees are concerned that NOAA's participation in this program will take critical funding away from operational satellites crucial to the National Weather Service. The conferees encourage NOAA to continue to work with other Federal agencies participating the LANDSAT program to obtain funds for operating LANDSAT ground systems. Should other funding be obtained, the conferees would consider a proposal to reprogram these funds toward other NOAA satellite requirements. The conferees expect these funds not to be obligated prior to enactment of authorization legislation endorsing NOAA's participation in this program.

The conference agreement includes $29,865,000 for data management systems within with amount provided for NESDIS. The conferees have provided an increase in this account to support initiatives aimed at converting NOAA's aging paper and microfilm records into intelligent data formats.

The conferees recognize that, in general, the most cost-effective means of procurement is open competition. While there has been discussion within NOAA of providing a sole source procurement for the next buy of Geostationary Operational Environmental Stationary (GOES) satellites, the conferees believe that this procurement should be subject to competition and a fixed price contract, if practicable. The conferees are in agreement that the next buy of GOES satellites should be for "clones" of the current GOES I-M satellites (or "GOES-NEXT"), requiring no new sensors or any other change calling for additional research and development. The goals for the GOES program should be to provide continuity in coverage and to reduce unit costs.

PROGRAM SUPPORT

The conference agreement provides $132,459,000 for NOAA program support.

Marine services.—The conference agreement includes $61,100,000 for marine services. The conferees expect funds made available under this account and the NOAA Fleet Modernization account, including prior year carryover funds, for mapping, charting, and geodesy services to be used to acquire such services through contracts entered into with qualified private sector contractors. The conferees expect that contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), as proposed in the House report. Further, the conferees intend that no funds provided under this account, in this Act or in any prior year appropriation, be used to procure equipment that replaces or modernizes NOAA's in-house measurement capabilities when similar services may be obtained by contract through the private sector. The conferees believe that it is inappropriate for NOAA to use its limited resources to acquire specialized equipment for the NOAA fleet, considering the uncertainty of the future of the fleet as well as the availability of such equipment among potential private sector contractors for mapping and charting activities.

COASTAL ZONE MANAGEMENT FUND

The conference agreement includes an appropriation of $7,800,000, as provided in both the House and Senate bills, from the Coastal Zone Management Fund for the purposes designated by the Senate. The conferees intend that amounts provided will be available as follows: $4,000,000 for program administration, $500,000 for State development grants, and $3,300,000 for the National Estuarine Research Reserve Program. The conferees have provided an additional $1,000,000 in direct appropriations under the NOAA Operations, Research, and Facilities account for the National Estuarine Research Reserve Program.

CONSTRUCTION

The conference agreement includes a total of $50,000,000 for the NOAA Construction account as proposed by the Senate instead of $42,731,000 as proposed by the House. The conferees have provided these funds for the purposes described in the following paragraphs.

The conference agreement includes funding for the National Centers for Environmental Prediction, as proposed in both the House and Senate reports. The conferees have provided $3,700,000 for general facilities maintenance, $1,500,000 for the Sandy Hook lease, $2,000,000 for environmental compliance, $2,000,000 for above-standard costs at the Boulder laboratory, and $1,800,000 for NOAA research facilities.

The conferees have included a total of $19,300,000 for NEXRAD weather office construction and maintenance.

The conferees have included $4,700,000 for Columbia River facilities in accordance with the language included under the National Marine Fisheries Service (NMFS) addressed in the Operations, Research and Facilities account.

The conference agreement includes funds for NMFS Honolulu laboratory renovations and the Newport Science Center architectural and engineering studies in accordance with the Senate report. The conferees have provided $3,000,000 for the NMFS Southeast laboratory.

As provided by both the House and Senate, the conferees have included $10,000,000 for Pribilof Island cleanup. In addition to direction given in both the House and Senate reports, the conferees expect NOAA to use a portion of these funds to stabilize to an appropriate building condition the historic seal processing plant located on the island of Saint George.

The conferees are aware of current shortfalls that exist at the NMFS Tiburon Lab. The conferees expect the NOAA Administrator to prepare a plan of action outlining the most cost-effective approach to address these shortfalls in order to maintain the current research mission. This plan should be submitted to the House and Senate Committees on Appropriations by March 15, 1996. Funds provided in prior years for the Tiburon replacement are made available for this planning effort.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

The conference agreement includes $8,000,000 for the NOAA Fleet Modernization account, as provided in both the House and Senate bills, and language identical to that included in the House bill. In addition, the conference agreement retains language included in section 612 of the House and Senate bills further clarifying the uses of these funds.

FISHING VESSELS AND GEAR DAMAGE COMPENSATION FUND

The conference agreement includes $1,032,000 for an appropriation to the Fishing Vessel and Gear Damage Fund as provided in both the House and Senate versions of the bill.

FISHERMEN'S CONTINGENCY FUND

The conference agreement includes $999,000 for the Fishermen's Contingency Fund, as provided in both the House and Senate versions of the bill.

FOREIGN FISHING OBSERVER FUND

The conference agreement includes $196,000 for the expenses related to the Foreign Fishing Observer Fund, as provided in both the House and Senate versions of the bill.

FISHING VESSEL OBLIGATIONS GUARANTEES

The conference agreement provides $250,000 in subsidy amounts for Fishing Vessel Obligations Guarantees as proposed by the Senate. The House bill contained no similar provision. In addition, the conference agreement makes a technical language change to clarify that no loans may be made to purchase any new vessel that would increase the harvesting capacity of any U.S. fishery.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

The conference agreement includes $5,000,000 for the Technology Administration as provided in both the House and Senate versions of the bill. The conferees concur with language included in the House report regarding this account.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $29,100,000 for the general administration of the Commerce Department as provided in both the House and Senate versions of the bill.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $19,849,000 for the Commerce Department Inspector General as proposed by the Senate instead of $21,849,000 as proposed by the House.

COMMERCE REORGANIZATION TRANSITION FUND

The conference agreement does not include an appropriation of $20,000,000 for a new Commerce Reorganization Transition Fund as proposed by the Senate. The House bill contained no similar provision. The conference agreement includes a new general provision (section 210) requiring that any costs resulting from reorganization or consolidations be absorbed within the total budget authority available to the Department.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

The conference agreement includes a rescission of $75,000,000 from the NIST Construction account under title II of the Act instead of a rescission of $152,993,000 from projected end-of-year carryover balances as proposed by the Senate in title VII of the Act. The House bill contained no similar rescission. This rescission of $75,000,000 reduces the carryover appropriation under this account to $19,000,000. Uses of the remaining funds are addressed in the description of the fiscal year 1996 appropriation under this account.

DEPARTMENT OF COMMERCE

GENERAL PROVISIONS

The conference agreement includes the following general provisions for the Department of Commerce:

Section 201.—The conference agreement includes section 201, identical in both versions of the bill, regarding certifications of advanced payments.

Sec. 202.—The conference agreement includes section 202, identical in both versions of the bill, allowing funds to be used for hire of passenger motor vehicles.

Sec. 203.—The conference agreement includes section 203, identical in both bills, prohibiting reimbursement to the Air Force for hurricane reconnaissance planes.

Sec. 204.—The conference agreement includes section 204, identical in both the House and Senate versions of the bill, prohibiting funds from being used to reimburse the Unemployment Trust Fund for temporary census workers.

Sec. 205.—The conference agreement includes section 205, identical in both the House and Senate versions of the bill, regarding transfer authority between Commerce Department appropriation accounts.

Sec. 206.—The conference agreement includes a new section 206 providing for the notification of the House and Senate Committees on Appropriations of a plan for transferring funds to appropriate successor organizations within 90 days of enactment of any legislation dismantling or reorganizing the Department of Commerce, should such legislation be enacted. This section also includes language allowing the Secretary of Commerce or the appropriate head of any successor organization to use available funds to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and to transfer funds between appropriations accounts in order to cover these costs, should such actions be necessary.

The Senate bill included under section 206 language entitled "Consolidation of Functions of Commerce Department" which: (1) provided broad authority to the Director of the Office of Management and Budget (OMB) to abolish, reorganize, consolidate or transfer functions within the Department of Commerce in accordance with the provisions of the Senate bill, to terminate or transfer associated personnel as considered appropriate by OMB; (2) authorized employee buyouts through December 15, 1995; and (3) established a Commerce Reorganization Transition fund to cover the costs of consolidation and employee buyouts. The House bill contained no provision on this matter.

The conferees have included new language for section 206 in order to conform the actions taken in this Act to any subsequently enacted legislation dismantling or reorganizing the Department of Commerce.

The conference agreement does not include the language under section 207 as proposed by the Senate, requiring the Secretary of Commerce to conduct a study of the Doppler weather surveillance radar to assess the impact on property owners in the immediate area of the radar sites, as well as the costs of relocating these radars. However, the conferees expect the National Oceanic and Atmospheric Administration, upon enactment of an authorization and to the extend funds are available, to identify an alternative site for the relocation of the NEXRAD radar tower presently located at Sulphur Mountain in Ventura County, California.

Sec. 207.—The conference agreement includes section 207 requiring that no funds provided in this Act, or under any other law, be used to implement certain subsections of the Endangered Species Act until reauthorizing legislation is enacted. This language is identical to that included in the Senate bill as section 208. The House bill contained no similar provision. This language prohibits the Secretary of Commerce, through the National Marine Fisheries Service (NMFS), from proposing the listing of new species under the Endangered Species Act, designation of critical habitat, or final listing determinations, pending reauthorization of that Act. NMFS may use funds for delisting, or for the reclassification of a species from endangered to threatened, and funds may be used for prelisting conservation and other activities that will help prevent future listings of species, and implementation of section 4(d) rules.

Sec. 208.—The conference agreement includes section 208, included in the Senate bill under section 209, allowing the transfer of title of a project in Hilinex, Vermont, originally funded under the Economic Development Administration. The House bill contained no similar provision.

Sec. 209.—The conference agreement includes section 209, included in the Senate bill as section 210, providing for the demolition of structures, environmental cleanup and conveyance of land by the Economic Development Administration to the Tuscaloosa (AL) County Industrial Development Authority. The House bill contained no similar provision.

Sec. 210.—The conference agreement includes a new section 210, not included in either bill, requiring that any costs related to personnel actions incurred by a Department or agency funded in title II of the accompanying Act as a result of funding levels provided in this Act, be absorbed within the total budgetary resources available to such Department or agency.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

The conference agreement includes $25,834,000 for the salaries and expenses of the Supreme Court as provided in both the House and Senate bills.

CARE OF THE BUILDINGS AND GROUNDS

The conference agreement includes $3,313,000 for the Supreme Court Care of the Buildings and Grounds account, as provided in both the House and Senate bills. The conference agreement also provides that $500,000 of the amount appropriated shall be available until expended as proposed by the House, instead of $565,000 as proposed by the Senate.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

The conference agreement includes $14,288,000 for the U.S. Court of Appeals for the Federal Circuit as proposed by the Senate, instead of $14,070,000 as proposed by the House. The conferees have provided the higher amount to fund additional court security officers requested by the Court.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

The conference agreement includes $10,859,000 for the U.S. Court of International Trade as provided in both the House and Senate bills.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

The conferees have provided $2,433,141,000 for the salaries and expenses of the Federal Judiciary, instead of $2,409,024,000 as proposed by the House and $2,446,194,665 as proposed by the Senate. Including amounts provided under the Violent Crime Reduction Trust Fund, addressed below, the total amount available in this conference agreement for the salaries and expenses of the courts is $2,463,141,000 rather than $2,450,524,000 as proposed by the House and $2,476,194,665 as proposed by the Senate.

Within the overall funding available for fiscal year 1996, the conferees expect the Judiciary to fund its highest program priorities, including additional magistrate judges to eliminate existing backlogs in caseloads.

The conference agreement also appropriates $2,318,000 from the Vaccine Injury Compensation Trust Fund for expenses associated with the National Childhood Vaccine Injury Act of 1986, as provided in both the House and Senate bills.

Optimal utilization of judicial resources.—The conferees are concerned about the ability to sustain the current appropriations level for the Judicial Branch in the context of the need to balance the budget and reduce the deficit. The conferees want to ensure that the Judiciary maintains its current high standards for the delivery of justice in our courts and the public's confidence in the court system. Particularly in this time of budgetary constraints, this must be done in the most cost-effective way possible.

In order to provide the Congress with the means to better evaluate the operations of the courts, the conferees expect the Judicial Conference to continue its effort to identify ways to make the courts more efficient and less costly. As part of this effort, the conferees request that the Judiciary undertake a review, to be performed by an independent, nonpartisan, professional organization outside the Judiciary, but with the complete cooperation and support of the Judiciary. A report of its finding should be submitted by no later than November 30, 1996, with an interim report on the findings to be submitted by April 1, 1996. While the report may address possible improvements in any aspect of the Judiciary and its functions, the conferees expect the report to emphasize the following:

The extent to which the current judicial workload corresponds to the distribution of judicial resources.

The extent to which underutilized court facilities could be closed, or the sharing of courtroom space expanded, without appreciably affecting the delivery of justice, and the potential for savings in space costs that could be realized.

The extent to which the use of contract services might be substituted for non-judge employees in the courts and what, if any, savings could be realized.

The extent to which savings and efficiencies can be realized through enhanced use of automation and other high technology initiatives.

Violent crime reduction trust fund.—The conference agreement includes an appropriation of $30,000,000 from the Violent Crime Reduction Trust Fund, the same amount provided in the Senate bill. The House bill included an appropriation of $41,500,000 from the Violent Crime Reduction Trust Fund for the Judiciary. The conferees intend that these funds be used to offset workload requirements of the Federal Judiciary related to the Violent Crime Control and Law Enforcement Act of 1994 and any increased workload requirements related to title VIII of this Act.

DEFENDER SERVICES

The conferees have included $267,217,000 for the Federal Judiciary's Defender Services account, instead of $260,000,000 as proposed by the House and $274,433,000 as proposed by the Senate. The amount provided is for the operation of Federal public defender and community defender organizations and the compensation, reimbursement, and expenses of attorneys appointed to represent persons under the Criminal Justice Act, as amended.

The conference agreement also includes language proposed by the Senate establishing April 1, 1996 as the date by which no funds provided under this account may be expended for Death Penalty Resource Centers (Post-Conviction Defender Organizations). The House bill included no specific date, but would have terminated these centers upon enactment of this Act. The conferees agree that establishing April 1, 1996 as the termination date will allow for a more orderly and efficient close-out of this program.

The conferees recognize the concerns expressed by the Judiciary that the cost of panel attorney representation in Federal capital habeas cases be kept to an appropriate level. Therefore, the conferees expect the Judiciary to initiate a study of approaches to reducing panel attorney costs and the feasibility of conducting a pilot project to assess flat-fee contracts as one such approach. The conferees expect a report on the results of this study to be submitted to the Committees on Appropriations of the House and the Senate within one year of enactment of this Act.

FEES OF JURORS AND COMMISSIONERS

The conference agreement includes $59,028,000 for Fees of Jurors and Commissioners as provided in both the House and Senate bills.

COURT SECURITY

The conference agreement includes $102,000,000 for the Federal Judiciary's Court Security account as proposed by the Senate instead of $109,724,000 as proposed by the House.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

The conference agreement includes $47,500,000 for the Administrative Office of the United States Courts as provided in both the House and Senate bills.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

The conference agreement includes $17,914,000 for the fiscal year 1996 salaries and expenses of the Federal Judicial Center instead of $18,828,000 as proposed by the House and $17,000,000 as proposed by the Senate. The conferees agree that education and training functions performed by the Center should be maintained at current levels.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO THE JUDICIARY TRUST FUNDS

The conference agreement includes $32,900,000 for payment to the various Judicial retirement funds as provided in both the House and Senate bills.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

The conferees have included $8,500,000 for the U.S. Sentencing Commission as provided in both the House and Senate bills.

THE JUDICIARY

GENERAL PROVISIONS

Section 301.—The conference agreement includes section 301 as provided in both the House and Senate bills allowing appropriations to be used for services as authorized by 5 U.S.C. 3109.

Sec. 302.—The conference agreement includes section 302 as provided in both the House and Senate bills which allows appropriations to be available to the Special Court established under the Regional Rail Reorganization Act of 1973.

Sec. 303.—The conference agreement includes section 303, included in both the House and Senate bills, providing the Judiciary with the authority to transfer funds between appropriations accounts. The conference agreement also includes new language exempting the Judiciary's Defender Services account from the 10 percent increase ceiling set by this provision. The conferees have included this exemption because of concerns expressed by the Federal Judiciary that the total requirements for the Defender Services account will exceed $295,000,000. Because the demands for Federal defender services fluctuate, the conferees have included this provision which will allow additional funds to be transferred to this account from other budgetary resources available to the Judiciary, should additional resources be required, subject to the reprogramming guidelines set forth in section 605 of this Act.

Sec. 304.—The conference agreement includes section 304, identical in both the House and Senate versions of the bill, allowing up to $10,000 of salaries and expenses funds provided in this title to be used for official reception representation expenses of the Judicial Conference of the United States.

Sec. 305.—The conference agreement deletes section 306 as proposed by the Senate, which would have required (1) that judicial circuit conferences or meetings authorized under section 333 of title 28, United States Code, be held within the geographic boundaries of the court over which the chief judge presides, and (2) that no circuit would receive more than $100,000 for such conferences. The House bill contained no similar provision. The conferees strongly agree that the Judiciary should make every effort to hold down the cost of judicial circuit conferences, including the use of new communications technologies such as video teleconferencing.

The conference agreement includes a new section 305, similar to section 306 included in the Senate bill, revising section 333 of title 28 of the United States Code to make the holding of judicial conferences optional and to make attendance by judges at these conferences discretionary. Section 306 of the Senate bill included these provisions, as well as a sense of the Senate that the Federal Judiciary should use new communications technologies to conduct judicial conferences and a provision making this section applicable only to contracts entered into after the date of enactment of this Act. The House bill contained no similar provision.

The conference agreement deletes section 308 regarding the National Fine Center, as proposed by the Senate. The House bill contained no provision on this matter. The conferees understand that the Administrative Office of the U.S. Courts has committed to conducting a time-out and review of the National Fine Center program. The conferees expect the Administrative Office to submit to the Committees on Appropriations of the House and the Senate a report on the results of this independent review by March 1, 1996.

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes a total of $1,719,220,000 for Diplomatic and Consular Programs, instead of $1,727,298,000 as proposed by the House, and $1,698,220,000 as proposed by the Senate. The conference agreement includes $9,720,000 for security enhancement and $700,000 to be derived from registration fees, as proposed in both the House and Senate bills.

The conference agreement includes language that allows, through April 1, 1996, continued collection of Machine Readable Visa (MRV) fees as an offsetting collection for the cost of consular services. The Senate bill provided this authority for the full fiscal year, and the House bill contained no similar provision. The conference agreement also allows MRV fees to be collected from North American Free Trade Agreement countries during the same time period, which was not proposed in either bill, consistent with the pending House and Senate foreign affairs authorization bills.

The conference agreement also provides $24,856,000 from within this account for the Diplomatic Telecommunications Service, as proposed by the House and the Senate. The conference agreement modifies the language to make the funds available until expended, and to allow $7,544,000 of enhancement funds to be expended prior to submission of the pilot project report. Both the House and Senate bills withheld all enhancement funds until submission of the report.

The conference agreement also includes language relating to fees from the operation of the International Center and the use of Blair House facilities, and allowing transfers between the Diplomatic and Consular Programs and the Salaries and Expenses accounts, as proposed by both the House and Senate.

The conference agreement also includes language that was included in both the House and Senate bills requiring that in fiscal year 1997, a system be in place that allocates to each department and agency the full cost of its presence outside the United States. To carry out this provision, the conferees direct the Office of Management and Budget to ensure that in the President's budget requests for fiscal year 1997, the full cost of each Federal agency's overseas presence is clearly reflected within its budget request to Congress.

The conference agreement deletes language included by the Senate, requiring the State Department to report to the President and the Congress on potential cost savings generated by extending foreign service officer tours of duty in nations that require two-year language study programs. The conferees note that some overseas missions, such as those in China and Japan, require language preparation and extended tours in such countries may be justified. Longer tours may yield significant savings and improve personnel management. Accordingly, the Department of State is directed to conduct the study called for in the Senate bill and to submit the study to the House and Senate Committees on Appropriations not later than May 15, 1996.

The conferees agree that the language in both the House and Senate reports under this heading is to be followed in expending fiscal year 1996 funds. The continuations noted in the House report can be provided through either a grant or contract mechanism.

The conferees believe that U.S. economic and commercial interests are an integral component of our diplomatic relations, and in many overseas diplomatic posts, the cornerstone of our bilateral and multilateral relationships. It is critical that these interests be actively promoted at the highest level. The conferees note that while foreign service officers from other non-State Department agencies have been elevated to ambassadorial rank, no senior officer from the U.S. and Foreign Commercial Service (US&FCS) has been selected as an ambassador. The conferees believe that senior officers of the US&FCS have the understanding and skills necessary to effectively represent U.S. interests at the highest level, particularly in posts of strategic commercial interest to the United States. Therefore, the conferees expect the Administration to nominate at least one senior officer of the US&FCS to ambassadorial rank as soon as possible.

SALARIES AND EXPENSES

The conference agreement includes a total of $365,146,000 for Salaries and Expenses, as proposed by the House, instead of $369,870,000 as proposed by the Senate. The conference agreement includes $1,870,000 for security enhancements, as proposed by both the House and the Senate.

FOREIGN AFFAIRS REORGANIZATION TRANSITION FUND

The conference agreement does not include $5,000,000 for the Foreign Affairs Reorganization Transition Fund, as proposed by the Senate. The disposition of the Fund is discussed under section 404.

CAPITAL INVESTMENT FUND

The conference agreement includes $16,400,000 for the Capital Investment Fund, as proposed by both the House and the Senate.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $27,369,000 for the combined State and United States Information Agency Inspector General, instead of $27,669,000 for the combined office, as proposed by the House, and $24,350,000 for the combined office, as proposed by the Senate. The conference agreement includes new language exempting the Inspector General from the existing requirement to inspect all posts every five years. This language is intended to result in budget savings that will help the Office carry out its mission within the funding level provided in the conference agreement.

Upon enactment of this legislation, the Inspector General of the Department of State will have responsibility for preparing semiannual reports for three separate organizations—the Department of State, the Arms Control and Disarmament Agency, and the United States Information Agency—and international broadcasting programs. The Inspector General should consult with the House Committee on Government Reform and Oversight, the Senate Governmental Affairs Committee, and the House and Senate Committees on Appropriations on the format and content of the Inspector General's semiannual report prior to submitting that report to Congress. This consolidated report will comply with the Inspector General Act of 1978, as amended, and will allow the State Department Inspector General to achieve cost savings and efficiencies in the preparation of these reports.

REPRESENTATION ALLOWANCES

The conference agreement includes $4,500,000 for Representation Allowances, as proposed by the Senate, instead of $4,780,000 as proposed by the House.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

The conference agreement includes $8,579,000 for Protection of Foreign Missions and Officials, as proposed by both the House and the Senate.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

The conference agreement includes $385,760,000 for this account, instead of $391,760,000, as proposed by the House, and $369,860,000, as proposed by the Senate.

The conferees have agreed to rename this account from "Acquisition and Maintenance of Buildings Abroad" to "Security and Maintenance of United States Missions". The conferees believe this name more accurately reflects the activities funded by this account, which are primarily related to the management of over $10,000,000,000 of U.S. Government real property located overseas and used in carrying out the mission not only of the Department of State, but of the approximately 35 Departments and agencies that carry out programs overseas, including the Department of Justice, the Department of Treasury, and the Department of Defense, to name just a few. These properties include housing for all U.S. Government employees overseas, both U.S. owned and leased. Substantial funds are expended for security upgrades, providing security on all construction projects, and for assuring the safety of

U.S. Government employees and their families at their workplace and in their living quarters.

Of the recommended funds, $369,800,000 are required to maintain current activities. The additional $15,900,000 may be used to address the backlog in maintenance projects estimated in excess of $400,000,000. No funding for any new construction projects is provided.

Under title VII of the bill, the conferees have inclued a rescission of $60,000,000 from carryover balances in this account.

The Department's ability to address housing and facility needs in the least costly manner possible is potentially limited by the current inability to use lease-purchase agreements. As called for in the House report, the Department is expected to report back on the benefits of the lease-purchase option in managing overseas property needs. Within funds appropriated under this account or carryover from any source, the conferees expect that $3,500,000 will be made available for architectural and engineering plans associated with a consolidated chancery complex in Kingston. These operations are currently housed in five leased facilities. The conferees believe that consolidation of existing U.S. Government owned property should result in lower operating costs. Onsite housing should yield additional savings of up to $2,000,000 per year in residential security. The plans should be compatible with either a standard construction or with a lease-purchase option. The Department should report to the Committee on Appropriations on the relative costs and benefits of these two options by March 1, 1996.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The conference agreement includes $6,000,000 for Emergencies in the Diplomatic and Consular Service account, as provided in both the House and Senate bills.

REPATRIATION LOANS PROGRAM ACCOUNT

The conference agreement includes a total appropriation of $776,000 for the Repatriation Loans Program Account, as provided in both the House and Senate bills.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

The conference agreement includes $15,165,000 for the Payment to the American Institute in Taiwan account, as provided in both the House and Senate bills.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

The conference agreement includes $125,402,000 for the Payment to the Foreign Service Retirement and Disability Fund account, as provided in both the House and Senate bills.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The conference agreement includes $700,000,000 for Contributions to International Organizations to pay the costs assessed to the United States for membership in fifty international organizations, compared to $858,000,000, as provided in the House bill, and $550,000,000, as provided in the Senate bill.

The conference agreement does not include language proposed in the Senate bill to permit funding for the International Labor Organization. The House bill had no similar provision. Funding for the International Labor Organization will be decided by the Administration as part of its overall allocation of funds.

The conference agreement includes language contained in both the House and Senate bills regarding withholding of 20 percent of the contribution to the United Nations until a certification is made relating to the establishment of an independent Office of Inspector General at the United Nations, a prohibition on use of funds for interest payments, and limiting the payment of arrearages to uses agreed upon by the United States and the respective international organizations.

The conferees are agreed that no funds are provided for assessments to be paid to the United Nations International Development Organization.

The conferees have agreed, with respect to the Interparliamentary Union (IPU), that no funds should be provided until the IPU adjusts the schedule of IPU meetings to accommodate U.S. participation, and until the IPU reverses its decision to increase the U.S. assessment level from 12.8 percent to 15 percent. In so doing, the IPU should make such adjustments as necessary to ensure that the U.S. is not held accountable for any arrearage resulting from the aforementioned increase. In addition, funds should be provided on the condition that measurable steps are taken to reduce the budget and expenses of IPU. The final decision whether or not to provide funds for continued U.S. membership in IPU should be made by the Speaker of the House and the President Pro Tempore of the Senate, in consultation with the President and Vice President of the U.S. Group of the IPU.

Funding for the U.S. assessment for the Chemical Weapons Convention, should be ratified by the U.S., is to be considered under this account, as provided in the House report.

Allocation of the funds included in the conference agreement is to be made in conjunction with an assessment of the importance of the fifty international organizations to the national interest of the United States. The Department is expected to report the results of its review of these organizations to the Appropriations Committees no later than January 30, 1996.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The conference agreement provides $225,000,000 for Contributions for International Peacekeeping Activities, as proposed by the Senate, instead of $425,000,000 as proposed by the House. The overall conference 602(b) allocation of funds to the Subcommittee was not sufficient to permit funding at any other level.

The conference agreement includes language included in both the House and Senate bills requiring a 15 day advance notice of votes in the United Nations Security Council for new or expanded peacekeeping missions and requiring a certification that American businesses are being given equal procurement opportunities.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

The conference agreement includes $3,000,000 for International Conferences and Contingencies, as provided in both the House and Senate bills.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SALARIES AND EXPENSES

The conference agreement includes $12,058,000 for Salaries and Expenses of the International Boundary and Water Commission (IBWC), instead of $12,358,00 as proposed by the House and $11,500,000 as proposed by the Senate.

CONSTRUCTION

The conference agreement includes $6,644,000 for the Construction account of the IBWC, as proposed by the House, instead of $8,000,000, as proposed by the Senate.

The conferees note that both House and Senate reports contain identical language calling on the IBWC to fulfill its existing agreements to reimburse local governments and to provide a report within 60 days of enactment of this legislation.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

The conference agreement includes $5,800,000 for the U.S. share of expenses of the International Boundary Commission, the International Joint Commission, United States and Canada, and the Border Environment Cooperation Commission, as provided in both the House and Senate bills.

INTERNATIONAL FISHERIES COMMISSIONS

The conference agreement includes $14,669,000 for the U.S. share of the expenses of the International Fisheries Commissions and related activities, as proposed by the House, instead of $15,119,000, as proposed by the Senate. Allocation of funds is to be made as provided in the House report.

OTHER

PAYMENT TO THE ASIA FOUNDATION

The conference agreement includes $5,000,000 for the Payment to the Asia Foundation account, instead of $10,000,000, as proposed by the House and no funding, as proposed by the Senate.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

The conference agreement includes $35,700,000 for the Arms Control and Disarmament Agency (ACDA), instead of $40,000,000 as proposed by the House and $22,700,000, as proposed by the Senate. To the maximum extent possible, reductions should be taken from administrative functions, rather than from programmatic staff involved in technical aspects of ACDA's activities, including monitoring functions. The conferees note that ACDA also has the option of seeking to change the status of its considerable number of detailees from other agencies from a reimbursable to a non-reimbursable status.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

The conference agreement includes $445,645,000 for Salaries and Expenses of the United States Information Agency (USIA), as proposed by the House, instead of $429,000,000, as proposed by the Senate. All other bill language, which is identical in the House and Senate bills, is included in the conference agreement.

The conferees note that even at the higher House level, substantial reductions will be required, including a reduction approaching 600 positions, and the closing of up to 20 posts and installations, reducing USIA's field presence by approximately 10 percent. Both House and Senate reports included a recommendation that operations in western Europe and Canada be looked at for further reductions, because these are parts of the world that have the greatest access to information and are most likely to be exposed to the American point of view from other sources. In addition, USIA will need to reexamine all of its major operations and downsize those posts where staffing is not in accord with USIA's resource allocation grouping model.

The conference agreement includes sufficient funding for the phase out of the Latin America data base, as provided in the Senate report.

TECHNOLOGY FUND

The conference agreement includes $5,050,000 for the Technology Fund, as provided in both the House and Senate bills.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

The conference agreement includes $200,000,000 for Educational and Cultural Exchange Programs, instead of $192,090,000, as proposed by the House, and $210,000,000, as proposed by the Senate. Of the total, the conferees intend that $102,500,000 be allocated for the Fulbright program, and $97,500,000 be allocated for other programs, including $5,000,000 for international exchange events involving disability issues associated with the Tenth Paralympiad to be held in 1996.

To the maximum extent possible, the conferees urge that the following exchange programs be supported: the International Visitors Program, the Pepper Scholarships, including the Executive Education Program for Central European Business and Professional Leaders, the Muskie Fellowships, the Humphrey Fellowships, the Disability Exchange Clearinghouse, the Congress Bundestag Exchanges, the South Pacific Exchanges, the East Timorese Scholarships, the Cambodian Scholarships, the Tibetan Exchanges, the United States/Mexico Conflict Resolution Center, the Institute for Representative Government, the American Institute of Indian Studies and the British Parliamentarian Exchange.

Within the total amount of funding provided, funding for exchange support activities is included.

The conferees expect that a proposal for the distribution of the available resources among exchange programs, as well as proposed enhancements for exchanges with the Newly Independent States, will be submitted through the normal reprogramming process prior to final decisions being made.

The USIA should disburse funds in the amount of $1,800,000 to Mansfield Center for Pacific Affairs to cover the Center's costs in fully implementing the Mike Mansfield Fellowships including the posting of seven 1995 fellows and their immediate families in Japan in order that the fellows may work in a Japanese government agency for one year, preparation and training for ten 1996 fellows, the recruitment and selection of the ten 1997 fellows, and attendant administrative costs.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

The conference agreement includes language as provided in both the House and Senate bills, allowing all interest and earnings accruing to the Trust Fund in fiscal year 1996 to be used for necessary expenses of the Eisenhower Exchange Fellowships. Further issues with respect to this program are dealt with under section 412.

ISRAELI ARAB SCHOLARSHIP PROGRAM

The conference agreement includes language as provided in both the House and Senate bills, allowing all interest and earnings accruing to the Scholarship Fund in fiscal year 1996 to be used for necessary expenses of the Israeli Arab Scholarship Program.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

The conference agreement includes language as provided in both the House and Senate bills, allowing all interest and earnings accruing to the Endowment Fund in fiscal year 1996 to be used for necessary expenses of American Studies Collections.

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes $325,191,000 for International Broadcasting Operations, instead of $341,000,000 as proposed by the House and $294,191,000, as proposed by the Senate. The conference agreement does not include funds for Broadcasting to Cuba under this account, as proposed by the House, but rather includes it in under a separate account, as proposed by the Senate.

The conference agreement does not include language proposed by the Senate that would have limited funding for Radio Free Europe/Radio Liberty (RFE/RL) to $29,000,000. The House had no similar provision. Under current law, funding for RFE/RL programming cannot exceed $75,000,000.

The conference agreement does not include language proposed by the House to allow funds to be used for equipment and transmission facilities for Broadcasting to Cuba, but similar language is included under the Broadcasting to Cuba account.

The conference agreement includes language, not in either the House or Senate bill, which allows USIA to use not to exceed $1,000,000 in funds received in connection with its broadcasting resources, including receipts from advertising, for authorized purposes.

All other language, identical in both House and Senate bills, is included in the conference agreement.

The conference agreement assumes $5,000,000 in funding for Radio Free Asia, under this account, as did both the House and Senate bills.

The exact distribution of funds under this account for broadcasting operations, associated technical activities and administration is to be decided upon by USIA under the new administrative structure for international broadcasting, authorized by the United States International Broadcasting Act of 1994. The conferees understand that the new Broadcasting Board of Governors has been confirmed. Clarification appears to be required as to how the Broadcasting Board of Governors will operate, how it will interact with USIA, and where ultimate operating authority for international broadcasting lies. All relevant House and Senate Committees should be provided that clarication as soon as possible.

The conferees expect that the Committees will be notified of the final distribution of funding among the activities under this account pursuant to the normal reprogramming procedures.

BROADCASTING TO CUBA

The conference agreement includes $24,809,000 for Broadcasting to Cuba under a separate account, as proposed by the Senate, instead of within the total for International Broadcasting Operations, as proposed by the House.

The agreement also includes language requiring the relocation of the headquarters of the Office of Cuba Broadcasting from Washington, D.C., to south Florida by April 1, 1996, and permits funds from three accounts, International Broadcasting Operations, Broadcasting to Cuba, and Radio Construction, to be used to carry out the relocation. The Senate bill proposed the relocation, but allowed any USIA funds to be used to carry out the relocation. The House bill contained no similar provision.

The conference agreement includes language permitting use of funds under this account for equipment and transmission facilities, as proposed by the Senate, and similar to language proposed by the House under International Broadcasting Operations.

The conference agreement does not include language proposed by the Senate to allow funds to be used to purchase or lease, maintain and operate aircraft, including aerostats, required to house and operate television broadcasting equipment.

RADIO CONSTRUCTION

The conference agreement includes $40,000,000 for Radio Construction, instead of $70,164,000, as proposed by the House, and $22,000,000, as proposed by the Senate. This account provides funding for the following activities: maintenance, improvements, replacements and repairs; satellite and terrestrial program feeds; engineering support activities; and broadcast facility leases and land rentals.

The conferees reiterate that Congress has made clear its intent on a number of occasions that, to the maximum extend possible, contracts for radio construction projects should be awarded on the basis of a strong preference to American firms and content.

The conferees expect USIA to report on the expected distribution of funds in fiscal year 1996, including carryover.

The conference agreement also includes a rescission of funds from this account under title VII.

EAST-WEST CENTER

The conference agreement includes $11,750,000 for operations of the East-West Center, instead of no funds, as proposed by the House, and $18,000,000, as proposed by the Senate.

NORTH/SOUTH CENTER

The conference agreement includes $2,000,000 for operations of the North/South Center, instead of no funds, as proposed by the House, and $4,000,000, as proposed by the Senate.

NATIONAL ENDOWMENT FOR DEMOCRACY

The conference agreement includes $30,000,000 for the National Endowment for Democracy, as provided in both the House and Senate bills.

DEPARTMENT OF STATE AND RELATED AGENCIES

GENERAL PROVISIONS

The conference agreement includes General Provisions for title IV of this location, as provided in the Senate bill, instead of immediately after the State Department funding paragraphs, as provided in the House bill. The General Provisions heading is retitled to include reference to Related Agencies.

Section 401.—The conference agreement includes section 401, as provided in both the House and Senate bills, permitting use of funds for allowances, differentials, and transportation.

Sec. 402.—The conference agreement includes secton 402, as provided in both the House and Senate bills, dealing with transfer authority.

Sec. 403.—The conference agreement includes section 403, as provided in both the House and Senate bills, dealing with the compensation of the United States Commissioner of the International Boundary Commission, United States and Canada.

Sec. 404.—The conference agreement includes a provision: (a) requiring that 90 days after enactment of any legislation consolidating, reorganizing, or downsizing the functions of the Department of State, the United States Information Agency (USIA), and the Arms Control and Disarmament Agency

(ACDA), the heads of those agencies are to submit proposals for transferring or rescinding funds appropriated in this bill for functions that are affected by such legislation; and (b) providing those agencies with transfer authority to cover the costs of actions to consolidate, reorganize or downsize the functions under their authority required by such legislation, and of any related personnel action, including voluntary separation incentives, if authorized by such legislation. These actions are subject to reprogramming authority.

The Senate bill contained a provision giving the Director of the Office of Management and Budget broad authority to eliminate redundancies and consolidate functions among the State Department, USIA and ACDA; authorizing employee buy-outs through December 15, 1995; and establishing a Foreign Affairs Reorganization Transition Fund to cover the costs of consolidation and employee buy-outs. The House bill contained no similar provision.

Sec. 405.—The conference agreement includes a provision waiving, through April 1, 1996, provisions of existing legislation that require authorizations to be in place for State Department, United States Information Agency, including International Broadcasting Operations, and Arms Control and Disarmament Agency activities prior to the expenditure of any appropriated funds. The Senate bill included a provision waiving through December 1, 1995, the authorization requirement for State Department activities. The House bill contained no similar provision.

The conference agreement does not include a provision proposed in the Senate bill as section 406 to earmark $5,000,000 for the Tenth Paralympiad Games out of amounts provided under three United States Information Agency (USIA) accounts. This issue is addressed under the USIA Educational and Cultural Exchange Programs account. The House bill contained no similar provision.

Sec. 406.—The conference agreement includes a provision proposed by the Senate as section 408, renumbered as section 406, to amend the State Department Authorities Act of 1956 with respect to reward authority, to mandate the Department to establish and publicize its reward program. Under current law, the reward program is discretionary. The House bill contained no similar provision.

Sec. 407.—The conference agreement includes a provision proposed by the Senate as section 411, renumbered as section 407, to extend the authorization for the Au Pair program through fiscal year 1999. The House bill contained no similar provision.

Sec. 408.—The conference agreement includes a provision that expands the authorization for the Eisenhower Exchange Fellowship Program to permit the program to extend its activities to areas of the world other than emerging democracies in Europe. The Senate bill contained this provision, proposed as section 412, as well as a proposal to allow the program to use any earned but unused trust income from the period 1992 through 1995, which is not included in the conference agreement. The House bill contained no Similar provision.

Sec. 409.—The conference agreement includes a provision, proposed in the Senate bill as section 413, renumbered to read section 409, that states the sense of the Senate that none of the funds in this Act should be used for the deployment of U.S. forces in Bosnia and Herzegovina unless approved in advance by Congress, with certain exceptions in case of emergency. The House bill contained no similar provision.

The conference agreement does not include a provision, proposed in the Senate bill as section 414, stating the sense of the Senate that the President should insist on full compliance of the Russian Federation with the terms of the Treaty on Conventional Armed Forces in Europe and seek the advice and consent of the Senate for any treaty modifications. The conferees consider compliance with the terms of the Treaty to be a high priority in U.S. relations with the Russian Federation, and further understand that there are ongoing negotiations relating to Russian compliance, which are the subject of ongoing meetings involving the Russian Federation, the U.S., and the Treaty's 30 signatories, and therefore reserve judgment until the conclusion of these events. The House bill contained no similar provision.

The conference agreement does not include a provision, proposed by the Senate as section 415, requiring sanctions on Serbia and Montenegro to remain in effect until the President certified that certain conditions had been met. The House bill contained no similar provision.

Sec. 410.—The conference agreement includes a new section, not proposed in either the House or Senate bill, providing that any personnel costs incurred by any Department or agency funded under this title as a result of funding reductions be absorbed within the total budgetary resources available to the Department or agency, and providing authority to transfer funds between appropriations accounts for that purpose. Transfers are to be subject to standard reprogramming procedures. The Senate bill proposed to establish a Foreign Affairs Reorganization Transition Fund under section 404, with a separate appropriation, to pay for consolidation costs. The House bill contained no similar provision.

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

The conference agreement includes $162,610,000 for payment of obligations incurred for the Maritime Administration (MARAD) operating differential subsidy program as provided in both the House and Senate bills.

MARITIME NATIONAL SECURITY PROGRAM

The conference agreement includes $46,000,000, available upon enactment of an authorization, for a new Maritime National Security Program to provide payments to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States as determined by the Secretary of Defense in consultation with the Secretary of Transportation. The Senate bill included $46,000,000 for necessary expenses of maritime security services as authorized by law. The House bill contained no provision on this matter. This program is funded under the allocation for national security programs. The conferees expect MARAD to submit a notification of the proposed distribution of these funds to the House and Senate Committees on Appropriations by April 1, 1996.

OPERATIONS AND TRAINING

The conference agreement includes $66,600,000 for the Maritime Administration Operations and Training account instead of $64,600,000 as proposed by the House and instead of $68,600,000 as proposed by the Senate. The conferees intend that these funds will be distributed as follows: $30,900,000 for the U.S. Merchant Marine Academy, $6,700,000 for State maritime academies, and $29,900,000 for additional training, operating programs and general administration of the Maritime Administration.

The conference agreement also includes language proposed by the Senate, allowing proceeds from the sale or disposal of National Defense Reserve Vessels to be transferred to the Secretary of the Interior for use as provided in the National Maritime Heritage Act (Public Law 103-451). The House bill contained no similar provision.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

The conference agreement provides $40,000,000 in subsidy appropriations for the Maritime Guaranteed Loan Program instead of $48,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. This amount will subsidize a program level of not more than $1,000,000,000 as proposed by the House instead of $500,000,000 as proposed by the Senate.

The conferees have also included $3,500,000 for administrative expenses associated with the Maritime Guaranteed Loan Program instead of $4,000,000 as proposed by the House. The Senate bill included no funds for this purpose. These amounts may be transferred to and merged with amounts under the MARAD Operations and Training account.

ADMINISTRATIVE PROVISIONS

The conference agreement includes provisions contained in both the House and Senate bills involving Government property controlled by MARAD, the accounting for certain funds received by MARAD, and a prohibition on obligations from the MARAD construction fund.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

The conference agreement provides $206,000 for the Preservation for America's Heritage Abroad as provided in both the House and Senate bills.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

The conference agreement includes $8,750,000 for the salaries and expenses of the Commission on Civil Rights instead of $8,500,000 as proposed by the House and $9,000,000 as proposed by the Senate.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

The conference agreement includes $1,894,000 as proposed by the Senate, instead of $2,377,000 as proposed by the House.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The conferees provide $1,090,000 for the Commission on Security and Cooperation in Europe as proposed by both the House and Senate.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $233,000,000 for the salaries and expenses of the Equal Employment Opportunity Commission, as proposed by both the House and Senate.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

The conference agreement provides a total of $175,709,000 for the salaries and expenses of the Federal Communications Commission instead of $185,232,000 as proposed by the House and $166,185,000 as proposed by the Senate. The conference agreement also provides for the collection and retention of $116,400,000 in offsetting fee collections, as provided in both the House and Senate bills.

Within the amount provided, the conferees intend that the FCC continue the restructuring proposal initiated in June, 1995, including the closure of certain field offices as proposed by the Commission to the House and Senate Committees on Appropriations on October 20, 1995. The conferees have included, within the amount provided, $3,000,000 to begin to acquire the equipment necessary to carry out these proposed field office reductions.

The conferees expect remaining reductions to be carried out within FCC headquarters operations through the streamlining and elimination of redundant offices and functions. The conferees expect the FCC to consider first for reductions those offices which have experienced significant growth in recent years, but to hold harmless those activities supported by fees. The FCC should submit a notification in accordance with section 605 of this Act prior to implementing these reductions.

The conferees are aware that concerns have been expressed about actions taken by the FCC to challenge radio license applications or renewals for religious broadcasters on the grounds that requiring religious knowledge, training, or expertise for employees is discriminatory. These concerns have arisen because of the potential impact of such actions on legitimate religious free speech. The conferees expect the FCC not to deny any license application or renewal on these grounds inconsistent with the right to exercise this free speech in recruitment and hiring practices, and to report to the House and Senate Appropriations Committees by not later than March 1, 1996 on the Commission's policy in these cases, and its intention to follow such a policy that recognizes and preserves such religious freedom. If the FCC does move to deny a license application or renewal for a religious broadcaster according to its policy, it shall report to the Committees to demonstrate that it is not abridging the free speech of religious broadcasters.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $14,855,000 for the salaries and expenses of the Federal Maritime Commission as proposed by the Senate, instead of $15,000,000 as proposed by the House.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

The conference agreement allows a total operating level of $98,928,000 for the Federal Trade Commission as proposed by the House instead of $89,035,000 as proposed by the Senate, and includes language provided in both bills allowing $48,262,000 in offsetting collections from Hart-Scott-Rodino Act premerger filing fees. The conference agreement also assumes the availability of carryover fee balances of $19,360,000 to offset the appropriations level instead of $16,000,000 as assumed in both the House and Senate bills. This amount is based on actual carryover balances identified by the FTC. These actions result in a final appropriated level of $31,306,000 instead of $34,666,000 as proposed by the House and $24,773,000 as proposed by the Senate.

The conference agreement also includes language proposed by the Senate allowing the FTC to use up to $300,000 of available funds to contract for debt collection services. The House contained no similar provision.

The conferees concur with House language regarding FTC's involvement in areas more appropriately addressed by States and localities.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

The conference agreement provides $1,247,000 for the expenses of the Japan-United States Friendship Commission from the U.S. currency account, and provides for an amount from the Japanese currency account not to exceed the equivalent of $1,420,000 as provided in both the House and Senate Bills.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

The conference agreement includes $278,000,000 for payment to the Legal Services Corporation, the same level proposed by the House bill, instead of $340,000,000 as proposed by the Senate.

The conference agreement designates $198,750,000 of the amount provided for basic field programs to be used only for competitively awarded grants and contracts, instead of $115,000,000 as proposed by the Senate, reflecting a provision in the conference agreement setting April 1, 1996 as the deadline for implementation of competition, rather than September 1, 1996 as proposed by the Senate.

The conference agreement provides $13,000,000 for the management and oversight functions of the program and designates $6,000,000 for management and administration, and $7,000,000 for the Office of the Inspector General, of which $5,500,000 is to be used to contract with independent external auditors for financial and compliance audits. The conference agreement reflects the transfer of functions and the corresponding resources for compliance monitoring and enforcement to the Inspector General, while retaining the administration of the grant program within the Corporation, as proposed by the House. The Senate did not designate funding for each activity.

The following table shows a funding distribution by activity:

	Fiscal year 1995	House	Senate	Conference
Basic field programs	$345,903,013	$265,000,000	$327,000,000	$265,000,000
Supplental programs:				
Native American[1]	8,867,000	0	0	0
Migrant	12,759,000	0	0	0
National support	8,109,000	0	0	0
State support	9,373,000	0	0	0
Supplemental field	1,274,000	0	0	0
Regional training centers	711,000	0	0	0
Computer assisted legal research	582,000	0	0	0
Clearinghouse	985,000	0	0	0
Law schools	726,000	0	0	0
Subtotal	43,386,000	0	0	0
Administration and oversight:				
Management and administration	9,710,987	5,000,000		6,000,000
Inspector General	1,000,000	2,250,000		1,500,000
External auditing	0	5,750,000		5,500,000
Subtotal	10,710,987	13,000,000	13,000,000	13,000,000
Total	400,000,000	278,000,000	340,000,000	278,000,000

[1] The conference agreement addresses service for Native American communities through adjustments in the basic field program, included under Administrative Provisions.

LEGAL SERVICES CORPORATION

ADMINISTRATIVE PROVISIONS

The conference agreement provides for the continuance of funding for basic legal services to ensure that poor individuals have access to the civil justice system. This program has been unauthorized for a number of years, which has required these issues to be dealt with through the inclusion of a number of administrative provisions in Appropriations Acts. The conferees hope that an authorization will be enacted obviating the need for this practice. In the interim, and in keeping with past practices, the conference agreement includes numerous administrative provisions, as proposed by both the House and Senate, governing the allowable use of the funds provided, in many cases significantly current law provisions, and in all cases applying the provisions to all funds, Federal and non-Federal, received by a grantee.

The conference agreement includes language, as proposed by the House, that upon enactment of an authorization, all contradictory provisions will supersede the provisions in this Act. The Senate bill contained no provision on this matter.

As proposed by both the House and Senate, the conference agreement distributes funding for basic field programs by formula, based on the number of poor people residing in an area. A provision is included, as proposed by the Senate, to continue current practice of making certain adjustments to the formula for certain isolated states and territories. The House bill contained no provision on this matter.

The conference agreement provides that funding shall be used only for basic field programs, as proposed by the House, instead of the Senate proposal which may have allowed funding for uses other than basic field programs. The conference agreement also includes a provision, as proposed by the Senate, to mitigate disproportionate funding reductions for services to Native American communities due to the elimination of the supplemental programs which had previously served Native Americans. The conferees have taken this action because of the unique relationship between the U.S. government and Native American tribes through longstanding treaty obligations, the complexity of Indian tribal law, and the unique challenges facing programs which must provide representation in both U.S. and tribal court systems. The House bill contained no provision on this matter.

The conference agreement extends the deadline for implementation of competition to April 1, 1996, and allows interim funding for grants to basic field programs prior to that date. The House proposed that all grants be awarded competitively on January 1, 1996, and did not propose any interim funding mechanism. The Senate proposed that a portion of basic field programs be awarded competitively by September 1, 1996, and allowed the remaining basic field program grants to be distributed to basic field programs in existence prior to that date.

The conference agreement includes provisions as proposed by the House that: (1) the Corporation be considered a Federal agency, (2) all funds provided be considered Federal funds, and (3) all grantees be subject to all Federal laws regarding the proper use of Federal funds, and that any violations of Federal laws shall result in termination of the contract. The Senate bill contained no provision on this matter.

Both the House and Senate bills proposed many similar requirements and restrictions on funds provided to the LSC grantees from Federal, non-Federal, and private sources. As proposed in both the House and Senate bills, the conference agreement requires that an LSC grantee, must agree not to engage in litigation and related activities with respect to (1) abortion; (2) redistricting; (3) welfare reform; (4) political activities, including union organizing and strikes; (5) representation of illegal aliens; (6) representation of Federal and state prisoners in civil actions; and (7) representation of individuals charged with drug-trafficking in eviction proceedings brought by a public housing authority. In addition, the grantee must agree to submit to timekeeping requirements proposed by both the House and Senate.

The conference agreement incorporates a provision, proposed by the Senate, to require that the Corporation and its grantees provide written notification to non-Federal funding sources, of the restrictions in this Act or other Acts, prior to accepting non-Federal funding. The conference agreement provides an exception to this and certain other requirements in this Act with respect to the uses of Indian tribal funds. In addition, the conference agreement deletes a provision included in the Senate bill which could have allowed non-Federal funds to be used by LSC grantees to represent prisoners, illegal aliens, and individuals charged with drug-trafficking and facing eviction from public housing.

In addition, the conference agreement includes the following additional items:

The conference agreement includes language, as proposed by the Senate, to prohibit LSC grantees from participating in or bringing any class action suits. The House bill proposed to prohibit LSC grantees from bringing class action suits against Federal, State, and local governments.

The conference agreement allows LSC grantees to represent clients in fee-generating and fee-shifting cases if no private attorney is available to accept such cases, but prohibits LSC grantees from claiming or accepting any attorneys' fees. The House proposed to prohibit LSC grantees from any involvement in such cases, while the Senate proposed to allow LSC grantees, under very limited circumstances, to represent such cases and collect attorneys' fees.

The conference agreement prohibits LSC grantees from collecting any attorneys' fees for all pending and future cases, as proposed by the House. The Senate proposed to prohibit attorneys' fees for all cases initiated after January 1, 1996.

The conference agreement includes provisions, proposed by both the House and Senate, prohibiting LSC grantees from engaging in any activities related to legislative or administrative lobbying or rulemaking.

The conference agreement prohibits LSC grantees from soliciting clients, as proposed by the House. The Senate proposed a similar provision.

The conference agreement adopts a provision, proposed by the Senate, to permit LSC grantees to use non-LSC funds to communicate with State or local entities regarding funding by State or local entities. The House bill contained no provision on this matter.

The conference agreement includes language clarifying that grantees are permitted to receive funding from non-Federal sources designated for programs serving specific populations, such as people with disabilities, provided that the clients served are not otherwise ineligible, and the purposes for which the funding is provided are allowable under this Act, and the underlying statute and regulations.

In addition, the conference agreement incorporates a provision, as proposed by the House, to prohibit funds provided in this Act from being used to pursue lawsuits against the Corporation.

The conference agreement applies all restrictions and requirements in this Act to all new cases undertaken after enactment of this Act and to additional actions on pending cases which are initiated after the enactment of this Act. The agreement allows LSC grantees up to six months to dispose of all pending cases, initiated prior to enactment of this Act, which are in violation of the provisions of this Act. The Senate proposed to apply the restrictions in this Act only to new cases undertaken or additional matters addressed in pending cases after January 1, 1996. The House proposed to apply the restrictions to all pending and new cases effective upon enactment. To ensure that clients are adequately represented, and to allow attorneys to maintain their ethical and professional responsibilities, the conferees have agreed to provide a limited amount of additional time for LSC-funded grantees to withdraw from cases and matters which would now be restricted under this Act. The Corporation shall report to the House and Senate Committees on Appropriations every sixty days as to the status of the disposition of pending cases. Further, while the conference agreement had provided for a transition period for disposition of pending cases, the agreement applies all requirements of disclosure and timekeeping to all activities.

The conference agreement includes language to clarify financial audit requirements to LSC-funded grantees, and ensure that auditors have appropriate access to necessary records. These provisions will ensure that LSC-funded grantees are subject to auditing requirements similar to other nonprofit entities receiving Federal funding. Neither the House nor Senate bills contained these provisions.

The conferees understand the importance of proper training of attorneys and paralegals. Such training, which is technical in nature and necessary to ensure attorneys and paralegals have access to current information pertaining to statutes, regulations, and case law, is permitted. However, the conference agreement prohibits grantees from conducting training programs, or providing training materials, which are designed to facilitate or advocate particular public policies or political activities.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $1,190,000 for the salaries and expenses of the Marine Mammal Commission instead of $1,000,000 as proposed by the House, and instead of $1,384,000 as proposed by the Senate.

MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $350,000 for the Martin Luther King, Jr., Federal Holiday Commission for fiscal year 1996 as proposed by the Senate instead of $250,000 as proposed by the House. Bill language has been added, consistent with the Commission's vote on May 23, 1995 to sunset operations at the end of fiscal year 1996, stating that this represents the final year of Federal funding for the Commission.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes a direct appropriation of $103,445,000 for the Securities and Exchange Commission (SEC), as proposed by the House, instead of $134,997,000, as proposed by the Senate. It also includes an extension of registration fees under section 6(b) of the Securities Act of 1933 at one twenty-ninth of one percent, expected to generate $184,293,000, as proposed by the House, instead of one thirty-fourth of one percent, expected to generate $123,000,000, as proposed by the Senate. Together with carryover from fiscal year 1995 estimated at $9,667,000, this is estimated to provide an overall operating level of $297,405,000, as proposed by the House, instead of $267,664,000 as proposed by the Senate.

1996 Funding Summary

Net General Fund Appropriation	$103,445,000
Offsetting Collections—Section 6(b)	184,293,000
Total Appropriation	287,738,000
Carry-over from Prior Year	9,667,000
Total Funding	297,405,000

The conference agreement includes technical language, not in either the House or Senate bill, which appropriates a total of $287,738,000 to the SEC, and then requires the appropriation to be reduced as registration fees are collected, to the level of $103,445,000 that the conferees have agreed to provide. Any fees collected in excess of $184,293,000 are to remain available until expended and are not available for obligation until October 1, 1996.

The conference agreement includes language earmarking $3,000,000 for the Office of Economics, to be headed by the Chief Economist of the Commission, instead of $3,600,000, as proposed by the Senate, and no language, as proposed by the House.

The conference agreement includes language earmarking $1,000,000 for Investment Advisers Act enforcement, instead of $1,500,000 as proposed by the Senate, and no language, as proposed by the House.

The conference agreement does not include language proposed by the Senate to prohibit funds from being used for the Office of Investor Education and Assistance. The House bill contained no similar provision.

SMALL BUSINESS ADMINISTRATION

The conference agreement provides a total of $589,578,000 for the Small Business Administration, instead of $590,369,000 as proposed by the House and $588,091,000 as proposed by the Senate. The distribution of these funds by account is detailed below.

The conference agreement deletes a provision contained in the Senate bill which appropriated $30,000,000, in addition to sums provided elsewhere in the bill, for the Small Business Administration. The House bill contained no similar provision. The conferees have addressed these additional funds within the context of each individual account.

SALARIES AND EXPENSES

The conference agreement provides an appropriation of $219,190,000 for the SBA Salaries and Expenses account, instead of $222,325,000 as provided in the House bill and $211,881,000 as provided by the Senate. In addition, the conference agreement allows for the collection of $3,300,000 in offsetting fees to offset this appropriation, as provided by both the House and the Senate, making $222,490,000 available under this account.

In addition to amounts made available under this heading, the conference agreement includes $92,622,000 for administrative expenses under the Business Loans Program Account and $71,578,000 for administrative provisions under the Disaster Loans Program Account. These amounts may be transferred to and merged with amounts available under Salaries and Expenses, resulting in a total level of $386,690,000 for SBA operating program and noncredit initiatives rather than $396,247,000 as provided by the House and $370,203,000 as provided by the Senate.

The conferees understand that funding levels provided for SBA operating programs will require additional office downsizing and closures, and expect SBA to continue to work with the House and Senate Appropriations and Small Business Committees in a consultative manner to develop criteria for determining further headquarters and field office reductions.

The conferees note that the SBA has proposed to centralize LowDoc application processing by establishing one to four centers. While centralized processing may warrant further consideration, the conferees believe that it is inappropriate at this time to establish four centers without further study. Therefore, the conferees would consider a proposal to establish two pilot centers designed to achieve long-term cost savings, taking into account concerns previously expressed by the conferees, subject to the reprogramming procedures in section 605 of this Act.

The conference agreement includes the following amounts for noncredit programs:

SBDCs	$73,500,000
Section 7(j) grants	2,570,000
SCORE	3,250,000
Women's outreach	4,000,000
Women's council	200,000
Microloan Tech. Asst	9,000,000
EZ One Stop Shops	2,767,000
Export Asst. Centers	3,202,000
Business Info. Cts	500,000

The amounts provided for EZ One Stop Shops include funding for staffing, equipment, rent, and related overhead expenses.

The conferees encourage the SBA to continue to work with the National Center for Manufacturing Sciences towards implementation of section 303 of Public Law 103–403.

The conferees expect the Administrator to allocate sufficient funds in order to implement biennial examinations of small business development centers as mandated by P.L. 103–403.

Within the amounts provided under this account, the conferees expect the SBA to continue the existing pilot project designed to help small businesses adapt to a paperless procurement environment.

The conferees agree with the emphasis in the Senate report regarding elimination of duplication and the need to study moving toward privatization of certain functions currently undertaken by the SBA.

OFFICE OF INSPECTOR GENERAL

The conferees have provided $8,500,000 for the SBA Office of Inspector General as proposed by the Senate instead of $8,750,000 as proposed by the House.

BUSINESS LOANS PROGRAM ACCOUNT

The conference agreement includes a total of $160,726,000 in subsidy appropriations under the SBA Business Loans Program Account, of which $4,500,000 is for the direct loan program (for the Microloan direct program only) instead of $5,000,000 as proposed by the House and $1,000,000 as proposed by the Senate, and a total of $156,226,000 is for various guaranteed loan programs. The conference agreement further designates that $1,216,000 of the guaranteed subsidy is for the Microloan guarantee program and is available until expended, as proposed by the Senate. The House bill provided $1,700,000 for the Microloan guarantee program. The conference agreement also designates that $40,510,000 of the total amount provided shall be available until September 30, 1997, as provided in both the House and Senate bills.

The conference agreement includes $114,500,000 for the SBA 7(a) general business loan program, instead of $104,500,000 as proposed by the House and $133,000,000 as proposed by the Senate. Along with prior year carryover balances, this amount will subsidize almost $11,000,000,000 in new small business loan activity under recently enacted changes in the subsidy rate for this account. The conference agreement includes a total of $40,510,000 for the small business investment corporation (SBIC) debenture and participating securities programs as proposed by both the House and the Senate. In an effort to minimize the impact of budget cutbacks on popular SBA programs, the conferees intend that no funds provided in this Act be used for the specialized SBIC (SSBIC) program, which has a credit subsidy rate of 30 percent and costs the taxpayers more than twice as much to support as the regular SBIC program.

The conference agreement includes new language, not in either bill, allowing SBA to make up to $2,500,000 in loans under the 504 Development Company program, in accordance with recently enacted authorizing legislation requiring no subsidy amounts to be appropriated. Both the House and the Senate bills had assumed that such legislation would be enacted, and language was included in the House and Senate reports that would allow a 504 Development Company program level of up to $2,500,000,000.

In addition, the conference agreement includes $92,622,000 for administrative expenses to carry out the direct and guaranteed loan programs as provided in the House bill. The Senate bill included a total of $92,622,000 for administrative expenses to carry out the guaranteed loan program only, of which $77,600,000 was provided under this account and the remaining $15,022,000 was designated under the separate $30,000,000 appropriation discussed above. The amount provided for administrative expenses is available to be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

The conference agreement includes $34,432,000 for subsidy costs associated with the SBA Disaster Loans Program as provided in both the House and Senate bills. The conferees note that this subsidy amount assumes enactment of changes to the SBA disaster loan program that have not yet been considered by the Congress and urge expeditious consideration of the proposed changes to this program so that additional appropriations for this program will not be required.

In addition, the conferees have included $71,578,000 for administrative expenses under this account, instead of $78,000,000 as proposed by the House and $62,400,000 as proposed by the Senate. These amounts are to be merged with amounts provided for SBA salaries and expenses.

SURETY BOND GUARANTEES REVOLVING FUND

The conference agreement includes $2,530,000 for additional capital for the SBA Surety Bond Guarantees Revolving Fund as provided in both the House and Senate versions of the bill.

SMALL BUSINESS ADMINISTRATION

ADMINISTRATIVE PROVISION

The conference agreement includes section 510, providing SBA with the authority to transfer funds between appropriations accounts, as provided in both the House and Senate bills.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

The conference agreement provides $5,000,000 for the salaries and expenses of the Senate Justice Institute as proposed by the Senate, instead of no funds as proposed by the House.

TITLE VI—GENERAL PROVISIONS

The conference agreement includes the following general provisions:

Section 601.—The conference agreement includes section 601, identical in both the House and Senate versions of the bill, regarding the use of appropriations for publicity or propaganda purposes.

Sec. 602.—The conference agreement includes section 602, identical in both the House and Senate versions of the bill, regarding the availability of appropriations for obligation beyond the current fiscal year.

Sec. 603.—The conference agreement includes section 603, identical in both the House and Senate versions of the bill, regarding the use of funds for consulting services.

Sec. 604.—The conference agreement includes section 604, identical in both the House and Senate versions of the bill, providing that should any provision of the Act be held to be invalid, the remainder of the Act would not be affected.

Sec. 605.—The conference agreement includes section 605, identical in both the House and Senate versions of the bills, establishing the policy by which funding available to the agencies funded under this Act may be reprogrammed for other purposes.

Sec. 606.—The conference agreement includes section 606, proposed by the House but deleted by the Senate, regarding the construction, repair of modification of National Oceanic and Atmospheric Administration vessels in overseas shipyards.

Sec. 607.—The conference agreement includes section 607 regarding the purchase of American-made products as provided in both the House and Senate bills.

Sec. 608.—The conference agreement includes section 608 which prohibits funds in the bill from being used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion similar to proposed guidelines published by the EEOC in October, 1993, as provided in both the House and Senate bills.

Sec. 609.—The conferees have added language to the provision proposed by the House to limit the use of funds to expand the U.S. diplomatic presence in the Socialist Republic of Vietnam, which provides a waiver of the provision if the President certifies that Vietnam is fully cooperating with the U.S. in four areas relating to POW/MIA's. The Senate bill included no provision on this matter.

Sec. 610.—The conference agreement includes a provision that prohibits the use of funds for any United Nations peacekeeping mission that involves U.S. Armed Forces under the command or operational control of a foreign national, unless the President certifies that the involvement is in the national security interest. This provision was included as section 610 in the House bill and as section 609 in the Senate bill.

Sec. 611.—The conference agreement includes section 611 which prohibits the use of funds to provide certain amenities for Federal prisoners as provided for in both the House bill as section 611 and in the Senate bill as section 610.

Sec. 612.—The conference agreement includes section 612 restricting the use of funds provided under the National Oceanic and Atmospheric Administration Fleet Modernization account included in the House bill as section 612 and in the Senate bill as section 611.

Sec. 613.—The conference agreement includes section 613 imposing a limitation on funding for TV Marti, as proposed by the House as section 613 and the Senate as section 612.

Sec. 614.—The conference agreement includes section 614 repealing the authorization for the Advisory Corrections Council, making changes in the table of sections for chapter 401 of title 18 of the United States code to reflect the repeal of that council, and making this section effective 30 days after enactment of this Act. The Senate bill proposed this repeal as section 613, and also proposed termination of the Regulatory Coordination Advisory Committee for the Commodities Future Trading Commission and the repeal of section 5(h) of the Export Administration Act of 1979, which have not been agreed to. The House bill included no provision on this matter.

The conference agreement deletes section 614 as proposed by the Senate, which stated the sense of the Senate that a joint United States-Canadian technical committee should be established to review the impact of creating an outlet from Devils Lake, N.D. under the Boundary Water Treaty of 1909. The House bill included no provision on this matter.

The conference agreement deletes section 615 proposed by the Senate which would have required competitive bidding to determine the disposition of certain portions of the spectrum related to the assignment of DBS licenses. The House bill contained no similar provision. The conferees have dropped this language because the Federal Communications Commission has taken action to require a competitive bidding process for the portions of the spectrum addressed in this amendment. The conferees support this decision by the FCC since it should result in the maximum return to the Treasury.

The conference agreement deletes section 616, as proposed by the Senate, which would have given direction to the head of each agency for which funds are directed under this Act, to take all necessary actions to achieve a 5 percent reduction from fiscal year 1995 levels in the energy costs of facilities used by the agency. A government-wide policy on this issue was established in the FY 1996 Treasury-Postal Appropriation Act.

Sec. 615.—The conference agreement includes a new general provision, not in either the House or Senate bill, requiring agencies and Departments funded in this Act to absorb any necessary costs related to downsizing or consolidations within the amounts provided to the agency or Department.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

The conference agreement includes a rescission of $65,000,000 from unobligated balances under this heading, instead of $55,000,000, as proposed by the Senate, and no rescission, as proposed by the House.

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

(RESCISSION)

The conference agreement does not include the proposed rescission of $36,769,000 proposed by the Senate from anticipated unobligated balances under the NTIA Information Infrastructure Grant program. Prior to the end of fiscal year 1995, these funds were obligated and are no longer available for rescission. The House bill did not include a rescission of funds under this program.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

The conference agreement includes a rescission of $60,000,000 from unobligated balances available under this heading, instead of $140,000,000, as proposed by the Senate, and no rescission, as proposed by the House. The conferees intend that this rescission be applied against any unanticipated carryover funds that are not associated with a specific project, or against the lowest priority projects for which the remainder of the carryover in currently reserved. The conferees expect the Department to report on the manner in which it intends to apply this rescission.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

The conference agreement includes a rescission of $7,400,000 against unobligated balances available under the Radio Construction account, as proposed by the Senate, instead of no rescission, as proposed by the House.

The conferees expect the United States Information Agency to report on the manner in which it intends to apply this rescission.

TITLE VIII—PRISON LITIGATION REFORM

The conference agreement includes a separate title containing legislative language to carry out prison litigation reform and is similar to the language proposed by the Senate bill to limit the remedies for prison condition lawsuits and discourage frivolous and abusive prison lawsuits.

Section 801 contains the short title of the bill, the "Prison Litigation Reform Act of 1995", as proposed by the Senate.

Prison conditions remedies.—Section 802 amends 18 U.S.C. 3626 to require that prison condition remedies do not go beyond the measures necessary to remedy federal rights violations and that public safety and criminal justice needs are given appropriate weight in framing such remedies. Specifically, the section places, limits on the type of prospective relief available to inmate litigants. The relief is generally limited to the minimum necessary to correct the violation of a federal right. Measures limiting prison population such as prison caps or prison release orders can only be imposed as last resort measures after less drastic remedies had proven ineffective. A prison cap in federal proceeding can be ordered only by a three-judge court. These same limitations on prospective relief are applied to preliminary injunctive relief and such relief would expire after a ninety-day period. Prior consent decrees are made terminable upon the motion of either party, and can be continued only if the court finds that the imposed relief is necessary to correct the violation of the federal right. The section also permits the appointment of a disinterested special master to monitor the imposed relief. The special master is intended to assist the court in finding facts and is to place those findings in the record. In addition, the conference agreement contains language, not included in the Senate bill, that provided standing to State legislators to intervene in prison lawsuits.

Prisoner litigation.—The conference agreement includes language proposed by the Senate, with the addition of provisions relating to victim notification and restitution requirements for monetary awards and severability. Section 803 amends the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) to require that administrative remedies be exhausted prior to any prison conditions action being brought under any federal law by an inmate in federal court. It also directs the courts to dismiss suits if they are frivolous, malicious, or fail to state a claim and permits the State to waive its right of reply to any action brought by a prisoner.

Section 804 amends 28 U.S.C. 1915 to require the prisoner to list all assets when filing *in forma pauperis* suits. Section 805 adds a new section 1915A to 28 U.S.C. to require early judicial screening and prompt dismissal of clearly meritless suits against governmental entities or employees. Section 806 amends 28 U.S.C. 1346(b) to limit prisoner suits against the Federal government for mental or emotional injury under the Federal Tort Claims Act to instances where the prisoner shows physical injury as well. The legislation also includes new language in Sections 807 and 808, not included in the Senate bill, that mandates that restitution payments must be taken from any award won by the prisoner and that requires victims to be notified whenever a prisoner receives a monetary award from the State. Section 809 adds a new section 1932 to 28 U.S.C. to allow the court to revoke the prisoner's "good time" credit if he files repetitive frivolous, or malicious suits designed to misuse the justice system. The conference agreement also includes a provision on severability in Section 810, which was not included in the Senate bill.

The conferees also understand that approximately eight percent, or 800,000 of the 10.1 million admittances to jails annually, suffer from severe mental illness such as schizophrenia and manic depressive illness. Most of these individuals have not committed violent or serious felonies but rather misdemeanors, or other non-violent offenses. The conferees further understand that eight percent, or 80,000 of the approximately one million people currently incarcerated in our nation's prisons, suffer from severe mental illness. The conferees agree that the care and treatment provided to these individuals is essential to their health and do not intend for any of the provisions in this title to impact adversely on the availability of this care and treatment.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follows:

New budget (obligational) authority, fiscal year 1995	$26,698,336,000
Budget estimates of new (obligational) authority, fiscal year 1996	31,158,679,000
House bill, fiscal year 1996	27,585,240,000
Senate bill, fiscal year 1996	27,033,679,665
Conference agreement, fiscal year 1996	27,287,525,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	+589,189,000
Budget estimates of new (obligational) authority, fiscal year 1996	−3,871,154,000
House bill, fiscal year 1996	−297,715,000
Senate bill, fiscal year 1996	+253,845,335

Harold Rogers,
Jim Kolbe,
Charles H. Taylor,
Ralph Regula,
Mike Forbes,
Bob Livingston,
Alan B. Mollohan,
Managers on the Part of the House.

Judd Gregg,
Mark O. Hatfield,
Ted Stevens,
Pete V. Domenici,
Mitch McConnell,
James M. Jeffords,
Thad Cochran,
Ernest F. Hollings (with reservations),
Robert C. Byrd,
Daniel K. Inouye,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. SKELTON) to revise and extend her remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. POSHARD.

Mr. WAXMAN.

(The following Members (at the request of Mr. BASS) and to include extraneous matter:)

Mr. GUNDERSON.

Mr. SOLOMON.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following day present to the President, for his approval, bills of the House of the following title:

On November 30, 1995:

H.R. 2519. An act to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes; and

H.R. 2525. An act to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, December 5, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1743. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's first special impoundment message for fiscal year 1995, pursuant to 2 U.S.C. 685 (H. Doc. No. 104–140); to the Committee on Appropriations and ordered to be printed.

1744. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department intends to renew lease of one naval vessel to the Government of Greece, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

1745. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1746. A letter from the Secretary of Education, transmitting final regulations—student assistance general provisions regulations—ability to benefit, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1747. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending September 30, 1995, pursuant to 42 U.S.C. 2167(e); to the Committee on Commerce.

1748. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 96–07), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1749. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on nuclear nonproliferation in South Asia for the period April 1, 1995, through September 30, 1995, pursuant to 22 U.S.C. 2376(c); to the Committee on International Relations.

1750. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1751. A letter from the Secretary of Labor, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1752. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the authority's report pursuant to section 203(a)(1) of Public Law 104–8; to the Committee on Government Reform and Oversight.

1753. A letter from the Chairman, National Credit Union Administration, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1754. A letter from the Director, Norfolk Naval Shipyard Co-operative Association, transmitting the annual pension plan report for the plan year ending December 31, 1993, for the Norfolk Naval Shipyard Co-operative Association, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

1755. A letter from the Director, Peace Corps, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1756. A letter from the Secretary of Education, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

1757. A letter from the Chairman, U.S. Equal Employment Opportunity Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1758. A letter from the Chairman, U.S. Securities and Exchange Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1759. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1760. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1761. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1762. A letter from the Secretary of Transportation, transmitting the Department's report on tanker navigation safety standards, pursuant to Public Law 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

1763. A letter from the Secretary of Transportation, transmitting the Department's review and assessment on the safety of the marine environment and the economic viability and operational makeup of the maritime oil transportation industry, pursuant to Public Law 101-380, section 4115(e)(2)(C) (104 Stat. 521); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of November 30, 1995]

Mr. HYDE: Committee on the Judiciary. H.R. 2064. A bill to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia (Rept. 104–376). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. House Joint Resolution 78. Resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; with an amendment (Rept. 104–377). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on November 30, 1995, the following report was filed on December 1, 1995]

Mr. ROGERS: Committee of Conference. Conference report on H.R. 2076. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–378). Ordered to be printed.

[Submitted December 4, 1995]

Mr. ARCHER: Committee on Ways and Means. H.R. 2684. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes; with an amendment (Rept. 104–379). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

[The following action occurred on December 1, 1995]

H.R. 1816. Referral to the Committee on Commerce extended for a period ending not later than December 15, 1995.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

180. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to urging the U.S. Congress to propose and submit to the several States an amendment to the Constitution of the United States providing that no court shall have the power to levy or increase taxes; to the Committee on the Judiciary.

181. Also, memorial of the Legislature of the State of Alaska, relative to supporting an exemption from the Jones Act for bulk commodities, such as coal and coal derived fuels, produced in Alaska; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1046: Mr. GORDON, Mr. DEUTSCH, and Mr. JOHNSTON of Florida.

H.R. 1202: Mr. COLEMAN, Mr. LAZIO of New York, and Mr. ROSE.

H.R. 1341: Mr. FROST, Ms. PELOSI, Mr. FOGLIETTA, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. ENGEL, Mr. UNDERWOOD, Mr. MCDERMOTT, Mr. HOYER, and Ms. LOFGREN.

H.R. 1547: Mr. YATES and Mr. PICKETT.

H.R. 2450: Mr. HOEKSTRA, Ms. MCKINNEY, and Mr. BURTON of Indiana.

H.R. 2627: Mr. ANDREWS, Mr. ARCHER, Mr. BAESLER, Mr. BAKER of California, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BISHOP, Mr. BROWDER, Mr. CASTLE, Mrs. CHENOWETH, Mr. CHRISTENSEN, Miss COLLINS of Michigan, Mr. COLLINS of Georgia, Mr. CONDIT, Mr. CRANE, Mr. CUNNINGHAM, Mr. DEFAZIO, Ms. DELAURO, Mr. DOOLEY, Mr. DORNAN, Mr. DOYLE, Mr. ENGLISH of Pennsylvania, Ms. Eshoo, Mr. EVANS, Mr. FATTAH, Mr. FOGLIETTA, Mr. FORD, Mrs. FOWLER, Mr. GALLEGLY, Mr. GEKAS, Mr. GILMAN, Mr HANCOCK, Ms. HARMAN, Mr. HEINEMAN, Mr. HERGER, Mr. HOEKSTRA, Mr. HUNTER, Mr. HUTCHINSON, Ms. JACKSON-LEE, Mr. KANJORSKI, Ms. KAPTUR, Mr. KIM, Mr. KINGSTON, Mr. KLECZKA, Mr. LANTOS, Mr. LAZIO of New York, Mr. LEACH, Mr. LEVIN, Mr. LOBIONDO, Mr. LONGLEY, Mr. MASCARA, Mr. MCCRERY, Mr. MCHUGH, Mr. MCKEON, Ms. MCKINNEY, Mr. MEEHAN, Mr. MFUME, Mr. MICA, Mr. MINGE, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. MURTHA, Mr. NEY, Mr. ORTON, Mr. PETERSON of Minnesota, Mr. RAMSTAD, Ms. RIVERS, Mr. SHUSTER, Mr. SISISKY, Mr. STOCKMAN, Mr. TATE, Mr. TEJEDA, Mr. THOMPSON, Mrs. THURMAN, Mr. UPTON, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WAMP, Mr. WARD, Ms. WATERS, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WHITFIELD, Ms. WOOLSEY, Mr. YOUNG of Alaska, and Mr. ZIMMER.

H.R. 2664: Mr. KNOLLENBERG, Mr. TALENT, Mr. DURBIN, Mr. LOBIONDO, Mr. CHRYSLER, Mr. HOSTETTLER, Mr. WARD, Mr. MANTON, Mr. LANTOS, Ms. FURSE, Mr. LARGENT, Mr. BAKER of California, and Mr. BOEHLERT.

H. Con. Res. 10: Mrs. CHENOWETH and Mr. GORDON.

H. Con. Res. 47: Mr. STARK.

H. Res. 39: Mr. CLAY.

SENATE—*Monday, December 4, 1995*

The Senate met at 3 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Lloyd John Ogilvie, offered the following prayer:

Sovereign Lord, help us to see our work here in Government as our divine calling and mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy, and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel enervated. May we spend more time talking to You about issues than we do talking about issues to others. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with fresh dedication today. In the Lord's name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 4 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. BREAUX addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. BREAUX. I understand there are two bills due for their second reading that are at the desk.

The PRESIDENT pro tempore. The Senator is correct.

MEASURE PLACED ON THE CALENDAR—S. 1438

Mr. BREAUX. Mr. President, I ask that the clerk read S. 1438 by title.

The PRESIDENT pro tempore. The clerk will read the bill.

The assistant legislative clerk read as follows:

> A bill (S. 1438) to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

Mr. BREAUX. Mr. President, I object to any further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

MEASURE PLACED ON THE CALENDAR—S. 1441

Mr. BREAUX. Mr. President, concerning the second bill, I ask that the clerk read the second bill by title.

The PRESIDING OFFICER (Mr. FRIST). The clerk will read the second bill.

The assistant legislative clerk read as follows:

> A bill (S. 1441) to authorize appropriations for the Department of State for the fiscal years 1996 through 1999, and for other purposes.

Mr. BREAUX. Mr. President, I object to any further proceedings on this matter at this time as well.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. BREAUX. Mr. President, I understand there is a 5-minute limitation. I ask unanimous consent that I be able to speak for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET IMPASSE

Mr. BREAUX. I thank the Chair.

Mr. President, as the Congress comes back from the weekend recess, a lot of people I know throughout the country, and in my State of Louisiana in particular, have been wondering whether Congress is going to be able to get together to solve the budget crisis. We do not have a lot of time before December 15, and there is the prospect of yet another shutdown of the Federal Government because Congress has not been able to resolve how to come together on a plan to balance the budget over a specified period of time.

Mr. President, I will make a couple of comments about that impasse because I think indeed it is very serious. I remember looking at the New York Times on Saturday morning. It was a report on the progress that Congress has made on this effort to balance the budget. I will read perhaps a couple of sentences from that article on Saturday by Mr. David Rosenbaum:

> The budget negotiations this week between Congress and the White House were a complete bust. For 3 days in a row, lawmakers and administration officials met around a table in a conference room in the Capitol of the United States, closed the doors, accomplished absolutely nothing, and came out and accused each other of refusing to negotiate in good faith. Then, on Thursday afternoon, they adjourned until next week. No one savvy about Washington politics was surprised.

Mr. President, at a time when President Clinton can bring all the heads of the territories in Bosnia to Dayton, OH, and ask them to sit in a room until they reach an agreement ending a war that has been going on for centuries, can we not bring together the parties in this body called Congress to agree on what we should do with the budget?

I mentioned another article, which I think is right on target. It is by our distinguished leader, Senator TOM DASCHLE, the Democratic leader. He pointed out in this article, which appeared in Roll Call:

> People of this country are sick and tired of a Government that does not understand their problems or their neighbors' problems, sick and tired of politicians fighting over things that the rest of the country cannot understand, and, most of all, they are sick and tired of the fact that it seems impossible to get anything done in Washington.

Mr. President, I think that it is time, when we talk about the budget, for the moderates in both parties to come together and help resolve this problem. I am absolutely convinced that you cannot put people in a room who have visions of what the future of this country should be like that are as different as night and day. It is my opinion that the most difficult problems cannot be solved from the left working in, nor from the right working toward the center. I am absolutely convinced that you cannot take the fringes of any political party and try and use that methodology to solve difficult problems, such as a budget problem.

I know that all the folks that are working on the budget are people of good faith and have strong beliefs about what a budget agreement should accomplish and what it should contain. Mr. President, I am suggesting today that there are moderates on the Democratic side—moderates in the Democratic Party, both in the House and in the Senate, that really want to have a budget agreement. I think it is now time for the moderates on both sides of our political parties to try and band together to help resolve this problem. I am very concerned that as the days go by and hours keep ticking off the clock, that we are not making the progress needed and necessary in order to solve this problem before yet another deadline occurs.

As it was said in the Saturday article I quoted, the talks so far between Congress and the White House were a complete bust. Mr. President, we owe to the American people much more than

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

that. We owe the best talent, the best minds, and the best dedicated public servants to work together across party lines to bring this debate to a closure. Let me suggest a couple of things I think moderates can agree to.

First, I think it is certainly possible that we can agree that there should be a balanced budget and it should be in 7 years. Point No. 1.

Second, I think that all of this debate about which economic assumptions we are going to use to help solve this problem almost border on the point of being ridiculous. The Congressional Budget Office has suggested that growth is going to be about 2.3 percent next year. The Office of Management and Budget suggested that growth rate will be about 2.5 percent. Is there not a middle ground between those two numbers, a figure between 2.3 and 2.5 that people with good intentions cannot agree to? I suggest that we split the differences between those, and I think that is something that can be done. I think it can be done in a way that brings about the best economic assumptions that we need in order to fix this problem.

Third, I think people should be able to agree on a Consumer Price Index adjustment. The people who have looked at this issue have recommended that, clearly, the Consumer Price Index on which we base so many of our economic programs is overstating the cost of products that consumers buy and that an adjustment of somewhere up to 1 percent perhaps is a reasonable and rational adjustment.

I suggest that we could take a point, a percent adjustment, and by doing that really allow us a great deal more flexibility in solving this budget impasse.

Fourth, I think we ought to be able to agree on a tax cut that is reasonable and fair. Some have suggested no tax cut at all, zero. Some have suggested we absolutely have to have $245 billion in tax cuts. Is there not, again, a middle ground that we could agree on that comes up with a reasonable tax cut and save somewhere in the range of $100 to $150 billion over the 7-year period? Is that not a fair compromise to those who say we should have none and those who say we should have the higher amount? I suggest it is.

The fifth point I think we should be able to come together on is the fact that the savings we have from these procedures I just outlined should be utilized to put back money in Medicare and Medicaid and the earned income tax credit and the welfare program, environmental programs, and yes, equally if not more important, the education programs which determine the future of the people of this country and use those extra funds to increase some of those drastic, suggested cuts in those programs.

Mr. President, I think reasonable people in both parties who could call ourselves moderate should be able to get together and do these things. I think it is more difficult when you have people who are on the left in their party, or on the right in their party trying to resolve these differences. Is it not better to have a group of people in the middle who are moderates who can agree, and once we get an agreement which I think is pretty easy to get to, work it out so that we then move toward the outside to solve the problem?

The way to solve this problem is working from the center out, not from the left end or from the right end, but, rather, working out the principles. These five principles I outlined I think give us the strong basis for trying to reach a balanced budget in 7 years, one that, hopefully, this President would be able to see meets the needs that he has outlined, solves the problem, and everybody comes away a winner.

I do not see how anybody wins if we have another stalemate. Everybody loses. Yet if we do reach an agreement, everybody should win. And winners or losers in the Congress is not really what it is all about; it is whether we will craft a program that the American people can win with and the future generations can say that Congress did the right thing when they were called upon to meet this challenge.

I strongly suggest that now is the time for moderates in the Republican Party and the Democratic Party to start talking to each other. There is nothing wrong with that. That is what a democratic Government is all about—compromises, meeting together, solving the problems in the center, and then working it away, and these agreements are received by more people in order to reach a majority.

I am just very concerned if we do not do that, if we try and solve this problem from the left working in or from the right working in, we will just have a stalemate. I do not think there is any political capital in bringing this Government to a closure again because we at that time will be admitting once again we cannot make Government work. That is not why we were sent to Congress. Just the opposite is the reason we are here.

I call today upon moderates in both parties to start talking, to meeting, to see if we cannot agree on these five principles I have tried to outline and take it from there and see where it leads us.

I suggest, in conclusion, we might be very surprised that it leads us to a balanced budget agreement that the Congress can pass with great enthusiasm, and this President will find that he will be able to support it as well.

I yield the floor.

TRIBUTE TO SENATOR ALAN SIMPSON

Mr. HEFLIN. Mr. President, I was very saddened to learn of the retirement of Senator ALAN SIMPSON of Wyoming. He and I came here together in the class of 1978 and have served with each other on the Judiciary Committee, tackling some contentious nominations and other high-profile issues. He has emerged as a true leader on many issues including immigration and population issues. He is someone I would term a "character," for he is certainly one of the more colorful and humorous individuals to have ever served in the Senate. His quick wit is legend, and many of us—Democrat and Republican alike—have been victims of it at one time or another over the years, but, much more often the beneficiaries of it. He uses it both ways—to score a point but more often to break an unresolved impasse.

Senator SIMPSON is the son of former Wyoming Governor and Senator Milward Simpson and has been in and around politics all his life. Born in Denver, CO, in 1931, he earned both his bachelor of science and law degrees at the University of Wyoming in Laramie. He served in the U.S. Army from 1954 to 1956 and began his career as a litigator, raising his family in Cody, WY, and serving as assistant attorney general of Wyoming and in the State legislature. He was elected to the Senate in 1978 and quickly became a rising star in his party. He was seriously considered for the Vice Presidential nomination in 1988 and has led the fight for passage of many major legislative efforts. His service as his party's whip was outstanding, but in matters of conscience, he never lost his independence.

Of course, our friend from Wyoming is best known here and throughout the country for his colorful personality. He is widely known for having one of the best senses of humor in Washington and one of its most acerbic tongues on occasion. He has entertained friends with his keen sense of comic timing, his witty delivery, and a standard portfolio of jokes and anecdotes, many of which could not be printed in the CONGRESSIONAL RECORD or other reputable publications. When he leaves the Senate, he could pursue a number of different careers. He has the talent to be another Johnny Carson. He could successfully pursue many other fields, for he has a brilliant legal mind and has the ability to get to the core of an issue rapidly.

I count him as one of my closest friends. His beautiful, thoughtful, and gracious wife, Ann, is likewise a superb individual and my wife and I will never forget their genuine kindness and concern when Elizabeth Ann suddenly became ill on an overseas trip earlier this year.

It has been my privilege and pleasure to serve with Senator ALAN SIMPSON over the last 17 years, and I look forward to our last year here together. I congratulate him on an outstanding career, and hope that we have not seen the last of him in the public arena. We need his leadership, his passion for the issues, and his humor to help lighten our load.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. HEFLIN. Mr. President, while Mark Hatfield's retirement announcement did not take me by complete surprise—for such decisions have become virtually a weekly event here in the Congress—I was nonetheless disappointed and saddened to learn that he would not be seeking reelection to the Senate next year. He is one of the senior Members of this body, and has been a national leader of uncommon earnestness, moderation, honesty, and principle. He is known for his lack of excessive partisanship and for always yielding to his conscience on the many difficult matters that come before us. He is thoughtful, deliberative, intellectual, and never fails to do what he believes to be right and in the best interest of his State and country.

The people of Oregon have entrusted Senator Hatfield with its reins of leadership through State or national office since 1956, when he was elected secretary of state at the age of 34. In 1958, he was elected Governor, serving for 8 years. In 1966, he was elected to the Senate and has been here ever since.

He is a deeply religious man who has been a spiritual leader as well as a public one. His leadership of our Senate Prayer Breakfast group over the years has been nothing short of inspirational. I have also enjoyed working with him on the National Prayer Breakfasts each year, something he had been involved with even at the State level when he was Governor back in Oregon. Our friend from Oregon has led by example; his religious convictions and quiet, friendly manner have been a powerful demonstration of how an ideal public official should conduct himself. He has been one for us to look at and emulate, regardless of our own political views.

As a young serviceman, he was one of the first Americans to see Hiroshima after it was bombed. This experience left its mark, and Senator Hatfield has been an unfailing leader on issues relating to nuclear deterrence and nonproliferation.

Mark Hatfield was born in Dallas, OR in 1922, and graduated from Willamette and Stanford Universities. He served in the Navy during World War II, commanding landing craft at Iwo Jima and Okinawa. Early in his career, he was a teacher of political science and has written extensively on public policy issues. Since January, he has chaired the Senate Appropriations Committee, a daunting task in its own right, but particularly challenging this year. He had previously served in that capacity. His graciousness and earnestness have not been diminished by the fierce budget wrangling this year.

Senator Hatfield and I will be leaving the Senate at the same time, so I will not be serving here once he is gone. But I do know that those Members who do remain after him will find it a much lesser place in his absence. I am proud to call him a friend. I congratulate him on his outstanding career and for the way he has always conducted himself, and wish him and Antoinette all the best for a happy, healthy, and lengthy retirement. I also look forward to serving with him over the next year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETIREMENTS OF ALAN SIMPSON, MARK HATFIELD, AND NANCY KASSEBAUM

Mr. SIMON. Mr. President, three of our colleagues have just recently announced they are not running again for reelection. The most recent is Senator Simpson.

I got to know Al Simpson when I was a State legislator and he was a State legislator. We were at a meeting that a foundation pulled together of what they, accurately or inaccurately, called the outstanding legislators from various States, and I got to know Alan Simpson there.

I have worked with him over the years. He and I differ on some things, but he is a legislator's legislator. He really legislates. He sits down and works things out. He is a man of reason. He is not frightened by a new idea. I think he has made a tremendous contribution to the Senate, to his State of Wyoming, and to the Nation, and I am very proud to have served with him.

I will add, one of the things that characterizes Senator Simpson, Senator Hatfield, and Senator Kassebaum is something the Presiding Officer has heard me talk about before, and that is there is not excessive partisanship. One of the things that has changed in my 21 years, soon to be 22 years here in Congress, is that we have become gradually more partisan. Both parties share the blame on this, and it is not a good thing. It is like the budget process. We issue statements, we have press conferences, we denounce each other instead of sitting around a table, working things out. Alan Simpson, Mark Hatfield, and Nancy Kassebaum were the kind of people who worked things out.

I have, up until the last election, served as chairman of three subcommittees. I do not think we ever had a party-line vote in any of my subcommittees. That meant sometimes I had to give a little more than I wanted. Sometimes others did. But I think the net effect was a good one for the Nation and, strangely, I think, good for the two parties. I think the public senses that we are excessively partisan and there is a negative attitude toward both the Democratic and Republican Parties out there. I hope we can move away from that.

The second person who recently announced that he is retiring is Senator Mark Hatfield. Most people think about Mark Hatfield in connection with chairing the Appropriations Committee, or a hundred and one other things that he does. I think of Mark Hatfield particularly for his leadership in the area of arms control. Long before others raised the flag that maybe we should not be spending so much money on arms, Mark Hatfield was telling us that.

Even today we spend more on our defense budget than the next eight countries combined. It does not make sense. If we take the 1973 budget on defense and add the inflation factor, we are spending more today than we were in 1973. In 1973 we were involved in Vietnam, we faced the cold war with what was then the Soviet Union and a nuclear threat there. We ought to be paring it down. Mark Hatfield has been a voice of reason. Again, like Alan Simpson, he has been one who has been willing to work with people on the other side.

Senator Nancy Kassebaum is the same. I read the stories about her, as I did about all of my colleagues and their contributions. One of the contributions Nancy Kassebaum has made has been on the Subcommittee on Africa, in the Foreign Relations Committee. She chaired that for a while. Nancy Kassebaum did not get any votes back home in Kansas by chairing the Subcommittee on African Affairs, but made an immense contribution in the very same way that Alan Simpson gets no votes in Wyoming by chairing the Subcommittee on Immigration.

One of the things that we have in this body are people of real ability who have a sense of public service. And we need more of that, and a little less, as I indicated, partisanship and power grabbing. But Senator Kassebaum is primarily thought of by her work on the Labor and Human Resources Committee in which the Presiding Officer serves. And she has done a superb job there over the years, part of it in these years as chairman where she has had to make some very difficult decisions as we passed a budget resolution that cuts back on some of the things that she favors. But the contributions that she has made over the years have been very significant.

I have been proud to serve with all three. The people of Wyoming, Oregon, and Kansas can be very proud of these three Senators—Senator SIMPSON, Senator HATFIELD, and Senator KASSEBAUM.

Mr. President, I do not see anyone seeking the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Are we in morning business, Mr. President?

The PRESIDING OFFICER. Yes, we are.

SENDING UNITED STATES TROOPS TO BOSNIA

Mr. INHOFE. Mr. President, I, like many people, have been distressed over the weekend listening to a lot of the comments as to what is going on in Bosnia, and this seems to be—and it is portrayed by this administration that it is—a done deal. Many Republicans and many Democrats are also saying that it is a done deal; that the troops are going to go; the President has made up his mind. The President, back in February 1993, made a commitment of 25,000 American troops on the ground in Bosnia, and he has decided they are going to go. So I guess the easy thing is to say, well, the President made the decision; I may not agree with it or I may agree with it but nonetheless the decision is made, and we want to support our troops that are over there.

I am really getting tired of the demagoging that is going on about supporting the troops that are over there, as if this thing is a done deal. I grant you, Mr. President, I agree that the President of the United States does have the constitutional right to deploy troops. I think it is wrong, and historically it has not been done. The Presidents have come to the American people and have come through Congress for resolutions of approval, and this President has chosen not to do this.

Of course, I will remind all America that the House of Representatives, the other body, has already on two occasions expressed itself in a very, very strong vote in opposition to the deployment of ground troops to Bosnia. So we turn on the talk radio shows and we look at the news accounts, and they say, well, it is already a done deal and Congress has no role; Congress is not relevant in this debate.

I just do not buy that. I think this is still America, and the American people can be heard, and the best way for the American people to be heard is through their elected representatives. I think we have just a few hours to stop this thing. I am talking now about the mass deployment.

Yes, the President has already sent several hundred troops into the area of Tuzla, which is the northeastern sector, in which I had occasion to spend quite a bit of time, and I see an environment which is the most hostile environment that perhaps we have ever had the occasion to deploy any American troop into in the history of this country. We talk about and can identify that there are more than 6 million mines of all shapes and sizes that are out there, and you cannot do anything about rendering those mines harmless because the ground is now frozen and they will not appear really until a heavy vehicle gets on top of them. Of course, we are talking about the deployment of 130 M1 tanks and several other armored vehicles, so it is a very frightening thing. It is a frightening thing to think it is not just a matter of three factions that do not like each other in the former Yugoslavia. It is not just the Serbs and the Croats and the Moslems, because in addition to that you have the Bosnian Serbs, you have the Bosnian Moslems, you have the Arkan Tigers, you have the Black Swans, you have the Afghanistans, you have the Iranians. You have all of these, what we call rogue factions over there. And yet they say it is a done deal.

I think it is too easy to say that. I hope that everyone in America will demand that their Senator get on record on this issue. Mr. President, we are going to give them the opportunity to get on record on this issue. Last week, I served notice that there is going to be an up-or-down vote on the sending of troops into Bosnia.

It is not a matter of supporting our troops that are there. You bet we support them. I know something about being a troop. I used to be in a troop, and I wanted the support of the American people and got it. I think every Member of this Senate, every Member of the other body, is going to support our troops wherever they are.

That is not the issue. That is a copout. The issue is, should they be over there to begin with? I can remember so well when Michael Rose, who was the commanding general of the troops, the U.N. troops, in Bosnia said, if America sends troops over there, they will have more casualties than they had in the Persian Gulf. That was 390.

In the Senate Armed Services Committee, when I asked Secretary Perry and Secretary Christopher and General Shalikashvili—I said, "Is that mission to contain a civil war and to protect the integrity of NATO worth more than 400 American lives?" And Secretary Perry said yes; Secretary Christopher said yes; General Shalikashvili said yes. But I say no, because, you see, Mr. President, they were speaking on behalf of the President of the United States, the top people, the Secretary of Defense, the Secretary of State, and, of course, the Chairman of the Joint Chiefs of Staff.

So now we say it is a done deal and that Congress is not relevant. But I say we are going to have a vote on this, and people are going to have to be responsible for it.

I ask unanimous consent, Mr. President, that at this point an editorial be printed in the RECORD, a December 1 editorial by Abraham Sofaer.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLINTON NEEDS CONGRESS ON BOSNIA

(By Abraham D. Sofaer)

President Clinton has appealed to Congress and the American people to support his policy committing 20,000 ground troops to implement the peace agreement reached between Serbia, Croatia and Bosnia. It is a tribute to the American people that the president is accorded the greatest deference when he calls for the greatest sacrifice. Americans respond, at least initially, to such appeals from their President.

But Mr. Clinton is exploiting this quality. He has presented the agreement and the American role in its enforcement as an accomplished fact, though the documents have yet to be signed by the parties, and numerous preconditions to U.S. involvement have yet to be fulfilled. He is consulting with Congress, but he is already sending troops to the area without any form of legislative approval. Indeed, he claims that, while he would welcome Congress's approval, he plans to go ahead regardless.

Presidents often try to get what they want by leading aggressively. Congress nevertheless has a duty to study carefully the proposed operation and then express its view. The essential first step in that debate is to read the documents signed recently in Dayton. The complex agreement, with 12 annexes, calls for Bosnia to remain a single but divided nation, and all the warring factions to withdraw to specific lines. The agreement covers virtually all aspects of future life in Bosnia, including the division of its governments, the contents of its constitution, the selection of its judges, and the manner in which its police force is to be chosen and trained. Of principal interest to Congress, though, are those aspects of the agreement that create obligations and expectations for the U.S. to fulfill.

OUR OBLIGATIONS

These obligations, when carefully examined in context, carry to the ultimate extreme the policy of forcing a settlement on the Bosnians, rather than attempting to create an internal situation that is militarily balanced. Most significantly, the agreement makes the U.S., through the "implementation force" (IFOR), the military guarantor of the overall arrangement.

The role of U.S. troops cannot be characterized as "peacekeeping." Even "implementation" understates our obligation. IFOR will be close to an occupying army, in a conflict that has merely been suspended. We are likely to have as many difficulties acting as occupiers without having won a victory as the U.N.'s war crimes tribunal is having in attempting to apply its decisions in Bosnia without the power to enforce them.

IFOR's principal responsibilities are set out in Annex 1(a) of the agreement:

The parties agree to cease hostilities and to withdraw all forces to agreed lines in three phases. Detailed rules have been agreed upon, including special provisions regarding Sarajevo and Gorazde. But IFOR is responsible for marking the cease-fire lines and the "inter-entity boundary line and its zone of separation," which in effect will divide the Bosnian Muslims and Croats from the Bosnian Serbs. The parties agree that IFOR may use all necessary force to ensure their compliance with these disengagement rules.

The parties agree to "strictly avoid committing any reprisals, counterattacks, or any unilateral actions in response to violations of this annex by another party." The only response allowed to alleged violations is through the procedures provided in Article VIII of the Annex, which establishes a "joint military commission"—made up of all the parties—to consider military complaints, questions and problems. But the commission is only "a consultative body for the IFOR commander," an American general who is explicitly deemed "the final authority in theater regarding interpretation of this agreement. . . ." This enormous power—to prevent even acts of self defense—will carry proportionate responsibility for harm that any party may attribute to IFOR's lack of responsiveness or fairness.

IFOR is also given the responsibility to support various nonmilitary tasks, including creating conditions for free and fair elections; assisting humanitarian organizations; observing and preventing "interference with the movement of civilian populations, refugees, and displaced persons"; clearing the roads of mines; controlling all airspace (even for civilian air travel); and ensuring access to all areas unimpeded by checkpoints, roadblocks or other obstacles. Taken together, these duties essentially give IFOR control of the physical infrastructure of both parts of the Bosnian state. It seems doubtful that the 60,000-man force could meet these expectations.

Article IX of the agreement recognizes the "obligation of all parties to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law." This is an especially sensitive matter. Yet there is no mechanism in the accord for bringing to justice men who haven't been defeated in battle and who aren't in custody. This means that IFOR is almost certain to come under pressure by victims and human rights advocates to capture and deliver up the principal villains. Will it do better than we did in fulfilling our promise to capture Mohammed Farah Aidid in Somalia?

The agreement makes vague promises about reversing "ethnic cleansing" by guaranteeing refugees the right to return to their homes. Since this is in practice impossible, the West will end up paying billions in compensation awards promised in the agreement.

The agreement contains numerous provisions regarding the manner in which Bosnia is to be governed, with checks and balances built in that are based on ethnic or geographic terms. But Americans traditionally have not believed in such divisions of political authority. We fought the Civil War to put into place an undivided nation based on the principle that all people are of equal worth, and all must live in accordance with the law. It took a Tito to keep the ethnically divided Yugoslavia together. Will IFOR now assume his role of enforcing a constitution based on principles abhorrent to Western values? Even if the basic structure of the government works, what role will IFOR have to play in resolving disputes over the numerous sensitive areas that the parties have seen fit to write into the accords? If the parties don't resolve some matters successfully, they are likely to blame IFOR for these failures.

Finally, the agreement draws a vague distinction between "military" and "civilian" matters. Ultimate authority over the latter is allocated to a U.N. high representative, who is to act through a "joint civilian commission" consisting of senior political representatives of the parties and the IFOR commander or his representative. The high representative is to exchange information and maintain liaison on a regular basis with IFOR, and shall attend or be represented at meetings of the joint military commission and offer advice "particularly on matters of a political-military nature." But it is also made clear that the high representative "shall have no authority over the IFOR and shall not in any way interfere in the conduct of military operations or the IFOR chain of command."

This may seem a reassuring confirmation of IFOR's power to avoid U.N. restrictions on the use of force. Ultimately, however, IFOR's role could be made untenable if it finds itself in a confrontation with the U.N.'s designated representative about the proper handling of a "political" matter. What would happen, for example, if the U.N. high representative determined that U.S. forces had gone too far in defending themselves under President Clinton's policy of effectively responding to attacks "and then some"?

EITHER/OR

Congress cannot redo the agreement reached by the parties. But there is no need for lawmakers to accept President Clinton's either/or approach—either support his plan to implement the agreement, or pull out entirely. If the agreement represents a genuine desire for peace among the warring parties, then presumably the accord is not so fragile as to depend on the oral commitment of U.S. troops made by the administration (and which isn't even part of the agreement). Congress can and should consider other options. The U.S., for example, could assist European forces in demarcating the boundary lines, and could enforce peace in the area through the threat of air strikes on important targets. Or the U.S. could offer greater monetary and diplomatic support for the agreement but not any ground troops.

Whatever happens with the troop commitment, Congress should insist that the agreement's provisions allowing the training and arming of the Bosnian Muslims be rigorously adhered to. A balance of power among the hostile parties is ultimately the only basis for long-term stability in the region. And if American troops are sent to Bosnia, they will be unable to leave responsibly until such a balance has been developed. That would certainly take longer than the yearlong limit imposed by the administration.

Mr. INHOFE. This is a senior fellow at the Hoover Institution who took the time to read the some 12 annexes that we have to this agreement that has been initialed and all that was said.

We realize the responsibility that we have in the United States for this so-called peacekeeping effort. But stop and think. This is not peacekeeping; this is peace implementation. There is a little thing called mission creep. We saw it in Vietnam. We saw it in Somalia. It is a thing where you go in and tell the American people, "We are just keeping peace. There is no war on over there."

Mr. President, I was in the northeast sector of Bosnia. There is a war going on over there. The firing did not stop. The firepower is going on right now. You can hear it. You are walking around with a shrapnel jacket and helmet. You are not doing that to keep warm even though you are doing anything you can to keep warm in that area. There was a blizzard 3 weeks ago when I was there.

Nonetheless, when this scholar read the accords, not only are we responsible for implementing, that is, making peace; but we also are responsible for rebuilding the infrastructure. This $2 billion they bandy around is not even a drop in the bucket of what we are going to have to spend if the President has his way and has a mass deployment into Bosnia.

I had a telephone conversation not more than 10 minutes ago with a retired captain, Jim Smith, who lost his leg in Vietnam and lost his son in Somalia. His son was one of those soldiers, one of those 18 Rangers that were sent over there originally for some type of a humanitarian mission that was supposed to open up the roads so we could send humanitarian goods in to some of the Somalian people.

Yes, that seemed to be a good idea. It was a 45-day mission to start with. Then President Clinton was elected. I was serving in the other body at the time, and every month we sent a resolution that said, "Mr. President, bring our troops home from Somalia. We do not have anything at stake there in terms of our Nation's security." He did not do it and did not do it and did not do it until finally 18 of our Rangers were murdered in cold blood, their corpses were mutilated and dragged through the streets of Mogadishu. And one of those corpses was Cpl. Jim Smith, the son of Capt. Jim Smith.

I talked to Capt. Jim Smith, who spent a career in the military and knows a lot more about it than I do. Captain Smith said there are so many parallels between what happened to his son and what is going to happen to many other sons and daughters if we allow the mass deployment of troops into Bosnia.

He said one of the things that stuck in his mind was the last letter that he got from his son, Cpl. Jim Smith, who said, "Dad, the biggest problem we have is we don't know who the good guys and the bad guys are." This was in Somalia. This was one of the last letters, maybe the last letter, written by Cpl. Jim Smith before his body was dragged through the streets of Mogadishu. He said, "We don't know who the good guys and the bad guys are."

That is exactly what happened 2½ years ago when President Clinton made the first decision for airdrops. I asked the person—and I cannot use his name in this public forum because it was a restricted meeting—I said, "How do you know when we drop the stuff whether it's going to get to the good guys or the bad guys?" He scratched his head and said, "You know, I don't think we know that. Come to think of it, I'm not sure we know who the good guys and the bad guys are."

That is because if you take a snapshot of any time in the history of Bosnia or the former Yugoslavia, you will find that at one time the Croats are the bad guys and the Serbs are the good guys; another time the Moslems have just finished butchering several thousand people, they are the bad guys, the Croats are the good guys. Most recently we assume the Serbs are the bad guys, so we, under the direction of President Clinton, chose sides in that civil war. At that time, many of us said, as soon as they do airdrops, then there will be airstrikes, and then they will want to send troops in. And that is exactly what has happened.

So this not over. It is not a done deal. I know the President right now is on a wave. His numbers look good. Mr. President, I can understand that, because you are an excellent politician. You just came back from Europe. You were talking about how everyone was cheering you over there. No wonder they are cheering over in Europe. You are saying we are committing 70 percent of the cost for this, and we are committing 30 percent of our troops to fight with your other troops, to fight your battles for you.

That is not our battle over there. That is relative to the security interests of Western Europe and Eastern Europe, not the United States.

I saw the accounts on television when President Clinton was talking to the troops over there. I can remember when I was a troop, so I know how a troop thinks. When I was over there talking to those same troops just a few days before the President was there, they had one question. They said, "What is our mission? Why are we going to this hostile area? Why is the President obsessed in sending us into Bosnia?"

I only say this today. I know we are out of time, Mr. President. I just want to say that it is not over yet. I reemphasize there will be no free rides. There is going to be a vote. Most likely it will be Wednesday, not the vote that the leader has that is going to be a watered-down version of conciliatory remarks about what has gone on over there and about protecting our troops. We all know we are going to support our troops.

But this is going to be a vote on, Are we going to have a mass deployment of troops into Bosnia? Yes or no. And every Senator on this floor is going to have to make a record and stand up and say how he feels so that the people at home will know.

I do not know, Mr. President, how your calls are coming in in your office back in Tennessee. But I can tell you what mine are in Oklahoma. They are about 100 to 1 against it. That is because there is an infinite wisdom of the people of this country once left alone to make up their mind and make that judgment. It is not a beltway decision. It is not a Washington, DC, decision. It is not the kind of wisdom you get in the White House or within the beltway. It is back in real America where real people, real fathers and mothers are, sons and daughters who are going to be over there, shipped over to this endless war in Bosnia.

It is not going to be 12 months, Mr. President. When we were up in the area of Tuzla where our troops are going to be deployed, I said something about 12 months, and they all laughed. They said, "You mean 12 years." This is the time for it to be stopped. If Somalia had been stopped before the murder of the 18 Rangers over there and their mutilated bodies were dragged through the streets of Mogadishu, that would not have happened. This is the time to stop this before the mutilated bodies of Americans are dragged through the streets of Tuzla.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

BOSNIA AND HAITI

Mr. DEWINE. Mr. President, we are now debating in this country the question of deployment of United States troops to Bosnia. As we engage in that discussion this week, I think it would be appropriate if we take a moment to go back and talk about the last major U.S. deployment of troops in a trouble spot situation. Of course, I am talking about Haiti.

Today, Mr. President, there are approximately 2,500 United States troops in Haiti, down from a much higher figure previously. These troops, Mr. President, were deployed in the interest of the future of peace and democracy in Haiti. It is vitally important to Haitian democracy that there be an orderly transfer of power in Haiti in the coming weeks.

On December 17 of this year—in just a few days—elections are scheduled to take place. These elections on December 17 are to be followed, on February 7, by the swearing in of a new President of Haiti. Mr. President, all over the world the orderly transition of power is considered the true hallmark of democracy.

This orderly, routine transfer of power is what separates true democracy from pseudodemocracy. It is what separates the democratic countries in the world from other countries. And there is no truer test of a democracy than its ability routinely to carry out this awesome transfer of power.

Mr. President, in the past, President Aristide has indicated that he understands this and that he understands the importance of this. In fact, on May 29 of this year, Senator SPECTER and I met with President Aristide at the White House in Haiti. We asked him at that time in a fairly lengthy conversation if he can envision any circumstances under which he would retain power. His answer was an unequivocal no. Senator SPECTER asked him again, could he envision any circumstances that he would retain power, stay in office. His answer, no.

Then I asked President Aristide, "Mr. President, many of your supporters may urge you to stay on, they may appeal to your patriotism, they may tell you that you are the only one who can carry out the duties of the Presidency, that your country needs you. How will you be able to resist those comments? How will you be able to resist those pleas?"

President Aristide's answer was very simple. He said, "Senator, I have no choice. The Constitution takes precedence over the wishes of my supporters."

Over the last couple of weeks, there has been some confusion about whether President Aristide will leave office. There has been some indication that he might not step down as scheduled. His views on this matter appear to be a moving target. The most recent accounts over the weekend, last Friday specifically, are that he said that he will step down after all and that he was really misunderstood in the comments that he made a few days prior to that.

Mr. President, it is vitally important that President Aristide does, in fact, step down, that he follows his Constitution, the Constitution of Haiti.

I cannot emphasize enough the vital importance of President Aristide's routine departure from office. Last year, the United States went to the brink of a full-scale invasion in support of constitutional democracy in Haiti. We want and the Haitian people want a strong and stable democracy in Haiti. To achieve that, there has to be an orderly transfer of power. The Haitian people deserve it.

Earlier in this century, William Faulkner described Haiti as "homeless and desperate on the lonely ocean, a little lost island" that had suffered "200 years of oppression and exploitation."

Faulkner's words could have just as well have been uttered last year, with the addition of several decades. The people of Haiti deserve hope. They need to know that the world shares their aspiration to be a full member of the community of nations. They have waited a long time. They have waited long enough.

I believe it is important that all of us—this country, other countries of the world—put President Aristide on notice that to flirt with the idea of clinging to power in violation of his country's Constitution would be to risk a huge step backward for the Haitian people. It is long past time to break the cycle of oppression in Haiti. The routine, orderly departure from office of President Aristide will be a major step in that direction.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO REV. RICHARD C. HALVERSON

Mrs. FEINSTEIN. Mr. President, today I rise to recognize and pay tribute to a great friend to the Senate. The former Chaplain of the Senate, Rev. Richard C. Halverson passed away last week. For 14 years he tended to the spiritual needs of this body and all the people who make it work.

Educated at Wheaton College and Princeton Theological Seminary, Reverend Halverson worked in several places including California, his last place of ministry prior to moving to Washington. As the 60th Chaplain of the Senate most of our Nation knew Reverend Halverson from the prayer he delivered every morning. His respectful and quiet manner was a example to us all for how to conduct ourselves and treat others with dignity. I remember with fondness the mornings when I sat as the acting President of this chamber, and listened to Reverend Halverson speak, urge and console not only the Members of this body but everybody listening throughout the Nation.

Besides his duties as Chaplain of the Senate Reverend Halverson also was a minister to the Fourth Presbyterian Church in Bethesda, MD, and an author of several books. He took a lifetime interest in trying speak to the improvement of the moral being of individuals, and the moral health of our Nation. I will miss Reverend Halverson, our country will miss Reverend Halverson, and this body will miss Reverend Halverson, but we are all better because of his life. I hope the example of his life will continue to set a standard for us all.

I know that Reverend Halverson's wife Doris and all the members of his family know better than all of us what an exceptional and spiritual man he was. I want to express my sympathy to them with this loss.

TRIBUTE TO THE REVEREND DR. RICHARD C. HALVERSON

Mr. SPECTER. Mr. President, I have sought recognition to honor the memory of our long-time Senate Chaplain and spiritual leader, Dr. Richard Halverson, who passed away November 28. Dr. Halverson served as Chaplain for 14 years, joining the Senate in 1981 shortly after I, too, entered the Senate. He retired this past March after distinguished service to this body and to the Nation.

As Senate Chaplain, Dr. Halverson played many roles. His prayers would open each daily session of the Senate, often reminding Senators of the higher objectives of our work. When passions ran high over controversial legislation, Dr. Halverson's opening prayers would give Senators pause for reflection and helped maintain the Senate's tradition of reasoned, respectful debate.

I came to know Dr. Halverson well through his attendance at our Bible study sessions, where he came to learn and share his thoughts on the Old Testament. He was a gracious, valued participant and we benefited from his spiritual insight.

As many know, Dr. Halverson established himself as a Chaplain who never tired of selfless service. He was always available to spend time with someone who needed his time, either for spiritual guidance or counsel. His energies were not just directed at Senators, but at their spouses and staffs, and hundreds of Senate employees. In this role, he played a vital role in keeping the fabric of the U.S. Senate together.

The Senate was a better place for having had the compassionate service of Dr. Halverson as its Chaplain for 14 years, and the Nation owes him its gratitude for the role he played in our midst.

My wife, Joan, and I extend our heartfelt condolences to Dr. Halverson's wife, Doris, and his many children and grandchildren. We will all miss his faithful, caring presence.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business Friday, December 1, the Federal debt stood at $4,989,268,168,883.55. We are still about $11 billion away from the $5 trillion mark. Unfortunately, we anticipate hitting this mark sometime later this year or early next year.

On a per capita basis, every man, woman, and child in America owes $18,939.35 as his or her share of that debt.

CHARITABLE GIFT ANNUITY LEGISLATION

Mr. DOLE. Mr. President, I am pleased that the Senate passed two important bills impacting the charitable community—H.R. 2525 and H.R. 2519. Enactment of these bills was urgently needed to put a stop to unwarranted litigation and ensure that charities can continue to accept gift annuities from generous donors across the country. For these reasons it was important for me to clear the way to immediate passage of the bills.

Charities are critical to the Nation and to communities across the country. And charitable gift annuities are an important method for them to raise much-needed funds. This legislation will allow universities, hospitals, and other important local and national charities to continue their significant contributions to communities and the needy.

I commend my colleagues in the House and Senate for working quickly to craft this legislation. Almost 2,000 charities across the country have been defendants in unnecessary and unwarranted litigation. This congressional act will end the litigation, freeing charities to continue their important work.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Before the Senator starts, the Chair will announce morning business is closed.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 1833, which the clerk will now report.

The legislative clerk read as follows:

A bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Utah is now recognized.

Mr. HATCH. Mr. President, I rise today to speak in support of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995.

I understand that many people on both sides of this issue have very strongly held beliefs. I respect those whose views differ from my own. And, I condemn the use of violence or any other illegal method to express any point of view on this issue.

This bill, however, presents a very narrow issue: whether one rogue abortion procedure that has probably been performed only by a handful of abortion doctors in this country, that is never medically necessary, that is not the safest medical procedure available under any circumstances, and that is morally reprehensible, should be banned.

This bill does not address whether all abortions after a certain week of pregnancy should be banned, or whether late-term abortions should only be permitted in certain circumstances. It bans one particular abortion procedure.

I chaired the Judiciary Committee hearing on this bill that was held on

November 17. After hearing the testimony presented there, as well as seeing some of the submitted material, I must say that I find it difficult to comprehend how any reasonable person could examine the evidence and continue to defend the partial-birth abortion procedure.

That procedure involves the partial delivery, in the late second or third trimester of pregnancy, of an intact fetus into the birth canal. The fetus is delivered from its feet through its shoulders, so that only its head remains in the uterus. Then, either scissors or another instrument is used to poke a hole in the base of the skull. This is a living baby at this point, in a late trimester of living. Once they poke that hole in the base of the skull, at that point, a suction catheter is inserted to suck out the brains. This bill would simply ban that procedure.

The bill was first brought up on the Senate floor in early November. On November 8, the Senate voted to commit the bill to the Judiciary Committee for a hearing and a report of the bill within 19 days, which included a holiday recess.

We held a comprehensive, 6½-hour hearing on the bill on November 17. To facilitate consideration on the floor, I have directed that a hearing record be printed on an expedited basis.

In addition, so that all Senators can have immediate access to the testimony and other evidence adduced at the hearing, last week I had the committee distribute to each Senator a photocopied set of the entire hearing record, including inserts and written submissions.

The committee heard testimony from a total of 12 witnesses presenting a variety of perspectives on the bill. I wanted to ensure that both sides of this debate had a full opportunity to present their arguments on this issue, and I think that the hearing bore that out.

Brenda Shafer, a registered nurse who worked in Dr. Martin Haskell's Ohio abortion clinic for 3 days as a temporary nurse in September 1993, testified as to her personal experience in observing Dr. Haskell perform the procedure that would be banned by this bill. Dr. Haskell is one of only two—maybe four doctors who have acknowledged performing the procedure—only two have acknowledged it, but there may be four of them who do this procedure.

The committee also heard testimony from four ob-gyn doctors—two in favor of the bill and two against, from an anesthesiologist, from an ethicist, and from three women who had personal experiences either with having a late-term abortion or with declining to have a late-term abortion. Finally, the committee also heard from two law professors who discussed constitutional and other legal issues raised by the bill.

The hearing was significant in that it permitted the issues raised by this bill to be fully aired. I think that the most important contribution of the hearing to this debate is that the hearing record puts to rest a number of inaccurate statements that have been made by opponents of the bill and that have unfortunately been widely covered in the press.

Because the Judiciary Committee hearing brought out many of the facts on this issue, I would like to go through the most important of those for my colleagues to clear up what I think have been some of the major misrepresentations—and simply points of confusion—on this bill.

MISREPRESENTATION NO. 1

The first and foremost inaccuracy that we must correct once and for all concerns the effects of anesthesia on the fetus of a pregnant woman. I must say that I am personally shocked at the irresponsibility that led some opponents of this bill to spread the myth that anesthesia given to the mother during a partial-birth abortion is what kills the fetus.

Opponents of this measure presumably wanted to make this procedure appear less barbaric and make it more palatable. In doing so, however, they have not only misrepresented the procedure—which is bad enough—but they have spread potentially life-threatening misinformation that could prove catastrophic to women's health.

By claiming that anesthesia kills the fetus, opponents have spread misinformation that could deter pregnant women who might desperately need surgery from undergoing surgery for fear that the anesthesia could kill or brain-damage their unborn children.

Let me illustrate how widespread this misinformation has become:

In a June 23, 1995, submission to the House Judiciary Constitution Subcommittee, the late Dr. James McMahon, the other of the two doctors who has admitted performing the procedure, wrote that anesthesia given to the mother during the procedure caused fetal demise.

Syndicated columnist Ellen Goodman wrote that, when statements of supporters of the bill are reviewed, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

Let me note also that, of course, if the fetus was dead before being brought down the birth canal, then this bill by definition would not cover the procedure performed to abort that fetus. The bill covers only procedures in which a living fetus is partially delivered.

All but the head of this living fetus is outside, and then they puncture the back of the skull and suck out the brain so that the skull collapses and the baby can then be pulled out. There is no doubt in my mind that the reason the head is in is so that they will not be accused of infanticide.

An editorial in USA Today on November 3, 1995, also stated, "The fetus dies from an overdose of anesthesia given to its mother."

In a self-described fact sheet circulated to Members of the House, Dr. Mary Campbell—the medical director of Planned Parenthood who testified at the Judiciary Committee hearing—wrote:

> The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.

When that statement was referenced to the medical panel at the Judiciary Committee hearing by Senator ABRAHAM, the president of the American Society of Anesthesiologists, Dr. Norig Ellison, flatly responded, "There is absolutely no basis in scientific fact for that statement."

The American Society of Anesthesiologists was invited to testify at our hearing precisely to clear up this obvious misrepresentation. They sought the opportunity to set the record straight.

What was terribly disturbing about this distortion was that it could endanger women's health and women's lives. The American Society of Anesthesiologists has made clear that they do not take a position on this legislation, but that they came forward out of concern for this harmful misinformation.

The spreading of this misinformation strikes me as a very sad commentary on the lengths that those who support abortion on demand, for any reason, at virtually any time during pregnancy, and apparently regardless of the method, will do to defend each and any procedure, and certainly this procedure. The sacrifice of intellectual honesty is very disheartening.

As Dr. Ellison testified, he was

> Deeply concerned . . . that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps lifesaving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.

He stated that the American Society of Anesthesiologists, while not taking a position on the bill,

> . . . have nonetheless felt it our responsibility as physicians specializing in the provision of anesthesia care to seek every available forum in which to contradict Dr. McMahon's testimony. Only in that way, we believe, can we provide assurance to pregnant women that they can undergo necessary surgical procedures safely, both for mother and unborn child.

Dr. Ellison also noted that, in his medical judgment, in order to achieve neurological demise of the fetus in a partial-birth abortion procedure, it would be necessary to anesthetize the mother to such a degree as to place her own health in jeopardy.

In short, in a partial-birth abortion, the anesthesia does not kill the fetus. The baby will generally be alive after partly being delivered into the birth canal and before having his or her skull opened and brain sucked out.

That is also consistent with evidence provided by Dr. Haskell describing his use of the procedure. In his 1992 paper presented before the National Abortion Federation, which is part of the hearing record, Dr. Haskell described the procedure as first involving the forceps-assisted delivery into the birth canal of an intact fetus from the feet up to the shoulders, with the head remaining in the uterus. He does not describe taking any action to kill the fetus up until that point.

In a 1993 interview with the American Medical News, Dr. Haskell acknowledged that roughly two-thirds of the fetuses he aborts using the partial-birth abortion procedure are alive at the point at which he kills them by inserting a scissors in the back of the head and suctioning out the brain.

Finally, in a letter to me dated November 9, 1995, Dr. Watson Bowes of the University of North Carolina Medical School wrote,

> Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses are alive until the scissors and the suction catheter are used to remove brain tissue.

Simply put, anesthesia given to a mother does not kill the baby she is carrying.

MISREPRESENTATION NO. 2

Let me move on to the next misrepresentation. Another myth that the hearing record debunks is that the procedure can be medically necessary in late-term pregnancies where the health of the mother is in danger or where the fetus has severe abnormalities.

Now, there were two witnesses at the hearing who testified as to their experiences with late-abortions in circumstances in which Dr. McMahon performed the procedure. Both women, Coreen Costello and Viki Wilson, received terrible news late in their pregnancies that the children they were carrying were severely deformed and would be unable to survive for very long.

I would like to make it absolutely clear that nothing in the bill before us would prevent women in Ms. Costello's and Ms. Wilson's situations from choosing to abort their children. That question is not before us, and it is not one that we face in considering this narrow bill.

I also would like to point out that I have the utmost sympathy for women—and their husbands and families—who find themselves receiving the same tragic news that those women received.

Regardless of whether they aborted the child or decided to go through with the pregnancy, which is what another courageous witness at our hearing, Jeannie French of Oak Park, IL, chose to do—and as a result, her daughter Mary's heart valves were donated to other infants—their experiences are horrendous ones that no one should have to go through.

The testimony of all three witnesses was among the most heart-wrenching and painful testimony I have ever heard before the committee. My heart goes out to those three women and their families as well as any others in similar situations.

However, the fact is that medical testimony in the record indicates that even if an abortion were to be performed under such circumstances, a number of other procedures could be performed, such as the far more common classical D&E procedure or an induction procedure.

When asked whether the exact procedure Dr. McMahon used would ever be medically necessary—even in cases like those described by Ms. Costello and Ms. Wilson, several doctors at our hearing explained that it would not. Dr. Nancy Romer, a practicing Ob-Gyn and clinical professor in Dayton, Ohio, stated that she had never had to resort to that procedure and that none of the physicians that she worked with had ever had to use it.

Dr. Pamela Smith, the director of medical education in the department of obstetrics and gynecology at the Mount Sinai Medical Hospital Center in Chicago, stated that a doctor would never need to resort to the partial-birth abortion procedure.

MISREPRESENTATION NO. 3

This ties in closely to what I consider the next misrepresentation made about the partial-birth abortion procedure: the claim that in some circumstances a partial-birth abortion will be the safest option available for a late-term abortion. Testimony and other evidence adduced at the Judiciary Committee hearing amply demonstrate that this is not the case.

An article published in the November 20, 1995, issue of the American Medical News quoted Dr. Warren Hern as stating, "I would dispute any statement that this is the safest procedure to use." Dr. Hern is the author of "Abortion Practice," the Nation's most widely used textbook on abortion standards and procedures. He also stated in that interview that he "has very strong reservations" about the partial-birth abortion procedure banned by this bill.

Indeed, referring to the procedure, he stated, "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

In fairness to Dr. Hern, I note that he does not support this bill in part because he feels this is the beginning of legislative efforts to chip away at abortion rights. We have included a statement from him in the RECORD. His opinion on the procedure, however, is highly instructive.

I think Dr. Nancy Romer, a professor in the department of obstetrics and gynecology at the Wright State University School of Medicine and the vice chair of the department of obstetrics and gynecology at Miami Valley Hospital, both in Dayton, OH, explained it best. I will quote her entire statement on this point:

> If this procedure were absolutely necessary, then I would ask you, why does no one that I work with do it? We have two high-risk obstetricians, and a medical department of about 40 obstetricians, and nobody does it. We care for and do second-trimester abortions, and we have peer review. We are watching each other, and if we truly were doing alternative procedures that were killing women left and right, we would be out there looking for something better. We would be going to Dr. Haskell and saying, please, come help us do this. And we are not. We are satisfied with what we do. We are watching each other and we know that the care that we provide is adequate and safe.

I think that says it all as far as safety is concerned.

MISREPRESENTATION NO. 4

Another misrepresentation that should be set straight concerns claims that the partial-birth abortion procedure that would be banned by this bill is in fact performed only in late-term pregnancies where the life of the mother is at risk or where the fetus is suffering from severe abnormalities that are incompatible with life.

I certainly do not dispute that in a number of cases the partial-birth abortion procedure has been performed where the life of the mother was at risk or where the fetus was severely deformed.

Substantial available evidence indicates, however, that the procedure is not performed solely or primarily where the mother's life is in danger, where the mother's health is gravely at risk, or where the fetus is seriously malformed in a manner incompatible with life.

The fact of the matter is—and I know this is something that opponents of the bill have not faced—this procedure is being performed where there are only minor problems with the fetus, and for purely elective reasons.

Dr. Haskell stated in testimony given under oath last month, on November 8, 1995, in Federal district court in Ohio, that he performs the procedure on second trimester patients for some medical and some not so medical reasons. [See Dist. Ct. Tr. at 104.] That court transcript is part of the hearing record.

In transcripts from Dr. Haskell's 1993 interview with the American Medical News—also part of the hearing record—Dr. Haskell states "most of my abortions are elective in the 20–24 week range. In my particular case, probably

20 percent are for genetic reasons [and] the other 80 percent are purely elective." Meaning that 80 percent of those kids that are destroyed are normal kids.

Dr. Romer testified that she has cared for patients who had received a partial-birth abortion from Dr. Haskell for reasons that were purely based on the woman not wanting a baby, for—as she put it—social reasons.

Most important, however, medical testimony at our hearing indicated that a health exception in this bill is not necessary because other abortion procedures are in fact safer and better for women's health.

As for examples of overly broad health rationales for this procedure, Dr. McMahon indicated—in a 1995 letter submitted to Congress and in a 1993 interview with the American Medical News—that, although all of the third trimester abortions he performed were nonelective, approximately 80 percent of the abortions he performed after 20 weeks of pregnancy were therapeutic.

Dr. McMahon then provided the House Judiciary Committee with a listing of the so-called therapeutic indications for which he performed the procedure. That list is a real eye opener.

The single most common reason for which the partial-birth abortion was performed by him was maternal depression. He also listed substance abuse on the part of the mother as a therapeutic reason for which he performed the procedure.

In terms of fetal so-called abnormalities, Dr. McMahon's own list indicates that he performed the procedure numerous times in cases in which the fetus had no more serious a problem than a cleft lip.

Dr. Haskell has similarly acknowledged that he is not performing the procedure in critical instances of maternal or fetal health. In Dr. Haskell's testimony in Federal district court in Ohio last month, Dr. Haskell stated: "Patients that are critically ill at the time they're referred for termination, I probably would not see. Most of the patients that are referred to me for termination are at least healthy enough to undergo an operation on an outpatient basis or else I would not undertake it."

When asked about the specific health-related reasons for which he performed the partial-birth abortion procedure, Dr. Haskell specified that he has performed the procedure in cases involving high blood pressure, diabetes, and agoraphobia on the part of the mother. [See Dist. Ct. Tr. at 105.] Of course, agoraphobia is the fear of going outside. Dr. Haskell acknowledged that in district court. That, to me, is outrageous.

Now, let me be perfectly clear that I do not doubt that in some cases this procedure was done where there were life-threatening indications.

However, I simply must emphasize two points.

First, those cases are by far in the minority. We should get the facts straight so that our colleagues and the American people understand what is going on here.

Second, the most credible testimony at our hearing—confirmed by other available evidence—indicates that even where serious maternal health issues exist or severe fetal abnormalities arise, there will always be other, safer abortion procedures available that this bill does not touch.

MISREPRESENTATION NO. 5

Finally, the next misrepresentation I would like to correct concerns whether this procedure exists. That claim should be put to rest once and for all.

Some opponents of this measure still insist on claiming that the procedure banned by this bill—the partial-birth abortion procedure—does not exist solely because the two doctors who have admitted performing the procedure—the late Dr. McMahon of Los Angeles and Dr. Haskell of Ohio—used different terms for the procedure.

The bill clearly defines the term partial-birth abortion as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." I think that the term partial-birth abortion does provide an accurate, shorthand description of that full definition.

Dr. Haskell refers to the procedure as a D&X, while the late Dr. McMahon referred to the procedure as an intact D&E. As medical witnesses at the hearing pointed out, the procedures—by whatever name—are virtually unheard of in the medical and scientific literature.

As Dr. Watson Bowes of the University of North Carolina at Chapel Hill wrote to me, "The term 'partial-birth abortion' is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper. There is no standard medical term for this method."

I submit that there is no medically accepted terminology for the procedure because the procedure has not been medically accepted.

There can be no question, however, that the procedure banned by this bill does exist and has been performed repeatedly. That is disturbing. It is troubling.

We should be confronting the ethical dilemmas the procedure raises rather than sticking our heads in the sand and quibbling about whether the procedure exists under any particular name or another.

On that note, I would like to close by highlighting a statement made at our hearing by Helen Alvare of the National Conference of Catholic Bishops. She remarked that opponents of this bill keep asking whether enacting it would be the first step in an effort to ban all abortions.

In her view, however, the real question should be whether allowing this procedure would serve as a first step toward legalized infanticide. I urge the bill's opponents to ask themselves this question. What is the real purpose of this procedure?

That is the fundamental problem with this procedure. It involves killing a partially delivered baby.

The previous debate on this bill ended when the Senate voted to require a Judiciary Committee hearing. Let me say to my colleagues in the Senate that the testimony presented during this hearing more than confirmed my view that this procedure is never medically necessary and should be banned.

This testimony, regardless of one's view on the broader issue of abortion, provides ample justification for an "aye" vote on H.R. 1833.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New Hampshire.

Mr. SMITH. Thank you very much, Mr. President. Senator BOXER and I have an informal agreement that after approximately 30 minutes I would yield the floor to her, if the Chair would be kind enough to remind me if I get carried away.

Mr. President, I rise today in very strong support of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. I at this time would like to express my sincere gratitude to the Senator from Utah, Senator HATCH, first, for his splendid leadership on the issue of protecting the rights of the unborn. He has long been a champion of that issue, long before this Senator came to the Senate. But, also, I thank him for conducting the hearing, doing it in a fair manner, allowing all witnesses on both sides of the issue to be heard. He certainly performed a very valuable service, and I very much owe him a debt of gratitude for that.

Mr. President, as I am sure you know, initially I opposed the motion to refer this bill to the Senate Judiciary Committee for a hearing given the full record developed during the House's consideration of the bill. I did not really believe that the Senate needed to have a hearing. The House had extensive hearings on the bill, as you know, and quite a bit of debate.

Ultimately, however, I agreed to support the motion to refer the bill to the committee for the hearing because I was convinced that the more my colleagues could learn about this procedure about the brutality and the inhumaneness of it, the so-called partial-birth abortion procedure, I believed that the more my colleagues learned, the more I would have an opportunity to get more votes, frankly, in opposition to it. I believe that the bill will garner support, in other words, garner support to outlaw this procedure.

Later in my remarks today I am going to comment in some detail about the excellent hearing held by Senator HATCH and the Judiciary Committee on H.R. 1833. That hearing was held on November 17.

But first, Mr. President, I would like to remind my colleagues of just why it is that we are here. I want to focus again one more time on exactly what a partial-birth abortion is. The term "birth" involved in this procedure is somewhat interesting in the sense that it is called a partial birth, yet it is an abortion. I want to remind my colleagues of why a supermajority, a two-thirds majority, of the House of Representatives voted to pass this bill on November 1—two-thirds. And I would also like to remind my colleagues of why that supermajority encompassed both party and ideological lines on both sides, why it crossed those party and ideological lines, why it included such people as House minority leader RICHARD GEPHARDT, Speaker GINGRICH, House minority whip DAVID BONIOR, and House majority leader DICK ARMEY, pro-choice Democrat PATRICK KENNEDY, and pro-choice Republican SUSAN MOLINARI.

Mr. President, the sole purpose of H.R. 1833 is to ban a very specific method of abortion that is performed at a time in the gestation period of about 5 months and continues on through the ninth month of gestation. So at any period of time between the fifth and the ninth month of gestation right up until the day of birth, these abortions can be and are performed.

These are late-term babies, Mr. President. There really is not any other term for it. You can cover it up and coat it a little bit by using other terms. But they are late-term babies, the youngest of whom—the youngest of whom—at 5 months may have a fighting chance to live on their own outside of the womb, and the older of whom unquestionably, unless there were severe abnormalities or birth defects, could live outside the womb.

So this specific abortion method called partial-birth abortion—that is what it is called—it is a straightforward, plain English term for a procedure in which a living baby's body is brought entirely into the birth canal, except for the child's head, which the abortionist holds inside the mother's womb, in other words, keeps the child from coming completely out of the womb, restrains the child, keeping the head inside the womb before he punctures the baby's head with scissors and inserts a suction catheter inside that incision and literally sucks the brains out of the child.

It is understandable that the defenders of partial-birth abortions do not like the clearly descriptive and entirely accurate term "partial-birth abortion." I think most people on both sides of the aisle would, if they do not always agree with, certainly respect the words of Pulitzer Prize winning commentator George Will, who points out in an excellent column in the latest issue of Newsweek—he says, "Pro-abortion extremists object to that name, preferring," instead now of partial-birth abortion, "preferring 'intact dilation and evacuation' for the same reason that the pro-abortion movement prefers to be called pro-choice."

Mr. Will goes on to conclude that what is intact here is a baby. That is what is intact, a baby. So, instead of "partial-birth abortion," we call it "intact dilation and evacuation," the removal of a child from the womb after taking the child's life by inserting a catheter into the back of the head through an incision made by scissors, with no anesthetic, and suck the brains out.

As I remind my colleagues today what a partial-birth abortion is, I am going to again use a series of illustrations that depict the partial-birth abortion procedure. I have done this before on the floor. I have been criticized for it. The press has not gotten it right. Some of them have not gotten it right. I was accused of showing photographs of aborted babies. I was accused of displaying a rubber fetus, whatever that is, all kinds of distortions of the record.

But what I have here are simple medical diagrams. That is all they are. They simply say what the procedure is and simply show it in pictures. I am going to show it again briefly here to show what we mean by partial-birth abortion because I think we should understand what it is.

As I do it, keep in mind that these illustrations have appeared in the American Medical Association's official newspaper, the AMA News. These are not my drawings. They are not drawn by the pro-life movement. They are not drawn by anyone other than they appeared in the AMA News. So they are medically accurate, they are straightforward, they are honest depictions of the partial-birth abortion procedure as described in an 8-page paper written in 1992 by Dr. Martin Haskell who has confessed, admitted, to performing more than 1,000—1,000—of these abortions—1,000 by one doctor, 1,000 abortions between the 5th and 9th month, Mr. President. Dr. Haskell's papers are included in the Judiciary Committee's official record of its November 17 hearing on this bill.

In a tape recorded interview with the AMA News on July 5, 1993, Dr. Haskell himself said:

> The drawings are accurate from a technical point of view.

Moreover, during a June 15, 1995 hearing before the House Judiciary Committee's Constitution Subcommittee, Johns Hopkins University Medical School Prof. Courtland Robinson, testifying on behalf of the National Abortion Federation, was questioned by Congressman CHARLES CANADY about the same illustrations of the partial-birth abortion procedure that I will be showing my colleagues again today. Dr. Robinson agreed that they were technically accurate, commenting "this is exactly probably what is occurring at the hands of the physicians involved."

This is a person who testified for the National Abortion Federation. So I think we ought to lay to rest the misrepresentations and the distortions and, frankly, the outright lies that have been perpetrated about me and about what I have presented on this floor. These are medically approved drawings that even the other side says are technically accurate.

Dr. Watson Bowes, a professor of obstetrics and gynecology at the medical school of the University of North Carolina Chapel Hill, also, in his own right, an internationally recognized expert on fetal and maternal medicine, wrote a letter to Congressman CANADY:

> Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein.

Let us look at the first illustration. With the aid of ultrasound, the abortionist determines the position the baby is in, and after he determines that, he reaches in with the forceps and takes the child by the feet with the forceps and turns it around inside the womb. Keep in mind that this is a late-term living baby.

Then, as you can see, Mr. President, the baby's leg is pulled out into the birth canal with the aid of the forceps. The baby is turned around so that it is a breech birth, because, obviously, if the head comes out first, it becomes a breathing child. If the feet come out first, it can be aborted, not a living thing. That is what we are told.

So the abortionist has to turn the child around. Usually it is the other way around, but now we turn the child around and make a breech birth here. So the baby's leg comes through the cervical opening and into the birth canal.

In the third illustration, we see that the abortionist now has the child enough removed from the forceps to be able to take the child in his or her hands from, as you can see in the drawing here, somewhere about midtorso. The abortionist takes ahold of this child, and he or she begins to pull the child all the way out of the womb and into the birth canal, with the exception of the head.

Let me just pause here for a moment to reflect on what is happening. If this were a doctor and this were a happy time, a woman wanting this child for whatever reason, this little child would be a patient—a patient, Mr. President. But this child is not a patient here, not in this procedure. There is no choice of his or her own. This child is not a patient. This child is a victim of the abortionist's hands. What could be kind, loving, gentle hands are now the hands of death, because, sadly, the abortionist's purpose we now see coming in the fourth illustration.

The horror of this is beyond all imagination, as far as I am concerned, having witnessed the birth of three of my own children, knowing what a beautiful experience that is to see. The abortionist holds the baby by the shoulders—I mean holds the baby by the shoulders—to prevent the child from being born, because the moment the head comes through the birth canal and out into the world, it has the protection of the Constitution of the United States.

So this doctor has to be very sure that this little head does not slip out, so he holds the child, he prevents the child from being born, because—and this may be a little girl or a little boy, but let us, just for the sake of argument, call it a little girl—if her head slips out, she is born alive. We cannot let that happen if we are abortionists, can we? That is a problem.

The columnist, John Leo, pointed out in his excellent article in the November 20 issue of U.S. News & World Report:

> Stopping the head just short of birth is a legal figleaf for a procedure that doesn't look like abortion at all. It sounds like infanticide.

So, as I said, Mr. President, the abortionist holds the baby's head with the hand tightly. Obviously, the muscular action here, the contractions move this child from the womb. That is natural. But after the gripping at the shoulders with these hands in an unspeakably brutal act of, I believe, inhumanity, the abortionist jams a pair of scissors into the baby's skull. This is a late-term baby, fully capable of pain and feeling pain, and before he withdraws those scissors, which he opens to separate the wound, he enlarges that hole at the base of the baby's skull and inserts that catheter.

As you can see in the last drawing, what was moments before a living baby now hangs limp in the hands of the abortionist.

Remember what happens: Catheter in, suck out the contents of the—it is interesting, some of the pro-choice, pro-abortion people call it the contents, the contents of the head, not the brains.

You see, it sounds too much like a baby or a child to say "brains," so you say "contents," as if we were talking about a can of beans or something that you empty. Then in order to kill this baby, he uses that suction catheter to suck the baby's brains out—not the contents of some inanimate object—and the dead baby then is removed.

I ask my colleagues, if that is not a baby there, what is it? I ask anybody who wants to take the floor today and say to me that you support this procedure, tell me what it is if it is not a baby. And if it is a baby, then we are killing it, are we not? If it is not a baby, what is it? What is it?

I ask my colleagues and anyone else who may be listening, if you picked up the newspaper tomorrow morning in your hometown, wherever that may be—Anywhere, U.S.A.—and the front page of that paper said that the local pound decided to kill 100 unwanted puppies and kittens, with no anesthetic, by putting scissors in the back of the neck, by inserting a catheter in the back of the head and sucking the brains out, what would you think? My colleagues, ladies and gentlemen, American people, I think you would be outraged, I think you would be protesting probably in front of the SPCA; you would be calling it horrible, disgraceful, and saying, "What are we doing? Why would I put my dog to sleep in such an inhumane manner?"

Well, Mr. President, we are doing it to children. We are doing this to children. There you have it. But for the decision of someone else, not the baby, what could have been that beautiful journey in the process of birth, through the birth canal and into the world, which each and every one of us took because nobody got here without being born—there may have been other procedures, I grant, such as a cesarean, where you may have been born, but in most cases through the birth canal. But that beautiful journey from our mother's safe, warm womb in the birth canal and out into the wonderful world. But that is not what happens here. It is perverted by the abortionist into a savage rendezvous with death. That is exactly what it is. It is a rendezvous with death.

Do you know what? I have been called an extremist because I have said that, because I have been down here on the floor showing these drawings, pointing out to the American people what this is. I am accused of being an extremist. What is the person who performs this act? What is that person? In a partial-birth abortion, the journey of life, the beautiful process of birth—birth—this is not the average abortion we are talking about. They are bad enough, and everybody knows how I feel about those, but that is not the issue here. This is the issue of late-term abortions, which is why so many pro-choice, clear-thinking, sensible Democrats and Republicans, liberals and conservatives, in the House of Representatives voted to stop it, because they were horrified by it.

The people who do it are the extremists. That is who the extremists are. This journey of life is interrupted in the ultimate act of violent oppression. The abortionist uses his brute strength, his powerful hands, against an innocent little child, helpless, defenseless child. He stops her journey into life, holds her by the shoulders and jams scissors into her head and removes her brains.

Mr. President, this is the United States of America. When I came to the Senate in 1991, I never really dreamed that I would have to take the floor of the Senate and defend the right of a child, perhaps as old as 8½ to 8¾ months in the uterus, to have to stand here and defend this child. What a sick, horrible perversion.

How could this be in this country? How could we possibly stand by in this country and let this happen? But then, again, there is great precedent for this, Mr. President, because we saw it in the Civil War, prior to the Civil War, a couple hundred years prior to the Civil War—almost 300 years prior to the Civil War—well, 200 anyway. Slavery, which was a brutal act against our fellow mankind. We stood around for a couple hundred years before we stopped that. But here we are.

What have we come to as a people? We stand here on the floor day after day, month after month, year after year and talk about the great issues of the day—the deficit, the debt, whether or not we ought to send troops to Bosnia, the Persian Gulf, nominations of Supreme Court Justices, great issues. We have had some great debates here. But what have we come to, to be here on the floor, to have to try to stop something as barbaric as this? It should be stopped. It should not be happening. We should not have to be here.

A little baby has a right to be born. In a partial-birth abortion, a doctor who swore to the Hippocratic oath "to do no harm" does the worst possible harm to the youngest, most defenseless little patient that he could ever have. No wonder the foremost expert practitioner of this procedure, Dr. Martin Haskell, the man who admittedly performed a thousand of them, did not have the guts to accept Chairman HATCH's invitation to appear before the Senate Judiciary Committee to defend his procedure.

Mr. President, we spent hours on the floor of the Senate in the early part of November with my colleagues on the other side of this issue demanding a hearing. "We must have a hearing," I heard said. "We must have these people come in and tell us about this procedure, because we can defend it." But Dr. Haskell did not come.

In the November 20 issue of the American Medical Association's AMA News, one of Dr. Haskell's fellow abortionists really told us why Dr. Haskell did not have the guts to appear at the Senate Judiciary Committee hearing. Here is what he said, speaking of the procedure, and this is Dr. Warren Hearn, author of "Abortion Practice," the Nation's most widely used textbook on abortion standards and procedures: "You can't defend it." He said, "You can't defend it."

That is why he did not show up. You cannot defend it.

Thankfully, however, Mr. President, a nurse who once witnessed one of Dr. Haskell's partial-birth abortions, Brenda Pratt Shafer, did have the guts to appear before the Judiciary Committee. This is how she described what she saw:

> I am Brenda Pratt Shafer, a registered nurse with 13 years of experience. One day in September, 1993, my nursing agency assigned me to work at a Dayton, Ohio, abortion clinic. I had often expressed pro-choice views to my two teenage daughters, so I thought this assignment would be no problem for me. But I was wrong. I stood at a doctor's side as he performed the partial-birth abortion procedure, and what I saw is branded forever on my mind. The mother was 6 months pregnant. The baby's heartbeat was visible, clearly, on the ultrasound. The doctor went in with forceps and grabbed the baby's legs and pulled them down through the birth canal. Then he delivered the baby's body and the arms, everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were swinging.
>
> Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinched, startled reaction, like a baby does when he thinks he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening, and sucked the baby's brains out. Now, the baby was completely limp.

Then, the last line—and I am going to end here and yield the floor to Senator BOXER—the last, most compelling line, "I never went back to that clinic, but I am still haunted by the face of that little boy—it was the most perfect, angelic face I have ever seen." Brenda Pratt Shafer.

I yield the floor.

Mrs. BOXER. Mr. President, it is a privilege for me to take to the floor this evening in a tough debate and one that I hope will lead the Senate to amend this bill.

This bill is flawed because it makes no exception, even for the life of the mother. It criminalizes a procedure, which means that doctors, by virtue of using it without having a chance to even explain it, will be hauled into court, perhaps into jail. It sets us on a slippery slope that greatly concerns me.

I speak as a mother. I speak as a grandmother. I speak as someone who came here in part to protect people without a voice, the most vulnerable among us.

We hear similar arguments that my friend engaged in the last time that this was brought to the floor, and the Senate wisely referred it to the Judiciary Committee. I want to thank my colleagues for voting with us on that. We had to fight to get an agreement. This was going to be rushed through, without hearing from the women who had a story to tell, without hearing from the doctors who think it is necessary, without hearing from the constitutional lawyers.

Very wisely, we took a deep breath and we sent this to the committee. It was a good hearing. It was a balanced hearing. I hope Members will read the record very closely. Then I hope they will support amending this bill.

I want to make a couple of comments before I go into a presentation that I hope will pinpoint my arguments.

Mr. President, not every birth is a beautiful journey. We pray to God that everyone we know and love—everyone, every woman, every family—can experience the beautiful journey of birth without a problem. I know a lot of women have had problems. It is not always easy. Not every fetus finds a safe and warm womb. No, they do not. Some are born very early. Some develop terrible diseases and problems. Some women are diagnosed with serious cancer, and they know they could lose their life if they proceed to term.

Life is not always, as somebody once said, a bowl of cherries. Sometimes it is very hard.

Here we stand as Senators—not as doctors—outlawing a procedure, a medical procedure. I daresay if you were at home and you had never heard anything about this before and you came back from, say, another planet, and you turned on your TV and you were channel surfing and came to a station and were watching us, you would probably think this is a medical school lecture. I watched the beginning of this debate on TV, and it was just like a medical lecture. There was talk about what anesthesia does. There was talk about what kind of instruments are used. There was talk about things that we have no knowledge of. We see medical drawings—admittedly, done by physicians—medical drawings. What are we doing? This is not a medical school. This is not an ethical panel of a medical school.

Senator KENNEDY, I thought, he had a very important sentence in his prepared remarks. He said some Senators could be accused of practicing medicine without a license. That is not our job. I was not sent here to be a physician, to judge medical procedures, or to be God. That is for sure.

I also take great exception to certain things that were said in this debate. I want to put those right out there because this will be a long-heated argument. I just want to go on record. It will not make a bit of difference that I am particularly offended, but I want to put it on the record.

I want to say to my friends on the other side who are leading the charge for criminalizing a medical procedure, that doctors who perform abortions are doctors. They are not abortionists. They are physicians. Many of them have saved women's lives. And you call them abortionists?

Abortion is legal in this country. They are doctors who perform abortions. They are being harassed. They are being threatened. This kind of rhetoric on this floor adds to the problem.

Case in point: My colleague said Dr. So-and-so confessed that he performed abortions. He confessed. Notice the word. Who confesses? Somebody who is guilty of a crime. Abortion is not a crime in this Nation.

Yes, there are those who want to make it a crime. They want to put the women in jail. We will get to that another day, I assure you. If they win this one, that is coming down the road.

I say to my colleagues on the other side of this issue, do not use the term "abortionist" if you can help yourself. Say doctors who perform abortion. And do not say, he confessed. Then, my colleague said, He admitted.

Yes, you are right, this doctor did not come before the panel. Other doctors did. They defended this procedure, said it was the safest procedure, and said that other procedures were 14 times more dangerous for the woman.

Maybe you do not care about the woman. We do not see on that chart the face of the woman. Why is that? I say it is on purpose. It is a woman carrying a baby. I say the word "baby." It is a woman carrying a baby who finds out in the late term some horrible thing she is faced with, with her family.

So do not talk about confessing, and do not talk about admitting.

I ask unanimous consent to have printed in the RECORD a letter from Dr. Haskell's attorney at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CENTER FOR REPRODUCTIVE
LAW & POLICY,
New York, NY.

Senator ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I am writing on behalf of Martin Haskell, M.D., whom I currently represent in litigation challenging Ohio House Bill 135, which like H.R. 1833, bans certain methods of abortion. Because of the pending litigation, Dr. Haskell must decline your kind invitation to testify before the Senate Judiciary Committee on Friday, November 17, 1995 about the federal ban on "partial birth abortions." Nevertheless, he asked me to convey you his ardent opposition to the legislation, which will prevent him from providing safe and appropriate medical services to his patients needing second trimester abortions.

Unfortunately, over the last several years, Dr. Haskell has been the object of unlawful violence and intimidation by those who oppose abortion. In addition to physical harassment at home and work, which have included blockages and threats by abortion opponents, he has been the victim of a firebomb that extensively damaged one of his clinics. As a result, Dr. Haskell has recently refused public and media appearances that my increase the risk of violence against him.

While Dr. Haskell is mindful that his appearance before your Committee might clarify much of this misinformation currently circulating about his medical practice and about the purpose and effect of his legislation, he regrets that he will be unable to attend. Please feel free to contact me if I may be of further assistance to you.

Very truly yours,

KATHRYN KOLBERT,
Vice President.

Mrs. BOXER. In this, the attorney explains why the doctor did not come and references the fact that this doctor, unfortunately, has been the object of unlawful violence and intimidation by those who oppose abortion. In addition to physical harassment at home and at work, which have included blockades and threats by abortion opponents, he has been the victim of a firebomb that extensively damaged one of his clinics, and he has not made public appearances because there are some people who happen to love him.

So, please choose your words carefully here. It could have an impact well beyond your meaning.

I read the committee's hearing, the transcript, every word. I am very glad we had that hearing. It is not surprising, the doctors who testified were split on the issue. Some said it is not a necessary procedure. Others said it is quite necessary, it is the safest procedure. Some said we need to have that procedure to save a woman's life. Others said, "We disagree."

We do know one thing. The 35,000-member organization of the OB/GYN's, the obstetricians and gynecologists, say no to this bill. The experts, the legal experts are split on the constitutionality.

So, I say we need to look at the real-life people who have had this procedure because they come to us with a real story, not some philosophical point of view—and we all have them. As a matter of fact, one of these women who came before us describes herself as a conservative Republican pro-life person. Imagine. And that testimony cannot be derided by anyone in this Chamber, regardless of his or her view. Those people told the truth about their lives, and they were backed up by their families, and no one could contradict them. That is the face that has been missing from this debate, the face that has been missing, the mother's face.

I was very glad that we had the hearing because this mother came out and told her story. I am going to show you a photograph of this woman and her family: Coreen Costello, of Agoura, CA, she is 31, a full-time wife and mother of two. Her husband Jim is 33. He is a chiropractor. Children: Chad 7, Carlin 5. She is now pregnant. She is in the third month of her pregnancy. I want you to keep that face in mind and the faces of this family in mind. I want to tell you about her and her story.

This is her statement. I am going to read it. It is brief. I want you to listen to the words and then I want you to think about what has been said here, the cruelty expressed toward the medical profession that took a Hippocratic oath to help a family like this.

Ms. COSTELLO. Senator Hatch, Senator Kennedy, and members of the committee, I would like to really thank you for allowing me to speak to you today. My name is Coreen Costello. I live in Agoura, California, with my husband, Jim; my son, Chad; and my daughter, Carlin. Jim is a chiropractor and I am a full-time wife and mother.

I am a registered Republican and very conservative. I do not believe in abortion. Because of my deeply held Christian beliefs, I knew that I would never have an abortion. Then on March 24th of this year when I was 7 months pregnant, I was having premature contractions and my husband and I rushed to the hospital.

During an ultrasound, the physician became very silent. Soon, more physicians came in. I knew in my heart that there was something terribly wrong. I went into the bathroom and I sobbed. I begged God to let my baby be okay. I prayed like I have never prayed before in my life. My husband reassured me that we could deal with whatever was wrong. We had talked about raising a child with disabilities. We were willing to take whatever God gave us. I had no problem with that.

My doctor arrived at 2:00 in the morning. He held my hand and informed me that they did not expect our baby to live. She was unable to absorb any amniotic fluid and it was puddling into my uterus. That was causing my contractions. This poor precious child had a lethal neurological disorder and had been unable to move for almost 2 months. The movements I had been feeling over the past months had been nothing more than bubbles and fluid.

Her chest cavity had been unable to rise and fall to stretch her lungs to prepare them for air. Therefore, they were left severely underdeveloped, almost to the point of not existing. Her vital organs were atrophying. Our darling little girl was dying.

A peri—peri—a specialist recommended terminating the pregnancy. This is not a medical school class, so I do not know the names of the specialties.

A perinatologist recommended terminating the pregnancy. For my husband and me, this was not an option. I chose to go into labor naturally. I wanted her to come on God's time. I did not want to interfere. It was so difficult to go home and be pregnant and go on with life knowing my baby was dying. I wanted to stay in bed. My husband looked at me and said, Coreen, this baby is still with us; she is still alive; let's be proud of her; let's make these last days of her life as special as possible. I felt her life inside of me and somehow I still glowed.

At this time, we chose our daughter's name. We named her Katherine Grace, Katherine meaning pure, Grace representing God's mercy. Then we had her baptized in utero. We went to many more experts over the next 2 weeks. It was discovered that Katherine's body was rigid and she was stuck in a transverse position. Due to swelling, her head was already larger than that of a full-term baby. Natural birth or induced labor were not possible; they were impossible.

I considered a Cesarean section, but experts at Cedars-Sinai Hospital were adamant that the risks to my health and possibly my life were too great. There was no reason to risk leaving my children motherless if there was no hope of saving Katherine. The doctors all agreed that our only option was the intact D&E procedure.

That is the procedure this bill will outlaw.

I was devastated. The thought of an abortion sent chills down my spine. I remember patting my tummy, promising my little girl that I would never let anyone hurt or devalue her.

After Dr. McMahon explained the procedure to us, I was so comforted. He and his staff understood the pain and anguish we were feeling. I realized I was in the right place. This was the safest way for me to deliver. This left open the possibility of more children, it greatly lowered the risk of my death, and most important to me, it offered a peaceful, painless passing for Katherine Grace.

When I was put under anesthesia, Katherine's heart stopped. She was able to pass away peacefully inside my womb, which was the most comfortable place for her to be. Even if regular birth or a Cesarean had been medically possible, my daughter would have died an agonizing death.

When I awoke a few hours later, she was brought in to us. She was beautiful. She was not missing any part of her brain. She had not been stabbed in the head with scissors. She looked peaceful. My husband and I held her tight and sobbed. We stayed with her for hours, praying and singing lullabies. Giving her back was the hardest moment of my life.

Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes.

When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians.

I am going to read it again.

When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lots of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.

What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does.

Please put a stop to this terrible bill. Families like mine are counting on you. Thank you very much.

I say we need to look at the real-life people who have had this procedure. We have to put a mother's face on that drawing and into this debate because we know what will happen.

Some doctors say that this procedure is absolutely necessary to save a woman's life and protect her health. Others say no. What if the ones who say it is necessary are right? You know who is going to pay the price. Not the doctor, because he or she is going to stop doing this procedure. There is no exception in this bill for the life and health of the mother. There is an affirmative defense. That means the doctor has to go into court and defend himself or herself. The burden is on the physician to prove that he was acting or she was acting to save the woman's life and health. So the doctors will stop doing this procedure.

That is what this bill is all about. So who is left with fewer options? The women. It is like telling women—we have seen this—they had better not take a mammogram. We are going to say you do not really need it until you are 50. We faced that debate. Well, that is the only tool we have to save her life. And we fought against that recommendation, and we said to women who are 40 to go get those mammograms. Maybe we will only save 15 percent of you instead of a larger number when you are 50. But that is the only tool we have.

So when we take a tool away, who will be hurt? Not the doctor. It will be your wives. It will be your sisters. It will be your children and mine and their families.

We are over 90 percent men in this Senate. And I want to appeal to those men in this Senate who talk about the beauty of the baby going through the birth canal as if they have ever experienced this themselves. I take offense when you say you are the only ones who care about babies and you denigrate people on the other side and say that we will not talk about the babies. Well, I want to talk about the babies. And I want to talk about these babies who could have lost their mother, a pro-life Republican woman who came here to testify.

So what I am going to do during this debate is concentrate on putting a mother's face on the screen and putting her family's face on the screen, and tell her story because it has been left out of this debate. I plan to talk about the chamber of horrors a doctor would have to go through if he did feel that this was the only option—and when he took his Hippocratic oath, he said, to save the life of his patient—and if he feels that is the only procedure; the chamber of horrors that he would have to go through to protect a woman's health and even her life. I will lead you through what would happen to such a physician.

This is America. What are politicians doing in the hospital room? What are politicians doing telling this religious woman how to lead her life and what to do? It is an outrage to me.

Roe v. Wade clearly says in late term the State shall regulate abortion, and here is a crowd who comes in here saying we are going to make welfare be run by the State. Fine. Medicaid by the States—we are going to have medical savings accounts. We are going to let Medicare "wither on the vine," a well-known quote of NEWT GINGRICH. We do not need a Federal Government. But now all the doctors in here—as far as I know we only have one, and he was never an ob-gyn—are going to decide what procedure should be banned and what procedure should not be banned.

So I am going to put the face of the mother on this debate. I have many other stories we will tell in the course of time. I am going to take you through what happens to a physician—physicians most of whom who have brought thousands of babies into this world but may believe that this is the safest procedure to use so that this beautiful mother can get pregnant again and can stay alive for her husband and her children.

My colleagues, we have a lot of work to do. We do not even have a budget, and they are talking over there in the House about shutting the Government down again. Why do we not do what we are supposed to do? Why do we not stay out of things that are better left to the family? As she said, the last thing she wants is a politician involved in this tragedy. I think she wants us to do our job. Get a budget. Get a budget. Sit down around the table. Let us negotiate. Let us decide if Medicare and Medicaid are important. Let us decide if environmental protection and education are important. Let us decide how to balance this budget in 7 years with a touch of humanity. So, yes, babies and kids can get health care and can get an education.

That is what we are supposed to do. But, no. We are here with medical drawings. And do you want to know why people on the other side voted overwhelmingly for this bill? Because they never had a chance to amend it. We will give you that chance. We will give you the chance to show your support for States rights. We will give you that chance to stand up for the life and health of the mother.

This is a different place than the House where the Speaker controls the way things come to the floor. I know. I served there for 10 years. It is real difficult.

We have a chance. We have a chance to think about these women and their families and craft a bill that will not put people like this at risk.

Thank you very much, Mr. President. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in opposition to this legislation that I know is well intended. But I think it is wrong. Our colleague from California mentioned one witness. Let me read just a part of the testimony of another witness, Mrs. Viki Wilson.

Mr. President, I ask unanimous consent that her full statement be printed in the RECORD.

There being no objection, the material was order to be printed in the RECORD, as follows:

TESTIMONY OF VIKI WILSON TO THE SENATE JUDICIARY COMMITTEE IN OPPOSITION TO H.R. 1833/S. 939, NOVEMBER 17, 1995

I'd like to thank the Judiciary committee for allowing me to testify today. My name is Viki Wilson. I am a registered nurse, with eighteen years experience, ten in pediatrics. My husband Bill is an emergency room physician. We have three beautiful children: Jon is 10, Katie is 8, and Abigail is in heaven with God.

In the spring of 1994 I was pregnant and expecting my third child on Mother's Day. The nursery was ready and we were excited anticipating the arrival of our baby. Bill had delivered our other two children, and he was going to deliver Abigail. Jon was going to get to cut the cord and Katie was going to be the first to hold her. She had already become a very important part of our family.

At 36 weeks of pregnancy all of our dreams and happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all my previous prenatal testing, including a chorionic villus sampling, an alphafetoprotein and an earlier ultrasound had failed to detect, an encephalocoele. Approximately 2/3 of my daughter's brain had formed on the outside of her skull. I literally fell to my knees from the shock. I immediately knew that she would not be able to survive outside by womb. My doctor sent me to a perinatologist, a pediatric radiologist and a geneticist all desperately trying to find a way to save her. My husband and I were praying that there would be some new surgical technique to fix her brain. But all the experts concurred. Abigail would not survive outside my womb. And she could not survive the birthing process, because of the size of her anomaly her head would be crushed and she would suffocate. Because of the size of her anomaly, the doctors also feared that my uterus would rupture in the birthing process most likely rendering me sterile. It was also discovered that what I thought were big healthy strong baby movements were in fact seizures. They were being caused by compression of the encephalocoele that continued to increase as she continued to grow inside my womb. I asked, "What about a c-section?" Sadly, my doctor told me "Viki, we do c-sections to save babies. We can't save her. A c-section is dangerous for you and I can't justify those risks.

The biggest question for me and my husband was not "Is she going to die?" A higher power had already decided that for us. The question now was "How is she going to die?" We wanted to help her leave this world as painlessly and peacefully as possible, and in a way that protected my life and health and allowed us to try again to have children. We agonized over these options, and kept praying for a miracle. After discussing our situation extensively, our doctors referred us to Dr. McMahon. It was during our drive to Los Angeles that we chose our daughter's name. We named her Abigail, the name my grandmother had always wanted for a grandchild. We decided that if she were named Abigail, her great-grandma would be able to recognize her in heaven.

My husband grilled Dr. McMahon with all the same questions that many of you probably have asked about the procedure. We would never have let anything happen to our baby that was cruel, or unnecessary . . . and Bill as my husband, loving me, wanted to be sure it was safe for me.

Dr. McMahon and this procedure were our salvation. My daughter died with dignity inside my womb. She was not stabbed in the back of the head with scissors, no one dragged her out half alive and then killed her, we would never have allowed that to happen.

Losing Abigail was the hardest thing that's ever happened to us in our life. After we went home, I went into the nursery and sat there holding her baby clothes crying and thinking she'll never get to hear me tell her that I love her.

I've often wondered why this had happened to us, what we had done to deserve such pain. I am a practicing Catholic, and I couldn't help believing that God had to have some reason for giving us such a burden. Then I found out about this legislation, and I know then and there that Abigail's life had a special meaning. God knew I would be strong enough to come here and tell you our story, to try to stop this legislation from passing and causing incredible devastation for other families like ours. There will be families in the future faced with this tragedy because pre-natal testing is not infallible. I urge you, please don't take away the safest procedure available.

I told the Monsignor at my parish that I was coming here, and he supports me. He said, "Viki, what happened to you wasn't about choice. You didn't have a choice. What you did was about preserving your life." I was grateful for his words. This issue isn't about choice, it's about a medical necessity. It's about life and health.

My kids attend a Catholic school where a playground was built and named in Abigail's honor. I believe that God gave me the intelligence to make my own decisions knowing I'm the one that has to live with the consequences. My husband said to me as I was getting on the plane to come to Washington "Viki, make sure this Congress realizes this is truly a Cruelty to Families Act."

Mr. SIMON. Mr. President, here is what she said.

My name is Viki Wilson. I am a registered nurse with eighteen years experience, ten in pediatrics. My husband Bill is an emergency room physician. We have three beautiful children. Jon is 10. Katie is 8, and Abigail is in heaven with God.

At 36 weeks of pregnancy all of our dreams and happy expectations came crashing down around us. . . . . Approximately 2/3 of my daughter's brain had formed on the outside of her skull. I literally fell to my knees from shock [when told about this by the doctor]. I immediately knew that she would not be able to survive outside my womb. . . . My husband and I were praying that there would be some new surgical technique to fix her brain. But all the experts concurred. Abigail would NOT survive outside my womb. And she could not survive the birthing process. Because of the size of her anomaly her head would be crushed and she would suffocate. Because of the size of her anomaly, the doctors also feared that my uterus would rupture in the birthing process most likely rendering me sterile. It was also discovered that what I thought were big, healthy, strong baby movements were in fact seizures.

. . . My daughter died with dignity inside my womb. She was not stabbed in the back of the head with scissors. No one dragged her out half alive and then killed her. We would never have allowed that to happen.

Losing Abigail was the hardest thing that's ever happened to us in our life. After we went home, I went into the nursery and sat there holding her baby clothes crying and thinking she'll never get to hear me tell her that I love her.

I've often wondered why this had happened to us, what we had done to deserve such pain. I am a practicing Catholic. I couldn't help believing that God had to have some reason for giving us such a burden. Then I found out about this legislation, and I knew then and there that Abigail's life had a special meaning. God knew I would be strong enough to come here and tell you our story, to try to stop this legislation from passing and causing incredible devastation for other families like ours.

. . . My kids attend a Catholic school where a playground was built and named in Abigail's honor. I believe that God gave me the intelligence to make my own decisions knowing I'm the one that has to live with the consequences. My husband said to me as I was getting on the plane to come to Washington, "Viki, make sure this Congress realizes this is truly a Cruelty to Families Act."

What we are asked to do in this legislation is to say to the physicians that helped Viki Wilson and Coreen Costello and their families, if you assist these families, you will go to prison for 2 years.

That is a decision we should not make.

In the hearing, I said to the one physician who testified against this bill, who incidentally served 11 years as a missionary in Korea, who now is on the faculty at Johns Hopkins, I have been thinking about it, done exactly 30 minutes of research, and maybe we should—because a brain tumor is a life and death matter, just as this is a life and death matter—maybe we should introduce legislation that says what kind of brain tumor surgery physicians can perform. And I said to him, what do you think about that? He said, of course, it would be a terrible idea. And he followed through because he recognized the analogy that I was making.

For the first time in the history of the United States, if this is adopted, we will be saying to physicians, this is what you have to do; these are the procedures you have to follow.

I frankly have no ability to make that decision.

I wrote to the departments of obstetrics and gynecology of the medical schools in Illinois and asked the people who were in charge what they thought of this legislation. I enclosed a copy of the legislation, and I asked three questions.

I ask unanimous consent that all of these letters be printed in the RECORD, Mr. President.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF CHICAGO, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY, THE CHICAGO LYING-IN HOSPITAL,

Chicago, IL, November 14, 1995.

Hon. PAUL SIMON,
U.S. Senator, U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: Thank you very much for your letter of November 9 regarding H.R. 1833, the "Partial-Birth Abortion" bill. I shall address your questions in order.

1. The term "partial birth abortion" appears in the bill to be a loosely defined entity and that makes interpretation difficult. There is a procedure known as "Dilatation and Evacuation" (D & E) which is done to interrupt late second trimester pregnancies. Presumably this medically acceptable procedure is not being addressed in the bill, but the language is sufficiently vague that I cannot be certain. Unquestionably, that procedure should never be outlawed. I believe there have been rare instances in which some physicians have done early third trimester interruption of pregnancy, presumably for late-discovered lethal or serious genetic defects, but I am not familiar with this procedure. However, I assume these are done for medically appropriate reasons.

2. I am strongly opposed and extremely concerned about the Federal Government deciding the acceptability of medical procedures in practice. These should be decided based on medical information and not by a legislative process. It appears ironic to me that the current emphasis in Washington is to reduce the Federal Government's involvement in our lives. The proposed legislation goes alarmingly in the opposite direction.

3. A physician should obviously practice medicine ethically and legally. I oppose the notion that criminal or civil penalties be introduced into the practice of medicine in the United States.

Thank you very much for the opportunity to comment on these issues. Please do not hesitate to contact me again, should you desire.

Sincerely yours,

ARTHUR L. HERBST, M.D.

WASHINGTON UNIVERSITY SCHOOL OF MEDICINE AT WASHINGTON UNIVERSITY MEDICAL CENTER, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,

St. Louis, MO, November 22, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: Thank you very much for your letter of November 9, 1995, concerning the legislation H.R. 1833. I will attempt to answer the questions as you have posed them.

One, I am familiar with the procedure, even though I have never performed it myself. I do not agree with those who support the bill. There are instances in which I think that this procedure is appropriate. Two specific instances come to mind. One would be when the life of the woman is in danger and the most expeditious delivery of the fetus would be the safest method for her. This method allows for that, since the fetus can be delivered through a partially dilated cervix. The other instance would be a fetus that is doomed to die after delivery or has a series of severe malformations. Examples of this would be fetuses that have no lungs or no kidneys. Again, this technique of abortion can be safest for the mother because it can be performed when the cervix is not fully dilated. I believe it is cruel to force a woman to carry a fetus to term when she knows that the baby will die after delivery. One can imagine the psychological distress that a woman would have when she is obviously pregnant and people continuously inquire how she and the baby are doing. Imagine having either to hide the problems of the fetus or to not tell the inquiring person. Many times, the inquiries to the pregnant woman are simply part of a normal conversation between persons, but a woman who is carrying a fetus doomed to die would find this a very stressful situation. The instance in which this procedure would be useful is when the discovery is made after 20-22 weeks of pregnancy. It can become the safest procedure for the mother. I must also add that I find it appropriate to perform this procedure when the mother and fetus are both normal.

I personally would never do that, and I would have difficulty watching such a procedure being performed on a normal fetus as an elective termination.

In answer to your second question, I have great worries about the federal government having a say on what medical procedures can and cannot be performed. This procedure is an excellent example of why I think the federal government would have problems directing the care of individual patients. There are so many possibilities concerning threats to the pregnant woman's life or fetal malformations that may or may not lead to problems in the future. This also becomes even more complicated because the state of medical art is continually changing and what would be a threat to a woman's life one year might cease to be one in future years, as medical technologies improve. I believe that the federal government is simply too cumbersome to micro-manage the care of individual patients by individual physicians.

In answer to your third question, I have worries about the imposition by Congress of criminal and civil penalties on doctors performing certain medical procedures. It really is tied to the answer to the second question, in that this is a complex area and it is difficult to micro-manage from a distance. I must say that I am very troubled by Section (e) on page 3 of the bill. Physicians would find very little comfort from the fact that "it is an affirmative defense to a prosecution or a civil action under this section, which must be proved by a preponderance of evidence, that the partial-birth abortion was performed by a physician who reasonably believed the partial-birth abortion was necessary to save the life of the mother; and no other procedure would suffice for that purpose." Very few physicians would risk prolonged civil or criminal proceedings, particularly in an area that is so charged as abortion. The other problem with this is that it is absolute in that no other procedure would suffice for that purpose. It would be difficult in any clinical situation to come to the conclusion the only one procedure would suffice.

My greatest problem with this legislation is that we could so frighten physicians that the best procedure for the pregnant woman would be precluded by the legislation. We physicians always wish to place the welfare of our patients first, and bills such as this would make us weigh what we believe to be best for patients against protection for ourselves. I, as a physician, would like never to be put in such a position. The welfare of the patient should always come first.

I hope that my thoughts have been helpful to you, and I appreciate it very much and am indeed honored that you would seek my thoughts on this important and controversial issue. If I can be of further help to you, please feel free to contact me about this or any other medical issue concerned with Obstetrics and Gyncelogy.

Sincerely,

JAMES R. SCHREIBER, M.D.,
PROFESSOR AND HEAD,
Obstetrics and Gynecology.

ROCKFORD HEALTH SYSTEM,
ROCKFORD MEMORIAL HOSPITAL,
Rockford, IL, November 14, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: This letter is a response to your inquiry of November 9, 1995, regarding Bill H.R. 1833 which is to be discussed on November 17, 1995. You raised three issues concerning the legislation and the procedure which I will attempt to respond to.

Although I am not an obstetrician, I am somewhat familiar with the procedure. The procedure that is performed is generally done somewhat differently than described in the Bill that was attached to your letter. The procedure apparently is rarely done and is not done at all at this institution. However, there are solid medical indications for doing this procedure when it is deemed safer to perform this than an operative procedure to remove the fetus either if it is non-viable or the mother's life is in danger. Abortions are not performed at this institution for a variety of reasons. Therefore, the outcome of this legislation will have very little impact at this level.

You did raise the question about how I feel about the federal government having a say in what medical procedures can and cannot be performed. I, as my colleagues do, feel quite strongly that the role of the government should not stray into the medical arena regarding what is appropriate or nonappropriate therapy. As you know, all of the ramifications from legislating at this level simply cannot be understood or realized prior to the event and the results may be completely different than those intended. Determining which medical procedures should and should not be done should lie within the confines of the institution performing these procedures. This should be decided by sound medical judgement and where appropriate, the ethical and moral considerations will be discussed at a local level with the Ethics Committee.

In a similar vein, I feel that Congress imposing criminal and civil penalties upon physicians performing medical procedures borders on the ridiculous. If Congress begins to legislate at this level, where can it possibly end?

I hope these comments are of help, and if I can be of any further assistance, please do not hesitate to ask me.

Sincerely,

DONALD E. MCCANSE, M.D.,
Vice-President, Medical Affairs.

EVANSTON HOSPITAL CORP.,
DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
Evanston, IL, November 13, 1995.

Hon. PAUL SIMON,
Dirksen Building,
Washington, DC.

DEAR SENATOR SIMON: In response to your letter of November 9th, I offer the following comments to your questions:

(1) Yes I am familiar with the procedure described in legislation, HR 1833, but have not seen or done one. We do not perform this procedure at this institution. In proper hands (i.e. qualified physician) the procedure does have a place in the armamentarium of termination procedures.

(2) The basic question is, does the federal government have a place in deciding what medical procedures should or should not be performed. I feel strongly not. This is a medical decision.

(3) Similarly, Congress has no business imposing penalties on physicians for performing a certain procedure. If any government sanction would be appropriate, it might be at the State Department of Professional Regulation.

The overall issue of freedom of choice in pregnancy termination should not be clouded or interfered with by dictation of how the termination is performed.

I appreciate the opportunity to provide input into this important matter and thank you for asking for my opinion.

Respectfully,

DAVID W. CROMER, M.D.

MICHAEL REESE HOSPITAL AND MEDICAL CENTER, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY,
Chicago, IL, November 21, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR SIMON: I am an Associate Professor of Clinical Obstetrics and Gynecology at the University of Illinois and currently in active practice of Maternal Fetal Medicine or "high risk" obstetrics at both Michael Reese Hospital and the University of Illinois Hospital. Therefore, the issue at hand has great importance to me and to the patients for whom I provide care.

I would like to answer your questions by telling you that I am unfamiliar with the term "Partial Birth Abortion." After reading about it from descriptions in the press, I do not find that it results in an outcome that is any different from other techniques of abortion and, therefore, since abortion is a legal procedure, I have no objection to it. I feel very strongly that the federal government should not have a say in defining which medical procedures should be performed. I also believe that the Congress should not impose criminal and additional civil penalties on doctors because they perform one medical procedure and not another to accomplish the same outcome for their patient.

Prior to discussion of H.R. 1833, I was unaware of the term "Partial Birth Abortion." It is neither a term found in the ICD–9 catalog of medical diagnoses or medical procedures published by the American Medical Association nor can it be found in any medical text book with which I am familiar. After reviewing statements that have appeared in the press, I understand that the term has been used to describe one of several techniques that obstetric surgeons have used to accomplish an abortion by enlargement of the opening of the cervix or mouth of the womb (dilation) and removal of the fetus (evacuation). Dilation and evacuation (D&E), the accepted terminology, is used to perform an abortion after the first thirteen weeks (first trimester) of pregnancy. While many physicians perform abortions and have been required to be trained to do that procedure by the American Board of Obstetrics and Gynecology, only a few physicians perform D&E for which they have received additional training.

I present the option for D&E when I find, through the use of ultrasound and other prenatal diagnostic procedures, that the patient is carrying a fetus with severe congenital or chromosomal anomalies. These abnormalities would leave the fetus with severe structural or intellectual deficits, often being incompatible with life after birth. Since these diagnoses cannot be made until after the first trimester of gestation, the patients who have chosen to end their pregnancy require termination either by D&E or by induction of premature labor. The latter procedure requires agents to soften the cervix of the womb and then use of additional medication to cause uterine contractions which expel the fetus.

There are only two physicians of whom I am aware in the Chicago area who perform D&E on patients beyond 20 weeks gestation. I do not know if they at times use the technique of D&E referred to as "Partial Birth Abortion." Most often D&E results in destruction of the fetus; however, one physician to whom I send patients is adept at surgically removing a fetus of late gestation (24 weeks or less) either intact or with only minimal distortion. This has great benefit for the patient because we are able to perform an autopsy on the fetus and confirm any of the suspected abnormalities for which the patient was referred. This information might have an influence on the patient's future childbearing since genetic patterns of inheritance may be identified. It also may provide the mother with an opportunity to see and hold this fetus if she wishes. This brief contact may help her with mourning and ease the burden of losing a pregnancy.

You have asked if I "share the sense of those who support the bill that this procedure should not be allowed under any circumstance?" I read the bill and found the definition of a "Partial Birth Abortion" contained within it extremely vague. Since this is not a medical term with which I am familiar and the description in the legislation lacks exactness, I cannot give you an answer.

I have another sense of the issue from reading accounts of the procedure in the press and understand that the term has been used to describe a D&E whereby the cervix is partially dilated and extraction of a fetus is performed by pulling down on the legs until the fetal head is just above the open cervix. Since the fetal head is larger that its chest, it does not pass through. An instrument is then used to compress the fetal head so that it can then be delivered without further opening of the cervix. It is unlikely that manipulation of the fetal skull takes place on a fetus that is alive since the umbilical cord which is attached to the fetal abdomen below the cervix and the placenta above has been compressed between the tight cervix and the fetal head resulting in fetal death prior to head decompression. It is true that this entire procedure results in fetal death, but how does this method differ from any of the other techniques of abortion? If abortion is allowed, this technique should not be singled out as being any different than any other technique that achieves the same end.

In fact, D&E may be more desirable as an abortion procedure in that it takes only about 30 minutes to perform; less time to accomplish than the 9 to 12 hours required for induction of labor. This is an advantage to the mother since there is less chance for blood loss and infection. In the past, the Center for Disease Control in Atlanta, Georgia found D&E to be the safest technique for abortion after the first trimester. With particular reference to a D&E where compression of the fetal head is performed, one can hypothesize that there is less trauma to the mother's cervix from further opening which would be required to deliver the fetal head without decompression. Greater trauma to the cervix has been implicated as a cause of an "incompetent cervix" which results in repeated pregnancy loss. I mentioned above the advantages of retrieving an intact specimen for pathologic diagnosis and also in some cases the possibility of helping the mother with the process of mourning.

I feel very strongly that the federal government should not have a say in the type of medical procedures performed by a physician. The advantages of one treatment plan, either medical or surgical, must be left to the process of peer review. It is only by this method that those procedures which have the greatest benefit and carry the least risk to the patient can be identified. Medicine is a discipline founded upon scientific principles and these principles would be superseded if government intervened.

I feel equally as strong about Congress imposing criminal and additional civil penalties upon doctors because of a certain procedure that he or she performs. If the goal of the procedure is to accomplish an end that is within the law, how can Congress possibly call one procedure legal and another illegal? The value of the procedure must be determined by the medical community who can best judge its merit by its risk and benefit to the patient. If the procedure endangers the patient, the medical community, through the process of peer review, will prohibit that procedure from being performed. Physicians who perform procedures outside of the standard of care can and do face civil and, even at times, criminal penalties; but, the issue does not have to do with the procedure they perform, it concerns the adherence to the standard of care.

I hope my response has been of help. As I have indicated, the term "Partial Birth Abortion" is not a medical term with which I am familiar. If abortion is legal, I favor the technique that will accomplish the goal with the least risk and the greatest benefit to the mother. I feel strongly that the federal government cannot decide the scientific merit of one medical procedure over another and, therefore, should not have jurisdiction over which medical procedures should or should not be performed. Congress certainly should not impose civil or criminal penalties on a physician for performing one or another procedure.

I am most grateful to have the opportunity to respond to this issue.

Cordially,

LAURENCE I. BURD, MD
Associate Professor, Clinical Obstetrics & Gynecology.

THE UNIVERSITY OF ILLINOIS AT CHICAGO, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY (M/C 808) COLLEGE OF MEDICINE,
Chicago, IL, November 20, 1995.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR MR. SIMON: I regret to have been unable to answer your recent letter sooner but I was away and only today on my return in the office, I found your letter.

I am still responding to your request just in case in view of a budget impasse, the hearings of your committee have been held as yet. Thus, I hope that this letter may be helpful to you and your committee.

As to the issues raised in your letter regarding "Partial Birth Abortion, yes I am familiar with the procedure. Such procedures are used very rarely and its proposed prohibition is a thinly disguised assault on the women's reproductive freedom and the physician's freedom in his or her profession. Such a proposed legislation would be injurious to women's health.

I vividly recall a patient many years ago who presented herself to the labor room in premature labor, infected, sick with high fever, and with her premature fetus partially expelled in the vagina through an incompletely dilated cervix. After administration of antibiotics, the baby had to be delivered as rapidly as possible of this clearly now viable fetus. Thus, a head decompression measure such as the one described in the partial-birth abortion bill was used. In addition, the baby turned out to be hydrocephalic. If the proposed legislation was in effect, not allowing this procedure under any circumstances, the woman would have had to be exposed to a Cesarean Section for a non-viable fetus. The invasive operative objective abdominal delivery would have increased significantly for risk of spreading infection, affecting her future fertility and perhaps compromising her life. The democratic system of this Country expressed through our federal government in its three branches, has permitted the realization of a society that, if certainly not perfect, is clearly admired by most nations in the World. However, it is clearly inappropriate and dangerous for the federal government to try to regulate the practice of medicine. Professionals must be permitted to use their judgment on what is best in the care of the individual patients rather than fitting everyone in a procrustean bed made in Washington! Imposing criminal and civil penalties on doctors performing a medical procedure would have clearly a chilling effect on the performance of any procedure, even when "the physician reasonably believed that the procedure was necessary to save the life of the mother and no other procedure would suffice." The law would clearly expose the physician's judgment to second guessing by others whose opinions may be colored by ethical standards not universally shared. This legislative approach has no place in a pluralistic society such as ours and it may result in health damage to many women among our citizens.

Again, I apologize for the lateness in my response and hope that this letter is useful for you and the committee in which you serve.

Sincerely yours,

ANTONIO SCOMMEGNA, MD.

COOK COUNTY HOSPITAL, DEPARTMENT OF OBSTETRICS AND GYNECOLOGY
Chicago, IL, November 21, 1995.

Hon. SENATOR PAUL SIMON,
Dirksen Building,
Washington, DC.

DEAR SENATOR SIMON: Thank you very much for asking me to comment on H.R. 1833, the bill which address vaginal delivery of late abortions. I am sorry that I was out of the office last week and could not answer your letter in an appropriate time and hope that this will not deter you from asking my thoughts on future issues.

To answer your specific questions:

1. Yes, as you can see I am familiar with the procedure. The issue of the vaginal extraction of late second trimester abortions is an important one, and an issue that cannot, because of its social, religious, and philosophical implications be considered solely on the basis of its medical justification. If we were to only judge the procedure on its medical merits and compared it to other methods of late second trimester abortion, it would be judged the safest method for the mother when carried out by an experienced operator. It is not however, an esthetically "clean" procedure, and not one that a caring physician would do except in the most demanding medically indicated situation. I do not agree with those who supported this bill that the procedure should not be allowed under any circumstance.

2. How do I feel about the federal government having a say in what medical procedure can and cannot be preformed? I feel that they should not dictate medical care and should not intervene between a person seeking medical care and the practitioner prescribing that care. Intervention of this type, in which a particular procedure is chosen to solve a medical problem, can only escalate to other procedures and situations that others find morally or religiously objectionable. There are many in this country who find male circumcision reprehensible, should we ban those also?

3. My thoughts on imposing criminal and additional civil penalties on doctors performing a medical procedure? Doctors performing procedures that are medically indicated, carried out without complication, and

> to the satisfaction of the patient and or their families, should not be subjected to criminal or civil penalties. The tort system, although decidedly not perfect, imposes strict penalties on physicians performing legal procedures in less than a satisfactory manner.
>
> Senator Simon, you can see that I do feel strongly about government intervention between patient and physician. It simply should not occur. Thank you again for asking for my opinions and thoughts regarding H.R. 1833.
>
> Sincerely yours,
>
> DONALD M. SHERLINE, M.D.,
> *Chairman.*

Mr. SIMON. Let me read just a few paragraphs from some of the letters. Dr. Arthur Herbst, who is the chairman of the department at the University of Chicago:

> I am strongly opposed and extremely concerned about the Federal Government deciding the acceptability of medical procedures in practice. These should be decided based on medical information and not by a legislative process. It appears ironic to me that the current emphasis in Washington is to reduce the Federal Government's involvement in our lives. The proposed legislation goes alarmingly in the opposite direction.

The chair of the department of obstetrics and gynecology at Washington University in St. Louis, just across the border from Illinois, Dr. James R. Schreiber:

> In answer to your second question, I have great worries about the federal government having a say on what medical procedures can and cannot be performed. This procedure is an excellent example of why I think the federal government would have problems directing the care of individual patients. There are so many possibilities concerning threats to the woman's life . . .
>
> My greatest problem with this legislation is that we could so frighten physicians that the best procedure for the pregnant woman would be precluded by the legislation.

The vice president for medical affairs of the Rockford Health System, which is affiliated with the University of Illinois Medical School, writes:

> You did raise the question about how I feel about the federal government having a say in what medical procedures can and cannot be performed. I, as my colleagues do, feel quite strongly that the role of the government should not stray into the medical arena regarding what is appropriate or non-appropriate therapy. As you know, all of the ramifications from legislating at this level simply cannot be understood or realized prior to the event and the results may be completely different from those intended.
>
> . . . I feel that Congress imposing criminal and civil penalties upon physicians performing medical procedures borders on the ridiculous. If Congress begins to legislate at this level, where can it possibly end?

Dr. David Cromer, of Evanston Hospital, which is affiliated with Northwestern University's Medical School, writes:

> The basic question is, does the federal government have a place in deciding what medical procedures should or should not be performed. I feel strongly not. This is a medical decision.
>
> Similarly, Congress has no business imposing penalties on physicians for performing a certain procedure.

The head of the department of obstetrics and gynecology at Michael Reese Hospital, which is affiliated with the University of Illinois College of Medicine, writes:

> You have asked if I "share the sense of those who support the bill that this procedure should not be allowed under any circumstance?" I read the bill and found the definition of a "Partial Birth Abortion" contained within it extremely vague. Since this is not a medical term with which I am familiar and the description in the legislation lacks exactness, I cannot give you an answer.
>
> . . . I feel very strongly that the federal government should not have a say in the type of medical procedures performed by a physician.
>
> . . . I feel equally as strong about Congress imposing criminal and additional civil penalties upon doctors because of a certain procedure that he or she performs.

Dr. Antonio Scommegna heads the department of obstetrics and gynecology at the University of Illinois at Chicago:

> As to the issues raised in your letter regarding Partial Birth Abortion, yes I am familiar with the procedure. Such procedures are used very rarely and its proposed prohibition is a thinly disguised assault on the women's reproductive freedom and the physician's freedom in his or her profession. Such a proposed legislation would be injurious to women's health.

And a very similar letter from Dr. Donald M. Sherline, who heads that department at Cook County Hospital, which is a huge hospital in Chicago.

I think, Mr. President, that what we have here is something that is well-intended. I do not question the motivation of my colleague from New Hampshire. I would ask every Member of this body to read the testimony of these two women who testified before the Judiciary Committee. Anyone who reads that testimony and believes we should deny these women their right to safe health and put the physicians who give them their health and save their lives, put them in prison for 2 years, I think you have a hard heart indeed. At least I do not have the courage to say to those families, "We're not going to let you protect yourselves."

I think this is an example of the Federal Government running amok. If this passes—and I know politically maybe it is going to pass tomorrow—I trust that the President of the United States has the courage to veto this legislation and that we will protect the families of America from this political interference.

Mr. HATCH. Mr. President, I rise to address one aspect of the debate over the partial-birth abortion bill: the argument that the bill is unconstitutional.

Opponents of this bill raise arguments challenging its constitutionality that, I believe, reflect a fundamental misunderstanding of constitutional principles and of the Supreme Court's abortion jurisprudence. This is not only my view, but the view of numerous respected constitutional scholars at our Nation's finest law schools, such as, just to name a few, Michael McConnell, the Graham professor of law at the University of Chicago, and Douglas Kmiec of the Notre Dame Law School, and of other authorities on constitutional law, such as William Barr, former Attorney General of the United States. I believe that H.R. 1833 is constitutional.

Because of the timing in the birth process in which these abortions occur, these fetuses may actually qualify as persons under the Constitution. As such, they are entitled to all of the protections of the law that all other American citizens receive under the Bill of Rights, particularly the 5th and the 14th amendments to the Constitution.

This bill only applies to fetuses which are partially delivered. As such these partially born fetuses do not fall under the framework of Roe versus Wade and Planned Parenthood versus Casey, which apply only to the unborn.

Although State laws on homicide and infanticide generally protect only fully born children, at least 36 States allow recovery under wrongful death statutes for postviability prenatal injuries that cause stillbirth, and another one-third of the States consider killing an unborn child, other than through an abortion, as some form of homicide.

Given these statutes, some States logically have promulgated laws that protect children in the process of being born, such as Texas and California. In light of this existing law, as Professor Kmiec, a former Assistant Attorney General for the Office of Legal Counsel, testified before the Judiciary Committee, it is entirely appropriate for Congress to pass a statute protecting such partially born children to clarify their status under the Constitution.

Opponents of this bill would have us believe that 3 inches and 3 seconds can make all the difference. In other words, they would have us believe that a living infant, capable of life outside the mother's womb, and actually in the process of birth, is not a person, entitled to the full panoply of constitutional protections and rights, because it is 3 inches and 3 seconds from birth. Would the Constitution fail to protect a fetus 2 inches and 2 seconds from life? One second and one inch?

Even if one believes that these children qualify as unborn, the Supreme Court's jurisprudence on abortion, principally articulated in Planned Parenthood versus Casey, fully permits Congress to pass this ban on partial-birth abortion. In Casey, the Court, speaking through a three-Justice plurality, Justices O'Connor, Kennedy, and Souter, tossed out Roe versus Wade's trimester framework and articulated three principles to guide courts in abortion cases. First, the woman has a right to terminate her pregnancy before fetal viability.—*Casey*, 112 S.Ct. at 2804.

Second, the interest of the State in promoting prenatal life permits the State to regulate, and even prohibit, abortions after fetal viability, subject to exceptions for the life or health of the mother.

Third, the State has legitimate interests throughout pregnancy in protecting the health of the mother and the life of the fetus.

Under this framework, this bill is constitutional because it only prohibits the abortion of living, viable fetuses, and only by one abortion procedure.

The medical testimony we heard in the Judiciary Committee indicated that about two-thirds of the fetuses aborted in this manner are alive, and that this procedure is generally used largely, if not exclusively, during the period of viability.

Further, H.R. 1833 is limited only to abortions in which a living fetus is partially delivered and then killed. The Casey right to a an abortion before viability is not implicated in this bill, because the bill exempts the abortion of nonviable fetuses and applies only to abortions after viability.

Opponents of the bill reduce our great Constitution to trivialities if they argue that the Constitution guarantees a right to a specific abortion procedure.

Nor does this bill somehow impose an undue burden upon the right to abortion, the test adopted by the three-Justice plurality which, I might add, is not the law of the Supreme Court until it receives a majority.

As Prof. Michael McConnell has written in a November 29, 1995, letter to the Judiciary Committee:

> Since this bill would ban only one method of abortion—one that, according to testimony by medical experts, is quite rare—it seems evident that it meets this standard. It can hardly be an "undue burden" to require abortionists to conform to standard and accepted medical practice.

Although the undue burden standard is rather unclear, it is still difficult, if not illogical, to conclude that prohibiting one method of abortion, infrequently used, will interpose a "substantial obstacle in the path of a woman seeking an abortion."—112 S.Ct. at 2820.

Women seeking abortions previability still may resort to D&C and D&E procedures, which account for most abortions in this country. And, of course, women will have available the other methods of postviability abortion, which our hearings have shown are safer and more widely used.

The Justice Department and the bill's opponents have espoused two main criticisms of the bill.

First, they claim that the bill must have an explicit exception for abortions performed to preserve the health of the mother, which it currently does not have.

Second, they claim that the bill's provision for an exception for the life of the mother is unconstitutional because it is structured only as an affirmative defense.

Both arguments are, in the words of former Attorney General William Barr, meritless.

I will respond to them in turn, but let me note that legal experts of the highest reputation and credentials find these objections to be unconvincing and unsuccessful.

Let me take up the fist argument. In Casey, the Court rejected the trimester framework in favor of a bifurcated approach based on fetal viability, while reaffirming the core holding of Roe.

According to the Supreme Court, after the fetus becomes viable, the Government can prohibit abortion except in cases where the life or health of the mother is threatened.

This bill does not threaten a woman's right to have an abortion, nor does it threaten a woman's life or safety, because it leaves open alternative methods of abortion both before and after viability—methods which the top experts in the field have testified are safer than Dr. Haskell's method.

By banning this rogue method, we actually enhance the woman's safety, not injure it.

I think it is worth quoting the experts on this point, due to the great weight that opponents of this bill have placed on this weak argument.

As Professor Kmiec testified before the Judiciary Committee:

> The bill by its focussed, targeted structure implicitly provides for the health of the mother by not banning all abortion procedures at this later stage of the pregnancy, but only the one seen as patently and inhumanely offensive.

As Professor McConnell of Chicago concludes:

> In light of authoritative medical testimony that partial birth abortions are not necessary for preservation of the mother's health, the bill could not be invalidated on that ground.

According to Former Attorney General Barr:

> Congress could reasonably conclude from the record that the partial-birth abortion procedure is not safer for a mother's health than other available—and well-established—alternatives. It would therefore be pointless to include a health exception in H.R. 1833 because this exception could not be legitimately invoked.

It seems clear that a written exception for the health of the mother need be included only if Congress attempted to ban all postviability abortions, not just this single, rare, offensive method of killing partially born children.

The Supreme Court has recognized many legitimate interests that may justify abortion statutes such as the one before the Senate:

First, safeguarding health, maintaining medical standards, and in protecting potential life;

Second, protecting immature minors, promoting general health, promoting family integrity, and encouraging childbirth over abortion;

Third, protecting human life, protecting the dignity of human life, preventing both moral and legal confusion over the role of physicians in our society, and

Fourth, preventing cruel and inhumane treatment.

Clearly, this bill furthers these interests—recognized as constitutional by the Supreme Court.

The Clinton administration argues that this bill would force an increased medical risk on women, and hence would violate the Constitution.

The administration relies upon two cases, Thornburg versus American College of Obstetricians and Gynecologists, and Planned Parenthood versus Danforth, for the proposition that any State regulation of abortion that might increase the medical risk to the woman is unconstitutional.

First, the factual basis for this argument is absent because there is no evidence that partial-birth abortions are ever necessary to preserve the life or health of the mother.

In fact, the evidence presented before the Senate Judiciary Committee and before the House Judiciary Committee demonstrated that this procedure is often more dangerous to the life or health of the mother than the other procedures used for late-term abortions.

Second, it is unclear whether Thornburgh and Danforth are any longer good law. Casey overruled much of the holdings of these cases, and scholarly commentary—not to mention pro-abortion activists—initially attacked Casey for overruling several such abortion cases.

Indeed, the very trimester framework employed by Thornburgh and Danforth was clearly overruled by Casey.

Third, the statutes in Thornburgh and Danforth were clearly and utterly different from the bill before us. The State law in Thornburgh required that a second physician be present during a postviability abortion and that a physician performing a postviability abortion had to attempt to preserve the life and health of the unborn child.

This bill does not place such an obligation upon the physician. Indeed, the physician is free to use any other abortion procedure he or she sees fit to protect the life and health of the mother, aside from the partial-birth method.

Indeed, should the life of the mother be threatened, this bill even permits the physician to employ partial-birth procedures.

In Danforth, the state law outlawed the safest and most common abortion procedure for first trimester abortions.

The Court struck down that statute because it constituted a barely veiled attempt to outlaw first-trimester abortions entirely.

Here, there is nothing of the sort. In fact, the bill permits the continued use of the more popular, and safe, methods of late-term abortions.

Turning to the second main criticism, the administration and other opponents claim that the bill is unconstitutional because it permits a doctor to justify a partial-birth abortion only as an affirmative defense to a prosecution.

The fact that the bill provides the exception required by the caselaw in an affirmative defense does not unduly burden the right to an abortion.

As I noted when I spoke about this bill last month, many of our constitutional rights arise only as an affirmative defense. Many of the protections of the Bill of Rights sometimes can only be raised as a defense to a prosecution.

To claim that the right to an abortion is not protected by an affirmative defense demeans the explicit protections of the Bill of Rights; and it raises abortion above any other right in the Constitution.

Again, top legal experts I have consulted agree that there is nothing unusual in having one's personal rights evaluated by means of an affirmative defense.

As Professor Kmiec testified before the Judiciary Committee, the Supreme Court has approved the common practice of States to place upon criminal defendants the burden of proving affirmative defenses, such as insanity or killing in self-defense.

In fact, as both Professor Kmiec and former Attorney General Barr note, it makes sense for this burden to fall upon the doctor, for it is the doctor who is uniquely well-positioned to establish that he or she reasonably believed both that the abortion was necessary to save the mother's life and that no other procedure would suffice.

Let me address two other minor arguments that have arisen.

First, there are those who argue that Congress lacks power under the interstate commerce clause to regulate the practice of abortion.

It is incredible to me that those who were in favor of the Freedom of Choice Act and the Access to Clinics Act would raise such an argument. Nonetheless, I will give it the swift dismissal that it deserves.

Whatever one might think about the expansion of Federal power under the commerce clause, whether H.R. 1833 falls within this power "poses an easy case under current interpretation," as Professor McConnell puts it.

We can all agree that the provision of medical services are commercial activities and that abortions are medical services. Even after the decision last Term in Lopez, the Court has been fairly clear that Congress may regulate all commercial activities, because they frequently involve an interstate market.

If Congress can regulate health care, which it does today in myriad different ways, it can regulate abortions. And, if this bill is unconstitutional, then a whole host of other laws, starting with the Access to Clinics Act, are unconstitutional as well.

Second, some argue that this bill will unfairly punish nonphysicians, even though only those performing the partial-birth abortion are subject to its criminal penalties. They claim that Federal aiding-and-abetting laws or misprison laws will hold liable nurses, anesthesiologists, or even rape counselors.

This argument does not even qualify as makeweight. For example, to be guilty of a misprison of felony, one must not just fail to report a crime; one must actually engage in an affirmative, overt act of concealment of a felony.

As Professor Kmiec concludes, "Logic, prosecutorial discretion under the policies of the Department of Justice, and the strict scienter element necessary to prove beyond a reasonable doubt the underlying offense, all suggest that any possible criminal liability . . . under freestanding conspiracy, misprison, or aiding and abetting statutes is highly speculative, if not farfetched." One cannot help but agree with him.

The weight of both evidence and logic lead us to the conclusion that constitutional objections to this legislation are mere red herrings designed to throw the debate off of the real issue—whether or not this horrible procedure is justified.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today in strong support of H.R. 1833, the partial-birth abortion ban bill. Mr. President, as you and the Members of the Senate know, on November 8, after 2 days of very spirited debate, this Senate voted to commit this bill to the Judiciary Committee for hearings. There were a number of concerns that had been raised on the Senate floor. A number of these concerns, quite frankly, were addressed during the Judiciary Committee hearing that I attended. So I would like for a moment to take the Members of the Senate back to the debate that we had on the Senate floor in regard to several of the points that were made by the opponents of this bill and see how the points that were made on that date, November 8, were, in fact, answered by the testimony that our Judiciary Committee, under Chairman HATCH, heard, the testimony that we heard at that committee, how it relates to the arguments made by the opponents.

Let me start, Mr. President, with Brenda Shafer. Brenda Shafer, as my colleagues will recall, is the nurse from the Dayton area who has described in great detail exactly what this procedure consists of. My colleague, Senator SMITH, has in great detail described that as well.

While we were debating this issue on the Senate floor the last time it was up, on November 8, Brenda Shafer's credibility was attacked, was attacked by the opponents of this bill. Let me say, Mr. President, after having watched Brenda Shafer testify, I do not believe anyone could have watched her testimony, could have listened to her testimony, could have observed her demeanor, and not come away with the conclusion that she was not only telling the truth, but that what she saw was etched and will be etched in her memory for the rest of her life.

Like some other Members of this body, Mr. President, I have been involved as an attorney in lawsuits. I was a county prosecutor for 4 years, assistant for 2½ years prior to that. I have seen hundreds, probably thousands, of witnesses on the stand. I cannot recall a more compelling witness than Brenda Shafer. If anyone doubts that, I would invite them to go back—do not just read the transcript that is available, but go back and get a video tape from C-SPAN of her testimony.

Let me take a couple points where nurse Shafer was attacked on this floor and talk about how those particular attacks were rebutted by her testimony. Nurse Shafer said that the partial-birth abortion procedure was performed past the 24th week of pregnancy. She was attacked on the Senate floor for saying that.

One Senator quoted from a letter from a supervising nurse at the clinic where Brenda Shafer worked to the effect that "Dr. Haskell does not perform abortions past 24 weeks of pregnancy." This is a document entitled "Second Trimester Abortion: From Every Angle, Fall Risk Management Seminar, September 13–14, 1992, Dallas, Texas."

On page 27 of this transcript, there was a paper delivered by Dr. Martin Haskell, "Dilation and Extraction for Late Second Trimester Abortion, presented at the National Abortion Federation Risk Management Seminar, September 13, 1992."

On page 28 of this document—this is Dr. Haskell's own words—this is what he said, the author—now remember this is the same person that Brenda Shafer observed performing the abortion. "The author," Dr. Haskell, referring to himself, "performs the procedure on selected patients 25 through 26 weeks LMP."

So Dr. Haskell, in his own writing, confirms what nurse Shafer said.

Let me turn to another point. The nurse was attacked also for her comments about ultrasound. On this floor from the same letter, a Senator quoted, "Dr. Haskell does not use ultrasound." Again, in Dr. Haskell's own report, this is what he says: "The surgical assistant places an ultrasound probe on the patient's abdomen * * *." Again, Dr. Haskell's own comments.

In conclusion, I would simply say that again I would invite my colleagues to listen to her testimony. Her testimony is compelling. It is shocking. It is sickening. And it also is backed up by the doctor who performed that abortion, that is, Dr. Haskell, in his own words.

Let me turn to another issue that was raised on this floor in the last debate. Anesthesia. After the bill was introduced, bill opponents argued, without medical evidence, that the anesthesia that was administered to the mother killed the baby, so the baby felt no pain. That was the statement that was made. One U.S. Senator said the following. Let me read directly from the Congressional RECORD. "The fetus dies during the first dose of anesthesia." That is from the CONGRESSIONAL RECORD. That was said on this floor.

Further, Dr. Mary Campbell of Planned Parenthood in a fact sheet said the following, in answer to a question, "When does the fetus die?" "The fetus dies of an overdose of anesthesia given to the mother intravenously."

Further, Kate Michelman of NARAL, at a NARAL news conference, November 7, 1995, here is what she said. "There has been expert testimony by physicians who do this procedure stating that the anesthesia that is given to the pregnant women prior to the procedure causes fetal demise, the death of the fetus, prior to the procedure."

Now, Mr. President, in spite of these three comments, in spite of the three assertions that were made on this floor, the facts are directly contrary to this.

This was brought out very clearly—very clearly—in the Judiciary Committee hearing. Again, I invite my colleagues to examine the record.

The confusion raised by these statements was so great in fact, Mr. President, that the American society came forward to set the record straight, a society of people who do this every day, who administer anesthesia.

Mr. Norwig Ellison, president of ASA, came forward and testified at the Judiciary Committee hearing. This is his written statement that was presented that day, and then he gave an oral statement where he stated it again. This is what he had to say:

> The widespread publicity given to this view may cause pregnant women to delay necessary and perhaps lifesaving medical procedures.

He further said:

> Pregnant women are routinely heavily sedated during the second and third trimester for the performance of a variety of necessary medical procedures with absolutely no adverse effect on the fetus, let alone death or brain death.

Also at the hearing, when confronted with this fact, Dr. Campbell, who I quoted earlier, changed her position. At the hearing, Senator SPENCE ABRAHAM from Michigan asked her about the position, referring to the fact sheet that the fetus dies of an overdose of anesthesia. Senator ABRAHAM said, "This is no longer your position?"

Dr. Campbell replied: "I believe that is true."

In other words, she no longer holds the position that the fetus dies from anesthesia.

Further, Dr. Haskell, who performed this procedure on numerous occasions, himself had no doubts on this issue. The American Medical News asked Dr. Haskell the following question: "Let's talk first about whether or not the fetus is dead beforehand."

Dr. Haskell responded: "No, no it's not. No, it's really not. A percentage are for various number of reasons and probably the other two-thirds are not."

Again, one of the allegations that was made on this floor that the hearings clearly showed was wrong.

Some of the opponents of the bill would have the Members of this Senate and the American people believe that this debate is about whether we ban all abortions. It is sad that this bill is really not about partial-birth abortions, that what it really is is a covert assault on the decision in Roe versus Wade. This is totally false. Look at some of the people lining up behind this legislation: Congressman DAVE BONIOR, SUSAN MOLINARI, PATRICK KENNEDY, DICK GEPHARDT. These individuals are pro-choice. No one has questioned their pro-choice credentials. They voted for this bill because they believe this is, in fact, a legitimate public policy issue.

Mr. President, this is a legitimate public policy issue. This procedure is especially cruel, it is unusual, it is inhumane, and it should be abolished.

It is perfectly possible and intellectually consistent and coherent to endorse this legislation and simultaneously support the Supreme Court decision in Roe versus Wade. This bill is not a ban on abortions. It is not even a restriction on when an abortion may be performed. Restrictions of that kind were actually envisioned by Roe versus Wade, based as it was on the differences of three trimesters of a pregnancy, but this bill does not do that.

Even so, even though Roe v. Wade allowed for that kind of restriction, this bill does not restrict the timeframe for a woman contemplating an abortion. All this bill does is abolish one particular procedure.

By now, we have all heard this procedure described in considerable detail. I hope that we can agree that this procedure is especially cruel, unusual, and inhumane. This debate is about a very, very, very limited number of abortions. It is a narrow, and should be narrowly structured, debate. To my friends on the other side who argue that we simply have to continue to allow this particular procedure to exist I simply say, is there not any limit to what we as a society will tolerate, what we as a society will accept? How close to an actual birth do we have to get in seconds, in inches, before we say, no?

Mr. President, the two witnesses who testified in front of our committee—my colleague from Illinois and my colleague from California have referenced them—gave some very heart-wrenching testimony. No one could have sat through that hearing without being moved, touched—really those terms are not adequate for how anyone would feel, certainly as I felt as I listened to the testimony.

I think, though, that what we need to remember is that neither of these two tragic situations would have been affected by the bill we are debating. H.R. 1833 covers only living fetuses, not fetuses that have died in the womb. In both the cases, in both the tragedies that were related by the witnesses, their babies had died prior to birth. Their babies had died in the womb. So this bill simply would not cover them.

We will continue to hear, I am sure, on this floor the argument made that we should look at these two heart-wrenching situations. I simply remind my colleagues, whether in the Chamber or back in their office listening to this debate, that we all agree these are just heart-wrenching situations. But we also should understand, and I ask my colleagues to keep in mind, that these two situations are simply not covered by this bill, and so it is really a bogus argument.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from California.

Mrs. BOXER. Thank you, Mr. President. The Senator from Ohio raises a very important question—and I am paraphrasing it and if I do not do it right, he will let me know—when he asked this rhetorical question: How close do you get to a birth before you just say no to abortion?

I think, clearly, that is a crucial question to be raised. That was the question raised in Roe versus Wade when, in 1973, the Supreme Court looked at the entire issue and tried to answer that question. What they basically said was that in the first 3 months of a woman's pregnancy, she is going to have the right to choose and she is going to make that decision with her God. Government is going to stay out of that decision. That is between her and her God. And as the pregnancy develops, the State has an interest. Clearly, States may regulate later in the pregnancy, and they do. But always under Roe versus Wade, the life and health of the mother is paramount.

When my friend from Ohio says the most compelling testimony was from a nurse, it shows his point of view here because I have heard back from members of that Judiciary Committee, even on the other side of the issue, who said they were riveted to Coreen Costello and to Viki Wilson. They were riveted to hear a story from a pro-life Republican about how she faced this and had to choose this procedure for her life and her health and because of her deep and abiding love, not only because she wanted to live on this planet but for her beautiful children.

So I guess, to me, what is more compelling than someone who served in the clinic for 3 days and comes away and talks about it—I ask unanimous consent to have printed in the RECORD at this time a letter from Nurse Shafer's supervisor, Christie Gallivan, an R.N.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WOMEN'S MED CENTER,
Cincinnati, OH, July 17, 1995.

DEAR CONGRESSWOMAN SCHROEDER: I am a registered nurse and have worked since July, 1993, in the Dayton office of Dr. Martin Haskell. In this capacity, I was the nurse that supervised the training of Brenda Pratt during her brief temporary employment at the Women's Medical Center of Dayton. As you know, we initially conducted a search of our employment records under the name "Brenda Shafer," as this was the name she signed to the letter which was given to us. When provided with the correct last name, we did in fact find the record of her three-day employment at our Dayton facility.

The information provided by Ms. Pratt as to our practices at the Women's Medical Center of Dayton is largely inaccurate. First, she describes Dr. Haskell performing one 25-week and one 26-week abortion procedure. Dr. Haskell does not perform abortions past 24 weeks of pregnancy. This is a self-imposed limit to which he has scrupulously adhered throughout the time I have worked for him.

Second, Dr. Haskell does not use ultrasound in the performance of second-trimester procedures. We use ultrasound only to determine the pregnancy's gestation. Therefore, her entire description of her experience when viewing a second-trimester abortion, which includes Dr. Haskell's using the ultrasound while doing the procedure, is clearly questionable.

Finally, at no point during a dilatation and extraction or intact D&E is there any fetal movement or response that would indicate awareness, pain or struggle. Ms. Pratt absolutely could not have witnessed fetal movement as she describes. We do not train temporary nurses in second trimester dilatation and extraction, since it is a highly technical procedure and would not be performed by someone in a temporary capacity. If, indeed, Ms. Pratt entered the operating room at any point during a D&X procedure, she clearly either is misrepresenting what she saw or remembers it incorrectly.

If you have any further questions, please feel free to contact our office.

Sincerely,
CHRISTIE GALLIVAN, RN.

Mrs. BOXER. In this letter, Nurse Gallivan says:

We do not train temporary nurses in second trimester dilatation and extraction, since it is a highly technical procedure and would not be performed by someone in a temporary capacity. If, indeed, Ms. Pratt entered the operating room at any point . . . she clearly either is misrepresenting what she saw or remembers it incorrectly.

Since we are talking about compelling testimony from a nurse, I think it is very compelling that the American Nurses Association has written as follows:

I am writing to express the opposition of the American Nurses Association to H.R. 1833 . . . which is scheduled to be considered by the Senate this week. The legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

In the view of the American Nurses Association this proposal would involve an inappropriate intrusion of the Federal Government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider.

They go on to say:

This legislation would impose a significant barrier to these principles.

. . . The American Nurses Association is the only full-time professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations.

They respectfully urge us to vote against this bill. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the "Partial-Birth Abortion Ban Act of 1995", which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year and they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

GERI MARULLO, MSN, RN,
Executive Director.

Mrs. BOXER. When we look at people who nurture, who bring their love into medicine, who bring their compassion into medicine, who have been known to place themselves at risk in the work that they do to save lives, I think it is very important to note that the American Nurses Association strongly opposes this bill.

We know that Viki Wilson, whose testimony was read so eloquently by Senator SIMON, is a pediatric nurse, and she found herself in this circumstance. So if we want to talk about compelling testimony, I guess there was a lot of compelling testimony.

The reason I am keeping this family portrait up here is because I want to keep this family's face right up here. Because with all the talk about medicine and all the charts of drawings of medical procedures, as if we were a medical school here, this has been forgotten. I will not allow these families to be forgotten in this debate. This mother, this wife, this husband and father, and these children, who could have lost this extraordinary woman, who happens to be a pro-life Republican, and who, by the way, wrote in her Op-Ed to the New York Times—that is why I was grateful that we had the hearing, because more attention was paid to this. She said, "Those who want Congress to ban the controversial late-term abortion technique might think I would be an ally. I was raised in a conservative, religious family. My parents are Rush Limbaugh fans. I am a Republican that always believed that abortion was wrong. Then I had one." Then she goes into the pain of this late-term abortion, which was her only option. So, yes, I am leaving her face up here through this debate.

For those people who do not support a woman's right to choose, who say that this bill is consistent with Roe versus Wade, I remind you that Roe is very clear. Always the life and health of the woman is paramount—always, even when a State can in fact regulate abortion, which Roe says they can do under certain circumstances. There is a State interest. The woman's life and her health must always be protected, always be protected. Yes, we had physicians who said this procedure is not necessary to do, but we had others who said, clearly, that it is quite necessary.

As a matter of fact, Coreen Costello, age 31, pregnant now with her third child, her doctor said a cesarean section or induction of labor could well have cost her life.

Well, Mr. President, we are going to have a long time more to debate this. I am not going to go on too long this evening. My friend has been patient and has a lot more to say.

There is no such thing as a partial-birth abortion. There is no such terminology. There is no such thing. There is such a thing as a late-term abortion, and it is always tragic and always undertaken because it is an emergency procedure. The life of mothers like Coreen may well be at stake, or serious adverse health consequences may arise from severe fetal abnormalities, such as organs growing outside the body. These late-term abortions are not births or partial births. They are the most tragic emergency medical procedures.

So I ask again, why is the Senate taking this up—a ban on a particular procedure used in these tragic operations? Is it because nobody is regulating these abortions? No. I explained that in Roe versus Wade clearly the State has the right to, and States do, regulate late-term abortions. Is it because there is a surge in late-term abortions? No. That is not the case.

My colleagues will say that they are doing this because this is a terrible procedure. They throw away the arguments by physicians who say it is a necessary life-saving procedure and only quote those doctors who say it is not. I thought you people were conservative. You should take the conservative position. If even a handful of doctors think a woman is more likely to die—14 times more likely if she undergoes cesarean section—then take the conservative approach and give the physician every tool he or she can have, so that it can be a safe emergency procedure, so women like Coreen Costello and Viki Wilson, and the others we will talk about in debate later, will live.

Well, I think I know what the real agenda is. I do not think it is a surprise. It is not going to shatter anybody's mind when I say this. I think there is a group of Senators who want to make abortion illegal in this country. They ran on that platform. They are committed to doing it. They feel a woman should not have a right to choose.

If it was up to them, they would criminalize this procedure. They would put the woman in jail. They would put the doctor in jail. They do not have the votes, folks. They do not have the votes to outlaw abortion. They wish they did.

Now, with this Republican Congress they have more votes than they have ever had before, and I hope people in this country understand that. But they still do not have the votes to outlaw abortion straight out.

Just like those who came here to destroy environmental protection, they do not have the votes to outlaw the Clean Air Act or the Clean Water Act. So what do you do? Cut the Environmental Protection Agency by a third; cut enforcement by two-thirds. This way you do not have to go just right at it and repeal the laws.

The same thing here, but another issue. They do not have the votes to outlaw abortion. The Supreme Court, much to their dismay, upheld Roe. They have said abortion is a constitutional right. So these Senators are trying to outlaw abortion not directly but indirectly and they will take every chance to do it. That is what this is about.

Already, we have seen an erosion of a woman's right to choose. No abortion in military hospitals. Imagine, it is your daughter, she is stationed in Saudi Arabia, she cannot go to a military hospital. God knows where she will go.

As Senator SIMPSON said, and I read every word he said, when abortion was illegal in this country, women obtained abortion. A woman risked her freedom to try and get an abortion. Doctors did the same.

I lived through those days. Women died. They died in back alleys. They lost their fertility. We are not going back to those days. But there are those in the Senate who want to take us back. That is what this is about.

They may say it is nothing, you could be pro-choice and support this. That is fine. They can say it. But if you read behind the lines, you know that is the plan. That is the plan of the far right in this country. Take the victories where you get them. Force the President to sign the defense bill. Ipso facto outlaw abortion in military hospitals.

Now, if you are a Federal employee and happen to be a woman, you cannot use your own insurance for which you pay a good portion of the premium, you cannot use it to get an abortion. OK, that is gone.

How about this: one of the reasons the Health and Human Services bill has not been brought up here is there are those in this Senate who want to stop training ob-gyn's to perform abortion. Folks, listen: It does not say stop training them in this procedure. It says stop training medical students so that no one will know how to do a safe and legal abortion in this country.

I stood here on this floor and I objected to bringing that bill forward because I knew that would be offered. How does that help a woman in this country, when she has to go back to the back alleys, and the men in this Chamber stand up and talk about the joy of giving birth?

I had the joy. Do not lecture me about that. And do not tell my children and my grandchildren that you know better for them than their God and their daughter and their husbands and their wives. Do not do that.

That is not what this Republican revolution was supposed to be about; if anything, it was supposed to be about getting Government out of our lives. Now they are putting it in the hospital room, in the medical school.

We said when this came up, we should have a hearing. We want to put a woman's face on it. We see these drawings. Time after time, day after day—where is the face of the mother? Where is the face of her husband? Where is the face of her children?

No, we did not see that face, but we got that face. We had the time to get that face into those hearings. I am so glad colleagues stuck with us on that one. It was going to be a close vote.

Yes, I hope our colleagues will read the testimony—all sides—and they will find that the medical community is split. The lawyers are split. We already know the Nurses Association is strongly against this bill. Yes, we had one nurse who is for it who worked 3 days as a temporary employee. That is if we believe the veracity of her testimony. Yes, we have some doctors who say the procedure is not necessary. But the ob-gyn organization says this bill is bad.

But no one can dispute Coreen Costello or Viki Wilson or John and Kim Leonetti, who I will talk about later in this debate, or the many others who had the courage to come forward and tell their story. They are religious women. They are God-loving mothers. No one on the other side of this would dare stand up and say what they said was not accurate. They lived it.

That is what this is about. This is what is going to happen if this bill passes and it is signed into law without exception. People like this do not have a chance.

We have a lot of work to do, as I said, in this Senate. We have a lot of appropriations bills we have to pass. We have to have a pass on Bosnia. We cannot even agree on a budget, can barely agree on the size of the table that we are going to sit around. We have work to do.

I say people sent us here to fight about those priorities. I want that debate. I want to know how Medicare survives after you cut $270 billion out of it. I want to know how Medicaid survives when you cut $182 billion out of it. I want to know how senior citizens are better off when you repeal nursing home standards and go back.

You want to talk about compelling? Why do you not read what it was like in the 1980's before we had nursing home standards from the Federal Government. It was pretty compelling. Grandmothers and grandfathers were sexually abused, mistreated, scalded in the bathtub.

We have a lot of work to do. We should not get into what medical procedure is appropriate and what medical procedure is not.

I will say this to my colleagues. If this bill becomes law as it is now written—I believe the chances of that are nil; there is not even an exception for life or health of the mother, but say it did—and someone's wife dies, someone in this Nation loses a wife and a loving partner because of the action of this body, I tell that person, even though their case could get kicked out of court, I would tell them to sue the pants off every U.S. Senator in this place who voted to outlaw a life-saving procedure. I would make that case that we have no business getting in the middle of a tragic family decision, playing God, playing doctor without the foggiest notion about what it means to make that tragic choice.

We talk about the joy of birth. God has blessed those people who have never known such a tragedy as these families have known. You are blessed that you never knew such a tragedy. But do not stand up here and say in every single case it is all beautiful. How you can even say that, in light of this testimony, is beyond belief.

One of the reasons we were so strong on having this testimony is because of what we heard here on this floor about how every birth is joyful, and there are no problems, and you do not need this procedure. I would have hoped we put that to rest, but it is back here again on the floor, calling doctors names, vicious names, because they helped a family like this. I say to you, if that doctor did not help this woman, that doctor would be violating the Hippocratic Oath.

So, I just hope we amend this bill. Abortion is a legal right in this country. If you want to take it on, if you want to have a bill introduced to make it illegal, to put women in jail, go ahead. Let us have that debate. But I really feel to set ourselves up as a special committee, like one of a hospital that delivers babies, to stand around here and talk about what procedure should be done and what should not be done, I just think we are off the mark as to what our responsibility is here.

This is going to be a very difficult debate. This is just a preview of it. I know my colleagues and I disagree. We try very hard not to be disagreeable with one another. I certainly do not feel disagreeable to my colleagues who take the other view.

I do feel, however, that they are looking at this in a way that ignores women like this, men like this, kids like this, families like this. So I will be bringing us back to these families, these circumstances.

When you legislate, you do not legislate for the majority of people. That is easy. Most times you do not even need to think about this subject.

Of course, we cannot close our eyes and say it is a beautiful, beautiful process, this process of birth. Nothing ever goes wrong, so therefore we are going to say any and all procedures that may have to be used in emergency, let us outlaw them, because maybe if we did, we would not need them.

That is not the way to legislate. You legislate in a conservative fashion. You give the most leeway to people who may need every option at their disposal to save a woman like this and spare her family.

So, yes, we will come back to this. We will debate it. We are going to try to amend this bill. It is a tough one, and I look forward to the remainder of the debate.

I again thank my friend from New Hampshire for his courtesy, for allowing me to continue and complete my remarks, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I heard during the course of the debate from the Senator from California that we should look in the eyes of a mother. She used her example of a woman who went through this very difficult decision, which I understand.

Here we can look into the eyes of a mother, Brenda Shafer. She has two children. She was horrified by what she saw, so horrified that she quit her job at that clinic.

We also heard the Senator from California make great mention of the life-of-the-mother exception. Of course, there is a life-of-the-mother exception in the bill, but it is easier to say it is not in there, so we can continue this debate, I guess; so we have something to say. But I guess my question would be something along these lines. If this is a life-of-the-mother threat that Brenda Shafer witnessed, why was it done in an abortion clinic? Why was it not done in a hospital? If the mother's life is under threat, then I would certainly think it would be done in a hospital where we could get the maximum medical attention, not in a clinic, whose specific and only purpose is to perform abortions. So, you see that is another falsehood that is being perpetrated in the debate here.

Also, another falsehood is we are somehow part of the radical right because we oppose this procedure. The radical right, we were called. In the House, PATRICK KENNEDY, son of the distinguished Senator from Massachusetts, voted for this. So he is in the radical right. I guess I must have missed something in the newspapers somewhere. I missed it, I guess. The minority leader, former majority leader of the House of Representatives, DICK GEPHARDT, is a member of the radical right. And so many others who were pro-choice who voted for this bill.

You see, the reason they voted for it is because those on the other side are the radical ones. Nurse Shafer was so horrified by this, to her everlasting credit, she stood up and exposed this for what it is. It is not done to save the life of the mother. We have a life-of-the-mother exception, but this is not done to save the life of the mother. As I said, if it is to save the life of the mother, then get the mother to the hospital, not to an abortion clinic.

Nurse Shafer told the Judiciary Committee at its November 17 hearing on this bill that this partial-birth abortion that she witnessed was carried out—this is very important, I say to my colleagues—was carried out because the little boy involved, the one with the angelic face that she describes right here: "I never went back to that clinic, but I am still haunted by the face of that little boy—it was the most perfect, angelic face I have ever seen." Do you know what that little boy was diagnosed with? Do you know why he was aborted? He was diagnosed with Down's syndrome.

I have heard a lot today on the floor, from the Senator from California and from the Senator from Illinois and others, that somehow I am in the business of playing God here. When a woman electively, selectively makes a decision to abort a child because it has Down's syndrome, that is the only reason, that is the little angelic face—because of that, only, that is what we are talking about here in this particular case—is that not playing God? Somehow there is a twisted sense of logic here.

I guess I have to wonder where we draw the line. Is it a missing foot, a deformed foot? Does that qualify for that decision? A cleft palate, does that qualify? I am having trouble understanding just where it comes down. Where does it come down? God? Playing God? Who is playing God here?

Think about it: Down's syndrome. Do you know, we see Down's syndrome people acting on television everyday. There is a television series involving a young man with Down's syndrome. This little baby boy was killed with a catheter to the back of his head because he had Down's syndrome, in the United States of America. He did nothing else. He did not do anything wrong. He did not commit any crimes.

Even killers on death row who are executed are done so more humanely than this little boy died because he had Down's syndrome. Where are we, in China? What is the next election, female child? Is that all right? Male child, twins, cannot handle that?

This little baby boy, described by Nurse Shafer, with scissors jammed into the back of his head and the catheter sucking his brains out, his crime was that he had Down's syndrome.

This little boy, as nurse Shafer said, was executed by Dr. Haskell because he had Down's syndrome. You know, it is no small irony, Mr. President, if I do say so myself, that we now see the sad spectacle—and it is a sad spectacle—of some of the Senate's most respected and vigorous liberal advocates of the rights of disabled persons in our society coming to the Senate floor to defend an abortion procedure that often targets disabled children, targets them for destruction for one reason—they have a disability.

That is what the Senator from California is talking about. No, I am not playing God, Mr. President. I am not. I am trying to prevent other people from playing God. I am not playing God when I am trying to protect those under the Constitution of the United States any more than I am playing God when I say that a person in this country has the right to the protection of life under the Constitution.

Later on in this debate we may see an amendment. Who knows, somebody may offer an amendment, offered by one or more of those so-called disabled rights advocates, seeking to exempt the disabled from this bill who are disabled through no fault of their own, through some genetic abnormality. How can they claim to be defenders of the rights of the disabled and turn around and single out to target, to execute, out of the womb—not in the womb; out of the womb—disabled babies? Disabled babies.

I would like to see an opportunity where one of these disabled young Americans today, perhaps a young man or woman with Down's syndrome, or perhaps someone with a cleft palate or perhaps someone with a foot or an arm missing due to some horrible birth defect, I would like to see that person come face to face with some of these U.S. Senators and look them in the eye and say, "You know what? No, I don't have the same privileges you had in terms of health, but I am trying to make something of myself, I'm trying to contribute to society. And I'm doing it. And thank you, I don't appreciate it when you say you want to take my life because of what I was dealt."

That is what this debate is about. That is what it is about, Mr. President—make no mistake about it—killing disabled children. One of the primary debating tactics that the defenders of the partial-birth abortions employ is to argue—they argue that this brutal, grizzly procedure is utilized only in the hard cases, only in medical emergencies, only in medical emergencies threatening the life of the mother or in the case of severe congenital abnormalities.

But the words, Mr. President, of the only living doctor in America who has publicly—I will strike the word "confess"—admitted, publicly admitted that he does partial-birth abortions, Dr. Martin Haskell of Dayton, OH, has given the lie to this deceptive debating tactic. Haskell told the AMA News that the overwhelming majority—this is Haskell himself. This is not Smith, this is not the distinguished Senator from Ohio sitting in the Chair, this is not somebody from the pro-life movement; this is Dr. Haskell himself. And in the AMA News he said the overwhelming majority of the partial-birth abortions that he does are for elective reasons—elective reasons.

Haskell performed 1,000 of them. So 800 babies, 800 babies —who knows what those 800 babies may have been—doctors, lawyers, maybe somebody who came up with a cure for cancer, the first woman President, the first black President? Who knows. We will never know. They never had a chance.

In the United States of America this is going on. And people come down here on the floor, time and time again, every time we debate this issue, and accuse me and others of playing God. Haskell said, "Most of my abortions are elective in that 20- to 24-week range, and probably 20 percent, 20 percent, 200 out of the 1,000 are for genetic reasons."

So let us call it like it is and stop distorting the record and saying things that are not accurate down here. Let us call it like it is—1,000 abortions, partial-birth abortions in the birth canal, everything but the head; 800 elective, 200 for genetic reasons.

Haskell later tried to claim he had been misquoted. It turns out, however, that the AMA News tape recorded the interview. They tape recorded it. They prepared a transcript. There was not any misquoting in there. Dr. Haskell was quoted accurately.

Like I said earlier, Mr. President, no wonder he did not have the guts to appear before the Judiciary Committee and try to defend his employment of this, because you cannot defend it. They have a bit of a problem with Dr. Haskell's confession that he performs partial-birth abortions on perfectly healthy women with perfectly healthy babies.

We did not hear about that from the Senator from California. We did not hear anything about the perfectly healthy babies. We did not hear the Senator from California stand up on the floor and say, "I support that healthy baby having the right to live and not die at the hands of an abortionist with a catheter and a pair of scissors to the back of the head." No, we did not hear about that.

They tried to claim that somehow the word "elective" includes "hard cases," quote unquote. Well, Mr. President, that is another blatant and deliberate deception. And as we debate this bill, there is litigation going on in the U.S. District Court for the Southern District of Ohio, which I am sure the Senator in the chair is aware of, in which Dr. Haskell is challenging the constitutionality of Ohio's new State law banning partial-birth abortions. He is an advocate. I give him credit. He does not see anything wrong with it.

During the course of the proceedings in that case, Dr. Harlan Giles has testified about what "elective" means. Dr. Giles is an obstetrician-gynecologist at the Medical College of Pennsylvania and Allegheny General Hospital who has a subspecialty in the field of perinatology, which includes maternal fetal medicine, high-risk pregnancy, ultrasound and genetics.

During his testimony before the U.S. district court in Ohio, Dr. Giles was asked to tell the court what an elective abortion is. What is it? Here is what Dr. Giles said:

> An elective abortion is a procedure carried out for a patient for whom there is no identifiable maternal or fetal indication. That is to say, the patient feels it would be in her best interest to terminate the pregnancy either on social grounds, emotional grounds, financial grounds, etc. If there are no medical indications from either a fetal or maternal standpoint, we refer to the termination as elective.

There we have it, Mr. President, 8½ months, bring the child 80 percent into the world, making sure you bring it out feet first so that it cannot breathe first, and kill it. That is exactly what we are doing. That is what an elective abortion is, not for medical reasons. Once in a while that is done. But that is not what we are talking about here in 80 percent of the cases.

To sum up what he said is an elective abortion, it is one that is done on a perfectly healthy mother with a perfectly healthy baby—not always. Therefore, what Dr. Haskell told the AMA News is that 80 percent of partial-birth abortions he does are done on perfectly healthy mothers with perfectly healthy babies. But we did not hear about that today—nothing. We did not hear about that at all. That is the truth.

I said during the outset of my remarks, Mr. President, that I would offer my colleagues a detailed assessment of the November 17 hearing that the Judiciary Committee held on this bill. I would like to focus a few remarks on that at the outset of this November 17 hearing. My colleague, Senator KENNEDY, described H.R. 1833 as "extremist legislation at its worst." I found that somewhat puzzling that Senator KENNEDY would say this because his own son, Congressman PATRICK KENNEDY of Rhode Island, voted for the bill in the House, in the exact form that it is here before us in the Senate.

So I assume from that that he means his son is an extremist, and he may very well feel that way. I do not know. We already mentioned Mr. GEPHARDT and Mr. BONIOR. I guess they are extremists.

Mr. President, Senator KENNEDY got it wrong, with all due respect to my colleague. The real extremists are those who believe that partial-birth abortions should be legal through all 9 months of pregnancy. We are talking about in the latter months of pregnancy, the latter days in some cases. Those are the extremists; they think it is legal for Haskell to use this method to kill a little Down's syndrome baby. They are the extremists. That is who the extremists are.

Frankly, I initially opposed sending the bill to the committee for a hearing because I did not think it was necessary. But I am glad we had a hearing. As you know, I agreed to have it and allowed the vote to go that way, did not object, because I think that hearing transcript, which the distinguished Senator from Ohio had the opportunity to be a part of, is now available, and I invite my colleagues to review it in detail. Before you vote, read it. It demonstrates just how bankrupt the arguments are on this issue.

When this bill first came to the Senate floor on November 7 and 8, we heard the opposition floor manager, Senator BOXER, repeatedly assert that partial-birth abortions are emergency operations. Senator BOXER said it again today, undertaken to save women's lives. During the November 7 floor debate on this bill, for example, Senator BOXER referred to partial-birth abortion as "an emergency medical procedure that must be performed on certain pregnant women lest families lose that mother forever."

You heard it again today. During her appearance on "Nightline" with me on November 7, she claimed that partial-birth abortions are emergency medical procedures and asserted that H.R. 1833 would "outlaw an emergency medical procedure."

The next day, on November 8, Senator BOXER helped lead the charge on the Senate floor for a hearing on H.R. 1833. And when the Senate agreed to refer the bill to the Judiciary Committee for the hearing, it was incumbent upon Senator BOXER and allies on the committee to produce testimony to support her repeated assertions that a partial-birth abortion is an emergency medical procedure.

Well, they had plenty of time to prove it, but they failed to do so. You were there, Mr. President. The lead witness that the opponents of this bill presented was Dr. Nancy Campbell, who is the Medical Director for Planned Parenthood here in Washington. Far from claiming that any partial-birth abortions are undertaken as emergency procedures to save the lives of women, Dr. Campbell asserted that the vast majority of these procedures are done because of severe fetal malformations. So Dr. Campbell's testimony failed to support Senator BOXER's claims. A partial-birth abortion that is undertaken to destroy a baby because the baby has a disability is not necessarily an emergency abortion done to save the life of a mother. So it is not true what is being said here.

At some point in the debate, perhaps tomorrow when we go back to this debate—as the Chair knows, we are going to break at 7:30 and recess the Senate until tomorrow, but at the appropriate time I am going to read into the RECORD comments in a large number of letters from ob-gyn's who take a very interesting view of this bill. They support the bill, and they say the process of partial-birth abortions is simply not necessary to save the life of a mother.

In fact, regarding Dr. Campbell's assertion that the vast majority of partial-birth abortions are done because of severe fetal malformations, that is also unsupportable. Campbell cited no academic studies, no medical journal articles, no government or private statistics, nothing—nothing. Just stated it, no support. In fact, her statement to that effect appears only in the transcript of her oral argument, not in her written statement.

So as I pointed out earlier, the only reliable testimony that we have on this point comes from the only living doctor who is willing to admit publicly that he does these, Dr. Martin Haskell. Haskell told the American Medical Association News that 80 percent of the partial-birth abortions he does are purely for elective reasons. It is entirely reliable because he does them. The man knows what he is talking about. Give him credit for admitting it. He is telling the truth. He is not trying to hide it.

Campbell's assertion, on the other hand, is completely unreliable because she does not do partial-birth abortions and cited no other evidence to support her completely unsupported claim. It is interesting that they had Dr. Campbell testify and she does not do partial-birth abortions and the guy who does do it, Haskell, he does not testify. He cannot be here.

The only other medical witness on the other side was Dr. Courtland Robinson, who is a medical professor at Johns Hopkins, and during his testimony Robinson managed to contradict both Senator BOXER's claim that partial-birth abortions are done for emergency reasons to save women's lives and Dr. Campbell's assertion that the vast majority of them are done because of severe fetal abnormalities. On the other hand, though, Robinson's testimony supports Dr. Haskell's statement to the AMA News that the overwhelming majority, 80 percent of these abortions are done for purely elective reasons.

We have all heard the debate on abortion, about whether or not a woman has the right to choose in the first month, second month, third month. That is a debate that we have had on the Senate floor, and everyone knows where I come from on it. That is not the debate we are having on the Senate floor right now. We are having a debate on the Senate floor now as to whether or not we approve of this procedure that I have earlier described of allowing a child to be brought out through the birth canal with the exception of the head and killed with scissors and a catheter with no anesthetic. And as I said then, would you kill a pet, would you euthanize your pet in that way? Yet we do it to children.

During his oral testimony before the committee, Robinson said that "women present to us for later abortions for a number of reasons. I am a doctor," Robinson continued, "and it is not my place to judge my patient's reasons for ending a pregnancy or to punish her because circumstances prevented her from obtaining an abortion earlier. It is my place to treat my patient, a woman with a pregnancy she feels she cannot continue.

But bear in mind the timeframe we are talking about—5th through 9th month. I again give the doctor credit for his candor. In seeking to justify the use of the brutal and shockingly inhumane partial-birth procedure, Robinson did claim, as Senator BOXER does, that these are emergency medical procedures.

Neither did Robinson assert, as did Campbell, that the vast majority of such abortions are undertaken because of severe fetal malformations. No. Dr. Robinson told the truth. He corroborated what Dr. Haskell said—80 percent of the partial-birth abortions are purely elective.

So, in conclusion on that point, there are only two witnesses, medical witnesses, that the supporters of partial-birth abortions offered at the 17th of November Judiciary hearing—Campbell and Robinson. Neither one had ever performed a partial-birth abortion, and they flatly contradicted each other about why partial-birth abortions are performed, Campbell claiming the vast majority are because of severe fetal abnormalities, and Robinson said they are done for elective reasons—in other words, on demand. No consistency whatsoever.

Now, the next two witnesses that the supporters of partial-birth abortion presented—and this is the interesting part—were two women who had late-term abortions. Interestingly enough, however—and this was not brought out by the Senator from California—neither one of them had a partial-birth abortion. The Senator from Ohio pointed it out when he was speaking, that neither one of the women had a partial-birth abortion.

The stories they told before the committee were very compelling and very emotional, and I respect that. I understand it. But they were not partial-birth abortions. The first woman was Miss Coreen Costello of Agoura, CA. She explained to the committee that she sought a late-term abortion because her baby had severe deformities and was not expected to survive. She then described her abortion, and what she described was not a partial-birth abortion. It was not a partial-birth abortion.

She said her baby died in the womb before any part of her was removed. She said the baby was not stabbed in the head with scissors. Third, Miss Costello said no part of her brain was missing. Of course not. It was not a partial-birth abortion. The baby died in the womb. That is different.

Clearly, what Ms. Costello described is something else. I do not intend, Mr. President, to make light of the agony that Ms. Costello's anguish caused her over her baby's condition and her abortion. The only thing I want to point out is that this debate is about partial-birth abortions. They could not find anybody to testify who had a partial-birth abortion because the life of the mother was threatened. They could not find anybody to do it. That is my point. That is why we are here, to stop a brutal practice.

To be honest, Ms. Costello's testimony, although very emotional and very personal, is not relevant to the debate we are having today.

The second and last witness who had received a late-term abortion to support partial-birth abortions presented at the November 17 hearing was Viki Wilson. The Senator from Ohio mentioned her.

Ms. Wilson, like Ms. Costello, told the committee about her child's condition and why she had decided to have a late-term abortion. Like Ms. Costello, Ms. Wilson proceeded to describe an abortion that very clearly was not a partial-birth abortion.

She said her little girl died inside the womb. "My daughter died with dignity inside my womb," Ms. Wilson testified. "She was not stabbed in the back of the head with scissors, no one dragged her out half alive and killed her. We never would have allowed that."

That is interesting, she never would have allowed that, but we are allowing it here. It is going on. Maybe she would not, and I give Ms. Wilson credit for saying she would not allow it, but others do and it is happening. One thousand Dr. Haskell performed. The estimates are one or two a day.

So not only did Ms. Wilson, like Ms. Costello, not have a partial-birth abortion, she also told the committee she never would have consented to it. Very interesting. Their witness.

In summary, Mr. President, the supporters of partial-birth abortions were not able to produce at the November 17 hearing a single doctor who had ever performed a partial-birth abortion. The only doctor who has publicly confessed to performing them refused to appear, and all they did produce was two doctors who had never done partial-birth abortions, but nonetheless speculated, and in the process contradicted one another about why partial-birth abortions are done.

In short, the supporters of partial-birth abortion produced not a single doctor who cast any doubt whatsoever on the one who has done them, Dr. Haskell. In his own unrefuted statement to the AMA News, 80 percent of partial-birth abortions he does are purely elective. Nobody refuted it.

The supporters of partial-birth abortion were not able to produce as a witness a single woman who had ever undergone a partial-birth abortion. Of course, they are out there, but they did not produce any.

Senator BOXER says that partial-birth abortions are an emergency, and yet she could not find anybody to say that. Other supporters of partial-birth abortions talk about how the procedure is done to eliminate children with severe abnormalities, yet they could not produce a witness who had a partial-birth abortion for that reason.

There you have it, the supporters of partial-birth abortion demanded a hearing to tell their side of the story, and what did they produce? Two doctors who had not done any and two women who had not had any. There is their hearing. They fought hard for it. They wanted it. They got it.

The last witness produced by the supporters of partial-birth abortion at the hearing was a constitutional law professor by the name of Louis Michael Seidman of Georgetown University Law Center. Frankly, as a Catholic myself, I am a little surprised that a Catholic university has on its payroll such a highly partisan, indeed enthusiastic, supporter of abortion on demand through all 9 months of pregnancy for any reason. But to each his own.

Predictably, given Professor Seidman's undisguised enthusiasm for a right to an abortion, that is, Roe versus Wade, it is not surprising he confidently predicted that the Court would strike H.R. 1833 if it were to be enacted.

The other constitutional law expert on the panel was Dr. Kmiec, who served as Assistant Attorney General of the United States at the Justice Department under President Reagan and who now is a professor of law at Notre Dame. He strongly disagreed with Professor Seidman, and I believe Professor Kmiec made, by far, the better case.

Much to my disappointment, though, the Supreme Court in 1992, by a vote of 5 to 4 in the case of Planned Parenthood versus Casey, reaffirmed the basic holding of Roe versus Wade. But the Court did not address in that case, which involved a Pennsylvania State law, a congressional statute like H.R. 1833 that aims to protect babies who have emerged into the birth canal from being brutally killed. Kmiec has no doubt this will be held constitutional if this law passes.

A born child is a constitutional person. Why is a little baby whose whole body beneath her head has already entered the birth canal and entered outside the birth canal be less of a person than one whose head remains inside the birth canal? Can someone please answer that question for me? Why is it any less a person? Three inches, three seconds; three inches, three seconds. If you do not stop the baby from being born, in 3 seconds it is out; it is a living child, 3 inches or 4. What is the difference? If somebody can tell me what the difference is, I sure would like to hear it.

Where in the Constitution does it say that the Congress is powerless to protect such a child from Dr. Haskell's scissors and catheter? Where in the Constitution, where in the Constitution does it say that?

The God-given right to life, of which Thomas Jefferson wrote in the magnificent Declaration of Independence, protects the right to life, liberty and the pursuit of happiness of each and every child who falls victim to Haskell's scissors and his suction catheter, and our great Constitution which guarantees the right of each and every person to equal protection under the law protects these defenseless, partially born babies from being attacked by Dr. Haskell and other abortionists like him. The American people know it, and the people sitting in this Chamber now, members of the staff, they know it, my colleagues know it—we all know it. You ought to witness one of these things if you have any doubts. See if you can come away like Nurse Shafer and not be affected.

I am going to have a lot more to say on this tomorrow, but I know we have a gentleman's agreement to get this place closed down, because we do not have anybody else to relieve the Chair.

At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I would like to take this opportunity to, very briefly, respond to the comments my colleague from California made a few moments ago. I will try to be brief because I realize that we will be debating this bill on other days.

My colleague from California placed in the RECORD a letter, which I might point out had already been placed in the RECORD in the previous days of debate. That was a letter from Nurse Shafer's supervisor. That letter calls into question some of the things that Nurse Shafer said, or in the words of my colleague from California, the supervisor doubts the veracity of the nurse.

Mr. President, let me again talk about the testimony that we heard in the Judiciary Committee that refutes the attacks on Nurse Shafer and that refutes this specific letter by the purported supervisor of Nurse Shafer.

First, the issue of how far along, how many weeks along Dr. Haskell would continue to do abortions. Let me quote from the letter. "Dr. Haskell does not perform abortions past 24 weeks of pregnancy."

Wrong. Dr. Haskell does. Dr. Haskell says so himself. We have already put that into the RECORD in Dr. Haskell's own words.

Second, "Dr. Haskell does not use ultrasound." Wrong. The record clearly shows he does. How do we know that? Because he says he does.

Third. "At no point is there any fetal movement or response that would indicate awareness, pain, or struggle." Wrong. The testimony that we heard would indicate contrary to that.

So I do not think we should spend this entire debate talking about the veracity of Nurse Shafer. But, again, I would go back to what I said an hour ago and, that is, if anyone doubts her veracity, take the facts, compare them with what Dr. Haskell says, the man who performs the abortions. What you will find is that Nurse Shafer's description fits identically with what Dr. Haskell says he does himself.

So this is a red herring. This is a side issue. This is the old tactic that is always used in court or in a debate: When you do not have the facts, talk about something else. Attack somebody whose testimony you do not like. Let us continue, if we can, to try to focus on what this debate is all about. I will come back to that in a moment. Senator BOXER has quoted Ms. Costello and Ms. Wilson, who gave very compelling testimony. Yes, it was. I thought that in my previous statement I stated that.

Quite frankly, Mr. President, I do not see how anyone could have listened to their testimony and not have teared up. I did. Nobody who is a parent and nobody who has lost a child could listen to that and not become emotional. The hearts of everybody in that room went out to those two women. But let me again say, Mr. President, that their testimony was not relevant. Let us confine ourselves to the terms of this debate and to the terms of this bill. No matter how compelling or how emotional their testimony was, or how much our hearts go out to them, it does not alter the simple fact that this bill does not apply to their situations. And so, again, the opponents of this bill want to talk about everything in the world but the bill.

With all due respect, I believe that the attack on this bill that we have heard this afternoon, 90 percent—and that is a conservative estimate—of what was said in opposition to this bill is totally irrelevant. You may believe it, disbelieve it, agree with it, disagree with it, but it is irrelevant. This bill, I submit, Mr. President, has nothing to do with nursing home standards. It has nothing to do with the EPA. It has nothing to do with the environment. We can and will argue these issues on this floor. But let us, please, try to keep this debate to what the issues are in front of us.

Maybe on a note of personal privilege, if I could, Mr. President, my friend from California talks about the "joy of giving birth." She used that phrase four or five times. I guess she was inferring that those of us who favor this bill use this term to in some way denigrate women and say that it is just an easy thing. Well, let me tell you, Mr. President, and let me assure my colleague from California, as the father of eight—but much more importantly, as the husband of the mother of eight, you are never going to catch this U.S. Senator in any way denigrating or in any way making light of birth. You are not going to find me minimizing the pain or the great accomplishment of the mother or the seriousness of the delivery.

Again, Mr. President, let us try to stay on the debate and try to stay on what is relevant. The opponents of this bill talk about protecting the life of the mother. I would, again, call to my colleagues' attention the affirmative defense that was in this bill when it was passed in the House. When many pro-choice Members of the House voted for this bill, that affirmative defense was in there. I also, though, refer my colleagues in the Senate to the evidence that came at the hearing. Again, this is the hearing that the opponents of this bill wanted. It was a good hearing, and we learned things. The evidence at the hearing clearly showed that this is a procedure that you would not use—that a doctor would not use to save the life of a mother. I point out that the testimony clearly showed that this procedure takes 3 days, from the time the woman comes in and you begin to treat the woman until the actual final act takes place. The testimony at the hearing was very clear. If the life of the mother was at stake, a doctor would not do this method, would not do this 3-day procedure. This procedure is not the "standard of care" in these cases.

So, again, we can talk about saving the life of the mother. But I maintain that it is outside the scope of this debate. We have the affirmative defense built into the law, built into this proposed law, and you also have testimony—medical testimony—that this is not the procedure you would use anyway.

Dr. Pamela Smith of Chicago's Mt. Sinai Medical Center testified that medical texts prescribe at least three other techniques, but not this one. I will not take the time of the Senate to go into all the medical details, but the testimony is clearly there.

I also point out that no one at the hearing—no one at the hearing—disputed Dr. Smith's testimony. That is the state of the record. We simply do not do this procedure. Again, confine ourselves to this debate.

Mr. President, the debate will go on. We will hear again from both sides, but we should try to narrow it and talk about what is at stake. It is not a question of, do we do away with Roe versus Wade? It is not a question about Republicans or Democrats or conservatives or liberals, or trends, or Republican Congresses or Democrat Congresses. It is about a very, very, very limited number of abortions that are performed each year. But they are performed. They are, I maintain, wrong.

I think the evidence is abundantly clear. My colleague who is in the chair and who has shown the pictures and who has talked about it in graphic detail has described exactly what this procedure consists of. So it is a public policy debate, of very limited scope, but of an important area. We define in this debate, as we do in many debates, what kind of a people we are.

To my friends who are pro-choice—and, again, I say being pro-choice, being for Roe versus Wade, is not inconsistent for being with this bill; in fact, you can be consistent and do that—I say to them and I say to my friend from California and others who oppose this bill, is there not some limit, some limit, to what a civilized society will tolerate, to what a good and decent people will allow?

I think, Mr. President, in this bill we are saying, yes, there is a limit, however narrow that may be drawn, but there is a limit. So in this bill, in this public debate, as in many debates, we define and redefine and redefine what kind of a people we are and what we hold dear.

MORNING BUSINESS

SAFE DRINKING WATER ACT AMENDMENTS OF 1995

The text of the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes, as passed by the Senate on November 29, 1995, is as follows:

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Safe Drinking Water Act Amendments of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; references.
Sec. 2. Findings.
Sec. 3. State revolving loan funds.
Sec. 4. Selection of contaminants; schedule.
Sec. 5. Risk assessment, management, and communication.

Sec. 6. Standard-setting; review of standards.
Sec. 7. Arsenic.
Sec. 8. Radon.
Sec. 9. Sulfate.
Sec. 10. Filtration and disinfection.
Sec. 11. Effective date for regulations.
Sec. 12. Technology and treatment techniques; technology centers.
Sec. 13. Variances and exemptions.
Sec. 14. Small systems; technical assistance.
Sec. 15. Capacity development; finance centers.
Sec. 16. Operator and laboratory certification.
Sec. 17. Source water quality protection partnerships.
Sec. 18. State primacy; State funding.
Sec. 19. Monitoring and information gathering.
Sec. 20. Public notification.
Sec. 21. Enforcement; judicial review.
Sec. 22. Federal agencies.
Sec. 23. Research.
Sec. 24. Definitions.
Sec. 25. Watershed and ground water protection.
Sec. 26. Lead plumbing and pipes; return flows.
Sec. 27. Bottled water.
Sec. 28. Other amendments.

(c) REFERENCES TO TITLE XIV OF THE PUBLIC HEALTH SERVICE ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to take steps to foster and maintain a genuine partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and regulation of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for drinking water regulations and that the standards established address the health risks posed by contaminants;

(6) procedures for assessing the health effects of contaminants and establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in setting priorities with respect to the health risks from drinking water to be addressed and in selecting the appropriate level of regulation for contaminants in drinking water, risk assessment and benefit-cost analysis are important and useful tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern; and

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act.

SEC. 3. STATE REVOLVING LOAN FUNDS.

The title (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—STATE REVOLVING LOAN FUNDS

"GENERAL AUTHORITY

"SEC. 1471. (a) CAPITALIZATION GRANT AGREEMENTS.—The Administrator shall offer to enter into an agreement with each State to make capitalization grants to the State pursuant to section 1472 (referred to in this part as 'capitalization grants') to establish a drinking water treatment State revolving loan fund (referred to in this part as a 'State loan fund').

"(b) REQUIREMENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall establish, to the satisfaction of the Administrator, that—

"(1) the State has established a State loan fund that complies with the requirements of this part;

"(2) the State loan fund will be administered by an instrumentality of the State that has the powers and authorities that are required to operate the State loan fund in accordance with this part;

"(3) the State will deposit the capitalization grants into the State loan fund;

"(4) the State will deposit all loan repayments received, and interest earned on the amounts deposited into the State loan fund under this part, into the State loan fund;

"(5) the State will deposit into the State loan fund an amount equal to at least 20 percent of the total amount of each payment to be made to the State on or before the date on which the payment is made to the State, except as provided in subsection (c)(4);

"(6) the State will use funds in the State loan fund in accordance with an intended use plan prepared pursuant to section 1474(b);

"(7) the State and loan recipients that receive funds that the State makes available from the State loan fund will use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe; and

"(8) the State has adopted policies and procedures to ensure that loan recipients are reasonably likely to be able to repay a loan.

"(c) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) IN GENERAL.—The authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund shall reside in the State agency that has primary responsibility for the administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): *Provided further*, That in nonprimacy States, the Governor shall determine which State agency will have the authority to establish assistance priorities for financial assistance provided with amounts deposited into the State loan fund.

"(2) FINANCIAL ADMINISTRATION.—A State may combine the financial administration of the State loan fund pursuant to this part with the financial administration of a State water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), or other State revolving funds providing financing for similar purposes, if the Administrator determines that the grants to be provided to the State under this part, and the loan repayments and interest deposited into the State loan fund pursuant to this part, will be separately accounted for and used solely for the purposes of and in compliance with the requirements of this part.

"(3) TRANSFER OF FUNDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a Governor of a State may—

"(i) reserve up to 50 percent of a capitalization grant made pursuant to section 1472 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

"(ii) reserve in any year a dollar amount up to the dollar amount that may be reserved under clause (i) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1472.

"(B) STATE MATCH.—Funds reserved pursuant to this paragraph shall not be considered to be a State match of a capitalization grant required pursuant to this title or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(4) EXTENDED PERIOD.—Notwithstanding subsection (b)(5), a State shall not be required to deposit a State matching amount into the fund prior to the date on which each payment is made for payments from funds appropriated for fiscal years 1994, 1995, and 1996, if the matching amounts for the payments are deposited into the State fund prior to September 30, 1998.

"CAPITALIZATION GRANTS

"SEC. 1472. (a) GENERAL AUTHORITY.—The Administrator may make grants to capitalize State loan funds to a State that has entered into an agreement pursuant to section 1471.

"(b) FORMULA FOR ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—Subject to subsection (c) and paragraph (2), funds made available to carry out this part shall be allotted to States that have entered into an agreement pursuant to section 1471 in accordance with—

"(A) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming; and

"(B) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to section 1475(c), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under subparagraph (A).

"(2) OTHER JURISDICTIONS.—The formula established pursuant to paragraph (1) shall reserve 0.5 percent of the amounts made available to carry out this part for a fiscal year for providing direct grants to the jurisdictions, other than Indian Tribes, referred to in subsection (f).

"(c) RESERVATION OF FUNDS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, prior to the allotment of funds made available to carry out this part, the Administrator shall reserve 1.5 percent of the funds for providing financial assistance to Indian Tribes pursuant to subsection (f).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

"(3) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to section 1475(c), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(d) TECHNICAL ASSISTANCE FOR SMALL SYSTEMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) SMALL SYSTEM.—The term 'small system' means a public water system that serves a population of 10,000 or fewer.

"(B) TECHNICAL ASSISTANCE.—The term 'technical assistance' means assistance provided by a State to a small system, including assistance to potential loan recipients and assistance for planning and design, development and implementation of a source water quality protection partnership program, alternative supplies of drinking water, restructuring or consolidation of a small system, and treatment to comply with a national primary drinking water regulation.

"(2) RESERVATION OF FUNDS.—To provide technical assistance pursuant to this subsection, each State may reserve from capitalization grants received in any year an amount that does not exceed the greater of—

"(A) an amount equal to 2 percent of the amount of the capitalization grants received by the State pursuant to this section; or

"(B) $300,000.

"(e) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR FINANCIAL ASSISTANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the sums allotted to a State pursuant to subsection (b) for a fiscal year shall be available to the State for obligation during the fiscal year for which the sums are authorized and during the following fiscal year.

"(B) FUNDS MADE AVAILABLE FOR FISCAL YEARS 1995 AND 1996.—The sums allotted to a State pursuant to subsection (b) from funds that are made available by appropriations for each of fiscal years 1995 and 1996 shall be available to the State for obligation during each of fiscal years 1995 through 1998.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—Prior to obligating new allotments made available to the State pursuant to subsection (b), each State shall obligate funds accumulated before a date that is 1 year prior to the date of the obligation of a new allotment from loan repayments and interest earned on amounts deposited into a State loan fund. The amount of any allotment that is not obligated by a State by the last day of the period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (b), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (c). None of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

"(3) ALLOTMENT OF WITHHELD FUNDS.—All funds withheld by the Administrator pursuant to subsection (g) and section 1442(e)(3) shall be allotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subsection (b). None of the funds allotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1418(a).

"(f) DIRECT GRANTS.—

"(1) IN GENERAL.—The Administrator is authorized to make grants for the improvement of public water systems of Indian Tribes, the District of Columbia, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam and, if funds are appropriated to carry out this part for fiscal year 1995, the Republic of Palau.

"(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

"(g) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold the percentage prescribed in the following sentence of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1418(a). The percentage withheld shall be 5 percent for fiscal year 1999, 10 percent for fiscal year 2000, and 15 percent for each subsequent fiscal year.

"ELIGIBLE ASSISTANCE

"SEC. 1473. (a) IN GENERAL.—The amounts deposited into a State loan fund, including any amounts equal to the amounts of loan repayments and interest earned on the amounts deposited, may be used by the State to carry out projects that are consistent with this section.

"(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

"(1) IN GENERAL.—The amounts deposited into a State loan fund shall be used only for providing financial assistance for capital expenditures and associated costs (but excluding the cost of land acquisition unless the cost is incurred to acquire land for the construction of a treatment facility or for a consolidation project) for—

"(A) a project that will facilitate compliance with national primary drinking water regulations promulgated pursuant to section 1412;

"(B) a project that will facilitate the consolidation of public water systems or the use of an alternative source of water supply;

"(C) a project that will upgrade a drinking water treatment system; and

"(D) the development of a public water system to replace private drinking water supplies if the private water supplies pose a significant threat to human health.

"(2) OPERATOR TRAINING.—Associated costs eligible for assistance under this part include the costs of training and certifying the persons who will operate facilities that receive assistance pursuant to paragraph (1).

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this part shall be provided to a public water system that—

"(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; and

"(ii) has a history of—

"(I) past violations of any maximum contaminant level or treatment technique established by a regulation or a variance; or

"(II) significant noncompliance with monitoring requirements or any other requirement of a national primary drinking water regulation or variance.

"(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this part if—

"(i) the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that such measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term; and

"(ii) the use of the assistance will ensure compliance.

"(c) ELIGIBLE PUBLIC WATER SYSTEMS.—A State loan fund, or the Administrator in the case of direct grants under section 1472(f), may provide financial assistance only to community water systems, publicly owned water systems (other than systems owned by Federal agencies), and nonprofit noncommunity water systems.

"(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

"(1) to make loans, on the condition that—

"(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

"(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (e)(1)), a State may provide an extended term for a loan, if the extended term—

"(i) terminates not later than the date that is 30 years after the date of project completion; and

"(ii) does not exceed the expected design life of the project;

"(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately-owned system, demonstrate that there is adequate security) for the repayment of the loan; and

"(D) the State loan fund will be credited with all payments of principal and interest on each loan;

"(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after October 14, 1993, or to refinance a debt obligation for a project constructed to comply with a regulation established pursuant to an amendment to this title made by the Safe Drinking Water Act Amendments of 1986 (Public Law 99–339; 100 Stat. 642);

"(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under subsection (b)) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

"(5) to earn interest on the amounts deposited into the State loan fund.

"(e) Assistance for Disadvantaged Communities.—

"(1) Definition of disadvantaged community.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

"(2) Loan subsidy.—Notwithstanding subsection (d), in any case in which the State makes a loan pursuant to subsection (d) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

"(3) Total amount of subsidies.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (2) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

"(f) Source Water Quality Protection and Capacity Development.—

"(1) In general.—Notwithstanding subsection (b)(1), a State may—

"(A) provide assistance, only in the form of a loan, to—

"(i) any public water system described in subsection (c) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination; or

"(ii) any community water system described in subsection (c) to provide funding in accordance with section 1419(d)(1)(C)(i);

"(B) provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1418(c); and

"(C) make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1419, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

"(2) Limitation.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

"(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

"(B) To provide funding to implement recommendations of source water quality protection partnerships pursuant to paragraph (1)(A)(ii).

"(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

"(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

"STATE LOAN FUND ADMINISTRATION

"Sec. 1474. (a) Administration, Technical Assistance, and Management.—

"(1) Administration.—Each State that has a State loan fund is authorized to expend from the annual capitalization grant of the State a reasonable amount, not to exceed 4 percent of the capitalization grant made to the State, for the costs of the administration of the State loan fund.

"(2) State program management assistance.—

"(A) In general.—Each State that has a loan fund is authorized to expend from the annual capitalization grant of the State an amount, determined pursuant to this paragraph, to carry out the public water system supervision program under section 1443(a) and to—

"(i) administer, or provide technical assistance through, source water quality protection programs, including a partnership program under section 1419; and

"(ii) develop and implement a capacity development strategy under section 1418(c) in the State.

"(B) Limitation.—Amounts expended by a State pursuant to this paragraph for any fiscal year may not exceed an amount that is equal to the amount of the grant funds available to the State for that fiscal year under section 1443(a).

"(C) State funds.—For any fiscal year, funds may not be expended pursuant to this paragraph unless the Administrator determines that the amount of State funds made available to carry out the public water system supervision program under section 1443(a) for the fiscal year is not less than the amount of State funds made available to carry out the program for fiscal year 1993.

"(b) Intended Use Plans.—

"(1) In general.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this part shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

"(2) Contents.—An intended use plan shall include—

"(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

"(B) the criteria and methods established for the distribution of funds; and

"(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

"(3) Use of funds.—

"(A) In general.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

"(i) address the most serious risk to human health;

"(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

"(iii) assist systems most in need on a per household basis according to State affordability criteria.

"(B) List of projects.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this part, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

"STATE LOAN FUND MANAGEMENT

"Sec. 1475. (a) In General.—Not later than 1 year after the date of enactment of this part, and annually thereafter, the Administrator shall conduct such reviews and audits as the Administrator considers appropriate, or require each State to have the reviews and audits independently conducted, in accordance with the single audit requirements of chapter 75 of title 31, United States Code.

"(b) State Reports.—Not later than 2 years after the date of enactment of this part, and every 2 years thereafter, each State that administers a State loan fund shall publish and submit to the Administrator a report on the activities of the State under this part, including the findings of the most recent audit of the State loan fund.

"(c) Drinking Water Needs Survey and Assessment.—Not later than 1 year after the date of enactment of this part, and every 4 years thereafter, the Administrator shall submit to Congress a survey and assessment of the needs for facilities in each State eligible for assistance under this part (including, in the case of the State of Alaska, the needs of Native villages (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c))). The survey and assessment conducted pursuant to this subsection shall—

"(1) identify, by State, the needs for projects or facilities owned or controlled by community water systems eligible for assistance under this part on the date of the assessment (other than refinancing for a project pursuant to section 1473(d)(2));

"(2) estimate the needs for eligible facilities over the 20-year period following the date of the assessment;

"(3) identify, by size category, the population served by public water systems with needs identified pursuant to paragraph (1); and

"(4) include such other information as the Administrator determines to be appropriate.

"(d) Evaluation.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 1999. The evaluation shall be submitted to Congress at the same time as the President submits to Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2001 relating to the budget of the Environmental Protection Agency.

"ENFORCEMENT

"Sec. 1476. The failure or inability of any public water system to receive funds under this part or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

"REGULATIONS AND GUIDANCE

"SEC. 1477. The Administrator shall publish such guidance and promulgate such regulations as are necessary to carry out this part, including guidance and regulations to ensure that—

"(1) each State commits and expends funds from the State loan fund in accordance with the requirements of this part and applicable Federal and State laws; and

"(2) the States and eligible public water systems that receive funds under this part use accounting procedures that conform to generally accepted accounting principles, auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'), and such fiscal procedures as the Administrator may prescribe.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1478. (a) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this part $600,000,000 for fiscal year 1994 and $1,000,000,000 for each of fiscal years 1995 through 2003.

"(b) HEALTH EFFECTS RESEARCH.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects research on drinking water contaminants authorized by section 1442. In allocating funds made available under this subsection, the Administrator shall give priority to research concerning the health effects of cryptosporidium, disinfection byproducts, and arsenic, and the implementation of a research plan for subpopulations at greater risk of adverse effects pursuant to section 1442(l).

"(c) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1997, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(D).

"(d) SMALL SYSTEM TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), from funds appropriated pursuant to this section for each fiscal year for which the appropriation made pursuant to subsection (a) exceeds $800,000,000, the Administrator shall reserve to carry out section 1442(g) an amount that is equal to any amount by which the amount made available to carry out section 1442(g) is less than the amount referred to in the third sentence of section 1442(g).

"(2) MAXIMUM AMOUNT.—For each fiscal year, the amount reserved under paragraph (1) shall be not greater than an amount equal to the lesser of—

"(A) 2 percent of the funds appropriated pursuant to this section for the fiscal year; or

"(B) $10,000,000.".

SEC. 4. SELECTION OF CONTAMINANTS; SCHEDULE.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (3) and inserting the following:

"(b) STANDARDS.—

"(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

"(A) GENERAL AUTHORITY.—The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for each contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995) if the Administrator determines, based on adequate data and appropriate peer-reviewed scientific information and an assessment of health risks, conducted in accordance with sound and objective scientific practices, that—

"(i) the contaminant may have an adverse effect on the health of persons; and

"(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern.

"(B) SELECTION AND LISTING OF CONTAMINANTS FOR CONSIDERATION.—

"(i) IN GENERAL.—Not later than July 1, 1997, the Administrator (after consultation with the Secretary of Health and Human Services) shall publish and periodically, but not less often than every 5 years, update a list of contaminants that are known or anticipated to occur in drinking water provided by public water systems and that may warrant regulation under this title.

"(ii) RESEARCH AND STUDY PLAN.—At such time as a list is published under clause (i), the Administrator shall describe available and needed information and research with respect to—

"(I) the health effects of the contaminants;

"(II) the occurrence of the contaminants in drinking water; and

"(III) treatment techniques and other means that may be feasible to control the contaminants.

"(iii) COMMENT.—The Administrator shall seek comment on each list and any research plan that is published from officials of State and local governments, operators of public water systems, the scientific community, and the general public.

"(C) DETERMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), not later than July 1, 2001, and every 5 years thereafter, the Administrator shall take one of the following actions for not fewer than 5 contaminants:

"(I) Publish a determination that information available to the Administrator does not warrant the issuance of a national primary drinking water regulation.

"(II) Publish a determination that a national primary drinking water regulation is warranted based on information available to the Administrator, and proceed to propose a maximum contaminant level goal and national primary drinking water regulation not later than 2 years after the date of publication of the determination.

"(III) Propose a maximum contaminant level goal and national primary drinking water regulation.

"(ii) INSUFFICIENT INFORMATION.—If the Administrator determines that available information is insufficient to make a determination for a contaminant under clause (i), the Administrator may publish a determination to continue to study the contaminant. Not later than 5 years after the Administrator determines that further study is necessary for a contaminant pursuant to this clause, the Administrator shall make a determination under clause (i).

"(iii) ASSESSMENT.—The determinations under clause (i) shall be based on an assessment of—

"(I) the available scientific knowledge that is consistent with the requirements of paragraph (3)(A) and useful in determining the nature and extent of adverse effects on the health of persons that may occur due to the presence of the contaminant in drinking water;

"(II) information on the occurrence of the contaminant in drinking water; and

"(III) the treatment technologies, treatment techniques, or other means that may be feasible in reducing the contaminant in drinking water provided by public water systems.

"(iv) PRIORITIES.—In making determinations under this subparagraph, the Administrator shall give priority to those contaminants not currently regulated that are associated with the most serious adverse health effects and that present the greatest potential risk to the health of persons due to the presence of the contaminant in drinking water provided by public water systems.

"(v) REVIEW.—Each document setting forth the determination for a contaminant under clause (i) shall be available for public comment at such time as the determination is published.

"(vi) JUDICIAL REVIEW.—Determinations made by the Administrator pursuant to clause (i)(I) shall be considered final agency actions for the purposes of section 1448. No determination under clause (i)(I) shall be set aside by a court pursuant to a review authorized under that section, unless the court finds that the determination is arbitrary and capricious.

"(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without listing the contaminant under subparagraph (B) or publishing a determination for the contaminant under subparagraph (C) to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with subparagraph (C) subject to an interim regulation under this subparagraph shall be issued not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

"(E) MONITORING DATA AND OTHER INFORMATION.—The Administrator may require, in accordance with section 1445(a)(2), the submission of monitoring data and other information necessary for the development of studies, research plans, or national primary drinking water regulations.

"(2) SCHEDULES AND DEADLINES.—

"(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

"(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

"(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

"(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—

"(i) INFORMATION COLLECTION RULE.—

"(I) IN GENERAL.—Not later than December 31, 1995, the Administrator shall, after notice and opportunity for public comment, promulgate an information collection rule to obtain information that will facilitate further revisions to the national primary drinking water regulation for disinfectants and disinfection byproducts, including information on microbial contaminants such as cryptosporidium.

"(II) EXTENSION.—The Administrator may extend the deadline under subclause (I) for up to 180 days if the Administrator determines that progress toward approval of an appropriate analytical method to screen for cryptosporidium is sufficiently advanced and approval is likely to be completed within the additional time period.

"(ii) ADDITIONAL DEADLINES.—The time intervals between promulgation of a final information collection rule, an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule shall be in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the timetable established by this subparagraph, all subsequent rules shall be completed as expeditiously as practicable subject to agreement by all the parties to the negotiated rulemaking, but no later than a revised date that reflects the interval or intervals for the rules in the timetable.

"(D) PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) (as in effect before the amendment made by section 4(a) of the Safe Drinking Water Act Amendments of 1995), and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1995, are superseded by this paragraph and paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1412(a)(3) (42 U.S.C. 300g-1(a)(3)) is amended by striking "paragraph (1), (2), or (3) of subsection (b)" each place it appears and inserting "paragraph (1) or (2) of subsection (b)".

(2) Section 1415(d) (42 U.S.C. 300g-4(d)) is amended by striking "section 1412(b)(3)" and inserting "section 1412(b)(7)(A)".

SEC. 5. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g-1(b)) (as amended by section 4) is further amended by inserting after paragraph (2) the following:

"(3) RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION.—

"(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science in carrying out this title, the Administrator shall use—

"(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

"(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

"(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

"(i) each population addressed by any estimate of public health effects;

"(ii) the expected risk or central estimate of risk for the specific populations;

"(iii) each appropriate upper-bound or lower-bound estimate of risk;

"(iv) each uncertainty identified in the process of the assessment of public health effects and research that would assist in resolving the uncertainty; and

"(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

"(i) MAXIMUM CONTAMINANT LEVELS.—Not later than 90 days prior to proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that would be considered in accordance with paragraph (4) in a proposed regulation and each alternative maximum contaminant level that would be considered in a proposed regulation pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of—

"(I) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected as the result of treatment to comply with each level;

"(II) the health risk reduction benefits (including non-quantifiable health benefits identified and described by the Administrator, except that such benefits shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur) expected from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations;

"(III) the costs (including non-quantifiable costs identified and described by the Administrator, except that such costs shall not be used by the Administrator for purposes of determining whether a maximum contaminant level is or is not justified unless there is a factual basis in the rulemaking record to conclude that such costs are likely to occur) expected solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations;

"(IV) the incremental costs and benefits associated with each alternative maximum contaminant level considered;

"(V) the effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population;

"(VI) any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants; and

"(VII) other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

"(ii) TREATMENT TECHNIQUES.—Not later than 90 days prior to proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that would be considered in a proposed regulation, taking into account, as appropriate, the factors described in clause (i).

"(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

"(iv) FORM OF NOTICE.—Whenever a national primary drinking water regulation is expected to result in compliance costs greater than $75,000,000 per year, the Administrator shall provide the notice required by clause (i) or (ii) through an advanced notice of proposed rulemaking.

"(v) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.".

SEC. 6. STANDARD-SETTING; REVIEW OF STANDARDS.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) Each" and inserting the following:

"(4) GOALS AND STANDARDS.—

"(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each";

(B) in subparagraph (A) (as so designated), by inserting after the first sentence the following: "The maximum contaminant level goal for contaminants that are known or likely to cause cancer in humans may be set at a level other than zero, if the Administrator determines, based on the best available, peer-reviewed science, that there is a threshold level below which there is unlikely to be any increase in cancer risk and the Administrator sets the maximum contaminant level goal at that level with an adequate margin of safety.";

(C) in the last sentence—

(i) by striking "Each national" and inserting the following:

"(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national"; and

(ii) by striking "maximum level" and inserting "maximum contaminant level"; and

(D) by adding at the end the following:

"(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).";

(2) by striking "(5) For the" and inserting the following:

"(D) DEFINITION OF FEASIBLE.—For the";

(3) in the second sentence of paragraph (4)(D) (as so designated), by striking "paragraph (4)" and inserting "this paragraph";

(4) by striking "(6) Each national" and inserting the following:

"(E) FEASIBLE TECHNOLOGIES.—Each national";

(5) in paragraph (4)(E) (as so designated), by striking "this paragraph" and inserting "this subsection"; and

(6) by inserting after paragraph (4) (as so amended) the following:

"(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

"(i) increasing the concentration of other contaminants in drinking water; or

"(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

"(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

"(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

"(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

"(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

"(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

"(i) persons served by large public water systems; and

"(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems (as defined in section 1415(e)).

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation for contaminants that are disinfectants or disinfection byproducts (as described in paragraph (2)), or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

"(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section, unless the court finds that the determination is arbitrary and capricious.".

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Public Health Service Act (as amended by subsection (a)) to promulgate the Stage I rulemaking for disinfectants and disinfection byproducts as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). Unless new information warrants a modification of the proposal as provided for in the "Disinfection and Disinfection Byproducts Negotiated Rulemaking Committee Agreement", nothing in such section shall be construed to require the Administrator to modify the provisions of the rulemaking as proposed.

(c) REVIEW OF STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (9) and inserting the following:

"(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain or provide for greater protection of the health of persons.".

SEC. 7. ARSENIC.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding at the end the following:

"(12) ARSENIC.—

"(A) SCHEDULE AND STANDARD.—Notwithstanding paragraph (2), the Administrator shall promulgate a national primary drinking water regulation for arsenic in accordance with the schedule established by this paragraph and pursuant to this subsection.

"(B) RESEARCH PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for research in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. The Administrator shall consult with the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), other Federal agencies, and interested public and private entities.

"(C) RESEARCH PROJECTS.—The Administrator shall carry out the research plan, taking care to avoid duplication of other research in progress. The Administrator may enter into cooperative research agreements with other Federal agencies, State and local governments, and other interested public and private entities to carry out the research plan.

"(D) ASSESSMENT.—Not later than 3½ years after the date of enactment of this paragraph, the Administrator shall review the progress of the research to determine whether the health risks associated with exposure to low levels of arsenic are sufficiently well understood to proceed with a national primary drinking water regulation. The Administrator shall consult with the Science Advisory Board, other Federal agencies, and other interested public and private entities as part of the review.

"(E) PROPOSED REGULATION.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

"(F) FINAL REGULATION.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.".

SEC. 8. RADON.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 7) is further amended by adding at the end the following:

"(13) RADON IN DRINKING WATER.—

"(A) REGULATION.—Notwithstanding paragraph (2), not later than 180 days after the date of enactment of this paragraph, the Administrator shall promulgate a national primary drinking water regulation for radon.

"(B) MAXIMUM CONTAMINANT LEVEL.—Notwithstanding any other provision of law, the regulation shall provide for a maximum contaminant level for radon of 3,000 picocuries per liter.

"(C) REVISION.—

"(i) IN GENERAL.—Subject to clause (ii), a revision to the regulation promulgated under subparagraph (A) may be made pursuant to this subsection. The revision may include a maximum contaminant level less stringent than 3,000 picocuries per liter as provided in paragraphs (4) and (9) or a maximum contaminant level more stringent than 3,000 picocuries per liter as provided in clause (ii).

"(ii) MAXIMUM CONTAMINANT LEVEL.—

"(I) CRITERIA FOR REVISION.—The Administrator shall not revise the maximum contaminant level for radon to a more stringent level than the level established under subparagraph (B) unless—

"(aa) the revision is made to reflect consideration of risks from the ingestion of radon in drinking water and episodic uses of drinking water;

"(bb) the revision is supported by peer-reviewed scientific studies conducted in accordance with sound and objective scientific practices; and

"(cc) based on the studies, the National Academy of Sciences and the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), consider a revision of the maximum contaminant level to be appropriate.

"(II) AMOUNT OF REVISION.—If the Administrator determines to revise the maximum contaminant level for radon in accordance with subclause (I), the maximum contaminant level shall be revised to a level that is no more stringent than is necessary to reduce risks to human health from radon in drinking water to a level that is equivalent to risks to human health from radon in outdoor air based on the national average concentration of radon in outdoor air.".

SEC. 9. SULFATE.

Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 8) is further amended by adding at the end the following:

"(14) SULFATE.—

"(A) ADDITIONAL RESEARCH.—Prior to promulgating a national primary drinking water regulation for sulfate the Administrator and the Director of the Centers for Disease Control shall jointly conduct additional research to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The research shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices and shall be completed not later than 30 months after the date of enactment of this paragraph.

"(B) PROPOSED AND FINAL RULE.—Prior to promulgating a national primary drinking water regulation for sulfate and after consultation with interested States, the Administrator shall publish a notice of proposed rulemaking that shall supersede the proposal published in December, 1994. For purposes of the proposed and final rule, the Administrator may specify in the regulation requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means. The Administrator shall, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate not later than 48 months after the date of enactment of this paragraph.

"(C) EFFECT ON OTHER LAWS.—

"(i) FEDERAL LAWS.—Notwithstanding part C, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), subtitle C or D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), or section 107 or 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 and 9621(d)), no national primary drinking water regulation for sulfate shall be—

"(I) used as a standard for determining compliance with any provision of any law other than this subsection;

"(II) used as a standard for determining appropriate cleanup levels or whether cleanup should be undertaken with respect to any facility or site;

"(III) considered to be an applicable or relevant and appropriate requirement for any such cleanup; or

"(IV) used for the purpose of defining injury to a natural resource;

unless the Administrator, by rule and after notice and opportunity for public comment, determines that the regulation is appropriate for a use described in subclause (I), (II), (III), or (IV).

"(ii) STATE LAWS.—This subparagraph shall not affect any requirement of State law, including the applicability of any State standard similar to the regulation published under this paragraph as a standard for any cleanup action, compliance action, or natural resource damage action taken pursuant to such a law.".

SEC. 10. FILTRATION AND DISINFECTION.

(a) FILTRATION CRITERIA.—Section 1412(b)(7)(C)(i) is amended by adding at the end thereof the following: "Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall amend the criteria issued under this clause to provide that a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure significantly greater removal efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this paragraph and paragraph (8)).".

(b) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—Section 1412(b)(7)(C) (42 U.S.C. 300g–1(b)(7)(C)) is amended by adding at the end the following:

"(v) FILTRATION TECHNOLOGY FOR SMALL SYSTEMS.—At the same time as the Administrator proposes an Interim Enhanced Surface Water Treatment Rule pursuant to paragraph (2)(C)(ii), the Administrator shall propose a regulation that describes treatment techniques that meet the requirements for filtration pursuant to this subparagraph and are feasible for community water systems serving a population of 3,300 or fewer and noncommunity water systems.".

(c) GROUND WATER DISINFECTION.—The first sentence of section 1412(b)(8) (42 U.S.C. 300g–1(b)(8)) is amended—

(1) by striking "Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1986, the Administrator shall propose and promulgate" and inserting "At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1995 but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)), the Administrator shall also promulgate"; and

(2) by striking the period at the end and inserting the following: ", including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.".

SEC. 11. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking paragraph (10) and inserting the following:

"(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State in the case of an individual system, may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State determines that additional time is necessary for capital improvements.".

SEC. 12. TECHNOLOGY AND TREATMENT TECHNIQUES; TECHNOLOGY CENTERS.

(a) SYSTEM TREATMENT TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) (as amended by section 9) is further amended by adding at the end the following:

"(15) SYSTEM TREATMENT TECHNOLOGIES.—

"(A) GUIDANCE OR REGULATIONS.—

"(i) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation pursuant to this section, the Administrator shall issue guidance or regulations describing all treatment technologies for the contaminant that is the subject of the regulation that are feasible with the use of best technology, treatment techniques, or other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available taking cost into consideration for public water systems serving—

"(I) a population of 10,000 or fewer but more than 3,300;

"(II) a population of 3,300 or fewer but more than 500; and

"(III) a population of 500 or fewer but more than 25.

"(ii) CONTENTS.—The guidance or regulations shall identify the effectiveness of the technology, the cost of the technology, and other factors related to the use of the technology, including requirements for the quality of source water to ensure adequate protection of human health, considering removal efficiencies of the technology, and installation and operation and maintenance requirements for the technology.

"(iii) LIMITATION.—The Administrator shall not issue guidance or regulations for a technology under this paragraph unless the technology adequately protects human health, considering the expected useful life of the technology and the source waters available to systems for which the technology is considered to be feasible.

"(B) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional or new or innovative treatment technologies that meet the requirements of subparagraph (A) for public water systems described in subparagraph (A)(i) that are subject to the regulation.

"(C) NO SPECIFIED TECHNOLOGY.—A description under subparagraph (A) of the best technology or other means available shall not be considered to require or authorize that the specified technology or other means be used for the purpose of meeting the requirements of any national primary drinking water regulation.".

(b) TECHNOLOGIES AND TREATMENT TECHNIQUES FOR SMALL SYSTEMS.—Section 1412(b)(4)(E) (as amended by section 6(a)) is further amended by adding at the end the following: "The Administrator shall include in the list any technology, treatment technique, or other means that is feasible for small public water systems serving—

"(i) a population of 10,000 or fewer but more than 3,300;

"(ii) a population of 3,300 or fewer but more than 500; and

"(iii) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units that are owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment device, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards.".

(c) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding at the end the following:

"(g) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of paragraphs (4)(E) and (15) of section 1412(b), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and date by which information shall be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under paragraph (4)(E) or (15) of section 1412(b).".

(d) SMALL WATER SYSTEMS TECHNOLOGY CENTERS.—Section 1442 (42 U.S.C. 300j–1) is amended by adding at the end the following:

"(h) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

"(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

"(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of research, training, and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of rural small communities or Indian Tribes.

"(B) The grant recipient shall be located in a region that has experienced problems with rural water supplies.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated expertise in water resources research, technical assistance, and training.

"(D) The grant recipient shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and intermediate-range rural water system technology management problems.

"(E) The grant recipient shall have a demonstrated interdisciplinary capability with expertise in small public water system technology management and research.

"(F) The grant recipient shall have a demonstrated capability to disseminate the results of small public water system technology research and training programs through an interdisciplinary continuing education program.

"(G) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(H) The grant recipient has regional support beyond the host institution.

"(I) The grant recipient shall include the participation of water resources research institutes established under section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303).

"(5) ALASKA.—For purposes of this subsection, the State of Alaska shall be considered to be a region.

"(6) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities. In this paragraph, the term 'consortium of States with low population densities' means a consortium of States, each State of which has an average population density of less than 12.3 persons per square mile, based on data for 1993 from the Bureau of the Census.

"(7) ADDITIONAL CONSIDERATIONS.—At least one center established under this subsection shall focus primarily on the development and evaluation of new technologies and new combinations of existing technologies that are likely to provide more reliable or lower cost options for providing safe drinking water. This center shall be located in a geographic region of the country with a high density of small systems, at a university with an established record of developing and piloting small treatment technologies in cooperation with industry, States, communities, and water system associations.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $10,000,000 for each of fiscal years 1995 through 2003.".

SEC. 13. VARIANCES AND EXEMPTIONS.

(a) TECHNOLOGY AND TREATMENT TECHNIQUES FOR SYSTEMS ISSUED VARIANCES.—The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking "only be issued to a system after the system's application of" and inserting "be issued to a system on condition that the system install"; and

(2) by inserting before the period at the end the following: ", and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system".

(b) EXEMPTIONS.—Section 1416 (42 U.S.C. 300g–5) is amended—

(1) in subsection (a)(1)—

(A) by inserting after "(which may include economic factors" the following: ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1473(e)(1)"; and

(B) by inserting after "treatment technique requirement," the following: "or to implement measures to develop an alternative source of water supply,";

(2) in subsection (b)(1)(A)—

(A) by striking "(including increments of progress)" and inserting "(including increments of progress or measures to develop an alternative source of water supply)"; and

(B) by striking "requirement and treatment" and inserting "requirement or treatment"; and

(3) in subsection (b)(2)—

(A) by striking "(except as provided in subparagraph (B))" in subparagraph (A) and all that follows through "3 years after the date of the issuance of the exemption if" in subparagraph (B) and inserting the following: "not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

"(B) No exemption shall be granted unless";

(B) in subparagraph (B)(i), by striking "within the period of such exemption" and inserting "prior to the date established pursuant to section 1412(b)(10)";

(C) in subparagraph (B)(ii), by inserting after "such financial assistance" the following: "or assistance pursuant to part G, or any other Federal or State program is reasonably likely to be available within the period of the exemption";

(D) in subparagraph (C)—

(i) by striking "500 service connections" and inserting "a population of 3,300"; and

(ii) by inserting ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods"; and

(E) by adding at the end the following:

"(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).".

SEC. 14. SMALL SYSTEMS; TECHNICAL ASSISTANCE.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

"(e) SMALL SYSTEM VARIANCES.—

"(1) IN GENERAL.—The Administrator (or a State with primary enforcement responsibility for public water systems under section 1413) may grant to a public water system serving a population of 10,000 or fewer (referred to in this subsection as a 'small system') a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation, if the variance meets each requirement of this subsection.

"(2) AVAILABILITY OF VARIANCES.—A small system may receive a variance under this subsection if the system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, treatment technology that is feasible for small systems as determined by the Administrator pursuant to section 1412(b)(15).

"(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

"(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

"(i) treatment;

"(ii) alternative source of water supply; or

"(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not feasible or appropriate based on other specified public policy considerations); and

"(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(4) APPLICATIONS.—An application for a variance for a national primary drinking water regulation under this subsection shall be submitted to the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) not later than the date that is the later of—

"(A) 3 years after the date of enactment of this subsection; or

"(B) 1 year after the compliance date of the national primary drinking water regulation as established under section 1412(b)(10) for which a variance is requested.

"(5) VARIANCE REVIEW AND DECISION.—

"(A) TIMETABLE.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall grant or deny a variance not later than 1 year after the date of receipt of the application.

"(B) PENALTY MORATORIUM.—Each public water system that submits a timely application for a variance under this subsection shall not be subject to a penalty in an enforcement action under section 1414 for a violation of a maximum contaminant level or treatment technique in the national primary drinking water regulation with respect to which the variance application was submitted prior to the date of a decision to grant or deny the variance.

"(6) COMPLIANCE SCHEDULES.—

"(A) VARIANCES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a treatment technique, secure an alternative source of water, or restructure if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to part G or any other Federal or State program.

"(B) DENIED APPLICATIONS.—If the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) denies a variance application under this subsection, the public water system shall come into compliance with the requirements of the national primary drinking water regulation for which the variance was requested not later than 4 years after the date on which the national primary drinking water regulation was promulgated.

"(7) DURATION OF VARIANCES.—

"(A) IN GENERAL.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

"(B) REVOCATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall revoke a variance in effect under this subsection if the Administrator (or the State) determines that—

"(i) the system is no longer eligible for a variance;

"(ii) the system has failed to comply with any term or condition of the variance, other than a reporting or monitoring requirement, unless the failure is caused by circumstances outside the control of the system; or

"(iii) the terms of the variance do not ensure adequate protection of human health, considering the quality of source water available to the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(8) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

"(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

"(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

"(9) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

"(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system applying for a variance and requirements for a public hearing on the variance before the variance is granted;

"(ii) requirements for the installation and proper operation of treatment technology that is feasible (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

"(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

"(iv) information requirements for variance applications.

"(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

"(10) REVIEW BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

"(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

"(C) OBJECTIONS TO VARIANCES.—

"(i) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

"(ii) PETITION BY CONSUMERS.—Not later than 30 days after a State with primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition not later than 60 days after the receipt of the petition. The State shall not grant the variance during the 60-day period. The petition shall be based on comments made by the petitioner during public review of the variance by the State.".

(b) TECHNICAL ASSISTANCE.—Section 1442(g) (42 U.S.C. 300j–1(g)) is amended—

(1) in the second sentence, by inserting "and multi-State regional technical assistance" after " 'circuit-rider' "; and

(2) by striking the third sentence and inserting the following: "The Administrator shall ensure that funds made available for technical assistance pursuant to this subsection are allocated among the States equally. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using the assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 1992 through 2003.".

SEC. 15. CAPACITY DEVELOPMENT; FINANCE CENTERS.

Part B (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

"CAPACITY DEVELOPMENT

"SEC. 1418. (a) STATE AUTHORITY FOR NEW SYSTEMS.—Each State shall obtain the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1998, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

"(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

"(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

"(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

"(c) CAPACITY DEVELOPMENT STRATEGY.—

"(1) IN GENERAL.—Not later than 4 years after the date of enactment of this section, each State shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

"(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

"(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

"(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

"(C) a description of how the State will use the authorities and resources of this title or other means to—

"(i) assist public water systems in complying with national primary drinking water regulations;

"(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

"(iii) assist public water systems in the training and certification of operators;

"(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

"(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

"(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

"(d) FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

"(2) INFORMATIONAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

"(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

"(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

"(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

"(3) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(2)(B), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this paragraph shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

"(4) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

"(5) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

"(e) ENVIRONMENTAL FINANCE CENTERS.—

"(1) IN GENERAL.—The Administrator shall support the network of university-based Environmental Finance Centers in providing training and technical assistance to State and local officials in developing capacity of public water systems.

"(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—Within the Environmental Finance Center network in existence on the date of enactment of this section, the Administrator shall establish a national public water systems capacity development clearinghouse to receive, coordinate, and disseminate research and reports on projects funded under this title and from other sources with respect to developing, improving, and maintaining technical, financial, and managerial capacity at public water systems to Federal and State agencies, universities, water suppliers, and other interested persons.

"(3) CAPACITY DEVELOPMENT TECHNIQUES.—

"(A) IN GENERAL.—The Environmental Finance Centers shall develop and test managerial, financial, and institutional techniques—

"(i) to ensure that new public water systems have the technical, managerial, and financial capacity before commencing operation;

"(ii) to identify public water systems in need of capacity development; and

"(iii) to bring public water systems with a history of significant noncompliance with national primary drinking water regulations into compliance.

"(B) TECHNIQUES.—The techniques may include capacity assessment methodologies, manual and computer-based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (e) $2,500,000 for each of fiscal years 1995 through 2003.".

SEC. 16. OPERATOR AND LABORATORY CERTIFICATION.

Section 1442 (42 U.S.C. 300j-1) is amended by inserting after subsection (d) the following:

"(e) CERTIFICATION OF OPERATORS AND LABORATORIES.—

"(1) REQUIREMENT.—Beginning 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995—

"(A) no assistance may be provided to a public water system under part G unless the system has entered into an enforceable commitment with the State providing that any person who operates the system will be trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413) not later than the date of completion of the capital project for which the assistance is provided; and

"(B) a public water system that has received assistance under part G may be operated only by a person who has been trained and certified according to requirements established by the Administrator or the State (in the case of a State with primary enforcement responsibility under section 1413).

"(2) GUIDELINES.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1995 and after consultation with the States, the Administrator shall publish information to assist States in carrying out paragraph (1). In the case of a State with primary enforcement responsibility under section 1413 or any other State that has established a training program that is consistent with the guidance issued under this paragraph, the authority to prescribe the appropriate level of training for certification for all systems shall be solely the responsibility of the State. The guidance issued under this paragraph shall also include information to assist States in certifying laboratories engaged in testing for the purpose of compliance with sections 1445 and 1401(1).

"(3) NONCOMPLIANCE.—If a public water system in a State is not operated in accordance with paragraph (1), the Administrator is authorized to withhold from funds that would otherwise be allocated to the State under section 1472 or require the repayment of an amount equal to the amount of any assistance under part G provided to the public water system.".

SEC. 17. SOURCE WATER QUALITY PROTECTION PARTNERSHIPS.

Part B (42 U.S.C. 300g et seq.) (as amended by section 15) is further amended by adding at the end the following:

"SOURCE WATER QUALITY PROTECTION PARTNERSHIP PROGRAM

"SEC. 1419. (a) SOURCE WATER AREA DELINEATIONS.—Except as provided in subsection (c), not later than 5 years after the date of enactment of this section, and after an opportunity for public comment, each State shall—

"(1) delineate (directly or through delegation) the source water protection areas for community water systems in the State using hydrogeologic information considered to be reasonably available and appropriate by the State; and

"(2) conduct, to the extent practicable, vulnerability assessments in source water areas determined to be a priority by the State, including, to the extent practicable, identification of risks in source water protection areas to drinking water.

"(b) ALTERNATIVE DELINEATIONS AND VULNERABILITY ASSESSMENTS.—For the purposes of satisfying the requirements of subsection (a), a State may use delineations and vulnerability assessments conducted for—

"(1) ground water sources under a State wellhead protection program developed pursuant to section 1428;

"(2) surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)); or

"(3) surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

"(c) FUNDING.—To carry out the delineations and assessments described in subsection (a), a State may use funds made available for that purpose pursuant to section 1473(f). If funds available under that section are insufficient to meet the minimum requirements of subsection (a), the State shall establish a priority-based schedule for the delineations and assessments within available resources.

"(d) PETITION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a government in the State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

"(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

"(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

"(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

"(B) STATE DETERMINATION.—Not later than 1 year after the date of enactment of this section, each State shall provide public notice and solicit public comment on the question of whether to develop a source water quality protection partnership petition program in the State, and publicly announce the determination of the State thereafter. If so requested by any public water system or local governmental entity, prior to making the determination, the State shall hold at least one public hearing to assess the level of interest in the State for development and implementation of a State source water quality partnership petition program.

"(C) FUNDING.—Each State may—

"(i) use funds set aside pursuant to section 1473(f) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under subsection (a); and

"(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsections (e)(2)(B) and (g).

"(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

"(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

"(B) obtain assistance from the State in directing or redirecting resources under Federal or State water quality programs to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities) that affect the drinking water supply of a community.

"(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this section may address only those contaminants—

"(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412(b)(2)(C); or

"(B) for which a national primary drinking water regulation has been promulgated or proposed and—

"(i) that are detected in the community water system for which the petition is submitted at levels above the maximum contaminant level; or

"(ii) that are detected by adequate monitoring methods at levels that are not reliably and consistently below the maximum contaminant level.

"(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

"(A) include a delineation of the source water area in the State that is the subject of the petition;

"(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under subparagraph (A);

"(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

"(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

"(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under subparagraph (A); and

"(ii) each person in the source water area delineated under subparagraph (A)—

"(I) who is likely to be affected by recommendations of the voluntary local partnership; and

"(II) whose participation is essential to the success of the partnership;

"(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under subparagraph (A) under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

"(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

"(e) APPROVAL OR DISAPPROVAL OF PETITIONS.—

"(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (d), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

"(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (d). The notice of approval shall, at a minimum, include—

"(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

"(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

"(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

"(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or part G and the appropriate distribution of the funds to assist in implementing the recommendations of the partnership;

"(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

"(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

"(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

"(iv) the sole source aquifer protection program established under section 1427;

"(v) the community wellhead protection program established under section 1428;

"(vi) any pesticide or ground water management plan;

"(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

"(viii) any abandoned well closure program; and

"(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

"(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (d), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

"(A) new information becomes available;

"(B) conditions affecting the source water that is the subject of the petition change; or

"(C) modifications are made in the type of assistance being requested.

"(f) ELIGIBILITY FOR WATER QUALITY PROTECTION ASSISTANCE.—A sole source aquifer plan developed under section 1427, a wellhead protection plan developed under section 1428, and a source water quality protection measure assisted in response to a petition submitted under subsection (d) shall be eligible for assistance under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including assistance provided under section 319 and title VI of such Act (33 U.S.C. 1329 and 1381 et seq.), if the project, measure, or practice would be eligible for assistance under such Act. In the case of funds made available under such section 319 to assist a source water quality protection measure in response to a petition submitted under subsection (d), the funds may be used only for a measure that addresses nonpoint source pollution.

"(g) GRANTS TO SUPPORT STATE PROGRAMS.—

"(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

"(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under paragraph (3). The Administrator shall approve the plan if the plan is consistent with the guidance published under paragraph (3).

"(3) GUIDANCE.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

"(i) States in the development of a source water quality protection partnership program; and

"(ii) municipal or local governments or political subdivisions of the governments and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

"(B) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

"(i) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (d);

"(ii) recommend procedures for the submission of petitions developed under subsection (d);

"(iii) recommend criteria for the assessment of source water areas within a State;

"(iv) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (d); and

"(v) specify actions taken by the Administrator to ensure the coordination of the programs referred to in clause (iv) with the goals and objectives of this title to the maximum extent practicable.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for fiscal years 1995 through 2003. Each State with a plan for a program approved under paragraph (2) shall receive an equitable portion of the funds available for any fiscal year.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section—

"(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

"(B) limits any authority of a State, political subdivision, or community water system; or

"(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.".

SEC. 18. STATE PRIMACY; STATE FUNDING.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;"; and

(2) by adding at the end the following:

"(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2) with respect to the regulation.".

(b) PUBLIC WATER SYSTEM SUPERVISION PROGRAM.—Section 1443(a) (42 U.S.C. 300j–2(a)) is amended—

(1) in paragraph (3)—

(A) by striking "(3) A grant" and inserting the following:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—A grant"; and

(B) by adding at the end the following:

"(B) DETERMINATION OF COSTS.—To determine the costs of a grant recipient pursuant to this paragraph, the Administrator shall, in cooperation with the States and not later than 180 days after the date of enactment of this subparagraph, establish a resource model for the public water system supervision program and review and revise the model as necessary.

"(C) STATE COST ADJUSTMENTS.—The Administrator shall revise cost estimates used in the resource model for any particular State to reflect costs more likely to be experienced in that State, if—

"(i) the State requests the modification; and

"(ii) the revised estimates ensure full and effective administration of the public water system supervision program in the State and the revised estimates do not overstate the resources needed to administer the program.";

(2) in paragraph (7), by adding at the end a period and the following:

"For the purpose of making grants under paragraph (1), there are authorized to be appropriated such sums as are necessary for each of fiscal years 1992 and 1993 and $100,000,000 for each of fiscal years 1994 through 2003."; and

(3) by adding at the end the following:

"(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection, an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

"(9) STATE LOAN FUNDS.—

"(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State (based on the resource model developed under paragraph (3)(B)), the Administrator may reserve from the funds made available to the State under section 1472 an amount that is equal to the amount of the shortfall.

"(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State—

"(i) each of the activities that would be required of the State if the State had primary enforcement authority under section 1413; and

"(ii) each of the activities required of the State by this title, other than part C, but not made a condition of the authority.".

SEC. 19. MONITORING AND INFORMATION GATHERING.

(a) REGULATED CONTAMINANTS.—

(1) REVIEW OF EXISTING REQUIREMENTS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(B) by adding at the end the following:

"(C) REVIEW.—The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.".

(2) ALTERNATIVE MONITORING PROGRAMS.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (1)(B)) is further amended by adding at the end the following:

"(D) STATE-ESTABLISHED REQUIREMENTS.—

"(i) IN GENERAL.—Each State with primary enforcement responsibility under section 1413 may, by rule, establish alternative monitoring requirements for any national primary drinking water regulation, other than a regulation applicable to a microbial contaminant (or an indicator of a microbial contaminant). The alternative monitoring requirements established by a State under this clause may not take effect for any national primary drinking water regulation until after completion of at least 1 full cycle of monitoring in the State satisfying the requirements of paragraphs (1) and (2) of section 1413(a). The alternative monitoring requirements may be applicable to public water systems or classes of public water systems identified by the State, in lieu of the monitoring requirements that would otherwise be applicable under the regulation, if the alternative monitoring requirements—

"(I) are based on use of the best available science conducted in accordance with sound and objective scientific practices and data collected by accepted methods;

"(II) are based on the potential for the contaminant to occur in the source water based on use patterns and other relevant characteristics of the contaminant or the systems subject to the requirements;

"(III) in the case of a public water system or class of public water systems in which a contaminant has been detected at quantifiable levels that are not reliably and consistently below the maximum contaminant level, include monitoring frequencies that are not less frequent than the frequencies required in the national primary drinking water regulation for the contaminant for a period of 5 years after the detection; and

"(IV) in the case of each contaminant formed in the distribution system, are not applicable to public water systems for which treatment is necessary to comply with the national primary drinking water regulation.

"(ii) COMPLIANCE AND ENFORCEMENT.—The alternative monitoring requirements established by the State shall be adequate to ensure compliance with, and enforcement of, each national primary drinking water regulation. The State may review and update the alternative monitoring requirements as necessary.

"(iii) APPLICATION OF SECTION 1413.—

"(I) IN GENERAL.—Each State establishing alternative monitoring requirements under this subparagraph shall submit the rule to the Administrator as provided in section 1413(b)(1). Any requirements for a State to provide information supporting a submission shall be defined only in consultation with the States, and shall address only such information as is necessary to make a decision to approve or disapprove an alternative monitoring rule in accordance with the following sentence. The Administrator shall approve an alternative monitoring rule submitted under this clause for the purposes of section 1413, unless the Administrator determines in writing that the State rule for alternative monitoring does not ensure compliance with, and enforcement of, the national primary drinking water regulation for the contaminant or contaminants to which the rule applies.

"(II) EXCEPTIONS.—The requirements of section 1413(a)(1) that a rule be no less stringent than the national primary drinking water regulation for the contaminant or contaminants to which the rule applies shall not apply to the decision of the Administrator to approve or disapprove a rule submitted under this clause. Notwithstanding the requirements of section 1413(b)(2), the Administrator shall approve or disapprove a rule submitted under this clause within 180 days of submission. In the absence of a determination to disapprove a rule made by the Administrator within 180 days, the rule shall be deemed to be approved under section 1413(b)(2).

"(III) ADDITIONAL CONSIDERATIONS.—A State shall be considered to have primary enforcement authority with regard to an alternative monitoring rule, and the rule shall be effective, on a date (determined by the State) any time on or after submission of the rule, consistent with section 1413(c). A decision by the Administrator to disapprove an alternative monitoring rule under section 1413 or to withdraw the authority of the State to carry out the rule under clause (iv) may not be the basis for withdrawing primary enforcement responsibility for a national primary drinking water regulation or regulations from the State under section 1413.

"(iv) OVERSIGHT BY THE ADMINISTRATOR.—The Administrator shall review, not less often than every 5 years, any alternative monitoring requirements established by a State under clause (i) to determine whether the requirements are adequate to ensure compliance with, and enforcement of, national primary drinking water regulations. If the Administrator determines that the alternative monitoring requirements of a State are inadequate with respect to a contaminant, and after providing the State with an opportunity to respond to the determination of the Administrator and to correct any inadequacies, the Administrator may withdraw the authority of the State to carry out the alternative monitoring requirements with respect to the contaminant. If the Administrator withdraws the authority, the monitoring requirements contained in the national primary drinking water regulation for the contaminant shall apply to public water systems in the State.

"(v) NONPRIMACY STATES.—The Governor of any State that does not have primary enforcement responsibility under section 1413 on the date of enactment of this clause may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subparagraph that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

"(vi) GUIDANCE.—The Administrator shall issue guidance in consultation with the States that States may use to develop State-established requirements pursuant to this subparagraph and subparagraph (E). The guidance shall identify options for alternative monitoring designs that meet the criteria identified in clause (i) and the requirements of clause (ii).".

(3) SMALL SYSTEM MONITORING.—Section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) SMALL SYSTEM MONITORING.—The Administrator or a State that has primary enforcement responsibility under section 1413 may modify the monitoring requirements for any contaminant, other than a microbial contaminant or an indicator of a microbial contaminant, a contaminant regulated on the basis of an acute health effect, or a contaminant formed in the treatment process or in the distribution system, to provide that any public water system that serves a population of 10,000 or fewer shall not be required to conduct additional quarterly monitoring during any 3-year period for a specific contaminant if monitoring conducted at the beginning of the period for the contaminant fails to detect the presence of the contaminant in the water supplied by the public water system, and the Administrator or the State determines that the contaminant is unlikely to be detected by further monitoring in the period.".

(b) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

"(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

"(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found.

"(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

"(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Amendments of 1995 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph

(A) of not more than 20 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to paragraph (3).

"(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

"(C) MONITORING BY LARGE SYSTEMS.—A public water system that serves a population of more than 10,000 shall conduct monitoring for all contaminants listed under subparagraph (B).

"(D) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

"(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State shall develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

"(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1478(c), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

"(E) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

"(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

"(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (h) in lieu of monitoring for particular contaminants under this paragraph.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 1995 through 2003.".

(c) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—Section 1445(a) (42 U.S.C. 300j-4(a)) (as amended by subsection (b)) is further amended by adding at the end the following:

"(3) NATIONAL DRINKING WATER OCCURRENCE DATABASE.—

"(A) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall assemble and maintain a national drinking water occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under paragraph (2) and reliable information from other public and private sources.

"(B) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

"(C) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under paragraph (2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

"(i) the contaminant occurs or is likely to occur in drinking water; and

"(ii) the contaminant poses a risk to public health.

"(D) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

"(E) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

"(F) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

"(i) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under paragraph (2);

"(ii) monitoring information collected by the States from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

"(iii) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.".

(d) INFORMATION.—

(1) MONITORING AND TESTING AUTHORITY.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j-4(a)(1)) (as designated by subsection (a)(1)(A)) is amended—

(A) by inserting "by accepted methods" after "conduct such monitoring"; and

(B) by striking "such information as the Administrator may reasonably require" and all that follows through the period at the end and inserting the following: "such information as the Administrator may reasonably require—

"(i) to assist the Administrator in establishing regulations under this title or to assist the Administrator in determining, on a case-by-case basis, whether the person has acted or is acting in compliance with this title; and

"(ii) by regulation to assist the Administrator in determining compliance with national primary drinking water regulations promulgated under section 1412 or in administering any program of financial assistance under this title.

If the Administrator is requiring monitoring for purposes of testing new or alternative methods, the Administrator may require the use of other than accepted methods. Information requirements imposed by the Administrator pursuant to the authority of this subparagraph that require monitoring, the establishment or maintenance of records or reporting, by a substantial number of public water systems (determined in the sole discretion of the Administrator), shall be established by regulation as provided in clause (ii).".

(2) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j-4) (as amended by section 12(c)) is further amended by adding at the end the following:

"(h) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.".

SEC. 20. PUBLIC NOTIFICATION.

Section 1414 (42 U.S.C. 300g-3) is amended by striking subsection (c) and inserting the following:

"(c) NOTICE TO PERSONS SERVED.—

"(1) IN GENERAL.—Each owner or operator of a public water system shall give notice to the persons served by the system—

"(A) of any failure on the part of the public water system to—

"(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

"(ii) perform monitoring required by section 1445(a);

"(B) if the public water system is subject to a variance granted under section 1415(a)(1)(A), 1415(a)(2), or 1415(e) for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, of—

"(i) the existence of the variance or exemption; and

"(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption; and

"(C) of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

"(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

"(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

"(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

"(ii) take into account the seriousness of any potential adverse health effects that may be involved.

"(B) STATE REQUIREMENTS.—

"(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

"(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

"(II) with respect to the form and content of notice given under subparagraph (D).

"(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

"(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

"(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

"(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

"(ii) provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) the potential adverse effects on human health;

"(III) the steps that the public water system is taking to correct the violation; and

"(IV) the necessity of seeking alternative water supplies until the violation is corrected;

"(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

"(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

"(I) be provided to appropriate broadcast media;

"(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

"(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

"(D) WRITTEN NOTICE.—

"(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice—

"(I) in the first bill (if any) prepared after the date of occurrence of the violation;

"(II) in an annual report issued not later than 1 year after the date of occurrence of the violation; or

"(III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

"(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) any potential adverse health effects; and

"(III) the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

"(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

"(3) REPORTS.—

"(A) ANNUAL REPORT BY STATE.—

"(i) IN GENERAL.—Not later than January 1, 1997, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to—

"(I) maximum contaminant levels;

"(II) treatment requirements;

"(III) variances and exemptions; and

"(IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

"(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

"(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1997, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.".

SEC. 21. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g-3) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "any national primary drinking water regulation in effect under section 1412" and inserting "any applicable requirement"; and

(II) by striking "with such regulation or requirement" and inserting "with the requirement"; and

(ii) in subparagraph (B), by striking "regulation or" and inserting "applicable"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT IN NONPRIMACY STATES.—

"(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

"(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.";

(2) in the first sentence of subsection (b), by striking "a national primary drinking water regulation" and inserting "any applicable requirement";

(3) in subsection (g)—

(A) in paragraph (1), by striking "regulation, schedule, or other" each place it appears and inserting "applicable";

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking "effect until after notice and opportunity for public hearing and," and inserting "effect,"; and

(II) by striking "proposed order" and inserting "order"; and

(ii) in the second sentence, by striking "proposed to be"; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

"(B) EFFECT OF PENALTY AMOUNTS.—In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code."; and

(ii) in subparagraph (C), by striking "paragraph exceeds $5,000" and inserting "subsection for a violation of an applicable requirement exceeds $25,000"; and

(4) by adding at the end the following:

"(h) CONSOLIDATION INCENTIVE.—

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

"(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.".

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g-2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) has adopted authority for administrative penalties (unless the constitution of the

State prohibits the adoption of the authority) in a maximum amount—

"(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

"(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.".

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting "final" after "any other";

(2) in the second sentence, by striking "or issuance of the order" and inserting "or any other final Agency action"; and

(3) by adding at the end the following "In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.".

SEC. 22. FEDERAL AGENCIES.

(a) IN GENERAL.—Subsections (a) and (b) of section 1447 (42 U.S.C. 300j–6) are amended to read as follows:

"(a) COMPLIANCE.—

"(1) IN GENERAL.—Each Federal agency shall be subject to, and comply with, all Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions concerning the provision of safe drinking water or underground injection in the same manner, and to the same extent, as any nongovernmental entity is subject to, and shall comply with, the requirements, authorities, and process and sanctions.

"(2) ADMINISTRATIVE ORDERS AND PENALTIES.—The Federal, State, interstate, and local substantive and procedural requirements, administrative authorities, and process and sanctions referred to in paragraph (1) include all administrative orders and all civil and administrative penalties or fines, regardless of whether the penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations.

"(3) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—The United States expressly waives any immunity otherwise applicable to the United States with respect to any requirement, administrative authority, or process or sanction referred to in paragraph (2) (including any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in paragraph (2), or reasonable service charge). The reasonable service charge referred to in the preceding sentence includes—

"(A) a fee or charge assessed in connection with the processing, issuance, renewal, or amendment of a permit, variance, or exemption, review of a plan, study, or other document, or inspection or monitoring of a facility; and

"(B) any other nondiscriminatory charge that is assessed in connection with a Federal, State, interstate, or local safe drinking water regulatory program.

"(4) CIVIL PENALTIES.—No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this subsection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

"(5) CRIMINAL SANCTIONS.—An agent, employee, or officer of the United States may be subject to a criminal sanction under a State, interstate, or local law concerning the provision of drinking water or underground injection. No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to a sanction referred to in the preceding sentence.

"(b) WAIVER OF COMPLIANCE.—

"(1) IN GENERAL.—The President may waive compliance with subsection (a) by any department, agency, or instrumentality in the executive branch if the President determines waiving compliance with such subsection to be in the paramount interest of the United States.

"(2) WAIVERS DUE TO LACK OF APPROPRIATIONS.—No waiver described in paragraph (1) shall be granted due to the lack of an appropriation unless the President has specifically requested the appropriation as part of the budgetary process and Congress has failed to make available the requested appropriation.

"(3) PERIOD OF WAIVER.—A waiver under this subsection shall be for a period of not to exceed 1 year, but an additional waiver may be granted for a period of not to exceed 1 year on the termination of a waiver if the President reviews the waiver and makes a determination that it is in the paramount interest of the United States to grant an additional waiver.

"(4) REPORT.—Not later than January 31 of each year, the President shall report to Congress on each waiver granted pursuant to this subsection during the preceding calendar year, together with the reason for granting the waiver.".

(b) ADMINISTRATIVE PENALTY ORDERS.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

"(d) ADMINISTRATIVE PENALTY ORDERS.—

"(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

"(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

"(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

"(4) PUBLIC REVIEW.—

"(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

"(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

"(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

"(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.".

(c) CITIZEN ENFORCEMENT.—The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(1) in paragraph (1), by striking ", or" and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) for the collection of a penalty (and associated costs and interest) against any Federal agency that fails, by the date that is 1 year after the effective date of a final order to pay a penalty assessed by the Administrator under section 1447(d), to pay the penalty.".

(d) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) (as amended by subsection (b)) is further amended by adding at the end the following:

"(e) WASHINGTON AQUEDUCT.—The Washington Aqueduct Authority, the Army Corps of Engineers, and the Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.".

SEC. 23. RESEARCH.

Section 1442 (42 U.S.C. 300j–1) (as amended by section 12(d)) is further amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

"(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

"(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

"(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.";

(B) by striking paragraph (3);

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4); and

(D) by adding at the end the following:

"(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out research authorized by this section $25,000,000 for each of fiscal years 1994 through 2003, of which $4,000,000 shall be available for each fiscal year for research on the health effects of arsenic in drinking water.";

(5) in subsection (b) (as so amended)—

(A) by striking "subparagraph" each place it appears and inserting "subsection"; and

(B) by adding at the end the following: "There are authorized to be appropriated to carry out this subsection $8,000,000 for each of fiscal years 1995 through 2003.";

(6) in the first sentence of subsection (c), by striking "eighteen months after the date of enactment of this subsection" and inserting "2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 5 years thereafter";

(7) in subsection (d) (as amended by paragraph (1))—

(A) in paragraph (1), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting "; and";

(D) by inserting after paragraph (3) the following:

"(4) develop and maintain a system for forecasting the supply of, and demand for, various professional occupational categories and other occupational categories needed for the protection and treatment of drinking water in each region of the United States."; and

(E) by adding at the end the following: "There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1994 through 2003."; and

(8) by adding at the end the following:

"(i) BIOLOGICAL MECHANISMS.—In carrying out this section, the Administrator shall conduct studies to—

"(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

"(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

"(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

"(j) RESEARCH PRIORITIES.—To establish long-term priorities for research under this section, the Administrator shall develop, and periodically update, an integrated risk characterization strategy for drinking water quality. The strategy shall identify unmet needs, priorities for study, and needed improvements in the scientific basis for activities carried out under this title. The initial strategy shall be made available to the public not later than 3 years after the date of enactment of this subsection.

"(k) RESEARCH PLAN FOR HARMFUL SUBSTANCES IN DRINKING WATER.—

"(1) DEVELOPMENT OF PLAN.—The Administrator shall—

"(A) not later than 180 days after the date of enactment of this subsection, after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, develop a research plan to support the development and implementation of the most current version of the—

"(i) enhanced surface water treatment rule (59 Fed. Reg. 38832 (July 29, 1994));

"(ii) disinfectant and disinfection byproducts rule (Stage 2) (59 Fed. Reg. 38668 (July 29, 1994)); and

"(iii) ground water disinfection rule (availability of draft summary announced at 57 Fed. Reg. 33960 (July 31, 1992)); and

"(B) carry out the research plan, after consultation and appropriate coordination with the Secretary of Agriculture and the heads of other Federal agencies.

"(2) CONTENTS OF PLAN.—

"(A) IN GENERAL.—The research plan shall include, at a minimum—

"(i) an identification and characterization of new disinfection byproducts associated with the use of different disinfectants;

"(ii) toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points;

"(iii) toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants;

"(iv) the development of practical analytical methods for detecting and enumerating microbial contaminants, including giardia, cryptosporidium, and viruses;

"(v) the development of reliable, efficient, and economical methods to determine the viability of individual cryptosporidium oocysts;

"(vi) the development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus;

"(vii) the development of indicators that define treatment effectiveness for pathogens and disinfection byproducts; and

"(viii) bench, pilot, and full-scale studies and demonstration projects to evaluate optimized conventional treatment, ozone, granular activated carbon, and membrane technology for controlling pathogens (including cryptosporidium) and disinfection byproducts.

"(B) RISK DEFINITION STRATEGY.—The research plan shall include a strategy for determining the risks and estimated extent of disease resulting from pathogens, disinfectants, and disinfection byproducts in drinking water, and the costs and removal efficiencies associated with various control methods for pathogens, disinfectants, and disinfection byproducts.

"(3) IMPLEMENTATION OF PLAN.—In carrying out the research plan, the Administrator shall use the most cost-effective mechanisms available, including coordination of research with, and use of matching funds from, institutions and utilities.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

"(l) SUBPOPULATIONS AT GREATER RISK.—

"(1) RESEARCH PLAN.—The Administrator shall conduct a continuing program of peer-reviewed research to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop and implement a research plan to establish whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

"(2) CONTENTS OF PLAN.—To the extent appropriate, the research shall be—

"(A) integrated into the health effects research plan carried out by the Administrator to support the regulation of specific contaminants under this Act; and

"(B) designed to identify—

"(i) the nature and extent of the elevated health risks, if any;

"(ii) the groups likely to experience the elevated health risks;

"(iii) biological mechanisms and other factors that may contribute to elevated health risks for groups within the general population;

"(iv) the degree of variability of the health risks to the groups from the health risks to the general population;

"(v) the threshold, if any, at which the elevated health risks for a specific contaminant occur; and

"(vi) the probability of the exposure to the contaminants by the identified group.

"(3) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to Congress on the results of the research.

"(4) USE OF RESEARCH.—In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall consider all relevant factors, including the results of research under this subsection, the margin of safety for variability in the general population, and sound scientific practices (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects.".

SEC. 24. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by inserting "accepted methods for" before "quality control"; and

(B) by adding at the end the following:

"At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. The procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.";

(2) in paragraph (13)—

(A) by striking "The" and inserting "(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) For purposes of part G, the term 'State' means each of the 50 States and the Commonwealth of Puerto Rico.";

(3) in paragraph (14), by adding at the end the following: "For purposes of part G, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)))."; and

(4) by adding at the end the following:

"(15) COMMUNITY WATER SYSTEM.—The term 'community water system' means a public water system that—

"(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

"(B) regularly serves at least 25 year-round residents.

"(16) NONCOMMUNITY WATER SYSTEM.—The term 'noncommunity water system' means a public water system that is not a community water system.''.

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended—

(A) in the first sentence, by striking "piped water for human consumption'' and inserting "water for human consumption through pipes or other constructed conveyances'';

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking "(4) The'' and inserting the following:

"(4) PUBLIC WATER SYSTEM.—

"(A) IN GENERAL.—The''; and

(D) by adding at the end the following:

"(B) CONNECTIONS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

"(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

"(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

"(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking and cooking is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential use shall not be considered to be a public water system if the system or the residential users of the system comply with subclause (II) or (III) of clause (i).

"(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1995 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph, if during such two-year period the water supplier complies with the monitoring requirements of the Surface Water Treatment Rule and no indicator of microbial contamination is exceeded during that period. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the two-year period, the water supplier shall not be considered a public water system.''.

SEC. 25. WATERSHED AND GROUND WATER PROTECTION.

(a) STATE GROUND WATER PROTECTION GRANTS.—Section 1443 (42 U.S.C. 300j-2) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) STATE GROUND WATER PROTECTION GRANTS.—

"(1) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

"(2) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

"(3) CONDITIONS OF GRANTS.—

"(A) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

"(B) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this paragraph for innovative programs proposed by a State for the prevention of ground water contamination.

"(C) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this subsection are allocated to each State that submits an application that is approved by the Administrator pursuant to this subsection.

"(D) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

"(4) COORDINATION WITH OTHER GRANT PROGRAMS.—The awarding of grants by the Administrator pursuant to this subsection shall be coordinated with the awarding of grants pursuant to section 319(i) of the Federal Water Pollution Control Act (33 U.S.C. 1329(i)) and the awarding of other Federal grant assistance that provides funding for programs related to ground water protection.

"(5) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

"(6) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this subsection and report to Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 1995 through 2003.''.

(b) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h-6) is amended—

(1) in subsection (b)(1), by striking "not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986''; and

(2) in the first sentence of subsection (n), by adding at the end the following:

"1992-2003 .... 15,000,000.''.

(c) WELLHEAD PROTECTION AREAS.—Section 1428(k) (42 U.S.C. 300h-7(k)) is amended by adding at the end the following:

"1992-2003 .... 30,000,000.''.

(d) UNDERGROUND INJECTION CONTROL GRANT.—Section 1443(b)(5) (42 U.S.C. 300j-2(b)(5)) is amended by adding at the end the following:

"1992-2003 .... 15,000,000.''.

(e) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—Section 1450 (42 U.S.C. 300j-9) is amended by striking subsection (h) and inserting the following:

"(h) REPORT TO CONGRESS ON PRIVATE DRINKING WATER.—The Administrator shall conduct a study to determine the extent and seriousness of contamination of private sources of drinking water that are not regulated under this title. Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Administrator shall submit to Congress a report that includes the findings of the study and recommendations by the Administrator concerning responses to any problems identified under the study. In designing and conducting the study, including consideration of research design, methodology, and conclusions and recommendations, the Admin istrator shall consult with experts outside the Agency, including scientists, hydrogeologists, well contractors and suppliers, and other individuals knowledgeable in ground water protection and remediation.''.

(f) NATIONAL CENTER FOR GROUND WATER RESEARCH.—The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration.

(g) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

(1) The heading of section 1443 (42 U.S.C.) is amended to read as follows:

"Grants for State and local programs"

(2) Section 1443 (42 U.S.C.) is amended by adding at the end thereof the following:

"(e) WATERSHED PROTECTION DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—

"(A) ASSISTANCE FOR DEMONSTRATION PROJECTS.—The Administrator is authorized to provide technical and financial assistance to units of State or local government for projects that demonstrate and assess innovative and enhanced methods and practices to develop and implement watershed protection programs including methods and practices that protect both surface and ground water. In selecting projects for assistance under this subsection, the Administrator shall give priority to projects that are carried out to satisfy criteria published under section 1412(b)(7)(C) or that are identified through programs developed and implemented pursuant to section 1428.

"(B) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 35 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

"(2) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

"(A) IN GENERAL.—Pursuant to the authority of paragraph (1), the Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection and shall include those projects that demonstrate, assess, or provide for comprehensive monitoring, surveillance, and research with respect to the efficacy of phosphorus offsets or trading, wastewater diversion, septic system siting and maintenance, innovative or enhanced wastewater treatment technologies, innovative methodologies for the control of storm water runoff, urban, agricultural, and forestry best management practices for controlling nonpoint source pollution, operator training, compliance surveillance and that establish watershed or basin-wide coordinating, planning or governing organizations. In certifying projects to the Administrator, the State of New York shall give priority to these monitoring and research projects that have undergone peer review.

"(B) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

"(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this subsection for each of fiscal years 1997 through 2003 including $15,000,000 for each of such fiscal years for the purpose of providing assistance to the State of New York to carry out paragraph (2).".

SEC. 26. LEAD PLUMBING AND PIPES; RETURN FLOWS.

(a) FITTINGS AND FIXTURES.—Section 1417 (42 U.S.C. 300g–6) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) PROHIBITIONS.—

"(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

"(i) any public water system; or

"(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

"(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.";

(B) in paragraph (2)(A), by inserting after "Each" the following: "owner or operator of a"; and

(C) by adding at the end the following:

"(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

"(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

"(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

"(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "lead, and" and inserting "lead;";

(B) in paragraph (2), by striking "lead." and inserting "lead; and"; and

(C) by adding at the end the following:

"(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e)."; and

(3) by adding at the end the following:

"(e) PLUMBING FITTINGS AND FIXTURES.—

"(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

"(2) STANDARDS.—

"(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

"(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.".

(b) WATER RETURN FLOWS.—Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

(c) RECORDS AND INSPECTIONS.—Subparagraph (A) of section 1445(a)(1) (42 U.S.C. 300j–4(a)(1)) (as designated by section 19(a)(1)(A)) is amended by striking "Every person" and all that follows through "is a grantee," and inserting "Every person who is subject to any requirement of this title or who is a grantee".

SEC. 27. BOTTLED WATER.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended—

(1) by striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever"; and

(2) by adding at the end the following:

"(b)(1) After the Administrator of the Environmental Protection Agency publishes a proposed maximum contaminant level, but not later than 180 days after the Administrator of the Environmental Protection Agency publishes a final maximum contaminant level, for a contaminant under section 1412 of the Public Health Service Act (42 U.S.C. 300g–1), the Secretary, after public notice and comment, shall issue a regulation that establishes a quality level for the contaminant in bottled water or make a finding that a regulation is not necessary to protect the public health because the contaminant is contained in water in the public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4)) and not in water used for bottled drinking water. In the case of any contaminant for which a national primary drinking water regulation was promulgated before the date of enactment of the Safe Drinking Water Act Amendments of 1995, the Secretary shall issue the regulation or make the finding required by this paragraph not later than 1 year after that date.

"(2) The regulation shall include any monitoring requirements that the Secretary determines to be appropriate for bottled water.

"(3) The regulation—

"(A) shall require that the quality level for the contaminant in bottled water be as stringent as the maximum contaminant level for the contaminant published by the Administrator of the Environmental Protection Agency; and

"(B) may require that the quality level be more stringent than the maximum contaminant level if necessary to provide ample public health protection under this Act.

"(4)(A) If the Secretary fails to establish a regulation within the period described in paragraph (1), the regulation with respect to the final maximum contaminant level published by the Administrator of the Environmental Protection Agency (as described in such paragraph) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the final regulation for the establishment of the quality level for a contaminant required under paragraph (1) for the purpose of establishing or amending a bottled water quality level standard with respect to the contaminant.

"(B) Not later than 30 days after the end of the period described in paragraph (1), the Secretary shall, with respect to a maximum contaminant level that is considered as a quality level under subparagraph (A), publish a notice in the Federal Register that sets forth the quality level and appropriate monitoring requirements required under paragraphs (1) and (2) and that provides that the quality level standard and requirements shall take effect on the date on which the final regulation of the maximum contaminant level takes effect or 18 months after the notice is issued pursuant to this subparagraph, whichever is later.".

SEC. 28. OTHER AMENDMENTS.

(a) CAPITAL IMPROVEMENTS FOR THE WASHINGTON AQUEDUCT.—

(1) AUTHORIZATIONS.—

(A) AUTHORIZATION OF MODERNIZATION.—Subject to approval in, and in such amounts as may be provided in appropriations Acts, the Chief of Engineers of the Army Corps of Engineers is authorized to modernize the Washington Aqueduct.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Army Corps of Engineers borrowing authority in amounts sufficient to cover the full costs of modernizing the Washington Aqueduct. The borrowing authority shall be provided by the Secretary of the Treasury, under such terms and conditions as are established by the Secretary of the Treasury, after a series of contracts with each public water supply customer has been entered into under paragraph (2).

(2) CONTRACTS WITH PUBLIC WATER SUPPLY CUSTOMERS.—

(A) CONTRACTS TO REPAY CORPS DEBT.—To the extent provided in appropriations Acts, and in accordance with subparagraphs (B) and (C), the Chief of Engineers of the Army Corps of Engineers is authorized to enter into a series of contracts with each public water supply customer under which the customer commits to repay a pro-rata share of the principal and interest owed by the Army Corps of Engineers to the Secretary of the Treasury under paragraph (1). Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(B) OFFSETTING OF RISK OF DEFAULT.—Each contract under subparagraph (A) shall include such additional terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts is estimated to be equal to the obligational authority used by the Army Corps of Engineers for modernizing the Washington Aqueduct at the time that each series of contracts is entered into.

(C) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the public water supply customer pledges future income from fees assessed to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority over all other creditors; and

(iii) include other conditions that the Secretary of the Treasury determines to be appropriate.

(3) BORROWING AUTHORITY.—Subject to an appropriation under paragraph (1)(B) and after entering into a series of contracts under paragraph (2), the Secretary, acting through the Chief of Engineers of the Army Corps of Engineers, shall seek borrowing authority from the Secretary of the Treasury under paragraph (1)(B).

(4) DEFINITIONS.—In this subsection:

(A) PUBLIC WATER SUPPLY CUSTOMER.—The term "public water supply customer" means the District of Columbia, the county of Arlington, Virginia, and the city of Falls Church, Virginia.

(B) VALUE TO THE GOVERNMENT.—The term "value to the Government" means the net present value of a contract under paragraph (2) calculated under the rules set forth in subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), excluding section 502(5)(B)(i) of such Act, as though the contracts provided for the repayment of direct loans to the public water supply customers.

(C) WASHINGTON AQUEDUCT.—The term "Washington Aqueduct" means the water supply system of treatment plants, raw water intakes, conduits, reservoirs, transmission mains, and pumping stations owned by the Federal Government located in the metropolitan Washington, District of Columbia, area.

(b) DRINKING WATER ADVISORY COUNCIL.—The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: ", of which two such members shall be associated with small, rural public water systems".

(c) SHORT TITLE.—

(1) IN GENERAL.—The title (42 U.S.C. 1401 et seq.) is amended by inserting after the title heading the following:

"SHORT TITLE

"SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.".

(2) CONFORMING AMENDMENT.—Section 1 of Public Law 93–523 (88 Stat. 1660) is amended by inserting "of 1974" after "Water Act".

(d) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

"PROHIBITION ON USE OF LEAD PIPES, FITTINGS, SOLDER, AND FLUX

"SEC. 1417. (a)".

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

"REGULATION OF STATE PROGRAMS

"SEC. 1426. (a)".

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

"SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

"SEC. 1427. (a)".

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

"STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

"SEC. 1428. (a)".

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a)".

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

"INDIAN TRIBES

"SEC. 1451. (a)".

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

"DEFINITIONS

"SEC. 1461. As".

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

"RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

"SEC. 1462. For".

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

"DRINKING WATER COOLERS CONTAINING LEAD

"SEC. 1463. (a)".

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

"LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1464. (a)".

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

"FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1465. (a)".

(e) PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.—

(1) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

(2) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

(3) AQUATIC NUISANCE SPECIES PROGRAM.—Subsections (b)(6) and (i)(1) of section 1202 of such Act (16 U.S.C. 4722) is amended by inserting ", Lake Champlain," after "Great Lakes" each place it appears.

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(b) of such Act (16 U.S.C. 4741(b)) is amended—

(A) in paragraph (3), by inserting ", and the Lake Champlain Research Consortium," after "Laboratory"; and

(B) in paragraph (4)(A)—

(i) by inserting after "(33 U.S.C. 1121 et seq.)" the following: "and grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat 417, chapter 841; 7 U.S.C. 322)"; and

(ii) by inserting "and the Lake Champlain basin" after "Great Lakes region".

(f) SOUTHWEST CENTER FOR ENVIRONMENTAL RESEARCH AND POLICY.—

(1) ESTABLISHMENT OF CENTER.—The Administrator of the Environmental Protection Agency shall take such action as may be necessary to establish the Southwest Center for Environmental Research and Policy (hereinafter referred to as "the Center").

(2) MEMBERS OF THE CENTER.—The Center shall consist of a consortium of American and Mexican universities, including New Mexico State University; the University of Utah; the University of Texas at El Paso; San Diego State University; Arizona State University; and four educational institutions in Mexico.

(3) FUNCTIONS.—Among its functions, the Center shall—

(A) conduct research and development programs, projects and activities, including training and community service, on United States-Mexico border environmental issues, with particular emphasis on water quality and safe drinking water;

(B) provide objective, independent assistance to the EPA and other Federal, State and local agencies involved in environmental policy, research, training and enforcement, including matters affecting water quality and safe drinking water throughout the southwest border region of the United States; and

(C) help to coordinate and facilitate the improvement of environmental policies and programs between the United States and Mexico, including water quality and safe drinking water policies and programs.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1996 through 2003 to carry out the programs, projects and activities of the Center. Funds made available pursuant to this paragraph shall be distributed by the Administrator to the university members of the Center located in the United States.

(g) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall develop a

screening program, using appropriate validated test systems, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this subsection, after obtaining review of the screening program described in paragraph 1 by the scientific advisory panel established under section 25(d) of the Act of June 25, 1947 (chapter 125), and the Science Advisory Board established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator shall provide for the testing of all active and inert ingredients used in products described in section 103(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603(e)), and may provide for the testing of any other substance if the Administrator determines that a widespread population may be exposed to the substance.

(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by regulation, exempt from the requirements of this subsection a biologic substance or other substance if the Administrator determines that the substance does not have any effect in humans similar to an effect produced by a naturally occurring estrogen.

(5) COLLECTION OF INFORMATION.—

(A) IN GENERAL.—The Administrator shall issue an order to a person that manufactures a substance for which testing is required under this subsection to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a time period that the Administrator determines is sufficient for the generation of the information.

(B) FAILURE TO SUBMIT INFORMATION.—

(i) SUSPENSION.—If a person referred to in subparagraph (A) fails to submit the information required under such subparagraph within the time period established by the order, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the person. Any suspension proposed under this subparagraph shall become final at the end of the 30-day period beginning on the date that the person receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the person referred to in subparagraph (A) has complied fully with this paragraph.

(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the person has failed to submit information required under this paragraph. A decision by the Administrator after completion of a hearing shall be considered to be a final agency action.

(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a person if the Administrator determines that the person has complied fully with this paragraph.

(6) AGENCY ACTION.—In the case of any substance that is found to have a potential adverse effect on humans as a result of testing and evaluation under this subsection, the Administrator shall take such action, including appropriate regulatory action by rule or by order under statutory authority available to the Administrator, as is necessary to ensure the protection of public health.

(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall prepare and submit to Congress a report containing—

(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

(B) recommendations for further testing and research needed to evaluate the impact on human health of the substances tested under the screening program; and

(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.

(h) GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

(A) the development and construction of water and wastewater systems to improve the health and sanitation conditions in the villages; and

(B) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

(2) FEDERAL SHARE.—The Federal share of the cost of the activities described in paragraph (1) shall be 50 percent.

(3) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in paragraph (1).

(4) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under paragraph (1) according to the needs of, and relative health and sanitation conditions in, each eligible village.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1996 through 2003 to carry out this subsection.

(i) ASSISTANCE TO COLONIAS.—

(1) DEFINITIONS.—As used in this subsection—

(A) ELIGIBLE COMMUNITY.—The term "eligible community" means a low-income community with economic hardship that—

(i) is commonly referred to as a colonia;

(ii) is located along the United States-Mexico border (generally in an unincorporated area); and

(iii) lacks basic sanitation facilities such as a safe drinking water supply, household plumbing, and a proper sewage disposal system.

(B) BORDER STATE.—The term "border State" means Arizona, California, New Mexico and Texas.

(C) TREATMENT WORKS.—The term "treatment works" has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(2) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to any appropriate entity or border State to provide assistance to eligible communities for—

(A) the conservation, development, use and control (including the extension or improvement of a water distribution system) of water for the purpose of supplying drinking water; and

(B) the construction or improvement of sewers and treatment works for wastewater treatment.

(3) USE OF FUNDS.—Each grant awarded pursuant to paragraph (2) shall be used to provide assistance to one or more eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system or treatment works for wastewater.

(4) OPERATION AND MAINTENANCE.—The Administrator and the heads of other appropriate Federal agencies, other entities or border States are authorized to use funds appropriated pursuant to this subsection to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to this subsection.

(5) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a grant awarded pursuant to this subsection shall be constructed in accordance with plans and specifications approved by the Administrator, the head of the Federal agency making the grant, or the border State in which the eligible community is located. The standards for construction applicable to a treatment works or other project eligible for assistance under title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) shall apply to the construction of a treatment works or project under this subsection in the same manner as the standards apply under such title.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal years 1996 through 2003.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulations of transportation, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. CLINGER, Mr. PETRI, Mr. COBLE, Ms. MOLINARI, Mr. OBERSTAR, Mr. RAHALL, and Mr. LIPINSKI.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. MOORHEAD, and Mr. CONYERS.

MESSAGES FROM THE HOUSE

At 3:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1788. An act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 1438. A bill to establish a commission to review the dispute settlement reports of the World Trade Organization, and for other purposes.

S. 1441. A bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes.

The following measure was read the first and second time by unanimous consent and placed on the calendar:

H.R. 1788. An act to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1641. A communication from the White House Chief of Staff, transmitting, pursuant to law, a notice of certification relative to the Executive Office of the President's Drug Free Workplace Plan; to the Committee on Governmental Affairs.

EC-1642. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for October 1995; to the Committee on Governmental Affairs.

EC-1643. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC-1644. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend 5 U.S.C. section 5706 to authorize the head of an agency to reimburse Federal employees for taxes incurred on money received for travel expenses; to the Committee on Governmental Affairs.

EC-1645. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1, 1995, through September 30, 1995; to the Committee on Governmental Affairs.

EC-1646. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation to authorize financial institutions to disclose to the Office of Personnel Management the names and current addresses of their customers who are receiving, by direct deposit or electronic funds transfer, payment of Civil Service Retirement benefits under chapter 83 or Federal Employees' Retirement benefits under chapter 84 of title 5, United States Code; to the Committee on Governmental Affairs.

EC-1647. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation to provide for accrual accounting of retirement costs for Federal civilian employees, and for other purposes; to the Committee on Government Affairs.

EC-1648. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC-1649. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of surplus real property transferred for public health purposes for fiscal year 1995; to the Committee on Governmental Affairs.

EC-1650. A communication from the Under Secretary of the Treasury (Domestic Finance), transmitting, pursuant to law, relative to the debt limit and the Civil Service Retirement and Disability Fund (CSR); to the Committee on Governmental Affairs.

EC-1651. A communication from the Under Secretary of the Treasury (Domestic Finance), transmitting, pursuant to law, relative to the debt limit and the Federal Employees' Retirement System Government Securities Investment Fund (FERS); to the Committee on Governmental Affairs.

EC-1652. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Performance Audit of the Office of Emergency Preparedness;" to the Committee on Governmental Affairs.

EC-1653. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC-1654. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a resolution concerning proposed D.C. law 11-150; to the Committee on Governmental Affairs.

EC-1655. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Virus-Serum Act of 1913 to increase the criminal penalties under the act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1656. A communication from the Executive Director of the National Forest Foundation, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1657. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-147 adopted by the Council on October 10, 1995; to the Committee on Governmental Affairs.

EC-1658. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-150 adopted by the Council on October 10, 1995; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 1442. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1443. A bill to designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the "Edward Madigan Post Office Building," and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 1442. A bill to authorize the Secretary of Health and Human Services to award a grant for the establishment of the National Center for Sickle Cell Disease Research, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH ESTABLISHMENT ACT OF 1995

• Mr. JOHNSTON. Mr. President, I introduce legislation that will support research for a disease which disproportionately affects African-Americans and other minority groups. Sickle cell disease is a painful, life-threatening, genetic disease. Approximately 1 of every 12 African-Americans is born with the sickle cell genetic trait, and about 1 in every 600 is afflicted with sickle cell disease. Sickle cell conditions are also found, although less frequently, in other United States populations, including those of Puerto Rican, Cuban, and southern Italian ancestry. The disease has also recently been found in some Caucasians.

Sickle cell disease is based in the circulatory system and is a painful and disabling disorder for which there is currently no cure. In a healthy body, red blood cells contain the substance hemoglobin which carries oxygen from the lungs to various organs and tissues. This role of hemoglobin is essential to life because all body components require oxygen to live and carry out their functions. Diseased bodies have an abnormal type of hemoglobin which interrupts the flow of oxygen to these vital organs.

Red blood cells that contain normal hemoglobin remain round when they release oxygen. Cells with abnormal or sickle hemoglobin, upon releasing oxygen, become distorted into the shape of a sickle causing a chronic and painful anemia. Distorted, or sickled cells cannot traverse capillaries, further limiting oxygen supply to the body's tissues.

Mr. President, the minority population in the State of Louisiana is about 1.29 million people. Of this number roughly 3,250 people are suspected of having the disease, and of this number, 25 percent will have the most acute and serious form, which is often fatal. Alarmingly, about 130,000 Louisianians carry the genetic trait for this illness.

Mr. President, despite the fact that the cause of the sickle cell disease has been known for many years, progress has not been made in finding suitable treatment. Currently, the most common treatment for the illness is pain relief medication, treating only the immediate symptoms. Treating only the symptoms results in tissue damage, often to major organs, with each successive episode of oxygen deprivation. Consequently, many of those afflicted with severe forms of the disease often do not even live to see adulthood.

Concerned with finding a cure for a disease that has such a devastating effect on the Nation's minority populations, Southern University in Baton Rouge, LA, the largest predominately African-American university in the United States, has committed itself to the creation of a center for sickle cell disease research.

With a single purpose, this center will conduct multidisciplinary research to lead to the discovery of a cure for sickle cell disease. The center will conduct basic biomedical research to determine the types of drugs that can prevent, inhibit, or reverse the sickling process, along with clinical research and joint studies to conduct clinical trials on antisickling agents. In addition, the center will work with other institutions to promote and enhance scholarship and teaching knowledge in order to disseminate newly gained knowledge on the disease.

Mr. President, it is important to note that the Louisiana State Legislature in recognition of the importance of such a center, and even in these exceedingly hard economic times, has committed $7 million to this project. To complete the center, and to be able to provide this valuable public health research, Southern University needs Federal assistance. To provide this assistance, I offer a bill to authorize the Secretary of Health and Human Services to award a grant for the creation of this center. This legislation will direct the Secretary to provide a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

Mr. President, sickle cell disease is a vital public health problem which this bill would assist in overcoming. Such funding can only aid in the development of this Nation. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) Sickle Cell Disease is a serious illness that disproportionately affects African-Americans.

(2) Approximately 1 out of every 12 African-Americans is born with the sickle cell trait, and about 1 out of every 600 is afflicted with Sickle cell Disease.

(3) Sickle Cell conditions also occur in other United States populations, primarily those of Puerto Rican, Cuban, southern Italian ancestry and more recently sickle cell has been found in some Caucasian individuals.

(4) Sickle Cell Disease is a painful and disabling disorder which can lead to untimely death and is caused by inadequate transportation of oxygen due to an abnormal type of hemoglobin molecule in the red blood cells.

(5) Sickle Cell Disease is an inherited disease which can be transmitted to offspring, particularly if both parents carry the genetic trait.

(6) The sickle cell trait carriers show no sign of the disease, but statistically, 1 in 4 of their children will be afflicted with the disease.

(7) There is no national research center devoted to Sickle Cell Disease in the United States.

(8) There is no known cure for Sickle Cell Disease at this time and there is a need for prioritized and specialized research to find such a cure for this severely disabling disease.

(9) Louisiana's minority population is 1,299,281.

(10) Of this number, a suspected 3,248 individuals will have the disease and of those individuals, 25 percent (812 individuals) will have the most acute and serious stage of Sickle Cell Disease, a stage that is usually fatal.

(11) Some 129,928 individuals in Louisiana will carry the sickle cell trait.

(12) Southern University, located in Baton Rouge, Louisiana is the largest predominately African-American university in the United States.

(13) Approximately 16,700 students attend this 112 year old school and Southern graduates are located throughout the United States and the world.

(14) The State of Louisiana through the Louisiana Legislature and Southern University, has shown great leadership and committed significant financial and personnel resources towards the development of a National Center for Sickle Cell Disease Research.

(15) Because Southern University has committed its resources and personnel to seeing this project through to its ultimate goal, finding a cure for Sickle Cell Disease, and because of Southern University's large minority population it is appropriate to locate the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge.

(b) PURPOSE.—It is the purpose of this Act to establish a National Center for Sickle Cell Disease at Southern University in Baton Rouge, Louisiana, that will have the following objectives—

(1) to conduct biomedical research and clinical investigations designed to find a cure for Sickle Cell Disease;

(2) to conduct a wide variety of human behavioral studies designed to provide new knowledge about such issues as the effectiveness of various counseling and education methods, and techniques to improve coping skills on the part of patients and their families;

(3) to establish collaborative arrangements and joint research programs and projects with other Louisiana institutions of higher education, such as Louisiana State University Medical Centers at New Orleans and Shreveport and Tulane University Medical Center to conduct clinical trials on antisickling agents;

(4) to provide expanded opportunities for faculty members at the institutions described in paragraph (3) to publish in the three broad areas of basic biomedical research, psychosocial research and clinical research;

(5) to become a laboratory for training both graduate and undergraduate students in research methods and techniques concerning Sickle Cell Disease; and

(6) to develop, promote and implement joint research projects with other public and private higher education institutions including teaching hospitals on Sickle Cell Disease.

SEC. 2. NATIONAL CENTER FOR SICKLE CELL DISEASE RESEARCH.

(a) GRANT.—The Secretary of Health and Human Services shall award a grant to the Louisiana Department of Health and Hospitals for the establishment and construction of the National Center for Sickle Cell Disease Research at Southern University in Baton Rouge, Louisiana, and for related facilities and equipment at such Center. Prior to the awarding of such grant, the State of Louisiana shall certify to the Secretary—

(1) that the State of Louisiana has provided not less than $7,000,000 to support and operate such Center; and

(2) that the State of Louisiana has developed a plan to provide funds for the continued operation and support of such center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $21,000,000 to carry out the purposes of this Act. •

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 1443. A bill to designate the United States Post Office building located at 102 South McLean, Lincoln, IL, as the "Edward Madigan Post Office Building," and for other purposes; to the Committee on Governmental Affairs.

THE EDWARD MADIGAN POST OFFICE BUILDING DESIGNATION ACT OF 1995

• Mr. SIMON. Mr. President, I am pleased to introduce, along with Senator MOSELEY-BRAUN, a bill to designate the post office of Lincoln, IL, as the Edward Madigan Post Office Building.

I served with Ed Madigan in the Illinois Legislature, where we worked on a variety of things together, and then I served with him in the House here in Washington.

He was one of those people who had common sense and a graciousness about him that was infectious.

He knew how to disagree without creating hostility. He was a remarkable person.

When we had a vacancy in the office of Secretary of Agriculture, I called him and said I wanted to call President Bush's chief of staff in Ed Madigan's behalf unless he had an objection. He had none, and I was pleased to call John Sununu and tell him that if they wanted someone who could get along with Democrats and Republicans and still do a very good job, they could not do better than Ed Madigan.

I am sure a great many people with much more influence than PAUL SIMON conveyed the same message.

It was typical of Ed Madigan that I called him, rather than the other way around.

He was a great public servant, but even more important than that, he was just a genuinely fine human being.

I am pleased to introduce this legislation. My only regret is that Ed Madigan is not around to see this building designated for him. He was proud of his hometown of Lincoln, and I know the people in Lincoln are proud of him.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 907

At the request of Mr. MURKOWSKI, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 1074

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1074, a bill to amend the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1279

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1279, a bill to provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1423

At the request of Mr. GREGG, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1429

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1429, a bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995.

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1429, supra.

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1429, supra.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Commerce Committee on Indian Affairs will hold an oversight hearing on the Native American Graves Protection and Repatriation Act, Public Law 101–601. The hearing will take place at 9:30 a.m. on December 6, 1995, in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a joint hearing with the Committee on Labor and Human Resources regarding OSHA reform on Wednesday, December 6, 1995, at 9:30 a.m., in room 106 of the Dirksen Senate Office Building.

For further information, please contact Melissa Bailey at 224–5175.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing regarding proposals to strengthen the SBIC Program on Tuesday, December 12, 1995, at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Louis Taylor at 224–5175.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, December 12, 1995, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 873, a bill to establish the South Carolina National Heritage Corridor; S. 944, a bill to provide for the establishment of the Ohio River Corridor Study Commission; S. 945, a bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor; S. 1020, a bill to establish the Augusta Canal National Heritage Area in the State of Georgia; S. 1110, a bill to establish guidelines for the designation of national heritage areas; S. 1127, a bill to establish the Vancouver National Historic Reserve; and S. 1190, a bill to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the benefit of Members and the public that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources has scheduled a hearing on several measures relating to the Bureau of Reclamation.

The measures are:

S. 901.—To amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes;

S. 1013.—To amend the act of August 5, 1965, to authorize the Secretary of the Interior to acquire land for the purpose of exchange for privately held land for use as wildlife and wetland protection areas, in connection with the Garrison Diversion Unit Project, and for other purposes;

S. 1154.—To authorize the construction of the Fort Peck Rural Water Supply System, to authorize assistance to the Fort Peck Rural Water County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes;

S. 1169.—To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, ID, and for other purposes; and

S. 1186.—To provide for the transfer of operation and maintenance of the Flathead irrigation and power project, and for other purposes.

The hearing will take place on Wednesday, December 13, 1995 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact James Beirne at (202) 224–2564 or Betty Nevitt at (202) 224–0765 of the subcommittee staff or write the Subcommittee on Forests and Public Land Management, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. LOTT. Mr. President, for the information of our colleagues, the Senator from Arizona [Mr. McCAIN] and I ask unanimous consent that the text of a resolution which would make technical corrections to the Senate's gift rule.

There being no objection, the text was order to be printed in the RECORD, as follows:

S. RES.—

Resolved, That (a) paragraph 1(c) of rule XXXV of the Standing Rules of the Senate (as added by section 1 of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in clause (3) by striking "107(2)" and inserting "190(5)"; and

(2) in clause (4)(A) by inserting ", including personal hospitality," after "Anything".

(b) Paragraph 3 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(a) of S. Res. 158, agreed to July 28, 1995) is amended—

(1) in the matter before clause (a) by striking "paragraph 2" and inserting "paragraph 1"; and

(2) in clause (b) by striking "income" and inserting "value".

(c) Paragraph 4 of rule XXXIV of the Standing Rules of the Senate (as added by section 2(b)(1) of S. Res. 158, agreed to July 28, 1995) is amended by striking "paragraph 2" and inserting "paragraph 1".

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. McCONNELL. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for William Triplett, a member of the staff of Senator BENNETT, to participate in a program in the Philippines sponsored by the Rotary Club of Makati-Legazpi from December 2–8, 1995.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Triplett in this program.•

TRIBUTE TO MAURICE ROSENBERG

• Mr. HEFLIN. Mr. President, Maurice Rosenberg, who passed away late last summer, was a well-known advocate for judicial reform on the State and Federal levels of government. He was a professor at Columbia University's School of Law. I had the great pleasure of working with him extensively over the years on the issues of court reform and judicial administration. He had a keen legal mind that led him to contribute enormously to our system of jurisprudence.

During his 39-year tenure as a professor at Columbia, Dr. Rosenberg wrote and lectured extensively on the legal system, particularly on issues of procedure and access to the courts. He had an intense dislike for the staggering increase in cases which clog the courts and proposed measures to help ease the burden. One of his recommendations was to replace juries in small-claims cases with arbitrators. During a 1977 interview, he questioned the effect on society as a whole of people being so quick to sue each other in court.

Between 1971 and 1975, Dr. Rosenberg headed the Advisory Council on Appellate Justice and was later on the Council on the Role of the Courts. In 1979, President Carter appointed him Assistant Attorney General in charge of the Office for Improvements in the Administration of Justice. Previously, he had served on the mayor's committee on the judiciary in New York City. In 1980, he was appointed by Chief Justice Warren Burger to the Federal Advisory Committee on Rules of Civil Procedure, on which he served until 1987. A graduate of Syracuse University, he received his law degree from Columbia.

Dr. Rosenberg was an outstanding court scholar, professor, and lawyer who early on foresaw what is now called the litigation explosion. He acknowledged that part of the increase in litigation and in the law's complexity was due to greater public awareness of rights and a willingness to try them out in court. He once said, "That is certainly preferable to having them tested in the streets." But he also felt that law schools should do more to sensitize students to possibilities other than simply adopting an adversarial frame of mind.

Maurice Rosenberg will long be remembered as one of this century's legal giants. His contributions to the field of jurisprudence will be lasting and will guide scholarly thought for decades to come. I extend my sincerest condolences to his family in the wake of their tremendous loss.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

CANADIAN FOOTBALL LEAGUE CHAMPION BALTIMORE STALLIONS

Ms. MIKULSKI. Mr. President, my hometown of Baltimore has always been a great sports city. We have a tradition of excellence in baseball with the Orioles, and last summer we celebrated the magical endurance streak of Cal Ripken, Jr.

I am proud to say that a new chapter in our tradition of sports excellence was written on November 19, 1995. The Baltimore Stallions defeated the Calgary Stampeders for the Canadian Football League's championship, the Grey Cup. The Grey Cup is the ultimate achievement in the CFL, and it will now reside in the United States for the first time in the 106-year history of the league.

To win the Grey Cup, a team must combine tremendous athletic ability with leadership, and come together as a team. Last year the Stallions gave the fans their best effort, but came up short for the CFL championship. This year was going to be different. The Stallions came back with renewed intensity and desire. Their goal was to bring the Grey Cup to Baltimore, and they worked until their dream became a reality.

The Stallions' victory gives Baltimore three championships in three professional football leagues. The Stallions join the National Football League's Colts and the U.S. Football League's Stars as Baltimore champions.

I want to extend my congratulations to the owner of the Stallions, Jim Speros, and his dedicated players and coaches. They truly deserve this championship, and they have made Baltimore proud.•

IRONY ABOUNDS AS RETIRED OHIO SENATOR BEMOANS BROWNS' FATE

• Mr. SIMON. Mr. President, there is no one with whom I have served in my years in Congress for whom I have greater respect than Senator Howard Metzenbaum, our former colleague from Ohio.

One of the few issues where we differed was on the antitrust exemption for professional baseball.

The recent moves of professional football teams, particularly the movement of the Cleveland Browns to Baltimore, suggests that the antitrust exemption for baseball may be a very good thing for professional sports, as well as the communities involved.

Recently, a veteran sports writer for the Chicago Tribune, Jerome Holtzman, had a column about movement of the Browns and its relationship to antitrust baseball. I ask that this be printed in the RECORD. In fairness, I should add that the Chicago Tribune owns the Chicago Cubs, but I have no reason to believe that Jerome Holtzman is not writing from conviction.

The column follows:

[From the Chicago Tribune, Nov. 21, 1995]

IRONY ABOUNDS AS RETIRED OHIO SENATOR BEMOANS BROWNS' FATE

(By Jerome Holtzman)

Put in a call Howard Metzenbaum, the recently retired Democratic senator from Ohio, and had only one simple question.

After years of attempting to rid baseball of its antitrust exemption, what were his thoughts about his beloved Cleveland Browns moving to Baltimore?

"It's horrible," Mentzenbaum said from his office in Pompano Beach, Fla. "It's a travesty. No community was more supportive of its team than the fans in Cleveland. I was back in Cleveland for one day and the feeling of outrage is unbelievable. And I've lived in Cleveland all my life—78 years."

Certainly, he understood the Browns are able to pick up and hotfoot it to Baltimore because the National Football League does not have an antitrust exemption.

"That argument can be made," he conceded.

Yet, as the chairman of the Antitrust Committee of the Senate Judiciary Committee, he helped introduce legislation that sought to repeal baseball's exemption.

Doesn't he see the irony?

He is losing his hometown football team and if baseball didn't have antitrust protection, Cleveland also would have lost its baseball team. The Indians would have flown the coop years ago.

"I can't argue that," he replied. "They could have been moved."

He launched into a meaningless panegyric about the difference in ownership today compared with years ago:

"There are not the same kind of owners that were in the field yesteryear. Now, you're talking about multimillionaires who have a plaything. Before, it wasn't a question of making money. It was the pride of having a team in your community. Much of that doesn't exist anymore."

It certainly seems that way. But the senator is naive. If he had read up on baseball history he would discover most owners have been motivated by money, beginning with the 1869 Cincinnati Red Stockings, baseball's first professional team. To increase attendance, the owner encouraged the players to open with a song:

"We are a band of baseball players
From Cincinnati City;
We come to toss the ball around
And sing to you our ditty;
And if you listen to the song
We are about to sing,
We'll tell you all about baseball
And make the welkin ring.
The ladies want to know
Who are those gallant men in
Stocking red, they'd like to know."

The only owner in my time who appeared mostly to be a gentleman sportsman was the late Philip K. Wrigley, the longtime caretaker of the Cubs. He didn't need the money because the gum business kept him and his family in vittles.

Metzenbaum was asked if, in his opinion, anything could be done to prevent the Browns from moving to Baltimore?

"The league won't do much," he acknowledged. "If push comes to shove they'll probably be able to move the team."

But if professional football had the exemption, the carpetbaggers couldn't move their franchises at will. They couldn't transplant without the approval of a majority of their fellow owners. And so the owners jump around like flies, forever devouring the sweetest fruit, a movable feast.

In the last 13 years, the Oakland Raiders have navigated a round trip—to Los Angeles and back to Oakland. The Los Angeles Rams are now in St. Louis. The Baltimore Colts are in Indianapolis. The Phoenix Cardinals were previously based in St. Louis. The Houston Oilers are enroute to Nashville. And the shameless Mike McCaskey, president of our Bears, is threatening to relocate to Gary.

I can't resist mentioning all the baseball bashing since the players' 1994 strike that forced cancellation of the World Series. But which is preferable? A temporary baseball shutdown, with replacements on the field, or no team at all?

Because of its exemption, the baseball map is unchanged since 1972 when the Washington Senators were allowed to move to Texas. In the 23 years since, the San Francisco Giants were denied a ticket to St. Petersburg, Fla. Minnesota's jump to Tampa was aborted, as was the White Sox to Denver, Oakland to Denver and Seattle to St. Petersburg.

The Pittsburgh Pirates and Cleveland Indians, when both were in poverty—the Pirates have yet to escape from the poor-house—repeatedly have sought greener fields. But they were ordered to stay put and could be sold only to local ownership groups. The Houston Astros now are threatening to move to somewhere in Virginia. Will they get permission? I doubt it.

"Fortunately, because of the events of the last four months everyone seems to better appreciate our position," said acting commissioner Bud Selig. "In all the times I have testified in Washington, and especially before Sen. Metzenbaum, I emphasized the exemption has been good for our fans. It has enabled us to stabilize our franchises."

I mentioned that I was planning to speak to Metzenbaum, formerly baseball's No. 1 congressional nemesis.

"Oh," said Selig, "send him my best regards. And be sure to tell him that in the 26 years I've been in baseball the Indians tried to move out of Cleveland at least four times."•

TRIBUTE TO CHARLES GOMILLION

• Mr. HEFLIN. Mr. President, Charles Goode Gomillion, who passed away on October 4 at the age of 95, will go down in history as the leader of the struggle to bring political power to the black majority of citizens in Tuskegee, AL. The case Gomillion versus Lightfoot ultimately yielded a landmark U.S. Supreme Court decision on the issue of redistricting. The decision in the case is also recognized by legal scholars as a major step forward in the dual causes of civil and voting rights.

Charles Gomillion will long be remembered as a pioneer who took a firm stand on principle and by so doing paved the way for major advances in the cause of equality. His legacy is that of social progress; his political moderation and temperament present an outstanding example of how to work within the constitutional system to effect positive change. I extend my condolences to his family.

I ask that a New York Times article on the landmark remapping case be printed in the RECORD.

The article follows:

[From the New York Times]

CHARLES GOMILLION, 95, FIGURE IN LANDMARK REMAP CASE, DIES

(By Robert McG. Thomas, Jr.)

Charles G. Gomillion, who led the fight that brought political power to the black majority in Tuskegee, Ala, with the assistance of a landmark Supreme Court case that bears his name, died on Oct. 4 at a hospital in Montgomery, Ala. He was 95 and until his recent return to Tuskegee had lived the last 25 years in Washington and Roebling, N.J.

Mr. Gomillion, a native of Edgefield, S.C., had a long and distinguished career as a sociology professor and dean at Tuskegee University, but it was his role as a civic leader that made Charles Goode Gomillion a footnote to constitutional legal history in 1960.

As the president of the Tuskegee Civic Association, an organization he had helped found in 1941, he was the lead plaintiff in a suit that successfully challenged a blatant act of gerrymandering designed to exclude all but a handful of black voters from municipal elections.

Alarmed by a voter registration drive led by Mr. Gomillion's organization, the Alabama Legislature redrew the town's boundries in 1957, leaving Tuskegee University and all but a handful of black families outside the city limits.

What had been a perfect square was now a 28-sided figure that some likened to a snake and others to a sea dragon. Whatever the trope, the lines had been so skillfully drawn that although as many as 12 black voters remained inside a city that once had 5,400 black residents, not a single one of the city's 1,310 white residents had been excluded.

Mr. Gomillion and 11 other association members filed a Federal suit seeking to bar Mayor Philip M. Lightfoot and other city officials from enforcing the state statute on the ground that it was a transparent effort to circumvent the 15th Amendment's voting guarantees. Two lower courts, citing a 1946 Supreme Court opinion by Justice Felix Frankfurter, ruled that such state action was beyond judicial review.

When the case, Gomillion v. Lightfoot, came before the Supreme Court in 1960, Justice Frankfurter, describing the new configuration as "an uncouth 28-sided figure," found otherwise and so did all eight of his colleagues.

Deftly distinguishing Gomillion, from the 1946 case, which involved Congressional districts of unequal population in Illinois, Justice Frankfurter said the Tuskegee case involved "affirmative action" by legislature that "singled out a readily isolated segment of a racial minority for special discriminatory treatment."

He and seven other justices said that a statute that had the effect of disenfranchising black voters would be a violation of the 15th Amendment. Justice Charles E. Whittaker, suggesting that there would be no disenfranchisement since the excluded former Tuskegee residents could vote in county elections said it would instead be a violation of the 14th Amendment.

The case was sent back to District Court and the next year Judge Frank M. Johnson Jr. declared the statute was indeed unconstitutional.

The former city limits were restored and within years the black majority has taken over both the city and county governments, much to the consternation of Mr. Gomillion, who served for a while on the school board.

A soft-spoken moderate who had worked quietly to enlist the support of liberal-minded white allies in Tuskegee, he was dismayed when a plan to integrate local schools was sabotaged by Gov. George C. Wallace. The Governor ordered the schools closed, creating such rancor that white residents created a private school, black radicals swept Mr. Gomillion and other moderates aside and in turn white families fled. Today, only a handful of white families remain in Tuskegee.

As his dream of a truly integrated community, with black and white leaders working together for the common good, died, Mr. Gomillion, who retired from Tuskegee in 1970, left, too.

Although his moderate approach was rejected by a majority of the black voters, at least one of the former radicals now regrets it.

"The man was right," Otis Pinkard said yesterday, recalling that he had once led the faction that opposed the Gomillion approach, "We should not have run all the white families out of town."

Mr. Gomillion is survived by a daughter, Gwendolyn Chaires of Roebling; three grandchildren; three great-grandchildren, and one great-great-grandchild.•

ON THE RETIREMENT OF LAUREN F. OTIS

• Mr. MOYNIHAN. Mr. President, I rise today to wish great congratulations to Lauren F. Otis, who retired Thursday, November 30, 1995, after 28 years of dedicated service to the city of New York's Department of City Planning.

Mr. Otis has been with the department of city planning since 1967, the last 11 as chief urban designer. In this capacity, he has acted as a consultant to the chairman and the city planning commission on a variety of urban matters while developing comprehensive studies of the five boroughs of New York City as an overall framework for individual projects. Prior to becoming the chief urban designer, Mr. Otis was a key member of a team of architectural professionals who developed new zoning and regulatory approaches for the development of Midtown Manhattan and the Wall Street area. Some of his individual urban design highlights include Times Square, the Citicorp Center, and the Sliver Building zoning amendment.

A graduate of Harvard College and Harvard University School of Design, Mr. Otis served in the U.S. Navy Civil Engineer Corps from 1955 to 1958 before moving to architectural design, working as a staff architect for I.M. Pei & Partners before joining the city of New York.

In addition to Mr. Otis' work in the department of city planning, his patronage of New York City's cultural spirit as the mayor's representative to the New York City Art Commission between 1982 and 1992, the last 7 years as vice president, and as a representative to the New York City Historic Properties Fund deserves recognition.

Mr. President, I hope my colleagues will join me in wishing him the best of luck in his much deserved retirement.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

SOCIAL SECURITY DISABILITY WAITING PERIOD

• Ms. MIKULSKI. Mr. President, I rise today to make my colleagues aware of a very unfortunate situation involving Social Security disability benefits.

In our law, there is a 6-month waiting period before a Social Security disability applicant can receive payments. If a person is diagnosed with a deadly disease, and is eligible to receive Social Security disability, that person must wait 6 months before the payments arrive. This waiting period often comes at a time in a person's life when treatment must begin immediately. Many of these people simply cannot afford to wait. Far too often, the results of this forced waiting period are financial devastation for families.

One of my Maryland constituents, Mitchell Berman, was stricken by a terrible illness which required full-time care in a nursing home. Mr. Berman and his wife, Marjorie, were forced to sell nearly everything they owned to cover the health care costs. By the time Mr. Berman's payments began to arrive, it was too late; they had spent much of their life's savings. Mr. Berman's disease was not curable, and I am very sorry to say that he has died.

To honor the memory of her husband, Marjorie Berman has started her own crusade to make lawmakers and families aware of the financial effect the waiting period can have. I salute Marjorie Berman for her courage and her steadfast devotion to her husband.

Earlier this year, I encouraged the Senate Finance Committee to explore this issue. In today's political climate, I know that funding for many programs is being cut back and eligibility for some programs is being tightened.

But I encourage my colleagues to take a close look at this issue and ask if the Social Security disability waiting period is serving a useful Government purpose and responding to the needs of people. I also ask my colleagues to listen to the stories of their own constituents who have been affected by this waiting period and have not been able to get the help when they need it. I think my colleagues will find that the waiting period does not serve the needs of people.•

THE PROS KNOW WHY PRISON FAILS

• Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to an op-ed written by Coleman McCarthy in the September 9, 1995, Washington Post.

In discussing prison policies, Mr. McCarthy draws an important distinction between professional and amateur opinions. No matter how we like to flatter ourselves, Members of Congress are amateurs when it comes to understanding what works to reduce crime. The professionals are the people who work in prisons and the criminal justice system every day. Unfortunately, it is the amateurs who get to set policy, and, according to the professionals, we are doing a lousy job.

One year ago, I sponsored a survey of prison wardens asking for their views on our criminal justice and prison policies. Eight-five percent of the wardens said that most politicians are not offering effective solutions to crime. Instead of building more prisons and passing mandatory minimum sentencing laws, the wardens overwhelmingly favored providing vocational—92 percent—and literacy—93 percent—training to prisons, and 89 percent support drug treatment programs in prisons. Congress has been quick to defund these programs, and pour scarce resources into prison construction, in the rush to be tough on crime.

The reality is that most prisoners will at some point be released, and our goal should be to ensure that those released from prison do not return to a criminal lifestyle. The Huron House in Michigan, a community-based alternative sentencing program which Mr. McCarthy refers to in his piece, costs less and is more effective at reducing recidivism than prisons.

In setting prison policies, we need to be more focused on what works. The best way to find out is to consult the professionals.

I ask that the full text of the op-ed be printed in the RECORD.

The material follows:

THE PROS KNOW WHY PRISONS FAIL

(By Coleman McCarthy)

PORT HURON, MICH.—Robert Diehl, who works with prisoners, believes it's time to get tough on crime. How? To begin with, not by longer sentences, not by building more prisons and not by agreeing with California Gov. Pete Wilson, who announced his presidential candidacy with the preachment that he'll "appoint judges who know that it's better to have thugs overcrowding our jails than overcrowding your neighborhood."

Diehl's philosophy of toughness involves the arduous and complex work of rescuing people with messed-up lives. He is the director of Huron House, a nonprofit, community-based alternative sentencing program for felony offenders. The three-story, 30-bed facility—located on a residential street in this small lakeshore community 60 miles north of Detroit—provides intensive 24-hour supervision and comprehensive services ranging from job training and job placement to mental health and drug counseling.

It isn't blind faith, much less addled thinking, that keeps Diehl going. In the 15 years he's been with Huron House, which opened in 1979, fewer than one in five men and women in the program has committed a new crime. The recidivism rate for the imprisoned is two out of three. It's $50 a day to cage a person in a Michigan prison, as against $35 a day to supervise a resident at Huron House.

In his office last week, Diehl, 53, described the futility of the current panic-button solutions to crime mouthed by one Pete Wilson or another: "Michigan has been trying to build its way out of the crime problem for the past 12 years. We now have three times as many people in our prisons as 12 years ago. It doesn't work. There's been no reduction of crime, and there's no more perception of safety among our citizens. And prisoners' lives are not being changed for the better."

The public faces a choice: Does it want to follow the counsel of such corrections officials as Diehl or place its trust in politicians who advocate spending money on chain gangs, boot camps, three strikes, death rows, mandatory sentencing—and investing less or no money in inmate education or job programs.

The choice was rarely more stark than a few weeks ago, when two groups met—one in Cincinnati, the other in Washington—to offer prescriptions for fighting crime. One group was the professionals, the other amateurs.

The pros were people who run the nation's prisons and jails and who belong to the 20,000-member American Correctional Association (ACA). The amateurs were such members of the Senate as Texas Republican Kay Bailey Hutchison, testifying before a Senate Judiciary Committee hearing on prison reform.

At the ACA conference in Cincinnati, those who toil behind the walls told of the frustration of doing politicians' dirty work and knowing all the time that longer sentences and meaner bastilles are counter-productive.

They listened to corrections officials who detailed the facts on how recidivism is reduced through community programs like Huron House and how the payoffs for public safety are in combinations of education, employment, drug treatment and punishment—not punishment alone.

Few people are wearier of quick-fix politicians than corrections professionals. Bobbie L. Huskey, the ACA president, states categorically that an "overwhelming consensus" exists among wardens that "incarceration, in and of itself, does little to reduce crime or have a positive impact on recidivism." Huskey cites a poll conducted by the Senate Judiciary subcommittee on the Constitution in which 85 percent of the wardens surveyed said that most politicians are not offering effective solutions to crime. Ninety-three percent favor literacy and other educational programs, 92 percent vocational training and 89 percent are for drug treatment.

While the professionals who know struggle on, the amateurs who don't keep popping off. At the Judiciary Committee hearings in late July, Sen. Hutchison accused federal courts of creating "comfort and convenience" for criminals in prisons. That was news to the wardens.

In addition to criminal recidivists, it appears that we now have politician recidivists: the Wilsons and Hutchisons who lapse, relapse and relapse again into deadend thinking. Maybe they need a brief stretch at Huron House.•

LEGALIZED GAMBLING

• Mr. LUGAR. Mr. President, I would like to take this opportunity to inform my Senate colleagues on the progress of important legislation moving through Congress that addresses the issue of legalized gambling in America.

Legalized gambling today is proliferating at breathtaking speed, touching the lives of millions of Americans. Communities across the country are considering casinos, riverboat gambling, pari-mutuel racing, off-track betting, and other forms of wagering. Whereas only 2 States offered casino gambling in 1988, today 23 States have authorized casinos to operate. Overall, 48 States now permit some form of legalized gambling.

A steady stream of news accounts have chronicled the recent growth and expansion of gambling activities in America. Many of these stories describe the enormous profits generated almost overnight by gambling enterprises. Questions are being asked about decisions by State and local leaders to legalize gambling. People are concerned not only about the economic costs of these decisions, but of the human costs as well.

The Wall Street Journal, recently reported that some New Orleans public officials, retailers, and citizens are having second thoughts about the economic impacts of bringing riverboats, casinos, and video poker machines to Louisiana. The New York Times related the personal experiences of local residents in cities and towns across America who visit a casino instead of a restaurant or ballpark, who spend their grocery money on a nearby instant-play video lottery game, or who exhaust their personal or family savings at the casino tables.

In the face of this explosive growth, I joined Senator SIMON last April in support of legislation to establish a national commission to conduct an 18-month study on the effects of gambling. This measure, S. 704, would provide State and local governments with an objective, authoritative resource to use as a basis for making informed choices about gambling. S. 704 does not propose to further regulate gambling activities or to increase taxation of gambling revenues. The bill has been endorsed by the President and enjoys bipartisan support in the Senate with a total of 11 cosponsors, including Senators GORTON, KYL, LIEBERMAN, GRASSLEY, WARNER, FEINSTEIN, HATFIELD, KASSEBAUM, HATCH, and COATS.

The Governmental Affairs Committee on November 2 conducted a hearing on S. 704. Senator SIMON and I testified before the committee along with several other Members of Congress and outside experts concerned about this important issue. I am hopeful the committee will approve this important legislation before the conclusion of this session.

Companion legislation was introduced in the House of Representatives by Congressman WOLF of Virginia. The House Judiciary Committee held hearings on Representative WOLF's bill, H.R. 497, and approved the measure by voice vote on November 8. Prospects are good for passage by the full House during the 104th Congress.

The Washington Post, in a September 22, 1995, endorsement of the gambling study commission proposal, stated that,

> Those pushing casinos into communities make large claims about their economic benefits, but the jobs and investment casinos create are rarely stacked up against the jobs lost and the investment and spending forgone in other parts of a local economy. The commission's study could be of great use to communities pondering whether to wager their futures on roulette, slot machines and blackjack.

As evidence of the desirability for a comprehensive study of the gambling issue, I ask that the following Chicago Tribune article from November 29, 1995, be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Nov. 29, 1995]

RISKY BUSINESS: CAN GAMING WIN IN CITIES?—CHICAGO MAY GET TIP FROM NEW ORLEANS

(By Ken Armstrong)

The way casinos have flopped in New Orleans may drive other cities to flip in their views toward gaming, but Chicago still looks like a viable gambling market, according to financial analysts.

As the country's first major city to introduce large-scale gaming, New Orleans was to be a model demonstration of casinos creating tax dollars and jobs. What transpired instead were budget shortfalls, unrealized promises and the threat of municipal layoffs.

"I think there were many municipalities watching this project as an experiment in urban gaming," said Jason Ader, a gaming analyst with Bear Stearns & Co. in New York. "And the fact that it has effectively failed casts a dark cloud over other urban markets considering gaming as an economic engine."

Harrah's Jazz Co. shut its temporary casino in New Orleans last week and declared bankruptcy. Harrah's Jazz also suspended construction on its permanent casino, which was slated to open in New Orleans next summer.

No longer able to count on lease and tax payments from the casino, New Orleans faces a budget shortfall and has postponed the sale of $15.8 million in general obligation bonds. Mayor Marc Morial said he may have to lay off as many as 1,000 city employees.

Gaming opponents have latched on to the debacle, using it to argue that other cities pursuing casinos would be wise to give up the chase.

Tom Grey, a Galena, Ill., minister spearheading the anti-gambling movement nationwide, said there's reason to believe that what happened in New Orleans would be replayed in Chicago, where Mayor Richard Daley has pushed hard for casinos.

But several financial analysts who specialize in gaming say it isn't necessarily so.

"Everybody in the industry knows Chicago and New York would be layups if they had casinos there," said Steve Schneider, an analyst with Stifel Nicolaus & Co. in St. Louis.

He estimated that casinos in Chicago could generate $800 million to $1 billion in gross profits without cutting heavily into the revenues of nearby riverboat casinos.

Daley spokesman Jim Williams said the mayor still views casinos as a good way to attract convention-goers and increase tax revenue for the city and state.

But he added: "The mayor has never seen gaming as a panacea. He's been steadfast in his belief that it should never be seen as a primary source of income."

What happened in New Orleans would more likely give pause to marginal markets for gaming such as Milwaukee or Cleveland, Schneider said. The poor performance of the New Orleans casinos also will make it more difficult for gaming companies to secure project financing for future developments, he said.

Brian Ford, director of gaming industry services at Ernst & Young in Philadelphia, said New Orleans hardly proves that casinos can't flourish.

With video-poker machines in truckstops, casinos on riverboats and what would have been one of the world's largest land-based casinos, Louisiana tried to do too much with too small a population base, Ford said.

The shutdown of Harrah's Jazz was New Orleans' second losing hand.

Another project with two riverboat casinos—the $223 million River City complex—closed in June after opening just nine weeks before. Analysts blamed its failure, like that of Harrah's temporary casino, largely on its location.

The riverboat complex was built in an industrial area where its neighbor is Glazer Steel & Aluminum—hardly a tourist draw. A thousand feet of head-high weeds, tractor trailers, piles of gravel and an abandoned Chevette with smashed-in windows separate the complex from the edge of the city's downtown area.

David Anders, a gaming analyst with Raymond James & Associates in St. Petersburg, Fla., said New Orleans shows that while state and municipal governments should rightfully profit from a casino, they shouldn't make the casino's financial burden so great it can't survive.

Harrah's Jazz paid $125 million up front as a franchise fee for the state's only land-based casino and promised payments of at least $100 million a year to the state, regardless of financial performance.

The company's principal partner is Memphis-based Harrah's Entertainment Inc., which grew from a bingo parlor in Reno during the Depression to an industry giant with casinos in all of the country's major gaming markets.

Ralph Berry, a Harrah's Entertainment spokesman, said Harrah's Jazz still wants to open the permanent casino and will try to renegotiate the casino agreement with the state, city and lenders. Critics have accused Harrah's Jazz of using the bankruptcy filing as leverage for more attractive terms.●

NATIONAL VETERANS DAY AND ADDRESS BY ADM. LEIGHTON W. SMITH, JR.

Mr. HEFLIN. Mr. President, Birmingham, AL has always conducted outstanding Veterans Day events. Each year, the ceremonies commence on the night of November 10, the day before Veterans Day, when a banquet is held to remember our veterans and to formally honor the National Veterans Award recipients.

This year, National Veterans Day in Birmingham sponsors, which include 16 of the national veterans organizations, decided to present the award to 5 World War II Congressional Medal of Honor winners. They were Adm. Eugene Fluckey of the U.S. Navy; Capt. Maurice Britt, U.S. Army; and PFC Jack Lucas, U.S. Marine Corps. There were two members honored from the Air Force, which during World War II was still the old Army Air Corps. They were Col. William T. Lawley and M.Sgt. Henry Eugene Erwin, both Alabama natives. There are a total of five surviving World War II veterans who served in the Army Air Corps and who are Congressional Medal of Honor winners, and we are proud that two of them hail from Alabama. Douglas Albert Monroe, signalman first class in the U.S. Coast Guard was honored posthumously.

On Veterans Day itself, Birmingham hosts the World Peace Luncheon, which this year featured Adm. Leighton W. Smith, Jr., of the U.S. Navy as its distinguished guest speaker. Born in Mobile, Admiral Smith is the commander, U.S. Naval Forces in Europe and commander in chief, Allied Forces in Southern Europe. He was appointed to these posts in April 1994.

He was promoted to vice admiral in June 1991, and served for 2½ years as deputy chief of naval operations for plans, policy, and operations. He was a major contributor to Navy staff reorganization and the development of From the Sea, the Navy's strategy for the 21st century.

I ask that a copy of Admiral Leighton's outstanding address delivered at the World Peace Luncheon be printed in the RECORD.

The material follows:

ADDRESS BY ADM. LEIGHTON W. SMITH, USN, COMMANDER IN CHIEF ALLIED FORCES SOUTHERN EUROPE, COMMANDER IN CHIEF U.S. NAVAL FORCES EUROPE

Senator, Congressman, distinguished veterans, those of you who have worked so hard to put on this celebration, good morning.

No one knows better than I the value of and the sacrifices made by those we left behind.

I am distinctly honored to add my thoughts to those of the many distinguished speakers who have appeared here in previous years.

I doubt I can adequately express my gratitude for having been invited to join fellow Alabamians to pay tribute to our veterans—both those that have joined us here today and those who have gone before us.

It is absolutely right that we pause to reflect on what this day means—what it signifies—what it cost—and why, as Senator Heflin said last night, "The Strength of our Nation Must Never Be Allowed to Atrophy".

Few gathered here today can recall the first Armistice Day or the terribleness of the war it commemorated. Time has distanced us from the horror of that conflict.

It was the war to end all wars—but history reminds us that it really wasn't.

Other wars, conflicts and crises have followed, all evidencing the common denominators of destruction and death, but also individuals whose commitment, courage and personal sacrifices have continued to inspire us all.

Senator John Kerry, in speaking at the retirement of our Navy's Vietnam era swift boats, said:

"We were all bound together in the great and noble effort of giving ourselves to something bigger than each and every one of us individually, and doing so at risk of life and limb. Let no one ever doubt the quality and nobility of that commitment."

Those words could have been spoken about our veterans who served in the trenches of France, at Pearl Harbor and Bataan, at Midway, Normandy and Iwo Jima.

They would have been true at Inchon and the Frozen Chosin, in the jungles and skies of Vietnam, the deserts of Kuwait and Iraq and in other unnamed places where ordinary people do extraordinary things and in so doing, honor their country while preserving the ideals and values for which it stands.

Last year I attended commemorative ceremonies at Normandy.

As I sat waiting for the program to begin, I spotted an usher, a young soldier no more than 18 years old, my he looked so young.

It suddenly dawned on me that this boy was the very same age as many of the men who, 50 years ago, had crawled across those bloody beaches and clawed their way up those terrible cliffs, each staring death square in the face.

Some survived, all were heros, but tragically so many were mown down in the springtime of their youth, their lives ended before they had really begun.

I was awed. What tragedy; what tragedy to rob a nation of its youth, to take a son or daughter from a father, mother, a sister or brother, a husband or wife. What tragedy to deny one so young the joys and excitement of life; the warmth of love, the thrill of watching one's children grow.

But then I thought, what if they had not?

Somehow seeing that young soldier made all those grave markers in that cemetery even more real, more alive. It literally slammed home in me the utter cruelty of war, the awfulness of what man can do to man, and equally as important, the enormous gift that all of those who experienced the terribleness of that war gave to us.

I am told that somewhere in Burma there is a marker inscribed with the message: "We gave our todays so you could enjoy your tomorrows."

Those of us gathered here today, and in other places around our country, honor the veterans whose legacy of honor, courage and commitment should not, and shall not, ever be forgotten.

Let me tell you that the actions of the young men and women of your Armed Forces tell me that they are, as Colin Powell said in an address here a few years back: "worthy successors to what you their predecessors have passed on to them."

You may all have heard of Capt. Scott O'Grady. He was shot down over Bosnia on 2 June.

On the night of 7 June his squadron mate went on a "fishing expedition" to try to contact Scott.

At 0200 he got contact with Scott O'Grady. I immediately called the amphibious commander, Jerry Schill and the Marine commander Marty Berndt. Both were on the U.S.S. *Kearsarge* in the Adriatic.

I told them to close the coast/call away your tactical recovery of aircrew and personnel team.

Didn't ask if—just when.

We discussed risks and the possibility of a trap being set.

I told Colonel Berndt you're in charge, look around, if you don't like what you see, come out.

These were educated risks, and we were operating on the edge of the envelope.

Four hours and thirty seven minutes—I got a call, one word—"pickup".

Not many understand all that occurred.

We had 60 fixed wing aircraft, special operations backup rescue, Marines backup to that.

Went next day to visit, *Aviano, Vicenza*, U.S.S. *Kearsarge*:

There were no complaints, in spite of the mission being early morning, complex, risky.

They thanked me for letting them go.

Says a lot about courage, honor, commitment.

The same characteristics were demonstrated in attempts to locate and rescue the French pilots shot down 30 August.

Plan was developed to recce area of shootdown.

At 0130 I got a call from Mike Ryan.

Same coordination and complexity as the O'Grady rescue.

We tried three successive nights.

All three attempts experienced bad weather, all were shot at.

That this rescue was not consummated in no way detracts from the courage and commitment of those who tried.

These are wonderful stories, and I relive the excitement of those moments each time I tell them.

But the important thing here is that these are real stories about real people who demonstrate, every single time they are asked, the legacy of their predecessors and the strength of our great nation.

There are, in fact, two kinds of strengths. One is capability, and one is character.

Capability is the mechanics, it is the equipment. The machines, the steel, the weapons, the computers, the number of battalions that can be fielded, capability is what we think of when we think of the force.

Character, on the other hand, comes from the commitment of the people. It is the moral fabric that binds a nation together, that gives it purpose and defines its identity.

Yet as different as capability and character seem, it is their combination that makes a nation strong, that empowers it to greatness, that enables it to lead.

I would argue that a nation's strength and greatness is not fully tested until severely stressed, ours has, and we have never been found wanting.

Our veterans defined our strength for us and the memory of what they did gives us strength today.

Joseph Conrad said:

"And now the old ships and their men are gone; the new ships and men have taken their watch on the stern and impatient sea which offers no opportunities but to those who know how to grasp them with a ready hand and an undaunted heart."

While we thank God for what the old ships and men gave us.

I offer to you, our honored veterans that your worthy successors, the veterans of tomorrow, possess ready hands and undaunted hearts.

They have learned well from your deeds.

We owe you, we owe you a lot. We owe you our thanks, our admiration, and our respect, and we owe you the promise that we shall never allow to be forgotten the deeds performed, nor what you preserved for us.

Your legacy of courage, honor and commitment has been received and will be passed on to future generations.

This has been a singular honor for me and I am grateful to you all for allowing me to join you on this very special occasion.•

CONFERENCE REPORT ON H.R. 1977

• Mr. MACK. I would like to engage in a colloquy with my colleague from Kentucky, Senator McCONNELL. Activities funded under the Department of Energy's Codes and Standards Program are primarily concentrated in two subprograms known as Lighting and Appliances and Building Standards and Guidelines. However, as is clear in the Department of Energy's budget, its activities within these two programs extend to areas outside of that which might be assumed under their titles. This would include setting standards for commercial equipment electric motors, as well as the advocacy of minimum energy codes for residential buildings. Therefore, it was my understanding that the intent of the amendment to H.R. 1977 that placed a 1-year time-out on Department of Energy's use of funds to propose, issue, or prescribe any new or amended standard would extend to Department of Energy's activities in advocating changes to minimum codes for residential energy use.

Mr. McCONNELL. My colleague is correct. While not specifically spelled out in the statutory language of H.R. 1977, it was my intent that this 1-year time-out extended to the entire program as it related to the establishment of minimum standards and codes. I had hoped that this clarification would be made in the conference report, but since there is no report language addressing this issue, I feel it necessary to clarify it here for the record. Indeed, product manufacturers have raised concerns over the methodology and assumptions in Department of Energy's current cost benefit analysis. Similarly, builders have raised concerns over the minimum mandatory standards found in codes enacted by local municipalities or States that use the voluntary products of code and standard organizations over which Department of Energy has significant influence. Builders have told me that these standards are often not responsive to technological innovation, customer needs, or economic consideration of affordability or payback. Therefore, just as there needs to be a time out to review standards-setting activities conducted by the Department of Energy, the same review should apply to its activities relating to residential building codes.

Mr. MACK. I appreciate this clarification. Indeed, considering that the House language eliminated funding for the entire Codes and Standards program, the intent is clear that the House aimed to institute this 1-year time out on Department of Energy's activities in the standards arena as well as in standards which are part of the codes as well as the standards arena. I think it is important that, since the House agreed to recede to Senate language on this issue, which restored the funds cut by the House, that the Senate ensure that the spirit of the House language be carried out.

Mr. McCONNELL. I would also point out that as means of reaching agreement on Senate language, I was asked to include a caveat stating that the Federal Government was not precluded from promulgating rules concerning energy efficiency standards for the construction of new federally owned commercial and residential buildings. By expressly carving out federally owned buildings, this would indicate further that standards and codes for all other buildings, and thereby privately owned structures, would be covered. It should also be clear that it is not the intent of this language to prevent promulgation of the national Home Energy Rating System voluntary guidelines.•

ORDERS FOR TUESDAY, DECEMBER 5, 1995

Mr. DEWINE. Seeing no other Members of the Senate who wish to speak, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of

9:30 a.m. on Tuesday, December 5; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and under the previous consent agreement, the Senate then begin consideration of the conference report accompanying H.R. 1058, the securities litigation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent that on Tuesday, the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, on Tuesday there is an 8-hour time limitation for debate on the securities litigation conference report. Senators can therefore expect a rollcall vote on the conference report at the expiration or yielding back of that debate time.

Following that vote, it is expected that the Senate will resume consideration of H.R. 1833, the partial-birth abortion bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DEWINE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:44 p.m., adjourned until Tuesday, December 5, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 4, 1995:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1997. (REAPPOINTMENT)

COMMUNICATIONS SATELLITE CORPORATION

BARRY M. GOLDWATER, SR. OF ARIZONA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1998. (REAPPOINTMENT)

PETER S. KNIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1999. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOHN J. MAZACH [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 5898 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN W. HILL [redacted]
BRIG. GEN. DENNIS M. MC CARTHY [redacted]

THE FOLLOWING-NAMED BRIGADIER GENERALS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. THOMAS A. BRAATEN [redacted]
BRIG. GEN. MICHAEL P. DELONG [redacted]
BRIG. GEN. EDWARD HANLON, JR [redacted]
BRIG. GEN. GEOFFREY B. HIGGINBOTHAM [redacted]
BRIG. GEN. GEORGE M. KARAMARKOVICH [redacted]
BRIG. GEN. JACK W. KLIMP [redacted]

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

WILLIAM C. ALFORD [redacted]
GEORGE A. CIBULAS [redacted]
MARK S. DAY [redacted]
ROBERT L. EDLUND [redacted]
KATHLEEN E. FICK [redacted]
MICHAEL D. GREGORY [redacted]
DANIEL F. HAGGERTY [redacted]
MARK Y. HANCOCK [redacted]
WILLIAM E. HOY [redacted]
DENNIS J. KUGLER [redacted]
EUGENE A. MARTIN [redacted]
WILLIAM B. MOOSE, JR. [redacted]
SAMUEL W. PATELLOS [redacted]
TERRY W. SCHNEIDER [redacted]
TIMOTHY W. SCOTT [redacted]
PAMELA J. SIMONITSCH [redacted]
RICHARD M. YANULIS [redacted]
ROBERT J. YAPLE [redacted]

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

MARK S. COLLINS [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

GARY K. ODLE [redacted]

MEDICAL CORPS

To be lieutenant colonel

GREGORY F. BREDEMEIER [redacted]
RICHARD A. SMITH [redacted]

NURSE CORPS

To be lieutenant colonel

LINDA S. MITCHELL [redacted]

THE FOLLOWING-NAMED OFFICERS, OF THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, U.S.C., WITH A VIEW TO DESIGNATION IN ACCORDANCE WITH SECTION 8067 OF TITLE 10, U.S.C. TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

ROGELIO F. GOLLE [redacted]

MEDICAL CORPS

To be lieutenant colonel

SUSAN P. ABERNATHY [redacted]
BRANT CASFORD [redacted]
DAVID N. KENAGY [redacted]
ROBERT A. MUNSON [redacted]

DENTAL CORPS

To be lieutenant colonel

HERMAN S. DICKERSON [redacted]
RAYMOND W. KAERCHER [redacted]
LISA D. RACKLEY [redacted]
ROBERT C. ZALME [redacted]

MEDICAL CORPS

To be major

PHILIP J. LAVALLEE [redacted]

DENTAL CORPS

To be major

JEFFREY M. SWARTZ [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR U.S. AIR FORCE ACADEMY, UNDER SECTION 9333(B) AND 9336 OF TITLE 10, U.S.C.

LINE

To be colonel

MICHAEL L. DELORENZO [redacted]

EXTENSIONS OF REMARKS

CONFERENCE REPORT ON H.R. 2099, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996

HON. FRED HEINEMAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 4, 1995

Mr. HEINEMAN. Mr. Speaker, earlier I engaged in a colloquy with my good friend, Chairman JERRY LEWIS of California regarding the prospects of building a new facility for the Environmental Protection Agency [EPA] at the Research Triangle Park [RTP], North Carolina. Once again, I would like to thank Chairman LEWIS for his expression of support for this facility, and I would like to submit for the RECORD the following letter from EPA Administrator Carol M. Browner indicating that a proposed new RTP facility for the EPA would save the taxpayers millions of dollars and provide the most realistic, cost-effective option for meeting the EPA's research needs. I commend this letter to the attention of my colleagues.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 1, 1995.

Hon. FRED HEINEMAN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN HEINEMAN: I am writing to express my appreciation for your continued support for a new Environmental Protection Agency building in Research Triangle Park, N.C. As you know, construction of the new laboratory building will consolidate Agency functions now scattered in seven outdated, leased facilities spread across a 15-mile arc in the RTP area. The facility remains the Agency's top laboratory construction project.

As you noted in your November 29 colloquy on the House floor with House Appropriations VA–HUD Subcommittee Chairman Jerry Lewis, building a new facility is the most realistic, cost-effective option for the Agency. The Agency continues to maintain that new construction will bring the most savings to the taxpayers and deliver the best science to the American public and environmental policy makers. All independent cost studies solicited by the Administration have supported construction on Federally-owned land over any leased facility option; the most recent concluded that direct Federal construction would save the government $154 million over 30 years.

It would seem irresponsible to continue to throw away millions of dollars in rent for substandard leased facilities when we can construct a consolidated state-of-the-art lab on Federally-owned land that will meet EPA's research needs and save taxpayers millions of dollars each year.

Again, thank you for your support of this important project.

Sincerely,

CAROL M. BROWNER,
Administrator.

TAIWAN DESERVES A U.N. SEAT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 4, 1995

Mr. SOLOMON. Mr. Speaker, A.M. Rosenthal has written a superb article on the silly situation that now exists in which the United Nations recognizes North Korea but not Taiwan. I have introduced bipartisan legislation, House Concurrent Resolution 63, to express the sense of congress that this outrage ought to be reversed. I ask for cosponsors of the legislation and insert the Rosenthal article for the RECORD.

THE BLOCKADES OF TAIWAN

(By A.M. Rosenthal)

TAIPEI, TAIWAN.—They come almost every day now—the military threats to this island country from Communist Government in Beijing.

Chinese Army commanders order repeated amphibious landings at the mainland coast nearest the island—the precise kind of operation that would be needed to invade Taiwan—and "tests" of missiles in the straits dividing China and the island. In recent days there has been a series of leaked reports that Beijing is considering a naval blockade of Taiwan.

Nobody knows whether the threats are meant only to frighten all Taiwanese into abandoning any thought of independence, however distant, or whether Beijing is readying its people and the world for an attack. If it does take place it is likely to be in the spring of 1996 before or after Taiwan holds its first direct presidential election.

But the evidence is that the military command is beginning to operate and plan independently of the civilian leadership in the Politburo.

This much seems clear from here: The West is operating on the assumption that if it says and does nothing, why, any dangers will vanish in a merciful blip.

The studious silence arises from the fundamental China policy of the West: Rock no Chinese boat lest Beijing throw easy Western access to the Chinese market overboard.

The West manages to maintain its silence because a Chinese blockade of Taiwan already exists: the political and diplomatic blockade created by Beijing after it took over the China seat in the U.N. in 1971.

The government of Taiwan was not only ousted from the U.N. but from the international community. Taiwan, one of the largest trading nations in the world, has been cut off from normal diplomatic and political relations with almost the whole world.

The U.S. maintains an "institute" in Taipei headed by a "director." But no flag is flown outdoors to save Beijing a fit. In Washington, representatives of Taiwan cannot sully the State department or White House by their presence. So far, separate drinking fountains for Taiwanese representatives have not been set up.

Taiwan is not only barred from the U.N. but from all its many specialized agencies, including those supposed to deal with such universal subjects as health and agriculture—say, AIDS or starvation.

The blockade is so obsessively enforced that it even excludes aid to refugees. Last year the U.N. appealed for funds for Rwandan refugees, among the most suffering of God's human creatures. Taiwan offered $2 million; refused. The Taiwanese did manage to get their gift accepted—by channeling it through an American committee for Unicef.

Correspondents from Taiwan are not permitted to enter the U.N. As a former reporter at the U.N., in its early days, I have thought of slipping my pass to a correspondent from Taiwan, to annoy U.N. authorities, but I decided it wouldn't work.

Before Beijing commanded the U.N., correspondents from nonmember peoples were allowed in. I learned more about North Africa and Indonesia from independence-movement reporters than I ever did from the colonial French or Dutch.

North Korea and South Korea are members and so were East and West Germany. The Palestine Liberation Organization was given representation at the General Assembly with only a vote lacking.

But when China decided that any dreams of independence, sovereignty or even dignity that Taiwan might harbor were too dangerous to tolerate, this special apartheid was created for the island. The U.S. and most other U.N. members meekly kissed Beijing's iron slipper.

That means Taiwan cannot use the U.N. or any normal diplomatic channel to raise an alarm that had to be officially heard about the open military threats from Beijing. If any other country had threatened another so blatantly the case would immediately have been on the U.N. agenda.

Nor of course most U.N. members, including the U.S., would be paralyzed with economic terror at the very idea of proposing that Taiwan as well as China be represented at the U.N. But perhaps Washington, London, Paris and Tokyo will dredge up enough courage to increase their own diplomatic contacts with Taiwan as a warning to China. Perhaps.

Until now the Chinese diplomatic blockade and Western submission to it have been merely disgusting. Now they are getting dangerous.

TRIBUTE TO ROBERT L. METTLER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 4, 1995

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in saluting Robert L.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mettler of Los Angeles for his philanthropic and civic contributions and for his signal achievements in retail merchandising.

Robert Mettler has found the time, energy, and commitment to sustain a deep involvement in numerous community projects in spite of the demands of three decades of leadership in business. He has been especially committed to the Shelter Workshop Program for the Mentally Retarded, a trailblazing organization headed by Eunice and R. Sargent Shriver. During his residency in Texas, he was a leader of the State of Texas Special Olympics and the United Way of Dallas.

In addition to this work, Robert Mettler serves as chairman of the council of trustees of the National Jewish Center for Immunology and Respiratory Medicine in Denver, CO. He also serves on the leadership panel of Brandeis University in Waltham, MA.

Robert Mettler is one of the best known and most respected leaders in fashion and apparel. On Tuesday, December 12, 1995, Mr. Mettler's friends and admirers will pay tribute to him at a banquet in his honor sponsored by the Fashion Industries Division of the United Jewish Fund.

I ask my colleagues to join me in congratulating Mr. Mettler for the great achievements that have earned him this honor. I wish him many more years of good health and an ongoing active commitment to his philanthropic activities.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, December 5, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 6

9:00 a.m.

Conferees on S. 652, to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

S-5, Capitol

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

To hold hearings on S. 356, to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

SD-342

Labor and Human Resources

To hold joint hearings with the Committee on Small Business on certain issues relating to modifications to the Occupational Safety and Health Act of 1970.

SD-106

Small Business

To hold joint hearings with the Committee on Labor and Human Resources on certain issues relating to modifications to the Occupational Safety and Health Act of 1970.

SD-106

Indian Affairs

To hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101-601).

SR-485

10:00 a.m.

Special Committee To Investigate Whitewater Development Corporation and Related Matters

To continue hearings to examine certain issues relative to the Whitewater Development Corporation.

SH-216

10:15 a.m.

Armed Services

To hold hearings on the Bosnian Peace Agreement, the North Atlantic Council military plan and the proposed mission for U.S. military forces deployed with the implementation Force (IFOR).

SD-G50

2:00 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the documentation of crimes against humanity in Bosnia-Herzegovina and Croatia this year.

2322 Rayburn Building

DECEMBER 7

9:30 a.m.

Governmental Affairs

To hold hearings on S. 94, to amend the Congressional Budget Act of 1974 to prohibit the consideration of retroactive tax increases.

SD-342

Rules and Administration

To hold hearings to examine how to manage Senate technology in the information age.

SR-301

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Special Committee To Investigate Whitewater Development Corporation and Related Matters

To continue hearings to examine certain issues relative to the Whitewater Development Corporation.

SH-216

DECEMBER 12

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 873, to establish the South Carolina National Heritage Corridor, S. 944, to provide for the establishment of the Ohio River Corridor Study Commission, S. 945, to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, S. 1020, to establish the Augusta Canal National Heritage Area in the State of Georgia, S. 1110, to establish guidelines for the designation of National Heritage Areas, S. 1127, to establish the Vancouver National Historic Reserve, and S. 1190, to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio.

SD-366

Small Business

To hold hearings on proposals to strengthen the Small Business Investment Company program.

SR-428A

Indian Affairs

Business meeting, to mark up S. 814, to provide for the reorganization of the Bureau of Indian Affairs, and S. 1159, to establish an American Indian Policy Information Center.

SR-485

DECEMBER 14

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 1271, to amend the Nuclear Waste Policy Act of 1982.

SD-366

SENATE—*Tuesday, December 5, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Lloyd John Ogilvie.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, thank You for Your love that never gives up on us. Help us discover the power of resting in You and receiving assurance and encouragement of Your amazing grace. Here we are at the beginning of another day. You know our needs and are prepared to meet those needs with exactly the right gift of Your spirit. You are present, impinging with inspiration to lift our spirits; hovering with hope to press us on. All through this day there will be magnificent moments when we overcome the temptation of trying to make it on our own strength, and instead, yield to the inflow of your wisdom, insight, vision, and guidance. Our souls are meant to be containers and transmitters of Your power. We thank You in advance for a stunning day in which we are blessed by being carried by Your presence rather than being bogged down by trying to carry our problems. In the Lord's name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The able Senator from New York is recognized.

SCHEDULE

Mr. D'AMATO. Mr. President, we will consider the conference report, as was indicated, to H.R. 1058, the securities litigation bill. There is an 8-hour time limitation on the conference report.

We will recess from 12:30 to 2:15 for the weekly policy conference meetings.

Following the securities litigation, we will resume consideration of H.R. 1833, the partial-birth abortions bill. Rollcall votes, therefore, will be expected during today's session.

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995—CONFERENCE REPORT

Mr. D'AMATO. Mr. President, I submit a report of the committee of conference on H.R. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FRIST). The report will be stated.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 28, 1995.)

Mr. D'AMATO. Mr. President, today, the Senate will vote on the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995.

This legislation has been 4 years in the making. It is a thoughtful and carefully crafted bill. The provisions in the conference report are balanced to make the legal system fairer and better for investors. The current system does not protect investors, it exploits them. Now, the system is not fair to investors and is not fair to American business. Plaintiffs' lawyers know that and take advantage. It is time to reform the securities class action litigation from a moneymaking enterprise for lawyers into a better means of recovery for investors.

The present system is a feeding frenzy for plaintiffs' lawyers who prey on companies with volatile stock prices, eat up the companies' profits with a strike suit and move on to the next victim. Lawyers are now able to file a baseless securities class action lawsuit against a company, claiming millions of dollars in damages, and coerce huge settlements. About 300 securities class action lawsuits are filed each year. The same lawyers, and in some cases the same plaintiffs, the world's unluckiest investors, show up in these lawsuits time after time.

Frequently, the same complaint comes out of a word processor barely changed. In one infamous case, a lawsuit against Philip Morris claimed fraud in the "toy industry." In other words, the forms are set, the stock price drops, and bang, the suit is filed with the same plaintiffs hired—in many cases, the plaintiff owns only 10 shares of stock. We have seen some cases where the same plaintiffs appears in as many as 13 lawsuits. They are professional plaintiffs.

A drop in a public company's stock price, a failed product development project, or even adverse market conditions that affect earnings, can trigger one or more securities fraud lawsuits. Many times the complaint simply alleges that management's predictions about the company's future did not come true.

Once discovery begins, plaintiffs' counsel begins a fishing expedition for evidence. One witness told a securities subcommittee that his company produced 1,500 boxes of documents during discovery in this type of case. The discovery ended up costing the company $1.4 million.

The threat of a protracted securities class action lawsuit is powerful. Companies pony up huge settlements rather than face the time and expense of a class action lawsuit. The lawyers do not just go after the money in the company's pockets, they also name other deep pockets—the company's lawyers, accountants, underwriters and directors—as defendants to assure a hefty settlement will be paid out. The plaintiffs' lawyers are rarely disappointed. Almost 93 percent of the cases settle at an average settlement cost of $8.6 million.

In 1994 alone, companies or their insurers paid out $1.4 billion to settle these cases. The so-called victims of the fraud recover pennies on the dollar and the lawyers pocket the rest. While the lawyer's share is taken out, the class members get about 6 cents on the dollar. Frequently, the only egregious offense is committed when the company's shareholders are forced to pick up the tab.

The conference report reforms the system for securities litigation.

First, the conference report makes it harder to file frivolous complaints and sanctions attorneys who do.

The conference report stops abusive securities litigation before it starts. It will help to weed out frivolous complaints before companies have to start paying enormous legal bills.

The legislation creates a uniform standard for complaints that allege securities fraud. This standard is already the law in New York. It requires a plaintiff plead facts giving rise to a strong inference of the defendant's fraudulent intent.

The conference report also provides a strong disincentive for lawyers to file abusive lawsuits. The legislation does not contain a loser pays provision, which would go too far. Instead, the bill requires courts to make findings about whether an attorney filed a frivolous complaint, motion or responsive pleading and to sanction attorneys who do.

Second, the conference report makes sure that the victims of securities fraud bring the lawsuit—not professional plaintiffs.

The conference report puts control of the lawsuit into the hands of the victims. Right now, there often is no victim, just a professional plaintiff whose name appears in lawsuit after lawsuit.

Professional plaintiffs are paid well for their services, usually in the form of a bounty payment. News accounts report that one individual, a retired lawyer, appeared as lead plaintiff in 300–400 lawsuits. Last year, an Ohio judge refused to permit class certification, noting that the lead defendant had filed 182 class actions in the last 12 years.

The conference report discourages the use of professional plaintiffs by eliminating bonus payments to name plaintiffs and prohibiting referral fees.

The conference report encourages real investors, especially pension funds and other institutional investors, to take control of the lawsuit. It provides that the plaintiff with the largest financial interest in the outcome of the case should be the lead plaintiff.

Third, the conference report allows companies to talk about the future of the company without the threat of a lawsuit.

The conference report will get more information to shareholders about the future prospects of a company. The conference report codifies existing law to provide a safe harbor to companies that make forward-looking statements accompanied by meaningful cautionary statements.

Now, corporate management is afraid to make statements about the future of the company, knowing that incorrect projections will inevitably lead to a lawsuit. One study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.

The conference report includes a safe harbor that fairly balances the need for a free flow of information to the marketplace and the need for investor protection.

The conference report creates a two-pronged safe harbor. The first prong gives safe harbor protection if there is a good enough warning about why the forward-looking statement may not come true.

The safe harbor does not give a license to lie. The second prong does not give safe harbor protection when forward-looking statements are made with actual knowledge that the statement is false or misleading.

The conference report safe harbor does not cover areas where there is potential for abuse. For example, the safe harbor does not cover IPO's, financial statement information, penny stocks or limited partnerships. There is no safe harbor for brokers.

The conference report safe harbor is balanced. The conference committee worked with the SEC to make sure the safe harbor is safe for investors as well as companies. I would like to include in the RECORD as if read in its entirety, a letter from the SEC to me, dated November 16, 1995, supporting the safe harbor provision.

Fourth, the conference report modifies the system of liability so that deep pocket peripheral defendants cannot be coerced into paying more than their share of the damages.

The conference report reduces the coercive effect of unlimited liability by making peripheral defendants liable only for the share of damages they caused. Now, all defendants are on the hook for 100 percent of the damages—even if they are only responsible for 1 percent.

In class action lawsuits with hundreds of plaintiffs, the potential liability can be staggering. Deep pocket defendants who may only be 1 percent liable routinely settle for much more rather than face paying 100 percent of the damages.

The conference report changes that by requiring peripheral defendants to pay for only the share of damages they caused under a system of proportionate liability.

This bill does not leave small investors out in the cold. Small investors are always compensated for 100 percent of their damages if they have a net worth of $200,000 or less.

The conference report does not change the system of liability for defendants who knowingly commit securities violations. Anyone who has knowingly committed a securities violation will still be liable for 100 percent of the damages. That's fair.

Fifth, the conference report improves the settlement process by getting more information to investors about a proposed settlement and restricting the amount attorneys may recover in fees.

The conference report enables the plaintiffs to receive a favorable settlement rather that the attorneys. All too often, plaintiffs' lawyers take the money and run. The legislation requires counsel to the class to inform investors about the terms of a proposed settlement and to be available to answer questions about the settlement.

The conference report also restricts the percentage of the recovery that goes to the lawyers. Lawyers fees now sometimes add up to more than 50 percent of the entire settlement. This legislation puts more of the settlement money into the pockets of investors by limiting the lawyers portion to a reasonable percentage of the settlement amount.

Sixth, the conference report also contains other provisions that make the system for securities litigation reform fairer and better for investors.

The legislation requires auditors to be on the lookout for wrongdoing and report any evidence of fraud to the SEC. The conference report also reinstates the SEC's authority—which the Supreme Court put into question in the Central Bank of Denver case—to bring actions against defendants who knowingly aid and abet securities fraud.

The bill prohibits document destruction by making it unlawful for a party to destroy documents once a complaint is filed. Finally, the bill makes sure that small investors are always compensated for 100 percent of their damages if they have a net worth of $200,000 or less.

In summary, the bill will put a stop to abusive securities litigation. It will curtail the use of professional plaintiffs. It will empower real investors, especially pension funds and other institutional investors, to take control of the lawsuit.

This legislation is aimed at weeding out frivolous cases by making it harder to file factually baseless complaints. It also provides that each defendant is liable for only his or her fair share of the damages, making it more difficult for lawyers to coerce settlements from the deep pocket defendants—that is, the defendant that has some assets or money. At the same time, it will make accountants report fraud to the authorities.

Finally, this bill creates a safe harbor from private lawsuits about forward-looking statements. The legislation will solve the problem of abusive securities litigation without preventing investors from bringing meritorious lawsuits.

I congratulate my Senate colleagues for all the time and effort they have put into this important legislation. I particularly would like to thank Senators DODD and DOMENICI, who introduced this legislation more than 4 years ago.

I thank Senator GRAMM, the chairman of the Securities Subcommittee, for his leadership. And I thank the staff who has worked so hard on this bill. Our staff director, Howard Menell; the Banking Committee staff: Laura Unger, Bob Giuffra, Wayne Abernathy, Mitchell Feuer, and Andrew Lowenthal; Senator DOMENICI's staff: Denise Ramonas and Brian Benczkowski, and the other key staff members, including Robert Cresanti, Dave Berson, Peter Hong, and Carol Grunberg, who have been indispensable to this process.

I also want to thank the SEC, the Security and Exchange Commission, its staff, and the judicial conference, and all the others who have made this piece of legislation successful.

The conference report is balanced. It hits the bullseye of the target, curtailing abusive securities litigation, while allowing investors to bring meritorious lawsuits. Once this bill becomes law, investors will have a system of redress that serves them and not entrepreneurial lawyers.

Mr. President, let me take the time now to indicate that on November 15 I received a letter from the Securities and Exchange Commission, signed by Chairman Levitt, and Steve Wallman, a Commissioner. And let me ask that I be permitted to read the letter into the RECORD.

DEAR MR. CHAIRMAN: As we approach the end of the long road traveled on securities litigation reform, you have asked we provide our views of the current draft of the legislation. At the outset, let us express our appreciation for your willingness to heed the concerns of the Commission regarding the draft conference report October 23, 1995. Together we have sought to achieve the most responsible reform possible.

While the Commission has raised a number of concerns about earlier versions of this legislation, we believe the draft conference report dated November 9th responds to our principal concerns. We understand the need for a greater flow of useful information to investors in the markets and we share your desire to protect companies and their shareholders from the costs of frivolous litigation.

The safe harbor provisions of the draft bill have been of particular interest to us. While we could not support earlier attempts at a safe harbor compromise, the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse. The need of legitimate businesses to have a mechanism for early dismissal of frivolous lawsuits argues in favor of codification of the "bespeaks caution" doctrine that has developed under the case law. While the trade-off requires that class action attorneys must have well written and carefully researched pleadings at the outset of the lawsuit, we feel this is necessary to create a viable safe harbor, given that it does not prevent Commission enforcement actions, and excludes the greatest opportunities for harm to investors.

Outside of the safe harbor provisions, we have consistently advocated reversal of Supreme Court decisions of Lampf and Central Bank. It is unfortunate that Congress has not restored these investor protections that were removed by the Supreme Court; however, we recognize that amendments on both subjects were defeated in the course of this legislative effort, thereby making it difficult to include such provisions in the bill. The conference bill raises other minor issues, but the language in the conference report hopefully will prevent any unintended consequences. We remain grateful to you and your staff, as well as the other members and their staffs, for the willingness to engage in a dialogue with us aimed at getting a better deal for investors.

Thank you for your consideration.

Signed Arthur Levitt, chairman.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, November 15, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As we approach the end of the long road traveled on securities litigation reform, you have asked that we provide our views of the current draft of the legislation. At the outset, let us express our appreciation for your willingness to heed the concerns of the Commission regarding the draft conference report dated October 23, 1995. Together we have sought to achieve the most responsible reform possible.

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Thank you for your consideration.

Sincerely,

ARTHUR LEVITT,
Chairman.
STEVEN M.H. WALLMAN,
Commissioner.

Mr. D'AMATO. Mr. President, let me conclude by simply saying that this bill may not be the perfect solution and, indeed, there may be some unintended consequences that create problems. This Senator and, I know, Senator DODD and Senator DOMENICI and all of my colleagues are ready to deal with any problems that may come about.

But let me say this, too. First, in this bill we go after the greatest abuse that is taking place, which is lawyers who do not represent the general public but represent themselves. They have for hire plaintiffs who are not really aggrieved, who own minimal, in some cases as little as 10 shares, of stock. As soon as there is a price variation, these lawyers race to the courthouse so that they can file a claim so they will control the case. There is little regard for the company, little regard for the real aggrieved investors. We have changed that significantly. No longer will there be permitted professional plaintiffs.

Second, for the first time we say that the court shall look at the facts as they relate to the questions: Is there a pension fund? Is there a large investor involved whose interests should be protected? The court will look at these questions as they relate to the lawyer's representation so that we have lawyers, who really represent the aggrieved investors, controlling the case, not a string of professional, sharks, sharks for hire.

Third, we have made it more difficult to bring suits that are aimed at forcing settlements.

Fourth, we answer questions which are long overdue. Should we hold somebody responsible for the total loss, if there is a loss, if they have been minor participants and if they have been responsible for 1 or 2 or 3 or 4 percent of the loss, because they are wealthy or have a member of the board of directors who has deep pockets? Do we want to encourage people to participate in corporate governance, or do we want to discourage it; do we want to make it impossible for large firms to come in and use their expertise because they are afraid of being sued so they say, "No, I do not want to audit your books; the exposure is too great"?

Do we really want to have a system where people are forced—forced—to give up and settle a case because if there is even the slightest doubt as it relates to liability, they may be facing huge, huge losses. These companies, therefore, are forced to settle even when they know they have not committed any tortious acts, but the risk of the jury finding any evidence in the way of negligence, even a small, minute amount, might jeopardize the company with huge claims?

So what you literally have is a group of bandits who force companies into settlements of millions and millions of dollars. Is that fair to those companies? Is that fair to the shareholders? I do not think so. What we have said in this conference report is, if you are negligent, if you have committed a tortious act, you should be held responsible for the percentage of losses due to your tortious act, not that the full consequences of somebody else's actions should fall on you simply because you are a person who has some money and some resources. That is wrong. That is not fair.

If you are intentionally defrauding investors? That is a different matter. You will be held. I think this is fair. I think this is reasonable.

I understand that there are some provisions that some of my colleagues have some differences with, but I think overall we have moved forward in a very conscientious manner in the attempt to have a fair and balanced system, so that those who truly have committed tortious actions will be held accountable for their actions, and they will not be held accountable for other people's actions, nor will they be forced to make settlements that are indeed unfair. We have eliminated a terribly unscrupulous practice that I believe is a stain on the legal profession.

I have stood up and I have battled on behalf of litigants and on behalf of the attorneys who represent them, so that they may have a level playing field. But the law as it exists today is not a level playing field. And there have been and there are a handful who have abused the system. We are attempting to deal with those abuses.

I want to thank my colleagues for their participation. I certainly want to thank Senator BENNETT for his job in terms of working with us. I urge my colleagues to vote in favor of the final passage. And I thank the Chair.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Maryland.

Mr. SARBANES. Mr. President, later today the Senate will vote on the final version of the securities litigation bill which has been brought back from conference. Supporters of the bill argue that it is a balanced response to a widespread problem; namely, frivolous securities litigation. What should be clear to all Senators, however, is that this bill is not—is not—a balanced response to that problem.

This legislation will affect far more than frivolous suits. When the arguments are made for the legislation, the examples that are always cited are examples of frivolous suits. And I do not know of any difference in here, that we ought to find ways to get at those and that those are an abuse of the system. But this bill goes way beyond that. This bill will make it more difficult for investors to bring and recover damages in legitimate fraud actions—legitimate fraud actions.

As the editors of Money magazine concluded, this legislation hurts investors. In fact, the December editorial of Money magazine warns, "Now only Clinton can stop Congress from hurting small investors like you."

At every stage of the legislative process, this bill has been amended to make it more difficult for investors to bring legitimate suits. As it has moved through the process, provisions favorable to investors have been taken out. Balanced provisions in the legislation have been made harmful to investors. Individual investors, local governments and pension plans all will be hurt by this legislation. All will find it more difficult to bring fraud actions and to recover full damages as a result of the measure now before the Senate. That is why this bill is opposed by a broad coalition of regulators, State and local government officials, labor unions, consumer groups and investor organizations, and by literally dozens and dozens of editorials in major newspapers and magazines across the country.

I want to review just some of the areas in which this negative trend took place in the course of the legislative consideration of this legislation.

First, the statute of limitations. The process of hurting investors began in the Banking Committee when it deleted the extension of the statute of limitations. The bill originally introduced by Senators DOMENICI and DODD, who have had a keen interest in this matter, Senate bill 240, that original bill as introduced by them extended the statute of limitations for security fraud suits—that is, the period of time available to investors to discover that they have been defrauded and to file a claim. This was in fact the one clearly proinvestor provision in that bill introduced by Senators DOMENICI and DODD. It responded to the experts in this area—the Federal and State securities regulators—all of whom agree that the current statute of limitations is too short to protect investors.

For over 40 years, courts held that the statute of limitations for private rights of action under section 10(b) of the Securities Exchange Act of 1934, the principal antifraud provision of the Federal securities laws, was the statute of limitations determined by applicable State law. While these statutes varied from State to State, they generally afforded securities fraud victims sufficient time to discover that they had been defrauded and sufficient time to bring suit.

In 1991, in the Lampf case, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud actions. By a 5-to-4 vote—in other words, a very closely divided Supreme Court—the Court held that the applicable statute of limitations is 1 year after the plaintiff knew of the violation and in no event more than 3 years after the violation occurred. These time periods are shorter than the statute of limitations for private securities actions which existed under the law of 31 of the 50 States.

Regulators have testified unanimously that this shorter period does not allow individual investors adequate time to discover and pursue violations of securities law. Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated, and I quote,

> The timeframes set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

Chairman Breeden pointed out that in many cases, and I quote, "events only come to light years after the original distribution of securities and the cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse." In other words, if the perpetrator of the wrong can conceal it long enough under this very shortened statute of limitations, the victim will have no remedy.

The FDIC and the States securities regulators joined the SEC in favor of overturning the Lampf decision. What happened to this provision that was in the legislation as originally introduced by Senators DOMENICI and DODD? It disappeared when the Banking Committee met to consider this bill. Despite the fact that all the securities regulators recommended it, despite the fact that Senators DOMENICI and DODD had included it in their original bill, despite the fact that the Banking Committee had approved this provision before in 1991, despite the fact that it was the one clearly proinvestor provision in the bill, the provision was dropped.

Let me make clear that the statute of limitations issue has nothing to do with frivolous cases. The current statute of limitations keeps worthy cases from the courthouse. Both Republican SEC chairmen and Democratic SEC chairmen have told us that the statute of limitations imposed by the Supreme Court in 1991 is too short. It allows con artists to perpetrate frauds, and it prevents defrauded investors from seeking restitution.

When the statute of limitations provision disappeared from the bill, the bill moved down the path of being an unbalanced effort. At that point, the bill began to tilt away from individual investors, away from pension funds and county treasurers, in favor of corporate insiders and the attorneys and accountants who advise them.

When the Banking Committee dropped the lengthening of the statute of limitations provision, it went beyond deterring frivolous lawsuits and began hurting investors.

I want to underscore that because that is the basic point that must be understood about this conference report. Again and again it goes beyond deterring frivolous lawsuits and hurts investors.

Let me turn now to another example of this proposition, that is, the aiding and abetting issue. Failure to include the extension of the statute of limitations removed the balance from this bill and tilted it toward corporate wrongdoers. The Banking Committee could have added some balance to the bill by restoring the ability of investors to sue the accountants and attorneys who aid and abet securities fraud. This was recommended by the SEC, the State securities regulators, and various bar associations. Again, however, the committee hurt investors by leaving this key provision out of the bill.

Prior to 1994, courts in every circuit in the country had recognized the ability of investors to sue aiders and abettors of securities frauds. Most courts required that an investor show that a securities fraud was committed, that the aider and abettor gave substantial assistance to the fraud, and that the aider and abettor intended to deceive investors or behaved recklessly toward the fraud. In other words, the investor had to show that the aider and abettor either intended to deceive the investors or behaved recklessly toward the fraud. Aiding and abetting liability was most often asserted against lawyers, accountants, appraisers, and other professionals whose assistance is often crucial to perpetrating a fraud.

In 1994, in the Central Bank of Denver case, the Supreme Court eliminated the right of investors to sue aiders and abettors of securities fraud. Writing for the four dissenters—this was another 5-to-4 opinion—Justice Stevens criticized the five-member majority for "reach[ing] out to overturn a most considerable body of precedent." While the issue was not directly before the Court, Justice Stevens warned that the decision would also eliminate the SEC's ability to pursue aiders and abettors of securities fraud; in other words, not only a private cause of action, but the SEC's ability as well.

One of the lead sponsors of this legislation, Senator DODD, stated at a Securities Subcommittee hearing in May 1994, and I quote:

> Aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others.

Testifying at that hearing, the chairman of the SEC stressed the importance of restoring aiding and abetting liability for private investors, and I quote:

> Persons who knowingly or recklessly assist the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements directly or indirectly that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions.

The North American Securities Administrators Association, the Association of States Securities Regulators, and the Association of the Bar of the city of New York also endorsed restoration of aiding and abetting liability in private actions.

This bill, unfortunately, restores only the SEC's ability to go after aiders and abettors of violations of the securities laws and then only in part—only in part. The provision in the bill is limited to violations of section 10(b) of the Securities Exchange Act and to defendants who act knowingly. It ignores the recommendation made by the SEC, the States securities regulators and the bar association that aiding and abetting liability be fully restored for the SEC and private litigants as well. By ignoring the needs of individual investors, the committee further tilted this bill toward the corporate insiders and their professional advisers who abuse the investor.

The effort in the Banking Committee, which I have alluded to with respect to the statute of limitation and the aiders and abettors provision, which tilted this bill away from the investor, that effort was continued in the conference committee. Consider what happened in the conference committee to the provision that directly addresses the filing of frivolous cases.

Rule 11 of the Federal Rules of Civil Procedure is the principal sanction against the filing of frivolous lawsuits in the Federal courts. Rule 11 requires all cases filed in the Federal courts to be based on reasonable legal arguments and supported by facts. That is the requirement of rule 11. The case is to be based on reasonable legal arguments and supported by facts.

As passed by the Senate, this bill required the courts to include specific findings in securities class actions regarding compliance by all parties and attorneys with rule 11(b) of the Federal Rules of Civil Procedure. That is the way the Senate passed it. If a court found the violation of rule 11 by either the plaintiff or the defendant, the court was required to impose sanctions. That provision was balanced. The sanctions would have applied equally to plaintiffs and to defendants. It was intended as a deterrent to frivolous cases, and it might well have worked in an efficacious manner.

What happened to this balanced provision, between plaintiffs and defendants, in conference? The balance was removed so that it now applies more harshly to investors than the corporate insiders. The Senate bill had contained a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with rule 11 was an award of reasonable attorneys' fees and other expenses incurred as a direct result of the violation. That was the presumption: An award of reasonable attorneys' fees and other expenses incurred as a direct result of a violation. That applied, in the bill passed by the Senate, both to the plaintiff and to the defendant.

The conference changed this presumption so that it no longer applies equally to plaintiffs and defendants. Under the conference provision now before us, if the defendant substantially violates rule 11, he pays only reasonable attorneys' fees and other expenses incurred as a direct result of the violation; namely, the provision that was in the Senate-passed bill. But now under the conference-reported measure, if the plaintiff substantially violates rule 11, he pays all attorneys' fees incurred in the action, not just those resulting from the violation.

Disparate treatment. The bill, as sent out of the Senate, had balanced treatment with respect to plaintiffs and defendants. Now we have this disparate treatment, and there is no justification for it. Its true purpose, I think, is to scare investors from bringing meritorious fraud suits. When the conference removed the balance from this provision, it was not deterring frivolous lawsuits, it was hurting investors.

The conference further hurt investors by changing the pleading standard provision of the bill. Pleading standard refers to what an investor must show in order to initiate a securities fraud lawsuit. The bill reported by the Senate Banking Committee codified the pleading standard adopted by the U.S. Court of Appeals for the Second Circuit. This standard says investors who seek to file securities fraud cases must "specifically allege facts giving rise to a strong inference that the defendant acted with a required state of mind." This standard, it should be noted, is more stringent than the Federal Rules of Civil Procedure and is the minority view among the circuit courts. Nevertheless, that was the standard adopted by the Banking Committee.

When the bill came to the Senate floor, the Senate adopted an amendment to this provision offered by the distinguished Senator from Pennsylvania, Senator SPECTER. Senator SPECTER's amendment codified into the legislation additional second circuit holdings clarifying the standard they had earlier enunciated. These additional holdings state that a plaintiff may meet the pleading standard by alleging facts showing the defendant had motive and opportunity to commit fraud, or constituting strong circumstantial evidence of state of mind. In other words, the second circuit laid down this standard and then had subsequent opinions that elaborated upon it and developed it, and Senator SPECTER said that if you are going to include the second circuit standard as initially enunciated, you should also include the further holdings by the second circuit clarifying this standard.

This, I think, was the one proinvestor amendment adopted on the Senate floor. What happened to this amendment in conference? It disappeared. It was dropped from the legislation. This is part of this process that I have been outlining here of now you see it, now you don't. Of course, the person who bears the brunt of that is the investor.

The draft conference report deleted the Specter amendment, leaving investors without the protection of the additional second circuit holdings. Once again, a proinvestor provision that would have provided some balance to the bill was removed.

Let me turn briefly to the proportionate liability provisions of the bill, which reduce the amount of damages that defrauded investors can recover from people who have participated in committing the fraud. This provision is not targeted at frivolous suits and never has been. It affects even legitimate securities fraud suits and, therefore, is harmful to all investors. The conference found a way, though, to tilt the legislation even further away from the investor and toward the corporate insider.

The legislation changes the rule for liability for securities fraud from joint and several liability to proportionate liability. Under the current rule of joint and several liability, all fraud participants are liable for the entire amount of the victim's damages—both fraud participants who intended to mislead investors and fraud participants whose conduct was reckless. The rationale for this in the law, which has been the traditional holding over the years, is that a fraud cannot succeed without the assistance of each participant, so each wrongdoer is held equally liable.

Let me just observe that the recklessness standard for liability is a very demanding standard, and it is one usually applied to a company's professional advisers, such as accountants, attorneys, and underwriters.

The bill limits joint and several liability under the Federal securities law to certain defendants, specifically excluding defendants whose conduct was reckless. The bill, thus, reduces the accountability of accountants and attorneys whose conduct is found to be reckless. This change will hurt investors in cases where the principal framer of the fraud is bankrupt, has fled, or otherwise cannot pay investors damages. In those cases, the innocent victims of fraud will be denied full recovery of their damages.

Unfortunately, this provision became even worse in conference for the investors. The bill passed by the Senate did nothing to disturb liability under the securities law for reckless conduct. The conference, however, added language that could call liability for reckless conduct into question. The language of the conference report could be read as inviting the courts to eliminate all liability for reckless conduct under the securities fraud provisions. The conference further added language that could be read as applying the new proportionate liability rules not just to suits brought under the antifraud provisions of the Securities and Exchange Act of 1934, as under the bill passed by the Senate, but to suits brought under the Securities Act of 1933, as well. So the conference, again, took this bill down the path of reducing protections and remedies for investors and providing an additional sheltered area for those who practice corporate fraud and abuse. In the areas, then, of the statute of limitations, aiding and abetting liability, rule 11 sanctions, pleading standards, and proportional liability, this legislation before us hurts the investor, and it has been made significantly worse by the actions in the conference.

Before I conclude the discussion of the substance of the bill, let me now turn to the so-called safe harbor provision, and I underscore "so-called." This bill creates a statutory exemption from liability for forward-looking statements. Forward-looking statements are broadly defined in the bill to include both oral and written statements. Examples include projections of financial items such as revenues and income for the quarter or for the year, estimates of dividends to be paid to shareholders, and statements of future economic performance, such as sales trends and development of new products. In short, forward-looking statements include precisely the type of information that is important to investors deciding whether to purchase a particular stock.

The SEC currently has a safe harbor regulation for forward-looking statements that protects specified forward-looking statements that were made in documents filed with the SEC. As originally introduced, the bill could have allowed the SEC to continue its effort to conduct a comprehensive review of safe harbor regulations. However, the committee abandoned this approach in favor of enacting a statutory safe harbor.

I am aware of the letter that the chairman read from the SEC about the safe harbor provision, but I remain concerned that the safe harbor provision before us today will, for the first time, provide protection for fraudulent statements under the Federal securities laws. For the first time, fraudulent statements will receive protection under the Federal securities laws.

The American Bar Association wrote the President last week that the safe harbor "has been transformed not simply into a shelter for the reckless, but for the intentional wrongdoer as well." Projections by corporate insiders will be protected no matter how unreasonable, no matter how misleading, no matter how fraudulent, if accompanied by boilerplate, cautionary language.

Let me just take a moment to explain this. It is claimed by its supporters that this draft codified the legal doctrine applied by the courts known as bespeaks caution.

Now, as I understand it, all courts that have applied this doctrine have required that projections be accompanied by disclaimers specifically tailored to the projections. The courts have not accepted boilerplate disclaimers. They have required that the projections be accompanied by disclaimers specifically tailored to the projections. If companies want to immunize their projections, they must alert investors to the specific risks affecting those projections.

The bill before the Senate today does not include this requirement of specific cautionary language to alert investors. The Association of the Bar of the city of New York warned of this provision:

> The proposed statutory language, while superficially appearing to track the concepts and standards of the leading cases in this field, in fact radically departs from them and could immunize artfully packaged and intentional misstatements and omissions of known facts.

That letter was signed for the bar association by Stephen Friedman, a former SEC Commissioner. Under this bill, fraud artists will be able to shield themselves from liability simply by accompanying their fraudulent statements with general cautions that actual results may differ. I predict that this provision will come back to haunt us in the years to come.

Because this bill hurts investors, because it makes it harder for defrauded investors to bring suits, because it makes it harder for defrauded investors to recover losses, dozens and dozens of newspapers around the country have expressed their opposition. From the Bangor Daily News to the Miami Herald, from the Minneapolis Star Tribune to the San Francisco Chronicle, editorial pages have argued this bill is a bad deal for investors and urged a Presidential veto. The headline of the Wisconsin State Journal editorial sums up the argument nicely: "The Securities Reform Act goes too far." I ask unanimous consent to have printed at the end of my remarks some sampling of these editorial comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. SARBANES. A New York Times editorial last week stated:

> The securities bill that Congress is about to pass addresses a nagging problem, frivolous lawsuits by investors against corporations, but in such cavalier fashion that it may end up sheltering some forms of fraud against investors. President Clinton should veto the bill and demand at least two fixes to protect truly defrauded investors."

Citing the failure to extend the statute of limitations and to restore aiding and abetting liability, the Times warned that "provisions threaten to shut off valid suits" and suggested that "a well-targeted veto might force this bill back on the right track."

No publication has editorialized more strongly against this bill than Money magazine. For 4 months in a row, Money magazine has devoted editorial columns to this bill. In September 1995, Money magazine warned "Congress aims at lawyers and ends up shooting small investors in the back." In October, they urged "Let's stop this Congress from helping crooks cheat investors like you." In November, they were hopeful that "Your 1,000 letters of protest may stop this Congress from jeopardizing investors." This month they stated:

> . . . the new bill jeopardizes small investors in several ways. . . . The bill helps executives get away with lying. . . . Investors who sue and lose could be forced to pay the winner's court costs. . . . Even accountants who okay fraudulent books will get protection.

Investors around the country agree with Money magazine's analysis that this bill hurts investors and are voicing their opposition. The National Council of Individual Investors, an independent membership organization of individual investors, has written to the President to "express opposition to the recent draft report," saying, "The draft conference report fails to treat the American investor fairly."

The labor movement has said, "This bill tips the scales of justice in favor of the companies and at the expense of stockholders and pension plans."

The Fraternal Order of Police wrote the President urging him "to reject a bill which would make it less risky for white collar criminals to steal from police pension funds * * *."

A coalition of consumer groups, including the Consumer Federation of America, Consumers Union, USPIRG, and Public Citizens also oppose this bill.

But perhaps most telling about this bill is the opposition of hundreds and hundreds of State and local government officials. The National League of Cities, the National Association of Counties, and the Government Finance Officers Association all oppose this legislation.

Keep in mind that State and local investors issue securities—State and local governments raise money through bond issues. As issuers of securities, it is asserted by the supporters of this legislation, they would stand to benefit from the bill. Why, then, do they oppose it? Because they also purchase securities as well. They invest taxpayers' money and retirees' money in securities and sometimes are victimized by unscrupulous brokers.

Orange County, CA, lost over $2 billion in leveraged derivative investments. In my own State of Maryland, Charles County lost nearly $3 million in derivatives. Orange County is currently suing the brokers who sold it these securities. When such scandals occur again, and they will, this bill will make it harder for taxpayers to bring securities fraud actions and recover losses.

Let me quote further from the letter of these government officials who are seeking meaningful remedies in case they are defrauded:

> The following are the major concerns State and local government have with the latest "draft conference report":
>
> Despite changes in the safe harbor provision relating to forward-looking statements, there are still loopholes in that provision that would allow false predictions to be made and that will shield a company from liability.
>
> Aiders and abettors of fraud would still remain immune from civil liability and would not have to pay back fraud victims for the losses they suffer.
>
> The "draft conference report" maintains the short three-year statute of limitations that will allow a wrongdoer who can conceal his fraud to be completely let off the hook.

Eleven State attorneys general wrote to express their opposition. They said, "If enacted, this legislation would severely curtail our efforts to fight securities fraud and to recover damages for our citizens if any of our State or local funds suffer losses due to fraud." They went on to say, "This is unwise public policy in light of rising securities fraud and substantial losses suffered by States and public institutions from high-risk derivatives investments." The American Bar Association and the Association of the Bar of the city of New York oppose this bill as well.

When this measure originally came to the Senate floor, I received a communication from the securities commissioner of the State of Maryland, Robert McDonald. I expect that most Senators received similar letters from their State securities commissioners.

In that letter, Commissioner McDonald opposed the bill, writing:

> Our financial markets depend not so much on money as on public confidence. The confidence that investors have in the American financial marketplace will be shattered if they believe that they have little recourse against those who have committed securities fraud.

Now, the managers of this bill in their conference report state at the outset,

> The overriding purpose of our Nation's securities laws is to protect investors and to maintain confidence in the securities markets, so that our national savings, capital formation, and investment may grow for the benefit of all Americans.

So, they pick up the first part of Commissioner McDonald's statement about "our financial markets depend not so much on money as on public confidence," but the supporters of this bill ignore the second part of Commissioner McDonald's warning that the confidence of investors will be shattered "if they believe they have little recourse against those who have [committed] securities fraud."

The editors of Money magazine wrote, "this bill will undermine the public's confidence in our financial markets. And without that confidence, this country is nowhere."

By making it harder for investors to bring legitimate securities fraud suits, by reducing investors' recoveries when they win securities fraud suits, by consistently hurting investors and helping corporate insiders and their accountants and attorneys—in other words, by going way beyond anything necessary to deal with the frivolous lawsuits—this bill will end up rewarding con artists and punishing America's individual investors, pension funds, and local governments.

For all of the reasons I have described, I oppose this legislation and I urge my colleagues to vote against this bill.

EXHIBIT 1

[From the New York Times, Nov. 30, 1995]

OVERDRAWN SECURITIES REFORM

The securities bill that Congress is about to pass addresses a nagging problem, frivolous lawsuits by investors against corporations, but in such cavalier fashion that it may end up sheltering some forms of fraud against investors. President Clinton should veto the bill and demand at least two fixes to protect truly defrauded investors.

The bill seeks with good reason to protect corporate officials who issue honest but unintentionally optimistic predictions of corporate profitability. In some past cases, opportunistic shareholders have waited for a company's stock price to fall, then sued on the grounds that their money-losing investments were based on fraudulent misrepresentations of the company's financial prospects. Their game was to use these "strike" suits to threaten companies with explosively expensive litigation in the cynical attempt to win lucrative settlements.

Such suits are a real, if infrequent, problem that can discourage responsible management from issuing information that investors ought to know. The bill would stymie these suits in part by immunizing predictions of corporate profitability that are accompanied by descriptions of important factors—like pending government regulatory action—that could cause financial predictions to prove false. But the language is ambiguous, leading critics to charge that it would protect corporate officials who knowingly issue false information. The President should ask Congress for clarification.

Some provisions of the bill would protect investors by, for example, requiring accountants to report suspected fraud. But other provisions threaten to shut off valid suits. The bill would prevent private litigants from going after lawyers and accountants for inattention that allows corporate fraud. Worse, the bill limits the authority of the Securities and Exchange Commission to use accountants and others for aiding fraud. The bill would also provide a short statute of limitation that could easily run out before investors discover they have been victimized.

Mr. Clinton should demand that Congress extend the statue of limitations so that investors will have time to file suit after they discover fraud. He should also demand that the bill restore the S.E.C.'s full authority to use accountants who contribute to corporate fraud. So far, Mr. Clinton has been curiously restrained. A well-targeted veto might force this bill back on the right track.

[From Money, December 1995]

NOW ONLY CLINTON CAN STOP CONGRESS FROM HURTING SMALL INVESTORS LIKE YOU

(By Frank Lalli)

The debate over Congress' reckless securities litigation reform has come down to this question: Will President Clinton decide to protect investors, or will he give companies a license to defraud shareholders?

Late in October, Republican congressional staffers agreed on a so-called compromise version of the misguided House and Senate bills. Unfortunately, the new bill jeopardizes small investors in several ways. Yet it will likely soon be sent to Clinton for his signature. The President should not sign it. He should veto it. Here's why:

The bill helps executives get away with lying. Essentially, lying executives get two escape hatches. The bill protects them if, say, they simply call their phony earnings forecast a forward-looking statement and add some cautionary boiler-plate language. In addition, if they fail to do that and an investor sues, the plaintiffs still have to prove the executives actually knew the statement was untrue when they issued it, an extremely difficult standard of proof. Furthermore, if executives later learn that their original forecast was false, the bill specifically says they have no obligation to retract or correct it.

High-tech executives, particularly those in California's Silicon Valley, have lobbied relentlessly for this broad protection. As one congressional source told Money's Washington, D.C. bureau chief Teresa Tritch: "High-tech execs want immunity from liability when they lie." Keep that point in mind the next time your broker calls pitching some high-tech stock based on the corporation's optimistic predictions.

Investors who sue and lose could be forced to pay the winner's court costs. The idea is to discourage frivolous lawsuits. But this bill is overkill. For example, if a judge rules that just one of many counts in your complaint was baseless, you could have to pay the defendant firm's entire legal costs. In addition, the judge can require plaintiffs in a class action to put up a bond at any time covering the defendant's legal fees just in case they eventually lose. The result: Legitimate lawsuits will not get filed.

Even accountants who okay fraudulent books will get protection. Accounts who are reckless, as opposed to being co-conspirators, would face only limited liability. What's more, new language opens the way for the U.S. Supreme Court to let such practitioners off the hook entirely. If such a lax standard became the law of the land, the accounting profession's fiduciary responsibility to investors and clients alike would be reduced to a sick joke.

Moreover, the bill fails to re-establish an investor's right to sue hired guns, such as accountants, lawyers and bankers, who assist dishonest companies. And it neglects to lengthen the tight three-year time limit investors now have to discover a fraud and sue.

Knowledgeable sources say the White House is weighing the bill's political consequences, and business interests are pressing him hard to sign it. "The President wants the good will of Silicon Valley," says one source. "Without California, Clinton is nowhere."

We think the President should focus on a higher concern. Our readers sent more than 1,500 letters in support of our past three editorials denouncing this legislation. As that mail attests, this bill will undermine the public's confidence in our financial markets. And without that confidence, this country is nowhere.

[From the Banger Daily News, Nov. 30, 1995]

DO NO HARM

Among the most dramatic but least discussed spin-offs of the Contract With America is securities litigation reform legislation, which earlier this year quietly passed both houses of Congress in different forms, but this week could become part of a public spectacle, highlighted by a presidential veto.

House Republicans argued in the contract, which set the tone for the early months of this session, that accumulated legal abuses cost American consumers $300 billion a year. Proponents characterize H.R. 1058 and S. 240, the two bills on which a conference compromise of the Securities Litigation Reform Act is expected to be voted on this week, as antidotes to costly, frivolous lawsuits pursued by greedy lawyers.

Opponents believe the critical elements of both bills, but especially as reflected in the conference version, are destructive of consumer interests. In the best Washington hyperbole, they refer to it as "The Crooks and Swindlers Protection Act" because of the manner in which it tilts the courtroom in favor of corporate defendants in securities and fraud cases.

From the perspective of those who are interested in Congress making good choices in the public interest, the act has two more problems. It is an extremely complex area of policy—one that can cause the eyes of a CPA to glaze over—and it is an extension of the catechism of the contract. Consequently, it is an issue that has been exposed to very little sunlight in open debate and it will be defended as political gospel by some Republicans.

Sen. William Cohen voted against the Senate version of the act. Sen. Snowe supported it. As a result, the campaign to persuade the delegation is focused on her office. Critics of the act make excellent arguments against specific provisions, including loser-pays, which will discourage aggrieved small investors from filing suit; and restrictions on legal standards of liability, which limit plaintiffs' opportunities to fully recover legitimate damages.

Another example, the provision of the act narrowing the time window for bringing suit, was the target of a letter from Stephen L. Diamond, securities administrator for the state's Bureau of Banking to Sens. Cohen and Snowe. "A good portion of the several million dollars in restitution we have obtained for Maine citizens during my tenure," Diamond wrote in June, "would have been irretrievably lost if we had been subject to a three-year limitations period."

Diamond pointed out that under Maine law, there "is no absolute outside limit" for commencing a suit for securities fraud.

The Securities Litigation Reform Act has the potential to save consumers nothing, protect white-collar criminals and add to the burden of the victims of fraud.

It could have serious consequences for Maine taxpayers, investors and retirees. On record opposing the House version are municipalities of all sizes, from the small, Clifton and Berwick, to the state's largest, Portland and Lewiston.

The CMO (collaterized mortgage obligation) disaster that struck Auburn, concern about the integrity and solvency of government and private pension accounts and 401k plans, and public awareness of the threats to the security of investments of an aging population all are reasons for members of the Maine delegation to treat this issue with utmost respect, and caution: do no harm. This one could hurt.

[From the Miami Herald, Nov. 14, 1995]

LIARS' BILL OF RIGHTS?

While most of the country is paying attention to the feud over the federal budget, a sinister piece of legislation is making its way through Congress unnoticed. This bill lets companies report false information to investors. That's right, it essentially licenses fraud. It has passed both houses in slightly different forms. A compromise bill will be written soon. If it passes, President Clinton ought to slay it in its tracks.

This bill is a story of good intentions. Some companies have been plagued by frivolous lawsuits from investors who aren't happy with the company's performance. The investors allege, in essence, that the company had forecast good results and then didn't deliver. That, say the plaintiffs, constitutes fraud.

Well, often it doesn't. Investing has risks, including market downturns. When investors sue over mere bad luck, they cost companies money, clog courts, and drain profits from other investors.

Trouble is, by trying to stop this abuse, Congress mistook a simple answer for the right answer. Its solution, in plain terms, was to declare virtually all promises by all companies to be safe from legal challenge. Under this "remedy," company executives now can promise investors anything they like, with not so much as a nod to reality.

They can't legally lie about the past, but if their claims are "forward-looking," they can promise you the moon to get you to invest, and no one can sue them later for being misleading.

Well, almost no one. The bill would allow legal action in the case of egregious, deliberate fraud, but you'd have to prove that it was intentional. And you'd have just three years to discover the fraud and furnish your proof.

It's rare enough to prove outright intent under the best circumstances, but under this bill, if executives can stiff-arm you for just 36 months (not a big challenge), they'd be home free. And then—in another hair-raising provision of the bill—you'd be stuck for the company's entire legal bill. Facing such a risk, no small investor, no matter how badly cheated, would ever dare sue.

This bill evidently struck many members of Congress as a simple answer to a nagging problem. It's nothing of the kind. The problem is real enough, but its solution isn't simple. And it certainly doesn't reside in a law authorizing phony statements to investors.

President Clinton should veto this blunder. Then, when the fight over the budget is over, Congress can take time to think up a more rational solution to the problem.

[From the Star Tribune, Nov. 17, 1995]

SECURITIES BILL

Give Sen. Richard Bryan, D-Nev., credit for being a good friend to American investors. Since late October, Bryan has stymied passage of ill-designed legislation that would curb investors' rights to sue for securities fraud. Bryan's move is buying time to marshal enough opposition to give the bill the fate it deserves—either significant alteration or death. What opponents need most, though, is support from the top—President Clinton.

At first glance, the legislation appears reasonable. The bill seeks to protect public companies and their underwriters from frivolous lawsuits by disgruntled investors. It would provide legal protection for companies whose earings forecasts turn out to be inaccurate, and would limit the liability of accounting firms, legal advisers and others who fail to detect fraud. The bill also would ban "professional plaintiffs" who repeatedly sue companies for even minor losses.

Proponents argue that more and more investors are forsaking the win-some-lose-some attitude of investing, opting instead to sue if they lose money because of unexpected events, particularly sudden and steep drops in stock prices. Recent high-profile securities court cases seem to prove their point. From the ongoing Orange County fiasco to Piper Jaffray's stumblings a year ago, many investors, both government and private, have gone to court to recoup losses.

However, securities cases gain notoriety mainly because they rarely occur. The number of securities class-action lawsuits nationwide has fallen to 290 in 1994 from 305 in 1974. In fact, such cases represented little more than 1 percent of new federal civil cases filed last year. The statistics show that curbing investors' rights to sue amounts to a solution in search of a problem.

Indeed, there would be problems if this legislation passed unaltered. The bill would eliminate the current legal standard of joint-and-several liability, which holds even those peripherally involved in fraud to a high degree of liability. Thus, firms providing accounting and other services to corporate clients would have less incentive to be alert to wrongdoing. In addition, this legislation would have a chilling effect on even many valid complaints; it would require a plaintiff who lost a case to pay the defendant's court costs.

The bill's opponents have begun to make a stink. A couple of weeks ago, Minnesota Attorney General Hubert Humphrey III joined 13 other attorneys general in asking Clinton to veto the bill in its current form. A day earlier a coalition representing hundreds of state and local government officials announced its opposition. Consumer groups have fought the legislation all summer.

But the opponents need help. Though the Senate passed the bill by a veto-proof margin, a veto threat from Clinton could prompt needed changes in the measure. That threat should come now, while political momentum favors the opposition.

[From the San Francisco Chronicle, Nov. 27, 1995]

OPENING THE DOOR TO FRAUD

If a House-Senate conference committee meeting tomorrow does not result in significant changes to legislation regarding investment fraud lawsuits, President Clinton should quickly veto the bill.

Compromise has softened some of the anti-consumer aspects of the legislation, which has the stated goal of eliminating frivolous class-action securities fraud lawsuits. But despite the worthwhile aim, the provisions of a draft conference report on H.R. 1058 and S 240 go far beyond curbing trivial court actions and instead would wipe out important protections against hustlers of fraudulent securities.

In a letter asking Clinton to veto the bill, San Francisco's chief administrative officer, Bill Lee, noted that the legislation would "erode investor protections in a number of ways: it fails to restore the liability of aiders and abettors of fraud for their actions; it limits many wrongdoers from providing full compensation to innocent fraud victims, by eroding joint and several liability; it could force fraud victims to pay the full legal fees of large corporate defendants if they lose; it provides a blanket shield from liability for companies that make knowingly fraudulent predictions about an investment's performance and risks; and it would preserve a short, three-year statute of limitations for bringing fraud actions, even if fraud is not discovered until after that time."

Securities fraud lawsuits are the primary means for individuals, local governments and other investors to recover losses from investment fraud—whether that fraud is related to money invested in stocks, bonds, mutual funds, individual retirement accounts, pensions or employee benefit plans.

As the draft report stands, investors would be the losers. And their hopes of receiving convictions in suits similar to those against such well-known con men as Michael Milken and Ivan Boseky would be severely hampered.

In the name of the little guy, Clinton should not let that happen.

AMERICAN FEDERATION OF LABOR,
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, November 29, 1995.

DEAR SENATOR: The AFL–CIO opposes the conference agreement on H.R. 1058, the Securities Litigation Reform Act of 1995. The conference agreement significantly weakens the ability of stockholders and pension plans to successfully sue companies which use fraudulent information in forward-looking statements that project economic growth and earnings. There is a new "safe harbor" provision in this conference agreement that allows evidence of misleading economic information to be discounted in court if it is accompanied by "appropriate cautionary language."

The AFL–CIO believes this compromise will vastly increase the difficulties that investors and pension plans would have in recovering economic losses. Similarly, the joint and several liability provisions in this bill provide added, and unwarranted, protection for unscrupulous companies, stockbrokers, accountants and lawyers.

In short, this bill tips the scales of justice in favor of the companies and at the expense of stockholders and pension plans. Both of these latter groups are forced to rely exclusively on information provided by these companies when evaluating a stock, but this information would not be able to be used in court to recover economic damages for misleading information.

The Congress should reject the conference agreement on H.R. 1058.

Sincerely,

PEGGY TAYLOR,
Director.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC.

DEAR CHAIRMAN LEVITT AND COMMISSIONER WALLMAN: On behalf of a coalition of state and local government officials, the above organizations wish to express our concern over your November 15, 1995, letter to Senator Alfonse D'Amato regarding your views on the most recent "draft conference report" on securities litigation reform. Our organizations have worked closely with the Commission over the years on numerous issues of importance to the securities markets. Although your letter did not specifically endorse the "draft conference report," proponents of this legislation are already representing your letter as an SEC endorsement. We remain opposed not only to the latest version of the safe harbor provision in the legislation, on which your letter focused, but to several other provisions in the bill which are critical to us and which we understood were critical to you as well.

We support efforts to deter frivolous securities lawsuits. We believe, however, that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that H.R. 1058, S. 240, and the various versions of the "draft conference report" all fall short in achieving this balance, and erode the ability of investors to seek recovery in the cases of fraud.

The following are the major concerns state and local governments have with the latest "draft conference report:" Despite changes in the safe harbor provision relating to forward-looking statements, there are still loopholes in that provision that would allow false predictions to be made and that will shield a company from liability. Deliberately false forward-looking statements are still immunized under this draft as long as they are accompanied by cautionary language.

Aiders and abettors of fraud would still remain immune from civil liability and would not have to pay back fraud victims for the losses they suffer. If aiders and abettors are immune from liability, as issuers of debt securities, state and local governments would become the "deep pockets," and as investors they would be limited in their ability to recover losses. In Chairman Levitt's letter of May 25, 1995, to Chairman D'Amato and members of the Senate Banking Committee, he indicated that failure to resolve this issue was one of two "important issues" for the Commission. We are disappointed that you have not unequivocally stated that this is still a serious concern to the SEC, as it is to state and local governments.

The "draft conference report" maintains the short three-year statute of limitations that will allow a wrongdoer who can conceal his fraud to be completely let off the hook. The current statute of limitations is widely regarded as too short. Despite the May 25, 1995, statements to the Senate that this too was an "important issue" for the Commission, the most recent draft does not include an extension.

The latest draft adds language opening the way for the Supreme Court to eliminate any implied private right of action under the federal securities laws for victims of fraud by imposing a "rule of construction" stating that nothing in the legislation "shall be deemed to create or ratify any implied right of action." Given the historic role of private suits in keeping the markets honest, and the SEC's previous support for such actions as a complement to its own enforcement activities, we are surprised that no objection was raised in your letter to the inclusion of this new language.

The pleading standard has been changed in the new draft from requiring that the complaint "specifically allege" facts giving rise to a state of mind—an already harsh standard—to a "state with particularity" standard. This is a much more difficult standard and will make it even more difficult for plaintiffs to bring suit. Combined with the deletion of the Specter amendment, this raises the pleading standard to one different from that employed by the Second Circuit.

Under the newest draft, fraud victims face a potential "loser pays" sanction and a possible bond requirement at the beginning of a case, which could discourage many investors from seeking a recovery of their losses. In addition, the victim will now have to show that a shift of full attorneys' fees and costs to the plaintiff would impose an "unreasonable burden" on the plaintiff or his attorney and that the failure to shift fees would not impose a greater burden on the defendants.

The strength and stability of our nation's securities markets depend on investor confidence in the integrity, fairness and efficiency of these markets. To maintain this confidence, investors must have effective remedies against those persons who violate the antifraud provisions of the federal securities laws. In recent years, we have seen how investment losses caused by securities laws violations can adversely affect state and local governments and their taxpayers. Indeed, you, Chairman Levitt have addressed many of our members personally over the past year to underscore just this concern about the markets.

Access to full and fair compensation through the civil justice system is an important safeguard for state and local government issuers and investors alike and is a strong deterrent to securities fraud. Because of the importance of this issue, we are requesting a meeting with you to discuss your recent letter to Senator D'Amato and to convey our concerns about the unwise public policy outlined in the "draft conference report." We stand ready to work with you in vigorously opposing this legislation, particularly in light of other efforts—budgetary and statutory—to further weaken the regulatory protections provided to state and local government investors and others. Betsy Dotson of GFOA will follow up on our meeting request with your staff.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, November 29, 1995.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: On behalf National the Fraternal Order of Police, I urge you to veto the "Securities Litigation Reform Act" (HR1058/S240). The recently released draft of the House/Senate conference report clearly reflects a dramatic reduction in the ability of private, institutional and government investors to seek redress when victimized by investor fraud.

As a matter of fact, the single most significant result of this legislation would be to create a privileged class of criminals, in that it virtually immunizes lawyers, brokers, accountants and their accomplices from civil liability in cases of securities fraud.

This bad end is reached because of several provisions of the legislation: first, it fails to restore the liability of aiders and abettors of fraud for their actions; second, it limits wrongdoers from providing full compensation to victims of fraud by eroding joint and several liability; third, it could force fraud victims to pay the full legal fees of corporate defendants if the defrauded party loses; and, finally, it retains the short three year statute of limitations for bringing fraud actions, even in cases where the fraud is not discovered until after three years has elapsed.

Mr. President, our 270,000 members stand with you in your commitment to a war on crime; the men and women of the F.O.P. are the foot soldiers in that war. On their behalf, I urge you to reject a bill which would make it less risky for white collar criminals to steal from police pension funds while the police are risking their lives against violent criminals.

Please veto HR1058/S240.

Sincerely,
GILBERT G. GALLEGOS,
National President.

ATTORNEY GENERAL OF NEW MEXICO,
Santa Fe, NM, October 27, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: As Attorneys General of our respective states, we strongly oppose H.R. 1058/S240, the Securities Litigation Reform Act. The "draft conference report," which is the basis of agreement between the House and Senate bills, would severely penalize victims of securities fraud—consumers, workers, senior citizens, state and local governments. The principal effect of this legislation would be to shield wrongdoers from liability for securities fraud committed against an unsuspecting public.

Any securities litigation reform must achieve a balance between protecting the rights of defrauded investors and protecting honest companies from unwarranted litigation. Abusive practices should be deterred and sternly sanctioned. However, Congress must keep open the doorway to the American system of civil justice for investors to seek recovery of what has been wrongfully taken from them.

If enacted, this legislation would severely curtail our efforts to fight securities fraud and to recover damages for our citizens if any of our state or local funds suffer losses due to fraud. There are several provisions in both bills that would make it exceedingly difficult, if not impossible, for consumers and state and local governments to use the federal courts to recoup losses due to fraud:

Broad immunity from liability for fraudulent corporate predictions and projections; Failure to reinstitute liability for "aiders and abettors" under private actions, thereby fully immunizing them from any responsibility for their wrongful actions; A "loser pays" provision imposing a significant risk of fraud victims having to pay the defendants' full legal fees;

Severe restrictions on the joint and several liability of wrongdoers, making it impossible for many victims to fully recover their losses; Preservation of an inadequately short statute of limitations (one year after discovery and three years after the fraud was committed); Highly onerous pleading standards; and Elimination of liability under the federal racketeering statute, except after a criminal conviction.

Such extraordinary limitations on our states' ability to recover citizens' tax dollars is of grave concern to us.

As our states' chief law enforcement officers, we cannot countenance such a weakening of critical enforcement against white-collar fraud. Private actions, as a complement to government enforcement, have proven to be extremely effective in deterring securities fraud and in compensating injured investors. This longstanding practice has deterred even greater fraud in the markets and has reduced the burdens that would otherwise accrue as a result of the government having to fully police the markets.

If investors are limited in their right to initiate private causes of action, we fear that victims will turn more and more to the state enforcement agencies, such as the Attorney General, for solutions. There will be more demands on our offices to pursue wrongdoers for fraud, thus increasing the burden on our taxpayers' resources. The legislation would simply force another unfunded mandate on the states.

Effective private enforcement of securities fraud rests on the ability of defrauded investors to take legal action against wrongdoers. Yet there is little, if anything, in the draft conference report that would enhance the ability of defrauded investors to seek redress in the courts, provide enhanced protection for investors or ensure the continued honesty and fairness of our markets. The major provisions of the draft pose significant obstacles to meritorious fraud actions.

While H.R. 1058/S240 would achieve its goal of affording a measure of protection to large corporations and accounting, banking and brokerage firms, it goes so far beyond what is necessary for that goal that it would likely result in a dramatic increase in securities fraud as the threat of punishment declines. This would hurt our entire economy as investors lose confidence in the integrity of our financial markets. This is unwise public policy in light of rising securities fraud and substantial losses suffered by states and public institutions from high-risk derivatives investments.

As custodians of the tax dollars of our citizens, our states have a vested interest in keeping the securities markets safe and secure for investors. The stakes could not be higher for consumers since it is often their retirement savings that are lost in securities frauds. Moreover, the states' economic health, tied inexorably to the nation's economy, depends on continued investor confidence. There must be appropriate recourse to the courts for all investors.

We join the federal and state securities regulators, the state and local government finance officers, mayors and other public officials, labor groups, and all major senior citizen and consumer groups in opposing H.R. 1058/S240.

Given the draft conference report released on October 24th, we strongly urge you to veto the legislation if it is presented to you without substantial amendment to the provisions outlined above.

Sincerely,

TOM UDALL,
Attorney General of New Mexico.
WINSTON BRYANT,
Attorney General of Arkansas.
ROBERT A. BUTTERWORTH,
Attorney General of Florida.
TOM MILLER,
Attorney General of Iowa.
HUBERT H. HUMPHREY III,
Attorney General of Minnesota.
JEREMIAH J. NIXON,
Attorney General of Missouri.
JOSEPH P. MAZUREK,
Attorney General of Montana.
FRANKIE SUE DEL PAPA,
Attorney General of Nevada.
HEIDI HEITKAMP,
Attorney General of North Dakota.
CHARLES BURSON,
Attorney General of Tennessee.
JAMES DOYLE,
Attorney General of Wisconsin.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand the Senator from Nevada wishes to speak. I will not take a great deal of time. I do want to respond, however, while the walls are still ringing with the oratory of my friend from Maryland, to some of the particular points that he made. Then I will allow the Senator from Nevada to proceed.

I come at this with some background because I have been the CEO of a company that has been involved in litigation, and I have members of my family who have been involved in this circumstance. I also am not a lawyer and have a little difficulty following the twists and turns of the lawyers talking about the intricacies of rule this or rule that.

The overall point that I think has to be made here is simply this. There is no division between companies and investors. Investors own the company. That which damages the company, damages the owners of the company, who are the investors. So, when the Senator from Maryland talks about pitting investors against the company, he is talking about pitting people against themselves. He implies that this bill helps the company to the detriment of the investors. That, frankly, is impossible. If the company thrives, who gets the money? The investors, the stockholders. If the company survives a market problem and becomes stronger as a result, who benefits? The stockholder, the owner of the company. The two are not separate, in spite of the fact that we have had all of this rhetoric implying that they are.

The most significant problem, from my perspective, with this whole issue has been the attempt to divide the two and imply that the company is doing something to damage the investor and doing it deliberately for the benefit of the company. It simply does not wash. It simply does not track.

Where have these lawsuits come from? They have come from lawyers who have not sought to protect investors and not sought to help the company, but to enrich themselves. I will give you one example that demonstrates the power of this circumstance. Let us say we have a company with 100 shares. Let us keep it very simple. We have a company with 100 shares. We have an investor who owns 1 of those 100 shares. We have another investor who owns 99 of those shares. Keep it very, very simple.

The lawyer would rush to court and file a class action suit on behalf of the shareholder who owns one share on the grounds that the company has been damaged. And when the shareholder who owns 99 shares shows up and says, "I would like to have a say in how this suit is prosecuted because it is going to damage my 99 shares," under the present law we are told, no, the investor with the one share got to the court before you did and he controls the suit and therefore he can make all kinds of claims he wants to in favor of the shareholders.

The shareholder who owns 99 percent of the stock says, "Don't do me any favors. Don't stand there and file this suit; it is going to damage my interests and, frankly, damage the interests of the shareholder who has one share as well, proportionately." Ah, but it does not matter, because the shareholder who has one share as well has a side deal with the lawyer and he is a professional plaintiff and the lawyer will pay him for filing the suit so the lawyer will get the settlement. That is inevitably what happens.

Finally, the company says, "It is going to cost us $1 million to fight this case."

"OK," says the lawyer, "you don't want to spend the $1 million? That is fine with me. Let us settle it out of court for $750,000."

Management says, "We are not in the business of fighting lawsuits; we are in the business of producing products. Faced with that kind of blackmail, we have to do the best thing—for whom? We have to do the best thing for our shareholders. It will damage our shareholders $1 million to go to court. We can save them $250,000 if we pay this guy his blackmail and send him on his way."

So they pay the $750,000. The lawyer takes his contingency fee, pays off his professional plaintiff on the side deal, and walks away saying, "I have protected shareholder rights," when what he has really done is looted the company.

What this bill says, what this conference report says, is in a circumstance like that the shareholder with 99 of those 100 shares can go to court and say, "I am in control of this suit, not the one who has one share, and I move to dismiss." And the issue is over.

Who is damaged by this bill under that scenario? The lawyer. Not the shareholder, not the investors; they are benefited by this bill.

One other point I will make and then we can hear from the Senator from Nevada. This bill says there will be a proportionate liability, saying if someone was involved in a loss that was 3 percent that someone's fault, that someone is only liable for 3 percent of the damages.

Oh, that is terrible, we are told. What a chilling effect that will have. Why, accountants and lawyers supporting the company will be immediately up to their eyeballs in fraud because they know they are only liable for a proportionate amount.

That makes for interesting rhetoric on the floor of the Senate. It has little or no relevance to the real world. Let me give an example out of my own experience.

I was an investor in a company that was trying to develop a particular mining project in the Western States. Unfortunately for me and my fellow investors, we did not do very well. For a variety of reasons, a variety of problems, we ultimately had to close down the operation. In the process of doing that whole activity we engaged the services of a very fine lawyer in Los Angeles, one of the premier lawyers of Los Angeles. And he gave us sound legal advice. He helped us through.

A disgruntled supplier working with us on that circumstance kept trying to find some way to drag the lawyer who was helping us into a management role. He kept pushing and probing. I could not understand why. What in the world did he want to get the lawyer involved in the management kinds of decisions of this company that did not go anywhere?

Finally, the fellow leveled with me. He said, "If we can get into that lawyer's errors and omissions policy and prove that somehow he was involved in a management decision we think was a mistake, his insurance company will pay us a big payoff just to keep it out of court."

The lawyer we were dealing with was careful enough that did not happen. But that was the motivation. Not to try to solve the problem, but to tap into the deep pocket of the insurance company for errors and omissions insurance that this lawyer prudently carried for his firm.

So they were looking for every possible technicality to get past the management of the firm—the firm, being bankrupt, had no money to offer—and into the errors and omissions policy and the insurance policy of the lawyer. As I say, fortunately he was not successful. But that kind of attitude is the kind of attitude that causes lawyers to say, "I will not help you," which causes his accountant to say, "I will not take your account, I will not give you the expert advice you will need because I will get caught up in this." And it is to protect who? It is the investors who need the services of that lawyer and who need the services of that accountant that this bill is written as it is.

So, Mr. President, I intend to come back to this theme often as we go through this debate. Let us not lose sight of what it is we are trying to do here. We are trying to protect the investor, and the investor, by definition, is the person who owns the company. Anything that damages the company damages the investor. Anything that chills the company's access to sound legal advice and sound accounting counsel damages the investor. Anything that causes the company to pay blackmail, out-of-court settlements damages the company, which damages the investor.

So let us understand through this whole debate what the conference report does, what the bill does, what the committee approach does is to protect the investor. As we listen to rhetoric, saying let us protect the investor and punish the company, let us always keep that basic principle in mind: The owner of the company is the investor.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair. I reserve to myself such time as I may need at this point.

Mr. President, the Senate today is considering the legislation that may well have dramatic consequences for the operations of our securities markets. America's securities markets are the envy of the world. Our markets are the safest, and they enjoy universal investor confidence.

American companies have been able to prosper in large part because of their ability to raise capital in our financial markets. We should all be proud of these markets, yet, at the same time, we must be extremely careful not to jeopardize this investor confidence.

Even though our securities markets are the world's safest, we still have our share of bad apples. There will always be people who feel it is necessary to cut corners, or that they can get away with financial wrongdoing. We have not seen the last of the Keatings, the Boeskys, the Milkens, the Icahns of the 1980's, who penalize the American public by their commitment to greed and avarice, and with horrendous cost to the investors, to the public, and to public institutions as a result of their actions.

The legislation we are considering today will make it more difficult, in my judgment, to bring legitimate fraud cases and will make it more difficult to recover stolen assets.

That having been said, Mr. President, let me be clear that the legislation before us today, although it purports to deal with the issue of frivolous lawsuits, is in point of fact a smokescreen, if you will, the Trojan horse, as I have characterized it, to really get at the heart and substance of this legislation, which is to insulate and immunize perpetrators of fraud from legitimate investor recovery. If this legislation were about frivolous lawsuits, sign me up; count me as being on board. There are some provisions that enjoy universal support. They are incorporated in this bill. Let me mention a couple of them.

There are included in the provisions a requirement that plaintiffs certify individually in each of these securities actions that the actions are brought in good faith, that they are not acting in a frivolous fashion, that, indeed, they are not part of the referral process, all of which I think make a lot of sense and deal with some of the concerns that have been raised by my colleagues on the other side of the aisle.

There are further provisions that prohibit the payment of referral fees to brokers. That, in my judgment, is legitimate and is designed specifically to deal with the issue of potential frivolous lawsuits. The concern is that we should not give stockbrokers, or anyone else, incentives for referral of potential securities fraud cases, and, indeed, these actions ought to be prohibited and the legislation does that.

The legislation also deals with the issue of banning bonus payments to class plaintiffs, and I think this, too, deals with the issue of frivolous lawsuits. It requires the lawyer who has an interest in securities, who brings the action, to have his actions reviewed for potential conflict of interest. That, I think, is highly appropriate, and it calls for improved settlement notice to class members in terms of the proposed terms of the settlement. It contains provisions that limit attorneys fees.

In the original version of this bill, as it passed the Senate, it dealt with the sanction provisions of rule 11, saying that those persons, whether they be attorneys on behalf of plaintiffs or defendants, who take frivolous actions, can, indeed, have the full sanction of the law brought against them.

And this was done in an even and fair-minded way. That, Mr. President, in my judgment, deals with the bona fide, legitimate question of frivolous lawsuits. If that is what this legislation was all about, we would not be having this debate on the floor today. I concur and I suspect that all of my colleagues want to work to eliminate some of the abuses that have occurred in the system. But, Mr. President, that requires a laser-like action to specifically craft legislation that deals with some of the practices that have been abused.

The referral fees to brokers, the bonus payments, the potential conflicts of interest, the improved notice to class members of the terms of a settlement, the limitation of attorney fees and the strengthened sanction provisions of rule 11. That, my friends, is what frivolous lawsuit legislation reform ought to be about. But this goes so much further and, in my judgment, is more about protecting misconduct and fraud than it is about frivolous lawsuits.

Let me point out first, for those who may not be familiar with what is involved in bringing a securities action, let me make a disclosure at the outset I have neither been plaintiff, defendant, nor as a lawyer have I represented anyone in a securities action. But this is what is involved in bringing a securities fraud case.

First, a person must prove that he or she actually purchased the securities. The person must prove that the fraud, the manipulation or deception was in connection with the purchase or sale of a security. The person must prove that a defendant acted with scienter, that is, an intent to deceive or a reckless disregard for the truth or the falsity of the statement.

It needs to be emphasized that negligence, simple ordinary negligence, is not the kind of misconduct that is a predicate for a securities action. So anyone who makes a statement inadvertently or is involved in negligent action does not come within the purview of the provisions of the Securities Act of 1934.

A person must prove a defendant's misstatement or nondisclosure was material, not just incidental, but material. A person must prove that he or she reasonably relied on the defendant's misstatement. A person must prove how he or she was damaged. And, finally, a person must prove a defendant's conduct caused the damages.

Now, those are reasonably difficult things to prove. And they ought to be. They ought to be. I do not have any quarrel with that. These actions ought not to be taken lightly. Our colleagues point out that there is a great expense involved in defending class actions. I acknowledge that. But that is the burden of proof that plaintiffs must submit themselves to under the current law. And it is a rather substantial burden of proof, Mr. President. As I have indicated, with respect to frivolous actions this Senator has no sympathy, and the full provisions of rule 11 under the Federal rules, as strengthened by the version passed by the Senate before this bill went into conference, appropriately deals in a balanced fashion when there has in fact been a finding that a lawsuit has been filed frivolously by a plaintiff or actions by defendants' attorneys are frivolous.

Let me talk for a moment about what is happening in the market. And I would invite my colleagues' attention to a recent Wall Street Journal article. We are not just talking about some remote contingent fraud that may occur in the marketplace. We are dealing with the reality in which, as the Wall Street Journal fairly recently pointed out in a May article earlier this year, in a front page story, the title of which is "How Career Swindlers Run Rings Around SEC and Prosecutors," and the subhead of the story "White-Collar Crooks Serve Little Jail Time, Leave Billions in Fines Unpaid, The Bad Guys Are Winning."

Mr. President, this does not appear in the American Trial Lawyers Association Journal. This appears in one of the icons of the business publications in America, the Wall Street Journal. In effect, there is more investor fraud, not less. And even with the resources available at the SEC, this article concludes that the bad guys, in fact, are winning. I offer this as a somber and hopefully sobering assessment that there is massive fraud out there and that we have not seen the last of the Ivan Boeskys and the Mike Milkens or the Charles Keatings. Those are not just some part of a historic record that no longer concerns us in America. There are folks out there every day who, through whatever artifice and device, continue to perpetrate investor fraud. And that ought to suggest to us in this deliberative body that we ought to proceed with some caution as we approach securities litigation reform.

Mr. President, I ask unanimous consent that the Wall Street Journal article of Friday, May 12, 1995, be printed in the RECORD.

Mr. BRYAN. Let me just also invite my colleagues' attention, in a similar vain—here is a similar business publication called Crain's New York Business, the date of which is December 4th through the 10th, 1995. It cannot be much more contemporary than that. That is this very week. And its headline indicates "New Scams for a new generation." The subhead is, "Driven by high-tech rip-offs, financial fraud is soaring." That, Mr. President, is a publication of this very week, "financial fraud is soaring." And I again ask unanimous consent that this publication be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 12, 1995]

HOW CAREER SWINDLERS RUN RINGS AROUND SEC AND PROSECUTORS

(By John R. Emshwiller)

SANTA MONICA, CA.—For more than a quarter century, Ramon D'Onofrio has been playing games with the law—and mostly winning.

The 67-year-old Mr. D'Onofrio, operating out of a modest office suite at the airport here, is a master stock swindler. He is responsible for fleecing the public out of tens of millions of dollars in the course of numerous stock manipulations, say officials who have tangled with him in about 20 civil and criminal investigations. A federal appeals court once referred to him as "ubiquitously criminal."

Mr. D'Onofrio has been convicted of fraud-related crimes five times and is once again under investigation, people familiar with the case say. Yet he hasn't spent a day in prison in the past 20 years—and he served only about a year behind bars before that. His most recent criminal conviction came in 1991; he received probation. While the Securities and Exchange Commission has "permanently" enjoined Mr. D'Onofrio from future violations of securities laws, it has done so *seven* different times. Meanwhile, he has left unpaid about $11.5 million in fines and civil judgments.

BILLIONS IN UNCOLLECTED FINES

Mr. D'Onofrio isn't alone. Hundreds of career swindlers, many of whom have infiltrated legitimate industries ranging from securities to health care, are laughing all the way to the bank—with other people's money. "If you have the aptitude and you're enough of a sociopath, there are few places where the pickings are as easy" as swindling, says Scott Stapf, investor-education adviser for the North American Securities Administrators Association, a group of state regulators.

Data gathered from government agencies show that it takes far longer to bring white-collar criminals to justice than perpetrators of other crimes. Once apprehended and convicted, swindlers generally receive light sentences—frequently nothing more than probation and a fine. Often, as with Mr. D'Onofrio, they aren't compelled to pay back what they have stolen; extraordinarily, about $4.48 billion in uncollected federal criminal fines and restitution payments is currently outstanding.

While nobody argues that high-priority battles against drugs and street crime should be neglected, many white-collar-crime investigators contend that the devastating impact of fraud isn't sufficiently appreciated. Rough estimates by government agencies and others indicate that white-collar crime costs Americans more than $100 billion annually. And increasingly, free-lance stock swindlers are joining forces with organized crime, to the benefit of both.

VICTIM COMMITTED SUICIDE

"These are people who are stealing millions from working-class Americans. These are people who ruin lives," says John Perkins, until recently Missouri securities commissioner. The former regulator still recalls a Thanksgiving Day nearly 20 years ago when a local farmer, after having mortgaged his property and lost the money in an investment swindle, committed suicide by shooting himself in the head. Quinton Darence Cloninger, who was convicted of helping run that swindle, was out of prison after three years—and back in the investment business. He couldn't be located for comment.

Over the years, Mr. D'Onofrio and his ilk have benefited richly from the fact that civil authorities don't have much enforcement clout without the backing of the criminal-justice system. Criminal prosecutors, in turn, aren't always interested in white-collar offenses—and may be becoming less so.

Consider the SEC civil injunctions that Mr. D'Onofrio and others so often ignore. Violations of such injunctions—which often bar the individual from working in the securities industry—can lead to criminal-contempt charges and jail time. But, SEC officials concede, contempt is a rarely used weapon. Records supplied by the SEC show that only a handful of criminal-contempt cases have been brought in the past five years.

RELUCTANT PROSECUTORS

For one thing, the agency has to persuade a U.S. attorney's office to prosecute a contempt case. The chances of that happening are usually "slim to none," says one SEC attorney, particularly since criminal-contempt cases usually don't produce long sentences. Many prosecutors are loath to put in time on a case where the potential payoff is small.

In 1990, at the SEC's request, the U.S. attorney's office in Salt Lake City did bring a criminal-contempt case against Mr. D'Onofrio. According to a complaint filed in federal court there, Mr. D'Onofrio violated a 1982 court injunction requiring disclosure of his significant stock holdings, an order that resulted from an earlier SEC lawsuit over stock manipulation. Mr. D'Onofrio pleaded guilty, was given probation and continued his career unimpeded.

Mr. D'Onofrio declined numerous requests for an interview for this article. "Some people do talk to the press and some people don't," says his attorney, Ira Sorkin, the former head of the SEC's New York regional office. Mr. D'Onofrio "falls into the latter category," adds Mr. Sorkin, who won't talk about his client either. (As an assistant U.S. attorney in New York 20 years ago, Mr. Sorkin helped prosecute a criminal case in which Mr. D'Onofrio was an unindicted co-conspirator.)

Contempt isn't the only criminal charge available in swindling cases; frequently, scam artists can be prosecuted criminally under fraud or racketeering laws. But Philip Feigin, a Colorado regulator and current president of the North American Securities Administrators Association, bemoans a "vicious cycle" in which securities regulators, investigators and prosecutors often relegate criminal statutes to an "afterthought."

BURIED BY DOCUMENTS

One reason is that white-collar criminal cases often eat up enormous amounts of time and resources. Stewart Walz, a veteran federal prosecutor and former head of the criminal section of the U.S. attorney's office in Salt Lake City, recalls one complex white-collar case several years ago that required a quarter of his section's attorneys for a five-month trial. Although multiple convictions resulted, Mr. Walz asks: "How many other cases went unprosecuted?"

On average, it takes more than 10 months for a white-collar criminal case to be filed in court from the time it is referred to a federal prosecutor's office, according to national statistics gathered by the Transactional Records Access Clearinghouse at Syracuse University in New York. That is nearly three times as long as for the average drug case. Complex, document-laden white-collar cases frequently take years to complete.

When prosecutors do bring fraud charges, they often end up disappointed with the sentences that result. The latest federal prison statistics show that the median jail term for fraud is just 12 months; even violators of pornography and prostitution laws receive 33 months behind bars, while drug traffickers are sent away for a median of 60 months. A check of state sentencing statistics in California and Florida, two centers of white-collar crime, also shows large disparities in sentences between fraud and drug trafficking.

James Sepulveda, a prosecutor in the district attorney's office of Contra Costa County in Northern California, says he has helped convict hundreds of white-collar criminals during the past 14 years. Some 90% of them, he estimates, received probation: "The bad guys are winning," he says.

Such experiences have made prosecutors increasingly reluctant to take on many potentially promising cases. These days, if a case is worth less than $1 million, some big-city prosecutors won't even touch it, experts say.

A major factor is the nation's war on drugs, which has been overwhelming prosecutors' offices, courts and prisons. In 1985, for instance, only 34% of the federal prison population was serving time for drug-related crimes. Today, the figure is 62%. As recently as the early 1980s, the average federal prosecutor handled about the same number of white-collar and drug cases each year, according to the Syracuse University group. By 1993, that same prosecutor was handling nearly twice as many drug matters as white-collar cases.

Of the thousands of white-collar cases filed by the federal prosecutors annually, only several dozen involve alleged securities fraud, according to records of various government agencies. The SEC keeps only what an agency spokesman terms a "spongy" count of such cases.

POOR RECORD KEEPING

Though Justice Department officials agree that drug cases have been getting more and more attention, they insist that the agency's commitment to prosecuting white-collar cases hasn't diminished. They note that in recent years the department has focused increasingly on particularly complex and time-consuming white-collar cases. While not great in number, these prosecutions tend to have a significant impact, they say.

Nonetheless, the scarcity of government record keeping in this area seems to underscore the relatively low priority given to white-collar crime. The Federal Bureau of Investigation, for example, annually gathers from more than 16,000 local and state law-enforcement agencies detailed statistics on crime ranging from murder to auto theft. That survey doesn't include fraud, for which much less detailed information is assembled. FBI officials say they are working on a new reporting system that will gather more information on white-collar crimes, but they don't expect it to be in place before the end of the decade.

For its part, the SEC has established no formal system for identifying or tracking repeat offenders. Nor does it always know their whereabouts. During a recent interview, Thomas Newkirk, an associate director for enforcement, proclaims that Thomas Quinn is safely ensconced in a European jail. But Mr. Quinn, one of the major stock manipulators of the 1980s—who regulators say was responsible for as much as several hundred million dollars in investor losses worldwide—has been out of jail for months and is living on Long Island, N.Y. Mr. Quinn says he isn't involved in the securities business and "never will be again. I am just trying to get on with my life."

William McLucas, the SEC's enforcement chief, says there "should be a place in the system" to deal "harshly" with securities-law recidivist, and that the agency does its best to make sure they are brought to justice. But he also notes that the SEC has to regulate thousands of public companies and investment advisers and a vast mutual-fund industry. "We have a whole lot of market realities we are trying to keep pace with," he says. "So we must make some hard judgments about where to put resources."

CASES MOVE SLOWLY

Some of these judgment calls have made life easier for Mr. D'Onofrio. The two most recent SEC lawsuits against him—one filed in Los Angeles federal court in 1993, the other in New York federal court last September—were years in the making and involve alleged stock manipulations that occurred, in some cases, more than a half-decade earlier.

Such time lags aren't uncommon, SEC officials say. The continuing criminal investigation, which involves some of the same activities as the two civil cases, also seems to be moving at a glacial pace. Hovhanness "John" Freeland, an alleged D'Onofrio confederate in one of the civil cases, pleaded guilty to criminal stock fraud in a related case in New York federal court. He entered that plea more than two years ago but hasn't been sentenced yet. Mr. Freeland, who is back in the business world, declines to be interviewed, and prosecutors won't comment on the criminal case.

When charges are brought against Mr. D'Onofrio, he is as likely to quit as to fight. Indeed, Mr. D'Onofrio's success with the law has stemmed partly from his willingness to cooperate when caught. This has helped keep his incarceration time to a minimum, even though by the early 1970s he was clearing as much as $1 million annually in stock manipulations, according to one court ruling.

In one early instance of cooperation, Mr. D'Onofrio agreed to be the main witness against his former business associate and onetime state-court judge, Joseph Pfingst, in a bankruptcy-fraud case in Brooklyn, N.Y. Mr. D'Onofrio was sentenced to probation after helping get Mr. Pfingst convicted; the former New York judge got a four-month term.

MAKING "A LOT OF MONEY"

In another case against an alleged co-conspirator, Mr. D'Onofrio testified readily to his own role as a "manipulator of stocks" who causes "the price of the stock to rise by fraudulent means and in the process makes a lot of money," according to a federal-court opinion. But Mr. D'Onofrio has always been extremely secretive concerning anything that might interfere with his continuing prosperity. In one case, he was jailed 22 days for contempt rather than discuss his overseas bank accounts.

Lately, Mr. D'Onofrio has been dabbling in new business ventures, aided by a 1990 SEC rule change. "Regulation S" allows a company to sell stock overseas without going through the time-consuming and expensive disclosure procedures normally required to sell new stock in the U.S. The idea is to give companies a tool for raising capital. Such is the latitude of Regulation S that the SEC doesn't even track which firms do such transactions.

Law-enforcement officials say they believe Mr. D'Onofrio and others have been using Regulation S to obtain millions of shares of stock, which they fail to pay for or buy at a deep discount, then resell to the public before the price of the stock crashes.

The SEC has voiced concern about possible Regulation S abuses but has done little to curb them. In 1991, the agency did file suit in Washington, D.C., federal court against several defendants in a Regulation S transaction involving a small Tucson, Ariz., company, Work Recovery Inc. The SEC obtained injunctions and disgorgement orders against the defendants, whom the agency charged with failing to pay for 1.5 million Work Recovery shares and then illegally selling a substantial number of these shares to U.S. investors.

Though one of Mr. D'Onofrio's firms was Work Recovery's investment banker, the SEC didn't name him or the firm in its suit. The agency declines to say why. Work Recovery later sued Mr. D'Onofrio and others in Denver federal court and won a default judgment of nearly $9.5 million in April 1993. It remains unpaid.

In a 1992 interview, Work Recovery President Thomas Brandon recalled being impressed by Mr. D'Onofrio's plush office suite, chauffeured limousine and seeming dedication to helping small companies such as his raise capital through Regulation S transactions. Mr. Brandon said the pitch "was almost evangelical in tone."

Mr. D'Onofrio and his associates recently latched onto another small publicly traded company, Madera International Inc., a Calabasas, Calif., firm with a bizarre past that included plans for an automatic-weapons factory in China. By last year, Madera had a new business—exporting timber from Nicaragua—and a new investment banker, First Capital Network Inc.

Mr. D'Onofrio has been operating from First Capital's Santa Monica office. According to several individuals who have done business with the firm, he was involved in financing and stock transactions for First Capital, despite an outstanding court order barring him from "acting as a promoter, finder, consultant, agent or other person who engages in . . . the issuance or trading of any security." Repeated requests for comment from company officials, left by phone and in person at the firm's office, received no response.

MADERA STOCK COLLAPSED

Madera Chairman Daniel Lezak says of Mr. D'Onofrio that "it was my impression that he helped run the firm." Mr. Lezak says, and SEC filings confirm, that First Capital arranged the transfer of millions of new shares of Madera stock to itself or offshore buyers at no cost or at deep discounts through Regulation S and other transactions. Mr. Lezak says he believes much of that stock was quickly dumped in the U.S., a move he believes contributed to Madera stock's dropping to about 10 cents a share from a high last year of more than $3. Mr. Lezak says he fired First Capital as Madera's investment banker, but says he still sometimes consults with firm officials.

Mr. D'Onofrio has had serious heart problems of late, law-enforcement officials say. But he appears to be passing his accumulated knowledge to others, including his 34-year-old son Mark, who for the past several years has been working with his father.

Already, the younger Mr. D'Onofrio has been the subject of three SEC injunctions for alleged securities-law violations. He recently pleaded guilty in connection with federal conspiracy and fraud charges filed in Los Angeles federal court as part of the criminal investigation that also involves his father. Mark D'Onofrio remains free pending sentencing, scheduled for later this year. His attorney, Mr. Sorkin, says the son, like the father, doesn't talk to the press.

But Mr. Brandon, the Work Recovery executive, recalls a dinner conversation where Mark D'Onofrio talked of how he "was proud of his father's doggedness" and wanted "to follow in his father's footsteps."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Crain's New York Business, Dec. 4–10, 1995]

NEW SCAMS FOR A NEW GENERATION

DRIVEN BY HIGH-TECH RIP-OFFS, FINANCIAL FRAUD IS SOARING

(By Judy Temes and Geri Willis)

John Chilelli believed in two things: technology and radio talk show host Sonny Bloch.

Looking for a way off the rough-and-tumble docks of Bayonne, N.J., the longshoreman, 37, plunged nearly half his savings—$22,000—into a high-tech investment in paging systems last fall. His dream was to earn enough to leave his 90-hour-a-week job operating a crane to buy a Pizza Hut franchise.

"I figured if Bloch had his own show all these years, and he's telling people to buy this, it's gotta be on the up-and-up," explains Mr. Chilelli.

But federal authorities say Mr. Bloch lined his own pockets working in collusion with a number of advertisers to hustle ill-advised and fraudulent high-tech investments to loyal listeners, ultimately stealing $21 million.

Mr. Bloch says he is innocent of any wrongdoing, but today he sits in jail awaiting trial.

The Bloch case is emblematic of how technology has unleashed an unprecedented wave of investment fraud that is ripping off consumers for billions of dollars. Investors are attracted to technology because they have seen the way it has changed their own lives. Many are also searching for the next Microsoft Corp. Instead, they are being lured into phony deals in interactive video, mobile telephones, pager systems and wireless cable.

Technology is not only transforming the products sold by these investing hucksters; it is also dramatically changing how they do business. Today's snake oil salesmen are reaching more people than ever by broadcasting their message over the Internet, as well as radio and television. They bounce their offers off satellites and communicate via conference calls, 900 numbers and late-night infomercials.

Carefully mimicking legitimate providers of investment advice, scam artists have mastered direct mail techniques, lifting new headlines and even stories to make their appeals sound authoritative.

Mr. Bloch went one important step further. He co-opted legitimate media, employing 200 radio stations, satellite technology and a telemarketing operation to broaden his reach. Once in investors' living rooms, he studded his show with noted experts. A string of book titles and frequent public appearances cemented his credibility with listeners desperate for a trustworthy, accessible financial adviser.

By some estimates, people like Mr. Bloch are costing Americans $100 billion a year. The Securities and Exchange Commission's caseload has climbed 30% in five years, while at the same time, criminal convictions by state regulators have quadrupled. Investment fraud complaints to state and federal agencies are soaring, with 50,000 logged by the Federal Trade Commission in the past three years.

AMERICANS FACE LIFE WITH FEWER FINANCIAL GUARANTEES

Behind this rise in financial fraud is a sea change in personal investing patterns. A new generation of Americans is facing life with fewer financial guarantees. Many no longer believe that Social Security will provide for their retirement. Medicare programs are under siege. The number of workers with fully company-funded pensions is dwindling. Home values, once the foundation of a typical family's net worth, are eroding.

Facing the prospect of outliving their savings, more people are buying stocks, bonds and mutual funds—one in three American families, compared with only one in 17 in 1980. Each week, these newly minted investors plow some $9.6 billion into mutual funds alone.

But most are ill-prepared for this new burden. Lacking investing skills, the postwar generation confronts an array of complex products and is dazzled by thousands of options. For example, there are now twice as many mutual funds—5,600—as there are stocks listed on the New York Stock Exchange.

Investors are confused because even legitimate firms can't be entirely trusted. Big brokerages still pay incentives to salesmen to hype products. The media adds to this charged environment by tantalizing investors with the possibility of high returns. "Quit young and enjoy the rest of your life," beguiles a recent Money magazine cover.

"Investors are clearly more vulnerable," says Arthur Levitt, chairman of the SEC.

At stake is nothing less than the future prospects of millions of investors: their retirement funds, their children's college education money and the resources to care for their aging parents.

The longshoreman, Mr. Chilelli, has been forced to put his dreams on hold. "I feel foolish," he says. But, he asks, "How do you tell what to invest in? Who do you trust?"

TECHNOLOGY BLINDS INVESTORS

Bob Shifman was getting a sick feeling in the pit of his stomach as he listened to a slick promoter pitch wireless cable television to a roomful of retirees last June.

Richard Horne described wireless as the cellular telephone of the 1990s, a technological miracle capable of providing better service at lower costs. Why, he asked, would reasonable people invest in an unpredictable stock market or in real estate with such a "tremendous opportunity" available?

"This is an excellent place to park your money," Mr. Horne concluded.

Even as the room erupted into applause, Mr. Shifman thought of the $15,000 in savings he had sunk into the enterprise. The Jersey City retiree had planned to give the money to his two adult children and six grandchildren.

Eleven months later, the U.S. Attorney's office filed an indictment charging the operators of the wireless venture, known as Greater Columbia Basin, with defrauding consumers of a total of $21 million.

Among those implicated were Sonny Bloch, James Barschow, Joseph Glenski, Bruce Schroeder and Milton Sonneberg. Five others have pleaded guilty to felony charges that they worked with Mr. Bloch, including Steven Wiegner. Mr. Wiegner, who was president of Mr. Bloch's Independent Broadcasters Network, pleaded guilty last week and is cooperating with the government.

Mr. Horne, meanwhile, has been named as a defendant in an investor suit against Columbia, but lawyers representing investors have been unable to track him down.

Crooks are selling schemes and products with a high-tech spin to a generation that has eagerly watched laptop computers, cellular phones and interactive multimedia change the way people work and play.

Con artists use this fascination to lure investors into a variety of ploys that use interactive video, mobile telephones, pager systems and wireless cable. But the smartest ones don't stop there. They pitch Wall Street's own computer-based products and trading techniques—derivatives and arbitrage—to a gullible public eager to emulate the securities industry's savviest traders.

"Technology has the interest of people," says Stephen Gurwitz, an attorney at the FTC. "The schemes follow the headlines."

PERSONALLY ENDORSED BY SONNY BLOCH

Wireless cable fraud alone costs investors half a billion dollars each year, the FTC estimates. The SEC has filed 21 wireless cases in the past three years. The FTC, which investigates instances of misrepresentation, has filed 14 high-tech cases since 1990, five this year alone.

Such a scam cost Ray LaCava $30,000—money he received from a car accident that disabled him for life. Well invested, Mr. LaCava thought, that money could buy his daughter an annuity, or perhaps even set her up in business.

A paging license seemed ideal. The Long Island resident had made a successful high-tech investment before; he says he netted half a million dollars a decade earlier on a cellular phone license.

"I knew paging was up and coming," recalls Mr. LaCava. "I was noticing more and more people with beepers."

When salesmen from Manhattan-based Breakthrough Technologies Inc. called last fall, Mr. LaCava was primed to listen. For $7,400 per license, Breakthrough would conduct engineering studies and file an application for Mr. LaCava to ensure him of a prime operating area. The company was personally endorsed by Sonny Bloch, who described Breakthrough President Michael Taylor as his "good friend." Says Mr. LaCava. "That clinched it for me."

Salesmen from Breakthrough took Mr. LaCava and a dozen other investors to a legitimate conference at the Newark Marriott hotel held by paging equipment manufacturer Motorola, which knew nothing about Breakthrough. A limo ride and dinner were part of the package.

Mr. LaCava forked over $22,200 that night in a five-for-three deal, buying licenses in Kansas City, Mo., Louisville, Ky., and three other cities.

BIG FEES FOR USELESS LICENSES

He never received the licenses. Principal Michael McGuinness, using the name Michael Taylor, put off Mr. LaCava for two months, cancelling meetings and blaming the delays on government bureaucrats. Investors finally stopped buying the excuses and reported Breakthrough to postal inspectors last December. Mr. McGuinness pleaded guilty to charges of mail fraud earlier this year.

Like Mr. LaCava, many investors have made millions off such new technologies as cellular telephones, heightening interest in high technology. Holding out the promise of similar huge returns, hustlers charge unsophisticated investors as much as $7,500 to file a license application that could be filed with the Federal Communications Commission for as little as $50. They justify the expense by promising engineering, and population studies.

Often, the studies are never delivered. When they are delivered, they usually prove worthless. And that's just the beginning of the subterfuge.

Investors are often misled about the capability of the technology or simply the location of the licenses that they apply for. Little is said about the heavy responsibilities that accompany the ownership of a license, such as a requirement that owners build transmission towers and stations costing hundreds of thousands of dollars.

Investors in Manhattan-based Metropolitan Communications Corp. were told that their specialized mobile-radio licenses would become part of a nationwide wireless telephone network, according to an FTC complaint. For an initial investment of $7,000, investors were allegedly told, they could make as much as $58,000 a year before expenses.

In less than two years, roughly 2,500 investors funneled $28 million into the deal. About half of them signed separate agreements to lease their licenses to a manager, expecting the manager in turn to pay them a stream of income that would resemble an annuity.

The manager was really a sister company of Metropolitan. Both companies, authorities say, lacked the capital to properly build the towers that would make the system work.

The company tired to mislead regulators by building at least 300 temporary towers, according to Danny Goodman, who was appointed by the U.S. District Court to take over the company last year. In each location, the company would broadcast for a day or two, pull down the tower, shove it into a van and move it to the location of the next license, where workers would go through the same motions.

"Metropolitan thought it would fool investors," says Mr. Goodman. It did—until the FTC stepped in. The agency filed a complaint against Metropolitan in January 1994 and froze the assets of its central players.

Metropolitan principal Sheldon Jackler signed a consent order last year agreeing to cease operations. But he has since decided to fight the government's case and disputes some of the government's claims. His lawyer, Stephen Hill, says Metropolitan had every intention of making the system operable, but its plan was interrupted by the court-imposed receivership.

TARGETING THE SAVINGS OF RETIREES

Some investors are so mesmerized by the promise of high-tech products that they even entrust their retirement money to these products.

In an elaborate ruse, Jerry Allison and Qualified Pension Investments Inc. of Scottsdale, Ariz., convinced retirees to sign over their entire retirement accounts to the "IRA approved" pension administrator.

"There is no such legal statement as 'IRA approved,'" says Kenneth Lench, SEC branch chief, whose Washington office filed a QPI complaint.

QPI should have acted as a disinterested third party in administering the accounts. Instead, Mr. Allison's company allowed backers of phony wireless cable operations to mail QPI brochures to prospects alongside their own promotional materials. In return, the Scottsdale company stuffed those retirement accounts full of worthless wireless cable investments. The company took in $270 million of retirement money from 14,500 people nationwide between 1991 and 1994.

Mr. Allison faces a trial on the SEC complaint that he misappropriated at least $4.5 million in retirement funds. A subsequent receiver's report shows that as much as $9.5 million may be missing.

SCAM ARTISTS IMITATE WALL STREET

Scam artists also have followed Wall Street into complex financial instruments. Chuckles Kohli of Princeton-based Sigma Inc. said he could make investors returns of 10% a month using derivatives and exchange-traded options to develop lucrative currency arbitrages.

"All the banks are getting rich doing swap derivatives," an elderly investor later told authorities. "I wanted to share in it."

Another individual pumped more than $100,000, just about all of his retirement fund, into a portfolio managed by Mr. Kohli.

"There were these people I knew who were living a lot better than I was, driving nicer cars, without the income I had," says the 52-year-old father of three. "I said, 'Oh shoot, I could live like that, too.'"

Mr. Kohli took in about $40 million from investors, according to court documents filed by the Commodity Futures Trading Commission and the U.S. Attorney's office in Newark.

He allegedly violated a host of securities rules: He never registered as a commodity pool operator, and he mingled investor dollars. During his four years in business, he never filed a single tax return. And to top it all off, he lost $20 million of investors' money while telling them they were reaping huge returns.

He squandered another $5 million on expenses, which included a personal limo driver, go-go dancers and a strip bar.

He was indicted for mail fraud and is now in jail awaiting trial.

THE UNDERSIDE OF THE INTERNET

Forget the old boiler rooms were high-pressure swindlers pitched penny stocks and other risky investments. Today's hustlers have jettisoned the phone banks for computers, modems and the Internet to broaden their audience and lower their costs. They're using computer-generated mailing lists, satellite transmissions and radio networks to appeal to millions of potential targets.

The new scam artist appears on late-night television and uses desktop technology to produce pitches that mimic those of legitimate personal investing experts.

These tools have made financial fraud so easy to perpetrate that one search for cyber-crooks nabbed a 19-year-old hacker peddling an investment in eel farms. His tools: a personal computer and an active imagination.

Nowhere does the possibility for abuse loom larger than on the Internet and on-line services, where investor chat lines burn 24 hours a day with stock tips and ideas.

While activists criticize on-line services for their unwitting role as purveyors of pornographic pictures, the real smut is often financial. A recent visit to America Online found these dubious offers:

Stop Paying Income Taxes Legally . . . Get a letter from the IRS stating: "You are not liable for income taxes." This is honest, legal and REAL.

$250,000 by Christmas or Sooner!!! Call the World's Most Profitable Number.

Get out of the DEBT Cycle! . . . Stop putting your banker's kids through school or paying for his new swimming pool!

Investors who would be wary of a telemarketer are less suspicious of an electronic pitch—particularly when it is personalized.

"There is a clubby mentality. It's like hanging out at the campfire at Malibu," says Mark S. Herr, New Jersey consumer affairs director.

A recent SEC case shows how electronic schemers get close to their prospects. The initial hook was an ad on Compuserve, where subscribers were promised "High Returns for Investors!!" last July. People who responded to that pitch were mailed an authentic-looking contract describing a $12,000 "prime bank" investment.

Gene Block, a Durham, N.C., business consultant, gained the trust of investors by chatting with them through e-mail. He promised that their investments would double in just six months and were protected by top bank guarantees, says the SEC in a complaint.

But Mr. Block was really a member of an international ring that marketed these phony investments, scoring $1 million for their efforts. So far, the SEC has recovered $250,000 from the bank accounts of the scheme's originator, Renate Haag, who is believed to have fled to her native Germany.

But the scheme is noting new. The SEC has 24 other prime bank cases on the books, and more are on the way.

"In the old days, you had the boiler rooms where you had to hire 20 people to make thousands of phone calls to sell fraudulent securities. Now one person can do this by the push of a button," says James B. Adelman, former head of enforcement of the SEC's Boston office.

Mr. Block faces a trial on the SEC complaint. His attorney, Paul Prew, doesn't deny that his client participated, but says, "He was used as a pawn by people who knew better or should've known better."

Con artists are combining PC power with other technology. Richard Welch, formerly the operator of a fantasy telephone sex line, drew on his knowledge of 900 numbers to develop a Ponzi scheme in which people were invited to invest in a worldwide lottery service said to be sponsored by North American Indian tribes.

The con was a one-two punch that started with telephone and fax solicitations. Early investors in the ruse then used e-mail and computer bulletin boards to recruit others, according to a complaint filed by the SEC.

By harnessing the power of these technologies, Mr. Welch and his coconspirators drew in 20,000 people in a four-month period. The agency is still trying to locate Mr. Welch, who has not responded to the complaint.

SCAM ARTISTS DIALING FOR DOLLARS

But crooks don't have to be experienced Net surfers to benefit from technology: Simple PC desktop publishing software allows stock front-runners, for example, to design professional-looking newsletters to push up the prices of the stocks they hold.

Others are also using computers to find and track good targets. In one of the fastest-growing telemarketing ploys, "recovery rooms," fraud artists use computers to build lists of people who have already been defrauded so they can be tapped again.

According to an FTC complaint, Meridian Capital Management Inc. promised to recover money that victims had lost in telemarketing schemes, sometimes passing itself off as a regulatory agency. For 10% of their original loss, the Las Vegas firm told investors, it would launch a class-action suit, or tap a performance bond said to be posted by the first round of crooks.

"The idea was to entice consumers to send good money after bad," says FTC staff attorney James Reilly Dolan.

Meridian collected $1.6 million from 800 people, many of them New Yorkers, in just eight months.

Acting on a request from the FTC, a court froze Meridian's assets in August, and the company is no longer in business.

Mr. Dolan says such pitches are particularly convincing because the swindlers know details about the victims, often including the exact amounts they have lost.

Lists of potential targets cost $5 a name for initial leads, but $15 for the names of people who've already been fooled once.

Hackers' use of technology is also giving them a leg up in evading their trackers. Once a cyber-huckster gets a hint that someone is on his tail, he can easily move on.

"You cancel your account with your on-line service and vaporize," says Richard Lee, assistant regional director in the SEC's New York office.

Regulators lack the tools to go after some of the more subtle misrepresentation that occurs on the Internet. Investor bulletin board postings are singed only by names similar to CB handles. Because of the anonymity, people can easily camouflage their identities. A stock touter, for example, can be a broker, a savvy penny-stock promoter or even the president of the company.

Mr. Herr, the New Jersey consumer affairs director, concedes that regulators are playing catch-up.

"We are in the embryonic stage," he says. "Right now, the bad guys are ahead of the good guys."

Mr. BRYAN. With that background, one might rightly inquire, why should the Congress be considering legislation that makes it more difficult for defrauded investors to bring and win cases? The simple answer is that those who advocate this conference report in its present form, in my judgment—and I say this with all due respect—are legislating by anecdote and clearly lawyer bashing.

I understand that lawyers are a difficult group to love. I fully acknowledge that some of my lawyer friends have been guilty of misconduct and that there are indeed frivolous lawsuits filed. But in our effort to focus on frivolous lawsuits, in my judgment, the provisions of this piece of legislation effectively emasculate private investor protection.

During the debate today, we will hear repeatedly how often our high-technology companies are sued. What we will not hear a lot about is suits brought by one company against another. Mr. President, this legislation does nothing and says nothing about one company's right to sue another company. The sole focus of this legislation is lawsuits brought by private investors as part of a class action proceeding.

Let me again invoke the Wall Street Journal, if I may. This was an article that appeared in December 1993. Its premise was "Suits by Firms"—that is other companies—"Exceed Those by Individuals." Let me just read one paragraph, if I may, that I think illustrates the thrust of this article.

> Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court.

Let me repeat that because I know that it tends to run counter to the prevailing myth about what is actually occurring in the so-called litigation explosion.

> Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court.

I know that is not the accepted view, and it goes contrary to the conventional wisdom that is being espoused on the floor that there is this explosion of class action lawsuits. But that is what the Wall Street Journal has to say.

Mr. President, I ask unanimous consent that the Wall Street Journal article to which I have made reference, of Friday, December 3, 1993, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 3, 1993]

SUITS BY FIRMS EXCEED THOSE BY INDIVIDUALS

(By Milo Geyelin)

Businesses may be their own worst enemies when it comes to the so-called litigation explosion.

Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court. Trailing behind are personal-injury suits and product-liability cases brought by individuals.

This result—while limited to federal courts—seems to challenge companies' frequent claims that personal-injury plaintiffs' lawyers are the main engines of litigation in America. And it may force some companies to review their own penchant for using the courts to resolve commercial disputes.

The finding is part of an ongoing study by University of Wisconsin sociologist Joel Rogers and RAND Institute for Civil Justice senior researcher Terence Dunworth. Ultimately, by looking at 1,908 companies that have been ranked among the Fortune 1000 from 1971 to 1991, the study will chart federal trends industry by industry and company by company.

The results so far, presented in draft form at a symposium at the University of Wisconsin's Institute for Legal Studies two weeks ago, also show that the once-steady annual increases in overall legal filings involving Fortune 1000 companies peaked in 1987 and have declined 21% since then. Similarly, business litigation involving smaller companies and individuals peaked in 1986 and has since dropped 12%.

When cases are broken down by category, the study shows that labor and civil-rights claims have increased in recent years. So have filings involving a single product such as asbestos-related injuries. Otherwise, product-liability suits against Fortune 1000 companies have actually dropped, from a high of 3,500 in 1985 to 1,500 in 1991.

"I know that business doesn't want to hear that, but these data don't seem to lie," says Mr. Rogers.

The reasons for the various litigation patterns are far from clear, however. For example, says Mr. Rogers, the high incidence of commercial legal disputes among businesses may be the result of their litigiousness or may just reflect the increase in the number of contracts in effect—and thus potentially subject to dispute—in a growing economy.

In either event, the results suggest that by pointing the finger at plaintiffs' lawyers, business leaders and advocates of legal reform may be bypassing other contributors to the overburdened civil-justice system, at least in the federal courts.

In response to the study's finding, legal-reform advocates voiced skepticism about what the federal-court results may mean. "The overwhelming majority of product-liability claims are filed in state courts," says Victor Schwartz, a lawyer-lobbyist in Washington, D.C., who represents backers of a proposed federal law to rein in some product-liability claims.

State courts are generally regarded by plaintiffs' lawyers as friendlier forums for personal-injury and product-liability claims than federal courts, and most suits against local businesses and manufacturers would more likely be filed in local courts. But comprehensive state-court data are nearly impossible to compile. So studies of state systems have been confined to a limited number of courts. Thus, few useful comparisons can be made with the federal numbers.

Responds RAND researcher Mr. Dunworth: "It's better to light a candle than to curse the darkness. Even if that's all you're doing by looking at federal courts, you're further ahead than you were."

Messrs. Rogers and Dunworth relied on a computer database of more than four million federal lawsuits between 1971 and 1991 to identify 2.48 million suits that involved at least one business entity. Fortune 1000 companies were involved either as plaintiffs or defendants in 457,358 of those suits, or nearly 20%, according to the study. Not surprisingly, they were defendants in virtually all personal-injury cases (95%) and in most labor and civil-rights cases (85%). In contract disputes, Fortune 1000 companies sued each other as often as they were sued.

To get a more detailed look at how Fortune 1000 companies compared with other litigants—such as other businesses, governments and individuals—the study examined 405,908 cases that landed in federal court solely because the parties came from different states, thus creating so-called diversity of jurisdiction. Since 1985, records in such cases have indicated whether either party is a corporation, large or small.

According to these records, 43% of the civil lawsuits involving Fortune 1000 companies between 1985 and 1991 were contract disputes. For smaller corporations, the percentage was even higher—51%. Taken together, business disagreements, whether among individuals, companies or corporations, made up nearly half of all federal litigation in this sample. Federal suits over contracts outpaced any other single category of litigation.

Yet even these cases are on the decline now. Contract lawsuits peaked at 10,253 in 1987 and dropped 30% to 7,182 in 1991. A key reason, corporate legal experts say, is companies' growing willingness to settle disputes through arbitration and mediation. "When you have businesses suing businesses," says Shelby R. Rogers Jr., general counsel for the Texas Medical Association, in Houston, "you find that getting to the courthouse takes a number of years . . . and as a result we see many more businesses going to different forms of alternative dispute resolution."

But Mr. Rogers, of the Texas Medical Association, says he is yet to be persuaded that federal litigation trends bear any relation to what's happening in jurisdictions such as the Texas state courts, long regarded as among the most pro-plaintiff in the country. And even Mr. Dunworth concedes there's "a great deal of uncertainty about what's taken place in state courts." But he adds: "if there are significant trends at work (generally), they surely must be evident in federal courts."

Lawyers at big firms nationwide rank Cravath, Swaine & Moore as their toughest competitor, followed by Skadden, Arps, Slate, Meagher & Flom and Wachtell, Lipton, Rosen & Katz. The three New York-based firms are followed by Wilmer, Cutler & Pickering, of Washington, D.C.

The survey of about 1,300 large-firm lawyers at 158 firms was conducted by Global Research, an arm of London-based Euromoney Publications PLC, as part of a larger study of law-firm management practices.

In addition to leading the overall rankings, Cravath was first choice in three of the 19 subspecialties in which respondents also were asked to nominate blockbuster competitors. The hard-charging Wall Street firm, whose partners have been known to boast that its cafeteria is as crowded at dinner as it is at lunch, was seen as dominating in tax, securities and asset finance.

Skadden eclipsed others in mergers and acquisitions, while Wachtell led in banking; the second-ranked firm in both categories was New York-based Shearman & Sterling. Other champions included Fulbright & Jaworski, Houston (arbitration and litigation); Weil, Gotshal & Manges, New York (bankruptcy); Simpson, Thacher & Bartlett, New York (antitrust); O'Melveny & Myers, Los Angeles (corporate); and Sidley & Austin, Chicago (environment).

(Mr. CAMPBELL assumed the chair.)

Mr. BRYAN. Mr. President, there are a number of reasons why I oppose this legislation, and I would like to very briefly make reference to some of the primary reasons. My colleague, Senator SARBANES, indicated in a very thoughtful and very comprehensive statement why he was opposed, and I share and associate myself with his comments.

If this was designed to be balanced legislation, something that fairly dealt with the frivolous lawsuit problem in America, and yet at the same time protecting private investors who have been defrauded, I think it would be very easy to craft a piece of legislation.

Every regulating body that I know of, from the Securities and Exchange Commission to the North American Association of Securities Administrators, all have urged upon us to deal with a serious problem concerning an unduly restrictive and shortened statute of limitations. The Lampf case of 1991 shortened the statute of limitations for class action suits to 1 year from the point of discovery, a 3-year bar. Everyone who is involved in protecting investors from fraud acknowledges that this is too short, and, indeed, when we discussed changes in this legislation in 1993, my colleagues on the Banking Committee said, "Yes, we would be willing to go along with this change in the statute of limitations, but it must be done in the broader context of overall reform."

Mr. President, that is what we are purporting to do today. Disagree as I may with the thrust of much of which, in my judgment, undermines the ability of innocent private investors to recover from fraud, this is a comprehensive review, but I think it is indicative of the bias that infects this legislation, that this has nothing to do with protecting investors, this purports in no way to be fair and balanced. This is simply designed to immunize perpetrators of wrongdoing from legal responsibility, from their reckless misconduct that has caused great loss to individual investors, to pension funds, to securities portfolios held by cities, counties, States, and universities and colleges in America, because although we have tried, there has been an unwillingness, a refusal to right the statute of limitations problem.

That has nothing to do with being frivolous—nothing to do with being frivolous. The statute of limitations bar that currently operates prevents the most meritorious of cases from being brought if it exceeds the current 1 year from the point of detection, 3 years overall bar. The Securities and Exchange Commission has testified that even with the enormous resources brought to bear by the Federal Government, all of the investigators, all of the staff, that it takes them more than 2 years to conduct such an investigation before they are prepared to bring an action involving investor fraud under the Securities Act. How much longer does it take a private investor without all of the resources available to the Federal Government to, indeed, conduct such an investigation and make a determination whether individually or as a class they have been subjected to investor fraud.

Aiding and abetting. The great case, and we will say more about this later this afternoon, but the Keating case is one that has become a symbolic case involving the amount of investor fraud by Mr. Keating's actions. Ultimately, $262 million was recovered in that case on behalf of investors. That is recovered. That means that there has been a determination that, indeed, investor fraud occurred and that the individuals bringing that action were, indeed, damaged to that extent.

Seventy percent of the recovery in that case—70 percent—was by those who are aiders and abettors. Mr. Keating himself, having become bankrupt, or judgment proof, was unable to respond in damages. That is, plaintiffs filing against him could not recover from Mr. Keating because he did not have any money, and yet there were those who were involved in this very crafty, complicated, extensive, comprehensive and pervasive fraud—lawyers, accountants, and others—whose actions substantially contributed to this fraud who would be aiders and abettors who, under this legislation, are now immunized.

We sought to restore the provisions of aiding and abetting, having nothing to do, Mr. President, with a frivolous lawsuit. We are talking about individuals who have been determined to have been guilty of reckless misconduct that caused damage to private investors; they are now going to be immunized from this liability. That has nothing to do with the frivolous action, the proportionate liability that Senator SARBANES talked about extensively.

Again, the whole theory of our system of American jurisprudence is one of balancing the scales of justice. On one hand, we are talking about individuals who are totally innocent. All they did was to respond to an entreaty or a sales approach to buy securities, subsequently finding themselves defrauded as a result of the purchase of those securities, and, subsequently, it is determined that individuals who are reckless in their actions—ordinary negligence, there is no liability for ordinary negligence. So those simple mistakes, mishaps that all of us are aware of in life, we are not talking about that kind of conduct. We are talking about reckless misconduct.

We are now saying that in terms of balancing, who should accept the benefit, who should bear the burden, we are now saying, Mr. President, that those individuals who are guilty of reckless misconduct, that their liability is limited only to the proportion that the court finds them to be responsible.

The practical consequences of that, as in the Keating case, for example, where you have the primary perpetrator bankrupt, is that the innocent investor is unable to secure full recovery, because what we are talking about in this legislation is to limit that liability to the proportionate amount.

So if the determination is made that there is only a 20-percent liability or fault found with respect to the reckless defendant and that the 80-percent liability under this hypothetical would be the primary defender and the primary defender is bankrupt, that is it. That is it, even though it is the conduct of the reckless defendant that contributed to the loss. That, Mr. President, has absolutely nothing to do with a frivolous lawsuit. That is a value judgment as to who ought to be protected: the innocent investor or the individual whose reckless conduct contributed to the loss.

For eons of time under the common law, in those situations the public policy has always been weighing these scales of justice that the burden ought to fall on the individual whose reckless conduct contributed to the loss rather than to have that burden borne by the innocent investor who was not responsible in any way at all. Again, this has nothing, absolutely nothing, to do with a frivolous lawsuit.

Rule 11 is the provision under the Federal Rules of Civil Procedure that is available to sanction lawyers who bring frivolous lawsuits. I believe that the proponents of this legislation, in the Senate version, hit it right on the mark. Whether one is a plaintiff's lawyer or a defendant's lawyer, if that lawyer is involved in frivolous action, the full sanction of the law ought to attach, and that lawyer ought to pay the cost as a result of undertaking that frivolous action. I have no quarrel with that at all. That is the way it was when it left the Senate, Mr. President. But what has occurred is part of this ongoing and skewing process, having nothing to do with frivolous lawsuits. Everything is weighted in this legislation toward protecting those who perpetrate fraud and those attorneys who represent them, because now the full force of the sanction only applies to plaintiffs' lawyers. Defendants' lawyers who are guilty of frivolous actions are not subjected to the same standard. It has been pointed out by Senator SARBANES that the pleading requirements are more difficult. That, too, has nothing to do with frivolous lawsuits.

Finally, although it is a bit arcane, are the so-called safe harbor provisions. I want to comment for a moment on safe harbor. Prior to 1979, one could not make what is called a forward-looking statement—that is, predictive conduct about the security because such and such is going to happen next week, next month, or next year. The reason why that is the rule is that because those kinds of future predictions have been the subject, historically, of overstatements, making it very easy to mislead people by false encouragement: "Buy this stock and you are going to be a big-time winner"—that type of thing.

In 1979, for the first time, they permitted forward-looking statements. I do not come to the floor as a Member of this institution as an expert in securities law. Whether that was a good provision in the law, I do not know. But in doing so, the SEC did recognize that there was great risk and great danger because those people who sell and offer these securities oftentimes get carried away and make such optimistic and rosy predictions that people are misled. And so the standard that was employed was that you could make these forward-looking statements and you were protected from liability if your statements were made, first, in good faith and, second, with a reasonable basis.

As I say, I am not an expert in this area, but that strikes me as being a pretty reasonable standard. There is no liability, even though the statements may be inaccurate or misleading, if they were made in good faith and with a reasonable basis.

Now, Mr. President, as a result of the action taken by the conference, even statements that are false, totally false—we are not talking about misleading or inaccurate; we are talking about totally false statements—are protected. That is, those who offer those statements now enjoy no liability if they simply add cautionary language. "Yes, this stock is going to triple, but there may be a contingency out there in the future that if the economy goes sideways on us, that may not happen." Just cautionary language. That is pretty outrageous, in my view, once again, this having nothing to do, in my view, with frivolous lawsuits but having everything to do with protecting those individuals who make statements that turn out to be inaccurate and misleading and immunizing them from liability.

Now, our securities investor protection system in America is really predicated on three individual pillars—two of them governmental, one in the private sector. Clearly, the Securities and Exchange Commission at the Federal level has the ability to assist in protecting the marketplace from fraud and to provide the measure of investor confidence that has characterized the American securities market. Many of my colleagues who have had State experience know that each of the States have securities offices which also serve as an adjunct to protect the public from investor fraud. But recognized as being extremely important in policing the market and providing for that investor confidence that characterizes and distinguishes the American securities market as no other securities market in the world is the ability of private investors, through class actions, to bring cases themselves. The SEC fully acknowledges that, and so it is that protection which is being undermined by this legislation.

In fact, the Congressional Budget Office, which is invoked with a level of respect and devotion that I have not seen in my previous 6½ years here in this institution, has estimated that as a result of what this piece of legislation does in terms of preventing access by private investors who are victimized by fraud, it would require another $25 to $50 million a year in addition to the existing budget of the SEC to offset that loss. That is, it is recognized under the current system that the SEC cannot adequately police the securities market, and its philosophical predicate is that the private investor, through the class action mechanism, is a very important function. We now, in my judgment, render that private class of action much less viable in protecting the marketplace. Some 11 attorneys general have complained about these changes and have characterized this as an unfunded mandate.

We hear repeatedly, and we will hear during the course of the day, that this legislation is absolutely necessary because the mainspring of the private enterprise system that all of us respect and acknowledge as having created the highest standard of living for us in America, or anyplace in the world, is that as a result of these lawsuits, private investor actions, the securities market has been limited in terms of the ability of the entrepreneur, the startup company, to generate the kind of capital needed to bring new products and services into the marketplace. We will hear that ad nauseam.

Here are the facts. The Dow Jones industrial average recently exceeded the 5,000 mark. In 1995, we have seen the Dow Jones rise higher in 1 year than at any previous year in its history. Initial public offerings—that is, the mechanism used to generate this capital by new companies and other companies who are wishing to develop a new product or service—have risen by 9,000 percent in the last 20 years. The capital raised as a consequence of those new offerings has increased by 58,000 percent. That is good news for Americans. I am pleased to hear it. I think all of my colleagues should be. But it does not make the argument that the proponents of this bill assert that this legislation—to immunize this whole category of malefactors—is necessary in order that businesses can generate the kind of capital needed to bring new products into the marketplace.

We will also hear that investors invariably sue every time the stock drops to any degree, regardless of their reasons. Let me again make the point, Mr. President, that the evidence simply does not support this.

In fact, the University of California study of 589 stocks that dropped more than 20 percent in 5 days showed that only 3 percent were sued by investors. This is a far cry from the perception that proponents of this legislation will try to paint.

We will also hear investor suits are filed just to get a quick settlement. Here again, the evidence is to the contrary. The SEC testified that surveys show most judges in these cases believe frivolous litigation is not a major problem and could be dealt with adequately through prompt dismissals.

We have also heard there has been an explosion of these class actions. Mr. President, that is simply not true. Of all of the civil actions brought in the Federal court system—all of them, from soup to nuts, all of them—about 0.1 percent involve class action security cases—0.12 percent is the precise number.

If you look at a table over the last 20 years from 1974 to 1993, you will see that the number of cases filed have remained essentially the same. This is a document prepared by the Office of the U.S. Courts, indicating that about 270, 260 are actions filed a year—no change—even though in the past 20 years the population in America has grown substantially.

Of the 14,000 companies listed on the exchange, about 120 each year find themselves being sued; about 120.

I think we just need to put that in perspective as we go through legislation here that radically changes the system that has worked essentially well for us in America, admittedly requiring the fine tuning I alluded to in those provisions that, in my opinion, deal legitimately with the frivolous lawsuits.

This is a meat ax approach. Make no mistake, its purpose is not to protect against frivolous lawsuits. It is to limit liability or to insulate liability from a whole category of persons whose conduct caused the investor loss.

The conference report would preclude many consumer institutions and State and local governments from recovering their losses in Federal courts when they are defrauded in the financial market.

The conference report takes the worst features of the Senate bill and combines them with many of the most dangerous provisions in the House version.

This legislation will harm consumers, consumers who have savings in retirement funds, stocks, bonds, mutual funds, or other investments. In fact, it will harm taxpayers who depend on the financial stability of their State and local governments in places like Orange County, as an example.

That is why, notwithstanding the efforts of the proponents of this bill to portray this—if you are for starting entrepreneurial companies, if you are for eliminating frivolous lawsuits in the marketplace, you should support this legislation; if you want to help the trial lawyers, you should be opposed to it. That is not what this is all about.

That is why the National Association of State Financial Officers—those would be the State treasurers, comptrollers, however the State financial portfolio is managed—the national association of these groups has expressed its strong opposition. So, too, has the National Association of County Treasurers and Financial Officers. The national association that deals with municipal financial officers and the national association that deals with the portfolios and securities managed by America's universities and colleges also oppose this legislation.

Also, the National Council of Senior Citizens, the National League of Cities, the National Association of Counties—I will not belabor the record with all of these—the Fraternal Order of Police, all have expressed their strong opposition, and for the same reason that I have alluded to, because it is far, far beyond what is needed to address the legitimate concern of frivolous lawsuits as it relates to securities actions.

I know there are a number of my colleagues who need to speak. I will just be very brief. Let me say I will comment in more detail. Some of you who voted for this legislation when it passed the Senate—some said on the floor and to a number of us, "Look, if this thing moves in the wrong direction in conference, I will reconsider my position." To those of my colleagues who voted albeit somewhat reluctantly for this legislation when it passed the Senate, let me say that it is materially worse now than it was as it left the floor of the Senate.

With respect to the provisions dealing with the safe harbor provisions, the pleading requirements, the balance of equity and fairness of rule 11, the proportionate liability provisions have been made much more onerous. All of these provisions, including the RICO provisions which, as the bill left the Senate, concluded that, if any individual were convicted of a RICO fraud, then all that were involved would be subject to RICO sanctions in terms of the measure of damages that can be recovered—that has been greatly eliminated.

Perhaps even more perniciously, the provision that left the Senate dealt with the Securities Act of 1934. Now we have brought in the Securities Act of 1933 which deals with a whole different category of actions and we have applied many, if not all, of the provisions of that. I invite my colleagues' attention to that.

I yield the floor.

Mr. BENNETT. Mr. President, I will allow my colleagues to proceed, but I did want to respond briefly to some of the comments made by the Senator from Nevada, having been on the floor through his entire statement. I think there are a few points we need to make and then I will sit down and let my colleague proceed.

As I took notes from the comments of the Senator from Nevada, his first point listed how difficult it is to prove fraud. He gave us seven things he said are hard to prove. I agree with him completely. These are hard to prove. They are also very easy to allege and an alleging of these things is what leads to the settlements out of court that are the problem for many of the companies we are dealing with.

Second, he quotes from the Wall Street Journal. He quotes from Crain's, saying fraud is soaring; the Wall Street Journal headline, "The Bad Guys are Winning."

My only comment is, if indeed that is so, Why are not the Bill Lerach's of this world going after those bad guys instead of conducting the kind of practice that we have seen described here on the floor in the previous debate?

Third, he makes the point that the biggest number of suits are between companies, not class action suits on behalf of the individual investors. He says this bill does not address that.

I agree with him, this bill does not address that. If he feels that is a problem that needs to be addressed, he can file a bill that addresses that. The fact this bill does not address that, does not mean that the issues the bill does address are not meritorious and need not be addressed.

Then he talks about the statute of limitation. There has been a lot of debate about that. I only make the point that this bill does not change the present level of the statute of limitation. We are not talking about putting a heavier statute of limitation burden than currently exists. We are talking about allowing the current law to continue.

Fifth, he talks about the great loss to cities and pension funds that cannot be recovered if we cannot go after the aiders and the abettors. Earlier in his statement he said we are being given evidence by anecdote on the part of those of us in support of this bill, but he gives us no anecdote to show the great loss by cities and pension funds except the anecdote that we hear again and again—and he brought it up under these circumstances—of Charles Keating.

Well, I take some time to make the record very clear on Charles Keating, because we hear that again and again as the anecdote of what we will lose if this bill is passed. I will make these points, Mr. President.

Most of the losses from the savings and loan scandal did not result from securities fraud. They resulted from outright criminal activity and looting the assets of the companies. They do not fall under the purview of this bill at all. They are simply irrelevant to this discussion. Even those S&L losses that did result in part from securities fraud would have been recoverable under this bill. It does not in any way, ex post facto, go back and say, if this bill had been in law at the time, you could not have gotten this recovery, you could not have gotten this recovery.

Why do I say that? Here are the reasons. Statements by Keating and his cohorts would have failed every one of the stringent preconditions in the conference report safe harbor provision for forward-looking statements. Every one of Keating's statements and his people's statements would have been actionable had this report been law.

Second, the conference report would not have immunized the alleged aiders and abettors because the conference report authorizes the SEC to take enforcement action against aiders and abettors, and the Keating investors would have recovered fully even without those aiding and abetting claims.

Third, the conference report would not have rendered Keating's actions time barred. It would have no impact on the statute of limitations in those areas because, as I say, it does not change current law, and all of the actions under Keating were brought within the applicable timeframe. Therefore, the Keating thing does not apply there as an anecdote.

We must understand that Keating's fraud did not apply to forward-looking statements. They made flat statements of error about the past. They lied flat out about what had been done. This bill does not protect anybody who is going to lie flat out about the past.

The conference report would not have empowered Keating's cohorts to control the litigation. Under this bill, they would be as liable as they were in previous law. It would not have delayed or imposed any obstacles to the actions that were taken. The conference report does not, as some claim, inflexibly require courts to stay discovery every time a motion to dismiss is filed. It would have had no effect if this bill had passed—it would have no effect on the damage awards. Joint and several liability would still have been available under the fact circumstance of Keating.

I could go on and on. The point I want to make is very clear. It is a red herring in this debate to talk about Charles Keating and the S&L disaster because this legislation would have had no impact whatsoever on the Government's ability to proceed in criminal action or an individual investors' ability to proceed in class actions against Charles Keating.

The comment was made that the safe harbor will now allow people to lie. No, it will not. If you make a false statement, the one referred to as an example by the Senator from Nevada, "The stock is going to triple," this bill does not protect you because you cannot make a prediction about what is going to happen to the stock under current SEC regulations and not be called in violation of those regulations for that.

What you can say is we believe we will be able to make the marketplace with our widget on such and such a date, and that we will have X numbers of copies of that widget.

But why would any executive make that statement if he did not believe it were the case? Nothing could be more damaging to his company or his reputation or his credibility as an executive than for him to make that kind of statement, meeting in front of securities analysts at the time of an IPO. You want to be very careful to preserve your credibility with the investment community.

No, this is not the problem, CEO's making statements to securities analysts. I will tell you what the problem is and why we need a safe harbor. Let us say, within your company you have two engineers who are examining your product. Engineer A says, "I do not like the way this thing works. I would like to fine tune it." Engineer B says, "I disagree with you. I think it works just fine and it is ready for market." Along comes one of these strike suits and the discovery starts and the lawyer gets ahold of engineer A's position and immediately he stands up and says, "Mr. Chairman," speaking to the CEO of the company, "you have within your files a document where one of your employees told you absolutely this product was defective." He is quoting engineer A. He conveniently does not quote engineer B, who disagrees with him. And, there you are, you have made a false statement. And, "If you did not know the product was defective, you should have known the product was defective."

That is the problem. That is the kind of thing that happens over and over again in these circumstances, and that is why people settle. We are not talking about CEO's standing up and predicting the stock will triple when we talk about a safe harbor. We are talking about safe harbor for people who make statements that they believe are true at the time and then will get trapped in this kind of activity that I have described later on.

Finally, we come to the point where the Senator from Nevada says there is no need for this. There has been no explosion of these strike suits. This is not a phenomenon that has suddenly hit us.

I close by quoting. He quotes from appropriate publications. I have a few that I would like to quote from. The first one, the Washington Post on the 18th of November, 1995. Referring, in an editorial, to this bill it says:

> The bill was a response to a genuine outrage. A small number of lawyers have developed a technique of pouncing on any company whose stock price suddenly drops sharply. They then comb through past statements by the company to find the conventional expressions of hope for the future—and sue on grounds that those statements have misled and defrauded investors. That's a highly strained definition of fraud, but the present state of law makes this kind of suit very dangerous to a company. Although these are nominally shareholders' suits, they generally are instigated and controlled entirely by the lawyers. The companies most vulnerable to this destructive tactic are a particularly valuable kind—small, recently established high-tech firms whose stock prices tend to be volatile.

And then from the Economist magazine dated December 2, 1995, in another editorial, "Suits or Straitjackets," the subhead says "The American Congress wants to make it harder for some shareholders to sue companies for fraud. This would be a good thing."

The editorial says the following:

> Class-action lawsuits, in which a bunch of investors join together to sue a firm whose shares have fallen sharply, are a growing problem for America's high-tech companies. More than 650 such suits have been filed in the past four years alone, including ones against each of the ten biggest firms in Silicon Valley. There is nothing wrong with investors using the courts to protect their rights. But a growing number of these suits are being brought by those who are victims not of corporate misinformation, but of their own (and their lawyers') greed. As a result, many managers now hesitate to offer investors any predictions at all, lest they end up in court.
>
> That is why Congress is about to pass a measure that would make frivolous securities lawsuits harder to bring. Among other things, the bill, which should clear both the House and Senate easily, does three things. First, it allows firms to issue forecasts to investors providing that they list all of the important factors—a change in interest rates, say, or a slump in the consumer-electronics industry—that could affect them. Second, a defendant's auditors and equity underwriters would no longer be liable for the full extent of shareholders' losses, but only for those that are caused by their own misbehavior. Third, the bill encourages judges to slap fines on lawyers who bring groundless suits.

The final paragraph of the editorial summarizes it very well. It says:

> As a general rule, it is a good idea to allow shareholders to protect themselves. This would not change under the proposed legislation. And in exchange for reform, they would get more (and better) corporate information on which to base their investment decisions. Mr. Clinton faces a choice. Either he can veto the bill on the mistaken ground that he is protecting shareholders' rights, or he can sign it and help put more money in their pockets.

Mr. President, I ask unanimous consent that the full text of both editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 18, 1995]

ANTIDOTE TO THE STRIKE SUIT

It started off last winter as a flamboyant ideological statement. But the bill to curb shareholders' strike suits has now been whittled and sanded by many hands into a truly useful piece of legislation. An intemperate initiative is turning out to be much more promising than seemed possible last March, when the House originally passed it.

The bill was a response to a genuine outrage. A small number of lawyers have developed a technique of pouncing on any company whose stock price suddenly drops sharply. They then comb through past statements by the company to find the conventional expressions of hope for the future—and sue on grounds that those statements have misled and disfrauded investors. That's a highly strained definition of fraud, but the present state of the law makes this kind of suit very dangerous to a company. Although these are nominally shareholders' suits, they generally are instigated and controlled entirely by the lawyers. The companies most vulnerable to this destructive tactic are a particularly valuable kind—small, recently established high-tech firms whose stock prices tend to be volatile.

The new Republican majority in the House rushed to defend them. It was one of the promises in the Contract With America. But they overdid it. In their zeal to do away with constraints on the entrepreneur, they wrote sweeping language that would have protected a lot of real fraud—and would also have protected those lawyers and accountants who earn fees by turning a blind eye to it.

The Securities and Exchange Commission objected vigorously. To their credit, the congressional Republicans slowed down and took another look. After months of negotiation the SEC's chairman, Arthur Levitt, has now given his assent to a much-modified version of the bill. It would succeed in making spurious fraud suits much riskier to the plaintiff, but without hampering investors who have real grievances.

Before President Clinton signs it, the administration needs to address one remaining point. The statute of limitations in these cases is now only three years. With highly complex investments increasingly common, it can easily be a matter of years before customers discover a fraud. Five years is a more reasonable limit. With that further improvement, this bill would make securities law much fairer both to companies and to shareholders.

[From the Economist, Dec. 2-8, 1995]

SUITS OR STRAITJACKETS?

It is a familiar story. Soaraway Shares Inc, a budding Silicon Valley firm, launches a sexy new software product for the Internet. Its managers predict booming sales and boundless profits. Suitably impressed, investors pile in and the firm's share price takes off. But a year later the product flops, the shares plummet—and disgruntled investors head for the nearest courtroom.

Class-action lawsuits, in which a bunch of investors join together to sue a firm whose shares have fallen sharply, are a growing problem for America's high-tech companies. More than 650 such suits have been filed in the past four years alone, including ones against each of the ten biggest firms in Silicon Valley. There is nothing wrong with investors using the courts to protect their rights. But a growing number of these suits are being brought by those who are victims not of corporate misinformation, but of their own (and their lawyers') greed. As a result, many managers now hesitate to offer investors any predictions at all, lest they end up in court.

That is why Congress is about to pass a measure that would make frivolous securities lawsuits harder to bring. Among other things, the bill, which should clear both the House and Senate easily, does three things. First, it allows firms to issue forecasts to investors providing that they list all of the important factors—a change in interest rates, say, or a slump in the consumer-electronics industry—that could affect them. Second, a defendant's auditors and equity underwriters would no longer be liable for the full extent of shareholders' losses, but only for those that are caused by their own misbehaviour. Third, the bill encourages judges to slap fines on lawyers who bring groundless suits.

Although the bill has broad support in Congress, President Clinton may still be tempted to veto it, party because it is bitterly opposed by two of his biggest supporters: consumer advocates and trial lawyers. Not only will the bill give managers a license to lie, these groups say, but firms' auditors and underwriters will no longer have any incentive to catch them in the act. The bill's critics also fear that when shareholders do have a legitimate gripe against a company, lawyers may be deterred from bringing the case by the threat of a penalty if it is ultimately thrown out.

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These fears sound reasonable enough. But they ignore a crucial fact: financial markets thrive on information. The more investors know about what managers are thinking, the better they are able to gauge the risk of investing, and to commit their resources accordingly. They need not (and should not) treat the views they receive as gospel. Indeed, firms' shareholders have proven time and again that they can be better than managers at deciding what is important. The problem with the explosion of frivolous lawsuits is that it is discouraging companies from giving out much-needed information. As a result, the entire market suffers.

Admittedly, striking the right balance between protecting shareholders' rights and encouraging more openness is tricky. But the bill's trade-off is a good one. Although the reforms make it harder to bring groundless lawsuits, they do not prevent regulators from prosecuting swindlers. Nor do they let auditors and underwriters off the hook—though by limiting their liability they make it harder for class-action lawyers to win settlements from firms that have simply fallen on hard times. A mere drop in a company's share price usually is not evidence of fraud but the consequence of plan bad luck.

As a general rule, it is a good idea to allow shareholders to protect themselves. This would not change under the proposed legislation. And in exchange for reform, they would get more (and better) corporate information on which to base their investment decisions. Mr. Clinton faces a choice. Either he can veto the bill on the mistaken ground that he is protecting shareholders' rights, or he can sign it and help put more money in their pockets.

Mr. BENNETT. Mr. President, I thank the Chair. I thank my colleagues. The distinguished Senator from Connecticut, one of the original cosponsors of this bill and one of leaders of this fight for more years than I have been in the Senate, is now on his feet, and I am delighted to yield to him such time as he may require.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I would like to thank my colleague from Utah for his eloquent statement in response to some of the charges that were raised about this piece of legislation and the inclusion of editorial comment and note of major publications about the worthiness of this legislation.

Mr. President, let me begin by laying out for our colleagues some idea of the amount of labor and work that has gone into this bill. We are here today debating a conference report, the final step in the legislative process before this bill is either sent to the President for his signature or veto. I think it is important to note how much effort and how much work have gone into producing this bill that our colleagues will be asked to vote on later today.

Mr. President, Senator DOMENICI and I began this effort more than 4 years ago. In fact, the effort and discussion began even earlier than that, but the first bill was introduced 4 years ago, and the House bill was introduced at roughly the same time. So we have been at this for some 1600 days, if you want to put it in category of days. This is not something that just sort of came up a few weeks ago. I know that it was mentioned in this so-called Contract With America, but the bill has a history that predates that by several years. It has been considered, in fact, Mr. President, in three Congresses now. This will be the first time in three Congresses we are actually going to vote on a bill that will allow it to go to the executive branch.

We have had 12 congressional hearings on the bill before us. We have heard from almost 100 witnesses on this legislation. We have almost 5,000 pages of testimony that have been accumulated. We have had a total number of six staff reports totaling 300 pages. We have had some 103 submissions to the record, and we have had testimony from eight Members of Congress both pro and con on this. The SEC, the Securities and Exchange Commission, has testified on 13 different appearances. The Chairman of the Securities and Exchange Commission has testified four times and his predecessor has testified four times.

So, Mr. President, what we are talking about here today is a piece of legislation that has been considered in great detail. The bill passed the U.S. Senate by a vote of 69 to 30 several months ago and by a vote of 325 to 90 in the other body after extensive hearings there. And obviously, with those vote totals, it was passed on a bipartisan basis in both Chambers.

So I think it is important for our colleagues and the public at large to know that this is how the Congress ought to do its business. This bill has been changed, it has been worked upon, it has been reformed, it has been analyzed, and in 1,000 different ways, over the past 4 years.

We have put a great deal of time and effort into producing a bill that we think—those of us who have authored it and supported it—by and large deals with what everyone now admits and acknowledges is a serious problem. Prior to this, Mr. President, when we first offered the legislation, there was the threshold debate of whether or not there was any problem at all. In fact, many of the people who have spoken here today against this bill argued initially very strenuously that there was no problem at all—none whatsoever.

So I am encouraged at least that we have put aside the debate and discussion about whether or not we are addressing a legitimate problem. Even the opponents of this legislation now admit that there was a serious problem that needed to be addressed. They disagree with certain provisions here. Most of their disagreements deal with what we were not able to include in the legislation. I will get to this in more detail in a moment.

But as one who offered a number of the suggestions, two particularly that did not make it into the bill, you do not make the good the enemy of the perfect here. We have a very sound piece of legislation that deals with a legitimate issue, and that does not deal with every single problem Members would like. But there is certainly no reason whatsoever to disregard and to reject this legislation in its entirety. That would be a huge mistake. Even editorial comment that disagrees with the bill, Mr. President, acknowledges the tremendous work product and the positive things included in this legislation.

So, Mr. President, again, because at the end of these debates sometimes the people who have done such a tremendous amount of work are rarely noted or recognized, let me begin by thanking my colleague from New Mexico with whom I have worked so very, very closely on this legislation, our colleague and the chairman of the Banking Committee, Senator D'AMATO, for his leadership on this and moving aggressively in this Congress to see to it that we complete the hearing process and the legislative business of the Senate, and, of course, my colleague from Utah, who has been tremendously helpful on this bill as well.

Let me also compliment and thank my colleagues who disagree with us. Senator SARBANES has been tremendously cooperative and helpful in seeing to it that we would have a debate and has not engaged in the kind of procedural tactics that were available to him to delay consideration of this legislation. Senator BRYAN, whom our colleagues had the privilege of hearing just a few moments ago, while he disagrees with this bill, has brought very worthwhile ideas and suggestions and note to the legislative process; Senator BOXER of California, as well, who disagrees with the bill but who has offered some positive insight as to how we might proceed.

I also would be remiss if I did not recognize those people who work for these Members, who spent literally hundreds of hours in negotiations. I mentioned the amount of time spent at hearings and pages of testimony. I cannot even begin to calculate the number of legislative staff hours spent in negotiations and efforts to work on this product that now is before us in this conference report. Certainly, Andy Lowenthal of my office, who is seated to my left, has done a tremendous job on this bill, along with Diana Huffman of my office and Courtney Ward; from Senator D'AMATO's office, Howard Menell, Bob Guiffra, and Laura Unger have done a tremendous amount of work; and Senator DOMENICI's office, Denise Ramonas and Brian Benczkowski have done tremendous work; Mitchell Feuer in Senator SARBANES' office, along with Brian McTigue in Senator BOXER's office.

There are many others. I apologize for not referencing all of them, but I want our colleagues to know and others that, again, in addition to the work the Members do, the staff's participation and involvement has been significant.

So, Mr. President, I am very pleased to be standing here this morning as the Senate begins the final consideration of the conference report on S. 240 and the House companion bill, H.R. 1058, the Private Securities Litigation Reform Act. This legislation is fundamentally important not only for thousands of American businesses, but more importantly I think to literally tens of millions of American investors. That is what this bill is all about. It is not about the businesses. It is not about the trial bar. It is about the investors, the people who take their hard-earned money and invest it in American business and industry that provide the quality of life and growth in this country that we have seen over the past number of decades.

Passage of this legislation, we believe, will help restore integrity and fairness to the country's private securities litigation system. And through this reform, Mr. President, the bill will defer, we believe, abusive and frivolous lawsuits that needlessly drain millions—in fact, billions—of dollars out of our emerging industries, the biotech industries, the high-tech firms that are the businesses and industries that drive the engine of this country's economy in the 21st century.

These are not just small questions. Each dollar that a company must spend on responding to America's meritless securities lawsuits, known as strike suits, is a dollar that could instead go to improving investor return, increasing research and development, expanding plants and, most importantly, creating the jobs in this country, the good-paying jobs that are critical for the health and well-being of this Nation.

In other words, Mr. President, the consequences, in my view, of failing to approve this conference report could not be higher. Mr. President, we have gone well beyond the day, as I said earlier, when we must argue about whether the securities litigation system is broken. It is painfully clear, Mr. President, to almost everyone, including the opponents, that the idea that there are no problems is just wrong, and there are massive flaws in the system as it is currently operating.

In fact, just last January, Mr. President, Arthur Levitt, the Chairman of the Securities and Exchange Commission stated—this is last January at one of our hearings: "There is no denying," he said, "that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities but"—listen to this, Mr. President—"because investors in markets are being hurt by litigation excesses."

The problems in private securities litigation have become so deep, Mr. President, and so deep rooted that we do not have the luxury, in my view, of idly waiting for the courts or some regulatory body to fix them for us. Everyone who knows anything about the present system—everyone—will tell you it must be changed, that it does not work, except for a few of the attorneys who benefit as a result of the current system.

One of the core problems, Mr. President, afflicting private actions under rule 10(b) is that such actions were never expressly authorized by the Congress. This is not based on some laws we passed here but instead have been construed, if you will, and refined by the court systems in this country, with Congress sort of going along because we never acted to change it. It was not as a result of legislation passed through long and extensive debates but rather interpretations by the courts over the years.

We all know what that leads to, Mr. President. It is precisely the lack of congressional involvement that has created conflicting legal standards for bringing such actions and has created so many holes within the foundation of the private action that it threatens the very system itself—unequal justice, a patchwork. Just watch where a lot of the lawsuits are brought, and you will understand exactly what I am talking about.

There is forum shopping going on all over the country because the trial bar in this particular area of law knows that in certain jurisdictions they are favored and others they are not. So you have this tremendously unequal system all over the country because we have not acted over the years to try and clarify the situation as to how investors ought to be treated regardless of where they live in this country. That is one of the core problems that we attempt to address with this legislation, for us as a body, the legislative body, to speak clearly and intelligently as to how this system ought to work across the country.

So, I would submit, Mr. President, to my colleagues, that Congress is the only institution that is equipped to comprehensively address these myriad problems in a thoughtful and moderate manner. My confidence in the legislative process, Mr. President, is borne out by this conference report before us today and the years we have spent in putting it together. This legislation carefully and considerably balances the needs of our emerging high-growth industries with the rights of investors, large and small, Mr. President.

I am proud of the spirit of fairness and equity that permeates this bill. In order to understand why so much time and effort is being expended to fix the securities litigation system, I think it is important to remember the vital role that private securities litigation plays in ensuring the integrity and success of America's capital markets. And I take no back seat to anyone in my determination to see to it that the private litigation system is maintained, because it is a vital ingredient to protecting consumer and investor confidence.

The private securities litigation system is far too important to allow a few entrepreneurial lawyers to manipulate—that is what they do—to manipulate and abuse the system to the degree that they have done over recent years.

Let me be clear, Mr. President: Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely on Government intervention. It is precisely, Mr. President, because of this important role that the legislation does not impinge on the ability of legitimate aggrieved investors to file suits and, if successful, collect judgments or settlements from the parties that defrauded them.

I have maintained from the outset, Mr. President,. of this reform effort that securities lawsuits brought by private investors are critical to ensuring public and global confidence in our capital markets. That is not the issue here. And it is to this high standard which this conference report seeks to return private securities litigation actions.

But, Mr. President, the current system has drifted. It has drifted so far from its original goal that we see more opportunistic lawyers profiting from abusive suits that take advantage of the system than we see corporate wrongdoers exposed by it. While some have charged that the beneficiaries of this legislation are just thousands of American companies, the people who will be most harmed by our failure to enact reforms will be the millions of investors who do not participate in these class action lawsuits.

As Kenneth Janke, president of the National Association of Investors Corp., which I might point out represents more than 325,000 individual investors, said recently in a letter to President Clinton, "Too many times, class action suits are initiated against companies which result in filling the coffers of lawyers with little or no benefit to shareowners. Those types of 'nuisance' suits," he says, "do little to enhance a return for shareowners." He says, "The money spent by corporations on frivolous lawsuits would better serve all shareowners if it remained in the company, resulting in higher net profits and earnings per share."

Or take, if you will, Mr. President, the statement of Ralph Whitworth of the American Shareholders Association, who told the Securities Subcommittee more than 2 years ago in his testimony, "The winners in these suits are invariably the lawyers who collect huge contingency fees, professional 'plaintiffs' who collect bonuses, and, in cases where fraud has been committed, executives and board members who use corporate funds and corporate-owned insurance policies to escape personal liability. The one constant," he says, "is that the shareholders pay for it all." And that is what we try to stop here.

Even institutional investors, Mr. President, who invest on behalf of millions of individual Americans—in fact, most investors invest through their institutional investor—these individuals, municipal, State, or private pension funds, have expressed their concerns as well.

Mary-Ellen Anderson of the Connecticut Retirement & Trust Funds testified before our committee that the participants in the pension funds—and I quote her here:

> . . . are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs . . . when the plaintiff is disappointed in his or her investment.

Our pensions and jobs, she says, depend upon our employment by and investment in our companies. If we saddle our companies with large unproductive costs, "* * * we cannot be surprised if our jobs and our raises come up short as our population ages."

(Mr. ASHCROFT assumed the chair.)

Mr. DODD. Mr. President, one of the biggest vulnerabilities of the securities class action lawsuits is that plaintiffs' attorneys appear—appear—to control the settlement of the case with little or no influence from either the named plaintiffs or the larger class of investors. For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer for one of these firms cited one case, and I quote him, as "a showpiece"—those are his words, not mine—"a showpiece of how well the existing system works."

This particular case settled before trial for $33 million, Mr. President. The lawyers asked the court—they asked the court—for $20 million, the lawyers did, of the $33 million settlement. Remember, this is a lawyer saying this is a showpiece case. He picked this one out. I did not pick it out. This is the attorney talking now. And $33 million was in the settlement. They asked the court for $20 million of the $33 million. That is what they asked for. And they are claiming this is a system that does not need to be fixed.

My God, what are they talking about here? So $20 million in request of $33 million. They got $11 million, by the way. That is what the courts gave them: $11 million. They asked for $20 million but got $11 million. Of course, the attorneys for the defense, they got $3 million. The investors recovered 6.5 percent of the recoverable damages—6.5 percent—and this is a case identified by the trial bar as a showpiece example of how well the system works. That is the best piece of evidence they may offer, that is what they think. This kind of settlement might well be satisfactory for the entrepreneurial attorneys, but it does little to benefit companies, investors, or even the plaintiffs on whose behalf these suits have been brought.

The second area of abuse is frivolous litigation. Companies, particularly in the high-technology and biotech industries, face groundless securities litigation days or even hours after announcements are made. In fact, the chilling consequence of these lawsuits is that companies, especially new companies, in emerging industries, in my view the industries of the 21st century in this country, frequently only release the minimum of information required by law so that they will not be held liable for any innocent forward-looking statements that the corporation may make.

These predatory lawsuits—and there is no other way to describe them—have had the result of thwarting 15 years of efforts by the Securities and Exchange Commission to encourage companies to provide more information about their future expectations for earnings and products. I refer my colleagues to the comments made by our colleague from Utah in talking about the importance of these forward-looking statements. It is precisely this kind of information that is demanded, and rightfully so, by investors who are looking to make the most prudent investment decisions.

The conference report, we think, provides a mechanism for investors not only to obtain this positive information but to also obtain information about what the company views as its important risk factors in the coming months of their plans.

Let me quote the recent comments of J. Kenneth Blackwell, the State Treasurer of Ohio. I might point out since the Presiding Officer—excuse me, the Presiding Officer is not from Ohio, he is from Missouri. That is the second time I made that mistake, but he may be interested in this. J. Kenneth Blackwell manages more than $105 billion in pension funds. These are his statements. He said:

> Intelligent investment strategy requires maximum possible disclosure, and if I'm not offered frank assessments of various companies' potential, how can I rest assured that Ohio's pensioners' money is being invested wisely?

That statement, I think, deserves being listened to. In fact, the safe harbor for forward-looking statements contained in the conference report is strongly supported by the Securities and Exchange Commission itself.

Let me quote a letter which we received from Arthur Levitt. It says:

> The current version of this bill represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while at the same time it limits the opportunity for abuse.

The Supreme Court, in Blue Chip Stamps versus Manner Drugstore, has also voiced serious concern about the vulnerability of securities class action suits to abusive practices. Let me quote from the Supreme Court decision in that case:

> In the field of Federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value—

Has a settlement value.

> to the plaintiff out of any proportion to its prospect of success at trial.

The decision goes on to say:

> The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

Mr. President, a third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the deepest pockets, regardless of their relative complicity in the alleged fraud.

The current system of joint and several liability encourages plaintiffs' attorneys to seek out any possible corporation or individuals that may have extensive insurance coverage or deep pockets. That is why they are brought in. It is not because even the plaintiffs' attorneys think they are necessarily culpable, but it is because they have the deep pockets, they have the insurance behind them that they are brought into the lawsuits. That is why they are brought in—there is no illusion about it—even if they have nothing to do with the claimed alleged fraud.

Although these defendants could frequently win the case if it were to go to trial, the expense of protracted litigation makes it more economical for them to settle with plaintiffs' attorneys. That is what they do, they settle, because going to court would be far more costly down the road over an extended period of years.

One example was chronicled in a recent Wall Street Journal just this past June. I quote from that story:

> The jury ruled in Peat Marwick's favor in 1993, but the firm spent $7 million to defend itself.

The court ruled in their favor. And what was this about? It was about a $15,000 contract that Peat Marwick had to do some accounting for a business—a $15,000 contract to do some accounting for the firm. They ended up expending $7 million to defend themselves against a $15,000 contract. Of course, what has happened is these accounting firms are not taking on these clients any longer. So you do not get the accounting from the big seven or reputable accounting firms because of this kind of problem. The minute they take on a client for $15,000, they can look to end up paying a bill of $7 million, or more in some cases.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against abuses of joint and several liability. Chairman Levitt said at the April 6 hearing of our committee that he was concerned "about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud."

Again, this is borne out in a recent article in the Wall Street Journal which chronicled the stunning number of audit clients dropped by the big six accounting firms over the past few years. I quote the article:

> Peat Marwick, the fourth largest American accounting firm, is dropping approximately 50 to 100 audit clients annually, up from zero 5 years ago. . .
>
> Arthur Anderson has either dropped or declined to audit more than 100 companies over the past 2 years.

Does anyone believe that is sound, that is good, that is the way we ought to be doing business, how to encourage these accounting firms to be involved with these new industries starting up? I hope not.

Again, the current system has devolved to the point where it favors those lawyers who are looking out for their own financial interests over the interests of virtually everyone else.

As was the case with S. 240 that was passed by this body, the conference report contains a number of significant and balanced initiatives to deal with these complex problems. Let me address what we attempt to do with this bill.

First, the conference report empowers investors so that they, not their attorneys, have the greater control over the class action cases by allowing the plaintiffs with the greatest claim to be named plaintiff and allowing that plaintiff to select their counsel.

What an outrageous and radical thought this is, the idea that we might insist that at least to offer—you do not have to force it—but you offer to the plaintiff who is going to be most affected by the lawsuit to have an opportunity to become the lead plaintiff. All you have to do is offer it, Mr. President. We are not demanding, we are encouraging, and they might be able to decide which law firm would represent them.

That is considered a radical idea here, needless to say opposed by the trial bar. They do not want that to happen at all.

Second, this legislation enhances existing provisions designed to deter fraud and restores enforcement authority to the Securities and Exchange Commission. That was lost, Mr. President, in the 1994 Supreme Court case, the Central Bank case. We, in this bill, restore what the Central Bank took away from the SEC here.

Third, the conference provides a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged to—instead of discouraged from—make much-needed disclosures.

Fourth, it makes it easier to impose sanctions on those attorneys who violate their basic professional ethics.

Fifth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

Let me go over the points in a little more detail. First, on empowering investors. The conference report—this bill—takes a number of steps to guarantee that investors, not their marauding attorneys, decide whether to, one, bring a case, two, whether to settle the case and, three, how much the lawyer should receive. Again, I do not think it is a terribly radical idea that we would allow them to decide whether or not to bring a case—after all, they are the injured parties, we are being told—or whether they want to settle it all or not. Maybe they do not want to settle. Maybe they think they have such a good case they would like to go to trial. That ought to be their decision, not the lawyer's.

Third, how much the lawyers get, rather than being decided by the lawyers, let the plaintiffs decide what their attorneys should be receiving.

The conference report strongly encourages the courts—"encourages," I emphasize that—to appoint the investor with the greatest financial interest in the case—often an institutional investor like a pension fund—to be the lead plaintiff. After all, they are the ones who are at the greatest risk. If there is real fraud, they have the most to lose. If the lawsuit is frivolous and millions are going to be spent to defend the suit, they lose as well. This plaintiff will have the right to select their own counsel and to pursue the case on behalf of the class.

So for the first time in a long time, Mr. President, securities litigation attorneys will have a real client to answer to. We are beginning to end the days when a plaintiff's attorney can crow—again, I will quote such a plaintiff's attorney. In Forbes magazine, listen to what this attorney said: "I have the greatest practice of law in the world because I have no clients." "I have the greatest practice in the world," he said, talking about securities litigation cases, "because I have no clients." "I bring the case," he says. "I hire the plaintiff. I do not have some client telling me what to do. I decide what I want to do." That is what this is all about. That is why this bill is important. That is what we want to stop here—we want to stop these situations in which a bunch of attorneys decide what they are going to do, and we want to have the aggrieved plaintiffs deciding what they are going to do. That is why this bill is important. Of course, this presumption can be challenged, as I said earlier—the presumption of the most injured plaintiff being the lead plaintiff, if other class members feel that the lead plaintiff is not fairly or accurately representing the class. So we are not insisting or legally requiring it. We are just asking the courts to step forward and ask the most injured party to come forward.

This change, we feel, Mr. President, will also end the unsavory practice of rushing to the courthouse. That is what happens under the present system. The first person to show up in the courthouse gets the case—the first person. This is a hallmark of the current system of the securities class action litigation.

Last June, I received a letter from Raytheon Co., one of the Nation's largest high technology firms. Raytheon, Mr. President, made a tender offer of $64 a share for E-Systems, Inc., another company. That is a 41 percent premium over the closing market price. Putting aside whether or not you think that is fair or not, nonetheless, most people thought it was a pretty fair offer. But I am not here to argue the fairness or unfairness of the offer. Let me allow, if I can, Raytheon to explain what happened next in a letter that I received from them:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-System's shareholders, the first of eight purported class action lawsuits was filed within 90 minutes after the courthouse doors opened on the day that the transaction was announced.

An hour and a half later, one of eight lawsuits was filed in court. I do not care how good a lawyer you are, you do not go around and find plaintiffs in an hour and a half with a public announcement about an offer to buy another company. That is exactly what we are talking about here, racing to the courthouse. Do not look at the facts and examine whether or not it is right or wrong; file the lawsuit and immediately trigger the kind of costs associated with it. What about investors in that case, Mr. President? What happens to them in that case—the investors in Raytheon, the investors in E-Systems? Do the lawyers think about them at all, or the cost to those particular firms, and just answer the pleadings once a lawsuit is filed? Does anybody care about them at all under the present system? It does not appear so.

Mr. President, the conference report requires notice—a radical idea here again—of settlement arrangements that are sent to investors, who must clearly spell out important facts, such as how much investors are getting or giving up by settling, how much their lawyers will receive in the settlement. Again, let me emphasize here, in many cases, settlement is the wrong conclusion. An aggrieved plaintiff may want to go to court. They ought to have the right, these investors. Plaintiffs ought to have the right to decide whether or not they want a settlement and make the decision themselves after listening to intelligent arguments about what is the best course of action.

This means, under this bill, plaintiffs will be able to make an informed decision about whether or not the settlement is in their best interest or in their lawyer's best interest. Currently, the actual plaintiffs only receive, on average, 14 cents or less of every settlement dollar. But the plaintiffs' attorneys receive 33 cents, on average, of each settlement dollar. That is 14 cents for the shareholders, the investors, and 33 cents for the lawyers. You do not need to be a rocket scientist to understand that this system is broken, when plaintiffs, investors, are getting that minor return in these cases and the lawyers are collecting more than twice what they are getting.

The conference report puts an end to this outrageous practice, called the "lodestar" approach, by encouraging courts to award attorney's fees based upon a reasonable percentage of the total amount of the settlement or judgment.

The New York Times stated just 2 weeks ago in an article entitled "Math of Class Action Suits; Winning $2.19 Cents Costs $91.33."

It says:

> Many class actions end with plaintiffs winning meager awards, while their lawyers walk away with millions of dollars in fees.

Taken together, Mr. President, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who skim their exorbitant fees right off the top of any settlement. One of the areas of the conference report that has received too little attention, in my view, is the effort to deter fraud. We have been talking about how you deal with it when fraud has arisen, when there is an allegation of fraud. What we try to do with this bill that we have worked on for more than 4 years now, through the number of hearings we have held and the witnesses we have heard from, is determine how we deter fraud from occurring in the first place so that investors are really protected. One of the areas, as I said, that received very little attention, in the midst of all of the hot air blowing from the plaintiffs' bar are those provisions that provide new protections, Mr. President, that have never existed before for investors against fraud.

I commend my colleague, Senator DOMENICI, and others, for really working to see to it that we have these provisions in the bill. For the first time, Mr. President, auditors, under this bill, are required to take additional new steps to detect fraud, and if they find fraud, they must—not may, but must—be reported to the Securities and Exchange Commission. They must look for the fraud—the auditors, the private companies—and if they find any, they have to report it. That has never been required before. That is a new standard, a new bar that we have raised here to try and deter fraud in the first instance. Nobody has mentioned that part. If they do, it is in just a passing way.

The conference report maintains current standards of joint and several liability just for those persons who knowingly, Mr. President, engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing securities fraud.

Perhaps most significant, the bill restores the ability of the Securities and Exchange Commission to pursue those who knowingly aid and abet securities fraud. My colleagues who oppose this bill talk about our failure to get all of the aiding and abetting back in it. I do not disagree.

But what we have been able to do in this bill which could not get done—you would not get it done if you just had a freestanding aiding and abetting provision. I do not think it would pass. I disagree with that. I think we should.

To hear my colleagues say how bad this bill is because we do not deal with all of the things they would like in aiding and abetting, yet we get the class actions covered after the Supreme Court rules against us. Instead of denouncing this bill, they ought to be adding far more support to what we were able to accomplish here and make a major step forward.

This is a power diminished by the Central Bank decision of last year's Supreme Court case. In fact, some recent SEC enforcement actions have been dismissed, Mr. President, because Federal courts are ruling that the Commission had its aiding and abetting authority taken away by the Central Bank decision. We are restoring that in this bill and giving the SEC the power that they are being denied by lower court rulings around the country.

The conference report clarifies current requirements that lawyers should have some facts—again, a radical idea here—should have some facts to back up their assertion of security fraud by adopting most of the reasonable standards established by the U.S. Second Circuit Court of Appeals.

This legislation, therefore, is using a pleadings standard that has been successfully tested, Mr. President, in the real world. This is not some arbitrary standard pulled out of a hat. Again, this is a standard that has been used and tested and been tried. We include that in this bill, as well.

Mr. SPECTER. Will the Senator yield?

Mr. DODD. Let me finish my remarks, and I will be glad to yield. I am almost through.

Furthermore, Mr. President, the bill requires the court's settlement to determine whether any attorney had violated rule 11 of the Code of Civil Procedure, which prohibits lawyers from filing claims that they know to be false or frivolous.

Of course, the lawyers want the status quo for business and no standards at all for themselves in this area.

In the event of a violation of the complaint, the bill requires that the court find a substantial violation of rule 11 to have occurred in order for any sanctions to be triggered.

Mr. President, let me emphasize what this does. This is in the filing of a lawsuit. It turns out it is a tough standard to meet. But if the court determines that the attorneys knew that this was a frivolous lawsuit, that the allegations are false, then it can go after those attorneys that bring the lawsuit.

Now, the same standard applies in the defense attorneys' response to the pleadings. And they say that is unfair. It is not unfair at all. It is the plaintiff's attorneys that are bringing the case in the first instance. We are saying that if, in fact, the lawyers knew this was frivolous and false, then they ought to be held accountable for doing that. If attorneys on the other side in the filing of pleadings also engage in any false or frivolous allegations, then, they, too, will be held accountable for those statements. We think this is a fair and adequate standard to be applied to the attorneys.

The conference report does not change existing standards of conduct. It does put some teeth, however, into the enforcement of these standards. I point out what has happened over the years. While the rules have existed, nothing has ever been done with them in the past. In fact, they have been sitting there almost as idle pieces of paper with no real meaning at all.

The conference report provides a moderate and thoughtful statutory safe harbor for predictive statements made by companies that are registered with the SEC.

Mr. President, this is one of the most contentious parts of the bill. It provides no such safety for third parties, like brokers, or in the case of merger offers, tenders, rollups or issuance of penny stocks. That is not where the safe harbor applies.

By adopting this provision, the Senate will encourage responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

Since the safe harbor has been the subject of so much attention, Mr.

President, it is worth spending a little time to delve into the details of these provisions.

This reconfigured safe harbor that is in this conference report has two parts to it. The first is that any forward-looking statement may be accompanied by "meaningful cautionary statements that identify important factors that could cause" the prediction not to come true, or if a company or officer fails to meet that test, all that a plaintiff must do is prove that the person actually knew that the statement was false or misleading.

Mr. President, that is the very scienter standard written by our good friend and colleague from Maryland, Senator SARBANES, and proposed by him during the Senate floor consideration of S. 240 in June.

Quite honestly, it is hard for this Member to envision how anyone could lie in their predictive statements and still be covered by this safe harbor; this insulation from abuse is no doubt a key reason why the safe harbor is strongly supported by the Securities and Exchange Commission in their letter of support of this bill.

As the Commission stated:

> The need of legitimate businesses to have a mechanism for early dismissal of frivolous lawsuits argues in favor of a codification of the bespeaks caution doctrine that has developed under the case law. While the tradeoff requires that class action attorneys must have well written and carefully researched pleadings at the outset of the lawsuit, we feel this is necessary to create a viable safe harbor. Given that it does not prevent Commission enforcement actions, and excludes the greatest opportunities for harm to investors.

The idea that this conference report contains any license to lie is simply and totally untrue and, particularly in light of the strong support of the Securities and Exchange Commission, represents just a last, in my view, desperate attempt by opponents of this legislation to derail the process.

The legislation before us, Mr. President, preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000. These small investors will still be able to hold all defendants responsible for paying off settlements regardless of the relative guilt of each of the named parties.

This is the modification for the joint and several sections. This threshold, I think, should more than protect the vast majority of individual investors participating in the markets today.

Let me tell you why I say that. A 1993 census report stated that the average net worth, Mr. President, of an American family was about $47,000. That is their net worth, $47,000. While in 1990, the New York Stock Exchange study found the median income—the income, now, the median income—for individual investors was $43,800 a year, which, according to the census data extrapolates to a net worth of roughly $150,200.

Let me explain that again. The words can be confusing. The average American family has a net worth of something in excess of $47,000 a year; the average of the median investor in the New York Stock Exchange has an income of $43,000 a year; the Census Bureau extrapolates an income of $43,800 to a net worth of those investors of $150,000.

That is why we chose the $200,000 level and below, so that the majority of investors—the majority of investors, the small investors—would not be adversely affected by the proportional liability standards included in the bill. We tried in this bill to see to it that those smaller investors would not be adversely affected.

While the bill will fully protect small investors so they will recover all of the losses to which they are entitled, the bill establishes a proportional liability system to discourage the naming of the deep pocket defendants that I talked about earlier.

The court would be required to determine the relative liability of all the defendants, and thus deep-pocket defendants would only be liable to pay a settlement about equal to their relative role in the alleged fraud. What a radical idea that is as well. A defendant who is 10 percent responsible for the fraudulent actions would be required to pay 10 percent of the settlement amount. That is just fair. That is equitable.

I would say, quickly, again, we protect smaller investors. We say, for them we are going to have a different standard, but for those who are above that line, to go after someone who is only fractionally involved and say that you ought to pay the whole amount here ought to strike every person in this country as fundamentally unfair, and that is what we try to change in this bill. However, as I said, in the event of an insolvent defendant, all the other defendants would be required to contribute as much as an additional 50 percent of their proportional share of a settlement to ensure that investors receive as close to 100 percent of their just settlements as possible. By creating a two-tiered system of both proportional liability and joint and several liability, the conference report preserves the best features of both systems.

Having spent so much time on what is in the conference report, let me briefly spend a few minutes, if I can, discussing a few of the things the conference report does not do.

The PRESIDING OFFICER. The Chair will advise the Senator from Connecticut, under the previous order, the hour of 12:30 having arrived, the Senate would stand in recess until 2:15 p.m.

Mr. DODD. Mr. President, I ask unanimous consent to proceed for 5 additional minutes, if I could, to complete the statement.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, under the procedural statement, I ask unanimous consent that debate on the bill be extended for 15 minutes beyond. I know that is an imposition on the Presiding Officer. I have 15 minutes reserved, and I have been here for most of the morning, a good part of the morning, waiting to speak.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Reserving the right to object, I ask if we could extend that to 25 minutes so we could go straight to 1 o'clock?

Mr. LEAHY. Reserving the right to object, and to make life easier for the distinguished Presiding Officer, I ask unanimous consent that unanimous-consent request be amended to allow me to be recognized for no more than 6 minutes at 2 o'clock, which I understand is the time we are coming back in?

The PRESIDING OFFICER. The hour of 2:15 is the previously agreed upon time.

Mr. LEAHY. I ask unanimous consent that unanimous-consent request be amended so that I am recognized for 6 minutes at 2:15.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the following will be the order: an additional 5 minutes will be extended to the Senator from Connecticut, and then 15 minutes will be extended to the Senator from Pennsylvania, after which 10 minutes will be extended to the Senator from Wisconsin, and, at 2:15, 6 minutes will be extended to the Senator from Vermont.

Mr. BRYAN. Mr. President, I have no objection, just a parliamentary inquiry. Those who are speaking with reference to the pending matter, that will be in accordance with the practice that those speaking on behalf, their time will be charged to the distinguished Senator from Utah, the time of those speaking in opposition will be charged to the time remaining of the Senator from Nevada; is that correct?

The PRESIDING OFFICER. That is correct.

The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent the unanimous-consent agreement be modified further, that Senator HATCH be recognized to speak following Senator LEAHY when we come back after lunch, for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, for clarification, my 6 minutes will be as in morning business, so it will not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The unanimous consent is so modified.

Mr. DODD. Mr. President, I think I just lost my 5 minutes so I will ask you to be slow with that gavel.

First and foremost, Mr. President, here is what the bill does not do. It is nothing like the legislation that was adopted in the House. Let me say, had the House bill come back in this area, I would have voted against it and spoken vehemently against it. This bill was much closer to the bill that passed this body earlier this year and, in fact, strengthens the legislation, as I mentioned earlier, with the inclusion of language by our distinguished colleague from Maryland, Senator SARBANES. In my view, the House bill would have been a tragedy.

For instance, we do not have loser pay provisions here. My colleagues know what that means. We took that out of the bill. That was part of the House bill. The House legislation established pleading standards that were so high, I would say—and I know my colleague from Pennsylvania is interested in this—that it would have been impossible to bring a suit, in my view, had the House language been adopted. We, as I said earlier, adopt the Second Circuit Court of Appeals standard.

The House legislation contained no safety net for small investors. As I have just described, we do. The conference report maintains joint and several liability for small investors and requires, even in proportional cases, where you have a totally insolvent plaintiff, the conference report requires that defendants pay a total of 150 percent of their proportionate share in the event of insolvent people. The House legislation had a safe harbor provision that, frankly, you could have parked the entire 7th Fleet in, if you had wanted to. That is not the case here. We have strengthened safe harbor. The conference report creates a narrow safe harbor that is strongly supported by the Securities and Exchange Commission.

So, this conference report is a far cry from the intemperate measure passed by the House. Instead, it reflects the moderate and balanced approach adopted by the Senate when it passed this body by a margin of 69 to 30. In fact, a dramatic change from the original House bill was recently noted in an editorial by the Washington Post, which is entitled "Antidote to the Strike Suit."

"It started off," the editorial said, "last winter as a flamboyant ideological statement. But the bill to curb shareholders' suits has now been whittled and sanded by many hands into a truly useful piece of legislation. An intemperate initiative is turning out to be much more promising than seemed possible last March when the House originally passed it."

So I think we put together a good package here. I urge my colleagues to support this legislation. We are not writing the Ten Commandments here. We are trying to address a serious problem. Time will tell whether or not particular provisions here have done everything we would like them to do. But, clearly, the system is broken and it needs to be changed.

This bill has been well thought out. It has been worked on in a bipartisan way. We have listened to the best experts in the country who helped us put it together. And the Securities and Exchange Commission endorses this bill and has worked with us to make it a good bill.

So, Mr. President, I urge my colleagues to be supportive of it. I urge the President to sign it. I know he is considering whether or not to lend his pen to this bill. I think he will sign it. I think we can make a strong case that we have put together a sound piece of legislation that will truly make a difference, particularly for those businesses which must be the future economically for our country in the 21st century, those high-technology firms, those startup industries that are the ones who are the prey of these attorneys who go out and take advantage of their being in flux, that they are not quite stable yet, that they are getting their legs. They are the ones that are preyed upon. That is what we need to stop here. This bill does that, we think, in a significant way, and I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had sought to ask my distinguished colleague from Connecticut a question relating to the pleading standard when he had said, in his presentation, that the standard in this statute is a tested standard. Then, later in his presentation, he made reference to this Senator on the pleading issue.

The question that I have for my colleague from Connecticut turns on what the pleading standard of the bill is, as having come back from conference, which is significantly different from that which left the Senate. The amendment which this Senator offered had incorporated into the statute the second circuit language which would have clarified the language in the Senate bill, which provided that, "In any private action arising under this title, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind."

That was the tough second circuit standard. This Senator offered an amendment, which was accepted on the Senate floor, to incorporate what the second circuit said was the way of establishing that strong inference, to provide it by "alleging facts to show the defendant had both motive and opportunity to commit fraud, or by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant." The conference report struck out the language which my amendment had inserted which would have given guidance to how plaintiffs could meet that very stringent standard.

In addition, the conference report added that these facts had to be "stated with particularity," which is an even tougher standard than the language which had gone from the Senate bill.

So when the distinguished Senator from Connecticut talks about, in his words, and he referred to the House measure as "intemperate"—I will not seek to characterize it, but I do know his characterization of the House measure was "intemperate"—contrasted with what he said the Senate action was, "moderate," that the bill that has come back from conference is a lot different than the bill which the Senate sent out. I think there is an enormous difference.

So the question that I have for my colleague from Connecticut is, where has this language in the conference report on the pleading standard for state of mind been tested in light of the fact that the toughest standard in existence to this moment is the second circuit standard, and this conference report toughens up the second circuit standard in two important respects by striking out the way you plead that tough state of mind standard and also by adding the requirement of pleading with particularity?

Mr. DODD. Mr. President, let me respond to my colleague. I know he has a great deal of interest in this whole area of competing standards. Basically, what we intended to do here was to codify the second circuit's pleadings standards, not to indicate disapproval of each individual case that came before it. What we were driving at here was to insist that facts be pleaded, that there be an explanation of where these facts come from in these lawsuits that are being brought.

Indeed, the Banking Committee reported with its bill—and included similar language in support—and said the committee does not intend before we consider the bill to codify the second circuit's case law interpreting this pleading standard, although courts may find this body law instructive.

So, in response to my colleague from Pennsylvania, even before we brought the matter up, we made it quite clear that we were, as I say, taking every case that had come before the second circuit but rather applying the pleading standard requirements there. That had been tested.

Mr. SPECTER. I challenge that.

Mr. DODD. Let me respond. Even my colleague's amendment goes beyond that in a sense. So you cannot, on the one hand, have us stick with it rigidly and have the Senator's in the amendment.

Mr. SPECTER. I challenge that. If I have the floor, I challenge that.

In what respect does my amendment go beyond this? That simply is not true.

What my amendment does is to take the second circuit language under which a plaintiff can meet the tough state of mind standard, and put that in the statute. This body agreed to that. And now it has come back from the conference report deleted.

In what respect did my language go beyond the second circuit?

Mr. DODD. The Senator's amendment adopted the guidance of the second circuit, but the amendment of the Senator from Pennsylvania completely omits a critical qualification in the case law. The courts have held that "where motive is not apparent, a plaintiff may plead scienter by identifying circumstances" indicating wrongful behavior, but "the strength of the circumstantial allegations must be correspondingly greater" from the number of cases. If I may respond, the Senator's amendment seriously, in the view of the——

Mr. SPECTER. From where is the Senator reading? In a circuit court opinion?

Mr. DODD. The Senator's amendment seriously——

Mr. SPECTER. Where is the Senator reading from? Is it in a circuit court opinion?

Mr. DODD. Yes.

Mr. SPECTER. From where?

Mr. DODD. There are several here.

Mr. SPECTER. Tell me where the citation is, because I have the opinions here. I challenge that any language appears from the second circuit opinion which was not incorporated in my amendment.

Mr. DODD. I am quoting here three different cases.

Mr. SPECTER. Tell me where.

Mr. DODD. The Three Crown Limited Partnership versus Caxton Corporation.

Mr. SPECTER. What page?

Mr. DODD. Does the Senator want to go to 817 Federal Supplement 1033, Beck versus Manufacturing Hanover Trust? There are two right there.

Mr. SPECTER. Mr. President, the language handed down by the second circuit was articulated by Chief Judge Jon Newman as follows:

> These facts or allegations must give rise to a strong inference that the defendants possess the requisite fraudulent intent. A common method for establishing a strong inference of scienter is to allege facts showing a motive for committing fraud and a clear opportunity for doing so. Where motive is not apparent, it is still possible to plead scienter by identifying circumstances indicating conscious behavior by the defendant, though the strength of the circumstantial allegations must be correspondingly greater.

The amendment which this Senator offered and was adopted by the Senate followed the pleading requirement by saying that the required state of mind may be established either by alleging facts to show the defendant had both motive and opportunity to commit fraud or by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

I submit that the amendment which I offered and was adopted by the Senate tracked the second circuit's language directly, and that by striking the amendment which the Senate agreed to, by conceding to the House, the conference report omits a very critical factor in giving guidance as to how a plaintiff meets this tough standard for pleading state of mind.

I would ask my colleague from Connecticut whether it is not true that the conference report came back with an additional toughening factor requiring that the facts going to state of mind be pleaded with particularity.

Mr. DODD. I say to my colleague, what we are attempting to do here, again, I think, is instead of trying to take each case that came under the second circuit, we are trying to get to the point where we would have well-pleaded complaints. We are using the standards in the second circuit in that regard, then letting the courts—as these matters will—test. They can then refer to specific cases, the second circuit, otherwise, to determine if these standards are based on facts and circumstances in a particular case. That is what we are trying to do here.

I say to my colleague that I supported my colleague's amendment when he offered it here in on the floor of the Senate back when the bill was considered. Again, as I say, personally, it says the statute of limitations and a few others. But we are dealing in conference here, and the bulk of what came back from the conference report was what was in the Senate bill.

My colleague would have preferred, I know, to have his amendment kept in its entirety here. We are trying to strike a balance. As he knows, he has been to conferences as often as I have been in the past and knows the nature of well-pleaded complaints. That is the standard we are trying to hold to that came out of the second circuit, not on a case-by-case basis where they differed in some degree in interpretation.

The PRESIDING OFFICER. Does the Senator from Pennsylvania reclaim his time?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator has 4 minutes and 50 seconds.

Mr. SPECTER. I thank my colleague from Connecticut for responding. When you have a dialog in debate it is invariably more instructive than the speeches we make, however eloquent our individual speeches may be. But I have very limited time remaining.

The point that I wanted to make is that regardless of what the conference report intends—and the Senator from Connecticut talks about what we are trying to accomplish—the plain truth of the matter is that this is an impossible pleading standard, that where you take what was a tough standard by the second circuit on pleading state of mind, and then you delete the ways you prove state of mind, and then add in addition a particularity requirement, you simply do not have a way that a plaintiff realistically can go into the Federal court under the securities acts and have a fair chance to state a case.

I say that with some substantial experience in the practice of law, as a trial lawyer for some 10 years in the civil field and with substantial practice in the criminal field, which has some bearing, and my work in the past 15 years on the Judiciary Committee, that where you have a situation here where there is a mandatory stay of discovery when a motion to dismiss is filed, that you simply do not give an opportunity to plaintiffs to go into court and have a chance to articulate a case.

We are dealing here, Mr. President, with enormous sums of money. In 1993, the most recent year available from the New York Stock Exchange and NASDAQ, there was some $3.6 trillion traded, not even taking into account the American Stock Exchange, more than half of the gross national product of the United States. And we have had an enormous number of very, very important fraud cases. The Keating case involved some losses in excess of $4.4 billion. The Drexel Burnham case, the Quorum case, the tremendous matter now pending involving the losses incurred by Orange County.

So we are talking about gigantic interests. The bill that has come back from conference, Mr. President, virtually forecloses a realistic opportunity to bring a suit under these pleading standards. And what we are not trying to do is what specifically has been done here. The standard of review is especially problemsome in the context of the mandatory rule 11 review required by the conference report.

In earlier argument on June 27 of this year, at page S 9165 of the RECORD, I put in an extensive listing of letters from judges who did not want to have this mandatory rule 11 review, the Federal judges who practice in it.

Then the conference report has a presumption that, after the mandatory review, if there are sanctions against the complaint, the costs of litigation and lawyers' fees will be imposed upon the plaintiff. This is realistically more than a chilling effect. It will have the effect really to virtually discourage litigation in an important field where these private lawsuits have had a very important impact on policing the field. The Securities and Exchange Commission cannot possibly undertake it by themselves. The distinguished Senator from Connecticut concedes that in his speech about the importance of private rights of action to enforce the securities laws. But I am concerned, as a person who has had experience in the field in representing, under the Securities Act, defendants as well, that this bill in its present form simply is unrealistic and unreasonably restrictive——

Mr. DODD. Will my colleague yield on this point?

Mr. SPECTER. Not on my time. I will be glad to if we can get an extension.

Where you have especially the problem compounded by the short statute of limitations, which is 1 year from discovery and 3 years from commission. Efforts were made to extend the time to 2 and 5 years, favored by the Securities and Exchange Commission, but they failed. And where you have the safe harbor provisions which have come back here contrary to what has been asserted here, that there is no liability for forward-looking statements with cautionary statements no matter what the intent. The Senate bill said, if there was a knowing misstatement, that it not be covered by the safe harbor. That has been turned around by the conference report. What has come before us, Mr. President, I submit, is unreasonable, unrealistic, and imposes restraints which do not protect investors. It does not strike an appropriate balance.

I would be glad to yield to my colleague from Connecticut.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank my colleague. I was going to point out with regard to my colleague——

The PRESIDING OFFICER. The Senator from Wisconsin has 10 minutes.

Mr. DODD. Will my colleague yield for 30 seconds?

The point we made from "particularity" to "specificity"—we can lose an audience here quickly in debate—that was recommended by the judicial conference. They are really responding to what they thought was a better use of language there than what we incorporated in the bill. It was not a slight at all intended to be aimed at our colleague from Pennsylvania. The judicial conference recommended that word change. They felt it would be better. That is why we adopted it.

Mr. SPECTER. If my colleague would yield to me.

When you talk about particularity, it may not mean a lot on the Senate floor, but it means a lot in litigation, and billions can be affected by that kind of a pleading change.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I rise in opposition to H.R. 1058, the Private Securities Litigation Reform Act, and do so because voting against the conference report, I think, is in the best interests of the average investor, not only in my home State of Wisconsin but all across the country.

Mr. President, I think it is important to note that this bill was proposed with the worthy goal of trying to limit frivolous litigation. In particular, the goal was to stop the so-called strike suits that we have heard so much about. I think there is no question that trying to stop that is a legitimate goal that we can all support. However, the evolution of this bill starting from its introduction to its modification and initial passage in this body, to the conference report before us today has, Mr. President, been marked by a steady and unwarranted erosion of the basic protections the average investor in this country expects and, in my opinion, deserves.

Simply calling this or any other piece of legislation a reform act does not make it so. The term "reform" implies that change is taking place that will serve the greater good. Sadly, this measure fails to achieve this worthy goal. In fact, when one looks closely, it becomes evident to me that this bill will work to the detriment of hard-working Americans who depend upon the securities laws to protect their savings and retirement and investments.

As many of my colleagues have noted, this bill seemingly gets worse with each subsequent version that is placed before us. For example, the conference report expands the already flawed safe harbor provision which passed this body in July. The language of this bill protects forward-looking statements by insulating the maker of those statements from liability even if they are deliberately false, provided the statement is accompanied by what is termed "cautionary" language. Therefore, in the face of a disclaimer, investors will be left with no recourse against a corporate insider who makes predictions which were deliberately false.

Furthermore, the conference report includes language contained in the House bill which explicitly states that there is absolutely no duty for any individual to update a forward-looking statement. What that means is even if it becomes apparent that a previously made forward-looking statement is false, the person who made the statement has no legal obligation to inform anyone of this new knowledge. It is difficult to imagine that this provision can provide the average American investor with any level of comfort or confidence.

Mr. President, beyond this baseless inequity, the bill also fails to remedy the inadequate statute of limitations period for bringing these very complex cases of securities fraud. The failure to extend the statute of limitations in the face of evidence that these cases often take a great deal of time to discover and develop and prosecute is, in my view, counter to the notion that securities law exists to protect the investor.

The practical result of this failure will be that legitimate plaintiffs, through no fault of their own, will be turned away at the courthouse door. This again, is hardly the kind of result you would expect from something that has the label "reform."

There are other flaws in this legislation as well, including the failure to hold liable those professionals, such as lawyers, accountants and underwriters, who aid and abet in the perpetration of securities fraud.

Additionally, the bill sets forth pleading thresholds that are very difficult to attain. The effect is to require the establishment of certain facts at the outset of a case, although the plaintiff, Mr. President, has had no opportunity to conduct any discovery. In setting this unusual standard, the conference elected to drop an amendment offered by my colleague from Pennsylvania, Senator SPECTER, which passed this body with 57 votes. It would have clarified that what was required to constitute a well-pleaded complaint was evidence that the defendant had motive and opportunity to defraud, not actual proof of intent at that point.

The conference report, in making the plaintiff prove the case even before the case has begun, goes a lot further than eliminating frivolous suits. What it will do is have an adverse and potentially detrimental effect on legitimate cases as well.

The fee-shifting provisions of this bill will actually establish a harsher consequence for plaintiffs than for defendants who violate the Federal rules.

As Ed Huck, the director of the Alliance of Cities, in the Wisconsin State Journal, said:

> Imagine city or county officials being swindled out of millions of taxpayer dollars—and learning that they'll have to risk millions more if they want to pursue a lawsuit. That's what the "loser-pays" provision of this legislation means—And, in a word, that's "intimidation" of crime payers.

Mr. President, we should be wary of any legislation that has the effect of intimidating victims of fraud.

In short, Mr. President, this bill is unbalanced, misguided, and will harm thousands of Americans who bear no relation to the frivolous lawsuits that this bill is supposed to target.

There is no doubt that frivolous litigation, in any area of the law, is detrimental to our system of justice and to the society at large. However, the answer to these types of suits is not to foreclose the ability of legitimate plaintiffs to protect themselves against fraud, nor is it to deprive them of the right to seek recovery in court when they are defrauded.

In my opinion, the negative consequences of this unbalanced bill will be significant and far reaching.

Mr. President, I note that the report that accompanied the original S. 240 pointed out the simple, but important, goal of American securities law, and that is to promote investor confidence in the securities market. Sadly, the provisions of this bill fall very short of attaining that fundamental goal.

We must be vigilant in our efforts to seek out and eliminate frivolous litigation. However, equally as important is our obligation not to lose sight of the average American investor, the person investing for retirement or to put children through college or simply to have a little better quality of life.

In our zeal to reform, it is protection of these people which must guide and inform our efforts.

So it is unfortunate that the provisions of this bill provide little more than hollow comfort to the American investor, but such is the case with H.R. 1058. In my opinion, the bill offers its alleged reform at a price that cannot be justified. Protecting the American investor should not be sacrificed in the misapplied name of "reform."

The securities laws of this Nation are essential to hard-working men and women all across America. Given that this conference report fails to uphold the tradition of protecting these hard-working men and women, I simply cannot support it. I intend to vote against this conference report.

I thank the Senator from Nevada for his strong leadership on this issue. I yield back the remainder of my time and yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand that under the previous order, we now stand in recess for lunch?

The PRESIDING OFFICER. We stand in recess until 2:15.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENNETT. Mr. President, prior to that action, I ask unanimous consent that following Senator HATCH's presentation this afternoon, that the senior Senator from South Carolina, Senator THURMOND, be recognized for 15 minutes on a nongermane matter. This, I might note, is the senior Senator's 93d birthday, and he has asked for this time. I think anyone who lives to that age and retains the faculties that the senior Senator from South Carolina has ought to be given whatever it is he asks for on his birthday.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Mr. President, I have no objection, but I would further like to amend the unanimous-consent request that following the 15 minutes of the distinguished senior Senator from South Carolina, to put Senator BOXER for 30 minutes, I am told, although it is not on our time. And I just seek to clarify, Senator REID has sought time.

Mr. BENNETT. I ask unanimous consent to include Senator REID for 15 minutes following Senator BOXER.

The PRESIDING OFFICER. The Chair inquires, is the time of Senator BOXER and Senator REID to be charged against——

Mr. BRYAN. Senator BOXER's time will be charged to the Senator from Nevada; Senator REID's time, as I understand, will be charged to the Senator from Utah.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. I ask the Chair, how much time remains on each side?

The PRESIDING OFFICER. There are 2 hours and 24 minutes remaining for the Senator from Utah; 2 hours and 13 minutes remaining for the Senator from Nevada.

Mr. BENNETT. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:03 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KEMPTHORNE).

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont [Mr. LEAHY] is recognized for up to 6 minutes.

TELECOMMUNICATIONS CONFERENCE PROPOSALS FOR REGULATING SPEECH ON THE INTERNET

Mr. LEAHY. Mr. President, in some ways parody is becoming reality. I refer to the debate that is going on in the telecommunications conference over how we are to impose Government regulation over constitutionally protected speech on the Internet.

Last year, the magazine PC Computing published an April Fool's parody. Let me tell you a little bit about it. It said that I introduced a bill, No. 040194—for April 1, 1994—to ban drinking on the information superhighway. According to the article, this bill that I supposedly introduced would prohibit anybody from using a public computer network while intoxicated. They also said there was a rider on this bill to make it "a felony to discuss sexual matters on any public access network, including the Internet, America Online, and CompuServe." Senators were chided for thinking there is a physical highway and that a permit was required to "drive" a modem on the information highway. The article noted that complaints about the imaginary bill are "getting nowhere" because "who wants to come out and support drunkenness and computer sex?"

The parody concludes on a gloomy note, with the following words:

> There is nothing to stop this bill from becoming law. You can register your protests with your Congressperson or Ms. Lirpa Sloof in the Senate Legislative Analyst's Office. Her name spelled backwards says it all.

I enjoy using a computer, as a lot of us do, but sometimes some who use them do not have a tremendous sense of humor, just as some Members of Congress do not. They did not notice that the name spelled backward is "April fools." The bill number was April 1, 1994. It should have told somebody something. But some actually thought this was real, and I started getting calls over the phone and messages over the Internet to my office saying, "What are you doing about this drunk driving on the information superhighway bill?" But that was then, and that was a joke. Today, unfortunately for all Internet users, the debate taking place in the telecommunications conference about imposing far-reaching new crimes for indecent speech over the Internet is not a parody but very real.

The conferees have been meeting and going over this enormous task determining how parts of telecommunications would work, how you regulate cable operators, wireless systems, and how you protect universal service. You would think they would not have time to look at something like cyberporn, but that seems to be one major consideration they have. Even though there are no members of the Senate Judiciary Committee at that conference, they are trying to figure out how to make new Federal crimes as part of the telecommunications bill.

The Senate, of course, passed the Exon-Coats Communications Decency Act, which would punish with a 2-year jail term any Internet user who posted a message with indecent language or used a four-letter word in a message to a minor. As originally written, it would make it illegal to receive indecent material whether or not the user knew the material was indecent at the time he downloaded it. Service providers would also risk criminal liability and fines for their subscribers' use of indecent language.

Now, we have to ask ourselves if this makes such sense. We saw what happened in Vermont last week. A Vermonter from Underhill, VT, found that her personal profile on America Online had been deleted. She asked why it was deleted and was told it was because vulgar words were used on it. So she checked to see what was the vulgar word. The word "breast" was used. Why? Because she was a breast cancer survivor and was using America Online to correspond with other breast cancer survivors. So, this word came up and because of hypersensitivity over Congress being worried about words used on the Internet, she was yanked off. This is ridiculous in this day and age.

One wonders if, in the future, recipes for chicken cacciatore sent online will only call for dark meat to avoid using the "B-" word.

We should understand there are plenty of laws on the books that apply to the Internet by banning obscenity, child pornography and threats from being a distributed. What we are talking about is regulating constitutionally protected speech. One proposal under consideration by the conference would impose penalties on anybody who transmits protected speech if it is considered indecent.

In addition to effectively banning indecent speech, the conference is considering proposals to impose criminal liability on both the speakers of indecent content as well as online service providers. The result would be to draft the service providers into the role of Net police. Service providers like America Online and Prodigy, telephone companies providing modem connections, and libraries and schools hooking our Nation's children up to this brilliant new medium would face the risk of being fined and even jailed.

To avoid liability, service providers, libraries, and schools would bear the onus of asserting complicated defenses to prosecution. The implications of being hauled into court in the first place—especially for schools and libraries—should not go unnoticed. Many providers will seek to avoid the risk of litigation altogether by censoring all online speech to that appropriate for kindergarten children, or refusing to serve children at all.

These extreme proposals on the table in the telecommunications conference would leave online communications in a severely disadvantaged position in our society. While Newsweek magazine's recent cover story trumpeted the vision of the computer mogul Bill Gates, the U.S. Congress is simultaneously poised to shut down this new medium and vastly change the landscape of the information age. We must stop being paternalistic Luddites and embrace our new communications potential.

Because indecency means very different things to different people, an unimaginable amount of valuable political, artistic, scientific and other speech will disappear in this new medium. What about, for example, the university health service that posts information online about birth control and protections against the spread of AIDS? With many students in college under 18, this information would likely disappear under threat of prosecution.

I understand that Representative WHITE will make an alternative proposal to the telecommunications conference tomorrow. His proposal avoids regulating constitutionally protected speech, and limits any regulation to materials harmful to minors. This is a step in the right direction, but still leaves Internet users guessing at what may be considered harmful to minors in different areas of this diverse country.

The Internet and other computer networks hold enormous promise for enhancing our lives in ways that would have been unthinkable only a brief decade ago. But the growth of this network will no doubt be chilled if users fear that they risk criminal liability by using particular words that might, in some jurisdictions, be considered indecent. Or, if service providers simply refuse to provide Internet access to children under 18 years of age, due to the risk of criminal liability.

I have written, along with several other Members, to the chairman and ranking member of the Senate Commerce Committee urging the conferees to appreciate the implications that these proposals will have for the Internet. They should not rush consideration of these weighty issues. This is a great new communications medium and the conference should deliberate carefully before it gives its blessing to new crimes for saying things that some people, some where in this country, may deem to be indecent for children.

We should all be concerned lest the parody becomes reality.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENSORING THE INTERNET

Mr. FEINGOLD. Mr. President, I am pleased to be able to follow the Senator from Vermont who spent a few minutes to address a matter which was reported by the news media throughout the country this weekend in which the Senator from Vermont referred to and has a great relevance to legislation which the Senate passed this summer and will consider soon again.

The telecommunications conferees may within the next 24 hours decide whether this Congress is going to take the unwise step of censoring the Internet.

I am speaking of the Communications Decency Act which passed the Senate overwhelmingly as an amendment to the telecommunications deregulation bill in June. The Communications Decency Act contained criminal penalties for the transmission of constitutionally protected speech over computer networks. The penalty for transmitting indecent speech which might be accessed by a minor was up to 2 years in prison and fines of up to $100,000. Indecency, unlike obscenity, is constitutionally protected. Indecent language has thus far, only been defined by the FCC in regard to the time, place, and manner in which it may be transmitted. The definition includes the so-called seven-dirty words including what some might call mild profanity.

When this legislation was offered as an amendment in the Senate, I objected for a number of reasons. My fundamental concern was, and continues to be, that prohibitions on speech labeled indecent are unconstitutional. While courts have upheld restrictions on indecency to minors on other some forms of media, the Communications Decency Act would restrict communications between adults as well. The legislation, as passed by the Senate, could subject consenting adults communicating over a public USENET group to criminal penalties if their conversation took place in a forum that was accessed by a minor. I believe that not only is that unacceptable, it is also unconstitutional. Adults should not have to self-censor their words over public information forums. A profane exchange between two adults on a street corner which is overheard by a child would not subject those adults to criminal sanctions. However, if that exchange occurred on a public forum over the Internet and a child accessed that forum, those same adults could land in jail.

During the floor debate, I raised serious concerns that the Communications Decency Act would have a chilling effect on computer networks, forcing adults to self-censor their words to what is appropriate for the youngest of children in the most conservative communities in the country. I, along with my colleague from Vermont, Senator LEAHY, suggested that this type of censorship would also have a chilling effect on the many socially valuable forums that exist via the Internet. There exist currently many on-line support groups for child abuse victims, rape victims, victims of disease, for those coping with AIDS, and other social issues. In addition, there exist chat groups, bulletin boards and USENET groups to discuss presumably adult topics which might contain the seven dirty words or other adult language. I suggested that the Communications Decency Act would suppress those types of forums, limit the content of the discussions within those forums, and ultimately result in their termination.

The proponents of the Communications Decency Act assured the Senate that such was not the intent of the amendment. In fact, Mr. President, some suggested that these types of concerns were raised in an effort to spin the issue. They suggested these fears were not real and were not likely to be realized.

I suggest to Members of this body that news reports over the weekend confirm just how quickly those fears could be realized if the Communications Decency Act became law. One of the companies providing on-line services to consumers, America Online, in an effort to screen out filthy, vulgar and obscene language, apparently included the word "breast" in the list of prohibited words on AOL's services.

Mr. President, the word "breast" has been used many times on the Senate floor with respect to health care legislation, is not even among the so-called seven dirty words. It is not indecent. It is not profane. Yet it was screened out by a service which has been under tremendous fire for not policing its networks carefully enough.

Of course, the deletion of the word breast was met with an enormous outcry by women who participate in a breast cancer survivors online support group. According to press reports the deletion of the word breast from allowable AOL language became known when an AOL subscriber created her member profile identifying herself as a breast cancer survivor. She received a message from AOL indicating she could not use "vulgar words." AOL soon was barraged by complaints by other users of the breast cancer survivors chat room. The word "breast" was subsequently allowed back on the service. However, an AOL spokesperson caveated that with "as long as it is used in an appropriate manner."

I mention this incident not to fault America Online. They are responding to a series of calls by interest groups, Members of Congress, and others to police speech over their services and to keep AOL family friendly. AOL like other on-line service providers is anticipating additional Government restrictions on speech over the Internet. When under the threat of Government imposed speech restrictions and potential criminal sanctions, it is quite reasonable to overreact, to be overly cautious, and to restrict more than that which is necessary.

Mr. President, this is exactly what I fear will happen if the Communications Decency Act becomes public law. Words will be banned. Speech will be restricted. This, Mr. President, is the chilling effect that Senator LEAHY and I referred to on the Senate floor just 5 months ago. Perfectly reasonable and acceptable language will be restricted and prohibited.

Mr. President, while it may seem ridiculous that the word "breast" was, at least for a short period of time, considered vulgar, it would not be unreasonable for a company like AOL to restrict such words if the Communications Decency Act becomes law. Indecency is a largely undefined term. We know how the FCC has defined indecency for broadcast, but it is unclear what would be indecent on computer networks. If such restrictions are imposed, people will err on the side of caution in their speech. Under the Communications Decency Act, to protect themselves from criminal liability, on-line services will likely find themselves prohibiting the word "breast" as well as many other words. Adults with direct Internet access will also be forced to self-censor their speech, guessing what might be indecent, and guessing who might access their communications.

In Saturday's Chicago Tribune, Barbara LeStage, a member of the American Cancer Society, commented on the AOL prohibition on the use of the word "breast". Her comments, I think are fairly insightful. She stated:

> I don't have any problem with AOL trying to keep dirty words off their service. But I don't consider breast to be a dirty word. If you have people who see it as dirty, for whatever reason, then this [prohibition on use] is going to continue to happen.

Mr. President, Ms. LeStage is exactly right. If indecency is going to be outlawed and the term therefore defined by community standards and the courts, this will continue to happen. People differ in their beliefs about what is appropriate for children, about what is dirty, vulgar or indecent. To some individuals even extreme profanity may not be indecent, to others, perhaps the word "breast" is indecent. When AOL determined that "breast" would be allowed under appropriate circumstances, we must wonder under what circumstance would it be inappropriate and who decides.

This is the danger of government censorship of the Internet. Who defines what can be said without criminal sanctions? Who defines what is indecent? Who defines when certain terms are used appropriately and when they are not?

Mr. President, Congress has entered a very dangerous area in its attempt to restrict constitutionally protected speech on the Internet. In the next 24 hours, the Telecommunications conferees will decide which road to take—that of Government excess or that of caution.

I urge the conferees to err on the side of caution and to protect first amendment rights of Internet users. Such a goal is not inconsistent with our overriding objective of protecting children. Technology exists now to allow parents to screen out materials they find objectionable for their children. Obscenity, child pornography, and solicitation of minors via the Internet is already a violation of criminal law and is being aggressively prosecuted by the Department of Justice.

I urge my colleagues not to take the step toward censorship. I believe we will immediately regret it.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is to be recognized to speak.

Mr. SIMON. I have the consent of my colleague from South Carolina to speak for 2 minutes, if there is no objection, and I ask unanimous consent to speak.

Mr. DOMENICI. Reserving the right to object, I have to be at a negotiating session at 3 o'clock. I introduced this bill 4 years ago, so I ask if maybe I could have some time before 3 o'clock, 10 minutes or something?

Mr. BENNETT. Mr. President, I suggest that we grant the unanimous-consent request of the Senator from Illinois, during which time—not to be disrespectful to his announcement—we sort out the time on this side.

The PRESIDING OFFICER. The Chair must clarify that under the previous order, the Senator from Utah is to be recognized, then the Senator from South Carolina.

Mr. SIMON. I ask my colleague from Utah if he would permit me to speak for 2 minutes.

Mr. HATCH. I yield to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE NORTHWESTERN UNIVERSITY WILDCATS

Mr. SIMON. Mr. President, I send a resolution on behalf of Senator MOSELEY-BRAUN and myself congratulating Northwestern University's football team. It has been cleared on both sides.

Let me just say, after 24 losing seasons, they are going to go to the Rose Bowl. They now rank No. 3 in the Nation. Even more interesting, of all the division 1A schools in the Nation, they are No. 2 in scholastic aptitude tests.

I offer this resolution, and I ask unanimous consent for its immediate consideration. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 197) to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Without objection, the resolution is agreed to.

So the resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 197

> Whereas the Northwestern University Wildcats are the 1995 Big Ten Conference football champions and have been invited to participate in the Rose Bowl on January 1, 1996, in Pasadena, California;
>
> Whereas the winning of the 1995 Big Ten Conference football championship by the Wildcats completes an unprecedented 1-year

turnaround of the Northwestern University football program; and

Whereas Northwestern University is committed to athletic competitiveness without diminution of scholastic standards: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Northwestern University and its athletes, coaches, faculty, students, administration, and alumni on the winning of the 1995 Big Ten Conference football championship by the Wildcats and on the receipt by the Wildcats of an invitation to compete in the 1996 Rose Bowl; and

(2) recognizes and commends Northwestern University for its pursuit of athletic as well as academic excellence.

The PRESIDING OFFICER. The Senator from Utah.

SENATOR THURMOND

Mr. HATCH. Mr. President, I congratulate my colleague from South Carolina as well. There has never been anybody in the history of this body who has meant more to me personally than the distinguished Senator from South Carolina.

Mr. President, I ask unanimous consent we go to the distinguished Senator from South Carolina and then the distinguished Senator from New Mexico for their remarks.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Mr. President, reserving the right to object, my understanding is our distinguished colleague from New Mexico needs 10 minutes?

Mr. DOMENICI. That will be adequate, I think.

Mr. BRYAN. I have no objection.

The PRESIDING OFFICER. The Senator from South Carolina.

THE DEPLOYMENT OF UNITED STATES MILITARY FORCES TO IMPLEMENT THE BOSNIA PEACE AGREEMENT

Mr. THURMOND. Mr. President, last week, the Senate Armed Services Committee conducted a hearing with national security, foreign policy and intelligence experts, who were all former executive branch officials under Presidents Bush, Reagan, and Carter. All three witnesses supported deploying United States military forces to Bosnia to implement the peace plan because they believe it is critical to preserve the credibility and reliability of the United States as a world leader and as a member of the North Atlantic Alliance. While the three witnesses endorsed the deployment of U.S. military forces to implement the agreement, they also highlighted their concerns about the likelihood of disaster and questioned the ability of the implementation force to achieve any meaningful mission objectives. In fact, the witnesses all agreed that the best that could be hoped for would be to sustain the ceasefire for the time period that NATO forces are in the region.

Last week, the President traveled to Europe to visit with our allies, and speak with the young men and women of the 1st Armored Division stationed in Germany who are to be deployed to Bosnia very shortly. One Sunday, President Clinton was briefed on the NATO implementation plan, and gave his conditional approval to the concept. Following that conditional approval, the President authorized the deployment of around 700 United States troops who will lay the goundwork for the arrival of the main body of the NATO Implementation Forces, who will deploy to Bosnia once the peace agreement is formally signed in Paris next week.

President Clinton spoke to the troops, informing them of the United States national interests that warrant their deployment to Bosnia to enforce the peace agreement. The President assured the troops that their mission is clear, limited and achievable and that the risks to their safety will be minimized. According to the director for strategic plans and policy in the office of the Joint Chiefs of Staff, Gen. Wes Clark, all U.S. forces should be in the region within 30 days of the formal signing of the agreement in Paris on December 14.

According to the Department of Defense, the overall concept of the mission of the implementation force will be to monitor and enforce compliance with the military aspects of the Dayton peace agreement.

The military tasks of the Dayton agreement include: Supervise the ceasefire lines and zones of separation; monitor, and if necessary enforce the withdrawal of forces to their respective territories within the agreed time periods; establish and man the 4-kilometer zone of separation; establish liaison with local military and civilian authorities; and create joint military commissions to resolve disputes between the parties.

All implementation forces, NATO and non-NATO, will operate under NATO rules of engagement. Those rules of engagement will permit the right to use force up to and including deadly force for self-defense to protect against hostile acts or hostile intentions, and, in order to accomplish the mission.

Despite a briefing by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, as well as congressional hearings this past week with administration officials, I continue to have grave concerns and questions about the clarity of the mission, and whether the goals and objectives of the mission can be achieved within the limited deployment framework.

I know that our young military men and women are well-trained, the best equipped in the world and ready to go. What I am most concerned about is whether all their training and equipment will have prepared them for the sniper fire, the landmines, the terrible terrain and weather in which they will have to live. I am also concerned about possible kidnapings that could occur and how our troops will be treated. Will they be treated as prisoners of war, or political or legal detainees.

In 1945, United States military forces were sent into to an area near Tuzla to keep Yugoslavian partisan out of Trieste. We were not officially at war, but the partisans resented the presence of the U.S. forces and ambushed U.S. patrols and aircraft with sniper fire, landmines, and booby traps. It took 9 years for an agreement to be reached before the 1 year mission was completed and U.S. forces came home.

Mr. President, there are already signs of dissensions among the parties to the agreement. The Serbs continue to press for a renegotiation because the agreement would require Sarajevo to come under control of the Moslem-Croat federation and Serbian civilians feel they will not be protected. Our French allies have raised concerns that their troops could become trapped if there is renewed fighting. Additionally, the United States is being viewed as being partial to the Bosnians as a result of their support and there is a feeling that United States military forces will not be impartial.

As I stated earlier, in statements on the floor and in hearings, I continue to have grave concerns about the vital interests that have led the President to commit U.S. military forces to implement this peace agreement. I am not yet convinced that we have a vital national interest in Bosnia that requires the deployment of United States military forces, or that our national security interests are being threatened.

On Wednesday, Secretary of Defense Perry, Assistant Secretary Holbrooke and General Shalikashvili will appear before the Senate Armed Services Committee. I intend to ask more questions about the mission, objectives of the mission and the timeframe, the exit strategy; why it is necessary to have over 60,000 heavily armed military forces with armored vehicles as peacekeepers; how the implementation forces will separate the opposing forces; and how the U.S. military forces will avoid taking on nonmilitary tasks, when it appears that the civilian humanitarian services and operations will take at least 6 months to begin operation.

Mr. President, I do not intend to rubberstamp a commitment by the President. I will reserve final judgement until after the hearings have taken place, and then make a final decision.

I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I rise today to speak in favor of the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995. I was an original cosponsor of the Senate bill, S. 240, and am a strong supporter of the conference report.

This legislation will protect investors and consumers, while remedying abuses that have plagued securities issuers and companies—particularly in cases in which attorneys have used class action lawsuits to force settlements on parties that have done no wrong.

It is my hope that President Clinton will defend the interests of the American people by signing this legislation, rather than favor the trial lawyers who would benefit from his veto.

In my view, this conference report represents a significant step toward addressing some of the egregious litigation abuses seen in the legal system today. On a related front, the Senate's product liability bill is going to conference, and it is my hope that in the future Congress will pass more broad-ranging litigation reforms that will affect the entire civil justice system.

I would like to extend my gratitude to Senator D'AMATO, Senator DODD, and Senator DOMENICI for their hard work in bringing this significant and well-drafted legislation to fruition. This bill has been perfected over several congresses and is the result of a strong bipartisan effort.

busive securities litigation lawsuits have imposed a high and harmful tax on American businesses. Because of the fear of being sued—and the high costs associated with securities lawsuits—many companies have declined to go public. Other companies have declined to make innovations or disseminate certain information.

The unfortunate irony is that, while securities litigation laws were designed to safeguard investors, in reality the current system ends up hurting investors.

The current system hurts investors who could have invested successfully in those companies that decided not to go public due to fears of litigation.

It also harms investors who could have earned greater profits on their shares had the companies they invested in been more profitable—for example, if those companies had been able to invest more money in research and development rather than wasting it on securities litigation costs. Not only have investors gotten hurt, but certain lawyers have raked in exorbitant fees.

Companies have all too often been reluctant to disclose information for fear that doing so will provoke a lawsuit. That goes completely against the grain of the securities laws, which are designed to encourage openness and full information in the securities markets.

The conference report addresses some of the worst abuses that have been seen in securities litigation. At the same time, the Report preserves and reinforces the core values of the American stock market—integrity, openness, and the free exchange of information.

The conference report does so through a number of specific measures.

The legislation provides that discovery is stayed whenever a motion to dismiss is pending in a securities action.

Discovery costs have been estimated to account for 80 percent of the costs of defending a lawsuit in a securities action. The burden of this time-consuming and expensive discovery process will accordingly be significantly reduced. That should remove some of the skewed incentives that have frequently forced companies to settle securities lawsuits even when they have done no wrong.

The conference report specifically addresses abuses involving the use of so-called professional plaintiffs as lead plaintiffs in securities action lawsuits. Many plaintiffs have been motivated to file suit to receive a bounty payment or bonus.

There has also all too often been a race to the courthouse by plaintiffs' lawyers seeking to be the first to file a complaint in a securities action. Lawyers representing a class are often appointed by the court on a first come, first serve basis: the first lawsuit filed determines who will serve as lead plaintiff and who will be the lead attorney.

In many cases, the professional plaintiff has not even reviewed the complaint filed against the defendant. This legislation will require the lead plaintiff to file a sworn certified statement along with the complaint, stating: First that the plaintiff has reviewed and authorized the filing of the complaint; second that the plaintiff did not purchase the security involved at the request of an attorney or to be a party to the securities action; and third that the plaintiff is willing to serve as the lead plaintiff for the class.

A lead plaintiff may not serve as a lead plaintiff in a securities action more than five times in 3 years. The legislation also limits the class representative's recovery to the lead plaintiff's pro rata share of the settlement or final judgment. These provisions limit some of the skewed incentives that have led to the rise of professional plaintiffs.

Once a securities litigation class action lawsuit has been filed, the court will then determine separately which plaintiff is the most adequate plaintiff. Any party who has received notice of the suit may petition the court to serve as lead plaintiff within 60 days of when the suit was filed. In determining which plaintiff is the most adequate plaintiff, the court determines which party has the greatest financial interest in the lawsuit.

The most adequate plaintiff selects the lead attorney and negotiates attorneys' fees. That plaintiff also weighs in on settlement decisions and other significant decisions pertaining to the lawsuit.

The legislation also provides improved settlement notice to class members. Class members will have to be provided notice of a proposed settlement and specified information. That information would include, if the parties agree on a figure, the average amount of damages per share that would be recoverable or, if the parties do not agree an a particular amount, a statement from each party as to why there is disagreement.

Notice must also include an explanation of the attorneys' fees and costs involved; the name, telephone number, and address of the class lawyer; and a brief statement explaining the reasons for the proposed settlement. Those provisions will improve the information provided to individual shareholders and increase the involvement of individual class members in litigation decisions.

The conference report also limits attorneys' fees to a reasonable percentage of the amount of recovery awarded to the class.

On a separate note, this legislation creates a modified system of proportionate liability, under which each codefendant is generally responsible for only the share of damages that that defendant caused to the plaintiff.

To balance plaintiffs' needs, however, there is a provision to protect plaintiffs from insolvent codefendants. Where defendants have committed a knowing securities violation, those defendants will be jointly and severally liable for damages. Also, in the case of an insolvent codefendant, a proportionately liable codefendant would provide additional damages to up to 150 percent of its share of the damages.

There is even an additional, special protection for small investors: all defendants will be jointly and severally liable for uncollectible shares of insolvent codefendants for plaintiffs whose damages are more than 10 percent of their net worth, and whose net worth is less than $200,000.

This legislation is proconsumer and protects small investors.

In a separate measure, the legislation adopts the second circuit pleading standard so that, in a securities action, plaintiffs must state facts with particularity, and those facts must give rise to a strong inference of scienter or intent. This should help weed out at an early stage lawsuits filed against innocent defendants.

The bill also includes a so-called safe harbor provision to protect forward-looking, predictive statements.

It structures damages so that they will reflect real losses rather than fortuitous market fluctuations.

Finally, the proposed legislation would establish new civil penalties against independent public accountants who fail to inform corporate officers of any illegal acts they discover while performing audits. That further protects investors.

In short, this legislation should protect individuals and free up resources that have imposed substantial and needless litigation costs on American businesses in Utah and all across this country.

As I noted, I would like to see Congress take a more comprehensive look at litigation abuses across the civil justice system. This legislation is certainly a significant step in that direction. I look forward to working with my colleagues to achieve broader reforms.

The PRESIDING OFFICER. Under the previous order, as modified, the Senator from New Mexico is recognized for up to 10 minutes, to be followed by the Senator from California for up to 30 minutes, to then be followed by the Senator from Nevada for up to 15 minutes.

The Senator from New Mexico is now recognized.

Mr. DOMENICI. Mr. President, I thank my friend from Utah, the floor manager, for arranging the time and for his diligent work.

Let me, right up front, indicate that there are many Senators and many Members of the House who deserve credit for getting this bill before us in this conference report. I personally want to thank the chairman of the Banking Committee, Senator D'AMATO, because without his guidance and total commitment we would not be here.

I want to thank my original cosponsor, Senator CHRIS DODD. Actually, the two of us fought a lonesome battle until this year. It looked like this would never happen. But with the change in the Congress, and the White House making some changes in the way they thought about this, we are here today with a bill that I understand the President may very well sign.

What are we doing here and why are we here? First of all, let me talk a little bit about an industry in America. In recent days there has been much conversation about the executive officer of Microsoft Corp. That is a high-technology industry, an industry that is involved in computers and everything that goes with it and the entire high-technology community of interest.

The high-technology, high-growth companies are the backbone of the America's economy and are vital to our ability to compete in a growing global market. We can no longer allow abusive lawsuits to stifle these companies' abilities to pursue new technologies and create new jobs.

The high-technology companies contribute about $400 billion in goods and services in the United States. They employ 2½ million people, which is 14 percent of the total manufacturing jobs in America. High-technology jobs are some of the best jobs also. The average salary is $42,000 per worker, and high technology is a larger segment of our economy than transportation, aviation, and the auto industry combined. It is a rapidly growing part of our economy and it is our future.

In my small State alone, there are 305 electronics firms with 16,000 high technology, high-paying jobs with a total payroll of $609 million, and they produce approximately $2.5 billion in goods and services.

From my standpoint, this bill will make their jobs more secure. It will make those companies that I have just described as a backbone of a new kind of industrial revolution in America more successful rather than less, and no one will be hurt in the process.

Let me right up front refer to four letters. It does not look like several letters because it is enormously thick, but there are four letters signed by about 1,000 chief executive officers and presidents of electronics and high-technology firms. The letters are not directed to the Senator from New Mexico or to the Senator from Utah or to the Senator from Nevada. They are directed to the President of the United States. In short, these letters are urging the President to sign this bill because it is good for their growth and the jobs and the well-being of the thousands of workers they represent.

Mr. President, Federal securities law that we are considering here today provides a comprehensive legal framework designed to do three things:

First, protect investors in the securities market. Let me repeat that. First, protect investors in the securities market.

Second, provide ground rules for companies seeking to raise money in our capital markets.

And, third, to encourage disclosure of more accurate information about publicly traded companies.

The trend is opposite to that third point because of the lawsuits that follow when information is disseminated.

This bill updates our securities laws to better achieve these objectives and in a better, balanced way. When the U.S. Supreme Court created the implied right of action—the class action—it noted that "litigation under rule 10(b)(5) presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general," citation of the case, close quote.

"Vexatiousness" is not a word that I use very often, nor do I hear it used very often. It comes from the verb "to vex," which means to harass, to torment, to annoy, to irritate, and to worry. As a noun, it is synonymous with troublesome. In the legal context, it means a case without sufficient grounds in order to cause annoyance to the defendant or proceedings instituted maliciously and without probable cause.

In these frivolous securities class action cases, the lawyer hires the client instead of the other way around. It sounds a lot like modern-day champerty. In law school we studied about this thing called champerty. That is another word that is not heard very often. But it existed where a person assisted another with money to carry out his lawsuit. In times past, someone who would pay for, in whole or in part, the cost of litigation was engaged in champerty, including doing things that tend to obstruct the course of justice or to promote unnecessary litigation. It was such a serious offense that not too many years ago it was against the law.

This bill will hopefully curb this modern-day champerty, stop the vexatiousness, and restore integrity to our security laws by filtering out abusive, frivolous class action lawsuits that harm investors and only benefit the class action attorneys. Senator BENNETT made a very good point earlier today: The company is the investors. We can no longer allow entrepreneurial lawyers to squeeze the research and development budgets, to depress dividend yields to all investors for the benefit of a few professional plaintiffs. We can no longer allow lawyers to muzzle the chief executive officers from making predictions and statements about the future of their companies.

Professional advisers, like accountants and outside directors, should not be held 100 percent liable just because they are deep pockets. This bill will force lawyers to be good lawyers and lawsuits to have merit.

This bill recognizes that stock volatility is not stock fraud. Let me repeat that. This bill recognizes that stock prices go up and down—that is stock volatility—it is not stock fraud. It recognizes that all investors benefit when there is more disclosure of information. It recognizes that predictions about the future are valuable information to investors. It recognizes that predictions may not come true. Such statements are predictions, not promises.

In the safe harbor provision that is currently in the bill before us, there are really three safe harbors. I will not go through all of them, but I will refer to the third one which has received most of the attention. It is a variation of the "bespeaks caution" doctrine. We tried to make it workable and not too cumbersome. The chief executive officer needs to identify the statement as a forward-looking statement, needs to provide meaningful cautionary statements and needs to identify some important factors that tell the audience why the prediction may not come true.

This bill retains the two-tiered liability. We wanted to change the economics of these cases so that the merits will once again matter. People should not be sued because they have deep pockets or a lot of insurance. We created special rules so that small investors will be made whole in the event of an insolvent codefendant who cannot pay investors for their losses.

We required disclosure of settlement terms and lawyers fees in plain English so that investors will know what they might recover and how much of the settlement fund the lawyers are asking for. And, in a sense, this makes the system much better in 12 ways:

First, it puts investors with real financial interests, not lawyers in charge of the case. It puts investors with real financial interests, not professional plaintiffs with one or two shares of stock in charge of the case.

The provisions that accomplish this include most adequate plaintiff; plaintiff certification; ban on bonus payments to pet plaintiffs; settlement term disclosure; attorney compensation reform; sanctions for lawyers filing frivolous cases; restrictions on secret settlements and attorneys fees.

Second, it provides for notification to investors that a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit.

It is likely that the people trusted to manage pension funds and mutual funds [the institutional investors] will get more involved. (Most adequate plaintiff provision).

Third, it puts the lawyers and his clients on the same side. This is accomplished by reforms that change economics of cases, in particular, proportionate liability, settlement terms disclosure.

Fourth, it prohibits special side-deals where pet plaintiffs get an extra $10,000 or $15,000.

It protects all investors, not just the lawyers' pet plaintiffs, so that settlements will be fair for all investors.

Fifth, it stops brokers from selling names of investors to lawyers.

Sixth, it creates an environment where CEO's can, and will talk about their predictions about the future without being sued.

It gives investors a system with better disclosure of important information. (Safe harbor).

Seventh, better disclosure of how much a shareholder might get under a settlement and how much the lawyers will get so that shareholders can challenge excessive lawyers fees.

Eighth, no more secret settlements where attorneys can keep their fees a secret. (Restrictions on settlements under seal).

Ninth, it limits amounts that attorneys can take off the top. Limits attorneys' fees to reasonable amount instead of confusing calculations. (Attorney compensation reform, limiting lodestar method of calculating fees).

Tenth, it provides a uniform rule about what constitutes a legitimate lawsuit so that it will no longer matter where a case is filed. Investors in Albuquerque will have the same rules as investors in New York. (Pleading reform).

It stops fishing expeditions where lawyers demand thousands of company documents before the judge can decide if the complaint is so sloppy that it should be dismissed on its face. (Discovery stay).

Eleventh, it makes merits matter so that strong cases recover more than weak cases. Makes sure people committing fraud compensate victims. Improves upon the current system so that victims will recover more than 6 cents on the dollar.

Twelfth, by weeding out frivolous cases, it gives the lawyers and judges more time to do a good job in protecting investors in meritorious cases. High-technology companies' executives can focus on running their companies and growing their businesses. Investors will get higher stock prices and bigger dividends.

America needs securities litigation reform for many reasons. One reason we need this legislation is because the system as it currently operates encourages a race to the courthouse to file poorly researched, kitchen sink complaints by entrepreneurial class action lawyers unconcerned with the merits of their cases. These lawyers know that it is very easy to allege securities fraud, and they often use the current system's liberal pleading rules to extort settlements from innocent companies.

Entrepreneurial plaintiffs' lawyers favorite targets are usually high-technology, start-up firms which cannot bear the costs of fighting even the most frivolous lawsuit. Over the past 4 years a total of $2.5 billion has been paid in settlements in securities class action cases. This is money that could have been better spent on enhanced research and development, product development and high paying job creation.

Even when small, high-technology companies are forced to surrender and settle abusive suits without much of a fight, they still must divert important scarce resources toward the lawsuit and away from job creation and product development. Testimony at congressional hearings on securities litigation reform indicated that the typical frivolous securities lawsuit costs $8.6 million and 1,000 hours of management time just to settle the case.

John Adler, president and CEO of Adaptec, Inc. told the Senate Banking Committee that the money his company spent fighting a frivolous securities lawsuit would have paid for 20 additional engineers. Intel spent $500,000 in 1991 just to have two abusive cases withdrawn. That money would have paid for 10 production workers or 5 engineers at its facility in my home State. Legent Computer Corp. spent nearly $2 million in legal fees and several million dollars to comply with the plaintiffs' lawyers request for 290,000 pages of documents, even though a judge eventually dismissed the lawyers' complaint. Numbers like these make me realize that we need to change the current winner pays system, where innocent companies must expend vast amounts of time and resources just to get an abusive suit dismissed.

High-technology and high growth companies form the backbone of our economy and the foundation of our ability to compete in the growing global marketplace. They create jobs and grow the economy. We can no longer allow these abusive lawsuits to stifle our companies' ability to pursue new technologies and create new jobs. The general counsel of Intel Corp. told us during a hearing that had Intel been sued when it was a startup company, the lawsuit likely would have decimated its research and development budget and prevented it from inventing the semiconductor. Thousands of jobs would be in Japan instead of America.

Entrepreneurial lawyers also like to sue deep-pocketed professional advisers, like accountants and lawyers, even if they are only marginally involved in the alleged fraud. Under the current law rule of joint and several liability, these advisers can be made to pay the entire multimillion dollar judgment, even if they were unaware of any wrongdoing. That is because the current law says that if you conduct an audit or sign an opinion letter for a client who violates the securities laws, then you should have known of the wrongdoing. Because they face potentially massive liability for their relatively innocent conduct, auditors and lawyers often settle rather than fight the abusive lawsuit. Studies show that naming an accountant in a lawsuit adds 30 percent to its settlement value. Rather than continue to face unfair joint and several liability, auditors and lawyers have begun to refuse to advise startup firms most susceptible to abusive lawsuits. This hurts the companies and ultimately their shareholders.

Part of the problem is the race to the courthouse by entrepreneurial class action lawyers, who file lawsuits within hours of news that a company came up short on an earnings projection or will be forced to delay the introduction of a new product. Information provided to the Senate Banking Committee by the National Association of Securities and Commercial Law Attorneys [NASCAT] reveals that 21 percent of the cases are filed within 48 hours of the triggering event. The stock price drops after the company makes an announcement, and the lawyers quickly file lawsuits with little or no due diligence done to investigate whether the suits have any merit. In fact, I would guess that the lawyers do not really care whether the suits possess much merit. This is because courts rarely exercise their authority to impose sanctions on attorneys who file frivolous securities suits.

Abusive lawsuits not only drain scarce resources away from important company activities, but they also have a profound impact on the willingness of corporate executives to speak freely about their company's plans and expected future performance. Several corporate executives and general counsels told the Banking Committee that they had adopted a policy of not making public forward-looking statements out of fear that they would be sued for securities fraud if their predictions did not materialize. We should encourage companies to make forward-looking statements, because they contain precisely the type of information investors most desire—information about where the company is headed in the future. But we must remember, predictions are not promises of future performance, and executives who make forward-looking statements should be protected from lawsuits unless they intended to deceive investors.

I have spoken a great deal about how abusive lawsuits affect companies and their professional advisers. Even more egregious than the way the current securities class action system treats them is the way it treats investors. When attorneys file frivolous cases, investors eventually bear the costs of the lawsuit. When lawyers pursue meritorious cases, they often seek settlements that benefit them and leave investors with pennies on the dollar of their losses.

Often lost in the debate over securities litigation reform is the fact that not just companies, but investors are harmed by frivolous securities lawsuits. Former SEC Chairman Richard Breeden testified that "the people who are most badly hurt—by abusive securities lawsuits—are the company's shareholders, who indirectly pay all the costs" of the lawsuit. Current SEC Chairman Arthur Levitt also has correctly noted that investors are being hurt by litigation excesses.

When plaintiffs' lawyers engage in the predatory practice of filing an abusive securities lawsuit, shareholders eventually must bear the costs of the suit. When companies are forced to divert resources from research and development budgets to litigation budgets, stock prices drop and shareholders suffer. When companies must make a charge to earnings to pay the costs of settling an abusive lawsuit, dividends are lower and shareholders suffer. When corporate executives refuse to discuss the company's future plans out of fear that they will be sued, markets are denied access to the information investors need most to make informed investment decisions, and shareholders suffer.

During the 12 congressional hearings held on securities class action litigation, the most shocking thing I learned was the way plaintiffs' lawyers treat investors in cases of real fraud. According to studies and testimony presented at the hearings, in the typical settlement of a securities fraud lawsuit, investors receive around 6 cents on the dollar of their claimed losses, while plaintiffs' lawyers take the lion's share of the settlement fund as their fee award. This is because the current system allows attorneys to negotiate their settlement with little or no input from their purported clients, the injured investors. One of the most prominent securities class action lawyers claims to have the best practice in the world because he has no clients.

This same attorney once settled a class action for $12 million and asked for the entire amount as his fee award. This would have left his clients with nothing. When asked whether he had a duty to his clients to justify his fee request, this lawyer responded that his only responsibility was to justify his fee request to the court. A system which allows this sort of abuse needs to be changed. Investors deserve better.

THE SOLUTION

While I have spent some time talking about the problem, I would like to spend the remainder of my time discussing the solution we have developed. Our goal in crafting this legislation was to balance the interests of defrauded investors with those of the companies and professional advisors who are often the subject of abusive, meritless lawsuits. I believe that we have developed a balanced bill that provides relief from abusive suits while giving investors greater control and a larger recovery in cases of real fraud.

It contains provisions which place investors, not lawyers, in control of the lawsuit. Unlike the current lawyer-driven system, under this new law the investors with the greatest stake in the outcome of the litigation will control the case. Usually this will mean that pension funds and mutual funds, which represent thousands of small investors, will determine whether to pursue a lawsuit, who will be their lawyers, and when and for how much to settle the case. Because they have an interest in protecting their small investors by discouraging frivolous suits and pursuing cases of real fraud, institutional investors are in the best position to decide whether to go forward with a lawsuit.

Unlike the current system where the first lawyer to file the lawsuit controls the case, this legislation also will allow the investors to pick their lawyers and negotiate up front what their fee will be. This will result in reduced attorneys' fees and will leave more money in the settlement fund for defrauded shareholders. It will eliminate situations where the attorneys request significant portions of settlement fund as their fee and leave investors with pennies on the dollar of their claimed losses.

The conference report also requires that settlement notices to class members contain clear and concise disclosures of the terms of the class action settlement. Under the current system, investors often receive settlement notices shrouded in legalese, which give them little or no idea what the lawyers have agreed to do. Only after they have consented to be part of the class and accept the settlement do they realize that the lawyers have taken most of it and left them with next to nothing. Under the new law, lawyers will be required to explain to shareholders in clear terms the total amount of the settlement, the amount of attorneys' fees and costs sought, and the amount per share class members will receive. With this new information, investors will better be able to determine whether to accept the terms of the settlement.

The new system also will be good for investors because it eliminates many of the unfair practices currently associated with generating a securities class action. Lawyers will no longer be able to pay bonuses out of the settlement fund to individuals who lend their name to the lawsuit and act as the named plaintiff. Nor will they be allowed to pay bonuses to brokers or dealers for referring potential clients. These practices are unfair to the shareholders not afforded the luxury of acting as named plaintiff and should be eliminated. Their elimination will keep more money in the settlement fund for all investors, not a select few.

The conference report also will benefit companies, as well as investors by utilizing reasonable means to eliminate abusive frivolous lawsuits. Despite what opponents say about this bill, it will not protect the Charles Keatings of the world or prevent victims of egregious fraud from obtaining relief. No Senator would vote for a bill which allowed that to happen. Instead, the conference report contains provisions which will weed out frivolous cases early in the litigation process and impose fair liability standards on companies and their professional advisors to reduce the tremendous pressure on them to settle even the most abusive cases.

To weed out frivolous cases early in the process, the conference report adopts the pleading standard utilized by the second circuit court of appeals, where a large number of securities fraud lawsuits are brought. This court-tested standard requires plaintiffs to plead facts in their complaint which give rise to a strong inference of securities fraud.

The conference report also adopts the State-law trend of proportionate liability—liability based upon the degree of responsibility of each defendant. It retains joint and several liability for the really bad actors, those who knowingly defraud investors. It holds all others proportionately liable for the harm that they have caused. This will reduce the pressure to settle on professional advisors who may not even have been aware of the fraud, but who under the current system could be held responsible for the entire amount of damages.

Proportionate liability is not a novel concept—it's one many States concerned with a fair application of liability have used for years.

There are three provisions in this bill which provide additional investor protection, particularly for the most vulnerable small investors. First, the bill contains a provision specifically designed to improve fraud detection in the areas of auditing and financial reporting. Auditors will now be required to report instances of corporate fraud and this reporting often will take place before the fraudulent information makes its way into financial disclosure documents disseminated to investors.

The bill also contains language which will ensure that investors get compensated if the main perpetrator of the fraud is bankrupt. The conference report requires proportionately liable defendants to pay up to an additional 50 percent of their liability into the settlement fund in cases where the primary, knowing violator is insolvent. It also requires that small investors be fully compensated in all cases by holding all defendants jointly and severally liable for their entire losses.

The bill also contains a fair safe harbor for predictive statements which will allow companies to provide the forward-looking information investors desire without the fear of a lawsuit if the projections do not materialize. Under the current system, if one person in a company is aware of information which might contradict the company's projection, the company can be held liable for fraud. This forces companies to adopt a policy of not making predictive statements.

The new safe harbor, endorsed by the Securities and Exchange Commission, protects predictive statements in two ways. First, projections are protected from lawsuits as long as they are accompanied by meaningful warnings which identify important business factors which could cause the prediction to fail. This provision is based on the bespeaks caution doctrine, a concept in the securities laws which says that if a predictive statement is surrounded by sufficiently cautionary language discussing some of the reasons why the prediction may not come true, then the statement cannot form the basis of a lawsuit. Under this new rule, companies which desire the protection of the safe harbor will be required to disclose certain information to investors about the factors which might undermine their predictions. Companies need not disclose every factor, nor must they disclose the factor which eventually causes the prediction to fail. They simply must discuss some of the important business factors which could affect their prediction.

There has been much discussion about this first part of the safe harbor. Early drafts said that companies must disclose substantive factors, rather than important factors. In this Senator's opinion, these words are interchangeable and impose the same requirement on companies: discuss some of the important business factors which could affect your prediction. It imposes no hindsight state of mind requirement on companies regarding which factors they believed were most important. Nor should this provision be used by courts in a way which allows the current system's abusive discovery practices to continue. Courts should not read the word important to mean that plaintiffs are entitled to large-scale discovery on the issue of which factors the company believed were important. Courts should simply look at the four corners of the predictive statement, as well as the information about the company already in the market, and determine whether investors should have relied on the predictive statement.

Under this safe harbor, courts also may continue their practice under current law and find forward-looking statements immaterial on other grounds. There is an abundance of case law which says that soft forward-looking statements containing optimistic opinions without any factual representations cannot serve as the basis for one of these lawsuits. The conference committee wisely chose to leave this law intact. This sort of sales talk or puffing has no effect on a company's share price and courts should continue to quickly dismiss cases based on these types of statements. As well, courts also should continue to consider public information provided by sources other than the company or public information from the company not contained in the forward-looking statement when determining whether a predictive statement meets the securities laws' test of materiality. These concepts also are found in the cases, and the conference committee certainly did not intend to have any effect on this area of the law.

Should a predictive statement not contain sufficient cautionary language to fall into the first safe harbor, then a second safe harbor is available. Under the second safe harbor, the statement is protected unless it was made with actual knowledge that it was false. If a business entity made the statement, then the plaintiff must prove that the statement was made or approved by an executive officer with the actual knowledge that it was false. This will prevent the situation under current law which permits lawsuits to go forward based upon the existence of a memo or electronic mail by a low-level employee who disagrees with management's projection. This provision is based upon the standard Senator SARBANES proposed on the floor during the Senate debate, and I believe that this is an effective compromise.

Investors should have increased access to the company's thoughts about where it is headed in the future, and the current lawsuit-driven system discourages executives from talking about the future. The conference report's balanced safe harbor provision encourages companies to speak by recognizing that predictions are not promises, while prohibiting outright lies by corporate executives. Again, this is a provision supported by the Securities and Exchange Commission. Let me read into the record what the Commission says about the safe harbor in the conference report:

> While we could not support earlier attempts at a safe harbor compromise, the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse.

Finally, this bill addresses the fact that attorneys and courts are unwilling to pursue sanctions against entrepreneurial lawyers who file abusive suits. This legislation requires courts to review the record at the end of each case to determine whether any of the attorneys violated rule 11 of the Federal rules. If the court finds a violation, then it must impose sanctions. Requiring courts to impose sanctions against attorneys who file frivolous cases will reduce the number of abusive lawsuits without discouraging individual plaintiffs from seeking redress in the courts.

Mr. President, I hope my colleagues will vote for this conference report. This legislation is substantially similar to the legislation we passed in July by a wide margin. I believe that the Senators who supported the bill in July should have every reason to vote for this conference report today. It is a well-balanced bill that protects investors from intentional fraud, gives them greater control of their cases and addresses many of the abuses inherent in our currently broken securities class action system.

I ask unanimous consent to have printed in the RECORD following my remarks a list of those from my home State of New Mexico who support securities litigation reform. The list includes several State senators and representatives, as well as Gary Johnson, the distinguished Governor of New Mexico.

I also ask unanimous consent that a copy of a series of letters from a group of high-technology and high-growth company CEO's, and venture capitalists to President Bill Clinton also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. DOMENICI. Mr. President, I want to especially recognize the extraordinary commitment Senator DODD has made to this legislation. When he was chairman we started the hearings, compiled a thorough report and together we developed legislation. He has steadfastly worked to make the bill a better bill for small investors, for all investors, for our capital markets and the companies using our capital markets. This knowledge of the securities laws helped craft the answers to the problem that we all saw.

I thank my colleagues Senators DODD and D'AMATO, as well as the rest of the conferees for all of their hard work on this important legislation. This is comprehensive reform, and companies as well as our legal system will work more efficiently because of it. Senator GRAMM pioneered the most-adequate-plaintiff provision and I thank him for his input.

I must thank several members of the House who have worked so hard to help bring about securities litigation reform. The chairman of the Commerce Committee, Mr. BLILEY and his distinguished subcommittee chairman, Mr. FIELDS, have worked tirelessly to ensure that this legislation is effective and actually works in the real world. I realize how difficult it can be to craft a complicated piece of legislation like this, and I appreciate their help. I also would like to thank Representative CHRIS COX from California, who practiced in this area prior to coming to Congress. His practical experience and expertise has helped make this a better bill. Finally, I thank Representative BILLY TAUZIN, a new member of the Republican Party who fought for many years as a Democrat to bring this legislation to the floor of the House. Mr. TAUZIN's hard work attracted over 200 cosponsors to his original bill at a time when there was very little interest by the House leadership in even bringing up the issue of securities class action reform. Mr. TAUZIN has worked on this issue since the beginning, and his dedication to this issue is to be commended.

SEC Chairman Levitt and Commissioner Wallman made constructive suggestions throughout the process. I am very pleased that they support the safe harbor provisions that have been worked out and that we were able to address their principle concerns about the entire bill.

Mr. President, I urge that Senators adopt this bill today and I urge the President to sign it. As we look back at this year, this will be one of the most significant pieces of legislation that attempts to rid the American economy and the entrepreneurial system from unneeded drag and unneeded cost so that it retains more of its vibrancy and growth potential.

I yield the floor.

EXHIBIT 1

NEW MEXICO SUPPORT FOR S. 240

GOVERNMENT

New Mexico Governor Gary Johnson.
State Senator Patrick Lyons.
State Senator Virgil Rhodes.
State Senator E.M. Jennings.
State Representative Robert Wallach.
State Representative Ted Hobbs.
State Representative Anna Marie Crook.
Santa Fe City Manager Isaac Pino.
Lovington City Manager Bob Carter.
State Secretary of Finance and Revenue David Harris.

BUSINESS AND INDUSTRY

Santa Fe Chamber of Commerce.
Greater Albuquerque Chamber of Commerce.
Roswell Chamber of Commerce.
New Mexico Association of Commerce and Industry.
Intel Corp.—Rio Rancho.
Motorola—Albuquerque.
Specialty Constructors, Inc.—Cedar Crest.
Neff & Co.—Albuquerque.
Correa Enterprises Inc.,—Albuquerque.
Larribas & Associates, P.A.—Albuquerque.

We also have received many letters from private citizens, including many retirees who support securities litigation reform.

THE CEASS COALITION IN NEW MEXICO

SUMMARY

The Coalition to Eliminate Abusive Securities Suits (CEASS), an alliance of over 1,450 U.S. companies, professional firms and organizations representing high-technology, financial services, basic manufacturing sectors and others, is seeking federal legislative remedies to the rising threat of unwarranted securities litigation. CEASS member companies rank among the nation's fastest-growing and most innovative companies. CEASS supports the reform measures embodied in S. 240, the Private Securities Litigation Reform Act of 1995, introduced in the U.S. Senate by Senators Pete Domenici (R-NM) and Chris Dodd (D-CT).

In New Mexico, there are 24 CEASS members that are either headquartered or have facilities in the state. Together, these organizations employ over 11,000 residents. Included are many of the state's largest private sector employers—Intel Corporation, Motorola Inc., US West Communications and many more. Below is a detailed breakdown of CEASS members in New Mexico.

CEASS MEMBERS AMONG LARGEST NEW MEXICO EMPLOYERS (500 OR MORE EMPLOYEES)

Chevron Corporation.
Intel Corporation.
Johnson & Johnson.
MCI Communications, Inc.
Motorola Inc.
Phelps Dodge Corp.
US West Communications.

CEASS MEMBERS HEADQUARTERED IN NEW MEXICO

Diagnostek, Inc., Albuquerque.
Indian Motorcycle Manufacturing Inc., Albuquerque.
Mesa Airlines, Inc., Farmington.
Neff & Company, Albuquerque.
Specialty Teleconstructors, Inc., Cedar Crest.
Sunsoft Corporation, Albuquerque.

ALL OTHER CEASS MEMBERS WITH FACILITIES IN NEW MEXICO

AlliedSignal Inc., Las Cruces.
Arthur Andersen LLP, Albuquerque.
Baxter International, Albuquerque.
Borg-Warner Security Corp., Albuquerque.
Chevron Corporation, Gallup.
Chevron Corporation, Raton.
Eagle Industries, Inc., Albuquerque.
FHP International, Inc., Albuquerque.
Intel Corporation, Rio Rancho.
Johnson & Johnson, Albuquerque.
KPMG Peat Marwick LLP, Albuquerque.
MCI Communications, Inc., Albuquerque.
Motorola Inc., Albuquerque.
The Olsten Corporation, Albuquerque.
Phelps Dodge Corp., Lordsburg.
Phelps Dodge Corp., Tyrone.
Smith's Food & Drug Centers, Inc., Albuquerque.
Smith's Food & Drug Centers, Inc., Farmington.
Sun Microsystems, Inc., Albuquerque.
The May Department Stores Co., Albuquerque.
US West Communications, Albuquerque.

MEMBERS OF NEW MEXICO HOUSE DELEGATION WHO VOTED FOR SECURITIES LITIGATION REFORM (H.R. 1058)

Steven Schiff.
Joe Skeen.
Bill Richardson.

EXHIBIT 2

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, October 17, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As California members of the American Electronics Association, we are writing to strongly urge your support for securities litigation reform legislation which we expect to emerge from Conference Committee early this fall.

For nearly four years the California High Technology community has been pursuing meaningful reform of the securities litigation system. We have worked closely with the White House, the Securities and Exchange Commission, and the U.S. Congress. As a result of these efforts, both the House of Representatives and the U.S. Senate overwhelmingly passed securities litigation reform, by votes of 325-99 and 70-29, respectively. We believe these margins clearly demonstrate the consensus for reform and now we need your affirmative support to bring this effort to a successful close.

We want to stress our belief that U.S. capital markets function efficiently and effectively because of a strong and balanced enforcement system. We also want you to understand that the current system is no longer functional, promoting inefficient markets, costing jobs, and harming investors.

In Silicon Valley, California, nearly 53% of technology companies have been sued under Section 10(b)(5) of the Securities Act of 1934. Every single one of the top ten Silicon Valley Corporations—world class multinational competitors—have been accused of violating the anti-fraud provisions of the U.S. Securities laws. The current state of affairs was described best by a prominent Silicon Valley CEO who stated: "There are only two kinds of California technology companies—those that have been sued, and those that are about to be sued."

We want to emphasize that the provision most critical for technology companies is a strong, effective safe harbor for forward-looking statements—statements made by companies and others about the future prospects of earnings, products, technologies or the like. But the key to a safe harbor is that it must be safe. Properly constructed, a true safe harbor will promote maximum disclosure by corporate executives and provide investor protection. Under current law, if a company fails to meet management's projections or analysts' expectations it often finds itself faced with a lawsuit. Frequently, these lawsuits are based on changes of fraud, allegedly for false and misleading past statements of future expectations. And because of our inherent stock volatility, rapid product development, and economic and technological uncertainties facing technology companies, high technology firms are easy prey for these merit less lawsuits.

The California Public Employees Retirement System (CalPERS), which provides retirement benefits to nearly 1 million beneficiaries fully understands the ramifications of the current system. CalPERS argues that "the current safe harbor has failed to encourage sufficient disclosure of forward-looking information, principally because the rule is unable to assure issuers that they will not be subject to shareholder suits upon disclosing projections."

Unfortunately, as with many issues in Washington, the safe harbor has been the subject of a smear campaign designed to preserve the status quo for those that are profiting from the current system. Some have characterized the safe harbor as providing issuers with a "license to lie." This is either a misrepresentation or a misunderstanding of the proposals. Providing safe harbor protection—that is, a greater degree of protection than provided for in law—has been the established policy of the Securities and Exchange Commission for 15 years.

Others have suggested that the safe harbor would protect fraudulent wrongdoers. Again, this is simply not correct. Truly fraudulent activity would still be fully actionable by private parties under any safe harbor construction. It is simply not possible to confine fraudulent activity to forward looking statements without also, at some point, mis-stating present fact. Moreover, nothing in any proposal would prevent the Securities and Exchange Commission from bringing an enforcement action against any person on the basis of a forward-looking statement. The safe harbor would only curb abusive lawsuits based on a revisionist view of future events.

Mr. President, by giving companies the comfort they need to talk about plans for the future—without risking a lawsuit when they simply miss the mark—the safe harbor will maximize disclosure of forward-looking information, improve the efficiency of the market, and permit investors to make sound decisions based on maximum information.

Once again, we want to stress the need for litigation reform, including for a strong safe harbor.

Sincerely,

Wind River Systems, Tekelec Corporation, Venture Management Associates, Information Storage Devices, Inc., HiTech Equipment Corporation, Poly-Optical Products, Inc., VALOR Electronics Inc., Fidelity Palewater, Inc., Sage Management Group, Radio Therapeutics Corporation, Elpac Electronics, Inc., Uptime Computer Solutions, Inc., ShareData Inc., TEAL Electronics Corporation, Aurum Software Inc., Magnetic Circuit Elements, Inc., Aurora Electronics, Inc., Weitek Corporation, BEI Electronics, Inc., Shelly Associates, Inc.

Data Instruments, Inc., TAU Corporation, Nextwave Design Automation, ACCEL Technologies, Inc., Emulex Corporation, Optimum Optical Systems, Inc., VertiCom Inc., Comdisco Electronics Group, TeleSensory Corporation, Physical Optics Corporation, Endgate Corporation, Wells Fargo Bank, Catapult Communications Corporation, Orthodyne Electronics, Alzeta Corporation, Printonix, Inc., Leasing Solutions RNC (LSSI), Embedded Performance, Inc., Escalade Corporation, Autek Services Corporation.

Presence Information Design, INTA, TTM Inc., Graham-Patten Systems, Inc., Oxigraf, Frequency Products, Inc., Paragon Environmental Systems, Inc., Radian Technology, Illustra Information Technologies, Dynamic Network Solutions, Inc., Data/Ware Development, Subscriber Computing, Inc., Paragraph International, El Dorado Ventures, Petillon & Hansen, NFT Ventures, Inc., Pioneer Magnetics, Platinum Software, BioMagnetic Technologies, Inc., Lexical Technology.

ACT Networks, Inc., 3D Systems Corporation, WEMS Electronics, The Automatic Answer, Inc., Transport Solutions/RTC, Lumonics Corporation, Silicon Valley Group, Inc., The Cerplex Group Inc., Interlink Electronics, Baan Company, Nanometrics, Viasat, Inc., HSQ Technology, Qlogic Corporation, Silicon Systems, Inc., Giga-Tronics Incorporated, HNC Software Inc., ParcPlace Digitalk, Inc., DCP Technology Inc., Vitesse Semiconductor Corporation.

Canro Scientific Instruments, Router Wave, Xircom, Inc., Level One Communications, Inc., International Lottery & Totalizator, Onstream Networks, Inc., Wiz Technology Inc., Tandem Computers, Inc., ProBusiness, Inc., Innocal, InCirt Technology, Logical Services Incorporated, Com 21, Microsource, Inc., Scientific Technologies, Inc., Pacific Recorders & Engineering, Kofax Image Products, Allied Telesyn International Corp., Molecular Dynamics, Motion Engineering, Inc.

Trillium Consumer Electronics, Inc., ATG Cygnet, Inc., Semiconductor Systems, Inc., Reset Inc., Triconex, StrataCom, Inc., Quantic Industries Inc., Advanced Matrix Technology, Inc., Netsoft, Motion Engineering Inc., Inhale Therapeutic Systems, Continuous Software Corporation, Xilinx, Inc., RJS, Inc., Measurex Corp., Sonatech, Inc., MasPar Computer Corporation, Paracel, Inc., Fisher Research Laboratory, Inc., Network General Corp.

Gamma-Metrics, Expersoft, D.S. Technologies Inc., Liconix, Creative Computer Solutions, Inc., 3Com Corporation, Condor Systems, Inc., Atmel Corp., Proxim, Inc., Network Equipment Technology, Inc., American Telecorp, Inc., InfoSeek, DiviCom Inc., Remedy Corporation, Harmonic Lightwaves, Inc., TopoMetrix Corporation, Dionex Corporation, Orbit Semiconductor, Inc., Opti, Inc., MicroSim Corporation.

Kavlico Corporation, Absolute Time Corporation, DJC Data Technology Corporation, WireLess Data Corporation, California Amplifier, Inc., Dynamic Instruments, Inc., Savi Technology, Inc., Komag Incorporated, Megapower Corporation, Spatializer Avoid Laboratories, Inc., Newpoint Corporation, Redwood MicroSystems, Inc., Harmonic Lightwaves, Inc., Unisen, Inc., California Microwave, Inc., SEEQ Technology, Inc., Quantum Materials, Inc., Sierra Semiconductor Corporation, Alpharel, Inc., Titan Electronics, Uniax Corporation, De La Rue Giori of America, Liikkuva Systems, Brooktree Corporation, GammaLink, Calimetrics, Inc., Tyecin Systems, Inc., AccSys Technology.

SILICON VALLEY, CA,
November 3, 1995.

Hon. WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish to state unequivocally that securities litigation reform legislation is of critical importance and interest to our companies. We understand from numerous sources within the White House that this Administration believes that Silicon Valley companies do not consider securities reform a pivotal issue.

By delivery of this letter to you. Mr. President, we wish to underscore the degree of our intensity in support of meaningful reform.

For almost four years we have devoted substantial energy and efforts toward making common sense changes in the nations securities laws, thereby hoping to end the relentless onslaught of frivolous lawsuits against our companies. As a result of discussions with your staff we have acted in good faith and have moderated our position to meet your concerns.

The high technology companies are united on this issue. The signatories of this letter represent the leading companies of Silicon Valley, and speak with confidence that we reflect the views of thousands of technology companies nationwide.

Mr. President, believe us, this is a definitive issue for our industry.

Sincerely,

National Semiconductor Corporation, Quantum, 3COM, DSV Partners, Institutional Venture Partners, LSI Logic Corporation, Cadence Design Systems, Symantec Corporation, Oracle Corporation, Sybase, Inc., New Enterprise Associates, Silicon Graphics Inc.

Sun Microsystems, Inc., Intel Corporation, Applied Materials, Inc., Varian Associates Inc., Kleiner Perkins Caufield & Byers, Hewlett-Packard Company, Raychem Corporation, Advanced Micro Devices Inc., Adaptec, Inc., Centigram Communications Corporation, Apple Computer, Inc., Tandem Computers, Trimble Navigation Limited, Xilinx, Inc., Adobe Systems Inc.

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, October 13, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge your support for securities litigation reform legislation which we expect to emerge from Conference Committee early this fall.

For nearly four years the U.S. high technology community has been pursuing meaningful reform of the securities litigation system. As a result of these efforts, both the House of Representatives and the Senate overwhelmingly passed securities litigation reform, by votes of 325–99 and 70–29, respectively. We believe these margins clearly demonstrate the consensus for reform. We need your affirmative support to bring this effort to a successful close.

We were pleased to read the report during your recent Silicon Valley visit that you would "gladly sign" legislation to eliminate frivolous lawsuits. At the same time, we gather you do not fully support the legislation passed by the Senate, the legislation most likely to reach your desk.

In Silicon Valley, more than half the technology companies have been sued under Section 10(b)(5) of the Securities Act of 1934. Inherent stock volatility, rapid new product development, and economic and technological uncertainties make high technology firms easy prey for these meritless and costly lawsuits. According to the American Electronics Association (AEA) every one of the top ten Silicon Valley companies—world-class, multinational competitors—has been accused of violating the anti-fraud provisions of the U.S. securities laws.

The provision most critical for technology companies, like ours, is a strong safe harbor for forward-looking statements—projections made about the company's future prospects. Failing to meet the expectations of analysts who follow the technology industry is inevitable. However, it is hardly intentional and it is certainly not fraudulent. Yet plaintiffs' lawyers seize upon the inherent volatility in our industry to create a false picture of "fraud" where none in fact exists.

The proliferation of class action lawsuits has prompted companies to conclude that the legal risks of providing projected earnings, revenue and market information to Wall Street analysts or the investing public are too high. As such, many companies no longer release future oriented information and refuse to comment directly on analysts' projections, resulting in less public information, less efficient markets, fewer jobs, and in the end less informed investors.

Except for those who profit from the current system, there is nearly universal agreement that the current regulatory safe harbor is no longer functional. Nonetheless, the beneficiaries of the status quo have launched an aggressive campaign to kill the safe harbor. They have suggested that the proposed safe harbor would be a "license to lie," or that it would "protect" fraudulent wrongdoers. The fact is that fraudulent activity would continue to be fully actionable by private parties under either bills' safe harbor construction. Moreover, nothing in any proposal would prevent the Securities and Exchange Commission from bringing an enforcement action against any person on the basis of a forward-looking statement. The purpose and goal of the safe harbor is not to provide a "license to lie" but to provide a forum in which companies can safely provide valuable information to the investing public.

Mr. President, it is important for us to have you understand our position. Without strong, clear safe harbor protection—similar to that enacted by either the Senate or the House—reform efforts will be virtually meaningless. We need your active support to ensure that the legislation enables corporate executives to speak candidly about the future and to ensure that investors receive the information they need. In so doing, businesses will win, investors will win, and the marketplace will win.

Sincerely,

Adaptec, Inc., National Semiconductor Corporation, Quantum, 3COM, LS Logic Corporation, Oracle Corporation, Raster Graphics, Silicon Graphics Inc., Sun Microsystems, Inc., Intel Corporation, Applied Materials, Inc., Varian Associates Inc., Hewlett-Packard Company, Cypress Semiconductor, Raychem Corporation, Advanced Micro Devices Inc., Centigram Communications Corporation, Apple Computer, Inc., Tandem Computers, Trimble Navigation Limited, Xilinx, Inc.

AMERICAN BUSINESS CONFERENCE,
Washington, DC, November 1, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Shortly, you are likely to receive from Congress legislation designed to reform our nation's system of securities-related litigation. We are writing to urge you to sign that legislation when it reaches your desk.

As you know, bills designed to curtail speculative securities litigation—so called strike suits—passed the House and Senate by wide, bipartisan margins earlier this year. The House and Senate conferees will be meeting presently and a draft conference report has already been written. That draft report has been warmly endorsed by Senator Dodd, who called it a "balanced, moderate bill that addresses the needs of legitimately defrauded investors, while protecting our nation's businesses from frivolous lawsuits."

We, and the organization we co-chair, the American Business Conference (ABC) agree with Senator Dodd's assessment. For far too long, America's entrepreneurial, growth companies have been harassed by speculative lawsuits brought by a small coterie of lawyers in the name of investors who often are unaware that a suit has been filed. These suits are initiated for the purpose of securing a settlement; they amount to little more than perverse transfer payments from one group of investors to another with a large slice going to the plaintiffs' lawyers.

Those companies that manage to escape being sued suffer as well. They know that the promulgation of so-called forward-looking information is an open invitation to a lawsuit because statements about future prospects are uncertain and therefore vulnerable to legal assault after the fact.

This means less communication of forward-looking information to investors, a less efficient securities market, and, ultimately, a higher cost of capital for entrepreneurial firms unable to explain fully why investors should seek them out. Our economy cannot afford this absurd situation to continue; it is costing jobs, it is hampering new business development, and, ultimately, it is a tax on our future standard of living.

Having spoken at length with our colleagues in ABC and with other business leaders from California to Massachusetts, we can assure you that no business-related issue is being more closely watched by America's entrepreneurs than is the fate of this reform legislation. It deserves your wholehearted support.

Sincerely yours,

GEORGE N. HATSOPOULOS,
Chairman and President, Thermo Electron Corp. Waltham, MA.
Co-Chairman, American Business Conference.

CLARK A. JOHNSON,
Chairman and C.E.O., Pier 1 Imports, Inc., Fort Worth, TX.
Co-Chairman, American Business Conference.

COALITION TO ELIMINATE ABUSIVE SECURITIES SUITS,
Washington, DC, November 1, 1995.

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: Earlier this year, overwhelming majorities in both Houses of Congress (325–99 in the House and 69–30 in the Senate) passed legislation that would reform our nation's securities litigation system. The overwhelming margins of support attained in these votes clearly reflect a bi-partisan consensus that the current securities litigation system needs to be fixed, and fixed quickly.

In short, the status quo is stifling our nation's growth companies while padding the pockets of plaintiffs' attorneys. Over the past four years, a total. of $2.5 billion has been paid in settlements in securities class action cases analyzed by National Economic Research Associates, Inc.—a "disproportionately large number" of which involve suits against high-technology companies—with plaintiffs' attorney fees averaging 32% of the settlement.

As concerned leaders of the American business community, we urge you to capitalize on this display of legislative solidarity and move this important legislation swiftly through conference committee and to President Clinton's desk.

Sincerely,

Abbott Laboratories; Banc One Corp.; American Greetings Corp.; The Carlyle Group; Ceridian Corp.; Chrysler Corp.; Household International, Inc.; Beneficial Corp.; Carolina Power & Light Co.; Chevron Corp.; Eastman Kodak Co.; Nashua Corp.

Gilbert Amelio, National Semiconductor Corp.; James A. Unruh, Unisys Corp.; John East, Actel; Allen Weintraub, The Advest Group, Inc.; Robert N. Pratt, Alta Gold Co.; Eric Benhamou, 3Com Corp.; Edward Abrams, Abrams Industries, Inc.; John G. Adler, ADAPTEC, Inc.; Randall Wagner, Agatheas & Wagner, P.A.; Kurt Wiedenhaupt, American Precision Industries, Inc.; Wayne G. Vosik, American Travellers Corp.; James C. Beardall, Anderson Lumber Co.; Pier C. Borra, Arbor Health Care Co.; Safi Qureshey, AST Research, Inc.; Lawrence Lefkowitz, Ampal-American Israel Corp.; Lawrence J. Young, Angelica Corp.; Frank Christianson, Arctic Circle Restaurants; George F. Pickett, Jr., Atlantic Southeast Airlines, Inc.

David K. Chan, Auravision Corp.; Robert Spies, Berol Corp.; Michael P. Bick, Biopool International; James A. Bixby, Brooktree Corp.; Larry J. Weber, Bauer Built, Inc.; Kenneth A. Olson, Berry Petroleum Co.; William W. Neal, Broadway & Seymour Inc.; Michael B. Crutcher, Brown-Forman Corp.; David H. Gunning, Capitol American Financial Corp.; John E. Jones, CBI Industries Inc.; David Thiels, Century Telephone Enterprises, Inc.; John West, CIMLINC Inc.; Robert Bogin, Capitol Multimedia, Inc.; D. Tad Lowrey, CenFed Bank, A Federal Savings Bank; John Stevens, CIMCO Inc.; Thomas H. Lowder, Colonial Properties Trust.

Van B. Honeycutt, Computer Sciences Corp.; Robert J. Paluek, Convex Computer Corp.; J.J. Finkelstein, Crymedical Sciences, Inc.; J. Bruce Baily, Cyclopss Medical; S. Duane Southerland, Conso Products Co.; Denny Callahan, Crowley's; Roy A. Myers, Curtice Burns Food, Inc.; Gerald D. Rogers, Cyrix Corp.; Michael W. Pope, Dionex Corp.; David H. Wiggs, Jr., El Paso Electric Co.; Michael C. Ruettgers, EMC Corp.; Donald M. Vuchetich, Detroit & Canada Tunnel Corp.; Robert J. Dickson, Dynamet Inc.; Thomas E. Sharon, Electromagnetic Sciences, Inc.; Steve Sarich, Jr., 321 Investment Co. Quentin J. Kennedy, Sr., Federal Paper Board Co., Inc;

Dan Queremoen, Fluoroware, Inc.; Joseph Franklin, Frequency Electronics, Inc.; Mark A. Hofer, Genzyme Corp.; Michael E. McKee, First Federal Savings & Loan Association of Montana; Darrell G. Knudson, Fourth Financial Corp.; James E. Herring, Friona Industries, L.P.; Tony Tako, Gerrad & Co.; John T. Williams, Gray Communications Systems, Inc.; Melvin J. Melle, The Hallwood Group Inc.; Anthony Graffia, Hartford Computer Group. Inc.; Hans Helmerich, Helmerich & Payne Inc.; Umang Gupta, Gupta Corp.; Derek C. Hathaway, Harsco Corp.; Robert J. Purger, Health Care REIT, Inc.; John Herzog, Herzog Surgical Inc.

Tracey T. Powell, Home Access Health Corp., Richard L. Molen, Huffy Corp. David W. Scar, Integrated Circuit Systems, Inc.; Frank Deverse, International Microcircuits; Robert W. Hampton, Hornbeck Offshore Services, Inc.; Gerald S. Casilli, IKOS Systems, Inc.; E. Michael Thobew III, Interlink Electronics; Peter H. Van Oppen, Interpoint Corp.; James H. Morgan, Interstate/Johnson Lane; David L. Angel, ISD; Vince Martin, Jason Inc.; Robert Johnston, Johnston Associates Inc.; W. Richard Ulmer, Invitro International; Ivey Jackson, Jackson Insurance Agency, Inc.; Gerald M. Gifford, John G. Kinnard & Co., Inc.; Lawrence J. Cawley, Kaydon Corp.

Dale Gonzalez, KIT Manufacturing Co.; Michael J. Koss, Koss Corp.; Carl R. Wiley, Lane Plywood, Inc.; Frank H. Menaker, Jr., Lockheed Martin Corp.; Richard M. Ferry, Korn/Ferry International; C. Scott Kulicke, Kulicke and Soffa Industries, Inc.; Ronald B. Cushey, Live Entertainment, Inc.; Thomas E. Sharon, LXE, Inc.; Robert Watson, The Managers Funds L.P.; Michael Ricci, Marco Mfg., Inc.; Debra Coleman, Merix Corp.; Thomas Hiatt, Middlewest Ventures; Diane R. Torney, Marcam Corp.; William N. Alexander, McGladrey & Pullen; Greg C. Zakarian, MicroCarb Inc.; Clair G. Budke, Minnesota Society of CPAs.

Kerry Budry, Qual-Effic Services Inc.; Allen Becker, Reflection Technology, Inc.; Robert L. Montgomery, Reliv International, Inc.; Ronald H. Kullick, Ribi Immuno Chem Research, Inc.; Gary Conradi, Raven Industries; Robert M. Steinberg, Reliance Group Holdings Inc.; Gary L. Crocker, Research Industries; Shan Padda, Sabratek Corp.; Jack Masters, Modagrafics, Inc.; John M. Nash, National Association of Corporate Directors; William F. Coyro, Jr., National TechTeam Inc.; Brian D. McAuley, Nextel Communications, Inc.; S. Jay Stewart, Morton International, Inc.; E. Michael Ingram, National Data Corp.; George A. Needham, Needham & Company, Inc.; J. Clarke Price, Ohio Society of CPAs.

John Schlosser, St. Francis Bank; Robert W. Philip, Schnitzer Steel Industries, Inc.; William G. Malloy, Scientific Games, Inc.; Charles F. Valentine, Security Federal Savings & Loan Assoc.; Peter Nisselson, SBM Industries Inc.; Lyndon A. Keele, Science Dynamics Corp.; Don R. Scifres, SDL, Inc.; Anthony M. Marlon, Sierra Health Services, Inc.; Maxell Fox, Silent Radio Inc.; John J. Gillway, Jr., Sizeler Property Investors, Inc.; James C. Bly, Jr., Source Capital, Ltd.; Paul Richman, Standard Microsystems Corp.; Terry L. Kirch, Resource Information Management Systems, Inc. (RIMS); Grady R. Hazel, Society of Louisiana CPAs; Michael Budagher, Specialty Constructors, Inc.; Douglas R. Starrett, L.S. Starrett Co.; Thomas Goldrick, Jr., State Bank of Long Island; Thomas L. Elliott, The Sunbelt Companies, Inc.; Lawrence J. Fox, Symix Systems, Inc.; David F. Simon, U.S. Healthcare, Inc.; Ryal R. Poppa, Storage Technology Corp.; Patrick L. Swisher, Swicher International, Inc.; M.A. Self, Tioga International, Inc.; Daniel Ogita, Unibright Foods, Inc.; Gene Koonee, United Cities Gas Co.; Thomas P. Stagnaro, Univax Biologics, Inc.; Steven J. Appel, Value Merchants, Inc.; Bruce S. Chelberg, Whitman Corp.; C. Edward Mordy, United Wisconsin Services, Inc.; MacRay A. Curtis, Utah Association of CPAs; Frank Fischer, Ventritex, Inc.; James E. Wilf, Wilf & Henderson, P.C., CPAs.

Edward W. O'Connell, Wiss & Co.; J. Oliver McGonigle, The YES Group Inc.; Addison Piper, Piper Jaffray Companies, Inc.; William A. Valerian, Home Bank, F.S.B.; C. William Thaxton, YES Financial Inc.; Frederick A. Stampone, Pep Boys; DeLight E. Breidegam, Jr, East Penn Manufacturings Co.; Raymond V. Glynn, TELCORP; Jean C. Tempel, TL Ventures; J.W. Bernard, Univar Corp.

The PRESIDING OFFICER. Under the previous order, the Senator from California is now recognized for up to 30 minutes.

Mr. BRYAN. Mr. President, my distinguished colleague needs another minute or two. I thought perhaps, with the acquiescence of the distinguished floor manager, we might get some additional unanimous consent—I know he has several colleagues who asked to speak, or at least I saw his list. I am perfectly agreeable that we might do that now. If he is not prepared to do so, we would——

Mr. BENNETT. I do not wish to interrupt the Senator from California. I do not have the list in front of me, so why does she not go ahead.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I rise to speak against the conference report. This legislation claims to reform private litigation under the Federal securities laws. I believe there is a clear need for reforms in the securities laws. For example, we need to ban the payment of bonuses by a small minority of unscrupulous lawyers to professional plaintiffs. We need to prevent lawyers from dipping into Securities and Exchange Commission disgorgement funds. These are funds created by Government agency litigation, not by the private lawyers' litigation, and private lawyers should not be paid from those funds.

We should also ban the payment of referral fees to stockbrokers who drum up plaintiffs and litigation for plaintiffs' attorneys. Securities lawsuits should redress real wrongs and not promote strike suits to shake down innocent defendants.

This conference report prohibits those three practices I just described. I support those provisions. But the legislation goes much, much further. It uses, in my view, legitimate problems as an excuse to gut securities protections for the average American. I cannot be a party to that. I feel it is very important that this debate be as inclusive as it can be of all aspects of this because I believe someday, as Senator BRYAN has said, this vote is going to come back to haunt people. And I want the RECORD to be clear as to where this Senator from California stood.

The real effect of this legislation, absent those three good parts that deal with frivolous lawsuits, the real effect of this legislation is to unleash con artists and swindlers to prey on the investing public and bilk them out of hundreds of millions, perhaps even billions of dollars. Because of this, I call on my colleagues to vote no. And I call on the President, if this legislation passes, to veto it. If you are fighting for the average American, you have to veto this bill because it is going to hurt the average American.

Mr. President, we are in a time when the middle class, especially the elderly middle class, is being asked by the majority in this Congress to give up, in my opinion, basic old-age protections. This Republican Congress wants to deeply cut Medicare, to give a tax break to the rich, and they even repeal Federal nursing home standards.

So the middle class, the elderly middle class are getting hit. We must remember that securities fraud is aimed at the elderly—there are many studies that show this—aimed at the elderly. So this is a double whammy. In other words, what we are doing here today cannot be divorced from the budget battle we are waging. On the Democratic side of the aisle, we are fighting to protect the middle-class elderly. But we do not control the votes. They are going to get hurt somewhat. Why offer them this double whammy?

I tried to get special safe harbor protections for the elderly in this bill, but I could not. I could not win that fight. So the elderly are at risk here. As a matter of fact, all of us who invest, all of us are at risk here. But who will get hurt the most? Not the wealthiest of the investors, because if you are worth millions and millions of dollars you can take a hit and wind up on your feet. Not the poorest of the poor, because if you are the poorest of the poor, you do not invest. So the wealthiest and the poorest are probably going to be all right.

But it is the middle class that is going to get hit. This bill is antimiddle class and it is antisenior citizen. It would jeopardize the retirement funds and old age security of millions of our citizens, and for that reason, I hope colleagues will vote no.

The conference report is named, or I should say misnamed, "securities reform." But the conference report does not reform the Federal securities laws, nor does it reform litigation under those laws. It does exactly the opposite, in my view. It encourages securities fraud, fraud on the most innocent and vulnerable investors.

I remember being visited by the victims of fraud, the victims of Charles Keating, and they said, "Senator, you have to stand on that floor, and you have to tell your colleagues to prevent that from happening to anybody else." Those victims of Keating were able to recover $200 million plus because of the laws we have in place today. Not after this bill. Not after this bill.

This legislation would even hurt business. Why do I say that? If you make the securities laws less protective of the vast majority of investors, what will happen is people will have doubts about the safety of securities. So they are going to wind up not investing in securities, not lending their money to start up, holding their capital back, maybe just buying Government bonds, a safe investment, and, therefore, these honest companies, because of the fraudulent ones, will have to pay a premium when they sell their securities. It will wind up being kind of like a fraud tax because people will say, "I'm very worried, I'm not going to give you my money. There has just been a scandal." And they say, "OK, we'll pay more interest." So in the end, the honest companies will get hurt.

I am a former stockbroker, and I have had the experience and honor of helping people with their investments. For the most part, they happened to be elderly people who entrusted me at that time many, many years ago. I know how they hung on every price change, because they relied on their dividends and they knew some day if they had a family emergency, they would have to sell those securities. They also relied on the honesty of the companies. If we ever ran into a situation where there was a company that was not being honest when they made projections or they talked about their company, we saw those stock prices go down.

It seems to me we owe it to the investors and to the good companies and to the good stockbrokers to keep a very strong and very powerful securities law, because I really believe after the first scandal—and there will be such a scandal, in my view, if this goes through—people will just be afraid, afraid to invest their money.

Mr. President, this conference report would make losers of millions of people, particularly small investors with IRA's—that is individual retirement accounts—pension plans, mutual funds. It is these average Americans who will be the first victims of the fraud which will be unleashed by this legislation. The legislation effectively repeals much of the Nation's antifraud laws passed in the thirties in response to the rampant fraud that contributed to the stock market collapse of 1929. My goodness, can we not learn from history around this place? Do we have to see it happen again?

This legislation really could be called a roadmap to swindlers and con artists who will use it to defraud the public and undermine the public's faith in the markets. That is why organizations representing millions of average investors oppose the legislation.

Let me name a few. In my own home State of California, the California Congress of Seniors is opposed. "We feel," they say, "this legislation puts all elderly Americans who save their money in jeopardy because it would make it practically impossible to sue a swindler for securities fraud."

State and local governments would lose under the legislation.

The California Association of County Treasurers and Tax Collectors is opposed. This is a conservative group of Americans entrusted with making sure that county funds are invested wisely. What did they say about this?

> We strongly urge you to oppose the Securities Litigation Reform Act. In recent years, local California governments have lost more than $2 billion in the securities markets, partly due to derivative investments. Some of these governments have pending securities fraud cases. Others are still deciding whether to use the courts to pursue the recovery. Now is not the time to weaken defrauded investors' rights.

They say, and this comes from the local people.

I thought this crowd in Congress respects the local people. I thought they respect the people at the county level, the State treasurers, the States attorneys general. I guess they only respect them when they finally agree with them, but if they do not agree with them, they do not respect them.

This is dangerous legislation, and that is what it is called by the California State organization.

As the city and county treasurers and tax collectors point out, State and local governments, as investors of public funds, bring many securities fraud suits. We know about Orange County where they are trying to recover from unscrupulous brokers. The city of San Jose in 1984 nearly went bankrupt because it unknowingly purchased risky securities. Now they were able to sue. Their city attorney who pursued that case came before the Banking Committee on which I serve, and I am proud to serve on it, and she said:

> Don't change the laws. We had a very hard time under current law recovering our money, but we were able to do it. Don't weaken those laws.

That fell on deaf ears.

Government agencies that have been defrauded and forced to use the Federal antifraud laws are not confined to California. There are many examples: Ohio and Florida where local government agencies lost millions through securities frauds.

Taxpayers are the ultimate losers, so not only are you putting individual investors at risk, I say to my colleagues, but you are putting taxpayers at risk who pay local taxes because local governments buy securities, too.

(Mr. SANTORUM assumed the chair.)

Mrs. BOXER. Mr. President, I talked about the fact that one of my major concerns is the impact of this legislation on senior citizens who are the clear targets of fraud. Why is that? They count on their pension plans. They have little ability to replace their lost investments other than to sue for fraud, and they need protections that this bill would take away.

Senior citizens save for a lifetime. They often invest, as I say, a significant part of those savings in securities. Their pension plans are usually full of securities. These invested savings must carry them through old age and retirement, and this bill makes it easier to get away with securities fraud. So it is going to be, among others, senior citizens and their pension plans that will be the major victims.

Many of our seniors are old, they are frail. They cannot return to work like some of us who can come back if somebody perpetrates a fraud on us. We have years ahead that we can work, although I am getting older every day and have fewer years myself.

The fact is, the seniors cannot go back to the workplace, so if they are bilked of their money, they have to take it on the chin, they have to lose their dignity as they go to their children or really live in abject poverty.

That is why the American Association of Retired Persons is against this bill—AARP. They sent a letter to the Banking Committee and said:

> For many older people, the money at stake represents a lifetime of savings, a lump sum pension payout, or proceeds from the sale of a home. Private lawsuits brought by victims of fraud often represent the only legal recourse available to redress the wrongs committed by unscrupulous financial practitioners.

The AARP is not alone. The National Association of Public Employee Retirement Systems is also opposed. If you start listening to the people who oppose this bill, what you will realize is that it is most people. It is the special interests who favor the thing. Those are the people who are being protected. The aiders and abettors of fraud are being protected and the perpetrators of fraud are being protected, but the people who are responsible for protecting other people's money, such as county treasurers and attorneys general of various States, these people—the AARP, who protect seniors—are opposed. The AARP says that the President should veto this bill.

Newspaper editorials. I think it is important to take a look at these newspaper editorials, Mr. President, because they do not have an ax to grind. They are looking at the legislation. As a matter of fact, newspapers are considered, in many cases, to be more conservative than the average person. Let us hear what the Chronicle in the bay area has to say about this. It is called Opening the Door to Fraud. "Securities fraud lawsuits are the primary means for individuals, local governments and other investors to recover losses from investment fraud—whether that fraud is related to money invested in stocks, bonds," et cetera. And they say, under the conference report, investors would be the losers.

Dozens of other newspapers and magazines have editorialized against this legislation, calling for it to be defeated or vetoed.

Let us look at the largest paper in my State, the Los Angeles Times. The Los Angeles Times had this to say about the legislation: "This isn't reform—it's a steamroller."

It is a steamroller. They are very, very critical.

The Oakland Tribune summarized the conference report this way. They say:

> President Clinton should veto the measure because it leaves individual investors and an array of institutional investors like pension funds, municipalities, and other government units without enough protection from manipulators like Charles Keating, Ivan Boesky, and Michael Milken. . . .

Where are the people here in this institution? Do they not remember these names from the 1980's? Do they not remember reading about the Great Depression? Do they not remember the S&L scandal, which was caused by the deregulation that was so wild that there was rampant fraud?

Let me say this. According to the Oakland Tribune:

> If this law had been if in effect when thousands of investors, many of them Californians, had sued Charles Keating over the Lincoln Savings and Loan scandal, the plaintiffs would have recovered only $16 million. Under current securities-fraud laws, they were able to recover $262 million.

I ask, do you think the people who were bilked by Charles Keating had a right to recover their losses? If you say yes—and I would be surprised if you did not—how on Earth can you vote for this bill which would have made it impossible for them to recover any more than $16 million when the losses were in the $200 million range?

The Muskegon, MI, Chronicle had this to say:

> How come GOP's contract allows ripoffs of investors?
>
> . . . Let the bill's backers explain to the rest of us why stock swindlers need to be "protected" from lawsuits.

In the Republican GOP Contract With America, there is a very specific reference to changing the securities laws. As a matter of fact, I had a huge debate with the author of the original bill, who then backed off some of the provisions, like making it retroactive, when he realized it might hurt his own district. But I am glad that the Muskegon Chronicle in Michigan—and I have never been there and I do not know anyone who writes this—caught on. This is directly coming from the Republican contract. "Let the bill's backers explain to the rest of us why stock swindlers need to be 'protected' from lawsuits."

I do not think anybody has answered that. They talk about frivolous lawsuits, but they neglect to talk about these basic problems with the bill, which is that it strips away important protections that investors rely on.

Money magazine has run four editorials calling for the defeat of this legislation. Money magazine. Here it is. Could you ever write a more apt title? It is, "Congress Aims at Lawyers and Ends up Shooting Small Investors in the Back." That is exactly what happened with this bill. A laudable purpose, where you get a 100-to-0 vote on the three provisions that deal with cutting back on frivolous lawsuits. But they use that as an excuse to open up all the securities laws, undo the protections and "end up shooting investors in the back."

They say:

> At a time when massive securities fraud has become one of this country's growth industries, this law would cheat victims out of whatever chance they may have of getting their money back. . . . In the final analysis, this legislation . . . would actually be a grand slam for the sleaziest elements of the financial industry at the expense of ordinary investors.

My colleagues, if you are watching this in the comfort of your offices, if you are not tied up in a meeting or a committee, just look at this. Money magazine. What is their purpose? To help investors. They say, "Congress Aims at Lawyers and Ends up Shooting Small Investors in the Back." The next scandal that we have, you will all be on the floor saying, "My God, I did not think that, and I did not know that, and I did not read the fine print, and so on and so forth." You have a chance today to stick with the Senator from Nevada and stick with the Senator from Maryland and stick with this Senator from California and vote with us against this conference report. It is hurtful to the average investor.

USA Today editorialized:

> The bill's sponsors claim this step is needed to rein in an explosion of frivolous litigation. But the facts don't back them up. . . . These bills are a blatant payoff to the corporations, brokers, accountants, and others who give millions to congressional campaigns.

That is a pretty tough indictment of what they view—USA Today—as special interest legislation.

The Miami Herald goes so far as to call this bill "a license to steal." They say: ". . . Senate bill bars lawsuits against many who bilk investors. How does this help the economy?", the Miami Herald asks. "This is licensed larceny, and it's unconscionable."

Then we have an interesting letter I want to share. The Fraternal Order of Police have written a very good letter to President Clinton. They call on him to veto this bill. They drew an interesting parallel to the war on crime.

They say:

> On behalf of the National Fraternal Order of Police, I urge you to veto the "Securities Litigation Reform Act". . . . The single most significant result of this legislation would be to create a privileged class of criminals. . . . Our 270,000 members stand with you in your commitment to a war on crime. . . . I urge you to reject a bill which would make it less risky for white collar criminals to steal with police pension funds while the police are risking their lives against violent criminals.

There are a lot of different kinds of crime. White collar crime. You look at the guy and he looks terrific, but he is stealing your money because he does not tell you the truth about investment, and this bill would take away your protection. I think it is very interesting that the Fraternal Order of Police felt it important to talk about this kind of crime—white-collar crime.

The National Council of Individual Investors is also opposed. They wrote the President:

> We are writing to express our strong opposition to the recent draft conference report on securities litigation reform. The conference report fails to treat the American investor fairly. For example, as currently drafted, the bill would have cost the victims of the Keating savings and loan fraud over $200 million more than they otherwise lost. In the interests of protecting individual investors from fraud, we strongly urge you to oppose, and if necessary, veto this legislation.

Now, I have to say if BARBARA BOXER stands on the floor of the Senate and gives her views, because I usually line up with consumer groups you might say BARBARA BOXER always lines up with the consumers. But my goodness, you have got every respected investor advocacy organization, senior citizen organization, consumer organization, local elected people, States attorney generals, it goes on and on and on. They are all telling us "Don't fall for this bill."

There is a lot of discussion about a safe harbor. The SEC was right in the middle of developing a new safe harbor provision. But, no, we could not wait. It reminds me of when Congress got in the middle of deregulating the S&L's

and said, "We know better." Look what happened.

We are doing the same thing here. Why not let the professionals deal with this. They say, well, the SEC now likes this safe harbor. I read the letter. I think, frankly, there was a lot of pressure put on people over there. That story will come out another day.

When you read the fine print of this legislation, any swindler can cover himself, make some cautionary statement about a forward-looking prediction, and find cover in this new safe harbor.

Mr. President, the Senate should not be a party to this kind of lawmaking. It should not be a party to this kind of lawmaking.

This bill even says that the lawyer in a securities fraud case has to be picked by the wealthiest investor—the wealthiest.

Now, it is one thing to go after professional plaintiffs, and I am ready to do that any day of the week. Sign me on. It is another thing to say in each and every case the wealthiest investor is the one who will be involved and be responsible, and choose the attorneys and all the rest. Talk about wealth being power—maybe that wealthy individual could care less about the circumstance. And other smaller investors care more because proportionately they are more hurt. The wealthy one gets the opportunity to control the lawsuit.

I ask, what are we doing here? I think this bill is much worse than when it left here. It went to conference and it got much worse. I hope some people who voted for it, sent it off to conference, will reconsider.

This conference report stacks the deck against the investor—anyone and everyone who has respect and objectivity in this Nation has come out against this bill.

Even an excellent amendment by Senator SPECTER was dropped, a very important amendment. It applies to complaints filed at the initiation of a securities lawsuit. It had to do with the burden of proof necessary to file a case dealing with motive and opportunity to defraud. It was dropped in the conference. Close the door, you drop the progressive provision that would have protected investors. That was a very bad change in this bill. This bill is worse, much worse now, than when it left here.

Mr. President, in conclusion, this legislation will hurt the public. Everyone says in America that we have the safest securities markets in the world. Everyone is so proud, so proud. Yet they are cutting the heart out of these protections.

It will do the public great harm. It is not reform. It is repeal. It is repeal—repeal of protections that have made our securities markets the safest in the world. This bill will hurt investors and ultimately honest companies that sell securities.

The only winners, in my view, will be those crooks who get away with it. Before we come back here and say, "My God, what have we wrought," we should go back. In the end, this legislation will erode the confidence and efficiency of the Nation's securities markets. Our Nation will be the loser.

What the conference committee did is they took legitimate problems and they used them as an excuse to destroy the very protections that small investors need.

I hope that people will vote "no" on this. Barring that, I hope that the President will veto it. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized for 15 minutes.

Mr. REID. Mr. President, I received a call from a reporter from Nevada, and the big news in Nevada is the two Senators in Nevada disagree on something. We normally agree on almost everything. This is one of the rare issues where the two Senators from Nevada disagree.

Mr. President, I was 1 of the 69 Senators that voted for this bill when it came the first time. I am going to be one of those Senators that will vote to confirm the conference report that we just received. I think this is an important piece of legislation.

Mr. President, in my legal career, I have had about 100 jury trials. I understand the trial practice. I think this is an area of the law that has been abused by trial lawyers. I think the small group of lawyers has abused the license they received to protect the consumers of this country. They have become more concerned about protecting themselves and not the consumers to which they allege they protect.

This legislation, Mr. President, should pass. It is important, I believe, to the integrity of this aspect of the law.

It is often said that the truth is the first casualty in a war. I believe this adage to be particularly appropriate to the debate over the bill now before this body. I realize that there is a great deal of money at stake with this legislation. I am aware that a small but shrewd group of plaintiffs' lawyers stands to lose a lot of money because of the reforms brought through this legislation.

That does not, however, excuse the frightening fictions that I believe are being paraded in some aspects by this bill—by the people trying to kill this conference report.

I first became suspicious about the opposition to this legislation when I met with a group of people who were attempting to defeat it. In my conference room, in my office here in Washington, I met with a group of people, most of whom were from Nevada but some from other parts of the country, and they were in here to tell me how bad this legislation was. I proceeded to listen to them. Everything they talked about was not in the Senate bill but was in the House bill.

I listened to them and, trying to shake the fact that sometimes I like to cross-examine people that come to visit me, I could not overcome the temptation on this occasion. I said to the group, "Who paid your way here?"

A number of faces turned very red and they said the name of one of the lawyers, plaintiffs' lawyer, who has made a fortune in this litigation.

I asked the next question, "Where are you staying?"

And they said, "The Willard Hotel."

And I said, "Who pays for that?"

The same red faces, the same affirmative answer, "The plaintiffs' lawyers were paying for this."

They have every right, but I think the record should be very clear. There is a small group of plaintiffs' lawyers attempting to maintain a lock they have on part of the litigation world that I think has gone too far.

Mr. President, I am sorry my friend from California has left the floor, but the same is true about the Money magazine that was referred to. Money magazine has previously editorialized on the bill without considering the legislation as a whole. Indeed, there seemed to be an almost exclusive focus on the House bill. They were writing about something that was fictionalized as being here.

It is the House bill that was part of the Contract With America. Today, we have a bill almost identical to that which this body passed earlier this year.

Some of their editorials claimed that the legislation would potentially force investors and the lawyers who lose a case to pay the winner's entire legal fees. Of course, the facts are totally different from that. The compromise agreement drops the fee-shifting agreement of the bill.

Money magazine's claim is that the legislation would "allow executives to deliberately lie about their firm's prospects." Facts: Executives who deliberately lie about their company's prospects would be liable under the compromise.

Another claim they made is that the legislation will "prohibit the investors from suing the hired guns who assist a fraudulent company, the so-called aiders and abettors, including accountants, brokers, lawyers and bankers." That is not true.

They go on to say the legislation "would ratify a court ruling that throws out any suit that isn't filed within 3 years after the fraud took place, even if no one discovers the crime until after the deadline." The compromise, as I understand it, does not address the statute of limitations. It merely leaves current law generally as it now is.

Money magazine's claim is that in order to bring a lawsuit, plaintiffs may be "forced to post a prohibitive, multimillion-dollar bond to cover the defendant's legal fees just in case the suit is later thrown out of court." The provision in the House bill requiring the posting of a security bond prior to bringing the suit has been dropped.

Mr. President, I ask unanimous consent that the entire text of the refutation of one of Money magazine's editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSE TO MONEY MAGAZINE EDITORIALS

Recent Money magazine editorials object to securities litigation reform legislation on the bases of provisions that have been amended in the compromise agreement, or because of grossly distorted characterizations of the effect of the provisions. Stripped of their rhetorical excesses, the complaints in the editorials have little substance and even less relevance to the current compromise agreement. In fact, the compromise is good for America's investors—which is why both individual investors and institutional investor organizations are strongly backing the bill. Below are responses to every one of Money's claims in both the September and November editorials.

Money's claim: The legislation would "potentially force investors and their lawyers who lose a case to pay the winner's entire legal fees, if the judge later rules the suit was not justified."

The facts: The compromise agreement drops the fee-shifting provision of the House bill. The compromise makes evenhanded procedural revisions to the Federal Rule of Civil Procedure 11. Rule 11 requires that attorneys and unrepresented parties have some factual and legal basis for filing any claim or defense. It already authorizes (but does not require) sanctions against those who violate its mandates. The compromise requires courts to make a finding after a case is adjudicated as to whether either side—either the plaintiff or defendant—violated the Rule. The same substantive rule applies to every other action brought in federal court. If the court finds a violation, and it is not de minimis, then the court must impose sanctions. The court has the discretion not to award attorneys fees and costs if it determines that such a sanction would impose an undue burden on the party that violated Rule 11. The compromise does not sanction a party merely because they lost their case. Every case that is not settled has a loser, but courts rarely find Rule 11 violations. Opponents of this provision apparently do not support Rule 11 or do not trust federal judges to appropriately exercise discretion in awarding sanctions.

Money's claim: The legislation would "allow executives to deliberately lie about their firm's prospects."

The facts: Executives who deliberately lie about their company's prospects would be liable under the compromise. The new safe harbor in the compromise has been carefully drafted to ensure that there is no "license to lie." Thus, projections made without adequate risk disclosure are not protected by the safe harbor if they are made with "actual knowledge" that the statements are false or misleading—a standard proposed by Senator Sarbanes during floor debate over the Senate bill to ensure that corporate executives who lie to investors would be covered by the safe harbor. Forward-looking statements made with sufficient, specific non-boilerplate risk disclosure are protected by the safe harbor. This is a codification of the "bespeaks caution" doctrine already being applied by the courts. In addition, the compromise retains the limitations on the scope of the safe harbor contained in the Senate bill, such as the exclusion of any issuer who has been convicted of a securities law violation in the past three years. In addition, there is no safe harbor protection for projections made in connection with blank check companies, penny stock offerings, initial public offerings, partnership offerings, roll-ups, tender offers, and going private transactions.

This compromise safe harbor language balances two important public policy objectives: encouraging increased voluntary corporate disclosure to investors, and ensuring the liars are not protected. Money magazine and others that take an extreme position simply ignore half of the objectives of the safe harbor.

Money's claim: The legislation would "prohibit investors from suing the fired guns who assist a fraudulent company, the so-called aiders and abettors, including the accountants, brokers, lawyers and bankers."

The facts: Aiders and abettors are not immune from liability. The compromise agreement authorizes the SEC to bring enforcement actions against those who aid and abet a securities fraud, thus reversing the Supreme Court's Central Bank decision as it applies to the SEC. For private actions, where there has been significant abuse of aiding and abetting liability by "strike suit" lawyers seeking to increase the settlement value of a case, the bill leaves current law as it is. However, nothing prohibits investors from suing so-called "aiders and abettors" as primary violators, and in fact, many cases were simply refiled after Central Bank alleging a primary violation of the securities laws. This balanced provision ensures that no wrongdoer will escape liability, but prevents aiding and abetting liability to be used as a dragnet to sweep in "deep pocket" defendants to 10b–5 claims, regardless of their culpability, merely to coerce settlements.

Money's claim: The legislation "would ratify a court ruling that throws out any suit that isn't filed within three years after the fraud took place, even if no one discovers the crime until after that deadline."

The facts: The compromise agreement does not address the statute of limitations in current law. It merely leaves current law as it is. Despite dire predictions that the Supreme Court's one and three year statute of limitations would end all private 10b–5 actions, these actions have flourished since the 1991 decision.

The current statute of limitations has governed express causes of action under the securities laws for more than 60 years, and 10b–5 actions for more than four years. There is absolutely no evidence that legitimate 10b–5 cases have been frustrated.

As one court has observed, "[p]rudent investors almost always can smoke out fraud (or enough smoke to justify litigation) within three years. [The three-year statute of repose] cuts off only the claims of the most trusting or somnolent—or the most wily, those who wanted to wait as long as possible." *Short* v. *Belleville Shoe Mfg.*, 908 F.2d 1385, 1392 (7th Cir. 1990). A longer period would allow speculators too much time to wait and see how their decisions to buy or sell securities turned out, permitting them to use lawsuits to cover their losses in the market. The current law curtails their ability to institute fraud claims "based on wisdom granted by hindsight." *Short*, 908 F.2d at 1392.

Money's claim: In order to bring a lawsuit, plaintiffs may be "forced to post a prohibitive multimillion dollar bond to cover the defendants' legal fees just in case the suit is later thrown out of court."

The facts: The provision in the House bill requiring the posting of a security bond prior to bringing suit has been dropped. The new provision gives the court *discretion* to require an undertaking from the plaintiffs *or* defendants in a class action, and/or their attorneys. The court may decide that no undertaking is warranted. This is not a novel or unprecedented provision. Other sections of the securities laws already have similar undertaking provisions. Plaintiffs have not been deterred from bringing lawsuits under those sections.

Mr. REID. Mr. President, we are here today considering the compromise legislation agreed to by the conferees yet the bill's opponents are still running ads in opposition to the House bill. The House bill is gone, history. We have never given it any credence here. But they are doing this in an effort to slant and improperly cite what this bill really stands for. These ads are replete with half truths, hyperbole, and outright distortions. Indeed, it is as if the opponents have failed to read the compromise agreement and have chosen instead to repeat the earlier criticisms of a different bill, the House bill.

Interestingly, this is not unlike their actions in the class action suits they file alleging meritless claims. I believe the status quo makes a mockery of the judicial system.

The much-debated safe harbor provision of the conference report provides investors with protection. It increases corporate disclosure on forward-looking information and ensures that investors are protected against fraud.

I ask the bill's opponents how the compromise can be so pernicious if it received support from Arthur Levitt, Chairman of the Securities and Exchange Commission. In a recent letter, Mr. Levitt said, "The current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse."

It seems pretty clear. These words are from a man charged with protecting the rights of all investors—big investors, small investors, medium-size investors.

Another red herring commonly referred to and flouted by some opponents of this legislation is it will allow for another Charles Keating. They add this to their Parade of Horribles, but it is without foundation. Most of the losses from the Keating case did not involve securities fraud and would not be affected by this legislation. But even for those losses caused by securities fraud, a number of the fully solvent defendants would be jointly and severally liable under the compromise because they committed a knowing fraud.

There are also provisions that everyone on this floor understands that protect small investors. If you have $200,000 or less, you lose 10 percent of it. The same rules apply. Small investors are protected in the legislation in this compromise, in this conference report.

So the Charles Keating talk that we hear so much about is a red herring.

Importantly, this bill includes a provision that requires auditors to take additional steps to detect fraud and report illegal acts directly to the Securities and Exchange Commission.

Mr. SPECTER. Will the distinguished Senator yield for a moment for a unanimous-consent request?

Mr. REID. I am happy to.

UNANIMOUS-CONSENT AGREEMENT

Mr. SPECTER. Mr. President, I make this request on behalf of Senator DOLE, so all Senators may be advised as to what the schedule will be.

I ask unanimous consent that the vote on the conference report occur at 4:45 p.m., with the time between now and then divided as follows: Senator HEFLIN, 7 minutes; Senator GRAHAM, 7 minutes, Senator GRAHAM of Florida; Senator SHELBY, 7 minutes; Senator BIDEN, 7 minutes; Senator WELLSTONE, 7 minutes; Senator COHEN, 5 minutes; Senator SARBANES, 5 minutes; Senator BRYAN, 10 minutes; Senator DODD or his designee, the remainder of the time which, who knows, may be zero, like this morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, this provision will help prevent fraud before investors' assets are lost, thereby eliminating the need for litigation.

Another myth commonly put forth by the opponents is that it includes a loser-pays provision. We have talked about that before regarding the Money magazine assertion. That was simply without foundation. The truth is that no one will be required to pay the other side's fees because they simply lose a case. What it does, is tighten rule 11 sanctions against attorneys who file frivolous lawsuits. Rule 11 merely requires that attorneys have some factual and legal basis for filing any claim. This does not seem unreasonable. It already authorizes rule 11 sanctions against those who violate its mandates.

This conference report is a balanced and a fair representation of what this Senate said that it wanted. I, like my friend from Connecticut and others, said we are not going to support legislation that is more in keeping with the House than the Senate. We will vote against it. But I think the 69 Members of the Senate who voted for this legislation the first go-around should vote for it again.

This is good legislation. It is fair. It is balanced. It may hurt the small minority of attorneys reaping a windfall—and that is an understatement, under the current laws—but it provides much-needed protection to investors and restores some sanity to our already overburdened courts.

Mr. President, I ask unanimous consent any time I have remaining be delegated to the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. BENNETT. Mr. President, I yield the Senator from North Carolina 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 1 minute.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the conference report on H.R. 1058. I was pleased to be an original cosponsor of this bill in the Senate.

Mr. President, securities litigation reform is a rather ominous title for a bill. It certainly is not an issue well known to many Americans. But the fact is, this legislation is very important for our economy, and very important for job creation in our country.

This legislation is really part of a larger issue—legal reform. Too many lawsuits are crowding our court system and they are sapping the productivity of many companies. Last year, over 220,000 civil lawsuits were filed in Federal court.

Since 1980, there has been a 73-percent increase in the number of civil suits filed in Federal court.

It is estimated that securities class action suits have increased threefold in just the last 5 years. Yet, a small number of lawyers are pushing these suits. In fact, every 4 working days, one particular law firm files a securities class action lawsuit.

The cost of these suits is no small matter. At the end of 1993, over 700 class action suits were seeking $28 billion in damages.

Very simply, this bill will attempt to put an end to frivolous class action lawsuits that are filed against America's publicly traded companies.

These strike suits often have little merit, but they are filed for the sole purpose of blackmailing companies into settling rather than going to court.

Everyone of us knows that it is less expensive to settle a lawsuit up front than it is to go all the way to trial. Of course, once the suits are settled, the attorneys that brought them, keep most of the money.

The impact of these suits is having a detrimental effect on our economy. Many companies are afraid to go public and sell stock.

By remaining private, they can avoid these kinds of suits, but they also sacrifice an increase in growth and jobs that can come from going public. This is costing America jobs.

Some have even suggested that companies from overseas are afraid to establish businesses in America out of fear that they too will fall victim to these suits.

Money that would otherwise be spent on new job growth, or on research and development is being paid to lawyers to settle these suits or—worse yet, money is wasted fighting them.

The cost to U.S. companies is not caught in a vacuum. As is always the case, excessive litigation costs are passed along to consumers in the form of higher prices. All of this has a ripple affect on our economy. Mr. President, it is making America less competitive.

In my home State of North Carolina—116 companies have contacted me and asked for my help in passing this bill. They are united in their effort to end these abusive lawsuits.

Together these companies employ 118,000 in North Carolina. This is why this bill is so important for jobs in my State and in this country.

These suits are often targeted at emerging high-technology companies. This is a particularly disturbing development.

America is the undisputed world leader in technology. Germany, Japan, France, England, none of these countries or other countries even comes close to what this country is doing in terms of technology and innovation. Eighteen of the thirty largest high-technology firms in Silicon Valley have been sued since 1988. It has cost them $500 million to settle these suits.

Yet, this small pool of lawyers, like sharks in the ocean are just circling—waiting for the stock prices to fall—then they move in with the strike suit. They are waiting to attack these companies and transfer the wealth to themselves.

We cannot let this happen. America's leadership role in technology is too important to have it fall prey to disreputable attorneys.

Mr. President, let me give a few examples of just how bad the situation has gotten with these suits.

One individual has filed lawsuits against 80 companies in which he held stock. One Federal judge suggested that maybe his investment results were a matter of design to pursue a lawsuit. The investor wanted us to believe that he was just the world's most unlucky investor. I have my doubts.

Another individual has filed 38 lawsuits, 14 of them with the same law firm.

Another man—a retiree—since 1990 has filed 92 lawsuits—one for every one of his 92 years of age.

Further, these lawsuits have so little merit, they are often filed within hours after a stock price drops. Many times the drop is due to simple movement in the markets, yet, the lawyers only have to file a preprinted complaint alleging fraud and race to the courthouse.

The trick is that this allows them to become the lead attorney on the class action case. And by this—they make the most money.

The National Law Journal reported that of 46 cases studied, 12 were filed within 1 day, and another 30 within a week of publication of unfavorable news about a company.

A good example is the Philip Morris case. This case has been discussed often, but it bears repeating.

After Philip Morris announced that it would reduce the price of its Marlboro cigarette by 40 cents a pack—a lawsuit was filed within 5 hours—by a plaintiff who held just 60 shares.

Four more suits were filed the same day, and five the next day. Two of the lawsuits contained identical complaints.

In fact, one suit came so fast from a computer generated legal form—that the attorney forgot to change the form in parts—so he misidentified Philip Morris as a toy company.

This is kind of frivolity that America's companies are fighting—and, regrettably, having to pay for.

Mr. President, the conference report is an attempt to put an end to these outrageous legal practices.

Mr. President, let me assure you that nothing in this bill will prevent anyone from filing a legitimate fraud case against any company.

If it did, I do not think 50 Members of the Senate would have cosponsored the bill. I don't think 69 Senators would have voted for it when it passed the Senate.

For those that oppose this bill in the name of the consumer, I think are not fairly representing the consumers of this country.

Mr. President, a point that is not often made is that consumers, and the plaintiffs in the class action suits rarely benefit from these lawsuits. Study after study shows that lawyers get the lions share of the settlements.

We had testimony that the average investor receives 6 or 7 cents for every dollar lost in the market because of these suits—and this is before the lawyers are paid.

Mr. President, in my opinion, consumers and investors will be helped by this bill. Any consumer that has a job—or wants a job—or wants to keep a job will be helped by this bill.

With this conference report, more of America's capital will be put to job creation and not wasted on one sector of the legal profession. That is really the principle issue here.

Mr. President, the conference report will do a number of things to curtail the abuses in our legal system.

First, the bill allows the courts to determine who the lead plaintiff will be. The conference report will also put some teeth behind the rule that attorneys cannot file frivolous lawsuits.

Mr. President, the conference report will also help investors by allowing companies to dispense more information to the public without the fear of being sued. This is the "safe harbor" provision.

This is critically important to the flow of information for investors.

It is a shame that due to the actions of a small cadre of lawyers—that the free flow of information has been cut off. Now investors can only get carefully written legal gibberish that is meaningless. This is wrong, and this bill changes that.

Mr. President, let me conclude by saying that I would strongly urge my colleagues to support the conference report. This is the beginning of meaningful legal reform. I think this bill is a good, fair, and balanced bill, protecting the rights of investors as well as companies.

Mr. HEFLIN. Mr. President, I rise today to discuss the conference report on H.R. 1058, the Securities Litigation Reform Act. After months of secret negotiations from which supporters of small investors, consumers, senior citizens, and public officials who invest taxpayer money were excluded, the proponents of the bill have agreed upon the conference report.

Now that the light of day has been shed on the results of the negotiations it is clear that the conference report is far more devastating for investors than the bill which the Senate passed earlier this year. The conference report fails to fix the glaring inequities between investors and unscrupulous corporate insiders. It has taken some of the worst provisions from both the House and the Senate bill and combined them to form this unacceptable report.

Unlike the Senate bill, the conference report now broadly immunizes oral or written forward-looking statements by corporate insiders with only a requirement that there be "cautionary" language to accompany the statement. The determination of what is "cautionary" invites litigation, but for those who have already lost their life savings based on this safe harbor this litigation is too late.

Pursuant to the conference report the individual investors who have been victimized by an unscrupulous broker, or fraudulent statement will probably never have their day in court. This is due to the inclusion of a House provision which allows the court to impose a bond requirement to cover the payment of fees and expenses, with no limitation on the amount of the bond. If an individual investor attempts to seek justice from a large corporate defendant, such a bond would probably be unattainable.

Another change from the bill passed by the Senate is the financial risk imposed on investors of having to pay the full legal fees of big corporate defendants if they lose. The new penalty for a plaintiff for a violation of the Federal rules requires that he or she pay all of the corporate defendant's legal fees and expenses for the entire case. This full fee-shifting sanction would be calculated after the case has been completed, when the court must make findings. By the way, if the defendant is found at fault, he is fined only the fees and expenses that are a direct result of a frivolous filing. This English rule, fee shifting, could virtually eliminate all securities claims, the meritless along with the meritorious.

In another move away from the Senate bill the conferees dropped proinvestor language which clarified the burdensome pleading requirements of the bill. In a blow to investors, the proponents have retained an extremely difficult pleading requirement. The report will require plaintiffs to allege facts giving rise to a strong inference that the defendant acted with the required state of mind. This state of mind or intent requirement must be obtained before any discovery or testimony has even taken place. Most courts have rejected this high standard as being in conflict with the purposes and express language of the Federal rules. The report not only adopts this language but raises the requirement even more.

Furthermore, the conference report fails to correct some of the major problems in the Senate bill. These problems include the extremely short statute of limitations and the abrogation of joint and several liability in all but a very limited number of circumstances. The report retains the immunity for aiders and abettors which would have been a boon to the defendants in the Lincoln Savings failure case. The report also retains the requirement that the court appoint a most adequate plaintiff, thus eliminating the issues of concern to smaller investors and inserting the concerns of the wealthiest investor.

I have recently received letters from organizations expressing their concern with this report and legislation. The Fraternal Order of Police state that this legislation would create a privileged class of criminals, by immunizing many of those involved with the markets from civil liability in cases of securities fraud. The UAW describes the legislation as one-sided and contends that it will allow for limited remedies to be available for the investor and pension funds which lose money due to fraudulent investment schemes. I believe that if a more balanced approach to securities law reform could be reached, the proponents could gain the support of these groups and hundreds of others.

The stock market recently broke 5000 and is as robust and active as at any time in our Nation's history. Small investors driven away from the markets due to the crash in the early eighties are starting to return to the markets. This is not the time to pass legislation which will erode public confidence in the integrity of the markets. I strongly urge my colleagues to vote against this report and send it back to the conferees, demanding a more balanced approach to securities law reform.

Mrs. MURRAY. Madam President, I am pleased to come to the Senate floor today to express my support for a bill I cosponsored, the Private Securities Litigation Reform Act of 1995. I commend Chairman D'AMATO and Senators DODD and DOMENICI for their work on this bill. They have done a fine job of crafting a strong bipartisan measure and then guiding it successfully through conference—and I have been pleased to work with them on this issue over the past 3 years.

Madam President, this is an important day for many of the small investors in Washington State and throughout the country. This bill takes the power out of the hands of a few lawyers and puts the power back in the hands of the investors. We all know that in many of these class action lawsuits, the investor often recovers as little as 10 percent of the damages caused by fraudulent activity while their lawyer takes millions.

Madam President, I recently heard from a constituent who received a settlement in a suit against a high technology firm in Washington State. This particular investor received a prorata share of the damages amounting to 3 cents per share, or just $30, while the lawyer in that suit walked away with the rest. The individual in this suit told me, "my investment was hurt much more by my lawyer's actions, and his extortion of $1 million from the firm, than by any alleged actions on the part of the company's management."

Madam President, this is neither what our investors want nor expect. It is outrageous and needs to be corrected.

The legislation before us will reform our securities law so that investors will have more of a say in the outcome of their suit. It will restore the plaintiff's role and enable them to exercise traditional plaintiff functions—including the selection of lead counsel, negotiating fees, and determining the distribution of settlements. Quite simply, it puts some common sense back into our legal system.

Madam President, I've seen the ads denouncing this legislation, and I've heard the arguments opposing this legislation. This bill has inspired some very intense, focused, and well funded opposition.

The bill's opponents claim this legislation will harm small and elderly investors. Well, I believe that assertion is completely false. In no way does this bill take away one's ability to file suit. Nor does it undermine the Securities and Exchange Commission's ability to sue for damages in securities fraud. In fact, the legislation enhances the SEC's ability to do so.

Madam President, Americans have a right to know their investments are secure—that our money has been invested in good faith. Today, investors are denied valuable information because companies are reluctant to disclose forecasts in fear of litigation. This serves nobody well; and it especially hurts investors that are trying to make sound, well educated investments.

I am pleased to note that the SEC has endorsed the safe harbor provision in this bill. SEC Chairman Arthur Levitt has written, "the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse." I agree with Chairman Levitt and I value his opinion. This safe harbor provision will be good for both investors and corporations.

Ultimately, if an investor has been the victim of fraud—no matter how big or how little—they have a right to equal treatment under the law. This legislation ensures that will happen, better than under today's laws.

And, Madam President, Congress has a unique role in promoting investor confidence. We must encourage investments; investments that are needed for capital formation, economic growth, and job creation.

This is especially true in Washington State—which is home to many high technology and biotech companies. And investors in Washington State like to invest in these companies.

Unfortunately, Washington State's investors are well aware of the damage that is caused by unwarranted court cases. They know these cases inhibit job creation and slow economic growth.

They know how companies are forced to waste resources and settle suits with capital that could have been used for the research and development of a new product.

I have heard from many of these companies in my home State. Companies such as these—new, growing, forward-looking—are a point of pride in the Pacific Northwest. They reflect the high technology, high wage economy of the future.

Nobody likes to see these companies attacked by a few overzealous lawyers. These companies lose millions of dollars each year fighting the allegations of fraud—while the actual investor receives just pennies on the dollar when a settlement is finally reached.

Madam President, this system needs reform, and Congress is obligated to correct the situation. And, I want to make it very clear—this bill retains an investor's right to bring suit if they are victims of securities fraud.

At the same time, it will clamp down on the abusive suits they prey on investors and small business owners. It is honest effort to reduce the excessive costs that burden our investors and our economy.

Madam President, let me conclude by recalling the first Senate vote on this bill. When I voted for this bill in June, I said I would not support a conference report if it contained some of the more onerous provisions in the House bill. Well, not only is this conference report almost identical to the Senate bill, it is even stronger in some respects. It is a good compromise and it restores some common sense to our legal system. I urge my colleagues to support this legislation.

SAFE HARBOR

Mr. FRIST. Mr. President, I would like to briefly discuss with Senator DOMENICI one important issue concerning the section 102 "Safe harbor for forward-looking statements." It is the clear intention of the conference committee that reckless conduct cannot constitute actual knowledge for purposes of the safe harbor, isn't it?

Mr. DOMENICI. Yes. It is the clear intention of the conference committee that reckless conduct will not constitute either actual knowledge or be construed to constitute a knowing commission of a violation of the securities laws for purposes of section 102 safe harbor provisions of the Private Securities Litigation Reform Act of 1995.

Mr. KYL. Mr. President, I rise to support the Securities Litigation Reform Act of 1995. I thank Senators DOMENICI, DODD, and D'AMATO for their sponsorship of this bill, and their leadership in reforming securities class actions. I am pleased to support this bill, which will reform the legal process by which injured parties can recover damages for securities fraud and negligence. It reduces abusive litigation that clogs our judicial system and results in reduced recoveries to the plaintiffs. Too often the attorneys, not the investors, are the primary beneficiaries of these securities suits.

The Senate Banking Committee passed a version of H.R. 1058 by a vote of 11 to 4 this spring. The full Senate passed this version on June 28 by a vote of 70 to 29. Clearly there is a bipartisan consensus for change. I supported this bill because I believe it modernizes our securities class action litigation system by reducing the potential for frivolous securities lawsuits, while assuring that defrauded securities investors receive a greater share of the settlements or awards in their cases.

H.R. 1058 contains several important reform provisions. It eliminates referral fees currently paid by some attorneys to plaintiffs who successfully recommend them to represent all the plaintiffs in a class action. It requires the courts to appoint, as lead plaintiff, the party willing to serve who has the greatest financial interest, thus doing away with the so-called professional plaintiff who shops for cases to file—frequently as the agent for a lawyer—with little financially at stake. The bill would allow the small investor to recover completely through joint and several liability. And it imposes an affirmative duty on auditors to disclose financial fraud to the Securities and Exchange Commission [SEC], unless the fraud is properly addressed by management.

In many cases it is the attorneys, not the investors, who are the primary beneficiaries of these securities suits. For example, National Economic Research Associates, Inc. reported that, in a 12-month period ending July 1993, the average settlement in securities class actions amounted to $7.36 million. Attorneys earned an average of $2.12 million per settlement, roughly 30 percent of the total. Investors recovered only about 7 cents on the dollar when compared with the amount of losses alleged.

Some argue that the small investor will not be able to find relief under this legislation; that, for example, the victims of the Lincoln Savings & Loan bond fraud would not have recovered their losses. This is incorrect. First, the final bill includes a provision that requires the SEC to determine whether investors who are senior citizens, or those groups with qualified retirement plans, require greater protection against securities fraud. If so, the SEC must submit a report to Congress containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

Second, H.R. 1058 retains joint and several liability recovery for small investors with securities claims. Even if the Lincoln S&L investors had sued only for those claims covered under H.R. 1058, many of them would have been fully compensated. H.R. 1058 specifically provides that, if one defendant is insolvent, the remaining codefendants will remain both jointly and severally liable to investors whose net worth is under $200,000, and who lost more than 10 percent of their net worth. All of the Lincoln investors who met this standard would have been fully protected had H.R. 1058 been law. In fact, those investors may have been able to recover more under H.R. 1058. This bill imposes statutory restrictions on the size of lawyers' fees in securities actions. Perhaps, had the plaintiffs' lawyers been prevented from taking more than the $65 million in fees off the top of the settlement fund, the Lincoln S&L investors would have received full compensation for their losses.

H.R. 1058 provides investors who have been injured as a result of the negligence of another the opportunity to file suit. At the same time, it reduces abusive litigation, which clogs our judicial system and hurts those plaintiffs with meritorious claims. It is important that recoveries go to the plaintiffs and not to cover court costs, attorneys' fees, and other transaction expenses.

Mr. President, the Securities Litigation Reform Act will eliminate frivolous securities class actions. I urge my colleagues to support this bill.

Mr. FRIST. Mr. President, I speak today in support of the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995. The conference report is a moderate and carefully balanced compromise bill that permits investors in securities to continue to file and win legitimate lawsuits. However, the bill does something that is much needed at this time: It gives issuers of securities the ability to quickly dismiss meritless and abusive lawsuits.

The current system of securities litigation is clearly broken. Why? Because it makes millionaires out of attorneys who repeatedly file frivolous lawsuits. As a matter of fact, securities litigation costs American industry $2.4 billion a year, with one-third of this amount being paid to plaintiffs' attorneys. This results in companies being forced to lay off workers and consumers paying higher prices for goods and services.

The bottom line is that the current system of securities litigation does not benefit investors or consumers: it benefits a handful of attorneys.

Here is how the perverse system of securities litigation currently works: There are a handful of plaintiffs law firms in this country that specialize in filing securities class action lawsuits. This is shown by the fact that seven plaintiff law firms in this country receive 63 percent of the legal fees generated by securities class action cases. These law firms monitor the stock prices of businesses with computers. When a corporation's stock price suffers a major drop, the plaintiff's law firm immediately files a lawsuit. Some 20 percent of securities lawsuits are filed within 48 hours of a major drop in the stock price.

The reason that these law firms are able to file their lawsuits so quickly is that they are suing on behalf of professional plaintiffs, who receive a fee for permitting themselves to be named in the lawsuits. The Securities Subcommittee of the Senate Banking Committee found that there were plaintiffs who had as much as 14 securities action lawsuits filed on their behalf.

These law firms justify the filing of these lawsuits by generally alleging that the drop in the stock price was caused by the corporation or its management acting fraudulently or recklessly. The lawsuits seek for the corporation to pay to its shareholders damages in the amount of the difference between the stock price before and after the stock's drop in value.

Even if the lawsuit is meritless, the corporation is forced to settle. Why? First, litigating a lawsuit is costly, even if your only goal is to get the lawsuit dismissed for failing to state a cause of action. This is because it is very difficult to dismiss such lawsuits, and defense expenses for complex securities class action lawsuits can total between $20,000 and $100,000 a month. Second, the depositions and extensive document review associated with these lawsuits are so time consuming that they disrupt the management of the business. On average, companies that are sued devote 1,000 management and employee hours per case.

The end result is that it is worthwhile for a business to settle a frivolous securities lawsuit, because there is rarely ever any cheap way of dismissing it.

Now, opponents to securities litigation reform are going to tell you that, notwithstanding all of the foregoing, investors still benefit from the current system of securities litigation. But I'd submit that this system actually harms investors.

The first problem, as stated by former SEC Commissioner Carter Beese, is that the current system encourages "counsel to settle for amounts that are too low or fees that are too high." The plaintiffs in a securities class action have a conflict of interest with their lawyers. The lawyers' incentive is for an uncomplicated settlement and an avoidance of trial. This is because the difficult and time-consuming work for the plaintiffs' lawyers comes at the trial phase; if it can be avoided by a settlement, the lawyers still get their percentage for relatively little effort. Thus, the lawyers-driven nature of these lawsuits tends to shortchange investors who have truly been defrauded and would benefit from litigating the lawsuit to conclusion.

The second problem is that in securities class action lawsuits, when a corporation makes a settlement payment to a class of shareholders, the shareholders who still own the corporation's stock are not really getting any tangible benefit in return. If the settlement amount is coming from the corporation's money, then it is no more than a quasi-dividend, with a law firm taking an average of 33-percent cut for giving the shareholder the privilege of having the quasi-dividend occur. This will generally cause the corporation's stock price to drip, which nullifies the benefit of the settlement. If the settlement amount comes from the corporation's directors' and officers' liability insurance, the corporation will be faced with partly paying it back through a staggeringly high premium the very next year. Either way, an investor who continues to own a share of stock in a sued corporation does not gain much from settlement of the lawsuit.

The third and final problem is that investors can no longer get useful forward-looking information about corporations. As former SEC Commissioner Carter Beese testified before the Securities Subcommittee of the Senate Banking Committee, "companies go out of their way to disclose every conceivable bit of innocuous information, but very little useful forward-looking information. At the same time, legion of lawyers scrub required filings to ensure that disclosures are as milquetoast as possible, so as to provide no grist for the litigation mill."

With all of the problems that we have with our current system of securities litigation, the moderate relief offered by the conference report is necessary to protect investors, in necessary to protect consumers, and is necessary to protect jobs. I urge all of my colleagues to support it.

I thank the Chair, and yield the floor.

Mr. BURNS. Mr. President, I rise today in support of the Private Securities Litigation Reform Act of 1995. The conference report is a big win for all America's investors, our Nation's businesses, and our overall economy.

The conference report offers a balanced bipartisan bill that restores fairness and integrity to our securities litigation system by protecting innocent companies as well as the rights of the legitimately defrauded investors. The filtering out of the abusive, frivolous class action lawsuits that harm investors and only benefit class action attorneys will restore integrity to securities lawsuits. We will protect investors and at the same time emerging companies will be able to grow and create jobs without the financial burden of abusive litigation.

The legislation we have before us today will go a long way toward curbing abuses in securities litigation. It will provide a filter at the earliest stage of a lawsuit to screen out those that have no factual basis. A complaint needs to outline the facts supporting the lawsuit and not just the simple conclusion that the defendant acted with the intent to defraud. If the complaint does not outline and present all the facts supporting each of the alleged misstatements or omissions, the lawsuit will be terminated.

Many times, securities class action suits are characterized by the "sue them all and let the judge sort it out" mentality. In order for a judge to sort it out, the defendants are required to spend numerous hours and expense to defend against a securities class action lawsuit. This bill corrects that problem by requiring plaintiffs to specify the statements alleged to have been misleading.

Securities laws are intended to help investors by ensuring a flow of accurate and pertinent information regarding public traded companies. However, the present system reduces the amount of information required and companies limit their public statements to avoid allegations of fraud. In fact, an American Stock Exchange survey found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit. To encourage disclosure of information by companies, the conference report will create a safe harbor. It will provide a procedural mechanism for companies who make predictive statements to be protected from frivolous litigation if their prediction does not materialize.

Mr. President, we have heard a lot of speculation that this legislation would adversely impact small investors. Nothing could be further from the truth because this comprehensive measure will protect the rights of investors who have been legitimately defrauded, while providing new protections for the millions of Americans investors who have been harmed by the recent explosion of abusive and frivolous litigation. While there are many provisions in the measure to deter meritless suits, the bill also requires that the auditors inform the SEC of any suspicions of fraudulent activity and restores the authority of the SEC to bring aiding and abetting cases for knowing violations of securities laws. The measure includes a system of proportionate liability to reduce the pressure to settle frivolous claims and so that companies pay only their fair share of a settlement, while retaining full joint and several liability for small investors and for all defendants who knowingly participate in securities fraud.

In conclusion, Mr. President, this securities legislation reform is fair, balanced and passed with strong bipartisan support. I encourage my colleagues to support the conference report and I once again want to commend Senator DOMENICI and Senator DODD for their work on this bill.

Mr. BOND. Mr. President, the conference report to H.R. 1058 addresses an issue of great concern to many Americans—securities litigation reform. While this is a subject that I believe needs to be addressed and one I have some personal views and experiences in, I will not be participating in the debate or votes on the floor.

I have previously informed the Senate that I am engaged in securities litigation of the kind this legislation seeks to reform. Given the status of this suit and the pending legislation, I will again recuse myself from the proceedings on the matter.

I thank the President and fellow Senators for their understanding of my personal situation.

Mr. DOLE. Mr. President, I am pleased that we are able to consider the conference report to the Private Securities Litigation Reform Act today. I want to commend my colleagues, the chairman of the Banking Committee, Senator D'AMATO, and the chairman of the Budget Committee, Senator DOMENICI, for their leadership in working out the necessary compromise allowing us to bring this bill to the floor. I also want to commend my colleague from Connecticut, Senator DODD, whose involvement in this issue is proof that there is nothing partisan about securities litigation reform.

Our securities markets provide the fuel that drives our economy. When these markets run efficiently, allocating capital to established companies and to newer, emerging businesses, we all win with more economic growth, more jobs, and a stronger economy.

Unfortunately, a handful of lawyers today devote their professional lives to gaming the system by filing strike suits alleging violations of the Federal securities laws—all in the hope that the defendant will quickly settle in order to avoid the expense of prolonged litigation. The lawyers who file these suits often rely on professional plaintiffs, shareholders with only a small stake in the company, but who are nonetheless willing to stand on the sidelines ready to lend their names to the litigation.

Needless to say, these strike suits are often baseless. If a stock price falls, these lawyers will file a class action suit claiming that the company was too optimistic in their projections. If the stock price soars, these same lawyers will file suit saying that the company withheld information that caused shareholders to sell too early. In effect, the lawsuits act as a litigation tax that raises the cost of capital and chills disclosure of important corporate information to shareholders. High-tech, high-growth companies are particularly vulnerable to these baseless strike suits because of the volatility of their stock prices.

This bill will reduce the number of meritless securities fraud cases, while protecting investors, by proposing several commonsense reforms:

First, it diminishes the likelihood that these cases will be driven by lawyers, instead of real plaintiffs by allowing the most adequate plaintiff to be the party with the greatest financial interest.

Second, it clamps down on skyrocketing attorney's fees by requiring that fees be awarded as a percentage of the actual recovery based on the efforts of the attorney.

Third, it retains joint and several liability for those who knowingly commit fraud, but establishes a system of proportionate liability for other, less culpable defendants.

Fourth, it adopts the second circuit's pleading standard. This requires plaintiffs to point out specific statements that are supposed to be misleading, and removes the "sue them all and let the judge sort it out" mentality.

Fifth, it encourages companies to disclose information to their shareholders by granting limited protection to predictive statements made in good faith. Statements that are knowingly false, however, are not protected by this safe harbor.

Mr. President, with this bill the Republican-led Congress sends a clear message. We have fulfilled our responsibility to provide companies and investors protection from frivolous lawsuits, ensuring that America will be able to compete in the global marketplace.

President Clinton has not indicated whether or not he will support this bill. But the choice is clear. In my view, if he supports this bill, he supports creating jobs for Americans. If he opposes it, he only supports enriching the pockets of wealthy trial lawyers at the expense of consumers and investors.

In closing, I again commend Chairmen D'AMATO and DOMENICI, and Senator DODD for their work on this critical legislation and I urge my colleagues to support it.

Mr. KERRY. Mr. President, one of my priorities is to foster a competitive business environment in Massachusetts and throughout the Nation that will lead to the creation of skilled, family-wage jobs. A significant factor in creating a favorable business environment is the ability to generate capital. The conference report before us today addresses the question of the so-called securities strike suits that have had a chilling effect on both the business climate and the generation of capital for Massachusetts' vanguard technology industries.

This legislation has been the subject of intense debate. Some argue that in its attempt to end frivolous strike suits, it will deny investors the opportunity to recover losses from companies that engaged in fraudulent securities actions. This is a legitimate concern in view of some of the cases in Massachusetts in which companies repeatedly misrepresented sales, senior officers had to resign and some companies had to declare bankruptcy.

Others have countered that the legislation does not go far enough to prevent frivolous strike suits based solely on stock fluctuations or missed earnings projections and that the attorneys who bring such suits should face the threat of a loser pays provision.

As the Senate has considered various proposals to reform our Nation's securities laws in this area, I have been mindful of the fact that, indeed, there are investors on both sides of this issue. My principal goal—and the yardstick I have used to measure this legislation—is whether it achieves a balance between discouraging truly frivolous strike suits while ensuring companies and individuals are liable for actual fraud. Though not prefect, I do believe this legislation has struck a reasonable balance between protecting investors' rights and reducing the possibility that companies will be subject to frivolous strike suits.

One factor that was extremely important in helping me reach a decision on this legislation was the Securities and Exchange Commission's evaluation of the conference report. The SEC, throughout the legislative process, had withheld its endorsement of the legislation. I am pleased that the SEC stated in a letter of November 15, 1995, that: "We believe the draft conference report responds to our principal concerns."

Of particular importance to me is the safe harbor language that is the product of months of consultation with the Securities and Exchange Commission. In my view this provision is the crux of the entire matter. The safe harbor affects a potential investor's decision of whether to purchase securities and it affects a company's ability to paint a rosy scenario to attract investors. It also directly affects the value of the benefits packages of the company's officers and employees. The conference report codifies the judicial "bespeaks caution" doctrine and will not allow a company simply to use boilerplate cautionary language.

I am also pleased that the conference report adopts as title III legislation I sponsored originally with Representative WYDEN to require audits of public companies designed to detect illegal acts. It places on accountants and company auditors a clear responsibility for early detection and disclosure of illegal actions by management. This title requires auditors to inform immediately the management and/or the SEC of illegal acts having a material impact on the issuer's financial statements. I believe these procedures for early detection and disclosure of fraud by the accountants and auditors will serve the interests of both investors and businesses.

The conference report should lead to the creation of a more favorable climate for investors and businesses. Investors should gain better information about the marketplace, more control over securities strike suits and more leverage in recovering a larger share of their losses in strike suits. Businesses should gain the freedom to provide statements about the business outlook that investors and the SEC have encouraged and a more favorable climate for raising capital.

I especially want to commend Senator DODD, who has worked tirelessly on this tough issue, and Senator DOMENICI for their effort in achieving a reasonable and balanced bill.

Ms. MOSELEY-BRAUN. Mr. President, I support the conference report on H.R. 1058, the Securities Litigation Reform Act. It is a reasonable bill, one that deserves prompt enactment into law, and it provides the right kind of reform to help create jobs and the economic growth our country needs.

The need for reform is clear. The Russian roulette of securities strike suits adds a cost to job creation and a chilling effect on investment. Every single one of the top 10 Silicon Valley high-technology firms has been sued for securities fraud—every single one. And 27 of the top 40 high-technology firms have been sued. These firms, and many others like them, have to spend hundreds of thousands of dollars—and even more—to defend frivolous suits, an additional cost no startup company should have to bear. And, while it cannot be quantified, there is no doubt that a number of companies never get born in the first place because of the incalculable litigation threat.

There are 2,536 electronics companies in my own State of Illinois, companies that employ 112,000 people, and have an annual payroll of $4.9 billion, that are also among the beneficiaries. These companies provide 12 percent of the total manufacturing jobs in Illinois, and the value of their annual production is over $17 billion.

Of course, it is not just high-technology firms in Illinois and elsewhere that need this bill. I have concentrated on high-technology firms because they are so important to the future of our economy and because their stocks tend to be volatile, which makes them prime targets for these kinds of securities lawsuits. The fact that so many leading high-technology firms have been sued in an indication of the scope and extent of the frivolous litigation problem, a problem this bill will correct.

The fact is that investors need reform, too. The current system does not benefit them. The damages investors receive in a successful case amount to as little as 10 to 14 cents on the dollar of alleged losses. Clearly, the litigation explosion has not helped investors a whole lot.

Much more important than damages, however, is information. Most investors have not been part of any securities litigation class action lawsuit, at least not directly, but every investor that is active in our capital markets depends on information—and the more information an investor has, the better the information an investor has, the better off that investor is.

Enactment of this conference report will reverse the current trend of companies providing less and less information to investors. Instead, because of greater confidence that they will not be subject to frivolous suits, companies will be providing more information to the market. That, in part, is why small investors like the Beardstown Ladies, and the National Association of Investors Corp. an organization representing over 340,000 investors and investment clubs, supports this legislation.

Many investors also support this bill because it gives them, rather than the lawyers who are supposed to be working for them, control of any class action suits filed. It is the client, rather than the attorney, that is supposed to control a lawsuit, and part of the reason this bill is so necessary is that this simple principle has somehow gotten lost in recent years.

However, more is at stake than just the interests of companies and investors, as important as those interests are. The interests of our overall economy, and of our country at large, are also very much at issue. The interests of every person who works, or is looking for a job, is at stake.

The world economy is more and more competitive. Our future prosperity depends on our ability to meet and beat that international competition. That means we need a continuing supply of new ideas, new products, and new companies that can produce the jobs of tomorrow. And that also means that our capital markets must work efficiently to provide capital in the amounts needed to the companies that will provide the jobs and the economic growth that will make the future brighter and more prosperous for all of us.

These global concerns may seem a long way from the securities law issues that are the subject of the bill now before the Senate, but the connection is both strong and direct.

American corporations are all too often intensely focused on the short-term price of their stock, instead of the long-term growth and prosperity of the business. This short-term focus, which the current state of our securities laws helps foster, distracts senior management, makes too many of our businesses less creative, and undermines the ability of American businesses to make the investments that have the long-term payoff. By addressing the frivolous lawsuit problem, this conference report will free managers to focus on managing their businesses for the long term, rather than managing to minimize their short term legal exposure. It will give entrepreneurs more time to innovate, and to focus on the future, rather than concentrating on their legal defense. Companies will be able to concentrate on creating new products and new jobs, because they won't have to devote so much time and attention to lawsuits, and the threat of lawsuits.

Moreover, because frivolous lawsuits, and even the threat of frivolous lawsuits, are an impediment to the smooth functioning of our capital markets, removing that impediment will make our capital markets more efficient. And that will also help produce more economic growth and more new jobs.

I cosponsored S. 240, the original bill that passed the Senate in modified form last June, because that bill was based on a recognition of all of these facts. S. 240 was designed to maintain strong investor protection, while making it more difficult to file frivolous or abusive lawsuits. It was designed to help ensure that new businesses that create new jobs and new products have a better chance to get the capital they need, while ensuring that defrauded investors have the right to recover their damages. The bill attempted to reduce transaction costs, so that investors who are harmed see a smaller portion of their recoveries consumed by attorney's fees and other costs. And it was designed to help our capital markets create more jobs and greater long-term economic growth—something that is good for every American.

I am pleased that the conference report now before the Senate very strongly resembles the bill the Senate sent to conference, rather than the original unbalanced House bill that I do not and could not support. In one key issue area after another, the conference bill follows the Senate bill, rather than the House bill. For example, in the area of liability standards, the original House bill abolished liability for reckless conduct; the Senate bill did not, and the Senate position prevailed in conference.

The House bill abolished liability for fraud on the market. The Senate bill left that doctrine unchanged, and the conference bill adopts the Senate approach.

In the area of pleading, the House bill adopted a standard that was significantly higher than the second circuit standard, which was the standard adopted in the Senate bill. The Senate position prevailed at conference.

In the area of fee shifting, the original House bill included a pure English rule approach; the Senate bill adopted a rule 11-based approach, and the conference bill adopts the Senate position.

The House bill included a $10,000 named plaintiff provision; the Senate-passed bill did not, and the conference adopted the Senate position.

In the area of aiding and abetting, the original House bill did not reverse the Central Bank case; the Senate bill restored the ability of the Securities and Exchange Commission to institute enforcement actions against a person or persons who "knowingly provides substantial assistance to another person in violation of this title." The conference bill includes the Senate provision.

I do not contend, Mr. President, that the bill before us is perfect. It is a compromise. If I had controlled the conference, there would be some issues that would have been resolved somewhat differently. It is clear, however, that the bill is a good faith attempt to protect the public interest, investors' interests, and companies' interests, and looking at the overall bill, I think it does a reasonable job of meeting the interests of all three.

It is worth keeping in mind what the bill does—and does not—do, and what this area of law is all about. What we are here talking about is "private rights of action" for fraud under Section 10(b) of the Securities Exchange Act and rule 10b-5 of the Securities and Exchange Commission. That statute did not expressly provide private parties with a right to sue corporations or other parties involved in the issuance and sale of securities; this right evolved out of a long series of judicial decisions, not Congressional actions.

Some argue that the conference report is somehow unbalanced because it does not fully overturn the Central Bank case involving aiding and abetting, or the Lampf case relating to the statute of limitations in private 10(b) cases. However, it is worth keeping in mind that defeating the bill would do absolutely nothing to overturn either of these cases, that it would in fact leave the SEC with less, rather than more, authority than the bill provides, and that it would leave investors and the public in a situation where the courts, rather than the Congress and the President, are making the law in this area.

The bill has also been controversial because, in some situations, some defendants are only proportionately liable, rather than jointly and severally liable. The conference report, however, holds everyone who commits knowing securities fraud jointly and severally liable. Other defendants who are less culpable are proportionately liable, that is, they are responsible for the share of harm they cause. That ensures that parties who may be only 1 percent or 2 percent responsible for the fraud are added as defendants to cases simply because they have deep pockets.

Proportionate liability is far from a new concept. We have had it in the tort area in my own State of Illinois for a number of years. It is an important and necessary change. Without it, many people will not deal with the small, entrepreneurial, startup companies that are most likely to be sued, because the potential liability is so much greater than the profit they can earn from doing business with these companies. Many companies are increasingly unable to find accounting firms and law firms willing to do business with them, and are having increasing difficulty in attracting the best people to sit on their boards of directors. And the result of that is less information and less protection for investors, and greater hurdles for the new companies on which our economic future depends. And the result of that is less of the new, good, well-paying manufacturing jobs our economy and our country needs.

Of course, in some cases, the parties most responsible for the fraud are judgment proof; they have no assets that can be found. In that situation, the conference report provides additional protections for small investors. First, it says that defendants that are proportionately liable have their share of responsibility increased by up to 50 percent of their proportionate share, so that all investors are better compensated for the losses they suffered. Second, for small investors, those with a net worth of under $200,000 who suffer a loss of at least 10 percent of their net worth, every defendant is jointly and severally responsible for paying those damages.

Some object to the rule 11 provisions of the conference report. However, the conference report simply requires the judge to look at rule 11 of the Federal Rules of Civil Procedure—which calls for sanctions for frivolous lawsuits, to determine whether any party violated Rule 11 in the complaint, responsive pleadings, or dispositive motions relating to the case, and if so, to impose sanctions. That simply puts some teeth into the application of rule 11, and it is teeth that are needed, because frivolous suits filed with little thought as to their merit can cost the defending companies hundreds of thousands of dollars in legal fees, and in the time of the companies' executives. And even those fees are not a good investment for the company, even when they win, because they divert money that should be going into creating more jobs and growth.

Finally, the most controversial part of the bill involves the so-called safe harbor. This provision in the conference report has the support of the SEC and, in some ways, offers more protection for investors—and less for issuers of securities—than do some leading court decisions in this area. The heart of what is at issue here is what are known as forward looking statements: statements that describe future events or that estimate the likelihood of selected future events occurring. Rule 175 of the SEC, which currently partially governs this area, states that forward looking statements made with a reasonable basis and in good faith cannot be used for as a basis for a fraud action. However, as a practical matter, the safe harbor it provides turns out not to be very safe.

What added real protection was a third circuit case that recognized the "bespeaks caution" doctrine, a doctrine that is now law in at least five circuits. Under this doctrine, forward looking statements accompanied by meaningful cautionary statements—that is, statements that indicate the specific risks that the forward looking statements will not come true—are, as a matter of law, immaterial and therefore cannot be used as a basis for a fraud action.

The conference report essentially codifies the bespeaks caution doctrine. Moreover, in response to concerns raised by the distinguished ranking Democratic member of the Banking Committee, Senator SARBANES, the conference report does not provide protection for statements not covered under the bespeaks caution provisions made with the actual knowledge that they are false.

I am pleased to be able to say that the SEC supports the safe harbor language in the conference report. Chairman Levitt, in a November 15 letter, said that the provision "represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse."

The SEC, in endorsing this part of the conference report, demonstrated an understanding that action is necessary in the safe harbor area, and that the current state of the law results in companies providing less information to investors than they would like to. A recent report by the American Stock Exchange documented the Commission's concern. It found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would make them more vulnerable to abusive securities lawsuits.

Mr. President, there is a lot more in this bill, and there is a lot more I could say about it. I will conclude, however, by simply repeating what I said at the outset of my remarks. This is a good bill. It does not fully satisfy me, and it probably does not fully satisfy any other Senator. But it does provide the kind of reforms that are badly needed and that are long overdue. And the bill accomplishes its reform objectives in a way that protects investor interests, including the interests of small investors like the Beardstown Ladies.

I want to congratulate the distinguished chairman of the Banking Committee, Senator D'AMATO; my good friend from Connecticut, Senator DODD; and the distinguished Senator from New Mexico, Senator DOMENICI—who has now rejoined the Banking Committee—for their leadership and for all of their hard work. This bill would not be possible without the contributions that each of them have made. I also want to commend the distinguished Senator from Maryland, Senator SARBANES, the ranking Democratic member of the Banking Committee, for improving the bill, even though he opposes it.

In my view, this legislation addresses a set of issues that need to be addressed. It is good for investors, companies, our capital markets, our economy, and for the American people generally. It will help generate additional economic growth and new jobs. I therefore urge my colleagues to join me in voting for the conference report on H.R 1058, the Securities Litigation Reform Act.

Mr. LAUTENBERG. Mr. President, I am going to vote against this conference report.

Mr. President, the legislation before us is described as a bill to protect investors and to maintain confidence in our capital markets. In my view, however, it does neither. Instead, the legislation would shield too many wrongdoers from being held accountable for their misdeeds, and it could ultimately reduce investor confidence in our markets.

When this bill was before the Senate, Mr. President, I expressed special concern about the so-called safe harbor provision of the bill. This provision has been improved in the conference report, but it is still problematic. For example, it eliminates any duty to update forward-looking statements. This means that if a business projects earnings of a certain amount and 1 month after making this statement, it becomes apparent that the projected earnings will be significantly less, or perhaps the company will even lose money, the company is not obligated to correct those statements. I do not understand why we would want to encourage this behavior.

As some of my colleagues know, prior to coming to the U.S. Senate, I worked in the private sector. I co-founded a company with two others that today employs over 20,000 people. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believe it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if those projections needed modification due to a changed circumstance, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in my former company caused our stock, which is traded on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

Mr. President, I recognize that there are abuses in securities litigation, and I believe those abuses should be addressed. That is why I supported amendments to improve the legislation when it was before the Senate. Among other things, these amendments would have provided aiding and abetting liability in private implied actions; inserted a safety net to ensure that small investors are able to fully recover their losses; and extended the status of limitations period on these claims, thus making it more difficult for bad actors to hide their fraud.

In opposing these amendments, the sponsors of the bill cited some of the more egregious practices of professional plaintiffs and certain lawyers. What they do not mention is that this behavior would have been curbed by less controversial provisions contained in this bill, such as prohibitions against referral fees and attorney conflicts of interest; requirements that the share of the settlement awarded to the name plaintiffs be calculated in the same manner as the shares awarded to all other members of the class and that the name plaintiff certify that he did not purchase the security at the direction of his attorney; a prohibition against excessive attorney's fees; and an assurance that all members of the class have access to information held by counsel of the name plaintiff.

The sponsors of this legislation cite compelling anecdotal evidence of abuse by the so-called professional plaintiffs and their unscrupulous attorneys. I agree there are abusive securities class actions suits filed every year. I also agree that we need to protect companies, and even other shareholders, from these people. But in our zeal to tackle this problem, we should take care not to stifle legitimate claims and to harm our markets, which are the strongest they have ever been in our history.

Mr. President, I would like to support legislation to curb frivolous securities lawsuits because I believe there are problems. However, I cannot in good conscience vote for a bill that I believe will insulate fraudulent conduct, prevent investors injured by fraud from fully recovering damages, and chill meritorious litigation.

Ms. MIKULSKI. Mr. President, I rise today in support of the securities litigation reform legislation that has now returned from conference.

Legal reform is complex. We have to protect the interests and rights of consumers while ensuring the law does not allow frivolous lawsuits. I believe this conference report achieves that balance. I originally cosponsored the bill because I concluded there has been a problem in the area of securities law. In Maryland, my constituents have told me there is a race to the courthouse door to file a lawsuit. The victims of these practices include high-technology companies, their accountants, and others.

We cannot afford this race to the courthouse because it ultimately means a loss of jobs, a loss of opportunity. Money spent on liability insurance premiums and expensive litigation is money that cannot be spent on investments and jobs.

While I want to end abuses in the system, I also want to keep the courthouse door open for the little guy, for the consumer. I am not interested in protecting crooks or swindlers. That is why I support this legislation. It protects both consumers and honest companies while allowing the law to go after fraud and abuse.

I am pleased that, with the enactment of this legislation, we will have safe harbor rules endorsed by the Securities and Exchange Commission. I commend the conference committee for working with the SEC on this matter. These rules will allow companies to provide valuable information about their future plans. I am pleased investors will have the information they need to make important financial decisions. At the same time, this provision does not cover company projections that defraud investors. Judges will be able to make sure that a company qualifies for safe harbor protection.

This debate is about the U.S. economy in the 21st century. Much of our economic future is in new and developing industries such as high technology and bio-technology. These emerging jobs are created only when companies generate capital to allow them to move into new fields. Without a balanced legal system these companies will spend too much on litigation costs, and not enough on investments to generate jobs.

I am pleased that this legislation has moved forward with bipartisan support. The bill that passed the Senate received overwhelming votes from both parties. In conference it would have been easy to steer this bill toward extremism, but the conferees worked toward a bill that we can all continue to support. I especially commend the efforts of longtime supporters Senator DODD and Senator DOMENICI.

Mr. President, I hope any future legal reforms will meet the same test of balance and moderation that this reform does.

Mr. ABRAHAM. Mr. President, in June 1995, I addressed the Senate to offer my support for securities-litigation reform as embodied in H.R. 1058. Today, I am pleased to support the bill that the House-Senate conference committee has produced. Today's bill draws on the key provisions of S. 240 to make many important reforms to prevent abusive litigation connected with the issuance of securities. These changes will be made without in any way undermining protection for investors against genuine fraud or other misconduct by issuers. To the contrary, they will improve the investment climate in this country, which will make it easier to start businesses which create jobs.

Today I would like to focus on one set of reforms the bill will make. The bill will require courts to sanction attorneys who file frivolous pleadings. This reform will apply both to lawyers who file frivolous pleadings on behalf of plaintiffs and those who file frivolous pleadings on behalf of defendants. This is a sound proposal which should command strong support from both sides of the aisle.

Under current law, Federal Rule of Civil Procedure 11 requires all attorneys to have some factual and legal basis for filing any claim or defense. If attorneys violate this requirement, courts may impose sanctions against the violator. Right now, however, the courts do not have to consider sanctions.

Today's bill makes three changes.

First, it requires courts to find at the end of all securities actions whether any attorney violated rule 11 in filing any complaint, responsive pleading, or dispositive motion.

Second, the court would have to impose sanctions if it found such a violation.

Third, the presumption is that the district court will sanction attorneys violating rule 11 by requiring them to pay the other side's attorneys' fees. Under the bill, it will be a little harder for a district court to impose this sanction on those who file complaints than on those who file responsive pleadings or dispositive motions. Those who file responsive pleadings or dispositive motions will be subject to this sanction if the responsive pleading or dispositive motion fails to comply with rule 11(b). By contrast, those who file complaints will be subject to this sanction only for substantial failure to comply with rule 11(b).

Regardless of the party affected, the court may select another sanction if first, the presumptive sanction imposes an unreasonable burden on the sanctioned party; second, that sanction is unjust; and third, declining to impose such a sanction would not impose a greater burden on the party in whose favor sanctions would be imposed. In the alternative, the party against whom sanctions would be imposed may rebut the presumption of sanctions by demonstrating that the rule 11 violation was de minimis.

We should particularly note two important features of this reform. First, the district court will have to impose a sanction only on someone who filed a frivolous pleading—that is, a pleading wholly lacking a legal or factual basis. Thus, this reform will not deter legitimate litigation. Second, the sanction is paid by the person signing the frivolous pleading—that is to say, as a general matter, by the attorney responsible for it—not by the party the attorney is representing.

It was suggested, Mr. President, that S. 240's changes to rule 11 were really a back-door means of shifting fees. That was incorrect. It is equally incorrect as to the rule 11 provisions in the conference report. These are not loser-pays provisions. They will not sanction all those who come up short in court. They will sanction only those who violate the minimal requirement of having some factual and legal basis for arguments in complaints, responsive pleadings, and dispositive motions. Such frivolous behavior clogs our courts, drains economic resources from parties, kills current jobs, and hinders the creation of new ones.

Moreover, the substantive rule of attorney conduct in this provision is the one which exists under rule 11 now. The change from the current rule 11 is procedural, not substantive. Today's bill simply requires the district court to determine whether that rule, which already applies, has been violated, and to impose sanctions if it has.

The Supreme Court itself has observed that securities litigation has been especially prone to misuse as a tool to extort settlements. It is Congress's responsibility to do something to put an end to this abuse. The rule 11 provisions are one mechanism this legislation puts in place to do just that.

Some on the floor have expressed concern that the Federal judiciary may abuse its power to impose sanctions pursant to this provision. I simply do not believe that is going to happen. From my position on the Judiciary Committee, I have the occasion to talk to many judges and judicial nominees. I have questioned judicial nominees on many topics, including their ability to exercise their powers impartially toward both plaintiffs and defendants. I firmly believe that the individuals this Senate is confirming, and those that have been confirmed in the past, will exercise this power wisely and prudently for the betterment of our legal system. Mr. President, the bill we are voting on today is an outstanding piece of legislation. Its sponsors, proponents, and the conferees deserve all of our thanks for producing something that will strengthen our economy and it will benefit all Americans. I offer my wholehearted support to the bill before this Senate and urge my colleagues to vote for it.

Mr. BENNETT. Mr. President, I understand the opponents of the bill are gathering their forces, and as we are waiting for that to happen, rather than spend the time in a quorum call, I would simply make an observation that I have made previously in response to the Senator from California which is, first, that none of the losses that occurred as a result of the Keating S&L circumstance to which she referred so often would be affected by this legislation. All of the remedies that were available to those people in the Keating circumstance would still stay in the law. The newspaper editorials which she quoted that implied to the contrary are incorrect. This has nothing to do with the Keating S&L circumstance.

The other point that I would make again is that when we are talking about protecting investors, we are talking about the owners of the company—that is what investors are—and anything that damages the company, or damages the investors. So it is unfair to try to pit companies against investors as has been implied in some of the articles which she quoted.

I say to my friend from Nevada that I am prepared to yield at any point that an opponent to the bill might arrive.

Mr. BRYAN. Mr. President, I appreciate, as always, the accommodation of my friend, the distinguished Senator from Utah. We have worked to accommodate leadership I think on both sides of the aisle by these time agreements that we previously entered into. I do not see anybody from our side.

If I might respond very briefly to the distinguished Senator's comment, there is in my view a fundamental disagreement here. The Keating case is highly relevant, relevant in the sense that its $262 million recovery was based upon a violation of the very act that we seek to amend here, which is the Securities Exchange Act of 1934.

I ask unanimous consent that a caption of the lawsuit filed in the U.S. District Court, District of Arizona, which is the Keating lawsuit, be printed in the RECORD. So that the recovery of some $262 million in the Keating case was based upon a securities violation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[United States District Court, District of Arizona, In re American Continental Corporation/Lincoln Savings & Loan Securities Litigation, MDL Docket No. 834, This Document Relates To: Civ-90-0566 PHX RMB, Civ-90-0567 PHX RMB, Civ-90-0568 PHX RMB, Civ-90-0569 PHX RMB, Civ-90-0570 PHX RMB, Civ-90-0574 PHX RMB]

SARAH B. SHIELDS, ET AL., PLAINTIFFS, *vs.* CHARLES H. KEATING, JR., LINCOLN SAVINGS AND LOAN ASSOCIATION, FIRST . . .

[Caption continued on following page.]

Sixth consolidated amended class action complaint for violations of the Securities Exchange Act of 1934, the Securities Act of 1933, and the Racketeer Influenced and Corrupt Organizations Act.

Mr. BRYAN. Mr. President, very briefly by way of comment I say it is my view—and I think the view of those who have analyzed the bill—that of the $262 million that was recovered in the Keating case, $121 million was recovered against aiders and abettors; that is, accounting firms, law firms, and other professionals.

The conference report fails to restore that liability. So that at least for private causes of action—that is the thrust of the curtailments that this legislation imposes—there would be an inability for the 23,000 plaintiffs in the Keating case that recovered $121 million. That would not be possible under the status of the law today because this legislation does not restore the aider and abettor. It may very well be true that the SEC can move against aiders and abettors. But even that has been somewhat obfuscated. I believe that those who are far more expert than I would tell you that it is not clear even if the SEC would be able to seek recovery against the Keating situation of which there are aiders and abettors. But clearly those who bring private causes of action would not.

Again, we have this informal colloquy with my friend from Utah. He is, I think, suffering from the same disability as I. We have tried to protect time for those who wanted to speak. But they are not on the floor. I would certainly be delighted to engage him in a colloquy or discussion or let him continue to speak until someone returns to the floor.

Mr. BENNETT. Mr. President, as I look at the time allocated under the unanimous-consent agreement, the Senator from Nevada [Mr. BRYAN] has 10 minutes. If he wishes to take that 10 minutes now, that could get us at least that much farther down the road.

Mr. BRYAN. The suggestion of my friend from Utah is always compelling and intriguing and tempting. May I graciously decline his kind offer, which I know is offered in the spirit of trying to accommodate and move this process forward as is his want and intent in every case. But I think I will respectfully decline that. We are not going to be able to protect all of the 7 minutes we have for each of the speakers. We will have to make those adjustments because the time continues to run. I understand that we have more time on this side, those of us in opposition, than he does in support. That time is going to continue to run.

Mr. BENNETT. Under those circumstances, Mr. President, I would suggest the absence of a quorum, and ask unanimous consent that it be charged to the opponents—I withhold.

Mr. DODD. Mr. President, I realize the time is running with a vote at 4:45. I have time reserved. I know our colleague from Nevada, our other colleague, Senator HARRY REID, yielded whatever time he had remaining to me.

Let me underscore a point here, Mr. President, while we are waiting. I will yield the floor the minute I see a colleague arrive.

Let me get back to the bottom line, if I can. We are talking about a group of attorneys on one side who are vehemently opposed to this bill. They are doing everything to stop it. I point out categorically what we are looking at here for every dollar is 14 cents that goes to the investors and about 33 cents going to the attorneys in these matters. You do not need to know much more than that. It is a system that is out of control and out of whack. It needs to be brought back into line of the original intent.

That is really what this is all about. We have included provisions that require auditors to check for fraud and to report fraud; set up a system that protects small investors for proportionate liability matters.

The suggestion has been made—I say this with all due respect—that this is somehow a Keating matter. Nothing could be further from the truth; or trying to suggest that somehow Dillinger may have been involved. This is ridiculous. The Keating matter had little or nothing to do with securities. It was mostly to do with S&L's. And this bill will not change the outcome one iota because it was out-and-out fraud and lies. It was not about some future statements but about present facts. Mr. Keating was suggesting that the Federal Government was going to back all of the investments that were made by people. That, of course, was a complete falsehood. There is no comparison here.

That is really I would say sort of an effort to try to desperately convince people that somehow this legislation is harmful to the interests of investors. What it does is strengthen the hand of investors tremendously by giving them the right to choose the attorneys, giving them the right to decide what the settlement will be, if there is going to be any settlement, and giving them the right to determine what the attorney's fees would be. That is what we are trying to do here.

These investors have been taken to the cleaners by hired professionals. Plaintiffs who own one or two shares of stock in many cases are brought in and given big bonuses for the outcome and set up as the plaintiffs in these cases. This is really a scam. One lawyer said, "I have the best practice in the world when it comes to securities litigation. I have no clients." In fact, he was the attorney and the plaintiff in these matters.

That is what we trying to go correct here. We spent 4 years at it with a strong bipartisan approach that has drawn us to the point where we are about to adopt a conference report and send it to the President. I am hopeful he will sign it. I think it is right, it is balanced fairly, and it is moderate. It attempts to deal with a situation that most people today agree needs to be corrected, including even the opponents of the legislation.

As someone who has been involved in this for almost 5 years, when we first brought up the legislation we were told that there was no need for my bill at all.

At least the opponents are admitting there is a need. They just do not like all the provisions of the bill. So I am hopeful that our colleagues, the 69 who supported this legislation back several months ago—we have improved this bill. We improved the safe harbor provisions to such an extent that the SEC, which was reluctant to support the bill when it first came out of the Senate, today says those safe harbor provisions are provisions which do provide the kind of balance we are talking about. That is their analysis and not mine. There are enough editorial comments here that indicate that this bill makes sense.

So, again, given the strong vote in the House, which was a totally different bill, by the way—and Senator REID of Nevada is absolutely correct. The ads are running, paid for by these affluent lawyers frightened to death they may lose a little business. You are talking about a House bill. That bill is gone. This is now the Senate version that was basically adopted by the conference.

So I am hopeful at 4:45, less than an hour from now, the Senate will give us a good, strong, bipartisan vote reflecting the work that has been done—hundreds and hundreds of hours, 5,000 pages of testimony, almost 100 witnesses, 12 sets of hearings through three Congresses. That is the way a bill ought to be adopted here, where you bring people together, Democrats and Republicans, fashioning a good piece of legislation and endorsed by the major regulatory agency of the country that believes we have done a good job here.

I think on balance this is a piece of legislation which is going to improve the quality of life in this country, and particularly for those industries and businesses that have been the primary targets. One-half of all the firms in Silicone Valley have been subjected to securities fraud suits in the last 4 or 5 years. That just gives you an indication of what is going on here. These new startup, high-tech firms, they are the ones who are victimized by this. Those are the firms of the future.

Mr. President, I see our distinguished colleague from Florida has arrived here. We were trying to fill in a little time until someone arrived.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I will yield the floor.

If my friend from Florida is prepared to go——

Mr. GRAHAM. Would you like——

Mr. DODD. I am going to reserve a couple minutes at the end. I was just trying to fill in a little gap here while we waited for the opponents of the bill to come on over and express their views.

Mr. BRYAN. Mr. President, if I may, in the spirit of comity, accommodation, fairness, and respect, even though the distinguished Senator from Connecticut has exhausted his time, and if we were trying to adhere to the rules rigidly, he would not have an opportunity to comment further, I would yield from our side of the aisle 2 minutes of the time heretofore allocated to the distinguished senior Senator from Florida, Senator GRAHAM, to my friend, the senior Senator from Connecticut.

Mr. DODD. Well, I am always appreciative of my colleague.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. DODD. Mr. President, no. I will reserve the 2 minutes. In the meantime, our colleague from Florida has arrived. I know the opponents want to be heard on this. I appreciate the gracious allocation, at the appropriate time, of 2 minutes. And I will make particular reference then of the fine job that the Senator from Nevada has done on this legislation.

Mr. BRYAN. In the interest of fair and full disclosure, the Senator has not 2 minutes to reserve. He has exhausted his. If he needs it, I will tender it to him.

I yield the full 7 minutes to the distinguished Senator from Florida. He can yield any part of that he feels he does not need.

Mr. GRAHAM. Mr. President, it is ironic that we are having this debate today. This debate coincides with the last month of the existence of the Resolution Trust Corporation. The Resolution Trust Corporation was a congressionally created corporation to deal with the second largest financial crisis in the history of the United States of America, second only to the Great Depression.

That crisis, of course, was the savings and loan debacle. That debacle was not an accident. It had very specific origins. It had identifiable causes. And, sad to say, Mr. President, many of those origins, many of those causes emanated from this Chamber.

It was this Chamber which in early 1980 passed ill-considered legislation that, among other things, dramatically increased the level of Federal guarantee of savings and loans accounts, without making appropriate adjustments to the premiums we paid to support those guarantees, and made other changes which facilitated the ability of those who wished to gain by plundering these institutions of trust the opportunity to do so.

As a consequence of those actions, which started here, we had one of the great financial crises and one of the most expensive financial crises in our Nation's history. As I say, Mr. President, it is ironic that we recognize this month, December 1995, as the last month of the Resolution Trust Corporation's efforts to try to extricate ourselves from that crisis, and in this month we now take up legislation which I believe has the potential of laying the groundwork for another great financial crisis in America.

Another irony, Mr. President, is that there has been no time in our Nation's history when our stockmarkets were more in public favor. Recently, for the first time in their history, the Dow Jones passed the 5000 mark and continues to grow beyond that. The reason for the strength of our stock market is fundamentally the confidence that the investing American has in our stockmarkets. That is an asset of our free enterprise system, Mr. President, that we need to guard zealously.

Mr. President, I am afraid that the action that we are being asked to take today moves away from that close guarding of the confidence of the American investor in the American stock market.

Let me just mention a few areas of particular concern to me. I am concerned about the provision that will make it easier, will almost provide immunization for oral and written statements of expectation as to corporate activity. The whole purpose of this legislation—and I think a legitimate purpose, Mr. President—was to eliminate frivolous lawsuits, to eliminate a practice in which firms were subjected to litigation, not with the expectation of a jury or other judicial verdict indicating that the company had behaved in an inappropriate way, but in order to be able to negotiate a settlement based on that settlement being less expensive than the cost of defense and the adverse effect which the litigation would have on the image of the corporation.

But this legislation goes far beyond what is required in order to sort out the frivolous from the serious. And one of the best examples of that is what has happened in this so-called safe harbor provision. When this left the Senate it contained some protections. It contained a protection that stated that statements which were knowingly made with the expectation, purpose, and actual intent of misleading investors would not secure the benefits of the safe harbor. As hard as it is to believe, Mr. President, that provision has been eliminated from the legislation as it now comes back from the conference committee.

Mr. President, there are other examples of where the conference committee has taken action that has made this bill less protective of investors without adding to the benefit of sorting out the frivolous from the serious litigation. I am concerned, Mr. President, about the fact that we have continued to have the unreasonably short statute of limitations of 3 years, a period of time in which for many of these real cases of fraud and abuse they would not even be known, much less be known in time to do the necessary investigation prior to the bringing of litigation.

Mr. President, we have made it extremely difficult, after an award is granted, after it has been determined that, in fact, there was fraudulent activity and a judgment is entered on behalf of the plaintiff, we made it very difficult for the plaintiff to be able to recover, particularly, as is frequently the case, when one or more of the major parties turns out to be insolvent.

So, Mr. President, in the spirit of attempting to achieve one very focused objective, we have engaged in broadscale amputation of the ability of private litigants to maintain the integrity of our securities law. And we do this, Mr. President, at the same time we are about to take up a conference report which will freeze the budget of the Securities and Exchange Commission. So both of the arms which are used in order to contain fraudulent activities in the securities sector, private litigation and the Securities Exchange Commission, are about to be severely restrained.

So, Mr. President, for those reasons, I urge my colleagues to defeat this conference report in hopes that we will then focus on legislation that will accomplish this narrow objective.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have printed in the RECORD statements made by one of my constituents, Mr. F.K. Glasbrenner of Longwood, FL, a resolution by the Florida Association of Counties, and an editorial from the Miami Herald, all of which bemoan the inadequacies of this legislation to achieve the purpose stated.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LONGWOOD, FL,
October 23, 1995.

Senator BOB GRAHAM,
Hart Senate Office Bldg,
Washington, DC.

Senator CONNIE MACK,
Hart Senate Office Bldg,
Washington, DC.

Representative JOHN MICA,
Cannon Bldg,
Washington, DC.

Representative BILL MCCOLLUM,
Rayburn Bldg,
Washington, DC.

GENTLEMEN: The managing editor, Frank Lalli, of MONEY magazine has informed his readers, and I am one, that the securities litigation reform bills, H.R. 1058 and S. 240, are certainly not in the bests interests of the investor in the United States.

The original intention of the bills were to discourage frivolous securities suits but in the end they really did something different. In their present form they legalize securities fraud. The bills protect company executives who deliberately misrepresent their firm's prospects. If an invester sues to right a wrong and he loses, the judge can force him to pay the winners legal fees. In addition both bills failed to reinstate fundamental investor protections stripped away by recent Supreme Court decisions which were:

Defrauded investors can be longer sue hired guns who assist a dishonest company officer. This would include accountants, brokers, lawyers and bankers.

Investors cannot sue at all if they fail to file within three years after the fraud occurs, even when the crime is not discovered until after the deadline.

I implore all of you to have the House-Senate conference committee correct the final bill to vastly improve the United States investor's rights. Don't allow white collar crime to the legalized, there is too much of it already.

Sincerely,

F.K. GLASBRENNER.

FLORIDA ASSOCIATION OF COUNTIES,
Tallahassee, FL, October 24, 1995.

Re H.R. 1058/S. 240, Securities Litigation Reform Act.

Hon. BOB GRAHAM.
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: On Behalf of Florida's 67 counties, I would like to thank you for voting against final passage of H.R. 1058/S. 240, the Securities Litigation Reform Act. While the Florida Association of Counties favor efforts to deter frivolous securities lawsuits, I strongly believe that legislation to accomplish this worthy goal must also ensure rights of investors to seek recovery against those who engage in securities market fraud. H.R. 1058/S. 240 not only fails to protect investors' rights, but seriously limits investors' ability to seek recovery from those who help to commit fraud.

Since the provisions of the House bill, H.R. 1058, go even further than the Senate bill in undermining the ability of investors to seek recovery in securities fraud cases, it appears that there is virtually no chance for a final bill that protects the rights of investors and that it is likely the House & Senate conference report will be worse than the original Senate bill. I urge you, therefore, to vote against the conference report on H.R. 1058 when it comes before the Senate for a vote.

Respectfully,

JOHN WAYNE SMITH,
Governmental Liaison.

[From the Miami Herald, Nov. 14, 1995]

LIARS' BILL OF RIGHTS?

While most of the country is paying attention to the feud over the federal budget, a sinister piece of legislation is making its way through Congress unnoticed. This bill lets companies report false information to investors. That's right, it essentially licenses fraud. It has passed both houses in slightly different forms. A compromise bill will be written soon. If it passes, President Clinton ought to slay it in its tracks.

This bill is a story of good intentions. Some companies have been plagued by frivolous lawsuits from investors who aren't happy with the company's performance. The investors allege, in essence, that the company had forecast good results and then didn't deliver. That, say the plaintiffs, constitutes fraud.

Well, often it doesn't. Investing has risks, including market downturns. When investors sue over mere bad luck, they cost companies money, clog courts, and drain profits from other investors.

Trouble is, by trying to stop this abuse, Congress mistook a simple answer for the right answer. Its solution, in plain terms, was to declare virtually all promises by all companies to be safe from legal challenge. Under this "remedy," company executives now can promise investors anything they like, with not so much as a nod to reality.

They can't legally lie, about the past, but if their claims are "forward-looking," they can promise you the moon to get you to invest, and no one can sue them later for being misleading.

Well, almost no one. The bill would allow legal action in the case of egregious, deliberate fraud, but you'd have to prove that it was intentional. And you'd have just three years to discover the fraud and furnish your proof.

It's rare enough to prove outright intent under the best circumstances, but under this bill, if executives can stiffarm you for just 36 months (not a big challenge), they'd be home free. And then—in another hair-raising provision of the bill—you'd be stuck for the company's entire legal bill. Facing such a risk, no small investor, no matter how badly cheated, would ever dare sue.

This bill evidently struck many members of Congress as a simple answer to a nagging problem. It's nothing of the kind. The problem is real enough, but its solution isn't simple. And it certainly doesn't reside in a law authorizing phony statements to investors.

> President Clinton should veto this blunder. Then, when the fight over the budget is over, Congress can take time to think up a more rational solution to the problem.

Mr. GRAHAM. Thank you.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

Mr. President, I suspect not many opinions are going to be changed at this late hour in the debate, but let me make an observation about what this debate is not about.

It is not about frivolous lawsuits. If this legislation dealt only with frivolous lawsuits, we would be acting by voice vote, and this Senator's voice would be among the loudest of the chorus of votes in support. Indeed, the provisions in this legislation that deal with the frivolous lawsuit issue are essentially provisions that this Senator has previously offered in a piece of legislation, so I am fully supportive of that.

What this legislation does, in my opinion, is systematically and pervasively dismantles the system of investor protection against securities fraud and undermines the confidence in the world's safest securities market: the United States of America. It does so for several reasons. Everyone who is involved in the regulatory process, whether the SEC, the States securities administrators and others, all acknowledge that the statute of limitations is too short—too short. They have urged this Congress to change the current law from 1 year from point of discovery to a 3-year date of occurrence cutoff to 2 years and 5 years. The reason for that is, the SEC says, because of the complexity of securities investigations. It requires more than 2 years when they do it with all of the resources of the Federal Government available.

Aiders and abettors: Aiders and abettors are not, under the current interpretation of the Supreme Court's ruling in private causes of action, are not subject to liability for reckless misconduct—not subject to liability. We have urged our colleagues to make them subject to liability, and they have declined to do so. In point of fact, there is substantial question as to whether the SEC itself as the enforcer has the power to recover against aiders and abettors.

So by failing to take that action, we immunize an entire class of wrongdoers. The accountants, the lawyers, the people who aided and abetted some of the great securities frauds in America would not be liable under the current state of the law.

Unlike the earlier Senate version of this bill, we do great damage to the fairness of imposing upon attorneys, whether they be plaintiffs' lawyers or defense lawyers, the full sanction of rule 11. As this bill left the Senate, the sanctions applied equally to plaintiffs' lawyers and to defense lawyers.

Let the planets, let the stars, let everything in God's universe fall upon those who continue to pursue frivolous lawsuits. I am with my colleague from Utah on that. But in terms of revealing the bias that is reflected throughout this legislative process, those sanctions only apply now to the plaintiffs' lawyers, and the defendants' lawyers who are guilty of frivolous actions have a much lesser sanction.

The issue is frequently framed, are you with Silicon Valley, or are you with the trial lawyers? That is a false premise. Let me just read some of the opinions that have been expressed on this.

The Akron Beacon Journal, December 1, 1995:

> The legislation would close virtually all avenues available to investors who reasonably seek to recover money lost in securities fraud cases. President Clinton can begin the effort to improve this bill by using his veto.

The San Francisco Chronicle, November 27 of this year:

> Despite the worthwhile aim, the provisions of a draft conference report—

The one that we are dealing with.

> go far beyond curbing trivial court action and instead would wipe out important protections against hustlers of fraudulent securities.

Mr. President, can I ask you to give me an indication when I have 4 minutes left of the time allocated to me?

I thank the Chair.

The Miami Herald, November 14 of this year:

> A sinister piece of legislation. It essentially licenses fraud. President Clinton should veto this blunder.

The Wisconsin State Journal:

> The bill allows deceitful corporate executives, securities brokers, accountants and lawyers out there to thumb their nose at the justice system.

The Chattanooga Times, October 30, the home State of the distinguished occupant of the chair:

> The bill would immunize most stock and bond fraud from civil liability. This fraudulent reform could not have come at a worse time. Securities fraud enforcement actions have increased 118 percent and criminal convictions for such fraud leaped 176 percent.

The Daily Times Call:

> Charles Keating could wish this were the law when he squandered millions of dollars from the savings and loan industry.

The St. Louis Post Dispatch:

> Those protected by this legislation would not only be companies free to make reckless predictions about their future, the accountants who detect fraud and keep quiet about it also would be helped.

I could read on and on and on.

I do want to say something about the editorial that appeared in Money magazine.

The PRESIDING OFFICER. The Senator has 4 minutes left.

Mr. BRYAN. I thank the Chair.

It has been suggested that Money magazine editorials were issued prior to the conference report. It is true for the first time in their history, in September, October, and November of this year, they editorialized strongly against it. Mr. President, they reaffirmed their opposition in December of this year after the conference report, indicating that this legislation, in their view, would do great harm to private investors.

Let me also point out that among the groups that oppose this are the Associations of Municipal Financial Officers, State Financial Officers, County Financial Officers, and others.

I want to read the excerpt of a letter that was sent to the Las Vegas Sun by the treasurer of Clark County, NV, which includes Las Vegas.

> As Clark County's treasurer, I am responsible for taxpayer funds collected and invested on behalf of three-quarters of Nevada's population.
>
> I am writing because legislation passed by Congress could effectively eliminate Clark County's ability to file private securities fraud lawsuits—the primary method for governments and individuals to recover losses from investment fraud.

He speaks for hundreds of county officials throughout America, irrespective of political party. That is why the National Association of Securities Administrators, and others, have strongly condemned this legislation as going far, far too far.

Mr. President, let me say that in 1982, the Congress ill-advisedly, in my judgment, passed Garn-St. Germain that opened up a wave of fraud that cost the American taxpayers, in terms of the savings and loan industry, $450 billion when those costs are amortized.

What Garn-St. Germain did for the savings and loan industry in 1982, it is my view this legislation will do for the securities industry. Those who support this legislation, if enacted and signed by the President, will rue the day. We have not seen the last of fraud. Indeed, the evidence is to the contrary that fraud is growing.

This legislation goes far beyond what is needed to address the legitimate issue of frivolous lawsuits, which I fully associate myself with those efforts. This legislation effectively emasculates the right of private investors to bring causes of action against those who perpetrate fraud that results in losses throughout the country.

In the Keating Five, and I know that people do not like the reference to the Keating case, but it was a securities action filed under the 1934 law. This is a classic case in which $171 million were recovered against aiders and abettors, those attorneys and brokers and advisers who were responsible.

Because of our failure to correct the current interpretation of the Court's opinion, we immunize and give those folks a clean bill of health, a pass to continue. For those who voted for the Senate version earlier, let me indicate that this piece of legislation emerging from the conference is far worse. It eliminates the provisions Senator SPECTER offered with respect to RICO. It heavily imbalances the sanctions that are imposed against lawyers who file frivolous lawsuits by making the burden whole and entire on plaintiffs but not so with defendants. It enhances the pleading requirements, which makes it much more difficult to bring. It fails to address the statute of limitations issue. It fails to correct the deficiency in the law which allows aiders and abettors to go home free. It reverses hundreds of years of judicial precedent in common law in limiting the right of recovery balance between an innocent investor and those whose conduct was reckless. It says under the proportionate liability that only the proportionate responsibility shall be made payable to that innocent investor, when the actual perpetrator is judgment proof or without money to respond.

Finally, let me say that the conference report even diminishes that ability to recover even further. I thank the Chair.

Mr. President, I am just informed that the distinguished Senator from Illinois wants to speak as in morning business for 2 minutes. I do not have any objection.

I ask unanimous consent that she may speak for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE NORTHWESTERN UNIVERSITY FOOTBALL TEAM

Ms. MOSELEY-BRAUN. Mr. President, I wanted to take a moment to congratulate Northwestern University's football team, the Wildcats, who, in Senate resolution 197, offered by Senator SIMON and me, are being honored and congratulated for one of the greatest underdog-to-champion stories in the history of sports. The Northwestern team is now being called "the miracle on Central Street." What they have done here is to celebrate their first conference championship in some 60 years.

Coach Barnett has taken this team from really a very low profile in the conference to being a top contender, now in the Rose Bowl. They are going to go to Pasadena. He fulfilled his pledge to take the Purple to Pasadena. That rallying cry has taken this team to a 10–1 season, a No. 3 national ranking, and with defeats over Notre Dame, Penn State, and Michigan, a feat which has, frankly, not been accomplished by any one team in over 30 years.

Northwestern really proved that it is possible to produce a football champion as well as Nobel Prize winners and Pulitzer Prize winners and academicians throughout the world. They have captured, by their actions, the hearts of fans all over the country. They have made all of us from Illinois very proud of them. If nothing else, the football team, in their perseverance, hard work, and dedication, have proved once again in this Christmas season that miracles do happen.

I thank my colleagues for their time.

Mr. BRYAN. Mr. President, I join in congratulating Northwestern. I was 11 the last time they went to Pasadena. So it is time for the Purple not only to go to Pasadena but to win in Pasadena.

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise today to oppose, in the strongest terms possible, H.R. 1058—inappropriately titled the "Private Securities Litigation Reform Act of 1995." This bill has nothing to do with reform in the normal sense of the term. Rather, the bill is about protection from liability for fraud—pure and simple. The bill is the worst kind of special interest legislation that the American public is sick and tired of.

It will give corporations a license to lie to investors and will severely restrict the ability of defrauded investors to recover their hard-earned dollars from the unscrupulous and reckless individuals and corporations who swindled them.

Six months ago, I stood on the Senate floor and urged my colleagues to oppose this bill in its earlier incarnation because—put simply—it was a bad bill. Because it was a bad bill, every major consumer group, State attorneys general, State and county treasurers, mayors, finance officers, labor unions, the American Association of Retired Persons, the National League of Cities, educators, and hundreds of other nations, State, and local organizations, opposed the bill.

It is easy to understand why when you consider that a city like San Francisco has over $8 billion in pension funds and other investments and when more than 60 State and local governments nationwide have lost more than $3.6 billion in securities markets, partly due to derivative investments.

Despite the tremendous opposition to H.R. 1058, which was a bad bill in June, it is a worse bill now. Therefore, I strongly urge my colleagues to oppose it.

What is most disturbing about this bill is the impact that it will have on what are often the forgotten Americans—that is, average middle-class Americans.

At a time when job and wage insecurity are at all-time highs, and family budgets are straining at the seams, middle-class Americans have begun investing their hard-earned dollars in stocks in record numbers. In fact, as the Washington Post reported just a few days ago, securities have supplanted real estate as the No. 1 source of family nest eggs.

Middle-class Americans believe they must invest because there may not be a decent pension when they retire—either they will be let go too soon because of corporate down-sizing or their company, to which they have been loyal, will not be there 20 or 30, or even 10 years from now.

Middle-class Americans also want to invest for the future because they aren't sure that Social Security or Medicare will be there for them in their later years when they are most vulnerable.

Last, middle-class Americans believe they must invest to ensure that their children are able to receive an education that provides them with the essential skills to enable them to become productive and integral participants in what will be an extremely competitive and global work force in the 21st century.

Because middle-class Americans recognize the need to secure and protect their financial futures, they have entered to stock market directly—or through mutual funds—to such a degree that the most significant asset held by American families today is not their home, but their 401(k) plan. Today, assets in 401(k) plans total more than $500 billion. Assets in investment retirement accounts total more than $1 trillion. The majority of these funds are in stocks.

Under these circumstances, this Nation's two primary securities laws—the Securities Act of 1933 and the Securities and Exchange Act of 1934—have become even more, not less, important.

The principal philosophy governing these two laws—enacted more than 60 years ago after the stock market crash of 1929, caused largely by a crisis of confidence due to unregulated fraudulent stock promotion—is that investors and prospective investors should have access to all material information about corporations that offer securities so that the public can make informed investment decisions and that honest markets should be maintained by strong antifraud enforcement.

At a time when middle-class Americans are investing in record numbers because they believe they must, the U.S. Congress should be strengthening the most fundamental protections for investors in our securities laws, not gutting them. Yet, gutting these laws is exactly what this bill does.

This bill strikes a severe blow to the heart of the middle class. Let me tell you about just a few of the devastating provisions in this bill.

One of the most outrageous provisions in this bill is the safe harbor provision. This provision, by providing broad immunity from liability for fraudulent corporate predictions and projections, essentially gives corporations a license to lie. This provision is much worse than the safe harbor provision in the Senate bill.

The Senate bill language that made knowingly fraudulent defendants ineligible for the safe harbor was eliminated. Now, under this bill, deliberately fraudulent statements, written or oral, as long as they are accompanied by cautionary language, will be immunized from private liability. Let me repeat—this bill protects deliberately fraudulent statements.

Let me give you a frightening but likely scenario that could occur under the safe harbor provision in this bill: In an effort to entice unsuspecting consumers to purchase stock, company X makes a bunch of optimistic and fraudulent predictions about how great a new product will perform and how the company's profits will increase because of the manufacture of this new product. The company gets its lawyers and accountants to vouch for the representations.

Based on these rosy predictions, your uncle, your grandmother, your sister's teacher's union, your church, and the State of California decide to purchase the stock. All of them wind up losing their money when the fraud is exposed. Your grandmother believes the company should not be able to get away with lying to her. The company's lawyers argue, however, that even though there were fraudulent statements, there was a paragraph of cautionary language in some filing at the Securities and Exchange Commission. Under this bill, grandma loses, all the swindled investors lose, and the fraudulent company and its lawyers and accountants win.

This is absolutely outrageous. And it's just one example of the many anti-investor provisions in this bill.

To add insult to injury, this bill also fails to restore traditional aiding and abetting liability for securities fraud in private actions. Thus, lawyers, accountants, and others who turn a blind eye to the fraudulent activity of their clients, or who recklessly aid and abet their clients, will be let off scott free.

The bill also dramatically erodes the doctrine of joint and several liability and moves to a system of proportionate liability. The bottom line for an investor is that under this bill, if a corporate defendant is found guilty of fraud and goes bankrupt, the victim will not be able to recover all of his losses. In essence, what this bill does is determine, as policy matter, that it is more important to protect adjudged wrongdoers from having to pay more than their strict proportion of the harm than it is to protect the innocent victims of fraud.

Another of the troubling provisions in this bill, is the one which adopts a higher pleading standard than was in the Senate bill—higher in fact than the standard adopted by the second circuit—which is currently the highest standard in the land.

As my colleague Senator SPECTER discussed earlier, it was Senator SPECTER who offered an amendment that clarified that the heightened pleading standard in the Senate bill could be satisfied by evidence of a defendant's motive and opportunity to commit securities fraud. The current version of this bill, however, eliminates the language in the Specter amendment.

This bill is also worse than the Senate bill because it imposes a mandatory loser-pays fee shifting penalty under rule 11 of the Federal Rules of Civil Procedure that is harsher on plaintiffs than on defendants.

Under current law, rule 11 gives courts the discretion to impose sanctions for pleadings and motions that are unwarranted, without evidentiary support, or otherwise abusive.

The Senate bill required courts to determine whether any party violated rule 11 and to presume that the appropriate penalty for violating rule 11 is fee shifting. Under the Senate bill, the party who violated rule 11 would have to pay the opposing party's legal fees incurred as a direct result of the violation.

The bill on the floor today is worse than the Senate bill because it unfairly increased the penalty imposed against plaintiffs who are found to have violated rule 11 while not doing so for defendants who are found to have violated rule 11. The presumptive penalty for plaintiffs is have to pay all of the defendant's legal fees and costs incurred in the entire action.

Proponents of this bill claim that the bill is balanced and fair. Is this provision balanced or fair? Not by any stretch of the imagination.

This bill, unlike the Senate bill, also adopts a provision, modeled on the House bill, that may require plaintiffs to post a bond to cover a possible fee-shifting penalty. Moreover, there is no limitation on the amount of the bond. This could be a major obstacle for individual victims or their attorneys in bringing a meritorious action against a large corporation defendant. The bill also fails to restore an adequate statute of limitations for private securities fraud actions, and gives the greatest control in cases to the wealthiest plaintiffs.

Lastly, as someone who has long sought to do what he could to combat crimes of all kind, I also find it incredible that language in the Senate bill concerning the application of our RICO laws in securities fraud cases has been almost eliminated entirely.

Under an amendment I offered, the Senate bill allowed the RICO statute to be used in a securities fraud civil case if at least one person in the civil case has been criminally convicted. Under this bill, RICO could only be used in the civil case against the person who was actually criminally convicted.

The safe harbor, proportionate liability, pleading, aiding and abetting, fee-shifting, and RICO provisions, are bad enough alone, but together, they will actually encourage the kind of conduct our securities laws were designed to eliminate.

I am sure that there is not one Member in this body who does not want to bring an end to all frivolous lawsuits, not just shareholder lawsuits. Yet, the legislation before us today is not the answer—it is far from it.

Indeed, the managing editor of Money magazine, the largest financial publication in the United States, with over 10 million, largely middle-class readers, said it well when he stated, and I quote:

> At a time when massive securities fraud has become one of this country's growth industries, this law would cheat victims out of whatever chance they may have of getting their money back . . . in the final analysis, this legislation . . . would actually be a grand slam for the sleaziest element of the financial industry, at the expense of ordinary citizens.

The president of the Fraternal Order of Police said it best, however, when, in his letter to the President urging him to veto the bill, he stated:

> Mr. President, our 270,000 members stand with you in your commitment to a war on crime; the men and women of the Fraternal Order of Police are the foot soldiers in the war. On their behalf, I urge you to reject a bill which would make it less risky for white collar criminals to steal from police pension funds while the police are risking their lives against violent criminals!

I urge my colleagues to heed these words.

Mr. BRYAN. Mr. President, I thank the distinguished senior Senator for his statement and for his insight.

Mr. COHEN. Mr. President, I am well aware of the hazards of abusive class action lawsuits and unethical attorney conduct.

Just before Thanksgiving there was an article on the front page of the New York Times about a constituent of mine who received a benefit of $2.91 from a class action suit concerning overcharges in mortgage escrow accounts, but had $91.00 removed from his account to pay the attorney's fees of class counsel. I will soon be introducing legislation to protect consumers from these types of abuses.

There are undoubtedly abusive securities class actions as well. But the key to reforming this area of the law, like all litigation reform, is to devise remedies that will weed out the frivolous lawsuits while allowing the meritorious ones to go forward.

The conference report under consideration contains a number of necessary and well-crafted reforms. It requires that class members receive intelligible notices explaining the terms of class action settlements, prohibits secret settlement agreements, and promotes enforcement of rules sanctioning attorneys for unethical behavior.

Unfortunately, the conference report also contains provisions that will prevent potentially meritorious cases from being pursued. In some instances, those who knowingly and intentionally mislead investors will be fully immunized from liability. Consequently, I will vote against this conference bill as I did when it was first considered by the Senate.

I am especially concerned about the consequences that the bill will have on the elderly. The Special Committee on Aging, which I chair, has held a series of hearings on fraud against small, unsophisticated investors.

The committee's investigation revealed that in an era of low interest rates, when retirees are seeking out higher yield investments, the elderly are particularly vulnerable to securities scams. Fraud against the elderly is particularly odious because their savings cannot be replaced by new earnings—losses resulting from fraud can affect middle-income seniors' standard of living for the rest of their lives.

The safe-harbor contained in the conference report shields issuers of securities, or those working on their behalf, from lawsuits based on predictive statements they make about the future performance of a stock. The immunity is absolute, so long as the predictions are accompanied with cautionary statements indicating that actual results may differ from those predicted.

The effect of this safe harbor is that corporate officials are immune from suit even if they make factual statements that they know to be false and that are intended to mislead investors. At least under the Senate bill, knowing and intentionally misleading statements would have been actionable. I am disappointed that the conference committee chose to broaden, rather than narrow, this provision.

I am also concerned about the cumulative effect of some of the procedural changes made to the bill.

The bill requires that before initiating a suit a plaintiff must be able to allege specific facts giving rise to a strong inference of the defendants' state of mind. A Senate amendment clarifying how plaintiffs could meet this burden was dropped by the conference. In addition, the bill prohibits plaintiffs from taking any discovery before it must defend a motion to dismiss the lawsuit.

Together, the pleading standard and the bar on discovery will make it extraordinarily difficult to maintain a lawsuit because it is virtually impossible to prove the state of mind of a party until you have an opportunity to conduct interviews and examine documents.

These and other provisions will not only deter frivolous lawsuits, but will create roadblocks and obstacles to suits that seek recoveries for genuine victims of fraud. For decades these private class action lawsuits have provided a necessary supplement to the enforcement efforts of the Securities and Exchange Commission.

Enforcement of the securities laws and the confidence in our markets that these laws have engendered have contributed to making our stock markets the most robust in the world. The benefits this legislation is intended to achieve—the deterrence of abusive litigation—does not justify the potential costs of weakening an enforcement scheme that has effectively protected our markets for many years.

Mr. GRAMS. Mr. President, I rise in support of the conference report.

I am proud to say that I served on the conference committee which produced this report. As a freshman Senator, I was particularly honored to play a role in crafting legislation which will benefit so many Americans who find themselves victimized by the social costs of frivolous litigation.

The legislation before us today, H.R. 1058, is entitled the "Private Securities Litigation Reform Act of 1995." In my opinion, a better title would have been the "Investors, Workers and Consumers Legal Protection Act." After all, this legislation is designed to protect those very people—investors, workers and consumers—from the high cost of meritless and abusive litigation.

Today, we have an opportunity to make some modest and reasonable changes which will help weed out the most abusive lawsuits in the field of securities litigation while at the same time, preserving the right of action for shareholders who are truly victimized by securities fraud.

I am particularly pleased with a number of the provisions in this bill, including:

Mandatory sanctions against attorneys who file abusive lawsuits;

Codification of the pleading standard adopted by the second circuit court of appeals;

Elimination of bounty payments to named plaintiff, plaintiff referral fees, and undeserved windfall damages;

A safe harbor for forward-looking statements to encourage companies to voluntarily disclose information to help investors make better decisions; and

A reduction in the level of liability for secondary defendants who do not knowingly engage in securities fraud.

In addition, I am pleased that this legislation does not extend the current statute of limitations established by the U.S. Supreme Court in the 1991 Lampf decision. That's one year from the date the plaintiff knew of the alleged violation and 3 years from the date the alleged violation occurred.

While some critics of this legislation have seized upon the statute of limitations as a wedge to defeat this important bill, they have failed to present a convincing case for why this period should be extended.

They have tried to suggest that the current statute of limitations has curbed the number of meritorious cases filed in the courts, but the evidence proves otherwise.

According to the administrative office of the U.S. courts, during the 4 years prior to the Lampf decision, the average number of cases filed was 162 per year. In the 4-year period since Lampf, the average number of cases filed has risen to 278 per year, an increase of nearly 72 percent.

Contrary to the claims of the bill's opponents, securities litigation has increased under Lampf, not decreased. This should not be surprising, given the fact that many of these claims can now be filed within days, even hours, after a movement in the market.

There are a number of other reasons why the current statute of limitations should be preserved.

A longer period would simply allow speculators too much time to wait and see how their decisions to buy or sell securities turned out, permitting them to abuse our legal system to cover their losses in the market.

In addition, a longer period of limitations would make it more difficult for innocent defendants to protect themselves in court. Forcing companies to keep track of every rise and fall of their stock value for 5 years and allowing strike suit attorneys to attack job creators well after the memory of a reasonable person would have faded would only lead to more frivolous litigation, more exorbitant settlements, and more pain for investors, workers and consumers.

Under current law, plaintiffs with meritorious claims have more than enough time to file their suits; unfortunately, so too do strike suit attorneys. Even with the enactment of this bill, some meritless claims will survive. If our intent is to reverse the current litigation explosion, why would we want to invite more frivolous lawsuits by extending the statute of limitations?

In June, when this legislation was debated on the Senate floor, 52 of our colleagues wisely decided to retain the current statute of limitations. That was the right decision in June and it is the right decision today, and I am pleased that this conference report preserves current law.

Finally, I'd like to say something about how this legislation will benefit everyday Americans. Securities litigation reform is not a subject discussed every morning around the kitchen table, but its results will have a major and beneficial impact on most Americans.

It will protect the worker who worries about being laid off because his employer had to pay attorneys' fees instead of his salary.

It will help the consumer who has to pay higher prices for products today because of the hidden cost of frivolous litigation.

It will pay off for the legitimate investors and pensioners whose life savings are being jeopardized by strike suit attorneys.

And finally, it will benefit the thousands of honest, hard-working attorneys who have watched the public image of their profession being tarnished by a few greedy quick change artists.

It is for the sake of these Americans that we have put in long hours of hard work to craft this balanced and reasonable bill.

None of us are totally satisfied with this legislation. There are some supporters who feel that certain provisions in the conference report go too far. There are others like me who would like to see this legislation go further. But I think we can all agree that this conference report does what it's supposed to do: protect legitimate investors, save jobs, and preserve the right of actions for true victims of securities fraud.

When I think of this bill, I am reminded of a quote by one of the strike suit attorneys who testified on this subject before the Senate Banking Committee. In a moment of honesty, this prominent and wealthy securities action lawsuit attorney said: "I have the best practice of law in the world. I have no clients."

In my opinion, these words best illustrate the problem that this legislation is designed to address.

I commend the managers of the conference, Senator D'AMATO and Congressman BLILEY, for crafting this report, as well as our colleagues, Senators DOMENICI and DODD for pushing this issue for so many years.

As a conferee, I am proud to have played a role in this legislation and urge my colleagues to adopt the conference report.

Mr. BRYAN. Mr. President, I ask unanimous consent I be allowed to use a portion of the time of the senior Senator from Minnesota as he will not be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, if I may, there has been some discussion as to the position of the Securities and Exchange Commission on this piece of legislation. I have in my possession a letter dated November 22, signed by Arthur Levitt, the Chairman of the Securities and Exchange Commission, who has written to the Los Angeles Times, the editor, Mr. Coffey. I am just going to read a portion of his statement: "I am concerned and disappointed with several major points in today's Los Angeles Times article entitled 'SEC Chief Shift on Investor Bill is Linked to Senate Pressure.'" The Chairman goes on to say, "The article is wrong in reporting that I now support the litigation reform bill."

I think that needs to be said. The Chairman of the SEC has not and does not support the legislation in the current form.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, November 22, 1995.

SHELBY COFFEY III,
Editor, Los Angeles Times, Times Mirror Square, Los Angeles, CA.

DEAR MR. COFFEY: I am concerned and disappointed with several major points in today's Los Angeles Times article entitled "SEC Chief Shift on Investor Bill Is Linked to Senate Pressure."

The article is wrong in reporting that I now support the litigation reform bill.

The article is wrong in reporting that I've reversed my position.

The article is wrong in reporting that my position was influenced by political pressure.

In the sub-heading and again in the lead sentence of the article, I am represented to "back" and "support" the proposed legislation. This is simply not the case. This point was repeatedly stressed to the reporter.

Secondly, the position outlined in the SEC's letter in no way can be construed as a reversal of the SEC's position. The article fails to describe the significant changes that were made in the most recent draft of the legislation that precipitated our letter. To do so would have made it clear that our letter did not represent any "reversal."

Finally, my staff repeatedly and unequivocally expressed to Mr. Paltrow that it was simply not true to say that the SEC responded to political pressure in issuing our letter. The letter represents the Commission's position arrived at thoughtfully, independently and deliberately. To suggest anything less is an insult. To build an entire story about political influence around one quote from one Senate staff member opining about the motivations of the SEC is, at best, unfair; especially when you consider that the two SEC Commissioners who signed the letter—the only people in any position to accurately describe the circumstances surrounding it—unambiguously denied that they did so in response to political pressures.

I hope you will correct these misstatements.

Sincerely,
ARTHUR LEVITT, *Chairman.*

Mr. BRYAN. Mr. President, I realize it is very easy to demonize lawyers. Some of my colleague who have taken the opportunity this afternoon and this morning to do so would not be the first to do that. Dating back to the time of Shakespeare, "The first thing we ought to do," Shakespeare said, "is kill all the lawyers."

I believe this is not a warm, cuddly group that is easy to love. Having once practiced law, I share some of that antipathy to lawyers, when lawyers get out of line, as they from time to time do.

As I indicated, I fully support the provisions that deal with the frivolous lawsuits, and my colleague from Minnesota itemized a number of those.

Let me try to turn this to a broader perspective: Over 150 editorials and columns that have appeared in newspapers across the United States, in every region, newspapers whose philosophies are conservative, liberal, middle of the road. Overwhelmingly, the informed judgment and opinion by these editorial writers is in strong opposition to the bill—not because they do not recognize, as I, and I think all of my colleagues do, that we need to make some changes with respect to the frivolous lawsuits, but because this bill goes far beyond that.

It is really a Trojan horse in which those who seek to minimize or immunize themselves from liability have entered into the courtyard under this frivolous lawsuit flag, when in point of fact they are trying to protect themselves from liability after their misconduct has been adjudicated.

Among those organizations that have expressed their opposition are the National League of Cities, the National Association of Counties, the Government Finance Officers Association, the U.S. Conference of Mayors, the Municipal Treasurers Association. I do not know what the political affiliation is of all of these people, but I daresay if you examine it you would find Republicans and Democrats alike that hold these offices, all essentially reaching the same conclusion, that they and their constituent interests, namely, the people who live in these various communities, are at risk in terms of being protected in the event that investor fraud causes them to lose money in any of the portfolios they hold in behalf of the public, as members of counties or cities, municipal officers, and others.

I suspect that this group is about as neutral and objective as any that you might find. I think it is instructive that virtually all have expressed their strong opposition. They are extremely concerned that they might be the next Orange County. It could happen in their State, in their county, in their city to their university investment portfolio, and they know that they would be irreparably damaged if we do not take corrective action to balance this piece of legislation.

In recent weeks, well over 1,000 State and local officials and opinion leaders have written the Congress and the President to express their strong opposition. Among those letters, Mr. President, is a letter signed by 99 California government officials, including the Mayors of San Francisco and San Jose and officials in 43 of the State's 58 counties; a letter signed by 34 county treasurers in Arkansas; a letter signed by 24 opinion leaders in Iowa, including the State's Attorney General Tom Miller; a letter signed by 51 public officials in Georgia; a letter signed by 51 Maine opinion leaders, including State Treasurer Sam Shapiro and 9 State legislators; a letter signed by 60 public officials in Massachusetts, including the Massachusetts Association of County Commissioners; a letter signed by 33 opinion leaders in Montana, including Attorney General Joseph Mazurek and State Auditor Mark O'Keefe; a letter signed by 39 officials in New Jersey, including the New Jersey Conference of Mayors and the New Jersey League of Municipalities; a letter signed by 27 Ohio public officials, including the mayor of Cincinnati and the Ohio County Treasurers Association; a letter signed by 27 Vermont opinion leaders.

My point is that this spans the continent, from east to west, from north to south. Whether one is liberal, conservative, or middle of the road, virtually all have concluded that this legislation overreaches and clearly places those persons in their communities and their States at risk as a consequence of this legislation.

Mr. President, I reserve whatever time I have remaining and note the presence on the floor of my distinguished friend and colleague, the Senator from Alabama, Senator SHELBY.

The PRESIDING OFFICER. The Senator from Alabama has 7 minutes.

Mr. SHELBY. Mr. President, I am disappointed to say that the conference report before us today is not a balanced bill. It was not a balanced bill when it left the Senate several months ago, and it has not improved by any measure in conference.

Plain and simple, Mr. President, it remains unbalanced against the defrauded investor.

I am disappointed, as I was when the Senate passed S. 240, because I believe that there are some worthy provisions in this bill that would go far in reducing frivolous suits without compromising the rights of victims of fraud.

These few, worthy provisions, however, are insufficient to overcome the unbalanced nature of this bill.

While I support efforts to reduce frivolous litigation, I simply cannot support the approach taken here today.

This past year I have actively sought alternatives that would seek a middle ground between weeding out meritless litigation and preserving legitimate claims.

I have actively sought alternatives that would seek a middle ground between eliminating economic incentives to pursue frivolous litigation and protecting the rights of the defrauded investor.

And, I have actively sought alternatives that would seek a middle ground between opportunistic strike suits and preserving the powerful check of private litigation on professional misconduct.

Earlier this year, I joined Senator BRYAN in introducing a securities litigation reform bill that, I believe, struck the proper balance between protecting investors and reducing meritless litigation.

Our bill contained some of the same worthy provisions also incorporated in this conference report, like the ban on referral fees and the payment of attorney fees from the SEC disgorgement fund, increasing fraud detection and enforcement and ensuring adequate disclosure of settlement terms.

In addition, however, our bill sought balance by including several provisions to protect the rights of the defrauded investor.

It restored aiding and abetting liability; extended the statute of limitations for private fraud actions to the earlier of 5 years after the violation or 2 years after discovery, and ensured that the victim of fraud was made whole in the case of an insolvent joint and several defendant.

When S. 240 came before the Senate I, again, sought to improve the balance of the bill by offering an amendment on proportionate liability.

My amendment would have ensured that the insolvency of the defendant does not prevent the innocent victim from obtaining a full recovery by making proportionate defendants liable for the remaining uncollectible amount of an insolvent joint and several defendant.

Again, this provision would have weighted in favor of the victim of the fraud over the perpetrator of the fraud—a balance which is still missing from the conference report before us today.

Mr. President, these provisions are crucial, in my view, to ensuring that rights of defrauded investors are not unfairly impaired in an effort to reduce litigation—meritorious or meritless.

Mr. President, the conference report fails to do what S. 240 failed to do—and I, therefore, cannot support it.

The conference report, put simply, fails to ensure adequate protection of the rights of the innocent victim of securities fraud, and, in fact, makes it harder for the small investor to gain access to the courts and obtain a full recovery for securities fraud.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, let me express my appreciation to the Senator from Alabama for his comments and for his balance. I believe he would agree with me that there are abuses that need to be corrected. None of us who oppose this legislation are arguing the status quo is what we favor. Indeed, he is a cosponsor with me of the legislation that would have dealt with a number of those things. The Senator will recall that incorporated in that we had provisions to eliminate bonus payments being paid to brokers. That is dead wrong. He and I agree on that.

The Senator would agree with me, I am sure, that payments that would be made as bonus payments to certain plaintiffs are wrong as well. The referral fees—we clearly agree that before a settlement should be effected, the lawyers on behalf of the plaintiffs need to make a full disclosure as to what the terms of the settlement are to be. And we fully agreed that, if there are frivolous lawsuits, the courts need to be very aggressive in imposing sanctions.

I note my friend wants to respond. I will not purport to speak for him.

Mr. SHELBY. If the Senator from Nevada will yield just for a few brief comments?

Mr. BRYAN. I will be happy to.

Mr. SHELBY. I believe in any piece of legislation we need balance. We need balance for the people who are the issuers of stock in the public domain. But, on the other hand, we need some safeguards for the investor. If you do not have balance in a situation, you are going to have trouble later.

I believe this bill is not a panacea. This bill is fraught with danger. I think it is a bad bill the way it is constructed today, but it could have been a good bill if we had stayed with the basics and if we were able to work out a bipartisan approach to a very serious thing, and that is excessive litigation.

No one, I believe, in his right mind could do anything but agree that a lot of litigation is out of control in America. But how do you balance that? I believe we have that responsibility and obligation, to make sure it is balanced, especially when you are dealing with people who probably are not going to be as sophisticated about the marketplace as people who come to the marketplace, but will invest their life savings and will invest everything they have. And what remedy will they have in the future as victims? I think this is what some of this is about.

Mr. BRYAN. Mr. President, I note the distinguished Senator from New Mexico is on the floor, and he previously had some time. I would be willing to offer him some time and ask unanimous consent that we split the remainder of the time.

Mr. DOMENICI. How much time does the Senator have?

Mr. BRYAN. I think we have about 5 minutes.

Mr. DOMENICI. I do not need that time. I will take 2 of the 5. It is very generous of the Senator to split it with me.

Mr. BRYAN. Three.

Mr. DOMENICI. I do not really need that much, but I will accept it.

Mr. President, I would have stopped the distinguished Senator from Nevada had I had a chance and asked a question. I did not do that because I just did not get in the right position with reference to his speech.

He mentioned a lot of organizations, institutions, and editorial writers who are opposed to this bill. I guess if I had a chance to ask those associations, institutions, and editorial writers a question, I would just ask one. Let us assume in addressing them that I am saying, "Mr. Jones,"—that addresses all of them—"did you know that the investors' share of what is collected in a lawsuit of the type we are concerned about, out of every dollar collected, that 14 cents goes to the investor?" That is that poor stockholder that everybody is talking about being sorry for. Fourteen cents goes to that person, and the balance, if my arithmetic is correct, 86 cents goes to the lawyers, court costs, deposition costs, and the other things.

That is why the program needs to be fixed. There is no doubt about it. This part of the American judicial system and litigation system is not working. It is not worth the consequences to the enterprises being affected that normal litigation brings to the marketplace of American capitalism. It is sort of part of the system that has gone eccentric, that lawyers have found a bird's nest on the ground, and this is the result—settlements all over the place, deep pocket lawsuits, and even with all of that available to the lawyers of this country, 14 cents goes to that little investor whom everybody is trying to protect.

I would like to close by saying I am very pleased that the oldest and largest investment group around that takes care of small stockholders, the National Association of Investors Corp., which has a letter to the President saying protect their stockholders, endorses this.

There is a long list here of investors who say to the President, "We want your support." There is a huge list from the American Business Conference to the public trading companies, maybe 30 of them.

I ask unanimous consent that all of these be printed in the RECORD in support of the cause that this bill contains.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
INVESTORS CORPORATION,
Royal Oak, MI, October 25, 1995.

The PRESIDENT,
The White House,
Washington, DC.

MR. PRESIDENT: I am writing as chairman of America's oldest and largest organization of small investors—the lifeblood of our nation's capital markets. NAIC is a prime mover behind the popular trend of investment clubs, where investors share information and expertise while reducing risks. The number of investment clubs affiliated with NAIC has grown to 17,000, representing more than 325,000 individual investors.

Mr. President, America's small investors urgently want reform of our broken system of securities litigation.

We pride ourselves in making our own investment decisions, based on information in the marketplace. But because of the current legal system, we have been getting less and less access to voluntary information from publicly traded companies. Companies balk at disclosing useful information for fear of frivolous class-action securities lawsuits. To make matters worse, meritless securities lawsuits unjustly take money from the pockets of small investors by driving down the value of growth companies in which we invest. In the past four years alone, class-action securities suits have milked more than $2.5 billion from American companies. Plaintiff's lawyers have pocketed approximately one-third—$825 million—of these funds that otherwise could have gone to more productive use.

We want to be able to recover our investments in cases where we have been defrauded. Just as important, we want protection from unscrupulous "strike suit" attorneys who file baseless suits that coerce companies into spending our investment capital on settlement and defense costs.

That is why NAIC members support securities litigation reform legislation that cracks down on frivolous securities lawsuits while strengthening effective protection against real fraud. The bill's strong new fraud prevention provision would require public auditors to identify and report illegal activities as soon as discovered. This reform bill stops the abusive practice of using "professional plaintiffs" who buy small amounts of stock in many companies simply to gain the right to sue. It gives real investors more power to direct securities lawsuits.

Mr. President, on behalf of small investors across the nation, I urge you to work with Congress to enact securities litigation reform into law this year.

Sincerely yours,

THOMAS E. O'HARA.

INVESTORS AND THOSE WHO PROTECT INVESTORS HAVE SPOKEN OUT IN FAVOR OF SECURITIES LITIGATION REFORM

National Association of Investors Corporation, the largest individual shareowners organization in the United States.

Managers of public and private pension funds, including: New York City Pension Funds, Connecticut Retirement and Trust Funds, Oregon Public Employees' Retirement System, State Universities Retirement System of Illinois, Teachers Retirement System of Texas, State of Wisconsin Investment Board, Washington State Investment Board, Eastman Kodak Retirement Plan.

State treasurers and state officials responsible for state securities laws and pension funds, including: Treasurer, Commonwealth of Massachusetts, Treasurer, State of Ohio, Treasurer, State of Illinois, Commissioner of Corporations, California, Treasurer, State of North Carolina, Treasurer, State of South Carolina, Treasurer, State of Delaware, Treasurer, State of Colorado.

Senior citizen investors spoke out in a recent poll in favor of legal reforms to curb lawsuit abuse.

SUPPORTERS OF SECURITIES LITIGATION REFORM

American Business Conference.—Members of the American Business Conference include 100 chief executive officers of high-growth companies with revenues over $25 million. ABC serves as the voice of the midsize, high-growth job creating sector of the economy.

American Electronics Association.—The American Electronics Association represents some 3,000 companies in 44 states that span the breadth of the electronics industry, from silicon to software, to all levels of computers and communication networks, and systems integration.

American Financial Services Association.—The American Financial Services Association is a national trade association for financial service firms and small business. Its 360 members include consumer and auto finance companies, credit card issuers, and diversified financial services firms.

American Institute of Certified Public Accountants.—The American Institute of Certified Public Accountants is the national professional organization of over 310,000 CPAs in public practice, industry, government, and academia.

Association for Investment Management and Research.—The Association for Management and Research is an international nonprofit membership organization of investment practitioners and educators with more than 40,000 members and candidates.

Association of Private Pension and Welfare Plans.—The Association of Private Pension and Welfare Plans membership represents the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies, law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Association of Publicly Traded Companies.—The Association of Publicly Traded Companies has an active membership of over 500 corporations consisting of a broad cross section of publicly traded companies, especially those traded on the NASDAQ national market.

BIOCOM/San Diego (Formerly the Biomedical Industry Council).—BIOCOM/San Diego is a business association representing over 60 biotechnology and medical device companies in San Diego, CA.

Biotechnology Industry Organization.—The Biotechnology Industry Organization represents more than 525 companies, academic institutions, state biotechnology centers and other organizations involved in the research and development of health care, agriculture and environmental biotechnology products.

Business Software Alliance.—The Business Software Alliance promotes the contained growth of the software industry through its international public policy, education and enforcement programs in more than 60 countries, including the U.S., throughout North America, Asia, Europe and Latin America. BSA represents leading publishers of software for personal computers.

Information Technology Association of America.—The Information Technology Association is a major trade association representing over 5,700 direct and affiliated member companies which provide worldwide computer software, consulting and information processing services.

National Association of Investors Corporation.—The National Association of Investors Corporation is the largest individual shareowners organizations in the United States. NAIC has a dues-paid membership of investment clubs and other groups totalling more than 273,000 individual investors.

National Association of Manufacturers.—The National Association of Manufacturers is the nation's oldest voluntary business association, comprised of more than 13,000 member companies and subsidiaries, large and small, located in every state. Its members range in size from the very large to the more than 9,000 small members that have fewer than 500 employees each. NAM member companies employ 85% of all workers in manufacturing and produce more than 80% of the nation's manufactured goods.

National Investor Relations Institute.—The National Investor Relations Institute, now in its 25th year, is a professional association of 2,300 corporate officers and investor relations consultants responsible for communication between corporate management, shareholders, security analysts and other financial publics.

National Venture Capital Association.—The National Venture Capital Association is made up of 200 professional venture capital organizations NVCA's affiliate, the American Entrepreneurs for Economic Growth, represents 6,600 CEOs who run emerging growth companies that employ over 760,000 people.

Public Securities Association.—The Public Securities Association is the international trade association of banks and brokerage firms which deal in municipal securities, mortgages and other asset-based securities, U.S. government and federal agency securities, and money market instruments.

Securities Industry Association.—The Securities Industry Association is the securities industry's trade association representing the business interests of more than 700 securities firms in North America which collectively account for about 90% of securities firm revenue in the U.S.

Semiconductor Industry Association.—The Semiconductor Industry Association represents the $43 billion U.S. semiconductor industry on public policy and industry affairs. The industry invests 11% of sales on R&D and 15% of sales on new plant and equipment—more than a quarter of its revenue reinvested in the future—and thus seeks to improve America's equity capital markets.

Software Publishers Association.—The Software Publishers Association is the principal trade association of the personal computer software industry, with a membership of over 1,000 companies, representing 90% of U.S. software publishers. SPA members range from all of the well-known industry leaders to hundreds of smaller companies; all of which develop and market business, consumer, and education software. SPA members sold more than $30 billion of software in 1992, accounting for more than half of total worldwide software sales.

MANAGERS OF PRIVATE OR PUBLIC PENSION FUNDS

Champion International Pension Plan.—Champion International Pension Plan controls over $1.8 billion in total assets.

Connecticut Retirement and Trust Fund.—The Connecticut Retirement and Trust Fund invests over $11 billion on behalf of over 140,000 employees and beneficiaries.

Eastman Kodak Retirement Plan.—Eastman Kodak Retirement Plan manages over $10.9 billion in total assets and is ranked as one of the largest 60 pension plans in the U.S.

Massachusetts Bay Transportation Association.—With over 12,000 participants, the Massachusetts Bay Transportation Association controls over $772 million in total assets.

New York City Pension Funds.—Over $49 billion have been invested in the fund to insure the retirement security of 227,000 retirees and 138,000 vested employees.

Oregon Public Employees' Retirement System.—Assets controlled by the fund total over $17.2 billion. The Oregon Public Employees' Retirement System is ranked among the largest 30 pension plans in the U.S.

State of Wisconsin Investment Board.—One of the 10 largest pension funds in the United States, the State of Wisconsin Investment Board manages over $33 billion contributed by the State's public employees.

State Universities Retirement System of Illinois.—The State Universities Retirement System is ranked as one of the country's 100 largest pension funds with total assets of $5.3 billion.

Teachers Retirement System of Texas.—The Teachers Retirement System of Texas controls over $36.5 billion in total assets on behalf of its 700,000 members.

Washington State Investment Board.—With assets totaling over $19.7 billion, the Washington State Investment Board is ranked in the largest 25 pension funds.

Mr. DOMENICI. I yield the floor.

I thank my friend for the time.

Mr. BRYAN. Mr. President, let me compliment my friend from New Mexico. I know he is sincere. He has been laboring in the vineyards for a good many years on this legislation. Let me say by way of rebuttal that, if this legislation was about how we could increase that 14 cents that the investors currently receive according to the information provided, I would like to work with him. In point of fact, the concern is that this legislation will, in many cases, reduce the recovery to zero and in no instance is there a provision in this bill that would enhance the recovery beyond the 14 cents even if recovery is possible.

Finally, let me say by way of winding it up, our friend, the distinguished chairman of the Select Committee on Aging, has certainly provided a number of insights in terms of who really gets hurt in this legislation. He points out cogently and definitively that the seniors in America are going to be among its principal victims.

Mr. President, I note that our time is up. If there is any remainder of time, I yield it.

Have the yeas and nays been asked for?

The PRESIDING OFFICER (Mr. SANTORUM). They have not.

Mr. BRYAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 1058, the Private Securities Litigation Reform Act of 1995.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—65

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Pell
Pressler
Reid
Robb
Rockefeller
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—30

Akaka
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Feingold
Glenn
Graham
Heflin
Hollings
Inouye
Kerrey
Lautenberg
Leahy
Levin
McCain
Moynihan
Nunn
Pryor
Sarbanes
Shelby
Simon
Specter
Wellstone

"ANSWERED PRESENT"—1

Bond

NOT VOTING—3

Bradley
Gramm
Roth

So, the conference report was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1833) to amend Title 18 U.S. Code to ban partial-birth abortions.

The Senate resumed consideration of the bill.

MORNING BUSINESS

Mr. SMITH. Mr. President, I ask unanimous consent that there be a period for morning business until 5:30.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I want to know what the intention is as far as going to the late-term abortion ban.

Mr. SMITH. The intention is to go to it at about 5:30.

Mrs. BOXER. How long does my colleague wish to continue the debate?

Mr. SMITH. I do not have any information on that at this time. I have no intention to delay the debate, I say to the Senator from California.

Mrs. BOXER. I know there are some people here who wish to speak, and they are here because it is their understanding that we were moving to it immediately. Is there any reason in delaying going to this bill?

Mr. SMITH. Only that Senator THOMAS asked me for time to give a tribute to Senator SIMPSON. That is the only reason.

Mrs. BOXER. Thank you. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized to speak as in morning business.

TRIBUTE TO ALAN SIMPSON

Mr. THOMAS. Mr. President, I appreciate the opportunity to come to the floor to talk about a friend, to talk about a man whom I respect as a friend, whom I respect as a public servant, a man—to quote a phrase he uses—"who is a friend to his friends," ALAN SIMPSON.

As you all know, AL SIMPSON indicated in Cody, WY, last Saturday that he would not seek another term in the U.S. Senate and would end his career at 18 years. ALAN SIMPSON is a special guy, a unique U.S. Senator. There are none other like him. He can be outspoken, very candid, very frank, and very kind.

This Cody boy is an outstanding Senator and my lifelong friend, a good and gracious man. I know that so many of you have known him well and also call him a friend. We are lucky in that way. Both he and Ann have given grace and style in their personal relationships as well as in their political life. All of us in Wyoming have been very proud of his representation in the Senate and his and Ann's representation as Wyomingites in the Nation's Capital.

I have had the privilege to serve as a part of a team with AL on the Wyoming delegation for 5 years, when I was in the House and he and Malcolm Wallop were here. This one very special year, ALAN SIMPSON and I have had the opportunity to serve together. There will be more accolades, tributes, and reactions, of course, to their decision. Many are surprised, certainly, and many are saddened by AL SIMPSON's decision not to run. I defend it because I know it was truly their decision and they are at peace with it and look forward to life beyond these Chambers, as we all know there is. I am sure that life will be centered in Cody, WY.

I know that AL could have done anything he chose to. People in Wyoming adore him, respect him, and he could have won the race easily. I have a selfish reaction to this. I wanted him to run again. We in Wyoming have a unique relationship in this delegation—all Republicans, and we are all friends. I think it is especially unique that AL and I grew up in the same little town, Cody, WY—which was about 6,000—across the alley from one another. We played sports together, grew up together. I can tell a few scandalous stories, but AL has told most of them already.

Few men in Washington have the gift of skill and the gift of humor that AL SIMPSON has. He has always been that way. I can recall when I was just a kid, Milward Simpson was probably the most famous man in our little town. I can remember being so astonished that he could stand up and extemporaneously speak, and it would just flow.

So now we are here serving the Wyoming people in the Senate, and here ALAN SIMPSON is my political mentor, our senior Senator and, very selfishly, I wanted him to run again, to continue his excellent representation and clear leadership. Many of you will have your own testimony to AL SIMPSON during the coming year. But I can tell you from one who has known the SIMPSON family, I know Milward and Lorna Simpson would have been very proud of AL, both in the way he has served and will serve throughout 1996, but also as proud as only a father and a mother can be in the way he has come to and announced his decision. He announced it with courage, with class, and with a positive view for the future—the qualities that define AL and Ann Simpson.

He has 1 more year to go. No one should make a mistake or forget about that. He will do many things in that year. He will achieve much. So I will, at the end of that year, miss my good friend and mentor. All of us, I think, will miss his good western advice, little bits of western wisdom, such as "don't squat with your spurs on" and other little bits like that.

So I say to my friend, hats off to a true trail boss, good luck, and I hope you do as well as you have done in the past, my friend, AL SIMPSON.

TRIBUTE TO ALAN SIMPSON AND MARK HATFIELD

Mr. JOHNSTON. Mr. President, I would like to remark at what a diminished place this will be because of the loss of Senator SIMPSON and Senator HATFIELD, both of whom announced over the weekend that they would be leaving. There are no Senators in this body, any that I know of, who have served here who have been more distinguished than the Senator from Wyoming and the Senator from Oregon. I might say that there are none for whom I have higher personal esteem and affection than both of these Senators.

It was truly a historic weekend for both of them to announce that they were leaving the Senate. I must say, had I not myself announced that I was leaving, I would be much sadder than I am. Since I will be leaving, I will not miss them here. I despair, though, because of the vacuum that will be left in this Nation when these two very great public servants will be leaving the Senate.

I did not come for that specific purpose, Mr. President. I will later talk about my two friends. But I could not miss the opportunity when the junior Senator from Wyoming brought up the subject to say how much I share his sentiments and how great I think the loss is for the country.

THE FARM PROVISIONS OF THE RECONCILIATION BILL

Mr. JOHNSTON. Mr. President, we knew that when the farm provisions of the reconciliation bill were agreed to, they were bad for the State of Louisiana, but we had no idea how bad these provisions were for the State of Louisiana when they were passed.

The reason is, Mr. President, we had no opportunity to be involved in this, no input into the provisions of it, no ability to evaluate it, no ability to discuss it. It was in conference committee and the reconciliation bill. The chairman of the House Agriculture Committee met with the Speaker of the House and, boom, ipso facto, it was created out of the ashes in whole part without any input from anybody.

Mr. President, now we have evaluated this bill. I can tell my colleagues that the agricultural provisions of the reconciliation bill will simply destroy the cotton industry and the rice industry in the State of Louisiana.

Let me repeat that: The agricultural provisions of the reconciliation bill will destroy the rice industry and the cotton industry in the State of Louisiana.

Mr. President, these are two of our largest crops. They contribute over $2 billion to the State of Louisiana, 7,000 direct jobs and 27,000 indirect agriculture jobs, according to Louisiana State University and the Louisiana Cooperative Extension Service.

Mr. President, they have done an analysis of what the bill does for rice and cotton. They have taken a typical Louisiana rice tenant farm, which is 287 planted acres—and this takes up about 90 percent of our tenant farms in the State of Louisiana—and they have a whole series of calculations as to what the economic effect on that rice farmer will be.

Mr. President, I ask unanimous consent that the calculations which they have done in great detail both as to the comparison of net returns for cotton, net returns for rice under the conference committee, and rice gross returns under alternative farm program, that these figures be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF NET RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Cotton farm acreage:				(acres)			
Base acres	353	353	353	353	353	353	353
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)[1]	300	300	300	300	300	300	300
Cotton yields:				(lbs/acre)			
Louisiana actual yield	740	740	740	740	740	740	740
Louisiana program yield	722	722	722	722	722	722	722
Current program parameters:				(cents/lb)			
Target price	72.90	72.90	72.90	72.90	72.90	72.90	72.90
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Estimated deficiency payment	13.22	13.22	13.22	13.22	13.22	13.22	13.22
Conference program parameters:				(acres)			
Estimated transition payment[2]	7.93	7.53	8.06	7.74	7.09	5.71	5.50
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Market price level analyzed:				(cents/lb)			
1990–94 Louisiana average price	59.68	59.68	59.68	59.68	59.68	59.68	59.68
Estimated Net Returns (tenant operator)							
Current program				(Total cotton returns ($) per farm)			
Total farm market returns[3]	149,720	149,720	149,720	149,720	149,720	149,720	149,720
Total farm deficiency payments	28,639	28,639	28,639	28,639	28,639	28,639	28,639
Total farm gross returns[4]	178,359	178,359	178,359	178,359	178,359	178,359	178,359
Land rent (25 percent)	44,590	44,590	44,590	44,590	44,590	44,590	44,590
Net returns above land rent	133,769	133,769	133,769	133,769	133,769	133,769	133,769
Variable costs ($332.73/acre)	99,836	102,831	105,916	109,093	112,366	115,737	119,209
Net returns above variable costs	33,933	30,938	27,854	24,676	21,403	18,032	14,560
Fixed costs ($72.09/acre)	21,631	21,847	22,065	22,286	22,509	22,734	22,961
Net returns above total costs	12,303	9,092	5,788	2,390	(1,106)	(4,702)	(8,401)
Conference program:							
Total farm market returns[3]	149,720	149,720	149,720	149,720	149,720	149,720	149,720
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns[4]	166,899	166,032	167,180	166,487	165,079	162,089	161,635
Land rent (25 percent)	41,725	41,508	41,795	41,622	41,270	40,522	40,409
Net returns above land rent	125,174	124,524	125,385	124,865	123,809	121,567	121,226
Variable costs ($332.73/acre)	99,836	102,831	105,916	109,093	112,366	115,737	119,209
Net returns above variable costs	25,338	21,693	19,470	15,772	11,443	5,830	2.017
Fixed costs ($72.09/acre)	21,631	21,847	22,065	22,286	22,509	22,734	22,961
Net returns above total costs	3,708	(153)	(2,596)	(6,514)	(11,065)	(16,904)	(20,944)

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Includes sales of cottonseed valued at $0.05 per lb.
[4] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

COMPARISON OF NET RETURNS FOR RICE UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Rice farm acreage:				(acres)			
Base acres	338	338	338	338	338	338	338
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)[1]	287	287	287	287	287	287	287
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program parameters:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Estimated deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Conference program parameters:				($/cwt)			
Estimated transition payment[2]	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Market price level analyzed:				($/cwt)			
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Estimated Net Returns (tenant operator)							
Current program:				(Total rice returns ($) per farm)			
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm deficiency payments	45,337	45,337	45,337	45,337	45,337	45,337	45,337
Total farm gross returns[3]	140,353	140,353	140,353	140,353	140,353	140,353	140,353
Land and water rent (20 percent for each)	56,141	56,141	56,141	56,141	56,141	56,141	56,141
Net returns above land/water rent	84,212	84,212	84,212	84,212	84,212	84,212	84,212
Variable costs	67,605	69,633	71,722	73,873	76,090	78,372	80, 723
Net returns above variable costs	16,607	14,579	12,490	10,338	8,122	5,840	3,488
Fixed costs	13,543	13,679	13,816	13,954	14,093	14,234	14,377
Net returns above total costs	3,064	900	(1,325)	(3,615)	(5,971)	(8,395)	(10,888)
Conference program:							
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm transition payments	18,040	31,570	33,944	32,875	30,027	24,211	23,499
Total farm gross payments[3]	113,056	126,586	128,959	127,891	125,043	119,227	118,515
Land and water rent (20 percent for each)	45,222	50,634	51,584	51,156	50,017	47,691	47,406
Net returns above land/water rent	67,833	75,951	77,376	76,735	75,026	71,536	71,109
Variable costs	67,605	69,633	71,722	73,873	76,090	78,372	80,723
Net returns above variable costs	229	6,319	5,654	2,861	(1,064)	(6,836)	(9,614)
Fixed costs	13,543	13,679	13,816	13,954	14,093	14,234	14,377
Net returns above total costs	(13,314)	(7,360)	(8,162)	(11,092)	(15,157)	(21,070)	(23,991)

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

LOUISIANA RICE GROSS RETURNS UNDER ALTERNATIVE FARM BILL PROPOSALS, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments[1]	13,413	13,413	13,413	13,413	13,413	13,413	13,413
Total farm gross returns	41,252	41,252	41,252	41,252	41,252	41,252	41,252
Conference bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Transition payment	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm transition payments[1]	5,337	9,340	10,042	9,726	8,884	7,163	6,952
Percent change from current program[3]	−60	−30	−25	−27	−34	−47	−48
Total farm gross returns	33,448	37,451	38,154	37,838	36,995	35,274	35,064
House bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	100	100	100	100	100	100	100
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Transition payment	4.10	3.98	4.26	4.13	3.80	3.12	3.04
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments[2]	16,937	16,441	17,598	17,061	15,698	12,889	12,558
Percent change from current program[3]	26	23	31	27	17	−4	−6
Total farm gross returns	45,048	44,553,	45,709	45,172	43,809	41,000	40,669
Senate bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	70	70	70	70	70	70	70
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Deficiency payment	3.82	3.82	3.82	3.48	3.23	2.89	2.66
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments[1]	11,046	11,046	11,046	10,063	9,340	8,357	7,692
change from current program[3]	−18	−18	−18	−25	−30	−38	−43
Total farm gross returns	39,157	39,157	39,157	38,174	37,451	36,468	35,803

[1] Marketing loan payments not included.

[2] No marketing loan program in House bill.

[3] Percent change in program payments from continuation of current program (excluding marketing loan).

COMPARISON OF GROSS RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Cotton farm acreage:				(acres)			
Base acres	353	353	353	353	353	353	353
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)[1]	300	300	300	300	300	300	300
Cotton yields:				(lbs/acre)			
Louisiana actual yield	740	740	740	740	740	740	740
Louisiana program yield	722	722	722	722	722	722	722
Current program parameters:				(cents/lb)			
Target price	72.90	72.90	72.90	72.90	72.90	72.90	72.90
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Conference program parameters:				(cents/lb)			
Estimated transition payment[2]	7.93	7.53	8.06	7.74	7.09	5.71	5.50
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Market price levels analyzed:				(cents/lb)			
10 percent above CBO baseline	70.40	67.10	66.00	64.90	66.00	66.00	66.00
CBO baseline	64.00	61.00	60.00	59.00	60.00	60.00	60.00
10 percent below CBO baseline	57.60	54.90	54.00	53.10	54.00	54.00	54.00
Estimated Gross Returns							
"Current program":				(Total cotton returns ($) per farm)			
10 percent above CBO baseline prices:							
Total farm market returns	156,314	148,987	146,544	144,102	146,544	146,544	146,544
Total farm deficiency payments	5,416	12,565	14,948	17,331	14,948	14,948	14,948
Total farm gross returns[3]	161,730	161,552	161,492	161,433	161,492	161,492	161,492
CBO baseline prices:							
Total farm market returns	142,104	135,443	133,222	131,002	133,222	133,222	133,222
Total farm deficiency payments	19,281	25,780	27,946	30,112	27,946	27,946	27,946
Total farm gross returns[3]	161,384	161,222	161,168	161,114	161,168	161,168	161,168

COMPARISON OF GROSS RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002—Continued

	1996	1997	1998	1999	2000	2001	2002
10 percent below CBO baseline prices:							
Total farm market returns	127,893	121,898	119,900	117,902	119,900	119,900	119,900
Total farm deficiency payments	33,145	38,994	40,944	42,894	40,944	40,944	40,944
Total farm gross returns[3]	161,039	160,893	160,844	160,796	160,844	160,844	160,844
"Conference program":							
10 percent above CBO baseline prices:							
Total farm market returns	156,314	148,987	146,544	144,102	146,544	146,544	146,544
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns[3]	173,493	165,300	164,005	160,870	161,904	158,914	158,459
Percent change from current program	7.3	2.3	1.6	−0.3	0.3	−1.6	−1.9
CBO baseline prices:							
Total farm market returns	142,104	135,443	133,222	131,002	133,222	133,222	133,222
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns[3]	159,283	151,755	150,683	147,769	148,582	145,592	145,137
Percent change from current program	−1.3	−5.9	−6.5	−8.3	−7.8	−9.7	−9.9
10 percent below CBO baseline prices:							
Total farm market returns	127,893	121,898	119,900	117,902	119,900	119,900	119,900
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns[3]	145,073	138,211	137,361	134,669	135,259	132,270	131,815
Percent change from current program	−9.9	−14.1	−14.6	−16.2	−15.9	−17.8	−18.0

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

COMPARISON OF GROSS RETURNS FOR RICE UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Rice farm acreage:				(acres)			
Base acres	338	338	338	338	338	338	338
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85% of base)[1]	287	287	287	287	287	287	287
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program parameters:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Estimated deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Conference program parameters:				($/cwt)			
Estimated transition payment[2]	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Market price level analyzed:				($/cwt)			
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Estimated Gross Returns							
Current program:				(Total rice returns ($) per farm)			
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm deficiency payments	45,337	45,337	45,337	45,337	45,337	45,337	45,337
Total farm gross returns[3]	140,353	140,353	140,353	140,353	140,353	140,353	140,353
Conference program:							
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm transition payments	18,040	31,570	33,944	32,875	30,027	24,211	23,499
Total farm gross returns[3]	113,056	126,586	128,959	127,891	125,043	119,227	118,515
Percent change from current program:							
Percent change in market returns	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Percent change in program payments	−60.2	−30.4	−25.1	−27.5	−33.8	−46.6	−48.2
Percent change in gross returns[3]	−19.4	−9.8	−8.1	−8.9	−10.9	−15.1	−15.6

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

Mr. JOHNSTON. Mr. President, when you boil the figures down, what it shows is that the average rice farmer in 1996 has a net income of minus $13,314. The average rice farmer in Louisiana for 1996 loses $13,314. In 1997, it is $7,360.

You say, why would he lose twice as much in 1996 as he would lose in 1997? The reason is, under this bill, incredibly, they have to pay back the payment they received for the last quarter of calendar 1996. They have to pay that back, so that you actually lose $13,314.

It gets worse from there. In 1998, $8,162; in 1999, $11,092; in the year 2000, $15,157; in 2001, $21,070; and 2002, $23,991.

Mr. President, these are not rich farmers but the average rice farmer in Louisiana who has planted 287 acres. Mr. President, this is not some Democratic Policy Committee who has come out with these figures; it is the Louisiana State University Agriculture Department.

Mr. President, this is actually not going to happen. The reason is that they are not going to plant the rice. With these kind of economic figures shown to the bankers, no banker is going to lend any money to plant this crop. So you will not have these losses. You will not have a rice industry in the State of Louisiana because it shows a negative cash flow for each of these years through the year 2002.

Again, Mr. President, this is the Louisiana State University who has come up with these figures.

Mr. President, it is only slightly less bad for cotton. Under cotton—and all of the figures under which we calculated each one of these figures has now been put into the RECORD—for the average cotton farmer, that is 300 planted acres, he makes $3,708 in 1996, begins to lose the next year, and by the year 2002 he is losing a net of $20,944.

This, again, Mr. President, is the average cotton farmer in the State of Louisiana.

You say, how in the world could they have done such folly in this bill? Mr. President, they did it without hearings, they did it without consultation, they did it without input. The Speaker got together with the head of the Agriculture Committee in the House and, bam, here it came. Here is the result.

Mr. President, this is an emergency. I think sooner or later this is going to be straightened out, because, as George Bush said about the invasion of Kuwait, this cannot stand. It just cannot be, Mr. President.

This Congress has done some dumb things, Mr. President, but we have never that I know of intentionally wiped out an industry—the cotton industry, the rice industry—in a State. If this is happening in the State of Louisiana, it is going to happen elsewhere across the country. We cannot intentionally do this.

Mr. President, it is an emergency that needs to be corrected now because if we wait, we are going to miss this crop year. Typically, Mr. President, the preparations for the crop year begin in December. The farmers decide what kind of money they are going to need to borrow, what kind of crops they want to plant, how much it is going to cost, et cetera, and they begin those negotiations with the bank, typically, in December. Certainly by the middle of January, they must have their bank arrangements pretty well in line because they have to plant that crop in the spring.

They have to not only order the seed, insecticide, pesticide, and the other things they will need for that crop, but their suppliers need to know sufficiently in advance how much they will need to order, how much seed to have on hand, how much insecticide.

Mr. President, you cannot pass a rule one week and expect the crop to be planted the next week.

Mr. President, you might ask, without support, if the Louisiana rice industry cannot survive, why is it that we plant rice in the United States? Why not just let the whole thing move overseas?

The reason is, Mr. President, that the subsidy, the support which we have for agriculture in the United States for rice, is a fraction of what it is in the European market, Japan, and our other foreign competitors. The fact of the matter is the EU, the European Union, subsidizes their farmers three to five times more than they do in the United States. They place high tariffs on some U.S. agricultural products which create artificially high prices.

I am informed, Mr. President—and I will get the exact figure and supply them for the RECORD later—I am informed that rice can fetch as high a price as $27 per 100-weight in Europe, compared to $6 in the United States.

Mr. President, if we intentionally wipe out the rice industry and the cotton industry in the State of Louisiana and elsewhere in our country, then we will be subject to the manipulation of foreign suppliers who will dominate and monopolize the whole market.

Mr. President, I do not believe there is time to legislate this year. Regulations must be put out under any new legislation that comes out, and regulations are going to take many weeks in order to determine how to interpret whatever law finally comes out. I believe it will be too late for the planting season even assuming that there is a veto of the reconciliation bill, which surely there should be if these are representative of the kind of provisions that are in that bill. If the Congress passes a new bill, I do not believe there is going to be time to get the regs out to borrow the money, to make the preparations in order to get the crop out this year.

So, Mr. President, what I am saying is the Congress needs to act as in an emergency and to extend the present law. We need to extend that present law so we can get the crop in the ground this year. If we do not do that, and if we have the reconciliation bill as passed, then we are going to wipe out the cotton and rice industry in the State of Louisiana and elsewhere in this country.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on the rollcall vote on the conference report accompanying H.R. 1058, I was recorded as voting in the affirmative. I ask unanimous consent to change my vote, which was recorded as "yes", to "no." It will not change the outcome of the vote.

I ask unanimous consent I be recorded as a "no" vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The foregoing tally has been changed to reflect the above order.]

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1833.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent the Senator from California, Senator FEINSTEIN, be allowed to speak until such time as the majority leader comes to the floor and has a chance to discuss with the manager of the bill how we are going to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, as everyone knows, about a week ago the Judiciary Committee held hearings on this so-called partial-birth abortion legislation. I wanted to speak today on what I learned from the hearings and my reasons for opposing this bill. Let me summarize those reasons up front, and then go into each one specifically.

First, I believe that this bill attempts to ban a specific medical procedure which is called, in this bill, a "partial-birth abortion," but there is no medical definition for what a "partial-birth abortion" is.

Second, the language in the bill is so vague that I believe it will affect more than any one single medical procedure.

Third, the bill presumes guilt on the part of the doctor, so that every physician may have to prove that in fact he did not perform this procedure, or justify his reasons for so doing if he did.

This bill could be an unnecessary, I think an unconscionable complication to families who face many tragic circumstances involving severely deformed fetuses. I also believe it is an unnecessary Federal regulation, since 41 States have already outlawed post-viability abortions, except to save a woman's life or health.

Finally, I hope to make a case that this bill is very carefully crafted to provide a direct challenge to Roe versus Wade.

First and foremost, this legislation claims to outlaw a medical procedure called a partial-birth abortion. As I said, this medical term does not, in fact, exist. It does not appear in medical textbooks. It does not appear in medical records. The medical doctors who testified before the Senate Judiciary Committee 2 weeks ago could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to.

I would like to read some of the responses to my question in the committee, when I asked these doctors what a partial birth abortion is.

Dr. Pamela Smith, director of ob-gyn medical education at Mt. Sinai Hospital in Chicago, said it was "* * * a perversion of a breech extraction."

Dr. Nancy Romer, a practicing ob/gyn and assistant professor at Wright State University School of Medicine, said it is "a dilation and extraction, distinguished from dismemberment-type D&Es."

Dr. Norig Ellison, President of the American Society of Anesthesiologists, who was at the hearing to represent anesthesiologists who supposedly participate in these procedures, said, "I pass on that one. I am as confused as you are."

And, Dr. Mary Campbell, medical director of planned parenthood of Washington, defined it as "* * * a procedure in which any part of the fetus emerges from the cervix before the fetus has been documented to be dead."

Others have said it is an "intact dilation and evacuation," or a "total breech extraction."

I asked Dr. David Grimes of the University of California at San Francisco this same question, and he put it in writing.

> First, the term being used by abortion opponents, "partial-birth abortion," is not a medical term. It is not found in any medical dictionary or gynecology text. It was coined to inflame, rather than to illuminate. It lacks a definition.
>
> As I understand the term, opponents of abortion are using this phrase to describe one variant of the dilation and evacuation procedure, known as a D&E, which is the dominant method of second trimester abortion in the United States.
>
> Second trimester abortion.
>
> If one does not use the D&E, the alternative methods of abortion after 12 weeks gestation are total birth abortion—labor induction is more costly and painful—or hysterotomy, which is the more costly, painful, and hazardous.
>
> Given the enviable record of safety of all D&E methods as documented by the Centers for Disease Control and Prevention, there is no public health justification for any regulation or intervention in a physician's decisionmaking with the patient.

Then I asked one of the professors who testified at the hearing about this. I will get to what he said in a moment. But for just 1 minute let me read the exact language of the bill. We have heard testimony from the authors that this refers to a breech extraction by stopping the head from leaving the birth canal and injecting scissors into the base of the skull and draining fluid. But the definition of the bill is entirely different. The bill says, "The term 'partial-birth abortion' means an abortion in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery." There is no reference to scissors in the bill. There is no reference to drawing fluid from the brain in this bill. In fact, many people believe that the purpose of this bill is really to get at second trimester abortions.

I believe that the language in this bill, Mr. President, is vague for very deliberate reasons, because by making it vague every doctor that performs even a second trimester abortion could face the possibility of prosecution in that he or she could be hauled before a court and have to defend their abortion. So this bill in effect could affect all abortions.

I asked the legal and medical experts who testified at the Judiciary Committee hearing last week if this legislation could affect abortion—not just late-term abortions but earlier abortions of nonviable fetuses as well. Dr. Louis Seidman, professor of law from Georgetown, gave the following answer, and I quote:

> . . . as I read the language, in a second trimester pre-viability abortion where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for 2 years.

That is a law professor's reading of the bill. He then continued his testimony, and I quote:

> If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

Dr. Richardson, associate professor of gynecology and obstetrics at Johns Hopkins, in testimony before a House Committee said, "[the language] . . . is vague, not medically oriented, and just not correct. In any normal second trimester abortion procedure by any method, you may have a point at which a part, a one-inch piece of [umbilical] cord, for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

So contrary to proponents' claims, this bill could affect far more than just the few abortions performed in the third trimester and far more than just one procedure being described.

Another part of this bill which is very troubling to me is that an affirmative defense automatically presumes guilt. The legislation provides what is known as the "affirmative defense," whereby an accused physician could escape liability only by proving that he or she "reasonably believed" that the so-called banned procedure—whatever that procedure is proved to be—was necessary to save the woman's life and that no other procedure would have sufficed. I think it also opens the door to the prosecution of any doctor who performs a second or third trimester abortion for any purpose whatsoever.

As has been said, there is no health exception in this bill at this point. With that, it offers a direct challenge to both Roe versus Wade and Planned Parenthood versus Casey, both of which provide a health exception.

So, if this legislation were law, a pregnant woman seriously ill with diabetes, cardiovascular problems, cancer, stroke, or any other health-threatening illness would be forced to carry the pregnancy to term or run the risk that her physician could be challenged and have to prove in court, A, what procedure he actually used, and B, whether or not the abortion partially, vaginally delivered a living fetus before the death of that fetus.

One of the things that also came forward very clearly in this and is important to point out is that any third trimester abortion is virtually always used in the case of severe fetal abnormality, and the fact is that not always is this fetal abnormality able to be detected early in the pregnancy. Many women undergo sonograms and other routine medical procedures in the early weeks of pregnancy to monitor fetal development. If a woman is over 35 years of age, she may also undergo amniocentesis. These tests are not routine in women under 35. Ultrasound could also provide early detection of fetal anomalies. But these tests also add considerable expense and are not routinely used until late in pregnancy.

As a result, some women carry fetuses with severe birth defects late into pregnancy without knowing it. For example, fetal deformities that are not easy to spot early on in the pregnancy include: cases where the brain forms outside the skull, or the stomach and intestines form outside the body, or do not form at all; or fetuses with no eyes, ears, mouths, legs, or kidneys—sometimes tragically unrecognizable as human at all.

But even with advanced technology, many serious birth defects can only be identified later, often in the third trimester when the fetus reaches a certain size. Among those is hydrocephaly. Another abnormality is polyhydramnios—too much amniotic fluid.

So families that face these unexpected tragedies are often only diagnosed late in their pregnancy. In fact, both Senator SMITH, I believe, and Senator HATCH said none of the women who came before the committee and talked about their third trimester abortion—all of which were the product of major fetal deformities—would be affected by that legislation, but every one of them testified after reading the bill and believing that they would have been affected by this legislation.

I think that only points out the vagueness and the flaws in the drafting of this legislation. In fact, no one knows who would really be affected by this legislation.

The next point I would like to make is that Roe already allows States to ban late-term abortions. It clearly allows States to ban all post-viability abortions unless necessary to protect a woman's life or health. And 41 States have already done that. So all I can believe is that the purpose of this bill is to invade a guarantee provided by Roe versus Wade, and that is to protect the health of the mother or the life of the mother.

As a matter of fact, my colleagues have made much of a statement made by an obstetrician/gynecologist, Dr. Martin Haskell, of Dayton, OH, who indicated that 80 percent of the late-term abortions he performed were so-called elective. I would like to point out that just this year Ohio became the 41st

State to ban all post-viability abortions. So, clearly that State has taken care of whatever it was that Dr. Haskell was doing by banning all third-trimester abortions. As I said, 40 other States have done this. So this legislation is effectively unnecessary.

The whole focus of this Congress has been to remove the Federal Government where it is within the rights of the State to legislate. Yet this is the first time I can remember in this Congress, when the State has a clear right and ability to legislate and, in fact, has done so in 41 States, that the Federal Government is now saying, no, that is not enough. We want to legislate federally.

Let me touch for a moment on the commerce clause. I believe, and others do as well, that this legislation is meaningless under the commerce clause because it would only apply to patients or doctors who cross State lines in order to perform an abortion under these specific circumstances, whatever they may eventually be adjudicated to be. So what is the point?

The point is, that this legislation, I believe, has little or nothing to do with stopping the use of some horrific and unnecessary medical procedure performed by evil or inhumane doctors. If that were simply the case, we would all be opposed. I believe this legislation's major purpose is the camel's nose under the tent to get at second-trimester abortions and to put a fear over all legitimate physicians, obstetricians who do perform an abortion when an abortion is necessary—a fear that they could be hauled into court and have to defend themselves and prove that they did not perform whatever a partial-birth abortion is eventually adjudicated to be.

So the legislation is vague, it is flawed, and it presumes guilt on the part of the doctor. It ignores the vital health interest of women. I believe these are strong reasons to vote against this bill.

I thank the Chair. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 1833.

AMENDMENT NO. 3080

(Purpose: To provide a life-of-the-mother exception)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3080.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the end of line 9, insert the following:

"This paragraph does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose."

AMENDMENT NO. 3081 TO AMENDMENT NO. 3080

Mr. DOLE. I send a second-degree amendment to the Smith amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3081 to amendment No. 3080.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word "This" and insert in lieu thereof the following: "paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.

This paragraph shall become effective one day after enactment."

Mr. DOLE. Mr. President, we now return to important legislation to ban a reprehensible procedure that has no place in a civilized society. The ban on the so-called partial-birth abortions passed the House by a vote of 288 to 139 on November 1. The Senate called for a hearing on the legislation before the Committee on the Judiciary which was held on November 17.

The testimony before the Judiciary Committee reinforced what we already knew—this is a straightforward and narrowly crafted bill that bears no similarity to the caricature offered by those who oppose the bill.

Thus, for example, the hearing highlighted what medical authorities have already made clear—there is no situation where the life of a mother is at risk that calls for a partial-birth abortion. After all, this is a procedure that takes place over several days. In short, arguments about protecting the life of the mother are merely an attempt to scare people and avoid defending the indefensible.

Nonetheless, since there is no situation where the life of the mother calls for a partial-birth abortion, there is no reason not to make clear with explicit language that this legislation would not apply in any situation where the life of the mother is endangered. I therefore support the Senator from New Hampshire, Senator SMITH, in taking this issue off the table.

Mr. President, this is a bill that deserves overwhelming bipartisan support. This is our opportunity to show the American people that we can rise above the argument that says that compassion must give way to a rigid ideology that refuses to recognize any constraints of decency.

I therefore urge my colleagues to support Senator SMITH's amendment and to support the bill on final passage.

I now understand the Senator from Arkansas is going to set these amendments aside and offer a different amendment.

Mr. PRYOR. Mr. President, with that understanding, I ask unanimous consent that the amendment offered by the distinguished Senator from New Hampshire, second-degreed by the majority leader from Kansas, be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. Reserving the right to object. Just to clarify, that is amendment No. 3080 and amendment No. 3081 to amendment No. 3080, is that correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. SMITH. No objection.

Mr. PRYOR. Mr. President, I thank the Senator from New Hampshire.

AMENDMENT NO. 3082

(Purpose: To clarify certain provisions of law with respect to the approval and marketing of certain prescription drugs)

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. CHAFEE, and Mr. BROWN, proposes an amendment numbered 3082.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . APPROVAL AND MARKETING OF PRESCRIPTION DRUGS.

(a) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(b) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made, prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983).

(c) EQUITABLE REMUNERATION.—For acts described in subsection (b), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (a); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (a).

(c) APPLICABILITY.—The provisions of this section shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, and 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

AMENDMENT NO. 3083 TO AMENDMENT NO. 3082

(Purpose: To clarify the application of certain provisions with respect to abortions where necessary to preserve the life or health of the woman)

Mrs. BOXER. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 3083 to amendment No. 3082.

At the end of the amendment, add the following new sentence: "The prohibition in section 1531 (a) of Title 18, United States Code, shall not apply to any abortion performed prior to the viability of the fetus, or after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.".

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. First, I would like to just take a very, very few moments of the Senate's time this evening to explain basically what my amendment does. I know there will be no vote on this amendment this evening, Mr. President. I realize that. I know that to accommodate some schedules tomorrow, it is likely that we will come back to this legislation late in the afternoon.

But having said that, Mr. President, I would like to state that this amendment relates to the issue of GATT and prescription drugs. I have spoken on this issue on several occasions on the floor of the Senate. And I would like, if I might, to just take a very few moments to explain basically what we have done and what I plan to speak about tomorrow.

When Congress voted on the GATT treaty, Mr. President, we did two things. First, we extended all patents from 17 to 20 years in duration. Second, we said in the GATT treaty that a generic drug company could market their product on a 17-year expiration date if they had already made a substantial investment and were willing to pay a royalty to the particular drug company that they were going in competition with.

We all considered and all agreed that this was a fair balance of interests. The treaty, Mr. President, applies in our country to every person, to every product, to every company and every industry in our country. We thought it was fair. We thought it was universal. But we were wrong. We simply made a mistake.

We accidentally left the prescription drug industry out of the picture. Today there are certain prescription drug companies that get the patent extension, but the GATT loophole shields them from any generic competition. Why is this, Mr. President?

First, because we by our own mistake—and we should admit that mistake; and, by the way, we have the opportunity to correct that mistake—we failed to have the food, drug and cosmetic law of our country comply to the GATT treaty language.

Second, the Food and Drug Administration tried in vain to correct this mistake. The U.S. Patent Office tried in vain to correct this mistake, but to no avail because the law was written and we failed to conform the food, drug, and cosmetic law to the specific GATT treaty language.

The drug industry is the only industry which enjoys this special protection under GATT. The American consumers are going to be paying, therefore, much more for their drugs as a result, as much, as a matter of fact, $2 to $6 billion a year more.

If we take Zantac, for example, Mr. President, the world's best selling drug for uclers, we will have to pay a price twice as much as we would be paying for a generic competitor. As a matter of fact, Mr. President, tomorrow, on Wednesday, we will see the drug company that manufactures Zantac—we will see that particular company taking in profits that they did not expect of $2 to $6 billion a year, unless we correct this outrageous loophole.

There is no conceivable reason why we should allow this loophole to remain uncorrected. Mickey Kantor, our own U.S. Trade Representative, the Patent Office, and the FDA all agree that it should be fixed. Even the drug companies admit that it was all a mistake.

Mr. President, we think that our cause is correct, and on behalf of Senator CHAFEE of Rhode Island and Senator BROWN of Colorado, I submit this amendment this evening. We will be talking about this amendment and what it does tomorrow. But I urge my colleagues to remember: Congress made a mistake. It led to consumers being forced to subsidize an unjustified multibillion-dollar windfall to a few undeserving companies. And tomorrow, we will have our sole opportunity to do the right thing and correct this mistake.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from California.

Mrs. BOXER. Mr. President, yesterday I spoke, I thought, at great length about this bill. For the first time, it would criminalize a medical procedure that saves lives. The important part, I thought, of the Judiciary hearing was that we had testimony from physicians who said clearly it is sometimes extremely risky to use other procedures. Cesarean sections or induced labor could cause the woman to bleed to death, to have serious health consequences even if she pulled through, and sometimes those consequences impact on her ability to have children at a later date.

What I did last night, and what I intend to do throughout the course of this debate—I will not go on at length tonight—is to try and put the woman's face on this issue. We see many times my colleague from New Hampshire bring out the diagram, and it shows the lower part of a woman's body. It is almost as if a woman's body is a vessel. It does not show the woman's face. It does not show her anguish when she learns that her baby is in serious trouble and could even die if she went forward with birth. So it is my intention to put that face on.

The women who came forward at that hearing were magnificent in their courage. I received many other letters from other women who said, "Please, Senator BOXER, don't let them talk about this as if it doesn't affect real, living moms and dads and families who desperately want these children but who come upon these horrible outcomes of pregnancies."

We deal here with situations in life that we hope never happen to any of us or our loved ones or anyone at all. We do not wish these things on anyone: When a woman, who is so excited about this pending birth of a child, goes to the physician in the late stages of her pregnancy and suddenly is told the most horrible news that the baby's brain is growing outside the skull, that there are no eyes. My colleague, Senator FEINSTEIN, talked about that. These anomalies go along with a great threat to the woman's life if the fetus is carried to term.

My colleagues say nobody ever talks about baby. Yes, I want to talk about baby. This is a baby. This is a late-term abortion. This is an emergency medical procedure, and I hope that the Senate will not go down the slippery slope of outlawing a procedure.

Where do we stop? Senator SIMON said yesterday he has heard about some procedures that are used for brain tumors and he has questions about them. We are not a medical school here. As Senator KENNEDY said, we should not be Senators practicing medicine without a license. We should leave that to physicians. And physicians are split. The physicians that came before the Judiciary Committee, some said this is a necessary procedure, we need it to save the life of a mother, protect her health and her fertility. Others said it is not.

I say, let us be conservative. Even if several physicians—and their qualifications were never questioned by the committee—say it could mean a woman's life, let us not take away her option to have a safe conclusion to a very tragic event because of some political agenda. We have a lot of work to do around here. We have a lot of debate to do around here with the budget, where we are seeing looming ahead on December 15 another shutdown, another crisis, while we are taking up a bill to tell physicians what they cannot do.

It seems to me a very dangerous course for Government, particularly a Republican Congress that says we should not interfere in local decisions, we should not interfere with States. States already control these abortions in the late term.

I have to say, the amendment that my friend has offered, I think, is quite interesting, because all through this debate the Senator from California was saying there is no exception, there is no exception if there is really a problem. And now here we have it. Here we have it, an exception now for life of the mother.

I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense. My friend kept saying, "Oh, no, you don't need an exception, you don't need an exception." We went on television and debated this, and I said, "You do not even have an exception here."

He said, "It is already in the bill."

It was not in the bill. We knew it; that is why we slowed this train down, that is why we had hearings.

I have offered a second-degree amendment to the amendment of my friend, Senator PRYOR. He is trying to protect the consumers of this country, and I offered an amendment that essentially says that, yes, if we are going to outlaw this procedure—and by the way, I do not think we should get into that slippery slope—but if we are going to do that, it should apply only to the late-term abortion, which is what it is supposed to do, and it clears it up and says, in the medical judgment of the attending physician, the abortion is necessary for the life of the woman or to prevent serious adverse health consequences to the woman.

I feel these amendments are moving in the right direction, but the whole issue of telling doctors what to do, of interfering in an emergency medical procedure has no place in the U.S. Senate. To quote a woman whose testimony I read yesterday, Coreen Costello, she said so beautifully the last thing she wants to see happen when a family is in crisis like this is for the Government to be involved.

It is such a tragedy, and these women who have gone through this were so eloquent. No matter what your view on a woman's right to choose, if you will simply read the testimony—and I handed it out today to my colleagues for them to read her words—it seems to me outrageous that politicians would insert themselves into matters that impact a family, matters like this.

As we get back to this bill, and I understand we will be back to it tomorrow evening about 5, I am going to bring out those photos of those women who have shared their stories with the Senate and want to share it with the American people and let us get this issue out there.

Let us not outlaw a medical procedure that doctors have testified is necessary to save the life of a mother and, in fact, if it is outlawed, could lead to her family losing her. A lot of these women have other healthy children. Let us think about those babies as well.

So, Mr. President, I shall not go on much longer at all tonight because, again, it looks like we are delaying this debate, and that is fine with me, because, as far as I am concerned, we do not need this law. This is an intrusion into the hospital room. This is a criminalization of a procedure, and, as far as I am concerned, it has no place here at all. We are not doctors, and we are not God. We are U.S. Senators. We should leave medical decisions up to medical doctors, and we should leave these tragic matters to the families and let them face it with their God and with each other.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. SMITH. Mr. President, I ask unanimous consent that four members of my staff, Steven R. Valentine, Tom Hodson, Ed Corrigan, and Noah Silverman, be granted the privilege of the floor simultaneously during the consideration of H.R. 1333, the Partial-Birth Abortion Ban Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I rise today to urge my colleagues to pass the partial-birth abortion ban. I have looked at the testimony presented before the Judiciary Committee, I have gotten letters and phone calls, and I have come to the conclusion that this is not about being pro-life or pro-abortion. It is not even about a woman's choice. Laws have already established that they have that choice.

This is about a procedure—a procedure that I do not know how anyone can perform or even condone, once you know what it is. We are talking about the practice of late-term abortion, but a specific procedure in which the fetus is turned around so that it is delivered feet first. And before the head is delivered, while it is still in the birth canal, the physician makes a hole with scissors in the base of the skull and suctions out the brains. And the majority of the time, the baby is alive when this procedure is performed. The heart is beating, the limbs are functioning, they feel, they react, they may even have a good chance of living if they had been allowed to be fully born.

To me this just sounds repulsive, absolutely inhumane. And it makes me wonder, if they were doing this to dogs or horses, whether we would have more support to ban this procedure. My daughter, who is a third year medical student, assures me that I would probably find most surgeries pretty hard to stomach. But even she agrees that this procedure is intolerable.

And I find it interesting that the American Medical Association's Council on Legislation has unanimously supported this bill. The argument is made that these procedures are done to save the life of the mother. Yet, even some physicians who specialize in this procedure claim otherwise. Dr. Martin Haskell conceded that 80 percent of his late-term abortions were elective.

Dr. Pamela Smith, up at Mt. Sinai Hospital in Chicago, recently wrote that "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life of the mother." And that is what I would think. If you are going to put the mother through delivery of a 24- or 26-week-old or even a full-term fetus, and the fetus is almost completely delivered, except for the head, why not just finish the birth?

I will tell you why. Because once the head is out, it is a child, a human being by legal standards, with all the constitutional rights that come with being alive and then it cannot be killed. But by common sense, not just conservative sense, that fetus is not any less human just because the head is still in the birth canal. And I found it ironic that, if the head does slip out and a live baby is born, the physician calls this a complication.

I realize that, for parents who have been told their long-anticipated child will be deformed or has little chance of living, this is a horrendous decision.

And some may decide to abort. This bill does not restrict late-term abortions—only this method of doing it.

I have read some of the personal experiences of families who have chosen this option, and in the cases where the fetus developed organs outside the body, the recurring sentiment is that that baby would never have survived outside the mother's womb. If that is the case, why then should the fetus be killed while the head is still in the uterus?

Some say this is the safest procedure for the mother. But even the doctor who wrote "Abortion Practices," the Nation's most widely used textbook on abortion standards and procedures, disputes this. Dr. Hern states that he could not imagine a circumstance in which the partial-birth abortion procedure would be the safest. And after all, I think that is what we should be aiming for.

I am not doubting for an instant that carrying to term or delivering a baby that has little to no chance of survival would be difficult. And that's an understatement. You would need the mental fortitude of Jeannie French, whose testimony before the Senate Judiciary Committee was inspiring. She delivered by C-section twins, one of which she knew would not live. Against her doctor's recommendation to abort, she opted to go ahead with delivery and here little Mary's vital organs were used to save the lives of two children. Some may not think that is heroic, but I would bet you those two children are glad that Jeannie chose to deliver Mary.

Mr. President, our debate here today is not a debate on choice. It is not even a debate on abortion. Let no one convince you of that. The debate is whether or not this procedure, a procedure that most physicians do not approve of, and that most agree is not safe for the mother—certainly not safe for the fetus—should be legal. I believe it should be banned. For the health of the mothers and the health or our Nation, we should pass the partial-birth abortion ban bill.

Mr. SMITH. Mr. President, some of the debate and comments made on the floor on this issue never cease to amaze me. The distinguished Senator from California, Senator FEINSTEIN, a few moments ago on the floor of the Senate, made the statement that the doctors, in the medical testimony that she had seen or heard, said that partial-birth abortion procedures do not exist. If they do not exist, then why is there a problem in banning it? Maybe the Senator from California, Senator FEINSTEIN, could come back and explain that to me. If the procedure does not exist, as she says, then there ought not to be any problem banning something that does not exist.

Again, these things never cease to amaze me. Also, Senator BOXER of California, a few moments ago again referred to the case of Coreen Costello, who spoke very passionately—and it was a very compelling story—before the committee of her terrible tragedy of losing a child. And, again, Mr. President, let me repeat that Miss Costello's abortion was not a partial-birth abortion. So that is not what we are talking about here today.

We are talking about partial-birth abortions, when a child is allowed to come through the birth canal, with the exception of the head, and then is killed with the use of scissors and a catheter. That is what we are talking about—no other type of abortion.

I have made it very clear, and I think most of my colleagues know, that I oppose abortion. I believe abortion takes an innocent human life, no matter what stage of life it is in, whether the day after conception or the day of birth. But that is not the issue today. The issue here is partial-birth abortion.

Yesterday, we learned on the floor of the Senate, even though information was presented to the contrary, that when the witnesses came to testify before Senator HATCH's Judiciary Committee on this matter, there were no doctors called to testify, or no doctors who testified that had ever performed a partial-birth abortion, and there were no women who ever had one who testified. And we asked Dr. Haskell, who performed a thousand of them, partial-birth abortions, to come, and he refused. No women who had partial-birth abortions came. So it is interesting that Senator FEINSTEIN says that partial-birth abortion procedures do not exist when Dr. Haskell has performed 1,000 of them. Maybe somebody can explain that to me with some logic. But it beats me, Mr. President. You have a doctor who is an abortion doctor, who has performed 1,000 partial-birth abortions, and then the Senator from California comes to the floor and says it does not exist. I will leave that to my colleagues to decide what the facts are.

Mr. President, the amendment that I submitted a short time ago, which was second-degreed by the majority leader, Senator DOLE, would make a very explicit exception to the ban on partial-birth abortions for cases in which the life of the mother is in danger. It is very specific. The language could not be clearer.

To be perfectly candid about it, Mr. President, I do not believe that this amendment is really necessary. In the first place, there was no medical evidence—no medical evidence—presented at the November 17 Judiciary Committee hearing that the partial-birth abortion procedure, that brutal procedure that has been described a number of times here on the floor, which is banned by this bill, is ever necessary to save the life of the mother. There was no testimony to that effect.

In the second place, Mr. President, the bill already includes an affirmative defense for cases in which the doctor reasonably believes the mother's life is in danger. For all intents and purposes, this affirmative defense provision, found in subsection (e) of the bill, is a life-of-the-mother exception.

But that did not satisfy a number of my colleagues because they expressed to me their discomfort with the affirmative defense approach and asked me to consider placing a more explicit, more clear, if you will, life-of-the-mother exception in the bill, because I support a life-of-the-mother exception. Even though we cannot find any testimony anywhere in the record that I know of—no one has produced it yet—that it is necessary to do it to save the life of the mother, I am still willing to put that exception there. That is what I have done with the amendment that I have offered.

I do not believe it is necessary because the affirmative defense provision provides for that exception, and the amendment now before the Senate would place an explicit life-of-the-mother exception into subsection (a) of the bill. I am more than happy to do that. I am more than happy to clarify for my colleagues. The issue is the life-of-the-mother exception here, even though there was no evidence presented at the hearing that a mother's life was threatened. No one testified to that effect. But I am willing to do that because I think it is fair, and colleagues of mine have expressed the concern that we clarify the language, and that is what I have done.

So the language of this life-of-the-mother exception amendment is clear, Mr. President. It states, "The ban on partial-birth abortions shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is in danger by a physical disorder, illness, or injury, provided that no other procedure would suffice for that purpose."

That is very clear and explicit. Even though Senator FEINSTEIN says there are no such procedures as partial-birth abortions, it is interesting that they also want an exception to a procedure that does not exist, and they ignore the testimony of a doctor who has performed 1,000 of them.

So the first part of the amendment is designed to make it very clear and certain that the exception only applies to cases where the mother's life is genuinely physically threatened by some physical disorder, illness, or injury.

Let me also state that, yesterday, when we discussed this process, this brutal procedure, we discussed the fact that this baby—this is a late-term baby, Mr. President, as you know, anywhere from the fifth month of gestation to the ninth—is prevented, physically restrained, from completely exiting the birth canal. The baby is turned in the uterus with forceps so that it comes out feet first, and the baby is then restrained and not allowed to be completely born, if you will, where it is then killed by using an incision with scissors and a catheter which sucks the brains from the child.

We heard very compelling testimony at the hearing. We recited it here on the floor. There was testimony of a nurse who had witnessed this and had become so upset by it that she left the clinic because, as she stated it, after looking into the "angelic face" of this child that was aborted in this fashion, it was more than she could bear. She was horrified. We have heard a lot about the life of the mother and the eyes of the mother. We looked into this young woman's eyes, too, this mother of two daughters, and she was horrified by what she saw, that this child, contrary to what has been stated again on the floor of the Senate over and over again, this child's life was terminated for one reason—one reason, Mr. President. This child had Down's syndrome, so somebody made a decision to take the life of this child who had Down's syndrome.

I remind my colleagues, not that they need reminding, there are a lot of very productive people in our society today who happen to have Down's syndrome. There is a television show involving people with Down's syndrome.

The point I made yesterday, I guess we really did not need the Americans with Disabilities Act if we are going to terminate all the people who are going to be born disabled. I guess we could have it for those people who might be injured during the course of their lifetime. If anybody is going to be born disabled or in any way not normal, if you will, we would not need to have any coverage for them because we could just elect to terminate the pregnancy.

I was accused—because I was horrified by that—I was accused of playing God. I do not know where that comes from. It would seem to me someone who chooses to terminate a pregnancy simply because a child has Down's syndrome, perhaps they may be playing God.

Again, the issue here is 80 percent of the cases—not 20, not 10, not 5, not 1, in 80 percent of the cases—this is an elective procedure for no other reason other than that particular woman decides to have that abortion because—for whatever. "I do not want a child, I do not want a child with Down's syndrome," or whatever. Mr. President, 80 percent of the cases are elective, not some horrible threat to the life or the health of the mother at all.

The second part of this amendment is intended to ensure that in such dire emergencies, a partial-birth abortion could only be performed if it were the medical procedure, the only medical procedure available to save the life of the mother. I support that. I have no problem supporting it because I have no problem in understanding the fact that there is not any need, absolutely no medical need that anyone has ever testified to, that says that this is necessary to protect the life of the mother.

Let me say why. How would restraining a child from coming through the birth canal, that could come through the birth canal, enhance the life or the health of the mother? I do not understand that. I do not think any reasonable person could understand it. We have had testimony that in the case of the hydrocephalic children, where the head is enlarged with fluids, that that can be drained so that the head can be a normal size and can be allowed to come through the birth canal.

So we are talking about a brutal practice here, in 80 percent of the cases elective, and nothing to do with the life of the mother.

Be that as it may, I agree with my colleagues. I agree with the Senator from California that a life-of-the-mother exception should be there, even though I disagree with her that there is a threat to the life of the mother. At least I have not seen any evidence to that in terms of testimony, but even that does not mean it cannot happen in the future. I am willing, certainly willing to protect the life of the mother.

Mrs. BOXER. Would my friend yield about timeframe? I would be appreciative, if my friend would yield 5 minutes, I will finish my remarks for the evening and leave him the rest of the evening if we could agree not to take any other action or lay down any other amendments.

Mr. SMITH. I know of no other amendments on my side. I certainly will not be offering any, and I do not intend to go very long.

I am happy to yield to the Senator.

Mrs. BOXER. I know my friend and I have different things pulling on us.

Mr. SMITH. I am happy to yield to the Senator.

Mrs. BOXER. I just want to say that we are going to have a very interesting debate about the competing amendments that will come before the Senate on this issue. One is Senator SMITH's and Senator DOLE's amendment, which they call a life-of-the-mother exception. The other is the Boxer amendment, which makes a life-of-the-mother exception and a serious adverse health consequences exception to the woman.

I have to just say to my colleagues if they may be watching, and I will discuss this with them at great length, that the Smith-Dole amendment which is stated as if it is, in fact, an exception, I have now had an opportunity to read it. I want everyone to know that it is really not an exception for the life of the mother because what it says is, essentially, that this procedure will be banned, except it will not apply to partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

I say to my friend, that is not a life-of-the-mother exception. That is a preexisting situation. So, yes, if a woman had diabetes or some other disease, there would be an exception, but if, in fact, the birth endangered her life there would be no exception.

So this so-called exception, life-of-the-mother exception that has been offered by my friend from New Hampshire with Senator DOLE, is not—let me repeat, is not—in any way a life-of-the-mother exception.

We have life-of-the-mother exceptions in many other bills that deal with Medicaid funding, and they never use this language. It just simply says "except if the life of the mother is threatened." No such thing as "if she is endangered by a physical disorder, illness, or injury."

Let me repeat, most of the women would not fall in this category.

The first fight we had, or argument or debate, was over the issue of the life-of-the-mother exception in the bill as it was referred here to the Senate. My colleague from New Hampshire said there is a life-of-the-mother exception, and he insisted on it. We debated it over and over again. I said there was not; he said there was.

Now, today, he and the majority leader say, oh, you were right, there was not a life-of-the-mother exception. Here it is. And this one is not a life-of-the-mother exception; it is only an exception for a woman who comes to the birth with a preexisting condition or injury.

So we will make that debate clear, I hope tomorrow, or we can get more into this issue.

My goodness, let us not endanger a woman who has no preexisting condition such as diabetes. Let us not take away an option for her to have a safe outcome of a tragic situation.

I hope that Members will, in fact, vote for the Boxer amendment and not for the Smith-Dole. I yield the floor.

Mr. SMITH. Mr. President, I might just respond briefly. It is amazing what you can do with semantics. This language is as clear as it can possibly be. This paragraph is exactly the line—referring back to the paragraph in terms of the issue of whether or not you can have a partial-birth abortion—this paragraph does not apply to a partial-birth abortion.

Here is the language: "That is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice."

The focus of the remarks of Senator BOXER is physical disorder, a complication resulting from a pregnancy; if it is not a physical disorder, what is it? What is it? Of course it covers that. The Senator knows it. You cannot make it any clearer. We could play word games, but it is very, very clear.

Again, the argument is so unbelievable here because, A, they use the line that the partial-birth abortion procedure does not exist, yet they still say we should not have to ban it.

If it does not exist, what are they worried about the life-of-the-mother exception for? The truth of the matter is, of course, it exists. There are 1,000 that have been performed by Dr. Haskell alone. There are at least one or two that we know of, roughly, per day, that are still being performed in this country. Some people say that is not very many. Well, that is somewhere between 365 and 700 or 750. How many physicians who might cure cancer are in that group? How many future Presidents are in that group? Future Senators—perhaps from California or New Hampshire? Who knows, maybe even from Minnesota? Who knows who is in that group?

It is interesting. We have heard on the floor here that President Clinton will veto this horrible bill as soon as he gets to it, this bill to ban partial-birth abortions that execute innocent children, three-quarters of the way out of the womb, but we heard it proudly stated on the floor that the President is going to veto this bill.

I might say to the President of the United States—I know he is not listening tonight, probably—but, if he is, I would like to have the opportunity to have 15 minutes in the Oval Office to discuss this bill with him, because I do not believe, if he looked at the facts, that he would veto it because this process is so horrible that I think we have more important things to do in America than do that.

Let me just conclude on this point this evening, again, on the amendment. This amendment is designed to assure that no baby will be subjected to this brutal procedure unless this partial-birth abortion procedure is the only way to save the mother, in other words, in a true case of self-defense. Everyone has the right to self-defense.

In sum, I believe this is very carefully crafted language. It is fully adequate to provide the explicit life-of-the-mother exception to the bill's ban on partial-birth abortions. And those people who are now taking the words and fiddling with the words a little bit, trying to make things out of the words that are not there—do you know what the real issue is here, Mr. President? It is not that they object to this life-of-the-mother exception. No, it is not that. Their real problem is they do not want any exceptions. They do not want any exceptions. They want abortion on demand for whatever reason, mongoloid child, Down's syndrome child, a child with a cleft palate, a female child, a child with blue eyes, whatever.

I call on any one of my colleagues who is opposed to me on this issue to come down to the floor and say to me, "I will not support an abortion, partial-birth or otherwise, because it was a female child." Come down to the floor and state that right now. I think you will find the silence is quite deafening, because it is abortion on demand. But, and this is the key, it is abortion on demand in the most horrible way that any abortion could ever be performed.

In spite of the fact that all of us have different opinions about when life begins—and everyone knows my position on that—that is not the issue here, my position on when life begins. That is not relevant today. What is relevant today in this discussion is whether or not we have the right, morally or otherwise, to kill an unborn child who is held in the hands of this doctor with the exception of the head. Three or four more inches and that doctor could place that tiny little head into his hand and cradle it. But, instead, he turns that baby over and executes him, with no novocaine, no anesthetic, nothing—with a pair of scissors and a catheter, a child.

That is what this is about. That is why, when this bill came to the floor for a vote, even without the language that I have now crafted for the life-of-the-mother exception—but with language that perhaps was not as clear but did have the life-of-the-mother exception—even with the old language, it passed overwhelmingly in the House. Why? Why did a pro-choice Republican woman like SUSAN MOLINARI vote for it? Why did a liberal Democrat like PATRICK KENNEDY, son of Senator TED KENNEDY, vote for it? Because it is reasonable. Because it is sickening to think of the fact that we would do this to our children here in America. That is the reason. This is not a radical, extremist position. The radicals and the extremists are the people who do this.

So, I urge my colleagues to oppose Senator BOXER's amendment whenever we vote on it, tomorrow or whenever. Because basically it provides the opportunity to drive a truck through this whole process. It is a killer amendment. It might as well be called the partial-birth abortion-on-demand amendment, because it is designed to gut the bill.

When you say "health," you say anything. What is health? A sore toenail? A sore knee? I mean, it is a totally gutting amendment. If you want to gut the bill, then you would vote for Boxer. If you want abortion on demand, if you want to abort a perfectly normal, healthy child at 9 months because that child has blue eyes, or is a female, or a male, or whatever, then vote for Boxer. That decision is quite easy.

But, again, the health-of-the-mother issue is a phony issue. It is not the issue at all. Everyone knows it. We have had this debate here before. We have had the votes before. It has always been voted down. So the issue is, if you want to truly protect the life of the mother, then you would vote for the Smith-Dole amendment because that is exactly what it does, it protects the life of the mother.

Mr. President, Douglas Johnson, legislative director of the National Right to Life Committee, has prepared an outstanding, comprehensive analysis of H.R. 1833. It is entitled "The Facts On Partial-Birth Abortions." For the benefit of my colleagues, I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FACTS ON PARTIAL-BIRTH ABORTIONS

(By Douglas Johnson)

The Partial-Birth Abortion Ban Act (HR 1833) was introduced in Congress on June 15, 1995. From that day on, many opponents of the bill—including the National Abortion and Reproductive Rights Action League (NARAL), Planned Parenthood, and the National Abortion Federation—have manufactured and disseminated blatant misinformation regarding partial-birth abortions and about the bill. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This feature summarizes key facts on partial-birth abortions and on HR 1833. For additional documentation, contact the NRLC Federal Legislative Office at (202) 626–8820.

What is the Partial-Birth Abortion Ban Act (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) is a proposal currently under consideration in Congress, which would place a national ban on use of the partial-birth abortion procedure (except when a doctor could show that he "reasonably believed" that the procedure would prevent the death of a pregnant woman, and that no other medical procedure would suffice).

The bill would ban abortions that are performed by an abortionist (1) delivering a *living* fetus/baby into the vagina, and then (2) killing him or her. The bill specifically defines a "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such abortion.

What is the Status of the Bill?

The Partial-Birth Abortion Ban Act (HR 1833) was passed by the House of Representatives on November 1 by a vote of 288 to 139. As of November 28, the bill is awaiting action by the full U.S. Senate, which could occur as early as December 4.

The bill strongly opposed by pro-abortion advocacy groups and by their Senate allies, who will attempt to amend it to death—for example, by a proposed amendment to allow partial-birth abortions to be performed for "health" reasons. Legally, with reference to abortion, "health" is a term that covers emotional "well-being." Thus, addition of a "health exception" would in practice allow unrestricted use of the partial-birth abortion procedure.

President Clinton opposes the bill.

How is a Partial-Birth Abortion Performed?

The bill is aimed at the basic method practiced by Dr. Martin Haskell of Dayton, Ohio, and by the late Dr. James McMahon of Los Angeles, among others. The *Los Angeles Times* accurately described this abortion method in a June 16 news story:

"The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the openings and the brain is removed."

In 1992, Dr. Haskell wrote a paper on this abortion method. The paper ("Dilation and Extraction for Late Second Trimester Abortion") describes in detail, step-by-step, how to perform the procedure.

Dr. Haskell wrote that he "routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions" [4½ to 5½ months]. He also wrote that he used the procedure through 26 weeks [six months] "on selected patients." Dr. McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28).

How many partial-birth abortions are performed?

Nobody knows. Pro-abortion groups claim that "only" 450 such procedures are performed every year. But the practices of Dr. Martin Haskell and the late Dr. James McMahon alone would approximate that figure, and press reports indicate that other abortionists also utilize the procedure.

Both Haskell and McMahon have spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles. It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. The New York Times reported in a Nov. 6, 1995 news story about the bill:

"'Of course I use it, and I've taught it for the last 10 years,' said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. 'So do doctors in other cities.'"

There are 164,000 abortions a year performed after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which should be regarded as conservative estimates.

For what reasons are partial-birth abortions performed?

The Planned Parenthood Federation of America recently issued a press release that asserted that the procedure is "done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." Many reporters, commentators, and members of Congress have accepted such assertions uncritically and publicly disseminated them as "facts."

Yet, the claim that partial-birth abortion procedures are done only (or mostly) in life-endangerment or grave-fetal-disorder cases cannot be reconciled with many documents and reliable reports that are readily available.

In Dr. Haskell's 1992 instructional paper, he wrote that he "routinely performs this procedure on all patients 20 through 24 weeks" (4½ to 5½ months). In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

"And I'll be quite frank: most of my abortions are elective in that 20-24 week range. . . . In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective."

Recently, during testimony in a lawsuit in Ohio, Dr. Haskell was asked to list some of the medical problems of women on which he'd performed second-trimester abortions. Among the conditions he listed was "agoraphobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinics for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution Subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called "maternal indications." Of these, the largest single category of "maternal indications"—39 cases, or 22% of the total sample—were for "depression."

Dr. McMahon's self-selected sample of "fetal indications" cases showed he had performed nine of these procedures for "cleft palate."

Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7 press conference about "arguments . . . that these procedures . . . are given for depression or cleft palate," Ms. Michelman responded, "That is . . . not only a myth, it's a lie."

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded:

"If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can."

(Dr. McMahon used the term "pediatric indications" to refer to abortions performed on these young mothers.)

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for "many reasons":

"There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc." [emphasis added]

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among other, "very young teenagers . . . who have not recognized the signs of their pregnancies until too late," and by "women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers."

True, some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

Is the baby already dead before she is pulled feet-first into the vagina?

In his 1992 paper explaining step-by-step how to perform this type of abortion, Dr. Martin Haskell wrote that he performs the procedure "under local anesthesia" [emphasis added], which would have no effect on the baby/fetus. Nevertheless, since HR 1833 was introduced in June, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being "extracted" from the womb.

For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

Likewise, Kate Michelman, president of the National Abortion and Reproductive Rights Action League (NARAL), said at a Nov. 7 press conference, "These experts have made it very clear that the fetus undergoes demise before the procedure begins. And because of the anesthesia, which is, you know, something like 50 to 100 times what a fetus can withstand, because it's given according to the weight of the woman."

However, according to testimony presented to the Senate Judiciary Committee (Nov. 17) by the American Society of Anesthesiologists, such claims have "absolutely no basis in scientific fact." The ASA says that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, the ASA testified.

Dissemination of the false claim that anesthesia kills the baby is endangering the health and lives of pregnant women and their unborn children, because such erroneous information may frighten pregnant women away from obtaining medically necessary surgical procedures while they are pregnant, for fear of harming their unborn children, the ASA said.

Moreover, American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told AM News that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

"American Medical News. Let's talk first about whether or not the fetus is dead beforehand.

"Dr. Haskell. No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not."

In another interview, quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: "When I do the instrumentation on the skull...it destroys the brain tissue sufficiently so that even if it (the fetus) falls out at that point, it's definitely not alive," Dr. Haskell said.

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Mrs. Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist.

"...delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp."

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability," but he does not perform partial-birth abortions. In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

"In my own personal opinion, particularly when there are other techniques available, that the introduction of a sharp instrument into the brain and sucking out the brain constitutes cruel and unusual fetal punishment."

IS THE TERM "PARTIAL-BIRTH ABORTION" MISLEADING, OR IS IT ACCURATE?

In his 1992 paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&X"—noting that he "coined the term." However, that nomenclature was rejected by Dr. McMahon, who refers to the method as "intact dilation and evacuation" and (in an interview in the Los Angeles Times Magazine in 1990) as "intrauterine cranial decompression." There are also some variations in the procedure as performed by the two doctors.

None of the terms that the abortion practitioners prefer would be workable as a legal definition. The bill creates a legal definition of "partial-birth abortion," and would ban any variation of that method—no matter what new idiosyncratic name any abortionist may invent to refer to it—so long as it is "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

Beyond the legal point, the term "partial-birth abortion" is accurate and in no way misleading. In explaining how to perform the procedure in his 1992 instruction paper, Dr. Martin Haskell wrote:

"With a lower [fetal] extremity in the vagina, the surgeon uses his fingers *to deliver* the opposite lower extremity, then the torso, the shoulders and the upper extremities." [Haskell paper, page 30, emphasis added]

In sworn testimony in a lawsuit pending in U.S. District Court for the Southern District of Ohio (Nov. 8, 1995), Dr. Haskell said that he first learned of the method when a colleague

. . . described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breach type of delivery."

Are the drawings of the procedure circulated by NRLC accurate, or are they misleading?

At a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described "abortionist" who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R–FL.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table. Dr. Robinson agreed with Mr. Canady's statement that they were "technically accurate," and added:

"That is exactly probably what is occurring at the hands of the two physicians involved." [Transcript, page 80.]

Moreover, American Medical News (July 5, 1993) reported: "Dr. [Martin] Haskell said the drawings were accurate 'from a technical point of view.' But he took issue with the implication that the fetuses were 'aware and resisting.' "

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady: "Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed."

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL PERMIT THE PARTIAL-BIRTH ABORTION PROCEDURE TO BE UTILIZED TO SAVE THE LIFE OF THE MOTHER? ARE PARTIAL-BIRTH ABORTIONS RELATIVELY SAFE FOR THE PREGNANT WOMAN?

Under the bill, a doctor is not subject to penalty if he shows that he "reasonably believed" that the mother's life was in jeopardy and that no other medical procedure will save her life. However, many medical authorities, both pro-life and pro-abortion, say that this procedure would never be necessary to save a woman's life.

Moreover, some medical experts—on both sides of the abortion issue—say that the procedure itself carries special risks for the pregnant woman. American Medical News, the official newspaper of the American Medical Association, reported in its November 20, 1996 edition: "'I have very serious reservations about this procedure' said Colorado physician Warren Hern, MD. The author of *Abortion Practice*, the nation's most widely used textbook on abortion standards and procedures, Dr. Hern specializes in late-term procedures. . . . [O]f the procedure in question he says, 'You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.'"

"Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant woman, and that without this procedure women would have died. 'I would dispute any statement that this is the safest procedure to use,' he said. Turning the fetus to a breech position is 'potentially dangerous,' he added. 'You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that.'

"Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that is those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position."

Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

"[After 23 weeks] I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent. * * * But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

"I cannot think of a fetal condition or malformation, no matter how severe, that actually causes harm or risk to the mother of continuing the pregnancy. I guess one extremely rare example might be a partial hydatidiform mole. But that's a one-in-a-million situation. In most cases, mothers carrying an abnormal fetus, such as with Down's syndrome, anencephaly, the absence of a brain itself, dwarfism, other severe, even lethal chromosome abnormalities—those mothers, if you follow their pregnancy, have no higher risk of pregnancy complications than for any other mother who's progressing to term for a delivery. [court transcript, pp. 241–42]

"There is no need to perform a D and X ['dilation and extraction,' i.e., partial-birth] procedure. That is not part of the required teaching of the D and E ['dilation and evacuation,' the technique of dismembering the baby inside the uterus]. [court transcript, p. 260.]"

Dr. Pamela Smith, Director of Medical Education in the Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, told the Senate Judiciary Committee that the partial-birth abortion procedure is an adaptation of the "internal podalic version" procedure that obstetricians occasionally use to purposely deliver a baby breech (feet first)—but that this procedure is risky to the mother, and its use is recommended only to deliver a second twin. "Why, if it's dangerous to the mother's health to do this when your intent is to deliver the baby alive, that this should suddenly become . . . the safe method when your intention is to kill the baby?" Dr. Smith said.

Dr. Smith also gave the Judiciary Committee her analysis of a sample of 175 cases, selected by Dr. McMahon himself, in which he claimed that he had used the procedure because of maternal health indications. Of this sample, the largest group, 39 cases (22%) were for maternal "depression," while another 16% were "for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis)," Dr. Smith noted. She added that in one-third of the cases, the conditions listed as "maternal indications" by Dr. McMahon really indicated that the procedure itself would be seriously dangerous to the mother.

What would be the effect of adding to the bill an exception to allow partial-birth abortions for "health" reasons, as proposed by pro-abortion Senator Barbara Boxer (D-Ca.) and others?

In the context of abortion-related law, "health" is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined "health" to include "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Thus, the bill with a "health" exception would permit abortionists to perform partial-birth abortions at will—even for "depression," as Dr. James McMahon did (see page 4). Adding the word "serious" before "health" changes nothing, because it is the abortionist who would determine whether the "depression" or other distress was "serious."

Does the bill contradict U.S. Supreme Court decisions?

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 is not an "assault" on Roe v. Wade, but rather, could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that "the unborn fetus is not a person" under the Constitution (even during the final months of pregnancy). So, in the Supreme Court's doctrine, a human being becomes a legal "person" upon emerging from the uterus. But a partial-birth abortion kills a human being who is four-fifths across the "line-of-personhood" established by the Supreme Court. Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by *Roe* v. *Wade*.

What position has the American Medical Association taken on H.R. 1833?

On September 23, the National Council on Legislation of the American Medical Association (AMA) voted unanimously to recommend AMA endorsement of H.R. 1833. (*Congress Daily*, Oct. 10.) The Council on Legislation is made up of about 12 physicians of different specialities, who are charged with studying proposed federal legislation with respect to its impact on the practice of medicine. A member of the Council told *Congress Daily* that "this was not a recognized medical technique" and that "this procedure is basically repulsive."

However, meeting in October, the AMA Board of Trustees was divided on this recommendation, and therefore took no position either for or against the bill. According to an October 23 letter from AMA headquarters in Chicago, "The AMA Board of Trustees has determined that it will not take a position on H.R. 1833 at this time."

From the perspective of those who believe that unborn children should be protected from all methods of abortion, what is the point of supporting a bill that would ban only one method?

Each human being is a unique individual with immeasurable worth. Pro-abortion advocates often try to dismiss the significance of partial-birth abortions by observing that they appear to account for "only" less than one percent of all abortions. But for each and every human individual who ends up at the pointed end of the surgical scissors, the procedure is a 100 percent proposition.

Should Congress be in the business of banning specific surgical procedures?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of H.R. 941, the "Federal Prohibition of Female Genital Mutilation Act." (The Senate companion bill is S. 1030.)

This bill generally would ban anyone (including a licensed physician from performing the procedure known medically as "infibulation," or "female circumcision," which is practiced by some immigrants from certain countries. The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

WHY DID THE BILL PASS THE HOUSE OF REPRESENTATIVES BY A MORE THAN 2-TO-1 MARGIN?

In the House, the bill won support from more than a few lawmakers who generally favor legal abortion. Once they had the facts, a significant number of those self-described "pro-choice" lawmakers experienced an authentic moral revulsion regarding the procedure. In certain other cases, the revulsion was probably more political than moral. For whatever combination of these reasons, H.R. 1833 won support from a broad spectrum of House members, including: 73 Democrats and 215 Republicans (37% of voting Democrats, 93% of Republicans); nearly one-third of the women in the House (15 of 47), Democratic Leader Richard Gephardt (Mo.); Democratic Whip David Bonior (Mi.); Rep. John Dingell (Mi.), ranking Democrat on the Commerce Committee; Rep. Lee Hamilton (D-In.), ranking on the International Relations Committee; Rep. Dave Obey (D-Wi.), and Congressman Patrick Kennedy (D-RI), the son of Sen. Edward Kennedy (D-Mass.)

THE ARCTIC WILDLIFE REFUGE

Mr. STEVENS. Mr. President, I come to the floor once again to talk about the appearance that I had on "Nightline" with the Secretary of the Interior, Mr. Babbitt. In that program, which I call a debate, on "Nightline," the Secretary claimed that the development of the coastal plain of our arctic for its oil potential would mean the end of that wildlife refuge.

He referred to the Arctic National Wildlife Refuge, which is some 19 million acres of our northern part of Alaska. It is above the Arctic Circle, as indicated. As a matter of fact, there are 21.2 million acres of wilderness in this whole area, and that area is larger than Vermont, New Hampshire, Connecticut, and Rhode Island put together.

Of this area, in 1980, 1.5 million acres of the arctic plain was set aside for development for oil and gas exploration, subject only to an environmental review to determine whether that type of development would result in irreparable harm to our arctic plain. That is what we call section 1002 of ANILCA, the Alaska National Interest Lands Conservation Act. That 1.5 million acres was the only area in the 1980 bill, that dealt with over 100 million acres, that provided for any development in our State. The Secretary says that proceeding as was intended in 1980 would be the end of that wildlife refuge. That is what I am here to talk about today.

If we proceed with oil and gas exploration, as is intended by the Balanced Budget Act of 1995, this area will be leased. There will be bonus bids that will bring in some $2.8 billion, we estimate. It will be at least that because one small area offshore here, the Mukluk, brought in over $1 billion—$1 billion—in a very small area. It was a dry hole.

But this leasing will take place. As the exploration takes place, the total area that will be used out of that 1.5 million acres is about 12,000 acres. That is about the size of Dulles Airport. And, after that exploration takes place, the actual area of development, for the roads, the buildings, the rigs that will be in place for the period of development, will be about 2,000 acres; 2,000 acres of the 1.5 million which is part of 19 million acres total in that refuge.

I come to speak about this rhetoric because the administration is trying to leave the impression with the American public that, if this leasing takes place, it is the end of this whole refuge. As a matter of fact, Mr. President, the wilderness area selected by the Interior Department is in the area south of the arctic coastal plain and just at the slope of the Brooks Range. We call it the North Slope of the Brooks Range. It is not in the arctic plain.

You know, Mr. President, it is a very difficult thing for people to understand that this is an arctic desert. The oil exploration will take place in an area which is an arctic desert. The problem comes that the porcupine caribou herd, which lives approximately 9 months of the year in Canada on the Porcupine River area, migrates into Alaska and goes 150 miles up onto the North Slope. It is present on the plain maybe 6 to 8 weeks when it decides to go up there. Some years it does not go at all, as I will mention. But when we were debating the oil pipeline—this is the area of the oil pipeline up to the Prudhoe Bay. This is the Prudhoe Bay development right there. It is on State land. The land belongs to the State of Alaska. The claim was made 20 years ago that approval of that pipeline would lead to the destruction of the caribou herd. We call it the central arctic caribou herd. One person actually stood on the floor here and said that, if we got the approval to build the Alaska oil pipeline, all of the caribou would die, that it would be the end of the central arctic herd that lives near Prudhoe Bay.

Did the caribou disappear? Did the pipeline, this tremendous pipeline that has brought us 11 billion barrels of oil so far—cause the caribou to disappear? Have they been injured? As a matter of fact, at the time we debated that pipeline, the caribou herd was about 6,000 animals. It went up to 23,400 animals by 1992. As we came to 1992, the development was over, and really man's presence started to be reduced in this area. The caribou have actually reduced in number as the number of people involved in the Prudhoe Bay area has been reduced. They are down to about 18,100 this year. But that is still more than three times the size of the caribou herd at the time the prediction was made that they would all die if the oil pipeline was put in place.

The health of the caribou has very little to do with man's presence. As a matter of fact, that caribou herd is a very healthy herd. I have been up there. I would be glad to one of these days bring some photographs showing the caribou standing next to oil rigs, caribou rubbing up against the pipeline to scratch their backs, caribou coming up on top of the crosswalks to go over the pipeline because they are trying to get away from the mosquitoes. They are trying to get in a breeze, get high enough to get rid of the mosquitoes.

That is a very flat area—the arctic plain. It is an area that has so many mosquitoes that very few animals or people spend much time there. If they do, they are very heavily loaded down with mosquito dope. I mean real, real mosquito dope.

But technology is different now than 20 years ago when that pipeline was developed. There is no question, as I said, that the size of the actual development in the arctic plain will be quite small. We are looking now at the problem of what will human activity in this area do that might affect the caribou that might be different from this area around Prudhoe Bay. The answer is nothing.

This will not be the end of the wildlife refuge. That assertion cannot be supported by any facts. It really is not only misleading; it is wrong. It is not truthful.

This herd, as I said, does not stay there permanently. The central arctic herd stays there—in Prudhoe Bay—permanently. The central arctic herd is a very migrating herd. Sometimes it does not go up there. Our records show that in 1973, 1974, 1982, and 1988 the caribou did not come into this area at all. The caribou wander around in terms of this whole area.

It is the fact that the caribou sometimes actually come over and go back into Canada into the area where there is substantial presence of the oil and gas industry over by the Beaufort Sea.

Our arctic plain is, as I said, a desert. It is almost perfectly flat. It is treeless. That might surprise people because they see the photographs that are in the brochures of all of these extreme environmental organizations saying "save this place from development." They show you beautiful lakes and hills, trees, bear, and caribou, and even, one time, an elk. There has never been any elk up there. It is a frozen desert.

It has about 5 to 7 inches total of precipitation, snow and rain, in a 12-month period. Think of that—5 to 7 inches. This ground is permanently frozen. Water will not even penetrate it. Whatever melts from the snow gathers in small pools. They become shallow and stagnant. That is where we get the mosquitoes. It is probably the best breeding ground for mosquitoes in the whole United States. There is no question that the animals that are there, particularly the caribou, are driven nuts by the mosquitoes. They are very vicious. As I said, the mosquitoes drive these caribou so that they go under and on top of the pipeline. They try to get away from them by getting into the breeze that may be caused by wind blowing under the pipeline or over the pipeline.

The wilderness area that we have is here. It is south of the 1002 area. When you listen to the Secretary of the Interior, it sounds like we are trying to lease a wilderness area. That again is not true. It has never been true.

This area once was the Arctic Wildlife Range. It was created by a secretarial order, and that order specifically stated that oil and gas leasing could take place on the range subject to stipulations to protect the fish and wildlife.

At the time we considered this enormous act that withdrew all of these areas that are outlined in either blue or green or red, the Congress looked at all of them. And this is the only area, as I said, where the natural resources were so significant that the area was set aside, specifically stating that it would be subject to oil and gas leasing. The only thing that had to happen was that there had to be an environmental study made.

It came to Congress not for the purpose of trying to open it. It has always been open. The question is, Should Congress approve the finding of the Secretary of the Interior that there would not be irreparable harm to this area if oil and gas development took place?

It is 1½ million acres. Out of all of this area, as I said, of the whole area that belongs to the Federal Government up here, some 21.2 million acres of the arctic is set aside as wilderness. As a matter of fact, Mr. President, 65 percent of all wilderness in the United States is in our State. Sixty-five percent of all the wilderness in the United States is in our State. Fifty-six million acres total have already been set aside as wilderness.

In addition to that, we have 70 percent of the national parklands. We have 85 percent of all the national wildlife refuges in Alaska.

That is the only area that Congress has ever designated as being set aside for oil and gas development. The Secretary tries to let the American public believe that this Senator is trying to authorize drilling in a wilderness area. It is not a wilderness area. It never was a wilderness area. It has never been withdrawn from oil and gas leasing. Oil and gas leasing was subject to this environmental impact statement that was made and has been presented to Congress. Two Secretaries of the Interior have recognized that and recommended to Congress that the oil and gas leasing proceed as was intended by my good friend, the late Scoop Jackson, in 1980.

Mr. President, I am going to come back again and again and talk about all the statements the Secretary made that night on "Nightline" that were not true. I think the American public should know. And I intend to find some way to be sure that cabinet officers that discuss pending legislation speak the truth.

Thank you very much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leader's time reserved?

The PRESIDING OFFICER. The Senator is correct.

TRIBUTE TO TROOP 7 OF TOPEKA, KS, ON THEIR 75TH ANNIVERSARY

Mr. DOLE. Mr. President, today I take great pride in recognizing Boy Scout Troop 7 from Topeka, KS, for 75 years of honorable Scouting service.

If ever a troop has exemplified the high ideals of Scouting, Troop 7 has. These young men have not only been of great service to their community since 1920, but 147 of them have risen to a rank few achieve, that of Eagle Scout.

The young men of Troop 7 have dedicated themselves to becoming conscientious and responsible citizens with the help of their adult volunteers. The Scout oath and law instill moral uprightness and the precious selflessness of duty to others, while the motto, "Be Prepared," entreats them to never rest on their laurels. This untiring endeavor to personal fulfillment and service to others is a standard of excellence that will challenge them throughout their lives.

Mr. President, it is only fitting that we honor the young men and the adult leaders of Troop 7 on the occasion of their diamond anniversary. After all, Scouting has only been in the United States for 85 years, which makes Troop 7 one of the oldest in the country.

With their record of excellence, I am confident that Troop 7 will continue to embody the spirit of Scouting for many years to come.

TRIBUTE TO CONGRESSWOMAN JAN MEYERS

Mr. DOLE. Mr. President, anyone who has been to the Kansas City and Johnson County area during any of the last 6 election years could not go far without seeing campaign signs that said "Jan Can."

The signs were referring to JAN MEYERS, who, since 1985, has represented the Third District of Kansas in the U.S. House of Representatives with great ability.

Congresswoman MEYERS announced this week in Overland Park that this will be her final term in Congress, and I wanted to take a moment to pay tribute to my friend and colleague.

JAN MEYERS' dedication to public service extends nearly 30 years. Before her election to Congress, she served 5 years as an Overland Park City councilwoman, and 12 years as a Kansas State senator.

Throughout her years in the political arena, JAN MEYERS has earned a reputation as a public servant of great competence, compassion, and common sense.

During her years here in Washington, she has devoted a great deal of time to fighting the scourge of illegal drugs. She successfully fought to ensure that operators of common carriers involved in accidents that cause death and injury while under the influence of drugs and alcohol would face tough criminal penalties.

Congresswoman MEYERS also spoke out on the need to reform welfare and to return power to the States well before those causes gained favor here in Washington.

But perhaps Congresswoman MEYERS' greatest sphere of influence involved issues affecting small business. Kansas is a small business State, and as ranking member, and now chairman of the House Small Business Committee, JAN MEYERS never stopped fighting to reduce the regulatory and tax burdens on America's small businessmen and women.

I look forward to working with Congresswoman MEYERS in the year ahead, and wish her, her husband Dutch, and their family many years of health and happiness.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. DOLE. Mr. President, 45 years ago a young political science professor went to Silverton, OR, to announce his candidacy for the Oregon State House of Representatives.

In the years that followed, MARK HATFIELD would return to Silverton to announce his candidacy for the Oregon State Senate, for secretary of state, for Governor, and for U.S. Senator. And each and every time MARK HATFIELD put his name on the ballot, Oregonians responded by voting for him in overwhelming numbers.

Not only did MARK HATFIELD never lose an election, he never lost the total trust and respect or Oregonians.

Last Friday, Senator HATFIELD returned again to Silverton.

Only this time, he did not announce his candidacy for a sixth term in this Chamber—even though he would easily have been reelected.

Instead, Senator HATFIELD announced that he will retire from the Senate at the end of the 104th Congress so that he can return to Oregon. And I might say, I had the pleasure of watching much of his retirement speech on C-SPAN.

And when Senator HATFIELD leaves this Chamber for the final time, he will leave behind an enduring legacy of statesmanship, leadership, dignity, and integrity.

No matter if any Senator agreed or disagreed with MARK HATFIELD, no one could ever doubt that he was standing up for what the he believed was right for Oregon and for America.

And just as Oregonians have grown to count on Senator HATFIELD's leadership, many Senators have also grown to count on his friendship.

Many of us will never forget the day when our late colleague Senator Stennis was shot in a burglary attempt, and how Senator HATFIELD raced to the hospital to be with Senator Stennis, and how he personally manned the telephone lines, responding to inquiries about the condition of Senator Stennis.

Senator HATFIELD also served his country during World War II, where he saw battle at Iwo Jima and Okinawa, and was among the first U.S. servicemen to enter Hiroshima following the atomic explosion.

With Senator HATFIELD's retirement, the Senate will also be losing one of the Nation's leading scholars of the life of Abraham Lincoln. And those colleagues who have not seen Senator HATFIELD's Lincoln collection are now on notice that they have about a year to do so.

In one of the last letters that Lincoln wrote, he said that his goal was not just that America be a Union of States, but also a "Union of hearts and hands."

That goal has also been the life's work of MARK HATFIELD, and the Senate, Oregon, and America, are all better because of him.

TRIBUTE TO SENATOR AL SIMPSON

Mr. DOLE. Mr. President, finally Saturday night another of our colleagues announced his retirement.

Mr. President, 40 years ago, then-Senator John Kennedy wrote a best-selling book called "Profiles in Courage." It consisted of biographies of a number of U.S. Senators who took courageous positions in their time.

If a similar book was written today, I have no doubt that it would include a biography of our colleague, Senator ALAN SIMPSON.

As my colleagues know, Senator SIMPSON returned to his hometown of Cody, WY, this weekend to announce that he would not be a candidate for a fourth term in the U.S. Senate.

Again, I had the pleasure of watching about 45 minutes of his retirement speech to the Cody Chamber of Commerce on C-SPAN.

In his announcement, however, Senator SIMPSON left no doubt that his final year in the Senate would be no different from the first 17—from immigration to entitlement reform, he will continue to courageously tackle the toughest and most controversial of issues, calling them as he sees them, and letting the cards fall where they may.

AL SIMPSON is a man of strong opinions, but he also is someone who knows how to count votes and how to get things done. As Republican whip for 10 years, AL was a trusted member of our leadership team.

He made being Republican leader a much easier job—and all Senators will attest to the fact that with his unique sense of humor, AL has made serving in the Senate much more enjoyable.

Senator SIMPSON has served in Washington for 17 years, and although he and his wife, Ann, have devoted themselves to many cultural and charitable causes here in the Nation's capital. AL SIMPSON never forgot that Wyoming was home.

The great Alf Landon once said that "there are some intelligent people in Washington. But there are more of them in Kansas." AL SIMPSON never forgot that there are also more of them in Wyoming, and he has never tired of fighting for returning power to where it belongs—to the people of Wyoming and our other 49 States.

I have long thought that AL embodies the "American spirit" that many Americans associate with Wyoming and with the American cowboy. He is honest, independent, and judges people not by money or position—but by character.

AL's father also represented Wyoming here in this Chamber. And when Milward Simpson passed away in 1993, AL delivered a very moving eulogy on the Senate floor.

I re-read that eulogy the other day, and it struck me that the words spoken about a father, could also be applied to the son.

AL SIMPSON said:

> My father was a man who did not just take little philosophies and paste them on the wall and then ignore them and yet say, "I live by that." No, he did live by those things that he told us . . . . and one of those things he told us was "I cannot tell you how to succeed, but I can sure tell you how to fail—and that is to try and please everybody."

Mr. President, AL SIMPSON is retiring from the Senate, but he is not retiring from life. He will continue to make a difference. He will continue to live by his philosophies. And he will continue to succeed, because no matter what, AL SIMPSON won't try to please everybody—and Wyoming and America would want it no other way.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until the hour of 7:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about another go, as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $12 billion shy of $5 trillion.

To be exact, as of the close of business yesterday, December 4, the total Federal debt—down to the penny—stood at $4,988,891,675,281.12. Another depressing figure means that on a per capita basis, every man, woman and child in America owes $18,937.92.

Mr. President, back to our quiz—how many millions in a trillion? There are a million million in a trillion, which means that the Federal Government will shortly owe 5 million million.

Now who is not in favor of balancing the Federal budget?

TRIBUTE TO LADY CLIO CRAWFORD

Mr. PRESSLER. Mr. President, Lady Clio Crawford was a personal friend of mine. I recall many great conversations with her when I was a student at Oxford. I remember in particular a wonderful dinner at Elizabeth's Restaurant, at which we discussed all of Africa and the problems of the emerging states of the continent. Having spent much of her life there, she was an expert on Africa. Later, when I was a lieutenant in the U.S. Army in Vietnam, serving in the Mekong Delta, she sent me some audio tapes on which she spoke to me, expressed concern about my safety, and wished me well. Her son, Tony, was a good friend of mine at Oxford University.

Lady Clio Crawford passed away in Geneva, Switzerland, on October 25, 1995, after a short illness.

Lady Clio Crawford was born Clio Colocotronis on February 2, 1925. Her mother came from the island of Crete and her father from the Peloponnese. Her family were direct descendants of Gen. Theodore Colocotronis, who was instrumental in liberating Greece from Turkish occupation 150 years ago, and whose statue and name adorn present-day Athens. At the age of 17, Clio Colocotronis, whose family were living in Alexandria, Egypt at the time (her father was a banker), was courted by and married Vassos Georgiadis, who was a highly successful Greek industrialist in East Africa and some 20 years her senior. Clio Georgiadis bore two sons in Kampala, Alexander and Antony, but she became a widow at the tender age of 27 in 1952.

With all the energy, courage and determination which were hallmarks of this remarkable lady, she took over responsibility of her late husband's multifaceted business empire: This included the East Africa Tobacco Co. which was one of Africa's dominant corporations. She learned the complexities of the businesses, expanded them, and even diversified in Europe to become a major shipowner. But what she considered her major achievement was bringing up her two sons on her own, ensuring they had the best education at Oxford and U.S. business schools, watching with pride as they succeeded in life.

In 1961, she married Sir Frederick Crawford, who was then British Governor and Commander-in-Chief in Uganda. After he handed Uganda over to majority rule in 1961, he moved to Rhodesia—now Zimbabwe, where he became the head of the British South Africa Co., and was on the boards of many Anglo-American companies in southern Africa. Sir Frederick Crawford sadly died in 1978.

Lady Clio Crawford resided in Geneva since that time. She traveled extensively throughout her life. She was one of the most energetic, charming, imposing and kindhearted persons I have ever met. From her early days and throughout her life, she was also very actively involved in all sorts of charities. She became the honorary consul for Greece in Uganda, which was the first time a woman held this post. She was head of the Red Cross, and was instrumental in establishing the Greek Orthodox Church in Uganda. In Switzerland, she and her sister were very much the pillars of the Greek community. Lady Crawford had a close connection with Oxford University in that her husband, Sir Fredrick, was a graduate of Balliol College. Her sons and stepsons all attended St. Edmund Hall—one of Oxford's oldest colleges, with which she maintained a close association over the years. She and her family were generous sponsors of many college developments and an area of St. Edmund Hall bears her name. She left behind two sons, Alec and Tony Georgiadis, who have charming wives—Ann and Elita—and six grandchildren, three from Tony and Elita—Clio, Vassos John and Ileana, and three from Alec—Vassos, Nicholas and Philip.

In tribute to this grand lady, I quote the comments sent to her family by a former vice chancellor of Oxford University:

> I remember her as one of the most cheerful, energetic, independent and altogether delightful women I have every met. I always found her confident good humour and marvellous "joie de vivre" infectious. . . . She never seemed to lack the vigour and vitality and warm understanding which were her hallmark. She was a wonderful, gracious lady who enriched the life of a friend like myself. The thought that I shall not see her again is a sad wrench. May she rest in peace—no one better deserves to do so.

TRIBUTE TO THE REVEREND DR. RICHARD C. HALVERSON

Mr. LIEBERMAN. Mr. President, I rise today to pay my respects to the Rev. Richard Halverson, whose recent passing saddened all of us in this Chamber. He was, for us, a spiritual Rock of Gibraltar, always present as a reminder of eternal values, in the midst of even the most temporal of debates.

One of the remarkable things about the life of this faith-filled man is the fact that he became the Chaplain of the U.S. Senate at a time when most people his age retire and go fishing or play golf. At 65, Reverend Halverson undertook the most significant, perhaps the most difficult, task of his life—ministering to the spiritual needs of 100 U.S. Senators, their staffs, employees of the Senate and countless others who came to him for counsel and prayer. He fulfilled that mission with great honor.

I will always remember Reverend Halverson as a gracious man, a man of considerable intellect, and especially a scholar of the Old Testament and the Jewish religion, about which we had memorable conversations.

We will miss Reverend Halverson, especially in a time when partisan rancor seems so sharp and divisive here in

Capitol Hill, and in a society where bedrock values like belief in God and respect for one another seem to be at such risk. His warm presence always stood in strong contrast to the trials of the moment. We have faith that he is in the embrace of a loving God.

Yet, I am confident he is praying for us still. May God bless Reverend Halverson, and may He grant his family and many friends solace from the grief we share at his passing, and confidence that life eternal is the reward for those who live to His will.

MEMORIAL TRIBUTE TO DR. RICHARD HALVERSON

Mrs. KASSEBAUM. Mr. President, last week the Senate and the Nation lost a gifted spiritual adviser. All of us mourn the death of Dr. Richard Halverson, who served here for 14 years as Senate Chaplain before retiring last February.

As shepherd of his Senate flock, Dr. Halverson always brought strength of faith and a wealth of patience in his actions to all, whether on the floor of the Senate or to the broader national audience. For 14 years, his prayers began each of our working days and did so with spiritual substance, expecting from all of us the very best standards of conduct, understanding, and commitment.

I valued his friendship as well as his spiritual leadership. I will hold a special memory of his committed caring and the twinkle in his eye.

TRIBUTE TO THE REVEREND DR. RICHARD HALVERSON

Mr. JEFFORDS. Mr. President, in one of his books, Dr. Halverson wrote, "It is foolish to say there is no God. But it is infinitely more foolish to say there is and to live as though there were not." Dr. Halverson's special grace was in his way of helping us to bridge the gap between faith and practice. As a preacher, Chaplain Halverson fought against unbelief but, as a pastor, he was equally concerned about hypocrisy.

Dick, as he was known to all of us in the Senate, loved his country, loved the Senate as an institution, but more importantly he loved us as individual Members of the Senate. His deep caring spirit was evident in his availability at all times to attend to the needs of Senators and our families. He knew us all and, even so, managed to love us whatever our backgrounds may have been. And, not only the Senators, Dick loved the staffers, the elevator operators, the police officers, and everyone he met in the course of a day on the Hill. No one knew more people than did Dick.

His daily prayers in the Senate acted as a reality check for each of us. One morning his prayers began:

> Gracious Father in Heaven, help us to keep our priorities straight. In this center of power, secondary matters have a way of preoccupying our attention and preempting our time. Help us not to take ourselves too seriously, forgetting that we are fallible human beings with many needs. Deliver us from VIP syndrome which expects or demands preferential treatment.

It is these actions and thoughts which live on in our hearts and minds as we think of Dick. His words and love taught us much and each of us is the better for having known him. He was a special gift to us and we shall remember him.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1659. A communication from the Senior Deputy Assistant Administrator of the U.S. Agency for International Development (for Legislative and Public Affairs), transmitting, pursuant to law, the report on financial statements on the Micro and Small Enterprise Development ("MSED") Program for fiscal year 1994; to the Committee on Governmental Affairs.

EC–1660. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1661. A communication from the Executive Director of the Federal Retirement Investment Board, transmitting, pursuant to law, audit reports issued during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1662. A communication from the Executive Director of the Harry Truman Scholarship Foundation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1663. A communication from the Comptroller General of the United States, transmitting, pursuant to law, reports of three deferrals of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–1664. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93-02; to the Committee on Appropriations.

EC–1665. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–1666. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the final report during calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1667. A communication from the Secretary of Transportation, transmitting, pursuant to law, the final report on the Tanker Navigation Safety Research Baseline study; to the Committee on Commerce, Science, and Transportation.

EC–1668. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure safeguards information for the quarter beginning July 1 through September 30, 1995; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–476. A resolution adopted by the Nevada League of Cities relative to the Nevada Test Site; to the Committee on Armed Services.

POM–477. A resolution adopted by the Interfaith Council to Assist Vietnamese Refugees relative to Vietnamese asylum seekers; to the Committee on Foreign Relations.

POM–478. A resolution adopted by the Greater Nashville Regional Council of Nashville, Tennessee relative to the Southern Power Administration; to the Committee on Energy and Natural Resources.

POM–479. A resolution adopted by the American Legislative Exchange Council relative to the Consumer Price Index; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, U.S.C. sections 3371, 3384 and 12203(a):

To be major general

Brig. Gen. Jorge Arzola, [redacted].
Brig. Gen. William E. Barron, [redacted].
Brig. Gen. Tommy W. Bonds, [redacted].
Brig. Gen. William N. Clark, [redacted].
Brig. Gen. George W. Goldsmith, Jr., [redacted].
Brig. Gen. Ralph L. Haynes, [redacted].
Brig. Gen. William B. Hobgood, [redacted].
Brig. Gen. Curtis A. Loop, [redacted].
Brig. Gen. James M. McDougal, [redacted].
Brig. Gen. William C. Mercurio, [redacted].
Brig. Gen. Evo Riguzzi, Jr., [redacted].

To be brigadier general

Col. Patricia J. Anderson, [redacted].
Col. William S. Anthony, [redacted].
Col. David R. Bockel, [redacted].
Col. Robert W. Chestnut, [redacted].
Col. Richard E. Coleman, [redacted].
Col. James M. Collins, Jr., [redacted].
Col. Perry V. Dalby, [redacted].
Col. William N. Kiefer, [redacted].
Col. Robert M. Kimmitt, [redacted].
Col. Robert A. Lee, [redacted].
Col. Paul E. Lima, [redacted].
Col. Richard D. Lynch, [redacted].
Col. Robert G. Mennona, Jr., [redacted].
Col. H. Douglas Robertson, [redacted].
Col. Jon R. Root, [redacted].
Col. John L. Scott, [redacted].
Col. Gerry G. Thames, [redacted].
Col. Thomas A. Wessels, [redacted].

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. Thomas A. Schwartz, [redacted].

The following-named officer to be placed on the retired list of the U.S. Army in the grade indicated under section 1370 of title 10, U.S.C.

To be lieutenant general

Lt. Gen. Paul E. Funk, [redacted].

The following-named officer for appointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Alexander J. Krekich, [redacted].

The following-named officer to be placed on the retired list of the U.S. Navy in the grade indicated under section 1370 of title 10, U.S.C.

To be admiral

Adm. Henry G. Chiles, Jr., [redacted].

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of October 27 and 31, November 7 and 8, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 27, 31, November 7 and 8, 1995, at the end of the Senate proceedings.)

*Rear Admiral Alexander J. Krekich, USN to be vice admiral (Reference No. 682)

**In the Army Reserve there are 49 promotions to the grade of colonel and below (list begins with Raymond W. Carpenter) (Reference No. 700)

**In the Army Reserve there are 2 appointments to the grade of lieutenant colonel (list begins with Nelson M. Alverio) (Reference No. 704)

**In the Navy there are 1,233 appointments to the grade of ensign (list begins with Bobby Z. Abadi) (Reference No. 705)

**In the Army Reserve there are 583 promotions to the grade of colonel (list begins with Virgil A. Abel) (Reference No. 706)

*In the Army Reserve there are 29 promotions to the grade of major general and below (list begins with Jorge Arzola) (Reference No. 711)

**In the Air Force Reserve there are 19 promotions to the grade of lieutenant colonel (list begins with Monika K. Botschner) (Reference No. 714)

**In the Navy there are 6 appointments to the grade of lieutenant (list begins with Brian G. Buck) (Reference No. 715)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Travis L. Hooper) (Reference No. 718)

**In the Army there are 4 promotions to the grade of lieutenant colonel list begins with Bobby T. Anderson) (Reference No. 719)

*Admiral Henry G. Chiles, Jr., USN to be placed on the retired list in the grade of admiral (Reference No. 724)

Total: 1,932.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1444. A bill to provide for 1 additional Federal judge for the middle district of Louisiana and 1 less Federal judge for the eastern district of Louisiana; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1445. A bill to authorize appropriations for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources, pursuant to the order of March 3, 1988, with instructions, that if reported the bill then be referred to the Committee on Commerce, Science and Transportation for a period not to exceed 30 session days.

By Mr. MCCAIN:

S. 1446. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish an Inspector General of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. PRYOR):

S. 1447. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the Act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the Act through fiscal year 1998, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1448. A bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 1449. A bill to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers on such boards and councils, to ensure the independence of such boards and councils, to ensure the appropriate use of promotion funds, to prevent legislatively authorized promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. Res. 197. A resolution to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1445. A bill to authorize appropriations for the National Science Foundation, and for other purposes.

THE NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1995

Mr. PRESSLER. Mr. President, today, as chairman of the Committee on Commerce, Science, and Transportation, I am introducing the National Science Foundation Authorization Act of 1995. The bill provides a 3-year authorization for the science and education programs of the National Science Foundation [NSF]. Our economy, our quality of life, and our national security are increasingly dependent on our leadership in science and technology. Since its beginnings in 1950, the NSF has played a central role in maintaining that leadership through its research programs. In fact, NSF remains the principal source of funding for fundamental research at our Nation's academic institutions.

While America is still doing well in science and technology, our leadership position is slipping. For example, while the United States leads the world in total dollars spent on research and development, both Japan and Germany currently outspend the United States as a percentage of GNP. Similarly, a recent study by the White House Office of Science and Technology Policy revealed the United States leads in 27 critical technologies, but Europe and Japan are catching up in many of those areas.

There is little question that meeting these challenges in science and technology requires a strong and robust NSF. To that end, the legislation I am introducing today provides $3.2 billion for each of fiscal years 1996, 1997, and 1998 to allow NSF to continue its efforts to keep America at the forefront of basic research. In a fiscal environmental in which we are looking to eliminate entire agencies, this authorization bill reflects a strong commitment to basic science. The annual funding is only slightly below NSF's fiscal year 1995 funding level. Moreover, the bill's funding authorizations for both the overall agency and its major individual accounts correspond to the appropriations levels approved for NSF by the Senate in September.

Mr. President, of the total NSF authorization, the bill authorizes $2.3 billion for the research and related activities account, the main source of NSF's research grants. This is roughly the same as the fiscal year 1995 funding level. NSF's research programs support important work in advanced materials, biotechnology, global climate studies, general science and math, and high performance computing. Many of the products and services we take for granted are the direct result of research funded by NSF grants.

Within the Research Account, let me make special mention of one program: the Experimental Program to Stimulate Competitive Research [EPSCoR] at NSF. This program has been particularly helpful in strengthening the research capabilities of colleges in States that historically have been unable to effectively compete for Federal research opportunities. EPSCoR has been so successful at NSF that it has also been adopted at five other Federal science agencies, including NASA.

To allow EPSCoR to continue its important work in our rural States, my bill provides an annual authorization of $46 million for the program. This is a 24-percent increase over its fiscal year 1995 level of $37 million. Unfortunately, when it comes to many Federal science programs, my home State of South Dakota and other rural States have had little, if any, involvement—either as participants or beneficiaries. These States, too, must be part of the technological revolution. In that regard, the National Science Foundation, through EPSCoR and other programs, has done a tremendous job of including rural States in that revolution.

I should mention the bill funds EPSCoR out of the research account rather than its current funding source, the education account. This change is intended to encourage greater coordination and interaction between EPSCoR and the larger research programs.

To further build on the successful EPSCoR concept, my bill authorizes $10 million a year for a new pilot program to provide research grants to partnerships formed by EPSCoR institutions and large research universities. This program will enable small schools participating in EPSCoR to graduate from the smaller EPSCoR science projects into larger mainstream programs by joining with a big brother research university like MIT. The large schools participating in the program stand to gain as well. The program would enable large schools to become more competitive by combining their talent, experience, and resources with those of their rural counterparts. In short, Mr. President, if approved, this program will help broaden and strengthen America's science and technology base.

My bill also provides $599 million for the education account at NSF to help develop a new generation of scientists and engineers to tackle future scientific challenges and to ensure a technologically literate Nation. NSF's programs support educational activities reaching students at all levels in South Dakota and all across the Nation. Science education must be a national priority if we are to remain competitive in our increasingly global and technologically oriented marketplace. My bill's full funding for NSF's education programs indicates the high priority I place on science education.

Finally, I note that my bill authorizes $100 million for the facilities program at NSF. Good science requires good research facilities. The NSF facilities program provides funding to enable our research institutions to renovate old facilities and buy up-to-date lab equipment so our scientists will have the proper tools and environment to conduct their studies.

Mr. President, we in South Dakota are especially grateful for the work of NSF. Currently, NSF is supporting more than 50 research and education projects in South Dakota educational institutions ranging from elementary school to graduate school. These activities have been crafted to reflect the special expertise of those schools and universities as well as the particular needs of our region.

For instance, NSF is supporting research at the South Dakota School of Mines and Technology designed to better understand and predict weather and climate to help our agriculture community. NSF also is funding several projects in South Dakota to improve the teaching of math and science at our schools. In September, for example, NSF began funding for a project designed to create degree programs in science, engineering, and mathematics at our tribal colleges. This important work must be allowed to continue.

Mr. President, my bill will enable these and other NSF projects to move forward and to keep America strong in science and technology. I look forward to working with my colleagues to get this important legislation enacted.

Mr. BURNS. Mr. President, today I stand with Senator PRESSLER as a cosponsor of the National Science Foundation Authorization Act of 1995 (S. 1445). The National Science Foundation is an independent Federal agency that provides grants for basic research to colleges, universities, and nonprofit organizations. NSF supports research in the basic science and mathematic areas in addition to supporting precollege, undergraduate, and graduate students, as well as post-doctoral associates. The foundation's support for basic research and science education is one major reason for our world leadership in science and technology.

The bill authorizes the National Science Foundation to spend $3.2 billion in fiscal years 1996, 1997, and 1998, which is 95 percent of the administration's budget request. The bill authorizes the Foundation's research and related activities at $2.3 billion and its education and human resources activities at $599 million each year.

Our authorization includes a total of $56 million for the Experimental Program to Stimulate Competitive Research [EPSCoR] and related activities that have provided needed assistance for universities in rural States such as my State of Montana. The primary purpose of EPSCoR is to serve as a change agent and catalyst to develop a competitive research base in our rural areas. The development of this strong research base will in turn improve the quality of education we provide to our citizens at all levels, and generate spin-off technologies.

The bill also authorizes the National Science Foundation to spend $100 million each year for academic research infrastructure. This activity provides grants to universities to upgrade and improve research and lab equipment and renovate facilities. Good research requires good facilities and good lab equipment. Full funding for this account will help to rebuild the U.S. academic institutions to facilitate the conduct of leading-edge research.

Finally, this bill supports the Foundation's science education programs. Strengthening the math and science literacy of our young people is the only way to insure their involvement in our increasingly technological world. I am especially interested in activities aimed at K through 12 education. I also think it is important to take advantage of communications technology to make our educational system more effective, such as the distance learning/teacher enhancement projects at Montana State University developed to improve the skills of teachers in remote areas of the Northwest. In that connection, I sponsored language in the bill which establishes a pilot program at the Foundation to provide, in a competitive basis, financial support for States with two or more tribally-controlled community colleges. This assistance will establish interactive telecommunication systems at these colleges to enhance and improve their educational programs and curricula. These are the kinds of activities that we need to stress if our Nation is to remain competitive.

Again, I would like to state my support for the National Science Foundation Authorization Act of 1995 and look forward to working with my colleagues to enact this legislation during this Congress.

By Mr. McCAIN:

S. 1446. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish an inspector general of the Administrative Office of the United

States Courts, and for other purposes; to the Committee on the Judiciary.

THE INSPECTOR GENERAL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS ACT OF 1995

• Mr. McCAIN. Mr. President, today I am introducing legislation to establish an inspector general within the Administrative Office of the United States Courts.

The Administrative Office, commonly referred to as the AO, was established in 1939 to provide the Federal courts with administrative support. The office is in charge of the day-to-day operations of the Federal judiciary, including budgets, automation, security, and office space. The AO operates on a budget of $44 million and a staff of 900 but coordinates the judiciary's budget of $2.7 billion and a staff of over 27,000 employees.

While the AO employs a significant number of people and manages a sizable budget, it has no inspector general to promote efficiency within its programs. Many agencies within the executive branch, including those similar in size to the AO—such as the Smithsonian Institution, the Corporation of Public Broadcasting, the Corporation for National and Community Service, the EEOC, the OPM, the Nuclear Regulatory Commission, the Railroad Retirement Board, and the U.S. Information Agency—have inspector generals which provide the American public with a valuable service by conducting objective and independent oversight of agency activity.

In the past, the Congress has been hesitant to require the AO, a judicial agency, to have an inspector general like executive agencies, in the effort to avoid even the appearance of encroaching on the separation of powers. However, I trust my colleagues will agree that the efficient and cost-effective use of taxpayer dollars is as important in the administration of the judiciary as it is in the executive branch. The establishment of an IG within the AO will help ensure the appropriate and efficient use of taxpayer dollars without unduly burdening or diminishing in any way the independence of the judiciary.

Mr. President, this legislation is not intended to be a harsh criticism of the AO. Certainly, the Administrative Office, like many other governmental agencies, has had its share of waste and inefficiency. My colleagues are aware of concerns I have expressed about the National Fine Center, which the AO is taking steps to rectify, and the Federal Courthouse Construction Program. I simply believe any bureaucracy with a large budget and many employees can benefit from independent oversight. However, I am certainly open to any suggestions about how this bill could be improved.

I want to make clear that the inspector general at the AO would have no authority to review and report on matters involving the Federal courts' judicial decisions. Jurisdiction would be limited strictly to the administrative functions performed by the AO.

Again, I believe this is a common sense, good Government piece of legislation which will enhance the cost-effective use of the taxpayer resources utilized to administer our Federal courts.•

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. PRYOR):

S. 1447. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the Act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the act through fiscal year 1998, and for other purposes; to the Committee on Labor and Human Resources.

THE OLDER AMERICANS ACT AMENDMENTS OF 1995

• Ms. MIKULSKI. Mr. President, I introduce the Older Americans Act Amendments of 1995, which is the Clinton administration's proposal for the reauthorization of this critical legislative initiative.

The Older Americans Act [OAA] celebrated its 30th anniversary this year and with it, a great number of accomplishments. The Older Americans Act, enacted in 1965, was the first program to focus on the community-based services for seniors. It articulates a comprehensive set of services, designed to meet the diverse needs of older persons. Implemented at State and local levels, these programs are critical to the health and well-being of millions of senior Americans in Maryland and throughout the United States.

Now, the Congress is beginning the process of reauthorizing the Older Americans Act for another 3 to 5 years. As we seek a vision for the Older Americans Act in the 21st century, I believe we must assess all aspects of the program and look to the future needs of seniors and their families. This includes examination of the core elements of the act, being more realistic to streamlining the scope of services that the act provides, and allowing service providers to focus on improving the quality of those services.

In an effort to expand the debate on the reauthorization of the Older Americans Act, I am introducing today the administration's proposal. This legislation combines consolidation of programs while encouraging greater flexibility in the delivery of services to seniors. While I am not in agreement with every aspect of this proposal, I do believe that it will contribute to the debate of this very important program.

I look forward to collaborating with Senator JUDD GREGG, our chairman of the Subcommittee on Aging and Senator NANCY KASSEBAUM, our chair of the Senate Labor and Human Resources Committee, as we work together with our Senate colleagues in reauthorizing the Older Americans Act. I am dedicated to seeing that the best of the Older Americans Act remains and thrives. I ask my colleagues to join me in this important effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Americans Act Amendments of 1995".

(b) REFERENCE.—Except as otherwise expressly provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act.

TITLE I—PERFORMANCE PARTNERSHIPS

Sec. 101. Responsibilities of Assistant Secretary.
Sec. 102. Funding of performance partnership administrative costs and incentive awards.
Sec. 103. Responsibilities of States.
Sec. 104. Area plans: reorganization, streamlining, and incorporation of performance partnerships.
Sec. 105. State plans: reorganization, streamlining, and incorporation of performance partnerships.
Sec. 106. Effective date.

TITLE II—OTHER AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—ADMINISTRATION ON AGING

Sec. 201. National Eldercare Locator Service.
Sec. 202. Authorization of appropriations.

PART B—STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 211. Clarification concerning services to non-elderly.
Sec. 212. Coordination of services for individuals with disabilities under area plans.
Sec. 213. Eligibility of older Indians for services under area plans.
Sec. 214. State option for cost sharing.
Sec. 215. State option concerning consumer-director services.
Sec. 216. Transfer of funds between programs.
Sec. 217. Disaster relief.
Sec. 218. Nutrition services incentive program.
Sec. 219. Waivers of certain requirements for State programs.
Sec. 220. Consolidation of authorities for supportive services and senior centers.
Sec. 221. Consolidation of authorities for nutrition services.
Sec. 222. Authorization of appropriations.

PART C—RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

Sec. 231. Revision of title IV.

PART D—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Sec. 241. Transfer of authority.
Sec. 242. Phased reduction of Federal share.
Sec. 243. Authorization of appropriations.

PART E—GRANTS FOR NATIVE AMERICANS

Sec. 251. Authorization of appropriations.

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TITLE I—PERFORMANCE PARTNERSHIPS

SEC. 101. RESPONSIBILITIES OF ASSISTANT SECRETARY.

(a) FUNCTIONS OF ASSISTANT SECRETARY.—Section 202(a)(3) is amended by inserting before the semicolon ", and to negotiate performance partnership agreements with the States under titles III and VII".

(b) PERFORMANCE PARTNERSHIPS.—Title II is amended by inserting after section 202 the following new section:

"PERFORMANCE PARTNERSHIPS

"SEC. 202A. (a) IN GENERAL.—The Assistant Secretary shall negotiate performance partnership agreements with States in accordance with the provisions of this section.

"(b) PERFORMANCE OBJECTIVES AND MEASURES.—

"(1) DESIGNATION OF OBJECTIVES.—The Assistant Secretary, in consultation (as appropriate) with the States, local governments, tribal organizations, and other entities, shall specify, by the end of September 1996 (and from time to time revise, as needed), with respect to the goals specified in sections 305A and 704A—

"(A) a list of performance partnership objectives to accomplish the goals of each such section, and

"(B) a core set for each such section of objectives that address needs of older Americans of national significance.

"(2) ELEMENTS OF PERFORMANCE PARTNERSHIP OBJECTIVES.—Each performance partnership objective specified under paragraph (1) shall include—

"(A) a performance indicator;

"(B) the specific population being addressed;

"(C) a quantifiable performance target; and

"(D) a date by which the target level is to be achieved.

"(3) GENERAL CRITERIA FOR DESIGNATION OF OBJECTIVES.—In specifying the performance partnership objectives, the Assistant Secretary shall be guided by the following principles:

"(A) objectives should be closely related to the goals of the section concerned, and be viewed as important by and understandable to State policymakers and the general public;

"(B) actions taken under the partnership agreement should be expected to have an impact on the objective;

"(C) measurable progress in achieving the objective should be expected over the period of the grant;

"(D) objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures, and, if an objective measures process or capacity, it should be demonstrably linked to the achievement of a specified outcome for older Americans; and

"(E) data to track the objective shall, to the extent practicable, be comparable for all States, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost, and, with respect to core objectives, shall include as appropriate the data specified in section 202(a)(19), collected in accordance with the uniform procedures established pursuant to section 202(a)(29).

"(c) STATE PERFORMANCE PARTNERSHIP PROPOSAL.—

"(1) IN GENERAL.—In order to meet the requirements of this subsection, a performance partnership proposal submitted to the Assistant Secretary by a State agency under title III or VII shall contain—

"(A) a list of one or more objectives (derived from the performance partnership objectives specified under subsection (b)) toward which the State will work and a performance target for each objective which the applicant will seek to achieve by the end of the partnership period (which shall be coterminous by the period covered by the State plan under section 307);

"(B) a rationale for the applicant's selection of its objectives, including its performance targets, and timeframes;

"(C) a statement of the applicant's strategies for achieving the objectives over the course of the grant period;

"(D) a statement of the estimated amount to be expended to carry out each strategy; and

"(E) an assurance that the State will report to the Assistant Secretary, not later than 60 days after the end of each fiscal year, on progress in the State toward accomplishing core performance objectives specified under subsection (b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State is working under the performance partnership. A State may select an objective that is not a specified performance partnership objective under subsection (b)(1)(A) if it demonstrates to the Assistant Secretary that the objective relates to a significant concern of older Americans in the State that would not otherwise be addressed appropriately (and that a suitable performance indicator exists to measure progress toward the objective).

"(2) ELEMENTS OF STATE PROPOSALS RELATING TO SPECIAL POPULATIONS.—Each State proposal for a performance partnership under title III or VII shall, as appropriate, include objectives—

"(A) designed, in consultation with tribal governments (or their representatives) to address the needs of older Indians or Native Hawaiians within the State to ensure that an appropriate and equitable share of State funding under such title is used to meet such needs; and

"(B) designed to give priority to activities addressing the needs of vulnerable older individuals in the State.

"(d) NEGOTIATIONS AND ADJUSTMENT.—

"(1) INITIAL NEGOTIATIONS.—In the negotiations concerning a proposed performance partnership agreement submitted under this section, the Assistant Secretary shall—

"(A) consider the extent to which the State's proposed objectives, performance targets, timeframes, and strategies are likely to address appropriately the most significant needs of older Americans (as measured by applicable indicators) within the State, including the needs of vulnerable populations, and

"(B) give particular consideration to the State's proposed performance partnership in addressing progress toward the core set of performance partnership objectives.

"(2) ADJUSTMENT.—The Assistant Secretary and a State may at any time in the course of a performance partnership renegotiate, and revise by mutual agreement, the elements of the partnership agreement in light of new information or changed circumstances (including information or changes identified during assessments or onsite reviews under subsection (e)).

"(e) ANNUAL ASSESSMENTS; PERIODIC ON-SITE REVIEWS.—

"(1) ASSESSMENTS.—The Assistant Secretary shall assess annually with respect to performance partnerships under such titles III and VII, on the basis of the report submitted by a State under subsection (c)(1)(E)—

"(A) the progress achieved nationally toward each of the objectives in the core set of performance partnership objectives; and

"(B) in consultation with each State, the State's progress toward each objective agreed upon in the performance partnership under such title.

The Assistant Secretary shall make assessments publicly available.

"(2) PERIODIC ON-SITE REVIEWS.—The Assistant Secretary shall conduct an on-site review of each State's adherence to its performance partnership agreement under title III or VII not less often than every five years.

"(f) INCENTIVE AWARDS FOR EFFECTIVE PERFORMANCE.—From amounts reserved under section 304(a), the Assistant Secretary may make an incentive award to any State determined, on the basis of assessments or on-site reviews under subsection (e) or other investigation, to have performed effectively under a performance partnership agreement under title III or VII and to have made significant progress toward meeting core national objectives. Incentive awards made to States shall be available only for use in furnishing additional services under the State's agreement under such title.".

(c) DEFINITIONS.—Section 102 is amended by adding at the end the following new paragraph:

"(45)(A) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

"(B) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.".

SEC. 102. FUNDING OF PERFORMANCE PARTNERSHIP ADMINISTRATIVE COSTS AND INCENTIVE AWARDS.

(a) STATE ADMINISTRATIVE COSTS RELATED TO PERFORMANCE PARTNERSHIPS.—Section 308 is amended by adding at the end the following new subsection:

"(d) In addition to amounts otherwise available under this section, each State may use, for costs relating to the administration of performance partnerships under this title and title VII, including costs of developing, negotiating, administering, monitoring, evaluating, and reporting on performance under, such partnerships, such additional amounts from the allotment to the State under section 304 (not to exceed 2 percent of such allotment) as the Assistant Secretary may permit.''.

(b) SET-ASIDE FOR INCENTIVE AWARDS.—(1) IN GENERAL.—Section 304 is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f); and

(2) by inserting after "SEC. 304." the following new subsection:

"(a) RESERVATION OF FUNDS FOR PERFORMANCE PARTNERSHIP INCENTIVE AWARDS.—From each of the sums appropriated under section 303 for each fiscal year, the Assistant Secretary may reserve up to 10 percent for performance incentive awards to States in accordance with section 205(f).".

(2) CONFORMING AMENDMENT.—Section 304(b), as redesignated by subsection (a), is amended by striking "from the sums appropriated" and inserting "from the amounts remaining, after application of subsection (a), from the sums appropriated".

SEC. 103. RESPONSIBILITIES OF STATES.

(a) UNDER BASIC STATE GRANTS PROGRAM.—Title III is amended by inserting after section 305 the following new section:

"PERFORMANCE PARTNERSHIPS

"SEC. 305A. (a) GOALS.—The goals of this section are for the States and the Federal Government, working together in a partnership, to accomplish the purposes specified in section 301(a).

"(b) PERFORMANCE PARTNERSHIP AS ELEMENT OF STATE PLAN.—In order to be eligible to receive a grant from its allotment under this title, except as provided in section 309(a), a State shall propose to and negotiate with the Assistant Secretary a performance partnership agreement in accordance with the provisions of this section and section 202A, and shall include such agreement as part of the State plan under section 307.

"(c) ADVISORY COUNCIL.—The State shall establish an Advisory Council, with members including representatives of other State agencies administering programs serving the elderly, private entities providing services under the State plan, and older individuals (with appropriate efforts to include members of minority groups), whose responsibilities shall include—

"(1) reviewing and commenting on the State's proposed performance partnership agreement under this section (and such comments shall be included with the State plan submission under section 307); and

"(2) evaluating and reporting on the State's performance under the final agreement negotiated with the Assistant Secretary.".

(b) UNDER VULNERABLE ELDER RIGHTS PROTECTION PROGRAM.—Title VII is amended by inserting after section 704 the following new section:

"PERFORMANCE PARTNERSHIPS

"SEC. 704A. (a) GOALS.—The goals of this section are for the States and the Federal Government, working together in partnership, to protect the rights of vulnerable older individuals and to prevent elder abuse, neglect, and exploitation.

"(b) STATE PERFORMANCE PARTNERSHIP AS ELEMENT OF STATE PLAN.—In order to be eligible to receive a grant from its allotment under this title, a State shall propose to and negotiate with the Assistant Secretary a performance partnership agreement in accordance with the provisions of this section and section 202A, and shall include such agreement as part of the State plan under section 307.

"(c) ADVISORY COUNCIL.—The responsibilities of the advisory council established by the State pursuant to section 305A(c) State shall include—

"(A) reviewing and commenting on the State's proposed performance partnership agreements under this title (and such comments shall be included with the State plan submission under section 307); and

"(B) evaluating and reporting on the State's performance under the final agreement negotiated with the Assistant Secretary under this title.".

(c) STATE PLAN REQUIREMENT.—Section 307(a) is amended in the first sentence by striking "which meets such criteria" and inserting "which includes the performance partnership agreements under this title and title VII negotiated with the Assistant Secretary under sections 202A, 305A, and 704A, and meets such other criteria".

SEC. 104. AREA PLANS: REORGANIZATION, STREAMLINING, AND INCORPORATION OF PERFORMANCE PARTNERSHIPS.

(a) AREA PLAN REQUIREMENTS.—Section 306(a) is amended—

(1) in the matter preceding paragraph (1), by striking "Each such plan shall—" and inserting "Each such plan shall comply with the following requirements:";

(2) in paragraph (1), to read as follows:

"(1) SERVICES PROVIDED.—The plan shall provide for the furnishing, through a comprehensive and coordinated system, of services the need for which has been determined pursuant to paragraph (3), and which are designed to meet the performance objectives specified under paragraph (4), including—

"(A) supportive services (including at least the service specified in paragraph (2));

"(B) nutrition services; and

"(C) where appropriate, the establishment, maintenance, or construction of multipurpose senior centers.";

(3) in paragraph (2)—

(A) by inserting "PRIORITY SERVICES.—The plan shall" after "(2)";

(B) by striking "section 307(a)(22)" and inserting "section 307(a)(2)";

(C) by striking "and specify annually in such plan, as submitted or as amended" and inserting "and assurances that the area agency will report annually to the State agency"; and

(D) by striking the semicolon at the end and inserting a period;

(4) by striking paragraphs (3) (designation of focal points for service delivery in each community) and (4) (information and assistance services);

"(5) by inserting after paragraph (2) the following new paragraphs:

"(3) DETERMINATION OF NEEDS.—The plan shall provide for determining the extent of need for the services specified in paragraphs (1) and (2) in the area taking into consideration, among other things—

"(A) the numbers of older individuals residing in such area—

"(i) who have low incomes,

"(ii) who have greatest economic need (with particular attention to individuals who are members of historically disadvantaged groups),

"(iii) who have greatest social need (with particular attention to individuals who are members of historically disadvantaged groups), or

"(iv) who are Indians; and

"(B) the effectiveness of use of resources (including efforts of volunteers and voluntary organizations) in meeting such need.

"(4) PERFORMANCE PARTNERSHIP OBJECTIVES.—The plan shall identify area objectives, for purposes of the performance partnership required under sections 305A and 704A, on the basis of the determinations under paragraph (3) (and including objectives required under paragraph (5)), and shall be amended as necessary to incorporate, as appropriate, the objectives specified in the agreements negotiated by the State agency under such sections 305A and 704A.";

(6) in paragraph (5)—

(A) by inserting "OBJECTIVES FOR SERVICES TO OLDER INDIVIDUALS WITH GREATEST NEED.—The plan shall" after "(5)"; and

(B) by striking the semicolon at the end and inserting a period;

(7) in paragraph (6)—

(A) by inserting "Policy Development.—The plan shall—" after "(6)";

(B) by striking subparagraphs (A) (evaluations and public hearings) and (B) (technical assistance to providers);

(C) by relocating and redesignating subparagraph (D) as subparagraph (A);

(D) by relocating and redesignating subparagraph (F) as subparagraph (B);

(E) by striking the semicolon at the end of subparagraph (C) and inserting a period; and

(F) by striking subparagraphs (E) (arrangements with specified organizations), (G) (methods for determining priority services), (H) (coordination among programs), (J) (identification of protective services providers, (L) (coordination of services for Alzheimer's patients), (M) (coordination of mental health services), (O) (information on higher education), (Q) (coordination with housing providers), (R) (telephone listings of area agencies), and (S) (coordination of transportation services);

(8) by striking paragraphs (7) through (10) (assurances that funds will be spent for the purposes awarded);

(9) by striking subparagraphs (I) and (K) of paragraph (6) (community-based long-term care services) and inserting after paragraph (6) the following new paragraph:

"(7) COMMUNITY-BASED LONG-TERM CARE SERVICES.—The plan shall provide that the area agency will facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including—

"(A) development of case management services as a component of the long-term care services, consistent with the requirements of paragraph (8);

"(B) involvement of long-term care providers in the coordination of such services; and

"(C) increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.";

(10) by relocating and redesignating paragraph (20) as paragraph (8), and amending such paragraph by inserting "PROVISION OF CASE MANAGEMENT SERVICES.—The plan shall" after "(8)";

(11) by redesignating paragraph (11) as paragraph (9), and amending such paragraph—

(A) by inserting "MAINTENANCE OF EFFORT FOR OMBUDSMAN PROGRAM.—The plan shall" after "(9)";

(B) by striking "section 307(a)(12)" and inserting "section 307(a)(9)"; and

(C) by striking the semicolon at the end and inserting a period;

(12) by redesignating and relocating paragraph (6)(P) as paragraph (10), and amending such paragraph—

(A) by inserting "GRIEVANCE PROCEDURE.—The plan shall" after "(10)"; and

(B) by striking the semicolon and inserting a period;

(13) by striking paragraphs (6)(N), (18), and (19), and inserting after paragraph (10) the following paragraph:

"(11) SERVICES TO NATIVE AMERICANS.—The plan shall provide the following assurances concerning services to older Native Americans:

"(A) If there is a significant population of older individuals who are Indians in the area, the area agency will pursue activities, including outreach, to increase access of such individuals to programs and benefits under this title.

"(B) The area agency will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI.";

(14) by striking paragraph (12) (area option concerning volunteer services coordinator);

(15) by striking paragraphs (13) through (16) (description of and assurances concerning activities of area agency); and

(16) by redesignating paragraph (17) as paragraph (12) and amending such paragraph—

(A) by inserting "SPECIAL MENUS IN NUTRITION PROGRAMS.—" after "(12)";

(B) by striking "section 307(a) (13) (G)" and inserting "section 307(a) (10) (D)"; and

(C) by striking the semicolon and inserting a period.

(b) STATE WAIVERS.—Section 306(b) is amended—

(1) by striking paragraph (2) (procedural requirements for State agency waivers to area agencies); and

(2) by striking "(1)" after "(b)".

SEC. 105. STATE PLANS: REORGANIZATION, STREAMLINING, AND INCORPORATION OF PERFORMANCE PARTNERSHIPS.

(a) STATE PLAN REQUIREMENTS.—Section 307(a) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) AREA PLANS AND PERFORMANCE PARTNERSHIPS.—The plan shall—

"(A) require each area agency designated under section 305(a) (2) (A) to—

"(i) develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306 which specifies area objectives for purposes of performance partnerships under sections 305A and 704A, as required by section 306(a)(4); and

"(ii) amend such area plan as necessary to incorporate, as appropriate, objectives specified in the performance partnership agreements negotiated by the State agency under such sections 305A and 704A;

"(B) be based on such area plans; and

"(C) include the performance partnership agreements negotiated by the State agency with the Assistant Secretary under such sections 305A and 704A.";

(2) by striking paragraphs (3) (A) (evaluation of need for services), (9) (information and assistance services), and (22) (funding shares for priority services), and amending paragraph (2) to read as follows:

"(2) DETERMINATION OF SERVICE NEEDS.—The plan shall provide that the State agency will—

"(A) evaluate, using uniform procedures under section 202(a) (29) the need for supportive services (including legal assistance, information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;

"(B) determine the extent to which existing public or private programs and resources (including volunteers and programs and services of voluntary organizations) meet such need; and

"(C) specify a minimum percentage of the funds received by each area agency for part B to be expended (unless waived by the State agency under section 306(b)) by such area agency to provide each of the categories of services specified in section 306(a) (2).";

(3) by striking paragraphs (3)(B) (maintaining rural funding), (29) and (37) (rural services and costs thereof), and (33) (intra-State funding formula), and adding after paragraph (2) the following new paragraph:

"(3) INTRA-STATE FUNDING REQUIREMENTS.—The plan shall—

"(A) shall include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305 (d) (concerning intra-State distribution of funds); and

"(B) with respect to services to older individuals residing in rural areas—

"(i) provide assurances that the State agency will spend for each fiscal year, under this title and titles V and VII, not less than 105 percent of the amount so expended for fiscal year 1978;

"(ii) identify, for each fiscal year under the plan, the projected costs of providing such services (including the cost of providing access to such services); and

"(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.";

(4) by striking paragraph (4) (methods of administration, personnel standards);

(5) by striking paragraph (8) (evaluations and hearings) and inserting after paragraph (3) the following paragraph:

"(4) EVALUATIONS.—The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan.";

(5) by striking paragraph (43) (grievance procedures) and amending paragraph (5) (hearing for area agencies and providers) to read as follows:

"(5) "HEARINGS FOR AREA AGENCIES AND PROVIDERS; GRIEVANCE PROCEDURES.—The plan shall provide that the State agency will—

"(A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency submitting a plan under this title, or to any provider of (or applicant to provide) services under such a plan; and

"(B) issue guidelines applicable to grievance procedures required by section 306(a)(10).";

(6) in paragraph (6), by inserting "REPORTS:—" after "(6)";

(7) in paragraph (7)—

(A) by inserting "FISCAL CONTROLS.—" after "(7)"; and

(B) by striking subparagraph (C);

(8) by redesignating paragraph (10) as paragraph (8) and amending such paragraph by inserting "RESTRICTION ON DIRECT PROVISION OF SERVICES.—" after "(8)";

(9) by striking paragraph (11) (hiring preference for older individuals and individuals trained in field of aging);

(10)(A) by redesignating paragraph (12) as paragraph (9), and amending such paragraph—

(i) by inserting "LONG-TERM CARE OMBUDSMAN PROGRAM.—" after "(9)"; and

(ii) by adding before the period ", and "will expend for such purpose not less than the total amount so expended by the State agency in fiscal year 1991"; and

(B) by striking paragraph (21);

(11) by redesignating paragraph (13) as paragraph (10), and amending such paragraph—

(A) by inserting "NUTRITION SERVICES.—" after "(10)";

(B) by striking subparagraphs (B) (primary consideration to congregate meals), (D) (accessibility of congregate meal site), (E) (outreach), (H) (grandfathered providers of home-delivered meals), and (M) (nonfinancial eligibility criteria); and

(B)(i) by inserting "and" at the end of subparagraph (K);

(ii) by striking "; and " at the end of subparagraph (L) and inserting a period; and

(iii) by redesignating subparagraph (C) and the remaining subparagraphs as subparagraphs (B) through (H);

(12) by striking paragraph (14) (restrictions on use of funds under the Act for acquisition, alteration, or construction of facilities);

(13) (A) by redesignating paragraph (15) as paragraph (11), and amending such paragraph—

(A) by inserting "LEGAL ASSISTANCE.—" after "(11)"; and

(B) (i) by striking "and" at the end of subparagraph (D); and

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(B) (i) by amending paragraph (18) by striking all that precedes "assign personnel" and inserting "the State will"; and

(ii) by relocating and redesignating such paragraph (18) as paragraph (11)(F);

(14) by redesignating paragraph (16) as paragraph (12), and amending such paragraph by inserting "PREVENTION OF ABUSE.—" after "(12)";

(15) by striking paragraph (17) (in-service personnel training);

(16) by striking paragraph (19) (guarantees that area agencies may give grants or contracts to providers of education and training services);

(17) by redesignating paragraph (20) as paragraph (13), and amending such paragraph by inserting "OLDER INDIVIDUALS OF LIMITED ENGLISH-SPEAKING ABILITY.—";

(18) by redesignating paragraph (23) as paragraph (14), and amending such paragraph by inserting "SPECIAL NEEDS POPULATIONS.—" after "(14)";

(19) by redesignating paragraph (24) as paragraph (15), and amending such paragraph by inserting "OUTREACH.—" after "(15)";

(20) by redesignating paragraphs (25) as paragraph (16), and amending such paragraph by inserting "OLDER INDIVIDUALS WITH SEVERE DISABILITIES.—" after "(15)";

(21) by redesignating paragraph (26) as paragraph (17), and amending such paragraph—

(A) by inserting "COMMUNITY-BASED SERVICES.—(A) LONG-TERM CARE SERVICES.—" after "(26)"; and

(B) by striking "section 306(a)(6)(I)" and inserting "section 306(a)(6)(D)";

(22) by relocating and redesignating paragraph (44) as paragraph (17)(B);

(23) by striking paragraph (27) (assurances concerning part D in-home services program);

(24) by striking paragraph (28) (assurances concerning part E special needs program);

(25) by redesignating paragraph (30) as paragraph (18), and amending such paragraph by inserting "TITLE VII PROGRAM.—" after "(18)";

(26) by striking paragraph (31) (State volunteer services coordinator);

(26) by redesignating paragraph (32) as paragraph (19), and amending such paragraph by inserting "TECHNICAL ASSISTANCE TO PROVIDERS.—" after "(19)";

(27) (A) by redesignating paragraph (34) as paragraph (20), and amending such paragraph

by inserting "OLDER NATIVE AMERICANS.—(A)" after "(34)"; and

(B) by redesignating subparagraphs (A) and (B) of paragraph (35) as clauses (i) and (ii), and redesignating and relocating such paragraph (35) as subparagraph (B) of paragraph (20);

(28) by redesignating paragraph (36) as paragraph (21), and amending such paragraph by inserting "CASE MANAGEMENT PROVIDERS.—"after "(21)";

(29) by striking paragraphs (38) and (39) (assurances concerning use of funds);

(30) by striking paragraph (40) (assurances concerning part G program for in-home caretakers);

(31) by striking paragraph (41) (efforts to coordinate services and provide multigenerational activities); and

(32) by striking paragraph (42) (coordination of transportation services).

SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall become effective with respect to a State on the effective date of the first State plan under section 307 of the Older Americans Act of 1965 that takes effect one year or later after the enactment of this Act.

TITLE II—OTHER AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—ADMINISTRATION OF AGING

SEC. 201. NATIONAL ELDERCARE LOCATOR SERVICE.

Section 202(a)(24) is amended to read as follows:

"(24) develop and operate, either directly or through contracts, grants, or cooperative agreements, a National Eldercare Locator Service, providing nationwide toll-free information and assistance services to identify community resources for older individuals;".

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FEDERAL COUNCIL ON THE AGING.—Section 204(g) is amended by striking all that follows "to carry out this section" and inserting "$226,000 for fiscal year 1996 and such sums as necessary for each of fiscal years 1997 and 1998.".

(b) ADMINISTRATION ON AGING.—Section 215 is amended to read as follows:

"SEC. 215. There are authorized to be appropriated, for carrying out the responsibilities of the Administration on Aging under this title—

"(1) for fiscal year 1996, $18,149,000, plus such additional sums as may be necessary to carry out responsibilities with respect to programs under section 311 and title V transferred to the Administration on Aging by the Older Americans Act Amendments of 1995, and

"(2) such sums as may be necessary for each of fiscal years 1997 and 1998,

of which up to $1,000,000 for each such fiscal year shall be available for operation of the National Eldercare Locator Service under section 202(a)(24).".

PART B—STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 211. CLARIFICATION CONCERNING SERVICES TO NONELDERLY.

Section 301 is amended by adding at the end the following new subsection:

"(d) SCOPE OF SERVICES; USE OF FUNDS.—

"(1) RESTRICTED USE OF RESOURCES UNDER ACT.—Federal funds paid to States under this title, and cash and in-kind contributions required by section 304(e) (as redesignated by section 102 of this Act) as the non-Federal share of expenditures under this title, shall be used only for activities and services to benefit older individuals and other individuals as specifically provided in this title.

"(2) RESTRICTION INAPPLICABLE TO OTHER RESOURCES.—Neither paragraph (1) nor any other provision of this title shall be construed to prohibit State or area agencies on aging from engaging in activities or providing services to benefit individuals not described in paragraph (1) using cash or in-kind resources from sources not described in paragraph (1).

SEC. 212. COORDINATION OF SERVICES FOR INDIVIDUALS WITH DISABILITIES UNDER AREA PLANS.

Section 306(a) (as amended by section 104 of this Act) is further amended by inserting after paragraph (3) the following new paragraph:

"(4) provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities, with particular attention to individuals with severe disabilities, with agencies that develop or provide services for individuals with disabilities.".

SEC. 213. ELIGIBILITY OF OLDER INDIANS FOR SERVICES UNDER AREA PLANS.

(a) UNDER AREA PLANS.—Section 306(a) (18) is amended by inserting before the semicolon ", including assurances that, notwithstanding any provision of this Act restricting eligibility for services to individuals aged 60 or older, it will make services under the area plan available, to the same extent as such services are available to older individuals within the service area, to older Indians eligible for services under an approved plan under title VI".

(b) UNDER GRANTS FOR NATIVE AMERICANS.—Sections 602, 611, 613, and 614 are each amended by striking "individuals who are" each place it appears.

SEC. 214. STATE OPTION FOR COST SHARING.

(a) STATE PLAN REQUIREMENT.—Section 307(a) (as amended by section 105 of this Act) is further amended by adding at the end the following new paragraph:

"(31) If the State elects to require cost sharing by recipients of services under the State plan (or to require or permit area agencies on aging to require cost sharing by recipients of services under area plans), the plan shall—

"(A) provide that no cost sharing shall be required for—

"(i) information and assistance, outreach, or case management services;

"(ii) ombudsman or other protective services; or

"(iii) congregate or home-delivered nutrition services; and

"(B) (i) exempt from cost-sharing requirements individuals with incomes below a low-income threshold set by the State, and

"(ii) set cost-sharing rates for individuals with incomes above such threshold on a sliding-fee scale based on income.".

(b) AREA PLAN REQUIREMENT.—Section 306(a) (as amended by section 104 of this Act) is further amended—

(1) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(2) by adding at the end the following new paragraph:

"(12) provide assurances that any requirements for cost-sharing by recipients of services under the plan will be consistent with the provisions of the State plan under section 307(a)(31)".

SEC. 215. STATE OPTION CONCERNING CONSUMER-DIRECTED SERVICES.

Section 307(a) (as amended by sections 105 and 214 of this Act) is further amended by adding at the end the following new paragraph:

"(32) The plan shall specify—

"(A) whether (and if so, with respect to which supportive or nutrition services) the State elects to permit area agencies on aging—

"(i) to provide services to older individuals through direct contracts with the individuals delivering such services; or

"(ii) to provide vouchers or cash to older individuals to permit such older individuals to contract with individuals or entities for the delivery of such services (and, if so, any requirements for the setting of payment rates or amounts);

"(B) the qualifications and other requirements that must be met by individuals and entities providing services under such arrangements; and

"(C) whether (and, if so, the conditions under which) services may be provided to an older individual by a family member under such an arrangement.".

SEC. 216. TRANSFER OF FUNDS BETWEEN PROGRAMS.

(a) STREAMLINING OF GENERAL RULES.—Section 308(b) is amended—

(1) in paragraph (4)—

(A) by striking "(A)" after "(4)"; and

(B) by striking subparagraph (B) (Assistant Secretary's discretion to permit State to transfer additional amounts between congregate and home-delivered meal programs); and

(2) in paragraph (5) (authority to transfer funds between nutrition and services programs), to read as follows:

"(5) Of the funds received by a State for a fiscal year from funds appropriated under subsections (a)(1), and (b)(1) and (2), of section 303, the State may elect to transfer not more than 20 percent between programs under part B and part C, for use as the State considers appropriate.

(b) WAIVER AUTHORITY.—For the Assistant Secretary's authority to waive limitations on amounts transferable between programs, see section 219 of this Act, adding a new section 314.

SEC. 217. AVAILABILITY OF DISASTER RELIEF FUNDS TO TRIBAL ORGANIZATIONS.

Section 310 is amended—

(1) in subsection (a)(1)—

(A) by inserting "(or to any tribal organization receiving a grant under title VI)" after "any State"; and

(B) by inserting "(or used by such tribal organization)" before "for the delivery of supportive services";

(2) in subsection (a)(2), by inserting "and tribal organizations" after "States"; and

(3) in subsection (a)(3), by inserting "or tribal organization" after "State" each place it appears; and

(4) in subsections (b)(1) and (c,) by inserting "and tribal organizations" after "States".

SEC. 218. NUTRITION SERVICES INCENTIVE PROGRAM.

(A) ESTABLISHMENT OF PROGRAM.—Section 311, including the heading thereof, is amended to read as follows:

"NUTRITION SERVICES INCENTIVE PROGRAM

"SEC. 311. (a) PURPOSE.—The purpose of the program under this section is to provide incentives to encourage and reward effective performance by States and tribal organizations in the efficient delivery of nutritious meals to older Americans.

"(b) PAYMENTS TO TRIBAL ORGANIZATIONS.—(1) FUNDING.—The Assistant Secretary shall reserve 3 percent of the total amount appropriated for a fiscal year under subsection (d) for payment to tribal organizations in accordance with paragraph (2).

"(2) ALLOTMENT AND PAYMENT.—The Assistant Secretary shall allot and pay, to each tribal organization with a plan approved under title VI for a fiscal year, an amount bearing the same ratio to the total amount reserved under paragraph (1) as the number of meals served by such tribal organization, under such plan approved for the preceding fiscal year, bears to the total number of meals served by all tribal organizations under all such plans approved for such preceding fiscal year.

"(c) PAYMENTS TO STATES.—(1) FUNDING.—The Assistant Secretary shall allot among the States for each fiscal year, in accordance with paragraph (2), the balance of amounts appropriated under subsection (d) remaining after application of subsection (b).

"(2) ALLOTMENT AND PAYMENT.—The Assistant Secretary shall allot and pay, to each State agency with a plan approved under this title for a fiscal year, an amount bearing the same ratio to the total amount reserved under paragraph (1) as the number of meals served in the State, under such plan approved for the preceding fiscal year, bears to the total number of meals served in all States under all such plans approved for such preceding fiscal year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For carrying out the purposes of this section, there are authorized to be appropriated $151,250,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998.".

(b) ELIMINATION OF MAINTENANCE OF EFFORT.—Section 339A is repealed.

SEC. 219. WAIVERS OF CERTAIN REQUIREMENTS FOR STATE PROGRAMS.

(a) GENERAL WAIVER AUTHORITY.—Part A of title III is amended by adding at the end the following new section:

"WAIVERS

"SEC. 315. (a) IN GENERAL.—The Assistant Secretary may waive any of the provisions enumerated in subsection (b) with respect to a State, upon application by the State agency containing or accompanied by documentation sufficient to establish, to the satisfaction of the Assistant Secretary, that—

"(1) approval of the State legislature has been obtained or is not required;

"(2) the State agency has consulted with area agencies on aging with respect to the proposal for which waiver is sought;

"(3) such proposal has been made available for public review and comment within the State (and a summary of comments received shall be included with the application); and

"(4) the State agency has given adequate consideration to the probable positive and negative consequences of approval of the waiver application, and the probable benefits for older individuals can reasonably be expected to outweight any negative consequences, or particular circumstances in the State otherwise justify the waiver.

"(b) REQUIREMENTS SUBJECT TO WAIVER.—The provisions of this title that may be waived under this section are—

"(1) any provisions of sections 305, 306, and 307 requiring statewide uniformity of programs under this title, to the extent necessary to permit demonstrations, in limited areas of a State, of innovative approaches to assist older individuals;

"(2) any area plan requirement under section 306(a);

"(3) any State plan requirement under section 307(a);

"(4) any restriction, under section 308(b)(4) or (5), on the amount that may be transferred between programs under part B and part C, or between programs under subpart 1 and subpart 2 of part C; and

"(5) all or any part of the reduction in allotment required under section 309(c) with respect to a State which reduces expenditures under its State plan (but only to the extent that the non-Federal share of expenditures is not reduced below any minimum specified in section 304(d) or any other provision of this title.".

(b) CONFORMING AMENDMENT.—Section 307(b) is amended—

(1) by striking paragraph (2) (waiver of maintenance of effort for rural areas); and

(2) by striking "(1)" after "(b)".

SEC. 220. CONSOLIDATION OF AUTHORITIES FOR SUPPORTIVE SERVICES AND SENIOR CENTERS.

(a) COMMUNITY-BASED CARE AND SERVICES.—Section 321(a)(5) is amended by striking "including" and all that follows and inserting "including—

"(A) client assessment, case management, and development and coordination of community services;

"(B) in-home services for frail older individuals (including supportive services for victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and for the families of such individuals);

"(C) supportive activities to meet the special needs of caregivers, including caretakers who provide in-home services to frail older individuals;

"(D) in-home and other community services, including home health, homemaker, shopping, escort, reader, and letter writing services, to assist older individuals to live independently in a home environment;".

(d) DISEASE PREVENTION AND HEALTH PROMOTION.—Section 321(a)(8) is amended by inserting "disease prevention and health promotion services and information, including" after "(8)".

(c) GENERAL AUTHORITY.—Section 321(a)(22) is amended by inserting "necessary for the general welfare of older individuals" after "any other services".

(d) RELOCATION OF DEFINITIONS.—

(1) Section 342 (definition of "in-home services") is relocated and redesignated as paragraph (46) of section 102, and is amended by striking "For purposes of this part, the term" and inserting "The term".

(2) Section 363 (definition of "disease prevention and health promotion services") is relocated and redesignated as paragraph (47) of section 102, and is amended by striking "For purposes of this part, the term" and inserting "The term".

(e) REPEAL OF SUPERSEDED AUTHORITIES.—

(1) SUBSTANTIVE AUTHORITY.—Part D (In-Home Services for Frail Older Individuals), part E (Additional Assistance for Special Needs of Older Individuals), part F (Disease Prevention and Health Promotion Services), and part G (Supportive Activities for Caretakers Who Provide In-Home Services to Frail Older Individuals) are repealed.

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) REPEALS; REDESIGNATION.—Section 303 is amended by striking subsection (d), (e), (f), and (g), and by redesignating subsection (h) as subsection (d).

(B) CONFORMING AMENDMENT.—Sections 202(a)(24) and 304(b)(2) are each amended by striking "303(h)" and inserting "303(d)".

SEC. 221. CONSOLIDATION OF AUTHORITIES FOR NUTRITION SERVICES.

(a) SCHOOL/BASED MEALS AS CONGREGATE NUTRITION SERVICES.—

(1) Section 331 is amended by inserting "(a) IN GENERAL.—"after "331.".

(2) Section 338(a) is relocated and redesignated as subsection (b) of section 331, and is amended, in the matter preceding paragraph (1), by striking all that precedes "projects" and inserting instead the following:

"(b) SCHOOL-BASED MEALS AND MULTIGENERATIONAL PROGRAMS.—The State may include, in programs under this section,".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) SUBSTANTIVE AUTHORITY.—Part C of title III is amended by striking subpart 3 and redesignating subpart 4 as subpart 3.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 303(b)(3) is repealed.

SEC. 222. AUTHORIZATION OF APPROPRIATIONS.

(a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) is amended by striking all that precedes "for the purpose" and inserting "There are authorized to be appropriated $306,711,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998,".

(b) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) is amended by striking all that precedes "for the purpose" and inserting "There are authorized to be appropriated $375,809,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years year 1997 and 1998,".

(c) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) is amended by striking all that precedes "for the purpose" and inserting "There are authorized to be appropriated $94,065,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998,".

PART C—RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

SEC. 231. REVISION OF TITLE IV.

Title IV is amended by striking all that follows the heading of the title and inserting the following:

"STATEMENT OF PURPOSE

"SEC. 401. (a) It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process; to design, test, and promote utilization of innovative ideas and best practices in programs and services for older individuals; to help meet the needs for trained personnel in the field of aging; and to increase the awareness of citizens of all ages of the need to assume personal responsibility for their own aging through—

"(1) education and training to develop an adequately trained work force to work with and on behalf of older individuals;

"(2) research and policy analysis to improve access to and delivery of services;

"(3) development of methods and practices to improve quality and effectiveness of services;

"(4) demonstration of new approaches to design, delivery and coordination of programs and services;

"(5) technical assistance on planning, development, implementation, evaluation, and improvement of programs and services under this Act; and

"(6) dissemination of information on aging issues, their impact on individuals and society, and programs and services benefiting older individuals.

"(b) ACTIVITIES GIVEN SPECIAL ATTENTION.—The activities supported under this title are intended to fulfill the objectives for older Americans specified in section 101, with special attention to the service and advocacy goals expressed in section 301(a)(1) (A), (B), (C) and (D) and section 601, and to the special population groups identified as vulnerable and at risk throughout the Act.

"PART A—EDUCATION AND TRAINING

"PURPOSE

SEC. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by activities including—

"(1) identifying work force training and development needs in the field of aging;

"(2) developing a broad range of educational and training programs and activities for professionals, paraprofessionals, administrators, technicians and service workers;

"(3) encouraging recruitment, training and placement of minority trainees in key positions within agencies and organizations of the aging network;

"(4) improving academic gerontology training and education programs to make them more responsive to changing requirements;

"(5) increasing the capacity of aging planning and service organizations to improve the performance of their staff and other providers through training and other developmental activities; and

"(6) improving the knowledge and skills of teachers, instructors, trainers, guidance counselors and other personnel development staff in aging concepts and workforce opportunities and practices.

"GRANTS AND CONTRACTS

"SEC. 411. (a) IN GENERAL.—The Assistant Secretary may make grants to any public or nonprofit private agency, organization or institution, and may enter into contracts with any agency, organization, institution, or individual, or activities to achieve the purposes of this part, including—

"(1) development and improvement of multidisciplinary education and training programs (including expansion and improvement of curricula, instructional methods and materials, faculty and teacher development, and program administration) in academic institutions and other educational organizations which prepare individuals for employment in programs and occupations serving older individuals;

"(2) development and improvement of continuing education and in-service training opportunities for individuals already working in the field of aging, including the personnel of State offices, area agencies on aging, senior centers, and nutrition, counseling, ombudsman, adult protective services, and legal assistance programs; and

"(3) development of curriculum and guidance materials for students in secondary and vocational schools to encourage them to pursue employment and careers in the field of aging.

"(b) PROJECTS GIVEN SPECIAL CONSIDERATION.—To achieve the purposes of this title, the Assistant Secretary shall give special consideration to the support of projects that—

"(1) improve opportunities for career training activities to ensure an adequate and competent workforce in aging;

"(2) increase the capacity of State and area agency and non-profit service organizations to provide short-term in-service training to staff and volunteers;

"(3) develop leadership knowledge and skills of managers and administrators of organizations and agencies which plan, advocate, and provide services to older individuals, through workshops, seminars, and training institutes;

"(4) provide in-service training opportunities for program directors and providers of services to older Indians under title VI through grants to tribal and other nonprofit Indian aging organizations; and

"(5) improve the training and preparation of the workforce (including professionals, paraprofessionals and volunteers) providing home and community services for older individuals with physical and cognitive disabilities and mental health disorders.

"PART B—RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

"PURPOSE

"SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

"(1) conduct research and policy analysis to—

"(A) develop and synthesize knowledge about aging programs, practices and policies from multidisciplinary perspectives; and

"(B) assess the effectiveness of services and practices designed to improve access to and delivery of service programs; and

"(2) develop, test, and evaluate innovative planning, advocacy, and service practices and programs.

"RESEARCH AND DEVELOPMENT PROJECTS

"SEC. 421. (a) IN GENERAL.—The Assistant Secretary may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual for research or policy analysis related to the purposes of this part, including development of practices, assessment instruments, and applications involving—

"(1) use of technology for planning and delivery of services; and

"(2) use of interactive communication systems and assistive devices to maintain or increase the independence of older individuals.

"(b) CONSULTATION AND COLLABORATION WITH OTHER FEDERAL AGENCIES.—The Assistant Secretary may consult with, and may enter into formal agreements with, other Federal agencies supporting aging research and development activities, including agreements involving interagency transfer of funds to support collaborative research activities consistent with the conditions specified in section 451(b).

"DEMONSTRATION PROJECTS

"SEC. 422. (a) IN GENERAL.—The Assistant Secretary may make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization to design, test and demonstrate new approaches to planning and delivery of supportive services, nutrition services and other activities to maintain or increase the independence and improve the quality of life of older individuals.

"(b) PROJECTS GIVEN PRIORITY CONSIDERATION.—The Assistant Secretary shall give priority consideration to funding the following projects under this section:

"(1) COMMUNITY SERVICES FOR FUNCTIONALLY IMPAIRED INDIVIDUALS.—Planning, development, and implementation of new approaches to delivery of home and community-based supportive services for older individuals with disabilities limiting their ability to perform activities of daily living, including projects involving coordination and integration of such services with those for nonelderly individuals with similar disabilities, including approaches that—

"(A) promote individual choice in the selection of services;

"(B) eliminate access barriers for populations with greatest need;

"(C) reduce or eliminate duplication and fragmentation of services;

"(D) strengthen the quality, efficiency, and cost-effectiveness of non-profit service providers;

"(E) improve the quality and effectiveness of personnel of public and private entities involved in service delivery; and

"(F) develop cooperative relationships with private entities to increase the effective use of available public and private resources.

"(2) PREVENTION OF CRIME, VIOLENCE, AND ABUSE.—Planning, development, implementation, and evaluation of comprehensive community, State, and tribal models designed to prevent crime, violence and abuse against the elderly which include—

"(A) public education on prevention for older individuals;

"(B) supportive services for older individuals who have been victimized;

"(C) improvements in information and data reporting systems;

"(D) coordination of public and private sector services and resources; and

"(E) in-service and cross-service training of personnel in criminal justice, health, mental health, law enforcement, social and protective services, and aging and advocacy service systems.

"(c) ADDITIONAL PROJECTS.—The Assistant Secretary may support under this section any project designed to achieve the purposes of this part, including the following:

"(1) COMPREHENSIVE COMMUNITY SERVICES TO INDIVIDUALS AT RISK OF LOSING INDEPENDENCE.—Projects to assist older individuals at risk of losing their independence without assistance in accomplishing activities of daily living, including those disabled by Alzheimer's Disease and related disorders, physical disability, mental illness or emotional stress, and developmental disabilities, through comprehensive State and community model programs for such supportive services to such individuals, their families and caregivers, including—

"(A) in-home health care;

"(B) social and medical adult day care;

"(C) homemaker aides and personal care attendants;

"(D) transportation to and from community health, mental health and social service facilities;

"(E) respite care, caregiver education, training, and counseling and other supportive services for primary caregivers of persons with Alzheimer's Disease, physical and developmental disabilities, or other serious functional impairments; and

"(F) information and referral, outreach, counseling and other services to increase access to appropriate medical, nutritional, and supportive services.

"(2) HOUSING SERVICES.—Projects addressing the special housing needs of older individuals by activities including—

"(A) developing programs to enable or assist older homeowners—

"(i) to maintain their residences through repairs or renovations, and

"(ii) to increase their physical safety through structural modifications or alterations and installation of security devices;

"(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals with functional impairments;

"(C) coordinating counseling services with those available to residents of Federal and State assisted housing facilities with high concentrations of older residents;

"(D) developing information, counseling and referral programs for older renters and homeowners on housing options, including eligibility requirements; application processes; financing; and legal rights and responsibilities of tenancy and restricted ownership, including foreclosure and eviction.

"(3) EDUCATION AND TRAINING.—Projects to provide education and training to older individuals designed to enable them to lead more productive lives through development and demonstration of—

"(A) older adult literacy programs, including use of peer tutoring;

"(B) pre-retirement counseling and education programs; and

"(C) older adult occupational training and employment placement and counseling activities not currently supported under title V or programs administered by the Department of Labor.

"(4) TRANSPORTATION SERVICES.—Projects to improve and develop transportation systems which—

"(A) increase access of older individuals, especially low-income individuals and those living in rural areas, to community services essential to independent living;

"(B) provide low-cost commuter transportation for in-home personal care aides serving functionally impaired older individuals in under-served public transit areas; and

"(C) provide assisted transportation services for frail and disabled older individuals.

"(5) VOLUNTEER OPPORTUNITIES.—Projects developed in conjunction with the Corporation for National and Community Service to develop—

"(A) innovative opportunities for older volunteers to fulfill community needs which are not being met by existing programs (including volunteer programs), including opportunities to provide—

"(i) multigenerational services addressing the needs of youth and children; and

"(i) peer support and home and community services to other older individuals with functional impairments or otherwise at risk of losing their ability to live independently; and

"(B) innovative multigenerational volunteer programs affording opportunities for children, youth, and adults to serve unmet needs of functionally impaired older individuals regardless of their living situation.

"(6) HEALTH-RELATED SERVICES.—Projects to demonstrate effective home and community rehabilitative, health and mental health promotion, and disease prevention activities for older individuals at risk of losing their ability to live independently.

"(7) CONSUMER PROTECTION.—Projects to develop innovative approaches to consumer protection for older individuals in home and community settings, addressing consumer rights and protections relating to auto, health, life, and other insurance policies; mortgages, leases, and similar property and housing rights; and personal loans and other financial transactions.

"PART C—CENTERS

"PURPOSE

"SEC. 431. The purpose of this part is to improve the quality of services available to older individuals through multi-function, multi-disciplinary centers and other cross-cutting activities as resources for planners, administrators, policy-makers and providers in the field of aging.

"FUNCTIONS OF GRANTEES AND CONTRACTORS; ADVISORY BOARDS

"SEC. 432. (a) FUNCTIONS.—Grantees and contractors under this part shall, as appropriate, perform the following functions:

"(1) evaluate, analyze, and report on program policies and practices to assess their effectiveness in meeting the needs and improving the quality of life of older individuals and their families and caregivers;

"(2) compile, select, and make available research, evaluation and demonstration findings which provide useful guidance in determining the needs of older individuals and improving practices in the field of aging;

"(3) develop strategies and models to improve the quality, efficiency, and effectiveness of service programs and activities;

"(4) develop technical assistance and training materials and participate in workshops, conferences and events which promote transfer of useful information and practices;

"(5) sponsor activities which enhance the education and training of a competent workforce in the field of aging;

"(6) assist other grantees conducting demonstration or pilot projects under the Act by providing documentation, assessment, and other assistance in the planning and implementation of such pilot projects; and

"(7) conduct information dissemination activities in coordination with such activities of the National Aging Information Center.

"(b) ADVISORY BOARDS.—Each center supported by a grant under this part shall establish an advisory board which—

"(1) shall provide policy guidance with respect to the planning and conduct of activities under such grant; and

"(2) whose members shall include representatives of—

"(A) State and area agencies on aging;

"(B) appropriate national, State, and local service organizations; and

"(C) other groups as appropriate.

"GRANTS AND CONTRACTS

"SEC. 433. (a) NATIONAL CENTERS PROVIDING SUPPORT TO ADMINISTRATORS OF GRANT PROGRAMS.—(1) IN GENERAL.—The Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for the purpose of operating national centers serving primarily as informational resources to State and area agencies administering programs under titles III and VII, tribal organizations and other organizations administering programs under title VI, and providers of services under such programs.

"(2) FUNCTIONS OF CENTERS.—Centers funded under this subsection shall focus on selected subject-matter areas (including all policy and program issues, such as development, delivery, financing, and coordination of services, concerning such subject-matter area) relating to programs under titles III, VI, and VII, and may include centers such as those focusing on the following program areas:

"(A) Comprehensive home and community-based services, including long-term care services, intended to enable functionally impaired elderly to remain in their homes and communities.

"(B) Nutrition services, including congregate and home-delivered meals, dietary standards, and related matters.

"(C) Information and referral services.

"(D) Older Native Americans, including individuals living in tribal and in non-tribal areas.

"(E) Legal assistance.

"(3) NATIONAL OMBUDSMAN AND ELDER ABUSE CENTERS.—Funds available under this subsection may be used, to the extent the Assistant Secretary finds necessary, to support the activities of the National Ombudsman Resource Center under section 202(a)(21) and the activities of the National Center on Elder Abuse under section 202(d).

"(b) NATIONAL EDUCATION AND TRAINING CENTERS.—(1) IN GENERAL.—The Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for the purpose of operating national centers to encourage leadership and improve education, training, and employment practices for the workforce needed to plan, administer and provide services under this Act, and to promote policy discussion and development to prepare the Nation for the increased and changing demands of its aging population.

"(2) FUNCTIONS OF CENTERS.—Centers funded under this subsection may include—

"(A) multidisciplinary academic centers of gerontology to conduct applied research, education, training, technical assistance and dissemination activities with special attention to human resource and development issues affecting special population groups; and

"(B) a national leadership institute on aging to develop and conduct training activities for executive managers and senior officials of government and non-profit agencies, voluntary groups, professional associations, and other organizations responsible for planning, financing, and providing programs and services for older individuals.

"(c) CROSS-CUTTING POLICY CENTERS.—(1) IN GENERAL.—In addition to the grants and contracts authorized under subsections (a) and (b), the Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for research, policy analysis, technical assistance, information dissemination or training activities, as appropriate on any area or areas of broad national interest (including social, economic, health, mental health, and environmental issues) affecting older individuals.

"(2) ISSUES ADDRESSED.—Issues that may be addressed under a grant under this subsection include—

"(A) broad societal issues addressed in section 101, including transportation, housing, employment, income security, public safety, health, and mental health; and

"(B) concerns of special population groups among older individuals, including low income, older women, rural elderly, minorities, and disabled populations.

"PART D—INFORMATION DISSEMINATION AND RELATED ACTIVITIES

"PURPOSE

"SEC. 441. (a) IN GENERAL.—The purpose of this part is to improve the quality, efficiency, availability, and accessibility of services for older individuals through support of information dissemination and utilization activities which—

"(1) collect, preserve, and disseminate, publish, or otherwise make available relevant materials concerning matters such as research and demonstration findings, and training and technical assistance materials;

"(2) synthesize, publish, and disseminate information concerning completed projects under this title which are of demonstrated value, including—

"(B) technical assistance and training in the implementation and adaptation of project methods; and

"(C) the development of additional materials which increase the awareness and acceptance of such project results;

"(3) locate, publicize, and make available practical self-help information for older individuals and their families and encourage development of appropriate public education activities;

"(4) support conferences, forums, and other meetings designed to identify, disseminate and promote utilization of research findings, policy practices, and best practices; and

"(5) provide technical assistance to grantees under this title and other recipients of support under this Act on the design, development and promotion of products and information materials.

"(b) COORDINATION WITH OTHER INFORMATION SOURCES.—Activities supported under this part will be coordinated with the information dissemination activities of Centers authorized under part C and other Federal information clearinghouses and document repositories.

"GRANTS AND CONTRACTS

"SEC. 442. (a) IN GENERAL.—The Assistant Secretary may make grants to any public agency or non-profit private organization or enter into contracts with any agency or organization for activities to carry out the purposes of this part, including the following:

"(1) activities of the National Aging Information Center established under section 202(e).

"(2) sponsorship and co-sponsorship with other Federal agencies and other public and private organizations of national and regional conferences and other meetings which disseminate discretionary project findings and information related to issues and concerns affecting the well-being of older individuals; and

"(3) A National Academy on Aging to serve as a forum for policy analysis and debate on current and emerging issues and for informing policy officials and the public about such issues.

"PART E—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 451. (a) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of title $44,384,000 for fiscal year 1996, and such sums as necessary for each of fiscal years 1997 and 1998.

"(b) RESTRICTONS.—No funds appropriated under this title—

"(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Assistant Secretary, unless those funds are used for purposes authorized under this title in accordance with conditions specified by formal inter-agency agreements with other Federal agencies;

"(2) may be used for any program or activity which is not specifically authorized by this title (except as specifically authorized by this Act); or

"(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

"PAYMENT OF GRANTS

"SEC. 452. (a) CONTRIBUTIONS BY GRANTEES AND CONTRACTORS.—To the extent the Assistant Secretary deems appropriate, the Assistant Secretary shall require the recipient of any project grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract is made.

"(b) METHOD OF PAYMENT.—Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Assistant Secretary may determine.

"ADMINISTRATION

"SEC. 453. (a) ADMINISTRATION ON AGING.—In order to carry out the provisions of this title effectively, the Assistant Secretary shall administer this title through the Administration on Aging.

"(b) ASSISTANCE FROM OTHER AGENCIES.—In carrying out the provisions of this title, the Assistant Secretary may request the technical assistance and cooperation of other agencies and departments of the Federal Government as may be appropriate.

"(c) OUTREACH TO APPLICANTS.—The Assistant Secretary shall ensure that applications from agencies, organizations, and institutions representing minorities, are encouraged in the writing of grant proposal solicitations and contract requests for proposals.

"(d) CONSULTATION.—The Assistant Secretary shall, in developing priorities, consistent with the requirements of this title, for awarding grants under this title, consult with State agencies on aging, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations and individuals with expertise in aging issues.

"(e) EVALUATIONS AND REPORTS.—The Assistant Secretary shall ensure that grants and contacts awarded under this title—

"(1) conduct evaluations and prepare reports indicating their benefit to older individuals, and to programs under this Act; and

"(2) comply with the requirements under this Act.

"(f) REPORT TO CONGRESS.—The Assistant Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for each fiscal year that describes activities for which funds were provided under this title including—

"(1) an abstract describing the purpose and activities of each grant or contract awarded or continued;

"(2) the name and address of the organizational recipient;

"(3) the name and affiliation of the project director;

"(4) the period of project performance; and

"(5) the amount of Federal funds awarded in the fiscal year on which the report is made.

"(g) EXTERNAL REVIEW.—The Assistant Secretary shall establish by regulation and implement an external review process to evaluate applications for discretionary grant awards under this title.".

PART D—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 241. TRANSFER OF AUTHORITY.

(a) IN GENERAL.—Section 502(a) is amended by striking "Secretary of Labor (hereinafter in this title referred to as the 'Secretary')" and inserting "Assistant Secretary".

(b) TRANSFER OF CONTRACTS, GRANTS, ETC.—

(1) IN GENERAL.—There are transferred from the Department of Labor to the Department of Health and Human Services any contracts, grants, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with or arising from the administration of the program under title V of the Older Americans Act of 1965.

(2) INTERAGENCY ARRANGEMENTS.—The Secretaries of Labor and Health and Human Services shall enter into and implement such arrangements as they find reasonable and necessary for the orderly transfer of such program in accordance with this section.

(3) CONTINUATION OF REGULATIONS, GRANTS, CONTRACTS, ETC.—All rules, regulations, administrative directives, grants, contracts, and other determinations and agreements in effect under such title V on the effective date of this section shall remain in effect until modified, terminated, suspended, set aside, or repealed by the Secretary of Health and Human Services or the Assistant Secretary. References to the Secretary of Labor in such determinations and agreements shall be considered references to the Secretary of Health and Human Services or the Assistant Secretary for Aging, as appropriate.

(4) CONTINUATION OF AUDITS.—Audits relating to such title V pending on the effective date of this section shall be on the effective date of this section shall be unaffected by the enactment of this section.

(5) CONTINUATION OF SUITS.—Judicial proceedings and proceedings before administrative law judges under or with respect to such title V pending on the effective date of this section shall be unaffected by the enactment of this section, except that the Secretary of Health and Human Services and the Assistant Secretary for Aging shall be substituted for the Secretary of Labor as parties to such proceedings.

(c) CONFORMING AMENDMENTS.—

(1) Section 502(b) (1) (P) is amended by striking "Department of Labor" and inserting "Department of Health and Human Services".

(2) Section 502(c)(1) is amended by striking "Health and Human Services" and inserting "Labor".

(3) Section 503(a)(1) is amended by striking "the Secretary shall, through the Assistant Secretary for Aging," and inserting "the Assistant Secretary shall".

(4) Section 503(a)(2) is amended by striking "The Secretary of Labor and the Assistant Secretary for Aging" and inserting "The Assistant Secretary".

(5) Section 503(b)(1) is amended—

(A) in the first sentence, by striking "The Secretary" and inserting "The Assistant Secretary and the Secretary of Labor"; and

(B) in the second sentence—

(i) by striking "The Secretary" and inserting "The Assistant Secretary", and

(ii) by striking "by the Assistant Secretary for Aging,".

(6) Section 505(a) is amended—

(A) by striking "The Secretary" and inserting "The Assistant Secretary"; and

(B) by striking "the Assistant Secretary for Aging" and inserting "the Secretary of Labor".

(7) Section 505(b) is amended by striking "Secretary of Health and Human Services" and inserting "Secretary of Labor".

(8) Title V is further amended throughout by striking "Secretary" each place it appears (except where preceded by "Assistant" or followed by "of") and inserting "Assistant Secretary".

SEC. 242. PHASED REDUCTION OF FEDERAL SHARE.

Section 502(c) is amended—

(1) in paragraph (1), by striking "90 percent" and inserting "the Federal share, as specified in paragraph (2),";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(3) by adding after paragraph (1) the following new paragraph:

"(2) the Federal share, for purposes of this subsection, shall be—

"(A) 90 percent for fiscal year 1996,

"(B) 89 percent for fiscal year 1997,

"(C) 87.5 percent for fiscal year 1998,

"(D) 86.5 percent for fiscal year 1999, and

"(E) 84 percent for fiscal year 2000 and each succeeding fiscal year.".

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

Section 508(a) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.".

PART E—GRANTS FOR NATIVE AMERICANS

SEC. 251. AUTHORIZATION OF APPROPRIATIONS.

Section 633(a) is amended by striking all that precedes "to carry out this title" and inserting "There are authorized to be appropriated $18,402,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998".

PART F—VULNERABLE ELDER RIGHTS PROTECTION

SEC. 261. ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFITS.

(a) CLARIFICATION OF IMPLEMENTATION OPTIONS.—Section 741(d) is amended by adding at the end the following new sentence: "If the State elects to award funds under this section to area agencies on aging or other local entities, it shall give priority to local areas which have high concentrations of older individuals with greatest economic or social need, and in which outreach activities, application assistance, and benefits counseling are inadequate.".

(b) REPEAL OF INCONSISTENT PROVISION.—Section 705(a) is amended—

(1) by adding "and" at the end of paragraph (6);

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

SEC. 262. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—Section 702(a) is amended by striking all that follows "chapter 2," and inserting "$4,449,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998.".

(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Section 702(b) is amended by striking all that follows "chapter 2," and inserting "$6,232,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal year 1997 and 1998.".

(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—Section 702(c) is amended by striking all that follows "chapter 4," and inserting "such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.".

(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—Section 702(d) is amended by striking all that follows "chapter 5," and inserting "$1,976,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998.".

(e) NATIVE AMERICAN PROGRAMS.—Section 751(d) is amended by striking all that follows "this section," and inserting "such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.".

PART G—TECHNICAL AMENDMENTS

SEC. 271. DEFINITIONS.

(a) RELOCATION, REORDERING, AND REDESIGNATION OF DEFINITIONS.—

(1)(A) Paragraphs (1) and (2) of section 302 are relocated and redesignated as paragraphs (48) and (49) of section 102.

(B) Paragraph (3) of section 302 is repealed.

(2)(A) Section 102(5) is amended by inserting "(A)" after "(5)".

(B) Section 102(6) is amended—

(i) by striking "(A)" and "(B)" and inserting "(i)" and "(ii)"; and

(ii) by striking "(6)" and inserting "(B)".

(C) Section 102(7) is amended by striking "(7)" and inserting "(C)".

(3)(A) Section 102(8) is amended—

(i) by striking the subparagraph designations "(A)" through "(H)" and inserting clause designations "(i)" through "(viii)"; and

(ii) by inserting "(A)" after "(8)".

(B) Section 102(9) is amended—

(i) by striking the subparagraph designations "(A)" and "(B)" and inserting the clause designations "(i)" and "(ii)"; and

(ii) by striking "(9)" and inserting "(B)".

(4) The paragraphs of section 102 are reordered in alphabetical order by term defined, and renumbered accordingly.

PART H—EFFECTIVE DATE

SEC. 281. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this title shall become effective October 1, 1995.

TITLE III—WHITE HOUSE CONFERENCE ON AGING

SEC. 301. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) AUTHORITY TO CALL CONFERENCE.—Not later than December 31, 2005, the President shall convene the White House Conference on Aging in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Assistant Secretary for Aging and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the interdependence of generations and the essential contributions of older individuals to society for the well-being of all generations:

(2) to identify the problems facing older individuals and the commonalities of the problems with problems of younger generations;

(3) to examine the well-being of older individuals, including the impact the well-being of older individuals has on our aging society;

(4) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of the aging;

(5) to develop recommendations for the coordination of Federal policy with state and local needs and the implementation of such recommendations; and

(6) to review the status and multigenerational value of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are nonprofessional, minority individuals, and individuals from low-income families. A majority of delegates shall be aged 55 or older.

SEC. 302. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,

(2) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(3) furnish all reasonable assistance, including financial assistance, to State agencies on aging and to area agencies on aging, and to other appropriate organizations (including organizations representing older Indians), to enable them to organize and conduct conferences and other activities in conjunction with the Conference (including activities in advance of the Conference, as part of the process of planning for the Conference, and activities subsequent to the Conference in connection with dissemination, discussion, and implementation of recommendations of the Conference);

(4) make available for public comment a proposed agenda, prepared by the Policy Committee, for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(5) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(6) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, and as part of the White House Conference on Aging, ensure that—

(1) the conferences under subsection (a)(3) shall—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to ensure broad participation of older individuals,

(2) the agenda prepared under subsection (a)(4) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda,

(3) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(4) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgement of the Conference, and

(5) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this paragraph, the Secretary is authorized to make

grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title.

(d) RECORDS.—The Secretary shall maintain records regarding—

(1) the sources, amounts, and uses of gift accepted under subsection (c); and

(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.

SEC. 303. POLICY COMMITTEE; RELATED COMMITTEES.

(a) POLICY COMMITTEE.—

(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 25 members to be selected, not later than 90 days after the enactment of the Older Americans Act of 1995, as follows:

(A) PRESIDENTIAL APPOINTEES.—13 members shall be selected by President and shall include—

(i) 3 members who are officers or employees of the United States; and

(ii) 10 members with experience in the field of aging, who may include representatives of public aging agencies, institution-based organizations, and minority aging organizations, and shall include a member of the Federal Council on the Aging.

(B) HOUSE APPOINTEES.—4 members shall be selected by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House of Representatives, and shall include members of the Committee on Economic and Educational Opportunities and the Committee on Ways and Means of the House of Representatives. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(C) SENATE APPOINTEES.—4 members shall be selected by the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, and shall include members of the Committee on Labor and Human Resources and the Special Committee on Aging of the Senate. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(D) JOINT APPOINTEES.—4 members shall be selected jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the minority leaders of the House and Senate, and shall include representatives with experience in the field of aging, who may include representatives described in subsection (a)(1)(A)(ii). Not more than 2 members selected under this subparagraph may be associated or affiliated with the same political party.

(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

(B) formulate and approve a proposed agenda for the Conference not later than 60 days after the first meeting of the Policy Committee;

(C) make recommendations for participants and delegates of the Conference;

(D) establish the number of delegates to be selected under section 301(d)(2); and

(E) formulate and approve the initial report of the Conference in accordance with section 304.

(3) QUORUM; COMMITTEE VOTING; CHAIRPERSON.—

(A) QUORUM.—13 members shall constitute a quorum for the purpose of conducting the business of the Policy Committee, except that 17 members shall constitute a quorum for purposes of approving the agenda required by paragraph (2)(B) and the report required by paragraph (2)(E).

(B) VOTING.—The Policy Committee shall act by the vote of the majority of the members present.

(C) CHAIRPERSON.—The President shall select a chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under subsection (b) shall be composed of professionals and public members, and shall include individuals from low-income families, and individuals who are Native Americans. Appropriate efforts shall be made to include individuals who are members of minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS–18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5708 of such title for persons employed intermittently in Federal Government service.

SEC. 304. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 90 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Policy Committee, not later than 90 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) REPORTS.—

(1) INITIAL REPORT.—The Policy Committee shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare and approve an initial report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(2) PUBLICATION OF INITIAL REPORT; FINAL REPORT.—Not later than 60 days after such initial report is transmitted by the Policy Committee, the Secretary shall publish such initial report in the Federal Register. The Secretary shall republish a final report together with such additional views and recommendations as the Secretary considers to be appropriate.

(d) RECOMMENDATIONS OF THE POLICY COMMITTEE.—The Policy Committee shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

SEC. 305. DEFINITIONS.

For the purposes of this title—

(1) the term "area agency on aging" has the meaning given the term in section 102 of the Older Americans Act of 1965,

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act,

(3) the term "Secretary" means the Secretary of Health and Human Services,

(4) the term "Conference" means the White House Conference on Aging, and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2005 through 2007 to carry out this title.

(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriation Acts.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 303(c) shall remain available for obligation or expenditure until the expiration of the one-year period beginning on the date the Conference adjourns.

(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before the expiration of the one-year period beginning on the date the Conference adjourns shall be available to carry out the Older Americans Act of 1965.•

By Mr. KERRY:

S. 1448. A bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes; to the Committee on Labor and Human Resources.

THE GAY AND LESBIAN YOUTH SUICIDE PREVENTION ACT

• Mr. KERRY. Mr. President, today I am introducing the Gay and Lesbian Youth Suicide Prevention Act.

Mr. President, my bill is a companion to legislation introduced in the House of Representatives by my friend, Congressman Martin Meehan of Massachusetts. This bill is a modest beginning to address a pernicious crisis among our teenagers. The bill establishes a Federal commission that seeks to identify the root causes and report on possible methods to prevent suicide among gay and lesbian adolescents.

In 1989, then Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, issued a report on youth suicide. The report's most dramatic findings included a particularly alarming statistic—nearly one-third of all teen suicide occurred among gay and lesbian youth.

This is a disturbing trend. Instead of ignoring this epidemic as past administrations have chosen to do, the Commission my bill would establish will devise ways to address effectively the situations of gay youth in existing suicide prevention programs. It will make recommendations to the Secretary of HHS on methods to curb suicide among gay teens. And it will expand existing research on youth suicide to include gay and lesbian adolescents. A full and appropriate airing of these issues will mean the beginning of the end of the tragic waste of young life in our country that the suicides of gay teens represent.

Although the benefits from the Commission will be great, its cost will not. The Commission will use the existing resources of the Department of Health and Human Services. The members of the Commission will not be paid. And the Commission will not be another of the Government bodies that, once established, endures to eternity. It will sunset 6 months after its initial meeting.

Too often, Mr. President, we hear stories of harassment and abuse which lead to depression, emotional problems and suicide. We cannot ignore the obvious fact that gay and lesbian youth are subjected to enormous societal pressure and we certainly cannot turn our back on the chilling evidence that gay and lesbian youth are three times more likely to commit suicide than other young people.

Current official youth suicide prevention programs do not address this issue, and it is high time they did. We need to get serious about putting an end to this preventable epidemic. That is what this bill does. I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gay and Lesbian Youth Suicide Prevention Act".

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Gay and Lesbian Youth Suicide Prevention (referred to in this Act as the "Commission").

SEC. 3. MEMBERSHIP.

(a) Number and Appointment.—The Commission shall be composed of 31 members appointed by the Secretary of Health and Human Services. Members of the Commission shall include professionals and experts in the field of youth suicide prevention.

(b) Terms.—Each member of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(c) Meetings.—The Commission shall, during a 6-month period, meet with the Secretary of Health and Human Services and advise various offices within the Department of Health and Human Services on an ongoing basis.

(d) Chairperson.—The Secretary of Health and Human Services shall select a chairperson for the Commission from among the members of the Commission.

SEC. 4. DUTIES OF COMMISSION.

(a) In General.—The Commission shall carry out activities to combat the epidemic of suicide among gay and lesbian youth, who account for 30 percent of completed youth suicides, as reported by the Department of Health and Human Services in the 1989 "Report of the Secretary's Task Force on Youth Suicide". The Commission shall advise the Secretary of Health and Human Services and heads of other Federal and State youth service agencies concerning how to include the concerns of gay and lesbian youth in suicide prevention policies, programs, and research.

(b) Goals of Commission.—The goals of the Commission shall be to—

(1) work to include the concerns of gay and lesbian youth in suicide prevention programs at the national and State level;

(2) develop and make specific recommendations to the Secretary of Health and Human Services and heads of other relevant Federal and State agencies about how to stem the epidemic of gay and lesbian youth suicide;

(3) work to expand research on youth suicide to include research on gay and lesbian youth suicide; and

(4) work to amend existing youth suicide policies, guidelines, and programs to include policies, guidelines, and programs appropriate for gay and lesbian youth.

SEC. 5. REPORTS.

(a) Interim Reports.—The Commission shall conduct regional public hearings around the United States to gather information from youths, family members of such youths, and professionals, about the problem of gay and lesbian youth suicide, on an ongoing basis. The Commission shall prepare and submit an interim report to the Secretary of Health and Human Services. The interim report shall contain findings and conclusions of the Commission, based on the hearings.

(b) Final Report.—The Commission shall prepare and submit a final report to the Secretary of Health and Human Services. The final report shall contain a detailed statement of the findings and conclusions of the Commission.

SEC. 6. POWERS OF THE COMMISSION.

(a) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(b) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) Use of Voluntary and Uncompensated Services.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Health and human Services is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) Compensation.—Members of the Commission shall serve on the Commission without compensation.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 6, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 8. SUNSET PROVISION.

The Commission shall terminate 6 months after the date of the first meeting of the Commission.•

By Mr. FEINGOLD:

S. 1449. A bill to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers of such boards and councils, to ensure the appropriate use of promotion funds, to prevent legislatively authorized promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL PROMOTION ACCOUNTABILITY ACT

• Mr. FEINGOLD. Mr. President, I introduce legislation addressing existing and future agricultural promotion programs. Fundamentally, Mr. President, my legislation, the Agricultural Promotion and Accountability Act, makes some modest and common sense reforms to all of the existing agricultural promotion programs in order to make them more accountable to, and representative of, the farmers who pay for the programs. These congressionally authorized programs create boards and councils, made up of agricultural producers, which have the authority to assess a mandatory fee on producers to pay for the costs of board or council sponsored self-help promotion activities.

Agricultural promotion programs are designed to allow producers to engage in self-help initiatives to promote their products to the consumer, to enhance demand and ultimately improve the economic security of farmers paying the assessment. It is hard to argue with that basic goal, Mr. President. These programs are fully funded and managed by farmers, with oversight conducted by the Department of Agriculture. The boards or councils authorized by Congress collect the producer funds and then conduct generic promotion activities for the specific commodity by contracting out the specific advertising and research projects to private entities.

While some of these programs have existed for nearly 30 years, the majority were created and implemented in the last 10 years. In fact, since 1982, when national promotion programs collected just $45 million annually, the amount of money collected under mandatory promotion programs has increased ten-fold.

These programs currently cover about 16 agricultural commodities including milk, beef, pork, eggs, soybeans, cotton as well as many specialty commodities. All totalled these programs collect roughly $500 million annually from producers and processors of commodities. According to USDA, 90 percent of all U.S. producers contribute money for promotion programs, either State or federally authorized. The growth in the number of these programs in the last decade is not surprising. As Federal dollars to support agriculture dwindle due to budget constraints, Congress has stood ready to allow producers to engage in these self-help efforts. I understand that when the Congress addresses omnibus farm legislation either this year or next year, that my colleagues and I will be asked to approve additional commodity promotion programs for popcorn, canola and rapeseed and perhaps other commodities as well.

But Mr. President, while the goals of these programs are truly admirable, I am concerned that some of the issues raised by some farmers with respect to these programs have been swept away in the Congressional tide to approve more and more producer-supported checkoff programs. Congress has approved so many of these programs in such a short period of time that we have not taken a step back to look at overall principles guiding these programs and whether or not the programs are operating as they should be.

These programs are typically referred to as checkoff programs since the funds that producers must pay to the promotion boards and councils are automatically deducted from the producer's check received for commodities sold. In many cases, the checkoff is a fixed amount, such as 15 cents per hundred pounds of milk sold, or $1 per head of beef or dairy cattle sold. In other cases, the amount deducted is a percentage of the market value of the commodity sold. The checkoff payment is mandatory and essentially permanent once a majority of producers approve of the overall program in an initial referendum.

To give my colleagues an idea of the scope of producer contributions, consider the annual investment of a small Wisconsin dairy farm. A milk producer with a 50 cow herd, averaging 18,000 pounds per cow per year, would pay about $1,350 annually for State, regional, and Federal milk promotion activities. Mr. President, that is a large contribution for such a small farm. Consider that a large dairy with 1,000 cows, such as those in the southwest and western regions of the country, averaging 18,000 pounds of milk per cow, contributes about $27,000 annually for mandatory milk promotion. Consider also that a dairyman who also raises hogs, replacement heifers, and soybeans would contribute to the pork, beef, and soybean promotion program. Mr. President, these mandatory contributions represent a sizable investment by the individuals required to pay them.

On the surface, these programs appear well-supported by farmers and others paying the mandatory assessments. However, as I have travelled the countryside of Wisconsin, holding listening sessions in each of Wisconsin's 72 counties each year, I have learned that, in fact, these programs tend to be controversial among farmers in Wisconsin. In my home State, where some counties are home to more cows than people, the most controversial of the boards are the National Dairy Promotion and Research Board and the Cattlemen's Beef Promotion and Research Board.

In the 103d Congress, when I served as a member of the Senate Agriculture Committee, I had the opportunity to be involved in the creation of new promotion programs as well as the modification of existing programs. I learned, Mr. President, that the controversy stemming from these programs goes well beyond the beef and dairy programs. In each case, Mr. President, when the committee addressed promotion programs from eggs to sheep to beef, the controversy among the producers footing the bill for the program was significant. In response to some of the concerns raised by farmers, the Senate Subcommittee on Domestic and Foreign Marketing and Promotion held a hearing on the beef and dairy promotion programs. The House Agriculture Committee held a similar hearing on the beef, pork, eggs, and dairy checkoff programs in the 103d Congress. The bill I am introducing today addresses the concerns that have been voiced in these hearings during my tenure on the committee and since that time.

The concerns checkoff paying farmers have raised include:

The promotion programs do not provide for adequate input by,or representation of, the producers paying for the program.

The programs once authorized continue into perpetuity with little opportunity for producer review or reauthorization. All but one of the existing programs are permanently authorized by Congress.

In most cases concerned producers must expend their own time and resources to gather enough names on a petition—usually 10 percent of all eligible producers—in order to call for another approval referendum.

In the case of the Dairy Promotion Program, cooperatives are allowed to vote on behalf of their producers, which some farmers contend biases the referendum by drowning out the voices of dissenting producers.

The promotion programs require all producers to pay for a program regardless of whether they agree with the program, whether they think the program is working, and whether they spend their own money on individual promotion efforts.

The programs far too often engage in activities well beyond those intended by the producers who approved the program at its initiation. Some producers complain that broad-scale public relations work funded by checkoff dollars does little to enhance demand and far more to advance the political objectives of certain contracting organizations. Such activities may violate the prohibition on the use of checkoff funds to influence government action or policy. Last August, during the Senate subcommittee hearing mentioned previously, staff of USDA pointed out one specific promotion effort that may have entered the grey area of prohibited activities.

The programs provide preferential treatment to certain industry-governed farmer organization to the exclusion of others. Some farmers contend that the ties between some promotion boards and the industry-lobbying organization are too tight and may create a conflict of interest for those boards.

The programs that do provide contracts or grants to specific lobbying organizations may be indirectly supporting or subsidizing the legislative activities of that organization. This concern has been voiced by a number of members of the Senate and the House with respect to the use of Federal funds and grants provided to lobbying organizations. In fact, much time and effort has been expended in the Senate to ensure that Congressionally authorized funding is not ultimately used for lobbying activities. The concerns that farmers have raised with respect to the use of checkoff dollars are consistent with these concerns.

The mandatory nature of the programs and the contractual relationship maintained by some of the boards implicate the first amendment rights of producers who should not be required to associate with a group with whom they do not agree. In fact, some statewide promotion programs similar to the individual promotion programs addressed in my legislation, have been successfully challenged on first amendment grounds.

Mr. President, I think these are serious concerns. The fact that these programs impose an additional targeted tax on producers purportedly for their own good, should compel the Congress to take these complaints seriously, as well. Producers initially approved all of these promotion programs based on very specific goals and with a number of requirements and constraints. As members of the body that authorized these programs, we must ensure that the initial goals of these programs are being met and that those farmers required to pay for them have assurances that the programs are operated fairly and democratically within the bounds of the statute and without bias towards or against specific segments of the taxed industry.

The legislation I am introducing today will help accomplish those goals without restricting the ability of the promotion boards to accomplish their objectives of enhancing consumer demand for the commodity. The Agricultural Promotion and Accountability Act provides guidelines to promotion boards and councils on the prohibited activities with respect to lobbying and other activities intended to influence government action or policy. It makes some conforming changes to existing statutes to ensure that all promotion programs are subject to the same restrictions.

The bill addresses the concern that too much money is spent on broad scale public relations work and not enough on direct promotion of the product, by limiting the types of public relations works that can be conducted. In fairness to all producers in arguably heterogenous agricultural sectors, industry image enhancement activities are prohibited. What might be a desirable image for one segment of an agricultural sector, might not be desirable for other segments of the industry. Since the checkoff assessments are levied equally on all producers, in most cases, general public relations work with checkoff funds is not an appropriate or equitable use of promotion dollars. Instead, all boards will be allowed to promote the image of the generic product itself, which is consistent with the goal of enhancing consumer demand.

The bill also improves the democratic nature of promotion boards and councils by providing producers with an opportunity to reauthorize their program, on average, every 5 years. Referenda on approval or termination of the mandatory promotion programs would be held periodically to assure that producers continue to support the program in which they make substantial annual investments. During that referendum, producers will also be allowed to decide whether or not they favor instituting refunds of assessments to producers who request them. These provisions will provide the checkoff paying producer with more control over the promotion boards they fund. Additionally, producers argue that if they are allowed a regular review of their programs, the boards will be more accountable to the farmers who foot the bill.

The concern about the fungibility of checkoff dollars paid in contracts to industry-governed lobbying organizations is perhaps one of the most difficult issues to address. It is, of course, not a new issue. In fact, just 3 years ago, Secretary of Agriculture Dan Glickman, then a Member of Congress, stated in a promotion program oversight hearing that "Congress should not be in the business of enacting programs which will result in the collection of funds from all farmers for the benefit of lobbying groups which may represent the view of just a fraction of the farmers." As I stated earlier, that is exactly what some producers contend is happening under some of the agricultural promotion programs.

To address those concerns the Agricultural Promotion Accountability Act creates a number of safeguards to ensure the independence of the boards from their contractors, to avoid conflicts of interest between the board and any contractor or grantee, to ensure that contracts are let on both an equitable and efficient basis providing a voice for all check-off paying producers, and to safeguard against any checkoff dollars being used for prohibited activities.

Mr. President, I think the modest changes this legislation makes to promotion programs will go a long way to ensure the continued productivity and success of these promotion boards while providing producers a greater voice in how their money is spent. I urge my colleagues to support this legislation.

I ask unanimous consent that a letter of support for the Agricultural Promotion Accountability Act from the National Farmers Union be included in the RECORD. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Promotion Accountability Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers on such boards and councils, to ensure the independence of such boards and councils, to ensure the appropriate use of promotion funds, and to prevent legislatively authorized agricultural promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy.

SEC. 3. DEFINITIONS.

In this Act:

(1) INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.—The term "influencing legislation or governmental action or policy" includes—

(A) establishing, administering, contributing to, or paying the expenses of a political party campaign, political action committee, or other organization established for the purpose of influencing the outcome of an election;

(B) attempting to influence—

(i) the outcome of any Federal, State or local election, referendum, initiative, or similar procedure through a cash contribution, in-kind contribution, endorsement, publicity or public relations activity or similar activity;

(ii) the introduction, modification, or enactment of any Federal or State legislation or signature or veto of any enrolled Federal or State legislation, including through—

(I) communication with any member or employee of a legislative body or agency or with any governmental official or employee who may participate in the formulation of the legislation, including engaging State or local officials in similar activity (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information and education, industry information, or producer information activities under a promotion program);

(II) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinion of the general public or a segment of the public in connection with a pending legislative matter; or

(III) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fund-raising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with a pending legislative matter;

(C) carrying out a legislative liaison activity, including attendance at a legislative session or committee hearing to gather information regarding legislation or to analyze the effect of legislation, if the activity is carried on in support of, or in knowing preparation for, an effort to influence legislation or government action or policy;

(D) carrying out an opinion survey of the general public or a segment of the public, general research, or information gathering, if carried out in support of, or in knowing preparation for, an effort to influence legislation or government action or policy; or

(E) attempting to influence any agency action or agency proceeding, as the terms are defined in section 551 of title 5, United States Code, through—

(i) communication with any government official or employee who may participate in the action or proceeding (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information or education, or industry information of producer information activities under a promotion program);

(ii) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinions of the general public or any segment of the general public in connection with the action or proceeding; or

(iii) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fundraising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with the action or proceeding.

(2) PROMOTION PROGRAM.—The term "promotion program" means—

(A) the cotton research and promotion program established under the Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.);

(B) the potato research, development, advertising, and promotion program established under the Potato Research and Promotion Act (7 U.S.C. 2611 et seq.);

(C) the egg research, consumer and producer education, and promotion program established under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.);

(D) the beef promotion and research program established under the Beef Research and Information Act (7 U.S.C. 2901 et seq.);

(E) the wheat research and nutrition education program established under the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.);

(F) the dairy promotion program established under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.);

(G) the honey research, promotion, and consumer education program established under the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.);

(H) the pork promotion, research, and consumer information program established under the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4801 et seq.);

(I) the watermelon research, development, advertising, and promotion program established under the Watermelon Research and Promotion Act (7 U.S.C. 4901 et seq.);

(J) the pecan promotion, research, industry information, and consumer information program established under the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001 et seq.);

(K) the mushroom promotion, research, and consumer and industry information program established under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101 et seq.);

(L) the lime research, promotion, and consumer information program established under the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.);

(M) the soybean promotion, research, consumer information, and industry information program established under the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301 et seq.);

(N) the fluid milk advertising and promotion program established under the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401 et seq.);

(O) the flowers and greens promotion, consumer information, and related research program established under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6801 et seq.);

(P) the sheep promotion, research, consumer information, education, and industry information program established under the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101 et seq.); and

(Q) any other coordinated program of promotion, research, industry information, and consumer information that is funded by mandatory assessments on producers and designed to maintain and expand markets and uses for an agricultural commodity, as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of directly or indirectly influencing legislation or governmental action or policy, except for the development and recommendation of amendments to the promotion program to the Secretary.

(b) CONFORMING AMENDMENTS.—

(1) COTTON.—Section 7(h) of the Cotton Research and Promotion Act (7 U.S.C. 2106(h)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(2) POTATOES.—Section 308(f)(3) of the Potato Research and Promotion Act (7 U.S.C. 2617(f)(3)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(3) EGGS.—Section 8(h) of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(4) BEEF.—Section 5(10) of the Beef Research and Information Act (7 U.S.C. 2904(10)) is amended—

(A) by striking "influencing governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)"; and

(B) by inserting "to the Secretary" before the period at the end.

(5) WHEAT.—Section 1706(i) of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3405(i)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(6) DAIRY.—Section 113(j) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(j)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995),".

(7) HONEY.—Section 7(h) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(h)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(8) PORK.—Section 1620(e) of the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4809(e)) is amended by striking "influencing legislation" and all that follows through the period at the end and inserting the following: "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995), except to recommend amendments to the order to the Secretary.".

(9) WATERMELONS.—Section 1647(g)(3) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(g)(3)) is amended by striking "influencing governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(10) PECANS.—Section 1910(g)(1) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6005(g)(1)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "to," and inserting "for the purpose of,"; and

(ii) by striking "to—" and inserting "for the purpose of—";

(B) in paragraph (1), by striking "influence legislation or governmental action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)";

(C) in paragraph (2), by striking "engage" and inserting "engaging"; and

(D) in paragraph (3), by striking "engage" and inserting "engaging".

(11) MUSHROOMS.—Section 1925(h) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(h)) is amended by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(12) LIMES.—Section 1955(g) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204(g)) is amended by striking "influencing legislation or governmental policy or action" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(13) SOYBEANS.—Section 1969(p) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6304(p) is amended—

(A) in paragraph (1), by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "to the Secretary" before the semicolon; and

(ii) in subparagraph (B), by inserting ", in response to a request made by the officials," after "officials".

(14) MILK.—Section 1999H(j)(1) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6407(j)(1)) is amended by striking "influencing legislation or governmental action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(15) FLOWERS AND GREENS.—Section 5(i) of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6804(i)) is amended by striking "influencing legislation or government action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

(16) SHEEP.—Section 5(l)(1) of the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7104(*l*)(1)) is amended by striking "influencing legislation or government action or policy" and inserting "directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)".

SEC. 5. PROMOTING THE IMAGE OF AN INDUSTRY PROHIBITED.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of enhancing the image of an industry, except that the board or council may promote the image of a product with the express intent of stimulating demand for and sales of an agricultural product in the marketplace.

(b) CONFORMING AMENDMENTS.—

(1) BEEF.—Section 3(9) of the Beef Research and Information Act (7 U.S.C. 2902(9)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(2) PECANS.—Section 1907(12) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6002(12)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(3) MUSHROOMS.—Section 1923(7) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6103(7)) is amended by striking ", increased efficiency" and all that follows through "industry" and inserting "and increased efficiency".

(4) SOYBEANS.—Section 1967(7) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6302(7)) is amended by striking ", and activities" and all that follows through "industry".

SEC. 6. LIMITATIONS ON CONTRACTING.

(a) PERMITTED CONTRACTS OR AGREEMENTS.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be limited to contracting with, or entering into an agreement with, an established national nonprofit industry-governed organization.

(b) COMPETITIVE BIDDING.—It is the policy of Congress that boards and councils should, to the extent practicable, use competitive bidding in the awarding of contracts and grants for activities authorized under a promotion program.

(c) INDEPENDENCE OF BOARDS AND COUNCILS.—

(1) APPLICATIONS AND RECOMMENDATIONS NOT BINDING.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be bound by a proposed application for a board or council contract or a recommendation or advice of a potential contractor or a national nonprofit industry-governed organization on the use of board or council receipts.

(2) INTERLOCKING BOARDS OR MEMBERSHIP.—Notwithstanding any other provision of law, no person shall be eligible to be a member of any board or council established by a promotion program (including operating and nominating committees) if the person serves in any decision making capacity, such as that of a member of the board of directors, executive committee, or other committee, for an entity that enters into a contract or other agreement with the board or council.

(3) REQUIREMENTS FOR CONTRACTING.—A contractor or grantee of a board or council may not use funds collected through mandatory assessments under a promotion program to fund any staff (including expenses or other activities of the staff) who, in part, engage in 1 or more activities to influence legislation or governmental action or policy.

(d) PRODUCER APPROVAL OF RELATIONSHIPS WITH BOARDS OR COUNCILS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the entering into of a permanent cooperative arrangement or the establishment of a joint committee (including an arrangement that is advisory in nature) by a board or council established by a promotion program with a national nonprofit industry-governed organization shall require the prior approval of at least ⅔ of the eligible producers under the promotion program.

(2) EXCEPTION.—Paragraph (1) shall not apply to a cooperative arrangement or joint committee—

(A) that was established prior to January 1, 1995; or

(B) that includes representatives or participation from all producer-, processor-, or handler-governed national nonprofit organizations (including general farm organizations) that represent any but an insignificant number of producers, processors, or handlers paying assessments under the promotion program to the board or council, as determined by the Secretary.

(3) PERMANENT COOPERATIVE ARRANGEMENT.—In this subsection, the term "permanent cooperative arrangement" means a formal or informal, written or unwritten agreement or understanding establishing a relationship, a liaison, a sole source contract, or an operational mechanism under which a board or council shares staff, facilities, or other resources or carries out coordinated activities with any entity on a more or less permanent and exclusive basis.

(e) FUNGIBILITY OF BOARD OR COUNCIL FUNDS.—

(1) IN GENERAL.—The Inspector General of the Department of Agriculture shall conduct an annual review of contractual arrangements between each board or council established by a promotion program and any entity or association that engages in activities to influence legislation or governmental action or policy and receives a significant amount of funding from the board or council as determined by the Secretary.

(2) SCOPE OF REVIEW.—A review under paragraph (1) shall examine whether any funds collected by the board or council are used to directly or indirectly fund or subsidize an entity or association that engages in influencing legislation or governmental action or policy.

(3) REPORT.—The Secretary shall submit a report on the findings of any review under this subsection and make recommendations for any actions that should be taken as a result of the findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 7. PERIODIC REFERENDA.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 nor more than 6 years after the date of enactment of this Act or the date on which the Secretary determines the results of the most recent referendum for a promotion program, whichever is earlier, and not less than once every 5 years thereafter, the Secretary shall conduct a referendum to determine whether to approve or terminate the order under the promotion program and whether refunds should be made under the order.

(b) PROCEDURE.—The referendum under subsection (a) shall be conducted using the same eligibility and other procedures as the referendum used to approve the original order under the promotion program, except that, notwithstanding any other provision of law, no greater than a simple majority of eligible producers shall be required to approve the making of refunds to producers.

(c) TERMINATION.—

(1) IN GENERAL.—If the percentage of persons voting to approve the order does not equal or exceed the percentage of persons necessary to approve the continuation of the original order under the promotion program, the Secretary shall terminate the order.

(2) TIME OF TERMINATION.—The Secretary shall terminate the order at the end of the marketing year during which the referendum is conducted.

(d) REFUNDS.—If the making of refunds is approved in a referendum under subsection (a), the Secretary shall establish a procedure for making the refunds not later than 180 days after the date of the referendum.

(e) COOPERATIVE ASSOCIATION.—Notwithstanding subsection (b), a cooperative association may not vote on behalf of the members of the association in a referendum conducted under this section.

(f) INACTIVE PROMOTION PROGRAMS.—The Secretary shall not conduct a referendum of a promotion program under this section if the Secretary determines that the promotion program is not active.

NATIONAL FARMERS UNION,
November 7, 1995.

Re legislation to regulate producer assessments for promotion funding.

Hon. RUSS FEINGOLD,
U.S. Senator,
Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of the nearly 300,000 farm families of the National Farmers Union, I write to express our strong support of the Agricultural Promotion Accountability Act of 1995. Many of our members pay multiple mandatory assessments for promotion funding, amounting to thousands of dollars per year, per producer. Our 1995 national policy statement calls for legislative safeguards to insure the use of promotion funds is controlled by the producers who pay the assessments, and that dollars are used to enhance producer profitability. Your proposed legislation will help address several items of concern.

(1) It is essential that mandatory assessments are not used for lobbying. Although lobbying is prohibited under current law,

your bill makes the prohibition meaningful by clearly defining the prohibited activities.

(2) It is essential that producers control how their dollars are spent. Your legislation ensures that decisions are made by independent, accountable boards. Your legislation also helps ensure that all producers have a voice, not just those who belong to a specific trade association. Your legislation further promotes producer control by prohibiting bloc voting.

(3) It is essential that an independent review of funding be conducted annually. We support naming the Inspector General of USDA to conduct this review.

(4) It is essential that periodic referenda are held to provide producers the opportunity to review whether the promotion program is worth continuing. Your legislation achieves this by specifying a referendum every five years, including a referendum on refunds.

(5) It is essential that assessments are used for activities to enhance producer price. The proposed legislation meets this goal by prohibiting use of funding for influencing regulatory bodies, and other purposes not specifically linked to product promotion.

Thank you for your work on behalf of family farmers. Promotion assessments affect nearly every farmer and the topic always produces much debate whenever discussed by producers. Your legislation is a positive step in addressing many concerns. We look forward to working with you to pass this bill.

Sincerely,

LELAND SWENSON,
President.•

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Montana [Mr. BURNS] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1058

At the request of Mr. WELLSTONE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1058, a bill to provide a comprehensive program of support for victims of torture.

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare Program.

S. 1335

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1335, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1419

At the request of Mrs. KASSEBAUM, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from Iowa [Mr. HARKIN], the Senator from Wisconsin [Mr. KOHL], and the Senator from Wyoming [Mr. THOMAS] were added as co/sponsors of S. 1419, a bill to impose sanctions against Nigeria.

S. 1432

At the request of Mr. MCCAIN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1432, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

SENATE RESOLUTION 197—TO CONGRATULATE THE NORTHWESTERN UNIVERSITY WILDCATS

Mr. SIMON (for himself and Ms. MOSELEY-BRAUN) submitted the following resolution; which was considered and agreed to:

S. RES. 197

Whereas the Northwestern University Wildcats are the 1995 Big Ten Conference football champions and have been invited to participate in the Rose Bowl on January 1, 1996, in Pasadena, California;

Whereas the winning of the 1995 Big Ten Conference football championship by the Wildcats completes an unprecedented 1-year turnaround of the Northwestern University football program; and

Whereas Northwestern University is committed to athletic competitiveness without diminution of scholastic standards: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Northwestern University and its athletes, coaches, faculty, students, administration, and alumni on the winning of the 1995 Big Ten Conference football championship by the Wildcats and on the receipt by the Wildcats of an invitation to compete in the 1996 Rose Bowl; and

(2) recognizes and commends Northwestern University for its pursuit of athletic as well as academic excellence.

AMENDMENTS SUBMITTED

THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

SMITH AMENDMENT NO. 3080

Mr. SMITH proposed an amendment to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions; as follows:

On page 2, at the end of line 9, insert the following: "This paragraph does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose."

DOLE AMENDMENT NO. 3081

Mr. DOLE proposed an amendment to amendment No. 3080 proposed by Mr. SMITH to the bill, H.R. 1833, supra; as follows:

In the pending amendment, strike all after the word "This" and insert in lieu thereof the following: "paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose."

This paragraph shall become effective one day after enactment.

PRYOR (AND OTHERS) AMENDMENT NO. 3082

Mr. PRYOR (for himself, Mr. CHAFEE, and Mr. BROWN) proposed an amendment to the bill, H.R. 1833, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . APPROVAL AND MARKETING OF PRESCRIPTION DRUGS.

(a) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(b) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made, prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by

section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983).

(c) EQUITABLE REMUNERATION.—For acts described in subsection (b), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (a); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (a).

(c) APPLICABILITY.—The provisions of this section shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, and 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

BOXER AMENDMENT NO. 3083

Mrs. BOXER proposed an amendment to amendment No. 3082 proposed by Mr. PRYOR to the bill, H.R. 1833, supra; as follows:

At the end of the amendment, add the following new sentence: "The prohibition in section 1531(a) of title 18, United States Code, shall not apply to any abortion performed prior to the viability of the fetus, or after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, December 5, 1995, beginning at 10 a.m., in room SD-215, to conduct a hearing on the Organization for Economic Cooperation and Development [OECD] Shipbuilding Subsidies Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, December 5, at 9:30 a.m., for a hearing on S. 88, Local Empowerment and Flexibility Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on the Administrative Oversight and the Courts of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, December 5, 1995, at 10 a.m., in the Senate Dirksen Building, room 226, to hold a hearing on S. 984, the Parental Rights and Responsibilities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GLAXO WELLCOME

• Mr. FAIRCLOTH. Mr. President, I want to applaud a dramatic new commitment by Glaxo Wellcome, a North Carolina-based pioneer pharmaceutical research company whose contributions to medicine and biotechnology have helped to make the American health care industry the most innovative and productive in the world.

Glaxo Wellcome has just received approval from the Food and Drug Administration for its latest drug, Epivir, an aggressive new treatment for AIDS. Epivir received FDA approval in less than 5 months, but the advent of this new treatment is the result of years of hard work and millions of dollars invested by Glaxo Wellcome.

The firm also announced that it has set itself the goal of bringing an unprecedented three new medicines to market each year by the beginning of the next century. This is an enormous endeavor. It will require threefold increase in Glaxo Wellcome's research and development productivity.

The merger of Glaxo and Burroughs Wellcome produced an enormous portfolio of research and development projects. To ensure the most efficient integration of the two firms, the entire portfolio was reviewed according to rigorous standards. The resulting R&D portfolio now includes 50 major research projects and 93 development projects. These projects run the gamut from cardiovascular disease and cancer to the neurosciences. Significant resources are being committed to projects involving the respiratory system: anti-viral infection: the central nervous system and other areas. Together, Glaxo Wellcome's total R&D spending for 1996 will exceed $1.9 billion.

That's good news for the millions of Americans who suffer from life threatening diseases for which there is currently no known treatment. Good news also for their families, their employers, and their neighbors. This massive investment in the future of American health care is good news for all of us.

Pioneering the next "miracle drug" is not easy. It costs, on average, 12 years and $350 million to develop just one new pharmaceutical. Only one in 5,000 compounds tested in a laboratory ever finds its way onto pharmacy shelves. And only a third of those ever earns full return on the vast investment of time, money, and thought made to discover it.

Because of the costly pioneering research of pharmaceutical companies like Glaxo Wellcome, American consumers have access to the next generation of pharmaceuticals and state-of-the-art medical treatments. Taxpayers also benefit because of the savings to be realized in future health care costs. Pioneers like Glaxo Wellcome hold our best hope for the discovery of breakthrough medicines in the future. I salute Glaxo Wellcome for deepening its commitment to the future of American medicine.•

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

• Mr. JOHNSTON. Mr. President, on November 28, 1995, President Clinton signed into law the National Highway System Designation Act of 1995 which will make a number of desperately needed changes to our Nation's transportation infrastructure. I am pleased to have had the opportunity to work with my colleagues to pass this legislation. More importantly, I want to take special notice of a particular section of this law and the Louisiana citizens who did their civic duty in bringing a serious problem to the attention of their representatives in Washington.

The National Highway System Designation Act contains numerous specific projects that will benefit society and commerce and, as with all of the legislation we concern ourselves with in the U.S. Senate, proves the worth of our democratic process. Included in this law is a provision which I think most clearly demonstrates how important our system of representative democracy is and, hopefully, will help to renew our sense of civic duty and alleviate the apathetic attitude toward government that is so common today.

In one of the fastest growing areas in Louisiana, Ascension Parish, there is a section of State Highway 42 known commonly as "Dead Man's Curve." Unfortunately, this name truly reflects the road's history. On this section of the two lane highway which curves drastically and cannot accommodate its growing traffic load, nearly 50 serious automobile accidents have occurred in the last 4 years. When the road becomes wet, as roads often do in south Louisiana, this poorly designed road becomes a death trap causing numerous multiple car sideswipes and head-on collisions. One particularly tragic accident last year took the lives of three young people and galvanized public support for the effort to make LA 42 safe.

On August 20, 1994, in a head-on collision on this dangerous S-curve, Mandy Acosta age 18, her cousin Brett

Leggette age 13, and his friend Brett Frederic also age 13 died. In one horrible accident two sisters had lost their teen-aged children. An extended family and an entire community were devastated.

When the grieving period had run its course, these sisters decided that they would not simply stand by and watch history repeat itself, but would become involved to make sure that this road would not take more of our sons and daughters. Ms. Templet and Ms. Leggette organized the community through public marches and petition drives. They contacted Parish President Tommy Martinez who immediately mobilized his resources. Engineers Mr. Glenn Shaheen and Mr. Mark DeBossier were called in to find out what needed to be done. Mr. David Young coordinated their message and worked with the Louisiana congressional delegation to find the surest way to get the Government to fulfill its duty in protecting the lives of its citizens.

Mr. President, the dedicated and passionate work of these two sisters, Parish President Martinez, and their community did make a difference. As a result of their involvement, the Federal Government has now dedicated itself to finding the best way to fix Dead Man's Curve. I am pleased that the National Highway System Designation Act of 1995 includes $250,000 for this problem. I am most pleased, however, that Congress and the President have proven that our system works and that civic duty has not lost its meaning.•

TRIBUTE TO PAUL O. BOFINGER

• Mr. GREGG. Mr. President, it gives me great pleasure today to rise to pay tribute to Paul O. Bofinger, president of the Society for the Protection of New Hampshire Forests, upon his retirement. Paul has served the New Hampshire conservation community loyally for 30 years as an intelligent and clear voice of reason and stubborn common sense. Upon graduation from Cornell University in 1953 and the University of Michigan in 1955, Paul has been actively involved in the New Hampshire conservation debate. Paul's profound insight and powerful influence on New Hampshire environmental policy has helped to create the special tradition of balance and consensus building that we are proud of in New Hampshire.

Over the past three decades Paul Bofinger has received numerous awards and honors including the American Foresters John Artson Warder Medal, the Nature Conservancy's Conservation Achievement Award, the University of New Hampshire Granite State Award, and the Audubon Society of New Hampshire Tudor Richards Award. Paul received a 1982 Governor's Award of Distinction and was named 1994 Forester of the Year by the Granite State Division of the Society of American Foresters. He is a Franklin Pierce College Honorary Doctor of Human Letters, and a recipient of the Chevron Conservation Award. Paul Bofinger served in 1984 and 1985 at Harvard University as a C. Bullard Fellow.

Paul's leadership assured the success of the New Hampshire Land Conservation Investment Program and the creation of the majestic Lake Umbagog National Fish and Wildlife Refuge. Under his presidency, the New Hampshire Forest Society has become one of the premier land trusts in the Nation. During the past several years Mr. Bofinger and the New Hampshire Forest Society have contributed greatly to the work of the Northern Forest Lands Council. He has positioned New Hampshire as a leader in the regional effort to protect the traditional land use patterns of the great Northern Forest for the benefit of future generations. Through Paul's stewardship of New Hampshire conservation policy, his strong commitment to the development of broad consensus-based groups, and his disciplined approach to conservation policy through respectful dialog, New Hampshire's forest conservation and land use process has become a model for the rest of the country to learn and benefit from.

Mr. President, I ask that my colleagues join me in congratulating Paul Bofinger on an exemplary career as a leader of New Hampshire forest conservation and a voice of wise moderation. I wish him good fortune and Godspeed as, upon retirement, he pursues new life challenges.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following military nominations reported out of the Armed Services Committee today: Thomas Schwartz and Paul Funk.

I further ask unanimous consent that the nominations be confirm, en bloc; that the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

To be lieutenant general

Maj. Gen. Thomas A. Schwart[redacted], U.S. Army.

To be lieutenant general

Lt. Gen. Paul E. Fun[redacted], U.S. Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 239, H.R. 2204.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2204) to extend and re-authorize the Defense Production Act of 1950, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2204) was deemed read the third time and passed.

ORDERS FOR WEDNESDAY, DECEMBER 6, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, December 6; that following the prayer, the Journal of proceedings be deemed approved to date; that no resolutions come over under the rule; that the call of the Calendar be dispensed with; that the morning hour be deemed to have expired; and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that the hour of 5 p.m. on Wednesday, the Senate resume consideration of H.R. 1833, regarding partial-birth abortions in status quo.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, it will be the majority leader's intention to move to proceed to House Joint Resolution 79, the constitutional amendment regarding flag desecration, at 10 a.m. on Wednesday, December 6. I hope between now and then we will have consent to go to that. We would like to complete action on this bill on December 7.

I know there has been an objection raised as to consideration. I hope we do not have to file cloture to proceed to this very important piece of legislation and that my colleagues may cooperate with us. If it takes that, we will proceed on that basis. I know we have at least 60 votes to proceed and I hope we have 60 votes if cloture is needed on the amendment itself.

We can expect votes to occur possibly on the constitutional amendment and can expect amendments to the partial-birth abortions bill.

Also, for the information of all my colleagues, the schedule for the next few days is as follows: As I said, tomorrow we will start at 10 a.m. on flag burning, or debate a motion to proceed to that measure; at 5 p.m., resume the partial-birth abortions bill. Therefore, late sessions can be anticipated.

On Thursday and Friday, complete action on partial-birth abortions if not previously disposed of; resume and, hopefully, complete action on the constitutional amendment regarding flag desecration.

Also, the Senate could be asked to consider any available appropriations conference reports once received from the House. We expect to receive State, Justice, Commerce from the House on Wednesday afternoon.

And then the following week, the State Department reorganization bill, S. 1441, if agreement cannot be reached to activate the original consent agreement of September 29, 1995, we will start on that bill on Monday.

Other items next week: Available appropriations conference reports; H.R. 660, fair housing exemption bill, hopefully under a time agreement of 1 hour. It may be that we can dispose of that this week.

There will be a Bosnia resolution next week. We are still in the process of drafting that resolution. We have had meetings today, and we hope to have additional discussions tomorrow and the next day. It is my hope that we can have some resolution that can be supported by a majority of our colleagues. I am not certain what day next week that will come up.

It is very likely next week there will also be a conference report on welfare reform. I think we have about concluded the conference. I just ask my colleagues, the original bill passed in the Senate by a vote of 87 to 12. We believe we have retained most of the Senate provisions in the conference, and I ask my colleagues on both sides—this bill had strong bipartisan support—to take a close look.

Eighty-eight percent of the American people want welfare reform. We will have it on the floor, we hope, next week. We hope the President of the United States will sign it. In my view, it is a good resolution of differences between the House and the Senate. We still have one or two minor—well not minor—issues in disagreement we hope to resolve tomorrow, and then we hope to bring it up by midweek next week.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:19 p.m., adjourned until Wednesday, December 6, 1995, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 5, 1995:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS A. SCHWARTZ xxx-xx-x...

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. ARMY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, U.S.C.

To be lieutenant general

LT. GEN. PAUL E. FUNK xxx-xx-x...

HOUSE OF REPRESENTATIVES—*Tuesday, December 5, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 5, 1995.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 3 minutes.

DIFFICULTIES IN HAITI

Mr. GOSS. Mr. Speaker, I come to the well today to speak about the prospects for democracy in Haiti, an area where we have a great deal of investment. I am sorry to report that the news is even more dismal, there is more deterioration in the signs that we are getting toward democracy. We are not, and there are some four particular disturbing areas we need to have more information from the executive branch on.

First, we apparently are going to have elections on December 17 for the new President in the country of Haiti. It is very important that we do that, but, of course, the elections have to be full, fair, free, democratic elections. There is no indication that the elections are indeed going to be full, fair, or free. In fact, most of the opposition parties are boycotting the election.

There is virtually no campaigning going on, with the exception of one party, which is the chosen party of the present President, and it is impossible to underestimate, in my view, the damage done by the parliamentary elections that basically caused the loyal opposition to lose faith in the system and refuse to participate in it.

The second disturbing area has to do with these elections, and that is, it appears that some of our taxpayers' dollars that are being financed as aid to Haiti are indeed going into the chosen campaign of the party of the President there. There appear to be some unaccounted moneys in significant amounts, and there is only one campaign in evidence, and it is a very well funded, lavishly orchestrated campaign. The indications are, certainly the rumors are strong and we have had no denials, that those are U.S. tax dollars that are running that campaign and providing for all those banners and T-shirts that are springing up around the country that is so poor that many people do not have T-shirts or food or medicine or other things they need. But these campaign shirts seem to be getting out there.

It appears also as we read reports in Miami that some of our tax dollars are being used to lobby ourselves. I suspect we will be hearing more on that as others look into those allegations that are being made about tax dollars that are going to lawyers and lobbyists in our own country.

The third area of concern is we have a new chief of the national police, which is the group supposed to provide the stability in Haiti once our troops leave in February. It turns out Colonel Solastine is an old Aristide friend, sort of a political hack, and has been head of the palace guard, and it is not expected that he is going to be able to bring either professionalism or independence to the national police.

The final problem that I point to this morning is we just have had a cancellation of a business delegation from Haiti. Haiti desperately needs more investment and business. The Haitians who were coming here on a mission this week to talk to American legislators and businessmen about how to do that have canceled their trip because of the heightened tensions between the United States and Haitian Governments and because of the situation in Haiti, which they describe as "inopportune." Inopportune is a euphemism for we are scared to death, we are closing our business, there is no security, there is a lot of corruption, and there is much to be done. These are problems we need to look more into before we spend more tax dollars. I thank you. I look for a report from the White House on this.

DRACONIAN IMPACTS OF PROPOSED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, as we know, negotiations continue, or at least we hope they are going to continue, over the budget, with this Republican budget that has passed the House of Representatives and the Senate, which President Clinton wisely says he cannot accept, and so negotiations are going on to try to see if the President can come to an agreement with the Republican leadership in the Congress.

I just wanted to spend a little time today putting what I call a human face on some of the numbers. We talk about the budget, and I have said over and over again we need to make sure that whatever is resolved with the budget, that Medicare is preserved, that Medicaid is preserved, that those programs are not cut in order to finance tax breaks for the wealthy, and also that we are concerned with environmental priorities and education priorities.

I just wanted to give some information about numbers and how some of those priorities transfer into real terms and into the effects on the average American, particularly with regard to Medicare and Medicaid.

The Republican-proposed budget cuts Medicare by $270 billion and increases costs on beneficiaries. In effect, these cuts increase direct and indirect costs on Medicare beneficiaries, on our senior citizens, placing a huge financial burden on seniors and people with disabilities.

If you look at it, the cuts in the Medicare Program alone basically are $1,700 per beneficiary, per senior citizen, by the year 2002, and premiums for those seniors increase to $89 per month in 2002, an annual increase of about $440 per couple.

If you also look at the amount of money that is going to be available to Medicare by reference to the amount of money that would be available for someone who is getting health care in the private sector, the $270 billion Medicare cut would limit spending per Medicare beneficiary to a rate that is more than 20 percent below the projected private insurance per person growth rate over the next 7 years. So Medicare now will not be keeping up with the amount of money that is available for those who are paying for their health insurance privately.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Even more important, right now Medicaid pays for the Medicare premiums, coinsurance, and deductibles for people who are below 100 percent poverty. In other words, a lot of low-income senior citizens have their part B premium covered by Medicaid. They do not have to pay coinsurance and they do not have to pay deductibles.

Well, all that is gone under the Republican proposal. So all those people now would have to take that money out of their pocket. Of course, they cannot afford to do so, because they are in fact low income.

What we are going to see happen under these Republican Medicare cuts is essentially quality and access for a lot of senior citizens will suffer. When you get to Medicaid, it is even worse, because Medicaid right now is an entitlement program for low-income people, whether they be seniors, children, pregnant women, the disabled, whatever.

Under this Republican proposal, there no longer is any guaranteed health car for those low-income people under Medicaid. Instead, a block grant goes to the States and we estimate that about a 28 percent cut will be available. The amount of money that will be available will be about 28 percent less under this Republican proposal block granted to the States than what is available now under Medicaid.

What that means is a lot of States simply will not cover people under Medicaid. They will make no categorizations of who is covered and who is not, and that means a lot of low-income people will not have access to health care.

We also estimate that about 330,000 people could be denied nursing home coverage, because right now Medicaid pays for most nursing home care and essentially guarantees nursing home coverage for those seniors who cannot afford to pay for nursing home care privately. That is all gone. There is no guarantee of nursing home care anymore, because, again, if the States decide they do not want to provide for certain categories of people, they simply will not.

If you look at where the tax breaks are going under the Republican proposal at the same time, the tax breaks are mostly going for the well-to-do. Nearly half of the benefits under the Republican tax package, about 48 percent, go to the top 12 percent of families, those of incomes of $100,000 or more. If you are actually making less than $30,000 a year, you are probably going to end up paying more in taxes because the earned income tax credit that goes to a lot of working low-income people is cut severely. So a lot of people who are making less than $30,000 a year and who are working essentially are going to be paying more taxes instead of less.

Last, I wanted to talk about the impact of this Republican budget on the environment. It funds enforcement of public health and environmental safeguards 25 percent less than what we have now.

So, again, the environmental priorities are essentially downgraded, and we hope that the President is able to negotiate a better budget bill to preserve these priorities.

MAKING ENGLISH THE OFFICIAL LANGUAGE OF THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 3 minutes.

Mr. ROTH. Mr. Speaker, the Senate Governmental Affairs Committee prepares to hold hearings tomorrow on the issue of making English our official language. One of the issues that heavily dominates that debate is this issue of bilingual education, which was started as part of the Great Society Program back in 1968 and has grown and mushroomed to the juggernaut that it is today. I wish to put this problem into a proper perspective.

Mr. Speaker, a quick look at some startling facts will tell us all we need to know. Today, 32 million Americans don't speak English. In just 5 years, that number will increase to 40 million. English is a foreign language for one in seven Americans.

For most of our Nation's history, America gave the children of immigrants a precious gift—an education in the English language. As each new wave of immigrants arrived on these shores, our public school system taught their sons and daughters English, so they could claim their place in the American dream.

What are we doing for these new Americans today? Instead of a first-rate education in English, our bilingual education programs are consigning an entire generation of new Americans—unable to speak, understand, and use English effectively—to a second-class future.

This tragedy has human faces. Let me tell you about two people's experiences which will illustrate the impact of our failed bilingual education programs. I've never heard the problems with bilingual education more poignantly put than in the words of Ernesto Ortiz, a foreman on a south Texas ranch who said: "My children learn Spanish in school so they can become busboys and waiters. I teach them English at home so they can become doctors and lawyers." Ernesto understands that English is the language of opportunity in the country. He understands that denying his children a good education in English will doom them to a limited—as opposed to limitless—future.

Bilga Abramova also understands this simple truth. Bilga is a 35-year-old Russian refugee who has entered a church lottery three times in an attempt to win 1 of 50 coveted spaces in a free, intensive English class offered by her local parish. Her pleas in Russian speak volumes about the plight of all too many immigrants: "I need to win," she said. "Without English, I cannot begin a new life."

The ultimate paradox about our commitment to bilingual education in this country is that Bilga and others like her all across the country are on waiting lists for intensive English classes while we spend $8 billion a year teaching children in their native language.

You've heard from parents like Ernesto Ortiz and how they feel about bilingual education. Even teachers oppose these programs. A recent survey of 1,000 elementary and secondary teachers found that 64 percent of these teachers disapproved of bilingual education programs and favored intensive English instruction instead.

Even longtime defenders of these programs are starting to change their tune. The California Board of Education approved a new policy last month in which they abandoned their preference for bilingual education programs.

This year marks the 27th year of bilingual education programs. For more and more people, that is 27 years too long. It is time to take a fresh look at this problem. Bilingual education has had 27 years and billions of dollars to prove that it accomplished what it said it would do in 1968: teach children English quickly and effectively. Too many people lose sight of the fact that the real issue here is how to help children and newcomers who don't know English and who need to assimilate.

Let us not forget about Ernesto Ortiz and his children, about Bilga Abramova and other new Americans like them. While a Senate committee will discuss this issue for the first time tomorrow, Ernesto and Bilga have already given us their testimony on bilingual education, in words and in images. We must not lose sight of the fact that this is not just an abstract public policy issue; bilingual education and our national language policies have real world consequences. When our policies fail, the failures have names and faces attached to them. When our policies serve to divide rather than unite us, the rips appear in the very fabric of the American Nation. Don't underestimate this issue's importance. This is an issue that can affect the very future of new Americans and America itself.

OUTRAGE OVER FRANCE'S NUCLEAR TESTING PROGRAM IN SOUTH PACIFIC

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from American

Samoa [Mr. FALEOMAVAEGA] is recognized during morning business for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise again today to express my outrage and dismay with the continuation of France's willful disregard for the millions of human lives that may be seriously at risk because of its nuclear testing program in the South Pacific. France has now exploded four nuclear bombs in addition to 166 nuclear bombs that have already been exploded, filling the landscape in and outside of the Moruroa Atoll in French Polynesia.

It may not be now, Mr. Speaker, but within the next 10 years when the French Government is no longer around in this part of the world, when the Moruroa Atoll finally starts to break apart, the horrors of France's nuclear testing contamination will infuse itself into the fish and other living organisms in our Pacific marine environment. If by some accident of nature this atoll starts to break up because of serious volcanic or earthquake disturbances in or around the ocean floor, what then, Mr. Speaker?

The French Government certainly does not have the capability to clean up the environmental nightmare sure to result, and perhaps our own country may have to commit resources to clean up the mess.

Mr. Speaker, do our colleagues and the American people realize that scientists have verified that the two areas of the Pacific where considerable concentrations of ciguatera poisoning exist are found in the reefs and marine life of the Republic of the Marshall Islands and of French Polynesia?

Mr. Speaker, may I remind my colleagues and the American people there is a direct correlation between nuclear tests that were conducted in the Marshall Islands by our own Government and the nuclear tests now being conducted by the French Government in French Polynesia. The point is, Mr. Speaker, ciguatera poisoning is heavily concentrated in the fish and marine life of these two areas of the Pacific, and there is a tremendous need right now to examine this serious byproduct of nuclear testing which poisons the very food we depend upon from the Pacific Ocean.

Mr. Speaker, we do not need to explode more nuclear bombs to see if it does harm to human beings.

☐ 1245

The two nuclear bombs that were dropped on the residents of the cities of Hiroshima and Nagasaki some 50 years ago killed and vaporized some 290,000 men, women, and children in Japan during World War II. Mr. Speaker, while the international community looks on, France continues to defy the concerns of millions of people around the world, continues to explode their nuclear bombs not in or anywhere near France, but some 14,000 miles away from Paris.

Mr. Speaker, I submit here is a classic example of a so-called democracy that so desperately wants and desires respect and preeminence as a superpower in Europe, they are pursuing nuclear weapons development at the expense of the lives and safety of some 200,000 French citizens living in French Polynesia. Mr. Speaker, how does one justify the Chirac government's exploding more nuclear bombs when over 60 percent of France's public is opposed to nuclear testing? How about the 200,000 French citizens who will be directly impacted if nuclear contamination breaks out from the atolls, where the tests now are being conducted?

Is it fair, Mr. Speaker, for President Chirac of France to conclude that the lives of 200,000 French citizens living in French Polynesia are deemed expendable for the sake of France to become a preeminent force in Europe? Is it also fair, Mr. Speaker, that President Chirac has now determined that the safety of some 28 million people living in the Pacific region is also deemed expendable so as to promote France's nuclear capabilities? In the name of fairness and equity, Mr. Speaker, what right does President Chirac have to impose the hazards of nuclear contamination on millions of people in the Pacific who are not subject to French control? Mr. Speaker, I am not one to defend China's nuclear testing program, but at least they test within their own backyard.

Mr. Speaker, recently the gentleman from Massachusetts, Congressman EDWARD MARKEY, and the gentleman from California, Congressman PETE STARK, and myself introduced a bill, H.R. 2529, that places up to an 800-percent duty on all French beaujolais wine imported to this country. With each nuclear explosion, the price of French wine shall escalate. People should not buy French wine to protest France's testing. I ask my colleagues and the American people to support us in this effort, and to send President Chirac a strong message: Nuclear testing and nuclear bomb explosions are no longer relevant in our world today.

I submit, Mr. Speaker, when are we going to stop this madness, in that we continue to justify ourselves by saying this is the only way that we are going to defend ourselves, by having a nuclear deterrent capability. Mr. Speaker, this is the height of contradiction. We outlaw germ warfare, we outlaw chemical warfare, but we don't touch nuclear warfare, the most destructive warfare in existence. This the height of hypocrisy, Mr. Speaker. The height of hypocrisy.

Mr. Speaker, I include for the RECORD articles on the European Community's reaction to the bombings.

[From the Washington Times, Nov. 20, 1995]

TEST CRITICS RILE PARIS

CHIRAC CANCELS SUMMITS WITH ITALY, BELGIUM

(By Pierre-Yves Glass)

PARIS.—French nuclear tests in the Pacific have blown open a rift between France and most of its European partners. For Paris, their criticism of the blasts amounted to betrayal.

Angered by their support of a U.N. resolution condemning French nuclear tests, President Jacques Chirac on Friday abruptly canceled planned summits with the leaders of Belgium and Italy.

Paris justified its action, saying the positions of those states and eight other European Union members didn't "correspond to our idea of European solidarity."

By joining 85 other nations in condemning France, those 10 EU states broke a decades-old tradition of backing a fellow EU member when it deemed its actions essential to its national interests.

But their act could be a reminder to Mr. Chirac that the EU has 15 states and isn't just a club run by its most powerful members—France, Germany and Britain.

The French have to understand that their partners in the European Union have opinions on an initiative on which they have not been consulted," Belgian Prime Minister Jean-Luc Dehaene said Saturday.

France has responded to world outrage by insisting its series of six underground nuclear blasts in French Polynesia this fall are essential to ensure the viability of its nuclear arsenal. Government sources said the fourth detonation would take place within the coming days.

Paris has pledged to sign a testban treaty next spring after completing the tests. The United States, Britain and Russia all have adhered to a moratorium on nuclear testing.

A U.N. commission's resolution Thursday "strongly deplored" continued nuclear tests by France and China—without naming the countries—and demanded the General Assembly call for a stop to them.

Among the EU's 15 members, only Britain—the bloc's other nuclear power—voted with France against the resolution. Germany, Spain and Greece—usually staunch French allies—abstained.

The resolution was supported by all other EU members—Austria, Belgium, Denmark, Finland, Ireland, Italy, Luxembourg, Portugal, Sweden and the Netherlands.

Paris wants to offset U.S. domination of NATO by creating a more independent EU defense system. It interpreted the vote by 10 EU countries condemning the French blasts as a slap in the face.

The vote of the 10 EU naysayers "goes counter to [European] solidarity just as everyone proclaims support for a firmer European defense," former Premier Edouard Balladur said.

[From the Honolulu Advertiser, Nov. 24, 1995]

SALES OF FRENCH BEAUJOLAIS HIT BY ANTI-NUCLEAR BOYCOTT

POLITICS OF TESTS IN S. PACIFIC SOUR THE NEW VINTAGE

It has evolved into one of the most hallowed annual rituals in France, a moment when bleak autumn blues are swept away by an ocean of fruity red wine spilling out of southern Burgundy amid a boisterous chorus heard around the world:

Le beaujolais nouveau has arrived!

The yearly rush to ship the stuff to every corner of the globe at the stroke of midnight on the third Thursday in November is one of France's great marketing coups. The unpretentious wine, bottled just weeks after the grape harvest, produces sneers from connoisseurs but more than $100 million a year for growers.

Alas, this year's vintage is already producing a horrendous hangover. Foreign sales have dropped precipitously in many markets, largely because of consumer boycotts over France's decision to resume nuclear testing in the South Pacific.

The United States is an exception: sales are solid in Les Etats Unis, including Hawaii, where wine merchants say it would be a crime to let politics interfere with imbibing.

"They are all fanatics," R. Field Wine Co. managing partner Tim Learmont says of those who would forgo le beau for le bombe.

The protest, Learmont says, is misplaced. "A lot of the people that grow the wine are themselves opposed to nuclear testing. They are punishing the wrong people, and they are punishing themselves by boycotting the wine."

In fact, Learmont said, sales in his Honolulu shop at Ward Centre appear to be brisker this year than last, with 12 cases sold in less than a week, and only 24 more cases here or on the way.

Learmont attributes the sales, at $13.99 a bottle with discounts for six or more bottles, to the "fresh, clean" quality of the new vintage, "with a lot of strawberry character to it.

"This nouveau is much better than last year," Learmont says. "Of course," he grins, "we say that every year."

But in Japan and Scandinavia, where anti-nuclear protests are popular, beaujolais sales have fallen by more than 30 percent, according to the French winegrowers' union. In Germany, bar customers are asking to pay for the thrill not of drinking beaujolais but of smashing the bottles.

"Politics never mixes well with wine," said Franck Duboeuf, who operates France's biggest wine-exporting empire with his father, Georges, known as the "King of Beaujolais," from their base in Romaneche-Thorins.

"Banning the bomb and nuclear testing may be worthy causes, but to stop buying wine is not the best way to achieve those goals," Duboeuf said in a telephone interview.

But even new markets such as Brazil, China and Singapore have not offset sharp declines in Japan, the Netherlands and other anti-nuclear nations.

[From the New York Times, Nov. 17, 1995]

CHINA REBUKES FOUR OTHER NUCLEAR POWERS ON ARMS CONTROL

(By Patrick E. Tyler)

BEIJING, Nov. 16.—Issuing a major policy statement on arms control, China tonight sharply rebuked the United States, Russia, Britain and France for continuing to develop "nuclear weapons and outer space weapons, including guided missile defense systems" while seeking in some cases to deny the peaceful use of nuclear technology to the developing world.

The policy document, issued by the official New China News Agency, said the world's major nuclear powers "on the one hand, vie with one another in dumping their advanced weapons on the international market, even using weapons transfers as a means to interfere in other nations domestic affairs."

"On the other," it continued, "they resort to discriminative anti-proliferation and arms control measures, directing the spearhead of arms control at the developing countries."

Without mentioning Taiwan, the document implicitly warned Washington that Beijing regards continuing arms sales to the island as interference in China's internal affairs.

For the first time, the policy declaration also appeared to express China's formal opposition to an American proposal to deploy ballistic missile defense systems in Asia to protect Japan and American military forces there, principally against North Korea. Beijing fears that such a missile defense system could undermine Chinese strategic nuclear forces, which were developed to hold American, Japanese and Russian targets at risk of retaliation in any nuclear conflict.

Chinese officials were alarmed when President Clinton and President Boris N. Yeltsin signed a communiqué in May saying Washington and Moscow should cooperate in developing ballistic missile defenses.

In a larger context, China's policy presentation was made to a world and regional audience that is very much concerned with fundamental security questions in Asia. They include the rising military tensions between China and Taiwan; the territorial conflicts in the South China Sea, where there are rich deposits of oil, and China's competition with Japan for regional dominance. The role of American forces in Asia is connected to each one of these issues.

China's policy statement may have also been timed in part to blunt the international criticism that will resume when Beijing detonates its expected third underground nuclear warhead this year, part of a final series of tests leading up to the conclusion in 1996 of a nuclear test ban treaty, which China has pledged to sign. Preparations at the Lop Nor testing range in the far west of China have been observed by American reconnaissance satellites, foreign diplomats here say.

Concerning its own nuclear cooperation with such countries as Iran and Pakistan, both of which have nuclear weapons programs, the document pledged that China would combat the spread of weapons of mass destruction. But it asserted, "There must not be a double standard whereby anti-nuclear proliferation is used as a pretext to limit or retard the peaceful use of nuclear energy by developing nations."

China defended its level of military spending, which has increased about 50 percent, taking inflation into account, since the late 1980's, according to estimates by Central Intelligence Agency.

"China needs a peaceful environment in order to be able to devote itself completely to its socialist modernization program," the document said. "As long as there is no serious threat to China's sovereignty or security, China will not increase its defense spending substantially or by a big margin. It will never threaten nor invade any other country."

PRESIDENT SHOULD SEEK SUPPORT OF THE PEOPLE AND THEIR REPRESENTATIVES BEFORE SENDING UNITED STATES TROOPS TO BOSNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized during morning business for 5 minutes.

Mr. FUNDERBURK. Mr. Speaker, as thousands of American soldiers prepare to depart for a cold winter in Bosnia, two things are lacking in the White House's preparation for its plunge into the Balkan nightmare; an appreciation for the Constitution of the United States and the unique relationship which exists between constitutional government and the American military.

Mr. Speaker, the Founders did not haphazardly assign responsibility for placing American soldiers in the line of fire. Most of these men were veterans of either the French and Indian War or the Revolution or both. They are determined never to commit the Army and Navy without the full backing and faith of the American people. As Alexander Hamilton implied in the Federalist Papers, the military of the new United States was to be an instrument of the people and not of the Government.

The Founders understood that before Americans are committed to battle, the Commander in Chief must have the backing of the people, the people's representatives, and the military itself.

A few years ago, former Secretary of Defense Caspar Weinberger laid out a six point plan designed to thwart the ambitions of any President who might attempt to reserve for himself military powers which the Constitution places clearly with the people and the people's representatives. The fifth of Weinberger's six points was that: "* * * before the United States commits combat forces abroad, there must be some reasonable assurance that we will have the support of the American people and their elected Representatives in the Congress."

The distinguished military historian Col. Harry Summers notes that Weinberger's theory was not new. It is clearly found in the writings of James Madison. Madison, as Summers notes, clearly believed that there was a moral imperative that those Americans whose sons' lives are put in danger "must clearly have a say in their deployment."

Article I, section 8 of the Constitution gives to the Congress the power to provide and pay for the common defense. Constitutionally, the President can do absolutely nothing unless the Congress appropriates the money for the military's use. It was precisely that restraint on the warmaking power which forced Bill Clinton to abandon his disastrous adventure in Somalia.

Mr. Speaker, coming to Congress after a decision has been made to engage in full scale military operations abroad is an affront to the Constitution and a threat to our soldiers. I don't care what Bill Clinton pollsters tell him. The momentous issue of war and peace is too dangerous to be left to one publicity hungry chief executive.

To paraphrase a great military mind, "Bosnia is the wrong war, in the wrong place, at the wrong time." Bill Clinton, who spent his college and Oxford years tearing down the American military and damning his country overseas obviously learned nothing from his experiences during Vietnam. It is long past time that he read the simple but powerful words of the Constitution. He must either get the people on his side or pull out now.

FREE THE DISTRICT OF COLUMBIA APPROPRIATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, we are 11 days before another possible shutdown of the Federal and the District Government and I am forced to come to the floor of the House every day trying to keep this from happening, at least in the District. I recognize now that there will probably be at least a short-term CR, so that 10 days before Christmas there is not a Federal Government shutdown, but I hope to impress upon my colleagues that a short-term CR will not help the District much because it is a city and not a Federal agency.

As we saw from the starts and stops of preparing for the last shutdown, it does not help a city to give it a short-term CR. I ask my colleagues to put themselves in the position of my constituents, who have paid their taxes, who are second per capita in Federal taxes in the United States, and their money is up here in the appropriations. Eighty percent of it is their money, and there is the possibility that the Congress would shut down on their money, or put them on a CR on their money.

Tomorrow, the gentleman from Virginia, Chairman TOM DAVIS, has agreed to a hearing on a bill that would allow the District to spend its own money in the case of government shutdowns, remembering that we are not HUD or HHS—we are a city, like the cities my colleagues represent. We are caught in the middle of someone else's fight. The District is in grave financial stress. It is important to let us out so that we can continue to rebuild this city.

Mr. Speaker, this morning's Washington Times reports some distressing news, and I am quoting. "A paralyzing dispute over school vouchers has so divided Republicans that some are concerned the District will not receive an annual spending bill for the first time since the advent of home rule."

I say to my GOP colleagues who are in charge now, every year for 40 years that the Democrats were in charge, they got 13 appropriations out. It is now the GOP's responsibility to get 13 appropriations out, including the District's. Instead, what we have brewing is a major constitutional fight on the back of the weakest of the 13 appropriations, the smallest of the 13 appropriations—the D.C. appropriations.

I ask my colleagues, is it fair to hold up our appropriation over a fight, a constitutional fight, over vouchers for private and religious schools? This is a worthy question, but it deserves a hearing. It deserves exposure, major exposure, if my colleagues mean to depart from 200 years of American history.

Instead, we are told, again in the Washington Times this morning, that the gentleman from Vermont [Mr. JEFFORDS] currently holds the votes to bury any voucher program under a filibuster. Imagine filibustering our appropriation over matters that have nothing to do with the District. This proposal on vouchers and on educational reform was meant to help us. It is hurting us now very much. Get it off our backs.

If the GOP wants to do this, if they want to help us, let them do it the right way and not hold up money that the District needs desperately simply to run the city. We already have an agreement on the amount of our appropriation. It involves a cut, by the way. So everything is in order except an extraneous issue involving vouchers.

There is also an abortion issue. But the issue that is really holding our money up, threatening to shut the city down, threatening to put us on short-term continuing resolutions, is not an issue affecting the 600,000 people I represent. They deserve better. They deserve a whole lot better.

According to the Washington Times, Mr. Speaker, "Longtime observers and those involved in the process say negotiating a District spending bill is often tough, but the House and the Senate have always worked out their differences in one sitting." We are having the third sitting today and we are nowhere near to a solution on whether or not 600,000 people, many of them the hardest working people one could ever find, will get their own money out of the Congress.

Our money should not be up here in the first place. There was a whole revolution over charging people taxes without allowing them to have a say in how to spend their own money. The 80 percent I am talking about was raised in the District of Columbia from District taxpayers. Most Americans do not know that. My constituents know it. They are tired of being held up here over the fight between the executive and the Congress of the United States. They understand that to be a worthy fight that has to be fought out, but surely no one believes that we should be punished by disallowing us the flexibility to spend our own money.

Mr. Speaker, there are over-obligation prospects out there because if we are given a 1-month CR, there are mandates such as AFDC. There are mandates such as payroll. We cannot guarantee we will get through those mandates. Free the District appropriation.

DEAD BROKE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I want to bring to the House's attention a front page article from the December 3, 1995, Minneapolis edition of the Star Tribune title, "Dead Broke," about how gamblers are killing themselves, bankrupting their families, and costing Minnesota millions. Let me read from this compelling article:

> In less than a decade, legalized gambling in Minnesota has created a broad new class of addicts, victims and criminals whose activities are devastating families and costing taxpayers and businesses millions of dollars.
>
> Thousands have ruined themselves financially, some have committed crimes, and a handful have killed themselves. Thousands more will live for years on the edge of bankruptcy, sometimes working two or three jobs to pay off credit-card debt.

The Star Tribune said these people include Minnesotans such as:

Catherine Avina of St. Paul, an assistant attorney general who killed herself with an overdose of antidepressants after a 4-day gambling binge. The mother of three had been fired just a few days earlier, and left debts of more than $7,000 and $600 in bounced checks.

John Lee, a 19-year-old St. Paul college student who lost $8,000 in two nights at a casino. He returned home, kicked down the door to his apartment, put the barrel of a shotgun to his head, and killed himself.

Lam Ha of Blaine, a father of two and waiter at a restaurant. Last year, he and his wife filed for bankruptcy protection with a $76,000 debt, much of it on 25 credit cards. They listed gambling losses of $40,000 in 1994 alone, more than their joint annual income.

Reva Wilkinson of Cedar, who is in prison for embezzling more than $400,000 from the Guthrie Theater to support her habit. Her case cost taxpayers more than $100,000 to investigate, prosecute, and adjudicate.

According to the article, the costs of gambling include the following: 38,000 probable addicted gamblers in Minnesota; 100,000 people with increasing gambling problems; 6 confirmed gambling related suicides; more than 140 confirmed suicide attempts since 1992; more than 1,000 people per year declaring bankruptcy; $400,000 per year in welfare benefits withdrawn from casino ATM's and $200 to $300 million in estimated annual social costs—taxes, lost wages, and debts.

The article also reported that some $39,000 a month in welfare benefits from Hennepin and Ramsey counties is being withdrawn from automatic teller machines in casinos. In September, there were 769 withdrawals of public-assistance benefits using cash machines at Mystic Lake Casino in Prior Lake. Seventeen pawn shops have opened near casinos in the State. Several owners said they get 50 percent of their business from gamblers.

Ten years ago, there was one Gamblers Anonymous group meeting in the State. Today, there are 49. Calls to the State Compulsive Gambling Hotline doubled from 1992 to 1994, reaching nearly 500 per month.

Between 1988 when the first of the State's 17 casinos began operating and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The median change in counties with casinos was a 39-percent increase, compared with an 18-percent increase in noncasino counties.

And, in the face of rising crime, pathological gambling, increased bankruptcies, and broken families, what are political leaders doing? The Star Tribune says they have been silent mostly because there is a lack of credible information on the subject. The article said:

> Political leaders—even those who have taken an interest in gambling issues—acknowledge they know little about the problem. There has been no comprehensive study of the social costs—the debt, crime, and suicides associated with gambling. The state does not know what kind of treatment works, or how successful the programs it funds have been.

Assistant Attorney General Alan Gilbert, a member of the State Advisory Council on Gambling, and "But I think common sense tells you that there has to be some adverse effects. * * * We just don't know the extent of it."

Mr. Speaker, public officials in Minnesota are not alone. Public officials in Virginia, Louisiana, and States across America don't have the information they need to make informed decisions about gambling policy.

That is why I have introduced, and 126 Members of the House have cosponsored, H.R. 497, the National Gambling Impact and Policy Commission Act. This legislation would charge a blue-ribbon panel with the duty of looking at all the social costs described by the Star Tribune so that America's policymakers and citizens know what the impact of legalized gambling may be.

Mr. Speaker, the House Judiciary Committee ordered H.R. 497 reported by voice vote and the report could be filed as early as this week. I urge members who have not yet cosponsored to cosponsor this important legislation so we can rationally determine whether or not, as the Star Tribune headline puts it, America is going "Dead Broke."

Mr. Speaker, I include in the RECORD immediately following my statement an Associated Press article which summarizes the three-page Star Tribune special report, as follows:

MINNEAPOLIS.—Legalized gambling in Minnesota has created a new class of addicts, victims and criminals, devastating families and costing taxpayers and businesses millions of dollars, a published report says.

According to the report in Sunday's Star Tribune, thousands of Minnesotans have ruined themselves financially, some have committed crimes, and a handful have killed themselves because of gambling problems.

Thousands more will live for years on the edge of bankruptcy, sometimes working two or three jobs to pay off high-interest credit-card debts, the newspaper said.

Political leaders acknowledge they know little about the problem, or about the social costs of problem gambling such as debt, crime and suicides, the Star Tribune said.

"The social costs really haven't been assessed very accurately, and they certainly haven't been quantified at this point," said Assistant Attorney General Alan Gilbert, a member of the state Advisory Council on Gambling. "But I think common sense tells you that there has to be some adverse effects. . . . We just don't know the extent of it."

Minnesota's problem gamblers are mostly middle-class people whose appetite for wagering grew from office football pools or church bingo to pulltabs, racetracks, lotteries and casinos when state and federal governments began, legalizing them in the mid-1980s, the newspaper said.

The Star Tribune said they include Minnesotans such as:

Catherine Avina of St. Paul, an assistant attorney general who killed herself with an overdose of antidepressants after a four-day gambling binge. The mother of three had been fired just a few days earlier, and left debts of more than $7,000 and $600 in bounced checks.

John Lee, a 19-year-old St. Paul college student who lost $8,000 in two nights at a casino. He returned home, kicked down the door to his apartment, put the barrel of a shotgun to his head and killed himself.

Lam Ha of Blaine, a father of two and waiter at a restaurant. Last year, he and his wife filed for bankruptcy protection with a $76,000 debt, much of it on 25 credit cards. They listed gambling losses of $40,000 in 1994 alone more than their joint annual income.

Reva Wilkinson of Cedar, who is in prison for embezzling more than $400,000 from the Guthrie Theater to support her habit. Her case cost taxpayers more than $100,000 to investigate, prosecute and adjudicate.

The newspaper said even conservative estimate of the social costs of problem gambling suggest that it costs Minnesotans more than $200 million per year in taxes, lost income, bad debts and crime. An estimated $4.1 billion is legally wagered in the state each year, it said.

Two independent surveys last year estimated that the number of people who have experienced significant problems because of gambling doubled from 1990 to 1994 and now exceeds 100,000. One of those studies also concluded that there are about 38,000 people in the state with serious gambling addictions.

The problem has taken a toll on a larger-scale level as well. In a report today, the newspaper said the 14 Minnesota counties with casinos in them are experiencing a significantly faster growth in the crime rate than are counties without casinos.

Between 1988 when the first of the state's 17 casinos began operating and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The median change in counties with casinos was a 39 percent increase, compared with an 18 percent increase in non-casino counties, the paper said.

In Sunday's report, the newspaper listed several indicators of the scope of Minnesota's gambling problem. Among them:

More gamblers are going bankrupt. It said there is evidence that more than 1,000 people a year are filing for bankruptcy protection in cases involving gambling losses.

Gamblers are committing suicide. The newspaper found six people with gambling problems who had committed suicide since 1991, five of them in the past two years. At least 140 gamblers have attempted suicide, it said. The real numbers are probably much higher, it said.

Credit counselors are seeing increasing numbers of gamblers with seemingly insurmountable debts.

Some $39,000 a month in welfare benefits from Hennepin and Ramsey counties is being withdrawn from automatic teller machines in casinos. In September, there were 769 withdrawals of public-assistance benefits using cash machines at Mystic Lake Casino in Prior Lake.

Ten years ago, there was one Gamblers Anonymous group meeting in the state. Today, there are 49.

Calls to the state Compulsive Gambling Hotline doubled from 1992 to 1994, reaching nearly 500 per month.

□ 1300

BALANCED BUDGET DEBATE IS A QUESTION OF PRIORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I am here to talk about the budget. The budget. Now, first of all, all of the appropriations bills were due on September 30. A year ago at this time, we had them all done, they were all signed and that was the end of it.

So, we are now 66 days after the date that they were all due, and they are not done yet. We are still operating under this temporary thing. We had one government shutdown that was, I think, an absolute debacle, in which the Federal taxpayers paid $700 million more and got less, because they paid for people to be at work and they were not at work. They wanted to be at work, but they were not allowed to be at work.

Mr. Speaker, that is really nuts. We are looking very much again at whether or not we are going to have another one of these in 10 days, or are we going to punt it until after the holidays and start this whole thing after the beginning of the new year?

What in the world happened between last year and this year that has got us running round and round and round, screaming, yelling and hollering and looking like a third-rate "I-don't-know-what," but we certainly do not look like any superpower legislature.

Mr. Speaker, this has been a pathetic performance. I think taxpayers are angry with everybody in Washington. The reason it has been so hard to understand this is because the budget is something that everybody's eyes glaze over the minute we mention it.

Mr. Speaker, there is all sorts of rhetoric going around. I see people wearing the button "2002," like one side is going to balance in the year 2002 and the other side is not. That is wrong. The issue is not are we going to balance the budget 7 years out; the issue is how are we going to balance the budget 7 years out? Who wins? Who loses? That is going to determine what kind of a country we are.

Mr. Speaker, I think this debate is more important than any other debate we are going to have, because it is really going to set the country on a course for the next century. We are talking 2002, the next century. What kind of a country are we going to be? We say, "Well, what are we? We are America. What is America? America is the flag. What is the flag? The flag is America." Let us break out of that circle. What does America mean, and what does the flag mean, and what do we stand for, and how do we invest our tax dollars?

The huge fight between the two different sides of this aisle is whether or not we are going to have to whack away at that budget right, left, and sundry to do this tax cut; to do this tax cut for the top 1 percent of America's families. See, if we do this tax cut, the top 1 percent is going to be like winning the lottery. They are going to get $13,628, if they make over $600,000 a year. We know how they need it. They are having trouble buying all the new fancy presents they want.

Mr. Speaker, to do that, we are going to raise the taxes of the lowest 20 percent and, boy, the next 20 percent they are going to get a whole $39 back. I am sure they are wondering right now how to spend it. Then the next 20 percent is going to get $226 back. This is not going to mean anything to the average American family; especially when we turn around and figure out what we have to cut out of the budget to get this money to fund this tax rebate.

Again, that all sounds like Washingtonian blabbery-blab. Let me try to put it on a family level. Let us assume an American family is sitting around their table working on the family budget for the next year, and assume they had too much debt, that they put too much on that plastic card that tempts us all every single day, and now they have got to figure out how they get rid of that debt. So, they are looking at every member sitting at the table. What are the decisions going to be? Where do they cut back?

Mr. Speaker, do you think there is an American family around that would say to the children, the 4- to 5-year-olds, "We are going to have to take you out of Head Start?" "That is it. It is nice, but you are not even going to get to start, much less finish school." That is exactly what we are talking about doing, throwing thousands of kids out of Head Start. I do not think any American family would agree with that decision.

Mr. Speaker, do you think there is any American family that would say to the young people sitting at the table trying to go to college, "Well, that is it. We are pulling the plug on you?" I don't think so. Nor do I think they would do it to the elderly, nor do I think they would do it to anyone, just to send extra tax money to their rich uncle. That is what this is about.

NOT WHETHER TO BALANCE THE BUDGET, BUT HOW TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. EHLERS] is recognized during morning business for 5 minutes.

Mr. EHLERS. Mr. Speaker, Just as the previous speaker did, I wish to speak about the budget deficit. However, contrary to what the previous speaker did, I wish to put politics aside and just talk about some of the facts that are involved.

Mr. Speaker, we currently have a national debt which, within a week or two, will exceed $5 trillion, or more than three times the amount of the annual revenues of the United States of America.

Furthermore, over the past several years we have had budget deficits in the neighborhood of $200 billion or more a year and, in general, they have been greater than 10 percent of the annual revenues of the United States of America.

Let us break that down into human terms, as the gentlewoman from Colorado [Mrs. SCHROEDER] just did. That means that each and every man, woman, and child in the United States owes $19,000 as their share of the Federal debt. Every man, woman, and child in this country. Every American child born comes into this world with a debt of $19,000.

Currently, each of us, every man, woman, and child in the United States, pays $1,000 per year, roughly, in interest alone on the national debt. In other words, of the amount of money paid in taxes to the Federal Government, roughly $1,000 per capita goes to cover the interest.

Mr. Speaker, I pointed out a week or two ago that if any one of us as a family owed an amount of money three times or greater than our annual average income, and continued to spend 10 percent more than our annual income, and we went to a credit counselor because our credit cards had been cut off and we could not get any further loans, and we went to a credit counselor and said that we would like to balance our budget, but we wanted 7 years to do it, a credit counselor would say, "You are crazy. You are in trouble. You have to balance your budget this year."

Yet, Mr. Speaker, we as a Congress are proposing to balance the budget in 7 years and there are a number of Members, many from the other side of the aisle, who say that is too soon; we need 10 years or 9 years or 8 years. I think 7 years is too long and I think Uncle Sam needs a credit counselor, someone who would shake some sense into our heads and say, "You need to balance the budget now."

Mr. Speaker, I think as a nation we have become addicted to spending money. We expect to get services without paying for them. I learned long ago that there is no such thing as a free lunch. We as a nation have to learn that. If we want services, we have to pay for them. If we are not willing to pay for them, then we had better go without the services. That applies across the board.

As I said, I was trying to put politics aside here and just deal with the facts. I would say that too many people in the debate here, and between the Congress and the White House, have gotten into political discussions.

The President, for example, tried to use Medicare to defeat our continuing resolution and scare the elderly about what might happen to Medicare. Some Members on the other side of the aisle continue their refrain about cutting Medicare to pay for tax cuts for the rich. We just saw an example of that.

But, Mr. Speaker, I am also going to fault the Republicans, because I personally think that a number of things that we are seeking to cut are being cut too severely, and other things that are not being cut should be cut or should be cut more than they are. I think all sides have to work together and recognize the overwhelming nature of the budget deficit, and recognize that this has to be our top priority.

That is why I am delighted that we were able to reach agreement with the White House that we will, indeed, balance the budget in 7 years and that we will, indeed, work on this together.

Mr. Speaker, we have to do more than just reach agreement that we will do it. We have to work on the details. This House of Representatives has spent most of this year working on that specific issue: preparing a budget that will achieve balance in 7 years. I am proud of the work that has been done in this Chamber and in the Senate. We have sent that bill to the President. He has said he will veto it, and I suspect he will.

But then, Mr. Speaker, comes the real work. Not simply posturing to the public and saying we are going to injure the elderly by cutting Medicare, which in fact we are not, but rather we have to sit down together and negotiate in good faith and say, "Look, we have agreed to balance the budget in 7 years and the question is not whether or not we should; the question is how we are going to do it and what we are going to cut."

Mr. Speaker, that is going to take a very detailed and active and well-intentioned debate in the weeks ahead.

CONSUMER REPORTS LABELS GOP MEDICAID PROPOSAL BUM DEAL FOR AMERICAN FAMILIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DELAURO. Mr. Speaker, I would just say to the prior speaker that, in fact, that credit counselor would say, "You are crazy." Crazy that in a difficult time economically for our country, that we are about to provide a $245 billion tax break for the wealthiest Americans. That is a free lunch for the wealthiest Americans.

Mr. Speaker, we have spent a lot of time in this Congress talking about the cuts in Medicare contained in the GOP budget. Democrats believe that those cuts go too far, too fast and would be harmful to the 37 million seniors who rely on Medicare for their basic health care.

But, it isn't just Medicare cuts which threaten the health security of our senior citizens. The proposed budget also makes deep cuts in Medicaid which put seniors and their families at risk.

Last week, the Consumers Union, better known as the publisher of Consumer Reports, warned that the Medicaid overhaul would add significant new financial burdens on husbands, wives, and adult children of nursing home residents that could force families into poverty. The group estimates that the $163 billion in proposed cuts will cause hundreds and thousands of nursing home residents to lose their Medicaid coverage.

We all know Consumer Reports as the publication that tells us if we're getting a good deal or a bum deal on a new car or a new computer. This time, they've looked at the Republican Medicaid proposal from a consumer's point of view and have declared it a bum deal for American families.

Currently, Medicaid covers 60 percent of nursing home patients nationwide. The average cost of nursing home care is approximately $38,000 a year. Without Medicaid, nursing home care would be beyond the reach of middle-income Americans.

According to the Consumers Union, families of nursing home residents can expect the following changes if these Medicaid changes are approved:

Adult children may be held financially liable for the nursing home bills of their parents.

Family assets including homes may be sold or seized by Medicaid liens.

No one is guaranteed Medicaid nursing home eligibility; States may set unreasonably low income levels so that thousands of people will be denied help in paying the high costs of nursing home care.

Families may be forced to spend their life savings for long-term care of a loved one.

A representative from the National Senior Citizens Law Center, Patricia Nemore, said of these changes: "Congress is taking us back to a time when it was commonplace for Americans to lose their homes and their life savings to ensure that their husbands, wives, or parents had adequate nursing home care." She is right, this policy is wrong.

Yesterday, I met with people in my district who have parents in nursing homes. They told me that these changes would be devastating to their attempts to take care of their parents in their old age.

Jack and Patricia D'Urso of Branford, CT, have seven children and two parents, both in nursing homes. Without the help of Medicaid, they don't know how they would care for their parents. While comfortable in their retirement, they simply do not have the resources to pay approximately $80,000 a year to pay for long-term care of two parents.

Zelda Cooper of Hamden, CT, has two parents receiving nursing home care. She could not believe that Congress would consider ending the guaranteed coverage that her family relies on and has no idea how she would care for her parents should they be forced out of their nursing home.

Now, my Republican colleagues have made much ado of late about losing their message on the budget. They theorize that the American people aren't with them because they haven't heard the Republican message. The opposite is true. The message is coming through loud and clear to the American people. In fact, the more the American people know, the less they like the Gingrich budget.

It's not a bad message that is hurting Republicans, it's bad policy. It is bad policy to ask families to hawk their homes to pay for the nursing home care for loved ones. It is bad policy to impoverish middle-income families to balance the budget. That's why Consumer Reports has labeled the GOP Medicaid proposal is a bum deal for American families.

□ 1315

RECESS

The SPEAKER pro tempore (Mr. EVERETT). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 20 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

Rabbi Motty Berger, Aish HaTorah Yeshiva, Jerusalem, offered the following prayer:

In a sorely troubled world, filled with all too much hatred, violence, and human misery, we pray to You, dear God, for divine guidance; such guidance is needed for all of us, in and out of government, as we work toward a better day for all mankind. We pray to You, our Father, who taught us to love our neighbors and to seek peace, to imbue us with both the wisdom and the will to apply Your teachings in relations between nations as well as between individuals. Let us reflect on the enormous power available to mankind, power which we may use for good or evil, to build or to destroy. It is ours to choose: life or death. May we be inspired by the prophetic message, "Not by might, nor by power, but by My spirit, saith the Lord of Hosts," and thereby choose life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE.

The SPEAKER. Will the gentleman from Georgia [Mr. BARR] come forward and lead the House in the Pledge of Allegiance.

Mr. BARR led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO RABBI BERGER

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, it gives me great pleasure to introduce Rabbi Motty Berger who gave the opening prayer of today's session of the House of Representatives. I was fortunate enough to meet Rabbi Berger several years ago at the College of Jewish Studies in Jerusalem where my wife and I enrolled in one of his courses on Jewish philosophy. During a time of tremendous transition in the Jewish community, I found Rabbi Berger to be an extremely perceptive speaker on topics surrounding the heritage of the Jewish people. He talked passionately about his desire to promote the continuity of Jewish traditions and values.

Rabbi Berger was born and raised in the United States and after graduating high school attended Ner Israel Rabbinical School in Baltimore. After completing his rabbinical studies, he went on to teach Jewish philosophy in Jerusalem and became extremely active with the Aish HaTorah organization. This yeshiva has dedicated itself to creating a warm environment that promotes Jewish unity. With that said, it is a tremendous honor to welcome Rabbi Motty Berger.

DISPENSING WITH CALL OF PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar scheduled for today be dispensed with.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AGREEMENT BETWEEN REPUBLICAN AND DEMOCRATIC OFFICIAL OBJECTORS RELATIVE TO PROCEDURES FOR CONSIDERATION OF PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that at this point in the RECORD there be inserted an agreement between the three Republican and three Democratic official objectors to the Private Calender relative to procedures used for the consideration of the Private Calendar during the 104th Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The text of the agreement is as follows:

Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to set forth some of the history behind, as well as describe the workings of the Private Calendar. I hope this might be of some value to the Members of this House, especially our newer colleagues.

Of the five House Calendars, the Private Calendar is the one to which all Private Bills are referred. Private Bills deal with specific individuals, corporations, institutions, and so forth, as distinguished from public bills which deal with classes only.

Of the 108 laws approved by the First Congress, only 5 were Private Laws. But their number quickly grew as the wars of the new Republic produced veterans and veterans' widows seeking pensions and as more citizens came to have private claims and demands against the Federal Government. The 49th Congress, 1885 to 1887, the first Congress for which complete workload and output data is available—passed 1,031 Private Laws, as compared with 434 Public Laws. At the turn of the century the 56th Congress passed 1,498 Private Laws and 443 Public Laws—a better than three to one ratio.

Private bills were referred to the Committee on the Whole House as far back as 1820, and a calendar of private bills was established in 1839. These bills were initially brought before the House by special orders, but the 62nd Congress changed this produce by its rule XXIV, clause six which provided for the consideration of the Private Calendar in lieu of special orders. This rule was amended in 1932, and then adopted in its present form on March 22, 1935.

A determined effort to reduce the private bill workload of the Congress was made in the Legislative Reorganization Act of 1946. Section 131 of that Act banned the introduction or the consideration of four types of private bills: first, those authorizing the payment of money for pensions; second, for personal or property damages for which suit may be brought under the Federal tort claims procedure; third, those authorizing the construction of a bridge across a navigable stream, or fourth, those authorizing the correction of a military or naval record.

This ban afforded some temporary relief but was soon offset by the rising postwar and cold war flood for private immigration bills. The 82nd Congress passed 1,023 Private Laws, as compared with 594 Public Laws. The 88th Congress passed 360 Private Laws compared with 666 Public Laws.

Under rule XXIV, clause six, the Private Calender is called the first and third Tuesday of each month. The consideration of the Private Calendar bills on the first Tuesday is mandatory unless dispensed with by a two-thirds vote. On the third Tuesday, however, recognition for consideration of the Private Calendar is within the discretion of the Speaker and does not take precedence over other privileged business in the House.

On the first Tuesday of each month, after disposition of business on the Speaker's table for reference only, the Speaker directs the call of the Private Calendar. If a bill called is objected to by two or more Members, it is automatically recommitted to the Committee reporting it. No reservation of objection is entertained. Bills unobjected to are considered in the House in the Committee of the Whole.

On the third Tuesday of each month, the same procedure is followed with the exception that omnibus bills embodying bills previously rejected have preference and are in order regardless of objection.

Such omnibus bills are read by paragraph, and no amendments are entertained except to strike out or reduce amounts or provide limitations. Matter so stricken out shall not be again included in an omnibus bill during that session. Debate is limited to motions allowable under the rule and does not admit motions to strike out the last word or reservation of objections. The rules prohibit the Speaker from recognizing Members for statements or for requests for unanimous consent for debate. Omnibus bills so passed are thereupon resolved in their component bills, which are engrossed separately and disposed of as if passed separately.

Private Calendar bills unfinished on one Tuesday go over to the next Tuesday on which such bills are in order and are considered before the call of bills subsequently on the calendar. Omnibus bills follow the same procedure and go over to the next Tuesday on which that class of business is again in order. When the previous question is ordered on a Private Calendar bill, the bill comes up for disposition on the next legislative day.

Mr. Speaker, I would also like to describe to the newer Members the Official Objectors system the House has established to deal with the great volume of Private Bills.

The Majority Leader and the Minority Leader each appoint three Members to serve as Private Calendar Objectors during a Congress. The Objectors are on the Floor ready to object to any Private Bill which they feel is objectionable for any reason. Seated near them to provide technical assistance are the majority and minority legislative clerks.

Should any Member have a doubt or questions about a particular Private Bill, he or she can get assistance from objectors, their clerks, or from the Member who introduced the bill.

The great volume of private bills and the desire to have an opportunity to study them carefully before they are called on the Private Calendar has caused the six objectors to agree upon certain ground rules. The rules limit consideration of bills placed on the Private Calendar only shortly before the calendar is called. This agreement adopted on December 5, 1995, the Members of the Majority Private Calendar Objectors Committee have agreed that during the 104th Congress, they will consider only those bills which have been on the Private Calendar for a period of seven (7) days, excluding the day the bill is reported and the day the calendar is called. Reports must be available to the Objectors for three (3) calendar days.

It is agreed that the majority and minority clerks will not submit to the Objectors any bills which do not meet this requirement.

This policy will be strictly enforced except during the closing days of a session when the House rules are suspended.

This agreement was entered into by: The gentleman from Wisconsin (Mr. Sensenbrenner), the gentleman from North Carolina (Mr. Coble), the gentleman from Virginia (Mr. Goodlatte), the gentleman from Virginia (Mr. Boucher), the gentleman from Maryland (Mr. Mfume), and the gentlelady from Connecticut (Mrs. DeLauro).

I feel confident that I speak from my colleagues when I request all Members to enable us to give the necessary advance consideration to private bills by not asking that we depart from the above agreement unless absolute necessary.

F. JAMES SENSENBRENNER,
JR.
HOWARD COBLE.
BOB GOODLATTE.
RICK BOUCHER.
KWEISI MFUME.
ROSA DELAURO.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 20 1-minute speeches on each side.

DO THE RIGHT THING: BALANCE THE BUDGET IN 7 YEARS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the President has refused to negotiate a balanced budget, just 17 days after signing an agreement to balance the budget in 7 years. There are three plans out there: His plan, which did not get one vote in the Senate, went down 96 to 0; then the Democrat Coalition plan, which did get some votes and does balance in 7 years; but the best plan is the Republican plan.

The reason I believe so is because it has the discipline of a balanced budget. It will balance in 7 years. It is the right thing to do. We will never get there unless we have the discipline.

Second, it deals with the tough issues like welfare reform. We believe it is the right thing for people to work for what they get, and not just get a handout, so they can believe in themselves. We trust States like Kansas to do what is right for those truly in need.

The Republican plan also trusts parents by giving them a $500 per child tax break. It allows them to spend money on their children rather than the Government. It will strengthen families and it is the right thing to do.

Mr. Speaker, let us do the right thing for our country, for ourselves, and for our children. Let us balance the budget in 7 years.

AMERICAN PEOPLE HAVE THE RIGHT TO FACTS ABOUT ETHICS INVESTIGATION INTO SPEAKER'S TIES TO GOPAC

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the Hartford Courant says that the Ethics Committee investigation of Speaker GINGRICH has "the foul odor of cover-up." How much longer is the Ethics Committee going to let this charade continue?

We now know that four members of the Ethics Committee—including the chairwoman herself—have ties to GOPAC. The same GOPAC which financed the Speaker's own campaigns to the tune of $250,000 a year.

The evidence against Speaker GINGRICH is so damning that last week, two of the three Republicans at the FEC voted to make their evidence public.

Mr. Speaker, I am here today to call on the chairwoman and the members of the Ethics Committee to fully disclose their ties to GOPAC. And I am calling on the Speaker himself to release the names of past GOPAC donors and release the list of past GOPAC expenses.

Mr. Speaker, if you've got nothing to hide, you've got nothing to be afraid of. But if you keep dragging your feet, the American people have a right to ask: what are you trying to hide?

AMERICAN PEOPLE WANT A BALANCED BUDGET AND NOT CHARACTER ASSASSINATION

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my friend, the minority whip, trying to whip this body into a rage with an editorial from the Hartford Courant. It is interesting, Mr. Speaker, to hear really the poster boy of American liberal journalism, Bob Woodward, on "Meet the Press" this weekend, saying in effect that all of these charges were trumped up, that there was no reason to attack the Speaker on any of these things.

In fact what we see, Mr. Speaker, is a minority so bereft of ideas, so unwilling to come to the table, so unwilling to address the central question, which is balancing this budget in 7 years, that they will try any tactic of character assassination, any exaggeration, anything to avoid the point.

Mr. Speaker, the American people want it now, they want it simply, they want us to face up to the challenges they put us here to face up to. They want us to balance the budget and not to engage in character assassination.

GATORS SCORE SEC THREE-PEAT

(Mrs. THURMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. THURMAN. Mr. Speaker, for the Florida Gators, it's 12 down and 1 to go.

That's right, after thrashing the Arkansas Razorbacks 34 to 3 for a Southeastern Conference three-peat, the fighting Gators from the University of Florida will be meeting the Nebraska Cornhuskers in the Fiesta Bowl on January 2 to settle the question of who is the No. 1 team in the Nation.

Guess whom I'll be rooting for?

The undefeated Gators, led by the tactical brilliance of coach Steve Spurrier and the pinpoint accuracy of quarterback Danny Wuerffel, stomped 12 opponents during this record year. The Gator offense left their opponents dazzled and befuddled, while the defense did the rest.

Never before have the University of Florida Fighting Gators played for a national championship. To all the dedicated coaches and gifted athletes of the 1995 University of Florida football team—and on behalf of the proud alumni, congratulations on an already historic year.

And look out Nebraska, cause the Gators will be growling again in the Fiesta Bowl.

LET THE BEST TEAM WIN

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, I cannot let go unchallenged a laying down of the gauntlet like that from my friend, the gentlewoman from Florida [Mrs. THURMAN]. As a Cornhusker and a proud supporter of Tom Osborne and the next Heisman trophy winner, Tommie Frazier, we are looking forward to our January 2 meeting with the third Florida team in 3 years.

To refresh the memory of the gentlewoman from Florida, 2 years ago we lost to Florida State. Last year we beat the University of Miami for the national championship. This year we are looking forward to repeating our national claim to that trophy. We are anxious to have at our helm, a Florida individual from Bradenton, FL, Tommie Frazier, who we are all hoping will win that Heisman trophy award.

It is going to be a fun game. I will see my colleague in Florida, and we look forward to a great, great game. Let the best team win.

FORTY YEARS AGO TODAY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, 40 years ago today, December 5, 1955, the Montgomery bus boycott began after Rosa Parks refused to give up her seat and move to the back of the bus. It marked the beginning of a long and difficult struggle toward equal rights and civil rights in this Nation.

Forty years later, those signs that I saw growing up in the rural south, those signs that said colored men, white men, colored women, white women, colored waiting, white waiting, are gone.

We have witnessed what I like to call a nonviolent revolution in America. It is a time and a period that we will never go back to, but we must never forget.

On the occasion of this important anniversary, I want to pay tribute to the leaders of that struggle, to Rosa Parks and to my late great mentor Dr. Martin Luther King, Jr.

We have come a long way toward achieving what Dr. King called the "beloved community", but we still have a long way to go. Let us, on this anniversary, rededicate ourselves to building a truly inter-racial democracy in America. For in truth, we are one nation, one people, one house, the American house.

IT IS TIME FOR PRESIDENT CLINTON TO GET SERIOUS ABOUT BALANCING THE BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, President Clinton has said time and time again that he supports a balanced Federal budget. True, he has never actually proposed such a plan, but because of the Balanced Budget Act passed by this

Congress, he has now got an opportunity to walk the walk, not merely talk the talk.

The President made a start last month when he agreed with this Congress to balance the budget in 7 years. Of course, the very next day, his chief of staff, Leon Panetta, told the American people that they should not read too much into that. But, Mr. Speaker, I am willing to take the President at his word, even if his own chief of staff apparently does not.

Mr. Speaker, the Congress has brought to the negotiating table a detailed balanced budget proposal. The President thus far has brought only press releases. The President can accept our plan, or he can tell us how much more he wants to spend and just where he is going to find the money to pay for it.

With a Federal debt at nearly $5 trillion, it is time for the President to get off the dime. Mr. President, let us work together to balance the budget.

VOTE AGAINST H.R. 2099, VA-HUD AND INDEPENDENT AGENCIES APPROPRIATIONS ACT

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, while I would like to commend the conferees on their efforts to increase funding for veteran medical care, I must rise in opposition to H.R. 2099, the VA-HUD and Independent Agencies Appropriations Act.

Mr. Speaker, in its current form, this bill eliminates two programs which promoted comprehensive and effective economic growth in disadvantaged communities—the community development financial institutions and the economic development initiative fund.

Through these programs, low-income individuals were given the opportunity to start their own businesses, small children benefited from community centers that kept them off the streets after school, families gained access to safe and affordable housing and good business was generated for America's financial services industry.

Mr. Speaker, by eliminating these programs, we are launching a double assault on poor communities. In essence, we no longer reward those individuals who take responsibility for improving themselves and creating a better life for their children; while, we simultaneously remove incentives for financial institutions to invest in these communities as well.

Mr. Speaker, we need to commend programs such as the CDFI and EDI fund because they do offer low-income individuals a hand-up, not a hand-out, which I am sure my colleagues on both sides of the aisle can appreciate.

I would urge my colleagues to consider the long-term effect that this disinvestment in America's urban communities will have on this Nation's economy. With that said, I hope my colleague will join me in voting against H.R. 2099.

PRESIDENT SHOULD SIGN BALANCED BUDGET

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, I am no great defender of the Washington press corps, but let me share this quote from this week's Newsweek magazine:

> Unfortunately, the White House isn't yet truly bargaining. President Clinton has endorsed a balanced budget but has flagrantly misrepresented the GOP budget. He say it would "destroy" Medicare. This is an absurd description of a program whose spending would grow 62 percent by 2002. He says that "deep" education cuts would "undermine" schools. But the budget barely touches the largest education program—guaranteed college loans—and all Federal aid to public schools provides only 7 percent of their spending.

Newsweek is absolutely right. The President has only paid lipservice to balancing the budget. While he tries to portray the Republican budget as draconian and mean-spirited, he offers no plan of his own.

Instead of lipservice, the President should sign the balanced budget that is now sitting on his desk.

□ 1415

BOEING MOVES TO MEXICO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, earlier this year American workers in the Boeing Seattle plant won awards and trophies for worker productivity. Thirty days after the speeches and the trophies, Boeing is moving to Mexico; 2,000 more livable wage jobs down the chute.

The facts: Boeing paid $18 per hour labor wage in Seattle. Boeing will now pay 76 cents an hour labor wage in Mexico. And if you really want to spill your Wheaties, ladies and gentlemen, Mexico has yet to purchase one Boeing jet. Beam me up, Mr. Speaker.

The trade deficit is at a record. Japan and China are literally raping our shores. If you want to get a job in this country, move to Mexico. The biggest export for NAFTA has been American jobs. Shame, Congress. Shame for turning your back on the American workers. What will be left? A couple more McDonald's jobs. Think about it.

ANTITERRORISM LEGISLATION

(Mr. BARR asked and was given permission to address the House for 1 minute.)

Mr. BARR. Mr. Speaker, I am very happy to appear today as a member of the Committee on the Judiciary and a Member of this body very concerned about antiterrorism legislation that gives Government the tools it needs yet respects the rights of all of our citizens here to report to this House that we have worked out through the yeoman efforts of the gentleman from Illinois [Mr. HYDE] of the Committee on the Judiciary a piece of legislation that we intended to bring to the floor of this House very shortly and that goes a long way toward giving the Government the tools that it needs within the bounds of civil liberties, yet does not represent a vast expansion of Federal electronic surveillance power and intrusive technique and does not erode the very strict separation between military and domestic law enforcement by weakening posse comitatus.

I would like to report to the House that we will have before us a piece of legislation that will indeed strengthen our Government's hand to protect us against acts of terrorism yet is very mindful of the civil liberties that all of us, both individually and collectively, enjoy and should enjoy in this country.

NATO

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute.)

Mr. FUNDERBURK. Mr. Speaker, the Clinton administration is a constant source of amazement. It is ringing alarm bells about how American boys need to save NATO by getting knee deep in Bosnia. Yet, while it's preaching about saving NATO, it is championing the cause of an avowed Marxist to be NATO Secretary General.

Last week, the Clinton administration approved the selection of Javier Solana, Spain's Foreign Minister to lead NATO at this supposedly critical time. Mr. Speaker, let me tell you about Mr. Solana. He has spent his life attacking NATO and the United States. He led the Socialist Worker's Party campaign to impose communism on Spain. He is an ally and admirer of Fidel Castro. He is virulently anti-American and represents a country which is not even part of NATO's military command.

Mr. Speaker, Bill Clinton's argument that NATO will crumble in Bosnia without American troops is silly on its face, but to promote the likes of Javier Solana when American lives are on the line is nothing short of outrageous. If this is what Bill Clinton thinks of NATO, then the NATO's 'charter isn't worth the paper it's written on and it certainly isn't worth the life of one single American soldier.

BALANCED BUDGET ACT OF 1995

(Mr. LEWIS of Kentucky asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, it's been more than 2 weeks since President Clinton promised to balance the budget in 7 years. He still doesn't have a plan, but don't worry America, there is a solution.

It's called the Balanced Budget Act of 1995. It's a 7-year plan to balance the budget and ensure a bright future for our children and it's waiting for the President's signature.

I know, I know, Mr. and Mrs. America, you've heard all about the draconian cuts in this bill. But the Balanced Budget Act increases spending by more than $2.5 trillion during the next 7 years. Medicare spending increases 62 percent, Medicaid spending increases 43 percent, student loan spending increases 49 percent.

Mr. Speaker, the President has it easy. We've already done the work. All he has to do is sign on the dotted line and he has helped save the next generation. Mr. Speaker, I hope he does the right thing—I hope the President signs the Balanced Budget Act of 1995.

BALANCE THE BUDGET NOW

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, Americans want Congress and the President to balance the budget and they want a plan now, not next year.

A public opinion survey of 7,200 registered voters show that when Americans are given the truth, they overwhelmingly favor the Republican proposal to balance the budget in 7 years.

Eighty-six percent believe the President and Congress should deal with the budget issue now compared to 9 percent who feel the issue should be put off until after next year's election.

Seventy-one percent believe that the President and Congress should submit a 7-year balanced budget scored by the nonpartisan Congressional Budget Office.

The Congress did this long ago.

Mr. Speaker, the Congress and the American people are eager to see the President's plan to balance the budget in 7 years. How else can we negotiate?

It's been 15 days since the President agreed to do this. The deadline is next Friday. Where's the President's 7 year balanced budget?

THE TRUTH ABOUT THE BUDGET

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, the previous speaker, my friend from Maryland, said the American people want to know the truth about the Balanced Budget Act of 1995. I think they deserve it.

The Balanced Budget Act of 1995 will borrow $296 billion for the next fiscal year budget. It will borrow $118 billion from trust funds such as the Social Security trust fund that is supposed to be set aside to protect senior citizens' Social Security payments in the future.

The Balanced Budget Act of 1995 will go on to borrow $75 billion and give most of that money away in tax breaks for America's wealthiest 12 percent.

I am glad my friend from Maryland wants to know the truth, and I have just given it to him. I hope the gentleman from Ohio [Mr. KASICH], and I hope all the Members of this body will correct the things that I just brought to our attention, because that is certainly not a balanced budget by anyone's scoring.

WAITING FOR THE PRESIDENT'S BUDGET

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, I draw your attention to this particular chart here. As of today, it has been 1,280 days since candidate Clinton promised a national audience on "Larry King Live," "I would present a 5-year plan if elected President to balance the budget." It has been 17 days, not 16, 17 days since the President promised in writing to sign a bill by the end of this year that balances the budget in 7 years using honest numbers.

We Republicans have done our job. We have sent the President a detailed fair budget plan to do just that. However, the President says he does not like our plan. Well, if that is the case, where is his plan? Let him put his plan on the bargaining table. That is negotiating in good faith.

Let me repeat that. If the President does not like our plan to balance the budget, then he should produce his own plan to balance the budget, not this. His budget has deficits in the range of $200 billion well into the next century. The American people are tired of all the cheap political talk coming out of the White House, the political posturing, the demagoguery. They want to see action. They want to see how the President proposes to balance the budget.

Mr. Speaker, it has been 17 days so far. We are still waiting for the President's balanced budget plan. How many more days will we have to wait until he keeps his promise and signs a budget?

USING HONEST NUMBERS

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, we have passed a budget that will be in balance in 7 years using honest numbers. Medicare spending will increase by 62 percent. Medicaid spending will increase by 43 percent. Student loan spending will increase by 48.5 percent. School lunch spending will increase by 37 percent. Mr. Speaker, we are $5 trillion in debt. We are allowing programs to continue to grow. We are making a responsible effort to balance our budget for the sake of our children and grandchildren's future.

What do we have from the President and other liberal Democrats? Nothing. Distortions. Misrepresentations. We have a plan to balance the budget; all they have is talk.

Mr. Speaker, some people would rather talk about balancing the budget. Some people don't want to make the hard choices. Some people just don't want to balance the budget. Meanwhile, we are working to protect the future for our children, to give them a chance for the American dream. That is what we were elected to do.

HELP THE PRESIDENT KEEP HIS WORD

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, perhaps the current budget negotiations should be terminated. They undermine the President's ability to keep his word to the American people.

In June 1992, then candidate Bill Clinton said he would balance the budget in 5 years. "I would present a 5-year plan to balance the budget," he pledged to the voters. That means he will have to balance the budget by 1997, 2 years from now.

Maybe Republican leaders should not be negotiating with the administration to balance the budget in 7 years. Let President Clinton keep his contract with the American people and show us how he would balance the budget in 2 years.

Of course, we'd have more confidence that the President meant what he said if he had any plan to balance the budget.

The Federal Government should not spend more than it collects, for two reasons: First, it will help the economy and the American people. Second, it will help President Clinton keep his word.

BALANCING THE BUDGET

(Mr. CHRYSLER asked and was given permission to address the House for 1 minute.)

Mr. CHRYSLER. Mr. Speaker, Congress and the President are now in the midst of a great debate about balancing the budget. The President has at one time or another promised to implement many of the items contained in Congress' Balanced Budget Act that is now on his desk.

He said he wanted serious welfare reform. He said he wanted to balance the budget in 7 years. And he also said that he wanted to give tax relief to working, middle-class American families.

But yet he persists in saying that the Republicans only want to give tax breaks to the rich. This is pure fantasy.

This chart clearly shows that the vast overwhelming majority of our $500 per-child tax credit goes to those making less than $75,000. In fact, 89 percent of this tax break goes to the middle class.

Mr. Speaker, the President should end the scare tactics, sign the Balanced Budget Act, and give tax relief to working families.

PROTECT THE ENVIRONMENT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, we should make sure that we reach agreement on the Interior bill, the environmental bill. The House has rejected this extremist measure and, now that the American people have spoken, that we want to have mining reform, that we want to stop logging in the Tongass, that we want to deal with our parks in a sensible way, that it makes sense to come back with a moderate bill that the President can sign. Many times the House has said to those that want to gut the environment, we do not want that. We want you to reach agreement on this issue.

We are making progress on this, but let us put this appropriation bill to bed. There are so many appropriations bills that have not been dealt with that are still in controversy, that at least this one, where the American people are behind bipartisan efforts of our side and moderate Republicans to reach agreement, let us proceed with this bill at least as a start. The American people want to protect the environment.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Banking and Financial Services, Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Transportation and Infrastructure, and Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after the debate has concluded on all motions to suspend the rules.

BIG THICKET NATIONAL PRESERVE LAND EXCHANGE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 826) to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, as amended.

The Clerk read as follows:

H.R. 826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) under the Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46), Congress increased the size of the Big Thicket National Preserve through authorized land exchanges;

(2) such land exchanges were not consummated by July 1, 1995, as required by Public Law 103–46; and

(3) failure to consummate such land exchanges by the end of the three-year extension provided by this Act will necessitate further intervention and direction from Congress concerning such land exchanges.

SEC. 2. TIME PERIOD FOR LAND EXCHANGE.

(a) Extension.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enacment".

(b) Independent Appraisal.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) Limitation.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

SEC. 3. REPORTING REQUIREMENT.

Not later than six months after the date of the enactment of this Act and every six months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

SEC. 4. LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.

If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (b)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (b)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (b)(2).

(b) Lands Described.—

(1) Private lands.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) Federal lands.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(c) Administration of Lands Acquired by the United States.—The lands acquired by the Secretary under this section shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from New Mexico [Mr. RICHARDSON] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 826, sponsored by Mr. WILSON of Texas, would extend the authority previously granted to the Park Service to conduct land exchanges with private owners and the Forest Service at the Big Thicket National Preserve. These exchanges will add critical acreage to the park unit. Because of the lack of progress by the respective agencies, this legislation is necessary to facilitate expansion of the Big Thicket National Preserve as mandated by the 103d Congress.

Mr. WILSON has worked cooperatively with the committee and the agencies to find a way to promptly facilitate this noncontroversial land exchange. This legislation will extend the deadline for completion of these exchanges by 3 years or until July 1, 1998. Because we are interested in these exchanges occurring in a prompt manner, this bill will also terminate the authority of the Park Service to conduct this exchange if the new deadline is not met. Moreover, there is a requirement that the agencies report back to the committee every 6 months on the progress of the exchange. Last, included in the text is the authorization to complete a very minor exchange necessary to provide emergency access to an inholder in times of flooding. This will exchange 3.76 acres of private lands for 2.38 acres of park lands. This is a noncontroversial exchange supported by both the landowner and the Park Service.

I urge my colleagues to support H.R. 826 for the betterment of the Big Thicket National Preserve.

□ 1430

Mr. Speaker, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 826, introduced by my good friend and colleague, Representative CHARLIE WILSON. It is a disappointment that the Big Thicket National Preserve land exchanges that were previously authorized have not been completed. Representative WILSON introduced H.R. 826 to extend the deadline for completion of these exchanges. I am going to see that the bill extends the time period. However, it appears that the gun is being put to the head of the National Park Service to get the land exchanges completed, when it does not appear that the National Park Service is the problem in getting the exchanges done. I hope that the committee amendment's triggering mechanism will not be necessary and that these exchanges can be completed quickly.

I would also note, Mr. Speaker, that the committee amendment includes an additional land exchange that had not been previously discussed. I understand that this small exchange is one the National Park Service supports and that it is dependent on a third party making available lands that the National Park Service wants. I have no objection to this particular exchange, with the understanding that it is one that the National Park Service supports and that it can and will be carried out properly.

Mr. Speaker, H.R. 826 will facilitate the acquisition of lands within the Big Thicket National Preserve that have significant environmental and recreational values. This is a worthy effort that Representative WILSON has been working on for years. I support the bill, as amended, and urge its adoption by the House.

Mr. WILSON. Mr. Speaker, today the House will consider H.R. 826, a bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas.

As you know, under the Big Thicket National Preserve Addition Act of 1993, Public Law 103–46, Congress increased the size of the Big Thicket National Preserve through certain authorized land exchanges.

Unfortunately, the land exchanges were not consummated by the July 1, 1995 deadline as required by law, hence the need for my bill H.R. 826. This legislation merely extends the original deadline to July 1, 1998, thus providing the appropriate congressional authorization.

Assurances have been given by officials of the U.S. Department of Agriculture, the U.S. Department of the Interior, and the private landowners involved, that the land exchanges will be successfully completed by July 1, 1998.

I urge my colleagues to support this bill.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 826, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, passed.

The title of the bill was amended so as to read: "A bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and for other purposes".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 826, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

AMENDING THE DOUG BARNARD, JR.—1996 ATLANTA CENTENNIAL OLYMPIC GAMES COMMEMORATIVE COIN ACT

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2336) to amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

The Clerk read as follows:

H.R. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN COIN SPECIFICATIONS.

Section 102 of the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act (91 U.S.C. 5112 note) is amended—

(1) in the table at the end of subsection (a)—

(A) by striking "Not more than 175,000 each of 2 coins of different designs" and inserting "2 coins of different designs, in quantities not to exceed 175,000 of each design"; and

(B) by striking "Not more than 300,000 each of 2 coins of different designs" and inserting "2 coins of different designs, in quantities not to exceed 100,000 of the first design and not to exceed 150,000 of the second design";

(2) in the table at the end of subsection (b)—

(A) by striking "Not more than 750,000 each of 4 coins of different designs" and inserting "4 coins of different designs, in quantities not to exceed 750,000 of each design"; and

(B) by striking "Not more than 1,000,000 each of 4 coins of different designs" and inserting "4 coins of different designs, in quantities not to exceed 350,000 of each of the first 2 designs, and not to exceed 500,000 of each of the remaining 2 designs"; and

(3) by striking subsection (c) and inserting the following:

"(c) HALF DOLLAR CLAD COINS.—

"(1) SPECIFICATIONS.—The Secretary shall issue not more than 8,000,000 half dollar coins, each of which shall—

"(A) weight 11.34 grams;

"(B) have a diameter of 30.61 millimeters;

"(C) be minted to the specifications for half dollar coins under section 5112(b) of title 31, United States Code; and

"(D) contain an inscription of the year '1995' or '1996', as the Secretary determines to be appropriate.

"(2) DESIGNS.—Coins issued under paragraph (1) shall be of 4 designs selected in accordance with this Act in such quantities as the Secretary determines to be appropriate.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 20 minutes, and the gentleman from New York [Mr. FLAKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2336, a measure that lowers the minting levels of the Atlanta Olympia commemorative coins. I am grateful to enjoy the support of Representative JAMES A. LEACH, chairman of the Committee on Banking and Financial Services. On the other side of the aisle, Representative GONZALEZ, former committee chairman; Representative FLAKE, the ranking member of the subcommittee; and Representative FRANK of Massachusetts have provided their strong support for this legislation, and I am very appreciative of their efforts. I must also acknowledge the valued input and support of Representatives BARR, LUCAS, and METCALF of the subcommittee.

Mr. Speaker, the Subcommittee on Domestic and International Monetary Policy of the House Banking and Financial Services Committee has primary jurisdiction over the commemorative coin programs of the U.S. Mint. This legislation is supported by the Atlanta Committee, the U.S. Mint, the Citizens Commemorative Coin Advisory Committee [CCCAC], and the Georgia congressional delegation.

Mr. Speaker, H.R. 2336 amends the mintage levels in section 102 of the 1996 Atlanta Olympic Games Commemorative Coin Act. The maximum 1996 minting of the two gold coins, previously authorized for 600,000 for both, is reduced to a total of 250,000. The 1996 minting of $1 silver coins is reduced from 4 million total of four designs to a sum total of 1.7 million. Half-dollar coins, originally slated for a minting of 10 million, are reduced to 8 million over 2 years. These reductions are necessary for the success of the program.

Mr. Speaker, this bill is supported by the people and groups that will be directly affected; namely, the Atlanta Committee, the people of Georgia, and the Citizens Commemorative Coin Advisory Committee. They realize that unless the rate of sales are increased, the Atlanta Olympic commemorative coin program will not achieve its potential. By lowering the mintage levels, collector interest should be stimulated, and the overall program would be enhanced. This bill is necessary for the success of the Atlanta Olympic coin program, and I urge its immediate adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2336, a measure to amend the Doug Barnard, Jr. 1996 Atlanta Centennial Olympic Games Commemorative Coin Act. The Georgia delegation, in bipartisan cooperation, has sponsored this bill which will protect the integrity of the commemorative process. More importantly, however, the bill will ensure the integrity of the Atlanta games next summer.

Mr. Speaker, the Atlanta Centennial Olympic Games will be a milestone for both peace and sport. The games represent the largest peacetime event in world history, and in the tradition of Olympic competition, the games will become the beacon of 100 years of goodwill and sportsmanship.

Currently, Olympic coin sales are lagging, and to put it bluntly, Congress has authorized too many coins. Today, however, we will allow the American public to contribute to the success of this event by encouraging collectors to purchase United States 1996 Olympic coins.

Purchases of Olympic coins provide the public its best chance to display support for the U.S. Olympic team and the Atlanta Centennial Olympic Games. In return for its support, the American public gets valuable, historic, and sentimental mementos.

Mr. Speaker, by purchasing Olympic coins, we will allow our athletes to go for the gold. To support that goal, four official coins are now available as follows:

First, a gold $5 coin;

Second, two silver dollars; and

Third, and one nonprecious half-dollar.

These are the first of 16 various coins to be issued by the Mint in support of the 1996 games. The attractive coins will capture the grace of gymnastics, the speed and strength of track and field, and the certain excitement of dream team 2 as the United States reaches for gold in basketball. I therefore encourage the American public, and my colleagues, to embrace this opportunity, and to cherish these symbols of peace and sportsmanship. I encourage unanimous support for this bill, and I strongly support our Olympic effort in Atlanta next summer.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, I want to take a moment to thank Mr. CASTLE, the chairman of the Subcommittee on Domestic and International Monetary Policy and his staff for working with me and my staff in moving this important legislation to consideration by the full House. I would like to recognize the efforts of Mr. FLAKE and Mr. FRANK in support of this bill, and would also like to commend the Atlanta Committee on the Olympic Games [ACOG] for their hard work on the Olympic Commemorative Coin Program and the Olympic games as a whole. ACOG has done the State of Georgia proud, in fact the entire country should be proud of their efforts and we look forward to the fruits of their labor next summer. Mr. Speaker, H.R. 2336 is critical to the continued success of the 1996 Olympic Commemorative Coin Program.

As we consider this legislation, I want to make it clear at the outset: This legislation does not create a new commemorative coin program. Instead it reduces the mintage of an existing program, and provides flexibility to the mint to print a greater ratio of the more popular general sale coins. When this program was initiated the mintage level was set to conduct the most aggressive Olympic Coin Program ever. With the reduction in mintage, the program will still be aggressive, however we are allowing a greater potential for success.

H.R. 2336 is supported by the Altanta Committee on the Olympic Games [ACOG], the United States Mint, and the numismatic community. In fact, by lowering the mintage on the gold and silver coins, ACOG and the U.S. Mint have responded to those in the numismatic community who have said that the mintage levels are too high. They believe that by lowering the mintage levels, the value of the coins will increase and the numismatics will take a second look at purchasing these coins.

In addition, H.R. 2336 would lower the mintage levels for the 1995 and 1996 clad coins from 10,000,000 to 8,000,000, and would provide the mint the flexibility to mint more of the popular clad coins, for example basetball and baseball.

I believe that with this flexibility the general public sales will also increase.

It is important to recognize the 1996 Olympic Coin Program is not in trouble or faltering. Sales for the 1995 Olympic coins are strong especially in the international community. Unfortunately Olympic coin sales to the U.S. numismatic community have not been as good as anticipated. With this legislation we expect to build on the well-established success of the Olympic Coin Program.

As seen by other legislation before the House this Congress is in the process of reigning in and reforming commemorative coin programs. H.R. 2336 is consistent with those efforts. A successful coin program is good for the Federal budget and good for the American taxpayer.

Again, Mr. Speaker, this legislation makes changes to the Atlanta Centennial Olympic Coin Program, and does not create a new commemorative coin program. This is very simply a technical change to an already existing program.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the gentleman from Texas [Mr. GONZALEZ], the ranking member of the full Committee on Banking and Financial Services, who has spent a great deal of time in giving not only support to, but helping to shape this piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just add that the gentleman from Georgia [Mr. BARR] has been tremendously helpful in the formulation of this legislation and watching over it very carefully. The gentleman calls me constantly on it, and I appreciate that. He kept us on the straight and narrow.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. NORWOOD], who has been concerned about this legislation.

Mr. NORWOOD. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I feel strongly that we should pass H.R. 2336. The 1996 Summer Olympic Games in Atlanta is a great event for both my State and this Nation, but with this legislation I want to also acknowledge the original author of this act, one of my predecessors from Georgia's 10th District, Representative Doug Barnard.

My friend Doug Barnard was first elected in 1978 and served until 1992 and was a consistent voice for fiscal restraint. He was a boll weevil Democrat who served his district and his country well. He supports the action that I hope the House will take today in passing this legislation.

All of us in Georgia look forward to hosting the world in 1996 and are pleased that there will be U.S. minted coins to commemorate this historic event. I thank my friend Mr. BARR for his diligent work on this legislation and I urge its adoption.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Delaware [Mr. CASTLE], the chairman of the committee, for the means by which he has brought this bill forward. I think all of us know that the Olympics are not only important for America, but they are important for world peace.

I would also like to thank the gentleman from Georgia [Mr. BARR]. He has driven this process extremely well. I thank the gentleman for the kind of cooperation that all of our staffs have shared in making sure that this particular commemorative coin legislation not only will get to the floor, but out of the House.

More importantly, I think all of us are focused on the Olympics in 1996, knowing that this is one of the places where we can remove all the walls and barriers that separates us, and come together with the spirit of peace and love, a spirit of sharing and caring for one another.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

□ 1445

Mr. CASTLE. Mr. Speaker, I would like to echo the words of the distinguished ranking member of this committee, the gentleman from New York [Mr. FLAKE]. He has been a tremendous pleasure to work with throughout my tenure as the chairman of this subcommittee. Hopefully, we will have as much peace in the world as we have had in our subcommittee in terms of getting things done.

The gentleman has been very helpful in resolving problems. There was a problem here, as was pointed out to us by the two speakers from Georgia and other individuals, with the Atlanta Olympic Committee, and we recognized it. The sales are strong, but with some changes in tailoring in what we were doing, it was felt that we could move ahead. We were able to address that, and we did it in a way that will be beneficial to everybody, and I am pleased to have the opportunity to be here to help present that.

Mr. LEWIS of Georgia. Mr. Speaker, I would like to thank my colleague from Georgia for the work he has done on this bill. As he has said, it is a simple, noncontroversial bill to help the 1996 Olympic games.

I am proud to represent the city of Atlanta, which will host the 1996 games. I know many of my colleagues on both sides of the aisle have supported this effort. I would like to thank all my colleagues for their hard work and their support. I believe that the 1996 Olympics, when we celebrate the 100th anniversary of the games, will be the best Olympics ever.

This bill governs the production of commemorative coins for the 1996 games. These coins will commemorate an Olympics that will highlight the best of Atlanta, GA and the United States. We will witness the largest coming together in history of people of different nations, religions, and heritage. The Olympics not only celebrate athletic accomplishment, they celebrate diversity, peace, and our ability to overcome our differences and unite as a people. We all can learn something from the Olympic message.

I urge my colleagues' support for H.R. 2336.

Mr. GONZALEZ. Mr. Speaker, I rise in support of H.R. 2336, legislation which amends the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act.

This bill was introduced by Congressman BOB BARR, a member of the Banking Committee from the State of Georgia. He is joined today by his Democratic and Republican colleagues from the Peach State in cosponsoring H.R. 2336, a bill to significantly change the marketing strategy for the sale of Olympic commemorative coins. Revenues from the sale of these coins will be used to support the Olympic games in Atlanta.

Unfortunately, the projected sale of the coins does not appear to be as successful as anticipated when we first considered the Olympic coin program. Today we take corrective measures that make good marketing sense and should result in a restructured coin program to maximize profits for the Olympic Committee.

I commend the chairman of the Banking Subcommittee on domestic and international monetary policy, Chairman MICHAEL CASTEL, and the ranking Democratic member of the subcommittee, Congressman Floyd Flake, for their work in bringing this bill to the floor in a timely fashion.

Mr. CASTLE. Mr. Speaker, I ask for unanimous support for the legislation and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE], that the House suspend the rules and pass the bill, H.R. 2336.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2336, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

COMMEMORATIVE COIN AUTHORIZATION AND REFORM ACT OF 1995

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2614) to reform the commemorative coin programs of the U.S. Mint in order to protect the integrity of such programs and prevent losses of Government funds, to authorize the U.S. Mint to mint and issue platinum and gold bullion coins, and for other purposes.

The Clerk read as follows:

H.R. 2614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commemorative Coin Authorization and Reform Act of 1995".

TITLE I—COMMEMORATIVE COIN PROGRAM REFORM

SEC. 101. RECOVERY OF MINT EXPENSES REQUIRED BEFORE PAYMENT OF SURCHARGES TO ANY RECIPIENT ORGANIZATION.

(a) CLARIFICATION OF LAW RELATING TO DEPOSIT OF SURCHARGES IN THE NUMISMATIC PUBLIC ENTERPRISE FUND.—Section 5134(c)(2) of title 31, United States Code, is amended by inserting ", including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item" before the period.

(b) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(f) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—

"(1) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

"(A) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

"(B) the designated recipient organization submits an audited financial statement which demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount which is equal to or greater than the maximum amount the organization may receive from the proceeds of such surcharge.

"(2) ANNUAL AUDITS.—

"(A) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—Each designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such amount, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the organization, of all such payments to the organization beginning in the first fiscal year of the organization in which any such amount is received and continuing until all amounts received by such organization from the fund with respect to such surcharges are fully expended or placed in trust.

"(B) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of a designated recipient organization pursuant to subparagraph (A) shall report—

"(i) the amount of payments received by the designated recipient organization from the fund during the fiscal year of the organization for which the audit is conducted which are derived from the proceeds of any surcharge imposed on the sale of any numismatic item;

"(ii) the amount expended by the designated recipient organization from the proceeds of such surcharges during the fiscal year of the organization for which the audit is conducted; and

"(iii) whether all expenditures by the designated recipient organization during the fiscal year of the organization for which the audit is conducted from the proceeds of such surcharges were for authorized purposes.

"(C) RESPONSIBILITY OF ORGANIZATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—Each designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall take appropriate steps, as a condition for receiving any such payment, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the organization in each fiscal year of the organization can be accounted for separately from all other revenues and expenditures of the organization.

"(D) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of a designated recipient organization for which an audit is required under subparagraph (A), the organization shall—

"(i) submit a copy of the report to the Secretary of the Treasury; and

"(ii) make a copy of the report available to the public.

"(E) USE OF SURCHARGES FOR AUDITS.—Any designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may use the amount received to pay the cost of an audit required under subparagraph (A).

"(F) WAIVER OF PARAGRAPH.—The Secretary of the Treasury may waive the application of any subparagraph of this paragraph to any designated recipient organization for any fiscal year after taking into account the amount of surcharges which such organization received or expended during such year.

"(G) NONAPPLICABILITY TO FEDERAL ENTITIES.—This paragraph shall not apply to any Federal agency or department or any independent establishment in the executive branch which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item.

"(H) AVAILABILITY OF BOOKS AND RECORDS.—An organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such payment, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and workpapers belonging to or used by the organization, or by any independent public accountant who audited the organization in accordance with subparagraph (A), which may relate to the receipt or expenditure of any such amount by the organization.

"(3) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment from the fund to any designated recipient organization of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may be used, directly or indirectly, by the organization to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to such numismatic item.

"(4) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this subsection, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.".

(c) SCOPE OF APPLICATION.—The amendments made by this section shall apply with respect to the proceeds of any surcharge imposed on the sale of any numismatic item which are deposited in the Numismatic Public Enterprise Fund after the date of the enactment of this Act.

(d) REPEAL OF EXISTING RECIPIENT REPORT REQUIREMENT.—Section 303 of Public Law 103-186 (31 U.S.C. 5112 note) is hereby repealed.

SEC. 102. CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.

(a) FIXED TERMS FOR MEMBERS.—Section 5135(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) TERMS.—Each member appointed under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.".

(b) CHAIRPERSON.—Section 5135(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(6) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be elected by the members of the Advisory Committee from among such members.".

SEC. 104. COMMEMORATIVE CIRCULATING COIN PROGRAM.

(a) IN GENERAL.—The Citizens Commemorative Coin Advisory Committee shall develop a recommendation for a multiyear commemorative coin program involving the circulating coins of the United States which would supersede other commemorative coin programs for the years the commemorative circulating coin program is in effect.

(b) REPORT TO CONGRESS.—The Citizens Commemorative Coin Advisory Committee shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act on the recommendations developed by the committee pursuant to subsection (a), together with such recommendations for legislative or administrative action as the committee determines to be necessary or appropriate with respect to such recommendations.

TITLE II—PLATINUM AND GOLD BULLION COINS

SEC. 201. PLATINUM COINS.

(a) IN GENERAL.—Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(k) PLATINUM COINS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury may mint and issue platinum coins in such quantity and of such variety as the Secretary determines to be appropriate.

"(2) SPECIFICATIONS.—Platinum coins minted under this subsection shall meet such specifications with respect to diameter, weight, design, and fineness as the Secretary, in the Secretary's discretion, may prescribe from time to time.

"(3) LEGAL TENDER.—The coins minted under this subsection shall be legal tender, as provided in section 5103 of title 31, United States Code.

"(4) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this subsection shall be considered to be numismatic items.

"(5) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this subsection, there shall be—

"(A) a designation of the value of the coin and the weight of the platinum content of the coin;

"(B) an inscription of the year in which the coin is minted or issued; and

"(C) inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

"(6) SALE PRICE.—

"(A) BULLION.—The bullion versions of the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

"(i) the market value of the bullion at the time of the sale; and

"(ii) the cost of minting, marketing, and distributing the coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

"(B) PROOF VERSIONS.—Proof versions of the coins issued under this Act may be sold by the Secretary at a price equal to the sum of—

"(i) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping); and

"(ii) a reasonable profit.

"(7) BULK SALES.—The Secretary may make bulk sales of the coins issued under this subsection at a reasonable discount.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5112(j)(1) of title 31, United States Code, is amended by inserting ", (i), or (k)" after "subsection (e)".

SEC. 202. AMERICAN EAGLE GOLD COINS AUTHORIZED TO BE PRODUCED IN 2 OR MORE DESIGNS, WEIGHTS, DIAMETERS, OR FINENESSES SIMULTANEOUSLY.

Section 5112(i)(4) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(C) CONTINUED MINTING TO STATUTORY SPECIFICATIONS AFTER DETERMINATION TO MINT COINS TO CHANGED SPECIFICATIONS.—Notwithstanding any other provision of this section, the Secretary may continue to mint and issue coins in accordance with the specifications contained in paragraphs (7), (8), (9), and (10) of subsection (a) and paragraph (1)(A) of this subsection at the same time the Secretary is minting and issuing other coins under this subsection in accordance with such specifications, varieties, quantities, designations, and inscriptions as the Secretary may determine to be appropriate.".

TITLE III—MINT MANAGERIAL STAFFING REFORM

SEC. 301. MODERNIZATION OF THE MANAGEMENT STRUCTURE.

Section 5131 of title 31, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE] will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2614, a measure that protects the American taxpayer and maintains the integrity of the U.S. Mint's coin programs. I am grateful to enjoy the support of Representative JAMES LEACH, chairman of the Committee on Banking and Financial Services. On the other side of the aisle, Representative GONZALEZ, former committee chairman, Representative FLAKE, the ranking member of the subcommittee, Representatives MALONEY, WATT, and FRANK of Massachusetts have provided their strong support for this legislation, and I appreciate their efforts. I would also like to acknowledge the valuable input and support of Representatives BARR, LUCAS, KELLY, NEY, FOX, and METCALF of the subcommittee. Representative JOHN OLVER, although not a committee member, has also provided immeasurable support and generous guidance in bringing this bill to the floor today.

Mr. Speaker, the Subcommittee on Domestic and International Monetary Policy has primary jurisdiction over the Commemorative Coin Programs of the U.S. Mint. This legislation reforms those programs following recommendations by the administration and the Citizens Commemorative Coin Advisory Committee [CCCAC], received both in testimony before the subcommittee on July 12, 1995, and in CCCAC's First Annual Report to Congress, released in November 1994. This bill also addresses the concerns of the numismatic collectors, who purchase 90 percent of commemorative coin issues. No longer will the saturation of the market threaten the value of their collections, nor will they be the sole support for beneficiary causes of uncertain popularity.

Title I, which covers Commemorative Coin Program Reform, amends section 5134 of U.S.C. title 31, and prohibits disbursement of surcharges to recipient organizations unless and until all Mint costs for that coin have been fully recovered. With both previous and current programs, surcharges were disbursed as coins were sold, at times putting Government moneys at risk. It is our hope that this will also help to keep in check the marketing costs, undertaken by the Mint, that have been requested by recipient organizations.

The maximum surcharge disbursement to a recipient organization is limited to the amount received from separate fund raising by that organization. No longer will organizations depend exclusively on surcharges for funding projects. This reform will ensure that beneficiary organizations are not simply created to receive the proceeds of commemorative coins but requires that they demonstrate an adequate and independent measure of public support.

Annual audits will be required of the recipient organizations, with an accounting of all surcharge moneys and verification of the authorized use of surcharge moneys. In addition, title I forbids any recipient organization from using surcharges for lobbying activities, thereby maintaining the original purpose of the surcharge moneys.

Title I shortens the length of service for members of the CCCAC to a term of 4 years, and allows for the election of a chairperson by and from committee members. This makes for a better reflection of the appointing administration and does not extend the appointees' mandate far beyond it. H.R. 2614 calls for the CCCAC to develop recommendations for a multiyear Commemorative Coin Program, along the lines of the popular bicentennial quarter. No surcharges are collected on this type of commemorative, which makes the hobby of coin collecting affordable and accessible to the broadest public.

Title II permits the issuance of plantium and gold bullion coins by amending section 5112 of U.S.C. title 31. The Secretary of the Treasury would have the authority to determine the quantity, variety, and physical specifications of these coins. The price would be that of the bullion plus cost of manufacture, with a reasonable profit added for proof versions. Minting of two or more designs of the American Eagle gold coins, with specifications determined by the Secretary, would be allowed.

Title III eliminates, at the administration's request, nine political positions not filled by the current administration.

Mr. Speaker, H.R. 2614 goes a long way toward correcting problems that threatened to destroy the Commemorative Coin Program. Commemorative coins are a benefit, not only to numismatic enthusiasts and the recipient organizations but also by reaffirming our history, to our Nation as a whole. This bill links public funding of special projects to demonstrated private support, and discourages groups from demanding superfluous coins. It prevents the further abuse of the coin collecting community by groups lacking general public support. This bill must be passed if the Commemorative Coin Program is to survive and even flourish in the current environment with reduced levels of demand. I urge its immediate adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to congratulate the gentleman from Delaware [Mr. CASTLE] and his staff for working diligently this year on a number of coin-related issues. Moreover, I join with him today in support of H.R. 2614, which will make minor, but vital, changes in our process of minting commemorative coins.

Mr. Speaker, in the past, I have supported various types of legislation to mint commemorative coins. Since assuming the role of ranking member on the authorizing committee, however, I have become more aware of the crisis in the commemorative coin process. My fellow colleagues, you would be amazed at the intensity of the debate on this issue. All those in favor of new coins, and those who vehemently oppose them, continually execute overwhelming lobbying campaigns. The result is that the Banking Committee always has a broad spectrum of opinions as to which coins deserve to be included in the Mint's commemorative series.

As political favors, and with good intentions, Members of Congress continually introduce new coin legislation. Consequently, the Banking Committee, and the Mint have drowned in a sea of commemoratives. The net result is that Congress has burdened the Mint with numerous coins which diminish the Mint's capacity to mint regular coins, and which further cause the Mint to operate at a higher cost.

The numismatic community also has problems with the current state of affairs in the commemorative process. The onslaught of commemoratives has the negative effect of decreasing the value of coins to the collector. This in turn discourages purchases, and leaves the Mint holding the proverbial "bag" in that it is stuck with coins it cannot sell.

H.R. 2614 mends this process. By making clear that we will give primary consideration to recommendations from the Citizens Commemorative Coin Advisory Committee, and by requiring stringent audits, we will ensure integrity in the process. Furthermore, by requiring that the Mint recover its costs before surcharges are released to recipient groups, we will protect the vital fiscal interest of the Government.

Finally, Mr. Speaker, this legislation authorizes the minting of platinum and gold bullion coins. Again this will encourage increased purchases, and opens a new competitive market for precious metal coins. It is my hope that this bill passes with unanimous support.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, no recognition other than, again, to thank the gentleman from New York [Mr. FLAKE] for the work he has done. This particular piece of legislation did take some dealings with various groups and individuals in order to work out some of the differences, and we were able to do so.

If the gentleman is prepared to yield back, I am as well.

Mr. FLAKE. Mr. Speaker, I yield myself 1 minute to thank the gentleman from Delaware [Mr. CASTLE] and his staff. Again, this really is a great subcommittee Domestic and International Monetary Policy. The gentleman from Delaware [Mr. CASTLE] and I have been able to have an excellent relationship. Our staffs relate excellently, and that is the reason we can bring bills to the floor and move them so easily.

Mr. GONZALEZ. Mr. Speaker, I strongly recommend that all Members of the House of Representatives today vote to pass H.R. 2416, the Commemorative Coin Authorization and Reform Act of 1995.

Our colleague, Congressman MICHAEL CASTLE of Delaware, introduced this bill and, as chairman of the Banking Committee's Domestic and International Monetary Policy Subcommittee, chaired a markup of the bill which resulted in a unanimous vote for this legislation.

This important legislation provides critical reform of our Nation's commemorative coin program. The reforms contained in this bill have been suggested and endorsed by the administration and the Mint's Citizens Commemorative Coin Advisory Committee. Among some of the more noteworthy changes are provisions that disallow payment of any surcharges resulting from the sale of the coins until and unless the cost to the U.S. Mint for the coin has been recovered. In addition, the organization which receives the surcharge must submit audited financial statements showing receipts of donations from private sources greater than the potential proceeds of coin surcharges.

Further, the recipient organization will be required to submit an annual audit of all surcharge payments indicating all revenues and expenditures and verification that all expenditures were for authorized purposes. For example, because of this bill, surcharge moneys for a program to build a memorial could not be used for the general support of the sponsoring organization.

In summary, Mr. Speaker, in our vote today, we will ensure the financial integrity of the commemorative coin program. Passage of H.R. 2614 will reinforce the public's confidence in the program and I commend Chairman CASTLE and the ranking Democratic member of the subcommittee, Congressman FLOYD FLAKE, for their work in bringing this bill to the floor today.

I urge an "aye" vote.

Mr. FLAKE. Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] that the House suspend the rules and pass the bill, H.R. 2614.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2614, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

HOPEWELL TOWNSHIP INVESTMENT ACT OF 1995

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 308) to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the Beaver County Corporation for Economic Development to provide a site for economic development.

The Clerk read as follows:

H.R. 308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hopewell Township Investment Act of 1995".

SEC. 2. CONVEYANCE OF LAND.

(a) ADMINISTRATOR OF GENERAL SERVICES.—Subject to sections 3 and 4, the Administrator of General Services (hereinafter in this Act referred to as the "Administrator") shall convey, without compensation, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" all right, title, and interest of the United States in and to those pieces or parcels of land in Hopewell Township, Pennsylvania, described in subsection (b), together with all improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for economic development in Hopewell Township.

(b) PROPERTY DESCRIPTION.—The land referred to in subsection (a) is the parcel of land in the township of Hopewell, county of Beaver, Pennsylvania, bounded and described as follows:

(1) Beginning at the southwest corner at a point common to Lot No. 1, same plan, lands now or formerly of Frank and Catherine Wutter, and the easterly right-of-way line of Pennsylvania Legislative Route No. 60 (Beaver Valley Expressway); thence proceeding by the easterly right-of-way of Pennsylvania Legislative Route No. 60 by the following three courses and distances:

(A) North 17 degrees, 14 minutes, 20 seconds West, 213.10 feet to a point.

(B) North 72 degrees, 45 minutes, 40 seconds East, 30.00 feet to a point.

(C) North 17 degrees, 14 minutes, 20 seconds West, 252.91 feet to a point; on a line dividing Lot No. 1 from the other part of Lot No. 1, said part now called Lot No. 5, same plan; thence by last mentioned dividing line, North 78 degrees, 00 minutes, 00 seconds East; 135.58 to a point, a cul-de-sac on Industrial Drive; thence by said cul-de-sac and the southerly side of Industrial Drive by the following courses and distances;

(i) By a curve to the right having a radius of 100.00 feet for an arc distance of 243.401 feet to a point.

(ii) Thence by a curve to the right having a radius of 100.00 feet for an arc distance of 86.321 feet to a point.

(iii) Thence by 78 degrees, 00 minutes, 00 seconds East, 777.78 feet to a point.

(iv) Thence, North 12 degrees, 00 minutes, 00 seconds West, 74.71 feet to a point.

(v) Thence by a curve to the right, having a radius of 50.00 feet for an arc distance of 78.54 feet to a point.

(vi) Thence North 78 degrees, 00 minutes, 00 seconds East, 81.24 feet to a point.

(vii) Thence by a curve to the right, having a radius of 415.00 feet for an arc distance of 140.64 feet to a point.

(viii) Thence, South 82 degrees, 35 minutes, 01 second East, 125.00 feet to a point.

(ix) Thence, South 7 degrees, 24 minutes, 59 seconds West, 5.00 feet to a point.

(x) Thence by a curve to the right, having a radius of 320.00 feet for an arc distance of 256.85 feet to a point.

(xi) Thence by a curve to the right having a radius of 50.00 feet for an arc distance of 44.18 feet to a point on the northerly side of Airport Road.

(2) Thence by the northerly side thereof by the following:

(A) South 14 degrees, 01 minute, 54 seconds West, 56.94 feet to a point.

(B) Thence by a curve to the right having a radius of 225.00 feet for an arc distance of 207.989 feet to a point.

(C) Thence South 66 degrees, 59 minutes, 45 seconds West, 192.08 feet to a point on the southern boundary of Lot No. 1, which line is also the line dividing Lot No. 1 from lands now or formerly, of Frank and Catherine Wutter.

(3) Thence by the same, South 75 degrees, 01 minutes, 00 seconds West, 1,351.23 feet to a point at the place of beginning.

(c) DATE OF CONVEYANCE.—The date of the conveyance of property required under subsection (a) shall be not later than the 90th day following the date of the enactment of this Act.

(d) CONVEYANCE TERMS.—

(1) TERMS AND CONDITIONS.—The conveyance of property required under subsection (a) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this Act.

(2) QUITCLAIM DEED.—The conveyance of property required under subsection (a) shall be by quitclaim deed.

SEC. 3. LIMITATION ON CONVEYANCE.

No part of any land conveyed under section 2 may be used, during the 30-year period beginning on the date of conveyance, for any purpose other than economic development.

SEC. 4. REVERSIONARY INTEREST.

(a) IN GENERAL.—The property conveyed under section 2 shall revert to the United States on any date in the 30-year period beginning on the date of such conveyance on which the property is used for a purpose other than economic development.

(b) ENFORCING REVERSION.—The Administrator shall perform all acts necessary to enforce any reversion of property to the United States under this section.

(c) INVENTORY OF PUBLIC BUILDINGS SERVICE.—Property that reverts to the United States under this section shall be under the control of the General Services Administration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 308, a bill to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the Beaver County Corporation for Economic Development.

The Hopewell Township Investment Act of 1995 was introduced in Congress for the purpose of making certain property productive for the benefit of the Hopewell community. This legislation will accomplish this by directing GSA to transfer this property, at no cost, to the Beaver County Corporation for economic development, a nonprofit corporation certified by the Commonwealth of Pennsylvania.

The property is 15.94 acres of narrow shaped land which runs in east-west direction, approximately 7 miles northwest of Pittsburgh International Airport, and is improved primarily by a concrete block building of 43,000 square feet containing warehouse space. As of September 23, 1993, the property was designated as surplus and placed on GSA's surplus property inventory.

The Beaver County Corporation for Economic Development, in cooperation with Hopewell Township, plans to utilize this property as the centerpiece of a Hopewell Aliquippa Airport industrial park and thereby promote economic development and create needed jobs for the people of Hopewell Township. This property was originally used in light manufacturing. It was acquired in 1981 by the Federal Government as a staging center for emergency—mine—operations under the Mine Safety and Health Administration of the Department of Labor. Hopewell Township, in anticipation of this Federal facility, invested $225,000 in infrastructure improvements. The facility, however, never opened, and has sat vacant for over 14 years. This community has lost over $250,000 in tax revenue from the Federal jobs that were committed to this facility, and the economy has lost over $21 million in lost wages because of the Government's decision not to live up to a commitment. Returning this property to productive use is fitting and appropriate.

I strongly urge all Members to support this measure.

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Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], the distinguished ranking member of the subcommittee, and compliment him, and the gentleman from Maryland [Mr. GILCHREST], for the splendid work they have done on this whole series of legislation we bring to the House floor this afternoon. They are important bills and in a cooperative fashion, they bring to the House very sound legislation, including this particular bill to transfer surplus property in Hopewell Township, to an organization known as the Beaver County Corporation for Economic Development.

Mr. Speaker, the significance of this action is that this will provide an opportunity to create jobs, jobs in Beaver County, an area that I have traveled to in the past and know quite well, having seen the unemployment, the severe dislocation in this area of the steel valley, the whole steel county to which my district in northeastern Minnesota is tied.

We produce the taconite, or steel ore, to produce this basic building block of American industry, steel. But as steel has suffered dislocation over the last decade and a half, so have the people and the communities and the townships. The only way to create job opportunities to succeed those that have passed from the scene because of the downsizing of steel is to make property available for new businesses to locate there.

This legislation will achieve that objective by requiring the General Services Administration to transfer this land at no cost to the Beaver County Corporation for Economic Development. The corporation, in cooperation with Hopewell Township, will use this property as the centerpiece for the Hopewell Aliquippa Airport and Industrial Park to promote economic development and create jobs.

Mr. Speaker, wherever we can, we should be alert to opportunities to link property transfer to airports, to industrial park opportunities to create jobs. We have seen the enormous engine of growth that airports represent for job creation in this country.

Mr. Speaker, I congratulate the gentleman from Pennsylvania [Mr. KLINK] for the time that he has put in with Hopewell Township and with the Beaver County Economic Development Corporation. I know, from 15 years ago, what a splendid organization this is. It is a high-minded, hard-working, public-private cooperation initiative that has worked together to create jobs in this distressed area.

Mr. Speaker, I am very happy we are able to bring this legislation to fruition today, and I thank the gentleman for his work and thank the ranking member for his leadership.

Mr. GILCHREST. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KLINK], a fine, outstanding representative from this area, a friend of mine who is basically the individual who has brought this bill forward.

Mr. Speaker, we passed this bill last year. The other body did not act on some of these measures, and the gentleman from Pennsylvania [Mr. KLINK] has done a tremendous job. I want to thank him, as an old, fit quarterback, for the efforts he has made.

Mr. KLINK. Mr. Speaker, as an old, good quarterback, we have taken some hints from the play book of the gentleman from Ohio [Mr. TRAFICANT] and have scrambled around on this and avoided being sacked. The Senate did not take action on this, but the House unanimously adopted a very similar proposal a year ago.

Mr. Speaker, I really want to take time to thank the gentleman from Maryland [Mr. GILCHREST] for his amazing work on this. The gentleman has consulted with me on this bill as he has seen me throughout the halls of Congress, making sure we are doing the right thing.

Mr. Speaker, I thank the gentleman from Minnesota [Mr. OBERSTAR] for his concern, and the gentleman from Tennessee [Mr. DUNCAN] helped us last year. Staff has done a remarkable job on this. We are really doing God's work here.

Mr. Speaker, I will not repeat all the things, because I think the gentleman from Minnesota and the gentleman from Maryland have touched the highlights on the economics of this. But the gentleman from Minnesota [Mr. OBERSTAR] was in Beaver County. Hopewell Township sits on a hill outside of a town called Aliquippa, PA. Back in the early 1980's, in 1 day, a 7½-mile long steel mill shut down and 13,000 people were out of work. In 1 day.

The main street of this community, once known as Franklin Avenue, is now called Plywood Alley, because the stores are boarded shut. Slowly, hope is coming back to the community. What we are doing today is saying the Federal Government has no need for this property. The local government has put money into this. We put a quarter of a million dollars into improving the roads and sewers and a lot more work needs to be done, and rather than allowing the property to sit vacant and not letting anything happen to it, let us do the right thing. Let us get it back on the tax rolls, get workers supporting their families back on this property again.

Mr. Speaker, let us fix this building which has holes in the roof. In fact, September 8, 1994, we had a very tragic plane accident. Flight 427 crashed very near this site. The FAA, and others who were investigating, were looking at using this building to try to recreate what happened as they attempt to investigate this accident. This is a building which the Federal Government owns, and still they could not even use the building.

Mr. Speaker, so much needs to be done. We cannot ask the municipality and the county to continue to put money into fixing this site if the Federal Government is just going to sit on it and let this property go to waste. I will tell my colleagues, when was first elected to office, the businesspeople from Beaver County, who were both Republicans and Democrats, came to me and asked me about this.

Mr. Speaker, I think it is great that in a bipartisan move we come together as members of the Republican Party and Democratic Party today and say, Let us do the right thing and pass H.R. 308.

Mr. Speaker, I thank all of the Members for their support. I thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT], and staff, Rick Barnett and Susan Brita, and John George from my staff has done yeoman's work on this.

Mr. Speaker, I urge support for this legislation.

Mr. Speaker, today I wish to express my thanks to chairman and fellow Pennsylvanian BUD SHUSTER, Ranking member JIM OBERSTAR, and the other members of the Committee on Transportation and Infrastructure for their assistance with my bill, the Hopewell Township Investment Act of 1995 (H.R. 308).

The purpose of this bill is to promote economic development and to create jobs in Hopewell Township at a site near Aliquippa, PA. H.R. 308 replaces the Federal Government's caretaker role at the property with local initiative that will produce jobs and revenues.

Specifically, H.R. 308 accomplishes this goal by transferring an abandoned Federal facility from the General Services Administration to the Beaver County Corporation for Economic Development [CED].

The CED is a nonprofit corporation that has the responsibility for spurring economic development and bringing new businesses in a portion of my congressional district in western Pennsylvania.

Using 100 percent Commonwealth of Pennsylvania funding, the CED has a proven track record of transforming rough-cut properties into economic development diamonds that create jobs and generate tax revenues.

The CED supports this legislation and it will mold the Hopewell site from a no job-no tax liability into a job and revenue producing asset.

This legislation relinquishes Federal control of the site that has lasted for 14 years. The Mine Safety and Health Administration operated the site initially. Since the late 1980's the General Services Administration [GSA] has been its caretaker.

In 1987, the Mine Safety and Health Administration announced plans to consolidate its activities by locating additional operations at this site and creating 200 new jobs. At that time, this site served as the staging area for the Federal Government's response to mine disasters in the eastern United States.

In anticipation of attracting a larger Federal presence, Hopewell Township and the Criswell Heights Water District spent $225,000 to upgrade the site with sewer and road improvements.

Bowing to pressure from a member of the other body, the Mine Safety and Health Administration moved its consolidation to Beckley, WV, and in the process transferred its Hopewell operation there. Rather than gaining a new Federal workforce, our area lost 20 Federal employees in the consolidation.

So as you can see this was a situation where the glass started out half-full, the locality poured its resources into topping off the glass. Unfortunately, the glass is now empty and riddled with holes.

In addition to losing $225,000 in site improvements, the local government—Beaver County, schools and Hopewell Township—have not received one cent in local taxes from this property. That adds up to a revenue lost of $18,300 annually or $256,200 over 14 years.

The consolidation of the Mine Health and Safety Administration has resulted in an annual payroll at its Beckley, WV, facility of $2.66 million since 1987 or $21.28 million that would have been injected into the economy of Pennsylvania.

Add up all of these expenses and the Federal Government has been responsible for a net loss of $21,761,200 to my area.

Currently, the property includes an abandoned one-story block building that has gaping holes in its roof. Having toured the site, I can attest to the fact that the building is dilapidated and it has become a target for vandals.

The CED has committed as much as $1 million to renovate the building by fixing its roof, adding brand new plumbing and wiring as well as installing a parking lot and improving road access.

Once the CED takes over the property it will use State funding only and on Federal money for the building renovation and other improvements to ready the property for an industrial client.

My bill clears the deck so the CED can use this site to recruit industry, create jobs, and put it back on the tax rolls. This legislation will enable the Hopewell Township, rather the Federal Government, to determine its own destiny.

I want to express my sincere thanks to my friends: Public Building and Economic Development Subcommittee Chairman WAYNE GILCHREST, ranking member JIM TRAFICANT as well as their staff members, Rick Barnett and Susan Brita, and John George of my staff for their guidance and stalwart support during the bill's hearing and throughout the legislative process.

Mr. Speaker, I urge support for this legislation.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Maryland [Mr. GILCHREST] for the fine job he has done in directing this subcommittee and for his fairness and for his address to detail, and for his staff, Rick Barnett, and others, working with Susan Brita on our staff.

Mr. Speaker, this is a worthwhile bill. This region of the country has been decimated. This is a modest step taken to try and help individuals to help themselves. The ideology of the gentleman from Pennsylvania [Mr. KLINK] in attempting to forge business and private and public relationships in that particular valley make an awful lot of sense. They are beginning to make progress and the gentleman is starting to impact upon the legislative aspect here.

Mr. Speaker, I will close by thanking the gentleman from Minnesota [Mr. OBERSTAR]. During his tenure here on public works, and the work that he has been involved with over the years, for taking time to come to this troubled region to learn and understand it. Every one of us in that region want to thank the gentleman from Minnesota for the efforts he has taken over the years to understand our problems.

Hopefully, Mr. Speaker, before much more time passes, we will have the gentleman from Maryland [Mr. GILCHREST], the gentleman from Pennsylvania [Mr. SHUSTER], and others participate as well.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KLINK] for the tremendous job that he has done as an old pit quarterback.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I echo the words of my colleagues in thanking the staff on both sides of the Committee on Transportation and Infrastructure and the subcommittee. I do think that we have made large gains and maybe a touchdown pass with our efforts to deal with the legislative business of the Nation in a very cooperative, nonpartisan manner. I appreciate the Members on that side of the aisle.

With that, Mr. Speaker, I urge an "aye" vote on this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JAMES LAWRENCE KING FEDERAL JUSTICE BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 255) to designate the Federal justice building in Miami, FL, as the "James Lawrence King Federal Justice Building."

The Clerk read as follows:

H.R. 255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the "James Lawrence King Federal Justice Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James Lawrence King Federal Justice Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 255, a bill to designate the Federal justice building in Miami, FL, as the James Lawrence King Federal Justice Building. Judge King is an esteemed and respected U.S. district judge who advocated improved judicial administration, and devoted countless hours to the improvement of our justice system. Among his many accomplishments, Judge King served as 1 of 23 members of the Judicial Conference of the United States. He was the Chairman of the Conferences' Implementation Committee on Admission of Attorneys to Federal Practice and was a member of the Judicial Ethics Committee. In addition to his tenure as chief judge for the U.S. district court of Florida, Judge King served as chief U.S. district judge for the Panama Canal Zone and as a judge on the U.S. Court of Appeals, compiling over 200 published opinions. Judge King was instrumental in promoting the construction of the new Federal justice building.

I urge all Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I am happy to join my colleagues in supporting this legislation and compliment the gentleman from Florida [Mr. HASTINGS] and the gentlewoman from Florida [Mrs. MEEK] for leading the way on this legislation to honor Judge James Lawrence King, who has so ably presided over the Court for the Southern District of Florida.

Judge King was a native of Florida; graduate of the University of Florida; got his law degree from that institution; served in the U.S. Air Force; served in private law practice, and in 1964 was appointed a circuit judge in the 11th Judicial Circuit for the State of Florida.

He continued a very distinguished legal career, in 1984, becoming chief judge, and then took senior status in 1991. The Judge is still working a full caseload, as is so characteristic of most of our senior judges, that is those who take senior status, they continue to show up for work every day in their office and decide on important cases.

In this particular instance, we are giving fitting tribute to a distinguished jurist who deserves this honor for his vision, for his stewardship, and for the lasting contribution that he has made to the body of law in this country, and particularly in some of the very, very complex cases that he handled in the 11th District.

Mr. Speaker, I am greatly pleased to join my colleagues, Mr. HASTINGS and Mrs. MEEK of Florida in supporting H.R. 255, a bill to honor Judge James Lawrence King of the Southern District of Florida.

Judge King, a native Floridian, graduated from the University of Florida and in 1953 received his law degree from that institution. From 1953 to 1955 he served his country with distinction as a lieutenant in the U.S. Air Force. After several years in private law practice, Judge King was appointed in 1964 Circuit Judge to the Eleventh Judicial Circuit of the State of Florida. He was appointed to the Federal bench in 1970 and continued his distinguished legal career. In 1984 he became the Chief Judge, and when his term expired in 1991 Judge King took senior status. Today, he still retains a full caseload.

Judge James Lawrence King has exhibited outstanding leadership and dedication to his profession. It is fitting and proper to honor Judge King for his vision and effective stewardship by designating the Federal Justice Building in Miami in his honor.

I urge adoption of H.R. 255.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS], one of the authors of this bill, along with the gentlewoman from Florida [Mrs. MEEK].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], my good friend, and for his stewardship in allowing this bill to come before the House at this time. As well, I would like to thank the gentleman from Maryland [Mr. GILCHREST] for the extraordinary work that he has put forward, and I also thank the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the committee.

Mr. Speaker, I thank all of these Members and their staffs, as well as a staff member of mine, Ann Jacobs, who has worked very actively in this particular matter.

Mr. Speaker, I rise today to express my support for H.R. 255, legislation to name the Federal Justice Building in Miami, FL as the James Lawrence King Justice Building.

Judge King's career as a U.S. District Judge, especially his effective and much praised administration as Chief Judge, is exemplary and worthy of honor. Among many accomplishments, Judge King served as 1 of 23 members of the Judicial Conference of the United States and as the chairman of the Conferences' Implementation Committee on Admission of Attorneys to Federal Practice. He was also a member of the Conferences' Judicial Ethics Committee.

Judge King was a Chief U.S. District Judge for the Panama Canal Zone and, on numerous occasions, as a judge on the U.S. Court of Appeals. He has compiled over 200 published opinions. Judge King has been a member of the Judicial Council of the Eleventh Circuit Administrative Conference and a member of the Long Range Planning Committee for the Federal Judiciary.

Of course, the main reason Judge King deserves this honor is his dedication to the new Federal Justice Building. While many community leaders contributed to its construction, no one labored more selflessly or provided greater leadership than Judge King. For without Judge King acting almost as the architect, builder, contractor, and decorator, this building would not be standing today.

Because of Judge King's determination and attention to all of the details, his effective stewardship of the U.S. District Court of Florida during his tenure as Chief Justice, and his proven commitment to improving the administration of justice, Judge King is singularly worthy of having the new Federal Justice Building named in his honor.

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Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Judge King has enjoyed a long and distinguished career, as evidenced by the comments of the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Maryland [Mr. GILCHREST], and the gentleman from Florida [Mr. HASTINGS].

He is right now on senior status. He is carrying a full caseload so he is not getting that much rest, from what I understand. Evidently as a graduate of the University of Florida, he is an individual supporter of Steve Spurrier and the Gators, hoping that they will knock off Nebraska.

I do not know if he wanted that said here, but his career has been so outstanding that it is an honor to bring this legislation brought forward by a good friend and very fine Representative, the gentleman from Florida [Mr. HASTINGS], the gentlewoman from Florida [Mrs. MEEK], to our committee. With that, I would ask everybody to vote "aye."

Mrs. MEEK of Florida. Mr. Speaker, I want to commend my friend, Congressman ALCEE HASTINGS, for introducing the bill before us today, H.R. 255, which would designate the Federal building in Miami as the James Lawrence King Federal Building. No one deserves this honor more than Judge King.

Judge James Lawrence King was born in Miami in 1927. He attended the University of Florida, earning both his undergraduate and law degrees. While in school, he first entered public life, serving as chairman of a campus political party and as a member of the honor court, the executive council, the president's cabinet, the hall of fame, and as president of Florida Blue Key.

After graduation, James King started his long record of public service by joining the Air Force. After 2 years with the Judge Advocate General's Department, he returned to Miami Beach to practice law. Soon after that, he was appointed circuit judge for the Eleventh Judicial Circuit of Florida. While serving on the circuit court, he was temporarily assigned as a justice of the Supreme Court of Florida and to the Second, Third, and Fourth District Courts of Appeal of Florida. During this time, Judge King also served as a member of the board of regents of Florida.

In 1970, James Lawrence King was appointed to be a U.S. district judge for the Southern District of Florida by President Nixon. Since then, he has been appointed by the Chief Justice to several committees of the Judicial Conference of the United States and was appointed by Chief Justice Rehnquist to be a member of the Long Range Planning Committee for the Federal Judiciary. On several occasions Judge King was specially designated to serve as a judge of the U.S. Court of Appeals for the Fifth and Eleventh Circuits.

In 1992, Judge James Lawrence King elected to take senior status. Remaining active, he is on the Eleventh Circuit Judicial Council and has recently completed a 7-year term as chief judge of the U.S. District Court for the Southern District of Florida.

For his long, distinguished service to the United States and to our community, Judge James Lawrence King has earned our support, our respect, and our thanks. It would only be fitting that Miami's new Federal building, a building dedicated to the principles of public service and justice, be named for the man who best exemplifies these ideals, Judge James Lawrence King. I urge my colleagues to join me in honoring Judge King by supporting H.R. 255.

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to endorse the naming of the Federal Justice Building in Miami, FL in honor of Chief Judge James Lawrence King. The naming of such a building is not to be done lightly. We reserve that honor for those who have given of themselves, in an extraordinary manner, to the betterment of their community and the Nation. Judge King is such a man.

All who have worked with Judge King have been impressed with his leadership and authority. My husband, Dexter Lehtinen, who was the U.S. attorney for south Florida, worked closely with the judge to facilitate the speedy administration of justice at a time when the problem of drug smuggling was taxing the court system to the breaking point. My husband was impressed with Judge King's dedication and commitment to the highest professional standards.

For a turbulent quarter of century, Judge King served on the Federal bench, but his public service long predates his appointment as a Federal judge. Judge King was a member of the Judge Advocate General Corps of the U.S. Air Force. In addition to being a Federal judge, he has served at every level of the court system of Florida, from circuit judge to associate judge of the State district court of appeals to associate justice of the Florida Supreme Court.

Judge King has won respect for his legal scholarship as well as his administrative leadership. He is the author of over 200 published opinions in Federal court and was called on by the late Chief Justice Warren Burger to preside over trials in eight other Federal district courts.

Judge King has also lent his considerable energy to reforming both the judiciary and the education system. He served on the board of control of the State university system. He has been elected or appointed to various commission and panels charged with the reform of the Federal bench. Additionally, he was designated chief judge for the Panama Canal Zone.

His vision and leadership are responsible, in large part, for this Federal building and, therefore, it is fitting and proper that this structure should carry his name. I wholeheartedly endorse this action.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I, too, urge support of the bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 255.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BRUCE R. THOMPSON UNITED STATES COURTHOUSE AND FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 395) to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building".

The Clerk read as follows:

H.R. 395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, is designated as the "Bruce R. Thompson United States Courthouse and Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the courthouse and Federal building referred to in section 1 is deemed to be a reference to the "Bruce R. Thompson United States Courthouse and Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 395, a bill to designate the United States Courthouse and Federal Building under construction in Reno, NV, as the "Bruce R. Thompson United States Courthouse and Federal Building." Judge Thompson was one of Nevada's most prominent and respected men in law and held a long and highly distinguished career. Judge Thompson was a graduate of the University of Nevada and received his law degree from Stanford Law School. His accomplishments include service as Assistant U.S. Attorney for the district of Nevada, special master for the U.S. district court of the district of Nevada, and appointment to the U.S. district court by President John F. Kennedy. Additionally, Judge Thompson served a term as president of the Ninth Circuit District judges and a term as president of the Nevada State Bar Association. He was also a regent and chairman of the State planning board. He held memberships in the American Bar Association, the American Law Institute, the American Judicature Society, the Institute of Judicial Administration, and the American College of Trial Lawyers. Virtually every legal organization in Nevada has unanimously passed a resolution in favor of naming the courthouse in honor of Judge Thompson. The entire Nevada congressional delegation supports this legislation. H.R. 395 is an appropriate tribute to a fine public servant and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], distinguished ranking member.

Mr. OBERSTAR. Mr. Speaker, again, I thank the senior Democrat on the subcommittee, the gentleman from Ohio [Mr. TRAFICANT], for the work that he has done on this legislation, chairman of the subcommittee, the gentleman from Maryland [Mr. GILCHREST], and our colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], who has been a sponsor of this legislation.

As with other bills that we are considering this afternoon, this, too, was reported from our committee in the last Congress, passed the House and languished in the other body. We are happy to have this opportunity to bring forward this legislation.

It honors a very distinguished jurist who so served the State and the national judicial system that he has won widespread support and the naming has won endorsement from virtually every organization with interest in the law in the State of Nevada. And the Nevada State legislature passed a resolution endorsing the naming of the Federal courthouse in Reno to honor Judge Thompson.

With that kind of support, we ought to move ahead. It is fitting. It is proper. It is appropriate for us to take this step.

Mr. Speaker, I rise in support of H.R. 395, honoring Judge Bruce R. Thompson, who has enjoyed a full and distinguished judicial career.

Judge Thompson graduated from the University of Nevada and received his law degree from Stanford Law School. He practiced law for 27 years, when he served as Assistant U.S. Attorney for the District of Nevada from 1942 to 1952, and as special master for the U.S. District Court of the District of Nevada from 1952 to 1953. Judge Thompson was also president of the Nevada State Bar Association from 1955 to 1956. Following a term as regent to the State Planning Board in 1959, he served as its chairman from 1960 to 1961. In 1963, he was appointed U.S. District Judge by President John F. Kennedy, and as a jurist, has earned the respect of his colleagues.

H.R. 395 has received widespread support and the endorsement of virtually every legal organization in the State of Nevada. The Nevada State legislature has passed a resolution endorsing the naming of the Federal courthouse in Reno in honor of Judge Thompson. It is fitting and proper to recognize the career of Judge Thompson in this manner.

I join the Nevada delegation in their support of H.R. 395, and commend Congresswoman VUCANOVICH for her leadership on this bill.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I want to thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Pennsylvania [Mr. SHUSTER]. This is a very important bill to me.

Mr. Speaker, I rise today in support of H.R. 395, legislation to name the new Federal courthouse in Reno, NV after the late Judge Bruce R. Thompson.

I cannot think of a more deserving Nevadan on which to bestow this honor, Mr. Speaker. Judge Thompson was one of Nevada's most prominent, respected and beloved men in Nevada jurisprudence and led a long and highly distinguished career. After graduating from the University of Nevada and Stanford Law School, he practiced law with George Springmeyer and later Mead Dixon for 27 years until 1963. He served as Assistant U.S. Attorney for the District of Nevada from 1942 to 1952 and as special master for the U.S. District Court of the District of Nevada from 1952 to 1953.

Judge Thompson was also president of the Nevada State Bar Association from 1955 to 1956. And, following a term as regent to the State Planning Board in 1959, he served as its chairman from 1960 to 1961. In 1963, he was appointed U.S. District Judge by President John Kennedy.

Mr. Speaker, I have previously testified to Judge Thompson's legendary career and I will not take further time today. I will simply conclude by saying Judge Thompson's outstanding career, coupled by the immense love and respect he earned from his colleagues, makes naming the new courthouse in Reno a fitting tribute, worthy of his legacy.

I want to thank Mr. GILCHREST and Mr. SHUSTER for their consideration and for their willingness to move this important legislation. Their assistance has been invaluable.

I urge approval of this important legislation.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Judge Thompson has enjoyed an outstanding career, having been appointed to the Federal bench by President John F. Kennedy in 1963. He is extremely well liked by all his judicial colleagues and has received the endorsement of many legal organizations in the State of Nevada, as evidenced by the statements here of Mr. OBERSTAR and Mr. GILCHREST and the gentlewoman from Nevada, Mrs. VUCANOVICH.

I commend Mrs. VUCANOVICH for her tenacity and diligence in pursuing the passage of this bill. I urge all to vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THURGOOD MARSHALL UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 653) to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse."

The Clerk read as follows:

H.R. 653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 300 Quarropas Street in White Plains, New York, shall be known and designated as the "Thurgood Marshall United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thurgood Marshall United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 653, a bill which designates the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse."

Thurgood Marshall was born in Baltimore, MD. He graduated cum laude from Lincoln University in 1930, and graduated at the top of his class from the Howard University School of Law in 1933.

As a graduate of college and professional school during the Great Depression, Thurgood Marshall was a member of the black elite. However, he was constrained by a social structure which tended to frustrate the aspirations of black people.

Upon graduation from law school, Justice Marshall began his legal career with the National Association for the Advancement of Colored People [NAACP]. It was during this tenure, as chief counsel, that he organized efforts to end segregation in voting, housing, public accommodations, and education. These efforts led to the landmark Supreme Court decision of Brown versus Board of Education, which declared segregation in public schools to be unconstitutional.

In 1961, Justice Marshall was appointed to the second circuit court of appeals by President John F. Kennedy, and 4 years later was chosen by President Lyndon B. Johnson to be the first black Solicitor General. Two years later, on June 13, 1967, President Johnson chose Marshall to become the first black Justice of the Supreme Court, where he served with distinction until his retirement in 1991. He died in 1993.

It is a fitting tribute to name a courthouse in honor of this American who believed in equal justice for all Americans, and devoted his life to obtaining the values we all hold dear.

I strongly urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], distinguished ranking Member.

Mr. OBERSTAR. Mr. Speaker, again we bring to the floor a bill that passed this body in the 103d Congress but did not make it through the other body. I am very appreciative of the efforts of our chairman, the gentleman from Maryland [Mr. GILCHREST], and our senior Democrat, the gentleman from Ohio [Mr. TRAFICANT], for bringing forward this bill to honor Judge Thurgood Marshall. No one, no one deserves our respect and appreciation for the work in civil rights more than Justice Marshall.

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His leadership, going back to the famed Board of Education case, all through his service on the Supreme Court, is one of the high points, one of the storied chapters in American jurisprudence. He is a man, if we are going to name a building for anyone, a Federal courthouse for any person associated with the law in this country, we should do it for Justice Thurgood Marshall.

We do that today. I hope the other body will act promptly and decisively on this legislation. It is appropriate that we have a landmark, that there be many in this land to honor Justice Thurgood Marshall.

At the beginning of the 103d Congress a bill was passed to name the Judiciary Building here on Capitol hill after Judge Marshall. H.R. 653 would further acknowledge the contributions of Judge Marshall by designating the U.S. courthouse in White Plains, NY, the "Thurgood Marshall U.S. Courthouse." He exemplified the highest ideals of fairness and equality and his struggle against the evils of intolerance and bigotry spanned over five decades.

Upon graduation from Howard University School of Law, Justice Marshall embarked on a legal career with the National Association for the Advancement of Colored People [NAACP]. In 1940, he became the head of the newly formed NAACP Legal Defense and Education Fund, a post that he held for 20 years. It was during this tenure as chief counsel that Justice Marshall organized efforts to end segregation in voting, housing, public accommodations, and education. These efforts led to a series of cases grouped under the title of Brown versus Board of Education, in which Marshall argued and convinced the Supreme Court to declare segregation in public schools unconstitutional.

In 1961, Marshall was appointed to the second circuit court of appeals by President John F. Kennedy. Four years after he received appointment to the appeals court, President Lyndon B. Johnson chose Justice Marshall to be the Nation's first black solicitor general.

Two years later, on June 13, 1967, President Johnson chose Marshall to become the first black Justice of the Supreme Court where he served with distinction until his retirement in 1991. He died in 1993.

This bill enjoys broad, bipartisan support from the New York delegation as well as the Westchester County Board of Legislators, the Common Council of White Plains, the White Plains-Greenburgh NAACP, the African-American Federation of Westchester, and the Westchester County Bar Association.

It is fitting to name a courthouse in honor of this great American who believed in equal jsutice for all Americans, and devoted his life to obtaining the values which we all hold dear.

I am proud and honored to support this legislation, and urge its passage.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the character and contributions of Judge Thurgood Marshall are without equal. Judge Marshall's struggle for equality and dignity for all people were absolutely of historical proportions. I believe it is an absolute honor to participate in this debate and have some little say in the naming of this building.

Mr. Speaker, with that I urge an "aye" vote.

Mr. GILMAN. Mr. Speaker, I am pleased to join with the sponsor of this measure, Mr. ENGEL to express my strong support for H.R. 653, legislation designating the courthouse currently under construction at 300 Quarropas Street in White Plains, NY, as the Thurgood Marshall Federal Courthouse.

The naming of this courthouse is a fitting tribute to a man who dedicated his life and career to the cause of justice for those who were victims of bigotry. It was Justice Marshall, who successfully argued in the case of Brown versus Board of Education of Topeka, that separate schools for black and white students were inherently unequal. In 1965 President Lyndon Johnson named Justice Marshall Solicitor General, making him the U.S. Government's chief advocate before the Supreme Court. Two years later, President Johnson named Thurgood Marshall to the Supreme Court, thereby becoming the first African-American Justice in our Nation's history.

I cannot think of a more deserving individual for this honor. Justice Marshall dedicated his career as director of the NAACP's legal defense and educational fund, as a Federal jurist and voice on the Supreme Court, to providing equal opportunity for all Americans and ending discrimination in voting, housing, public accommodations and education. The American people were fortunate to benefit from the sound judgement and compassion that Justice Marshall brought to the Supreme Court.

Mr. KELLY. Mr. Speaker, I rise in strong support of H.R. 653, a bill designating the Federal courthouse in White Plains, NY, as the "Thurgood Marshall United States Courthouse."

Upon completion of his law education, Justice Marshall dedicated himself to the civil rights struggle. Whether as head of the legal defense and education fund of the NAACP, or as chief council in the Brown versus Board of Education case, Justice Marshall never slowed in his fight for equal rights for all Americans. He continued this fight as the Nation's first black Solicitor General, where he scored numerous victories in the areas of civil and constitutional rights. His career culminated in an historic appointment to the U.S. Supreme Court in 1967, where he served with distinction until his retirement in 1991.

H.R. 653 is a fitting tribute to the life and work of our Nation's first African-American Supreme Court Justice, and I am proud to represent the district where the Thurgood Marshall U.S. Courthouse will be located. It is certainly an appropriate honor for this great American. I urge my colleagues to support this legislation.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I, too, strongly urge an aye vote on this bill. I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 653.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

WALTER B. JONES FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 840) to designate the Federal building and United States courthouse located at 215 South Evans Street in Greenville, North Carolina, as the "Walter B. Jones Federal Building and United States Courthouse".

The Clerk read as follows:

H.R. 840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 215 South Evans Street in Greenville, North Carolina, shall be known and designated as the "Walter B. Jones Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Walter B. Jones Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 840, a bill to designate the Federal Building and United States Courthouse located in Greenville, NC as the "Walter B. Jones Federal Building and United States Courthouse." Walter Jones was one of our most respected and accomplished colleagues ever to serve this Chamber. Born in Fayetteville, NC, Walter Jones began his career as a public servant when he was elected mayor of Farmville, NC in 1949. He served three terms in North Carolina State assembly and was in the midst of his first term in the State senate when in 1966 he won a special election to this Chamber to fill the seat left vacant by the death of former Member Herbert Bonner. He became a tireless advocate for the American worker and the American farmer. Walter Jones was reelected to 11 successive Congresses, serving in this Chamber from February 5, 1966 until his death in 1992. He was a member of the Agriculture Committee and served as chairman of the Merchant Marine and Fisheries Committee from the 97th through the 100th Congress. As chairman of the Merchant Marine and Fisheries Committee, Mr. Jones committed himself to ensuring that the United States maintained a viable merchant marine fleet and marine industry. H.R. 840 is an appropriate and fitting honor to bestow on our former colleague and I urge all Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding this time to me, and I also thank our chairman, the gentleman from Maryland [Mr. GILCHREST], for bringing this legislation to the floor.

Mr. Speaker, it was my great privilege and pleasure to serve with Walter Jones on the House Merchant Marine and Fisheries Committee. We served in Congress together on that committee, worked together on a lot of issues. But what struck me was first of all he succeeded Herb Bonner, who was chairman of that committee and then in his own right became chairman of the Committee on Merchant Marine and Fisheries. It is very unusual for one State, let alone one district, to have a succession of chairmanship of one particular committee.

But Walter Jones served in that capacity in a very unassuming, very affable, very warm, but also very knowledgeable manner, with a quiet, unsuspecting country humor. He would often break the tension in a very hotly contested markup over some very difficult and hotly contested issues with just a bit of folk wisdom, or country humor, or an observation that would devastate one side or the other. He had that remarkable knack, that personality that just fitted the occasion, and he did not have to say much, and he usually did not, but what he said was compelling, and whether, as I said earlier, it was humor, or whether it was a bit of folk wisdom to enlighten a point, or whether it was to hurry a vote; when he called a vote, he said all those in favor say aye, aye, and everyone else jumped in, and, before they knew it, the bill was passed.

Mr. Speaker, maybe some of them wanted it passed or not, but they followed his leadership, and his wisdom, and his care about America's merchant marine, about our Coast Guard, about our marine environment, about endangered species, and that committee had jurisdiction over the Marine Mammal Protection Act, and he saw to it that that jurisdiction was carried out and that America's concern for our Marine Mammal Protection Act and for the endangered species of the great oceans of this country was carried out appropriately.

Mr. Speaker, for us to name a building in his honor is a very small, but deserved, honor, one that we can and that we should pay. The greater tribute to Walter Jones is the legacy of legislation that he left. But more importantly, the care that he had for the people he represented; he loved them and spoke of them often, and he represented them with great honor and dignity, and his legacy will carry on in the name that we give to this building in his honor.

Mr. Speaker, this honor is long overdue. Walter Jones' career spanned over four decades beginning in 1949 with his election as the mayor of Farmville, NC, then in 1955 to the North Carolina State Assembly, in 1965 to the State senate and finally in 1966 to the U.S. House of Representatives.

From his days in Congress, Mr. Jones worked hard and long for his constituents. He became a tireless advocate for the American worker and the American farmer. He was reelected to eleven successive Congresses, serving in the United States House of Representatives from February 5, 1966, until his death in 1992. He was a Member of the House Agriculture Committee and served as chairman of the Merchant Marine and Fisheries Committee from the 97th through the 100th Congresses. As chairman of the Merchant Marine and Fisheries Committee, Walter Jones committed himself to ensuring the United States maintained a viable merchant marine fleet and maritime industry.

His stewardship of the Merchant Marine and Fisheries Committee was recognized for its fairness and openness. I had the pleasure of serving under Chairman Jones on the Merchant Marine Committee. He was not only known for his dedication, hard work, humility and humanity, but he also had a quiet way about him that oftentimes brought great results.

Walter B. Jones was one of the most respected and accomplished Members ever to serve in the House of Representatives, and H.R. 840 is a fitting and appropriate tribute to his honor.

I urge passage of H.R. 840.

Mr. GILCHREST. Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. OBERSTAR] for his very kind and most appropriate words to one of the finest Members of this Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, I thank the gentleman from Maryland [Mr. GILCHREST], the gentleman from Ohio [Mr. TRAFICANT], and the gentleman from Minnesota [Mr. OBERSTAR]. This obviously is a very special privilege for me, one that I doubt very few sons in the history of the Congress have. I am honored and humbled, quite frankly, to be on the floor at this time to say thank you to the U.S. House for remembering my father in such a special and very permanent way.

The gentleman from Minnesota [Mr. OBERSTAR] was right about my father. He loved the Congress, he loved the people in the Congress, and was a man that has served, that did serve, I should say, for 26 years. I certainly must tell my colleagues that not only am I and my family honored by them remembering my father, but also the constituents that elected my father to 13 terms in the U.S. House of Representatives.

My father appreciated the work of this wonderful and great institution and the men and women that made this institution and are today making this institution so great. My father also appreciated the staff that worked with him as chairman of the Committee on Merchant Marine and Fisheries, and also the staff in his office, both in the district and also in Washington, as well as the members of the staff that work around the House and the Capitol and the women that operate the elevators. He was a man that appreciated his fellow man and a person that never forgot his roots, and that is why I think my father for so many years, even when his health because of age was beginning to fail him and he had to campaign, quite frankly, in a wheelchair back in the district, and many times candidates much younger would oppose my father. Yet my father would get better than 70 percent of the vote each and every time, and the reason for that was because my father never forgot the people back home that gave him the privilege and the honor to represent them.

So I say to my colleagues again that this is an honor for me to be on this floor to thank my colleagues of the U.S. House of Representatives, that they thought so much of my father that they would want to remember him in this very special way. If I may close, because I see one of my father's many friends, and before I close let me say that it has been a very humbling experience to have men and women from both sides of the aisle to tell me how much they respected and thought of my father, and the two words that they used that made me feel so proud of my father was that he was a gentleman and that he was fair. That to me, they are two of the best words that can be said about a person, that he is a gentleman and that he is a fair person.

I see my good friend, the gentleman from Mississippi [Mr. TAYLOR], who among many that came down to my father's funeral, and I think the second or third month that I was here, maybe in February or March, that GENE came up to me, and he handed me this index card, and he said, "WALTER, I think it is only appropriate that you have this," and I would like to close with this, if I may, Mr. Speaker.

GENE handed me this, and he said, "It is a note that I took at your father's funeral," and he said, "I wrote it down right after the minister used this quote from Everett Hale," and the quote is, and I think this fits my father and many of us that served in the U.S. House of Representatives; it says: "I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I should do, and, with the help of God, I will do it."

Mr. Speaker, I close with that because I think they are very powerful words, and again I know I am being repetitious, but this is a very emotional time for me. I can only say in very simple, simple words, "Thank you so very much."

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. JONES. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, I have no prepared statement. In fact I wandered into the Chamber on another matter, but, in knowing that this is in recognition of the gentleman's father, I felt compelled to stand up and say that, when I entered Congress in 1980, as a Republican, a freshman Republican, and was on the Merchant Marine and Fisheries Committee, the gentleman's father took me aside, as he did everyone who served under his tutelage, and gave advice, and was helpful and lent guidance, and he always did it with great compassion for the constituencies that we represented, and he always did it with a great deal of honor. When we look around the Chamber, the people who served under the gentleman's father, Republican, Democrat, liberal or conservative, there is universal admiration for what his father represented, and we are all very appreciative.

Mr. JONES. Mr. Speaker, I thank the gentleman from Texas [Mr. FIELDS].

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Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the gentleman from North Carolina [Mr. JONES] for his compliment. His dad meant a lot to me, as he did to every Member of this body. I must confess I was not smart enough to remember what the preacher said, but I was smart enough to ask the preacher for his notes that day, and they actually came from one of the two ministers who presided over your father's funeral.

I was always very much impressed with your father's desire to serve the public. I really noticed at your father's funeral that everyone I spoke to there always mentioned that your dad was there to serve his fellow citizens; in this day of cynicism and skepticism, where people run for Congress based on saying how terrible a place it is and that they are the only good one, that so many people felt so strongly and so positively about your dad, and I am glad we did not have to wait the full 5 years to see to it that your father is honored.

I want to compliment the sponsor of this bill, and above all, I want to compliment your dad for being a great American, and hope that you turn to be every bit as great as your father.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many of us around here, just speaking off the cuff, loved Walter Jones. I did not serve on the committee with him, but became one of his probably closest allies. He imparted much advice and counsel to me, many times advising me to shut up and sit down, and cautioning me on some of the unusual behavior traits I employed to try and help my district in my early days in the Congress.

Without reading from a prepared text, like many others, I loved Walter Jones. He embodied what a Congressman should be like. I think back of Bill Natcher, Walter Jones, and Jamie Whitten and individuals like that, and we conjure up in our minds great leaders from our country that many times had gone without a whole lot of fanfare and much recognition. I am absolutely honored to be the sponsor of this legislation.

In addition to that, Mr. Speaker, I am absolutely honored to find that such a fine son is here to carry on the legacy for North Carolina. The attitude that he brings is much like his dad's. I guess the apple does not fall too far from the tree.

I am proud of the fact that we are doing this today. This is right that we should do this. We passed this legislation last year. I cannot understand the reason why we had to revisit this, but because of some of the political dynamics occurring in the other body. Let there be no political dynamics that would in fact derail this particular piece of legislation. This is fitting. I am proud to be associated with it.

I thank the gentleman from Maryland [Mr. GILCHREST] and all who played a part in helping to bring this legislation to the floor. I ask all to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

When I first came to the Congress in 1983 and was assigned to the Committee on Merchant Marine and Fisheries and attended its first meeting, Mr. Speaker, I was almost taken aback by the fact that Walter Jones, the chairman, had bothered to look at the biographies of those members who were being assigned to his committee and had learned that I was indeed born in his district in North Carolina. He reminded me of that fact.

I would say to my colleagues that in people like Walter Jones, if we were to emulate them in all of our activities here in the Congress, our work product would be improved, the atmosphere of this institution would be more in keeping with what it should be, and the American people would hold us in a higher regard. Walter Jones, as someone mentioned, was indeed a great gentleman.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I had a few words to say. Walter Jones for many, many years was a very close friend of mine. We worked very closely together. What a lot of people do not realize was what a great sense of humor Walter Jones had.

If I would be permitted, I would just like to give a little story. We had a Member, and I will not quote any names, but the Member had a tendency and he would say, "If there was a good, qualified candidate in my district, I just would not run this year." He continued to say that.

One day we were having lunch and he said, "If there was a good, qualified candidate in my district, I wouldn't run anymore." Walter said, "Let me name off a few." So that is the last time. He named off about five or six different well-qualified people that lived in that district. That was the last time it was ever brought up, if there was ever a qualified candidate.

Walter Jones, as his son said, was a fair man. He was a good man. We have a saying down in North Carolina: He is the kind of man, if you had to be away from home for a week, that you would like to have Walter Jones agree to do up your things for you. He was a gentleman, he was a fair man, and we miss him. I think this is more than appropriate, what we are doing for him today. I thank the gentleman for yielding time to me.

Mr. BATEMAN. I am delighted to have yielded.

Mr. Speaker, let me conclude. I will not take the 5 minutes allocated, but let me conclude by saying that my personal disagreements with the very esteemed Walter Jones were very, very few; but one of the things that is a mark of the fact that he was a great gentleman, and his great sense of how this institution should conduct itself, that never was there any occasion when in any disagreement there was anything disagreeable. He was a wonderful, wonderful man, and like all my previous colleagues, I miss him sorely.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to an esteemed colleague, the gentleman from North Carolina [Mr. COBLE], to speak on behalf of the bill.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, if I appear out of breath, I am out of breath. I was in my office and I turned on the television in the office while I was working and saw my good friend, the gentleman from Ohio, whom I know was one of Walter's dearest friends, but my volume was not turned on so I could not hear what the gentleman was saying. I usually listen to the gentleman when he is talking.

Subsequently the gentleman from North Carolina, [Mr. JONES], young WALTER, came on. My volume was not tuned up as well. Then when I finally did activate the volume, I learned that we were over here honoring the late Walter Jones, and I ran over here. I am still huffing and puffing, Mr. Speaker, but I would be remiss if I did not say a word or two about him.

I used to refer to WALTER junior, when I would talk to his dad, as "young Walter." "How is young Walter doing?" I would ask old Walter from time to time. One time he said to me, he always called me Coble, and he said "Coble, I wish you would not refer to him as young Walter, because by definition, that makes me old Walter." I did not break that habit. I still call him young WALTER, even to this day.

But Walter Jones probably conducted the most, I guess evenhanded would be an accurate way to describe him, evenhanded, fair, hearings, and his hearings and meetings were always very, very nonpartisan. Oftentimes, Mr. Speaker, people will be critical of certain committees in the House: "Oh, they are too partisan." That in and of itself does not bother me. This is a partisan body. We are supposed to be partisan from time to time. I think some of these committee chairmen, though, could take a lesson from the late Walter Jones. I think sometimes we are overly partisan in expressing our own views and the views of our colleagues.

I am very pleased and honored to take part in this, I say to my friend, the gentleman from Maryland, and my friend, the gentleman from Ohio, and of course, my good friend, the gentleman from eastern Carolina, WALTER JONES, Jr. The building is in Greenville, NC, home of East Carolina University, where many of us attended Walter Jones' funeral when we laid him to rest that day. The funeral was in Greenville and the interment, I think, was in Farmville, subsequently. But Walter was a good man, beloved by many, beloved by all who knew him.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I have had a great regard for Walter Jones over the years, a true gentleman and one that was always willing to reach a hand out to advise all of us in this Chamber, so I am pleased to join with the gentleman with regard to honoring Walter Jones.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my last comments would be to echo those of my colleagues who addressed Mr. Jones, Chairman Jones, Congressman Jones as a fine man, one who fought throughout the course of his career and his life for justice, for tolerance, for freedom, for fairness, for liberty. And it is quite obvious here this afternoon, Mr. Speaker, that he was also a very fine father, because he raised a fine son who is now a Member of this Chamber.

On behalf of the present gentleman from North Carolina [Mr. JONES], I urge my colleagues to vote "aye" on this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 840.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THOMAS D. LAMBROS FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 869) to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building and U.S. Courthouse", as amended.

The Clerk read as follows:

H.R. 869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 869, as amended, a bill to designate the Federal Building and Courthouse located in Youngstown, OH, as the "Thomas D. Lambros Federal Building and United States Courthouse." Judge Lambros was born and raised in Ashtabula, OH. He attended Fairmont State College in Fairmont, WV and received his law degree from Cleveland Marshall law School in 1952.

Prior to his career as a judge, he served in the U.S. Army from 1954 to 1956. In 1960, Judge Lambros began his career in public service with his election to the Court of Common Pleas in Ashtabula County. In light of Judge Lambros' excellent reputation as a fair and dedicated jurist, President Lyndon B. Johnson nominated him in 1967 to the U.S. District Court for the Northern District of Ohio. As a district court judge, Judge Lambros was responsible for several important legal reforms such as the voluntary public defender program, which provided indigent criminal defendants with free counsel. This reform eventually became law in the landmark U.S. Supreme Court decision of Gideon versus Wainwright. Judge Lambros became Chief Judge of the Northern District of Ohio in 1990, and officially resigned from this position in February 1995. Judge Lambros also received numerous honors and awards throughout his career including the Cross of Paideia presented by the Greek Orthodox Archdiocese of North and South America, and an honorary doctorate of law from Capital University Law and Graduate Center.

It is a fitting tribute to name this building after Judge Lambros because he played such an instrumental role in its construction. Prior to the opening of the U.S. courthouse in Youngstown, citizens had to travel at least 65 miles to Cleveland to seek justice in the Federal court system. Judge Lambros recognized the hardship this imposed on many people, especially senior citizens and the indigent. I strongly urge all Members to support this bill.

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Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member.

Mr. OBERSTAR. Mr. Speaker, I compliment the gentleman from Ohio [Mr. TRAFICANT], the leader on our side, for persisting on this legislation and bringing it forward once again. It passed the House in the last Congress and again did not muster support in the Senate.

I appreciate the role that the gentleman from Maryland [Mr. GILCHREST] has played in assuring that we again consider this legislation and bring it to the floor and I appreciate his support for the bill.

Mr. Speaker, it certainly is appropriate to honor Judge Lambros, who played a role in a very important area of law that often is poorly understood and overlooked, and that is the voluntary public defender program that provides free counsel for indigent criminal defendants. Judge Lambros was responsible for reforms in this area of the law that are very significant, and he laid the groundwork for, but his work preceded the landmark U.S. Supreme Court decision in Gideon versus Wainwright that guaranteed free counsel to indigent criminal defendants.

It is often difficult for us to understand and to take up the cause of those who are indigent and who have committed a crime, but nonetheless they deserve in our legal system legal counsel.

For a judge who provided that kind of distinguished leadership in an often neglected and poorly understood area of the law, it is appropriate to honor Judge Lambros by naming a Federal building and courthouse in his honor. He is a good friend of the Democratic leader on the subcommittee, Mr. TRAFICANT, who has been an advocate for this cause, and I compliment the gentleman, and I know that today we will again pass this legislation so justly deserved.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. OBERSTAR] for his comments and remarks.

Mr. Speaker, throughout the distinguished career of Judge Lambros, who retired in February, he embraced the rule of law, human rights, and social justice for all citizens. I cannot think of a more appropriate way to honor him than to name this courthouse and have this courthouse bear his name.

Judge Lambros was born in Ashtabula, OH, where he graduated from Ashtabula High School. He attended Fairmont State College in Fairmont, WV, and received his law degree from Cleveland Marshall Law School in 1952. From 1954 to 1956 he served in the U.S. Army; distinguished service, I might add. In 1960, Judge Lambros was elected judge of the Court of Common Pleas in Ohio's Ashtabula County. He was reelected to a second full term without opposition, as his reputation for fairness continued to grow.

In 1967, that fairness was nevertheless recognized by former President Lyndon B. Johnson, who nominated Judge Lambros to the Federal bench, U.S. District Court, Northern District of Ohio. As a district court judge, as so aptly stated by the gentleman from Minnesota [Mr. OBERSTAR], Judge Lambros was responsible for many important reforms, such as the voluntary public defender program to provide indigent criminal defendants with free counsel. His groundbreaking work, Members, in this area preceded the landmark U.S. Supreme Court decision, Gideon versus Wainwright, which guaranteed free counsel to indigent criminal defendants.

In 1990, Judge Lambros became chief judge in the Northern District of Ohio. From there he officially retired in February 1995.

Mr. Speaker, this is a most beautiful man. His efforts in the field of law will be remembered for years. I urge all to support this legislation.

I thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] and all of those who participated for such help and ask for an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, we have no more speakers on this bill. I want to thank the gentleman from Ohio [Mr. TRAFICANT] for his work on this, and I too urge an "aye" vote on this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 869, as amended.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. EVERETT). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ROMANO L. MAZZOLI FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 965) to designate the Federal building located at 1600 Martin Luther King, Jr., Place in Louisville, KY, as the "Romano L. Mazzoli Federal Building."

The Clerk read as follows:

H.R. 965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, shall be known and designated as the "Romano L. Mazzoli Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the Under States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Romano L. Mazzoli Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 965, a bill which designates the Federal building located in Louisville, KY, as the "Romano L. Mazzoli Federal Building." Romano L. Mazzoli was born and raised in Louisville, KY. After graduating from the University of Notre Dame, he served in the Army for 2 years before returning to attend law school at the University of Louisville. Ron was admitted to the Kentucky bar in 1960, and began practicing law in Louisville. In 1967, he began his career in public service by being elected to the Kentucky Senate, where he served from 1968 to 1970. In 1970, he was elected to join the House of Representatives, and the people of Kentucky's 3d Congressional District returned him to Washington in 11 subsequent elections, where he served from 1970 to his retirement in 1994.

Mr. Mazzoli may be best remembered for his tireless efforts on immigration issues. He was also an active voice on issues concerning campaign finance reform, smoking in public places, and cigarette advertising. Romano Mazzoli built a strong reputation as one of the most dedicated ethical and courageous Members ever to serve in Congress. Naming this Federal Building in his honor would be a fitting tribute to this distinguished former Member of Congress. I urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking Democrat on the committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], our senior Democrat on the subcommittee, for bringing forth this legislation, and the gentleman from Maryland [Mr. GILCHREST] for his support of the legislation to honor Ron Mazzoli.

Mr. Speaker, I came to know Ron Mazzoli, a very distinguished and special man, when I served on the staff of the Committee on Public Works and on the staff of my predecessor, John Blatnik, when I was administrative assistant and who took Mr. Mazzoli under his wing when Ron was first elected and counseled him in his early days serving in the Congress.

I think what the gentleman from Maryland [Mr. GILCHREST] said of Ron Mazzoli epitomizes his service in the Congress; Honor, integrity, respect for the institution, a person who approached each issue on the basis of the merits of the case. He studied every issue that he was about to vote on the House floor, often agonized over votes where there was a conflict, at least ideologically, between a national issue and the views of his constituency.

He always made sure that the vote he cast was the right vote, not just for his district, but also for the national interests. He left a great example that all of us could well follow.

Clearly, his great legacy will be that in the field of immigration. The Simpson-Mazzoli Act that shapes the current body of immigration laws is one that scholars, attorneys, and Federal agency administrators will pour over for years to come. It was his great legacy, along with many other issues that were listed by our chairman.

For me, this is a very personal matter. Ron was a graduate of Notre Dame. I am very proud of his education at Notre Dame. When my son graduated from high school, Notre Dame was at the top of his list of universities that he wanted to attend, and he was a little uncertain about Notre Dame and I arranged for Ron to visit with him. It was Ron's encouragement, painting a picture of the quality of education, but especially the values.

Whether you agree with Notre Dame on football or basketball or any other sports activity, on the matter of values I think there can be no question of the standard set by Notre Dame. It was that that persuaded Ted, and he entered Notre Dame on a scholarship, graduated with distinction, is now pursuing a master's degree in theology, and with very fond and very warm memories of Ron Mazzoli.

I mention that because so often I saw him take time with young people to talk to them about education, about career, and about values, and about what is important in life. That we name a Federal building in his honor is a tribute to his service to this country and to his care and concern for what this institution is all about, the people we represent. No one served them better than Ron Mazzoli.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS], a colleague of Mr. Mazzoli.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as the dean of the Kentucky delegation this year, I am honored today to rise and strongly support this bill and praise my most immediate predecessor as the dean of the delegation, our friend Ron Mazzoli.

Kentucky, Mr. Speaker, has been blessed with many outstanding Representatives in the Congress during the 20th century. The names are in history. Carl Perkins, Tim Lee Carter, John Sherman Cooper, and of course the unparalleled Bill Natcher, to name just a few. There have been many others of an outstanding nature as well, but Ron Mazzoli is another Member who distinguished our State and certainly this body.

First elected in 1970, Ron served nearly a quarter of a century in the Congress, representing Louisville and most of Jefferson County. As many of my colleagues know, Ron retired last year to return to Louisville to spend more time with his wonderful wife, Helen, and their children and grandchildren. He was and still remains a great man, admired at home and certainly here in Washington.

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Ron, as the gentleman from Minnesota [Mr. OBERSTAR] has said, was a very conscientious and very determined legislator. He stood fast to his beliefs and dealt honorably with supporters and adversaries alike. If he made his mind up to vote a certain way on a bill, it did not matter who was President or who was Speaker or who was chairman of this or whatever, Ron Mazzoli would vote his conscience regardless of the consequences. That is what made him a very valued and valuable Member of the U.S. House of Representatives.

Even in the heat of battle, Ron's principled manner drew nothing but cooperation and respect from all Members of this body.

He pursued with intelligence and vigor the different issues of our Nation's immigration policies as chairman of that subcommittee on Judiciary. He became the foremost expert, in fact, on immigration, something completely unrelated to his district in Louisville, but it was his responsibility here in the Congress that was assigned to him, and he did it to the utmost ability that he had, which was great. And so he became the foremost expert on that very arcane subject and his work is reflected in the major laws that govern immigration in this country to this day.

Ron was also a sentry for the disadvantaged, working on any number of issues for more than 20 years of service on the Committee on the Judiciary. First and foremost, however, he worked for the Third District of Kentucky, for the people who honored him with their many years of devoted support.

In Ron's last speech to the Congress on November 29, 1994, he said, "This is the kind of day that is steeped in nostalgia, as we look backward, but also look forward to new lives."

That is Ron Mazzoli. Always remembering the good times with a warm heart but looking forward to new challenges and new opportunities with a smile.

I am very pleased to join Ron's many friends here in this body to this day. I know of no Member who made more friends across that aisle than did Ron Mazzoli. I am very pleased to join many of them here today as we seek to pass this legislation to name the Federal building that has been designated for our friend Ron Mazzoli. It is an honor he has earned through his years of dedication and service for the people of his district, for Kentucky, and for our Nation.

So I hope today we pass this legislation as a symbol of the respect that Ron Mazzoli earned along the way.

Mr. Speaker, I am here to help us pass our bill, and that bill is a large one indeed that we owe to Ron Mazzoli for service to his Nation.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. WARD] the outstanding individual who has succeeded our fine past Member Ron Mazzoli.

Mr. WARD. I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, I am proud to join my friends and colleagues, especially proud to follow my colleague, the gentleman from Kentucky [Mr. ROGERS], in speaking on behalf of this bill today.

I urge all of my colleagues to support this legislation which will serve as a lasting tribute to such a distinguished Member who served in this body for 24 years.

Ron Mazzoli, as many Members who had the privilege to serve with him know, earned the reputation as one of the most devoted and ethical Members ever to serve in this House. His work on immigration issues and campaign finance reform will continue to serve as a lasting testament to his years of public service for many years to come.

I have had the pleasure of succeeding Ron Mazzoli here and of being, I hope, associated with the kind of commitment that he had by virtue of that succession. I also served in the Kentucky legislature where Congressman Mazzoli served with great distinction for 4 years.

I serve in this Congress and feel that it is a great honor to be able to say when I introduced myself to my new colleagues upon arrival that I have Ron Mazzoli's seat.

As an unassuming man, Ron Mazzoli would never ask for this distinction or seek to have it bestowed upon him. But no one is more deserving of such an honor.

I urge all Members to support this legislation because by doing so this Congress will give me the privilege of going to my district office by walking into the Romano L. Mazzoli Federal Building.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. ENGEL]. Due to travel schedules, he had a little rough time getting here exactly on time. He is one of the sponsors of the legislation honoring and naming the building after Judge Thurgood Marshall and will speak out of order on that bill as well as on this bill.

Mr. ENGEL. I thank my friend from Ohio for yielding me the time.

Mr. Speaker, I want to also add my voice in the designation of H.R. 965, to designate the Federal building in Louisville, KY, as the Romano Mazzoli Federal Building.

Having served with Ron Mazzoli, I can think of no greater or fitting honor and I am just delighted that this bill is here this afternoon. I know that all of our colleagues will support it, because Ron was truly one of the great members of Congress with which many of us served.

I am here today also now to thank my colleagues for the passage of the bill which commemorates one of the most distinguished Americans of this century, and that is the designation of the U.S. courthouse in White Plains, NY, as the Thurgood Marshall U.S. Courthouse. As representatives of the Westchester, NY, area I am here on behalf of Congresswomen NITA LOWEY, SUE KELLY, and Congressman BEN GILMAN to urge the bestowal of this honor in memory of an historic and influential man, and the ideals for which he stood.

Mr. Marshall, as we know, began his distinguished career in private practice. Specializing in civil rights cases, he represented clients who very often could not afford to pay for his services. As the national counsel of the NAACP, Mr. Marshall spent much of his time in the South furthering the cause of civil rights and challenging segregated education. In 1954, Mr. Marshall's struggle for integrated education culminated in his argument before the Supreme Court in the landmark Brown versus Board of Education case. Following this decision, he focused his energies on the elimination of segregation and discrimination in voting, housing, public accommodations, as well as within our defense.

He chose to fight the battle of civil rights on a different front when he accepted President Kennedy's appointment to the U.S. Court of Appeals for the Second Circuit. He continued to break down the walls of segregation on the other side of the bench, accepting posts traditionally held by white males. As solicitor general he argued such cases as the Voting Rights Act of 1965, abolishing literacy requirements, voter qualification tests, and poll taxes.

On June 13, 1967, Thurgood Marshall, the great grandson of an African man brought to this country as a slave, was appointed to the Supreme Court of the United States, the first African-American to hold that position. As a Supreme Court Justice, Mr. Marshall continued his work in the name of individual rights for minorities, women, and all those who for so long did not have a voice in our Government.

Mr. Speaker, these are but a few of the highlights in the distinguished career of a man who earned the respect of his colleagues through his intelligence, hard work, and commitment to the civil rights of all Americans. Mr. Marshall said of himself that he hoped to be thought of as one who did the best he could with what he had. We know that he deserves a better and more lasting memory.

The Westchester County Board of Legislators, the Common Council of the City of White Plains, the African-American Federation of Westchester, the White Plains-Greenburgh Federation of the NAACP, and the constituents of Westchester County have asked that we name the courthouse at 300 Quarropas Street as a lasting memorial to Mr. Marshall's legacy. Sixty years ago Mr. Marshall was at the forefront of a movement at its inception. The struggle for civil rights for minorities is one which we continue today. What tribute could be more fitting for a man who fought tirelessly for the cause of civil rights than to provide a tangible symbol of the principles of law and justice which will be defended within the walls of the courthouse.

I again thank my colleagues for passing this bill. I thank the gentleman from Ohio [Mr. TRAFICANT] for his hospitality. I urge the passage of this other fitting tribute to Ron Mazzoli.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a sponsor of the bill, I am very proud to bring this legislation forth. I believe the record, as has been depicted in the statements made here by so many Members, justifiably brings forth the great contributions that Ron Mazzoli has made to the Nation and to his district.

I was a very good friend of Ron's. Being that he was an old Notre Dame grad and I was a University of Pittsburgh grad, we had certainly debated a lot about Pitt-Notre Dame games. But in addition to that we worked very hard on some common issues.

Maybe a little bit off the record here, I had the occasion to have a call from his mom, 83 years old. She was just so tickled that her son would be memorialized in such a fashion to have a building named after his distinguished record.

I think that that phone call basically said it all. There are many people that take tremendous interest in what we do here. Sometimes we overlook the contributions that many of them made to help many of us get here to serve our Nation. I am sure Mrs. Mazzoli back in Kentucky today is very proud. I would like to thank Mrs. Mazzoli for producing such a fine American who served so well in the Congress of the United States, ladies and gentlemen. I urge all to support this bill.

With that, Mr. Speaker, I yield the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

I, too, urge an "aye" vote on this bill and would like to echo the sentiments of my good friend, the gentleman from Ohio [Mr. TRAFICANT], to restate that Mr. Mazzoli, a Member of Congress, epitomizes what all of us would seek to be like, an honorable man, a just man, and without a doubt a good friend.

I urge support for the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 965.

The question was taken.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

JUDGE ISAAC C. PARKER FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1804) to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, AR, as the "Judge Isaac C. Parker Federal Building".

The Clerk read as follows:

H.R. 1804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the "Judge Isaac C. Parker Federal Building".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office-Courthouse referred to in section 1 shall be deemed to be a reference to the "Judge Isaac C. Parker Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1804, a bill to designate the United States Post Office—Courthouse located in Fort Smith, AR, as the "Judge Isaac C. Parker Federal Building." Judge Parker is a legendary figure in Arkansas, and his fame extends to the surrounding States as well. He was a soldier, a lawyer, a member of Congress, and a judge. In 1875 after his retirement from Congress, President Ulysses Grant appointed him Chief Justice of the Utah Territory. However, at the President's request, he resigned to accept appointment to the United States Court for the Western District of Arkansas. The Western District Court had fallen into disrepute due to the actions of Judge Parker's predecessor, Judge William Story. Under the threat of impeachment, Judge Story had departed. The jurisdiction of the court covered the western half of Arkansas and what is now the entire State of Oklahoma. Judge Parker dedicated himself to reestablishing the court as a power in the land. During his service the court disposed of a grand total of 13,500 cases, of which 12,000 were criminal. Of the 12,000 criminal charges, 8,600 resulted in criminal convictions, either by jury trials or guilty pleas. Judge Parker is best known for his reputation and nickname as the "hanging judge." Reportedly, he sentenced more men to the gallows than any other jurist in United States history. This reputation is particularly interesting in light of reports that he did not believe in capital punishment. But he did believe in the law, and is quoted as saying "I've never hanged a man, it is the law that has done it." Judge Parker died in November 1896. Perhaps nothing illustrates more vividly the legacy of Judge Parker than the request of the citizens of Fort Smith, almost 100 years later, to name the Federal building in their city in his honor. I strongly urge my colleagues to support this bill.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], the ranking member on the subcommittee, and the chairman, the gentleman from Maryland [Mr. GILCHREST], for bringing forth this bill.

This is certainly a case of a tribute long delayed and an honor bestowed in a manner that certainly is appropriate. When a man is so great that the people of a community a century later ask that he be memorialized in a particular way, then certainly the Congress ought to respond to that appeal as we are doing today by naming the Federal building at Fort Smith, AR, in honor of Judge Parker, whose great career, whose remarkable career has been spelled out by Chairman GILCHREST.

I urge support of the legislation.

Mr. GILCHREST. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, let me first say I appreciate your assistance in bringing this bill to the floor today. I would also like to thank Chairman SHUSTER, as well as ranking member OBERSTAR and subcommittee ranking member TRAFICANT for their assistance.

This bill, H.R. 1804, would name the Federal building in Fort Smith, AR, after Judge Isaac Parker. Judge Parker is a great figure in Arkansas and the surrounding States. He was a soldier, a Congressman, a lawyer, and a judge.

In 1875 after his retirement from the U.S. Congress, President Grant appointed Isaac Parker as chief justice of the Utah Territory. However, at the request of the President, Parker resigned to accept appointment as judge of the United States Court for the Western District of Arkansas.

The court had fallen into disrepute because of the actions of Parker's predecessor. The President asked Parker to "stay a year or two in Fort Smith and get things straightened out."—Ended up staying 21 years.

When he assumed office Judge Parker dedicated himself to the reestablishment of the court as a power in the land. The court calendar tells the story. It was a court of no vacations except for Sundays and Christmas. During his service the court disposed of a grand total of 13,500 cases, of which 12,000 were criminal. Of the 12,000 criminal charges 8,600 resulted in convictions.

However, Judge Parker is best known for his reputation as the "hanging judge." He unquestionably sentenced more men to the gallows than any other jurist in United States history. His nickname is particularly interesting in light of reports that Parker himself did not believe in capital punishment. But he did believe in the laws, and is quoted as having said, "I've never hanged a man. It is the law that has done it."

Off the bench, Judge Parker was known as a humorous and friendly man, devoted to his family and respected by all as a man of incorruptible integrity. He was active in local affairs and served for several years as president of the Fort Smith School Board.

The year or two that President Grant requested him to stay stretched out to 21, until his death in 1896. He had accomplished the goal of the President, as well as his own, to restore respect to the court and the law of the land, and to safeguard the citizens of his jurisdiction.

Judge Parker is buried in the national cemetery in Fort Smith near the court that he had so faithfully served for over two decades.

Perhaps nothing illustrates the legacy of Judge Parker more than the request of the citizens of Fort Smith, almost 100 years later, to name the Federal building in his honor. This is a remarkable and fitting tribute.

Finally, Mr. Speaker, I would like to take this opportunity to pay tribute to another Arkansan, Mr. Larry Degen. The city of Fort Smith is currently planning events to mark the 100th anniversary of Judge Parker's death. The naming of the city's Federal building is one of the main initiatives that is being planned in connection with this anniversary.

Larry Degen was a very active leader in planning this celebration. In particular, he was one of the first people who contacted me requesting legislation to name the Federal building in honor of Judge Parker.

Larry continued to call and write me, encouraging Congress to move forward with this legislation in time for the anniversary. His last call was on October 27th. Tragically, Larry died on October 31st at the very young age of 47. A businessman, church member, community activist, father, and grandfather, Larry Degen represents the true spirit of the people of Fort Smith. I am sure Judge Parker would've been honored to know that a man of Larry's caliber worked on the legislation that honors his name.

I would urge my colleagues to support this measure.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is an old saying: When Judge Parker got through with those cold-blooded killers, there was no recidivism.

We have talked and we have heard the phrase coined so many times in referring to judges throughout America as the hanging judges. Ladies and gentlemen, that is, this was, the hanging judge, and I believe that he was revered not only by his colleagues but also by the frontier community which he served.

I think that he blazed a trail to let everybody respect the law, and sometimes you have got to get people's attention, and I think we have got the Nation's attention now to the contributions made by Judge Parker.

I support this bill and ask all Members to unanimously support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like again to echo the sentiments of the gentleman from Ohio [Mr. TRAFICANT] that we recognize a man such as Judge Parker who did blaze a trail in the early years of this country to establish justice and law.

I want to thank my colleague, the gentleman from Arkansas [Mr. HUTCHINSON], for being extremely relentless and persistent, consistently, to get this bill pushed through the House. I thank him for all of his efforts. I urge a "yes" vote on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 1804.

The question was taken.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 308, H.R. 255, H.R. 395, H.R. 653, H.R. 840, H.R. 869, H.R. 965, and H.R. 1804, the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

Mr. BUNNING of Kentucky. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2684) to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizens' Right to Work Act of 1995".

SEC. 2. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,166.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,250.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,333.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,416.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,500.00,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 2 of the Senior Citizens' Right to Work Act of 1995 had not been enacted".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 3. ESTABLISHMENT OF DISABILITY INSURANCE CONTINUING DISABILITY REVIEW ADMINISTRATION REVOLVING ACCOUNT.

(a) CONTINUING DISABILITY REVIEW ADMINISTRATION REVOLVING ACCOUNT FOR TITLE II DISABILITY BENEFITS IN THE FEDERAL DISABILITY INSURANCE TRUST FUND.—

(1) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

"(n)(1) There is hereby created in the Federal Disability Insurance Trust Fund a Continuing Disability Review Administration Revolving Account (hereinafter in this subsection referred to as the 'Account'). The Account shall consist initially of $300,000,000 (which is hereby transferred to the Account from amounts otherwise available in such Trust Fund) and shall also consist thereafter of such other amounts as may be transferred to it under this subsection. The balance in the Account shall be available solely for expenditures certified under paragraph (2).

"(2)(A) Before October 1 of each calendar year, the Chief Actuary of the Social Security Administration shall—

"(i) estimate the present value of savings to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund which will accrue for all years as a result of cessations of benefit payments resulting from continuing disability reviews carried out pursuant to the requirements of section 221(i) during the fiscal year ending on September 30 of such calendar year (increased or decreased as appropriate to account for deviations of estimates for prior fiscal years from the actual amounts for such fiscal years), and

"(ii) certify the amount of such estimate to the Managing Trustee.

"(B) Upon receipt of certification by the Chief Actuary under subparagraph (A), the Managing Trustee shall transfer to the Account from amounts otherwise in the Trust Fund an amount equal to the estimated savings so certified.

"(C) To the extent of available funds in the Account, upon certification by the Chief Actuary that such funds are currently required to meet expenditures necessary to provide for continuing disability reviews required under section 221(i), the Managing Trustee shall make available to the Commissioner of Social Security from the Account the amount so certified.

"(D) The expenditures referred to in subparagraph (C) shall include, but not be limited to, the cost of staffing, training, purchase of medical and other evidence, and processing related to appeals (including appeal hearings) and to overpayments and related indirect costs.

"(E) The Commissioner shall use funds made available pursuant to this paragraph solely for the purposes described in subparagraph (C).".

(2) CONFORMING AMENDMENT.—Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended in the last sentence by inserting "(other than expenditures from available funds in the Continuing Disability Review Administration Revolving Account in the Federal Disability Insurance Trust Fund made pursuant to subsection (n))" after "is responsible" the first place it appears.

(3) ANNUAL REPORT.—Section 221(i)(3) of such Act (42 U.S.C. 421(i)(3)) is amended—

(A) by striking "and the number" and inserting "the number";

(B) by striking the period at the end and inserting a comma; and

(C) by adding at the end the following: "and a final accounting of amounts transferred to the Continuing Disability Review Administration Revolving Account in the Federal Disability Insurance Trust Fund during the year, the amount made available from such Account during such year pursuant to certifications made by the Chief Actuary of the Social Security Administration under section 201(n)(2)(C), and expenditures made by the Commissioner of Social Security for the purposes described in section 201(n)(2)(C) during the year, including a comparison of the number of continuing disability reviews conducted during the year with the estimated number of continuing disability reviews upon which the estimate of such expenditures was made under section 201(n)(2)(A).".

(b) EFFECTIVE DATE AND SUNSET.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply for fiscal years beginning on or after October 1, 1995, and ending on or before September 30, 2002.

(2) SUNSET.—Effective October 1, 2002, the Continuing Disability Review Administration Revolving Account in the Federal Disability Insurance Trust Fund shall cease to exist, any balance in such Account shall revert to funds otherwise available in such Trust Fund, and sections 201 and 221 of the Social Security Act shall read as if the amendments made by subsection (a) had not been enacted.

(c) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of such Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"Chief Actuary

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the

actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 4. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the sixth month after the month in which the Commissioner of Social Security receives formal notification of such divorce.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to notifications of divorces received by the Commissioner of Social Security on or after the date of the enactment of this Act.

SEC. 5. RECOMPUTATION OF BENEFITS AFTER NORMAL RETIREMENT AGE.

(a) IN GENERAL.—Section 215(f)(2)(D)(i) of the Social Security Act (42 U.S.C. 415(f)(2)(D)(i)) is amended to read as follows:

"(i) in the case of an individual who did not die in the year with respect to which the recomputation is made, for monthly benefits beginning with benefits for January of—

"(I) the second year following the year with respect to which the recomputation is made, in any such case in which the individual is entitled to old-age insurance benefits, the individual has attained retirement age (as defined in section 216(l)) as of the end of the year preceding the year with respect to which the recomputation is made, and the year with respect to which the recomputation is made would not be substituted in recomputation under this subsection for a benefit computation year in which no wages or self-employment income have been credited previously to such individual, or

"(II) the first year following the year with respect to which the recomputation is made, in any other such case; or".

(b) CONFORMING AMENDMENTS.—

(1) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting ", and as amended by section 5(b)(2) of the Senior Citizens' Right to Work Act of 1995," after "This subsection as in effect in December 1978".

(2) Subparagraph (A) of section 215(f)(2) of the Social Security Act as in effect in December 1978 and applied in certain cases under the provisions of such Act as in effect after December 1978 is amended—

(A) by striking "in the case of an individual who did not die" and all that follows and inserting "in the case of an individual who did not die in the year with respect to which the recomputation is made, for monthly benefits beginning with benefits for January of—"; and

(B) by adding at the end the following:

"(i) the second year following the year with respect to which the recomputation is made, in any such case in which the individual is entitled to old-age insurance benefits, the individual has attained age 65 as of the end of the year preceding the year with respect to which the recomputation is made, and the year with respect to which the recomputation is made would not be substituted in recomputation under this subsection for a benefit computation year in which no wages or self-employment income have been credited previously to such individual, or

"(ii) the first year following the year with respect to which the recomputation is made, in any other such case; or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to recomputations of primary insurance amounts based on wages paid and self employment income derived after 1994 and with respect to benefits payable after December 31, 1995.

SEC. 6. ELIMINATION OF THE ROLE OF THE SOCIAL SECURITY ADMINISTRATION IN PROCESSING ATTORNEY FEES.

(a) ACTIONS BEFORE THE COMMISSIONER.—Section 206(a) of the Social Security Act (42 U.S.C. 406(a)) is amended—

(1) in paragraph (1), by striking the fourth and fifth sentences;

(2) by striking paragraphs (2), (3), and (4);

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) No person, agent, or attorney may charge in excess of $4,000 (or, if higher, the amount set pursuant to subparagraph (B)) for services performed in connection with any claim before the Commissioner under this title, or for services performed in connection with concurrent claims before the Commissioner under this title and title XVI.

"(B) The Commissioner may increase the dollar amount under subparagraph (A) whenever the Commissioner determines that such an increase is warranted. The Commissioner shall publish any such increased amount in the Federal Register.

"(C) Any agreement in violation of this paragraph shall be void.

"(D) Whenever the Commissioner makes a favorable determination in connection with any claim for benefits under this title by a claimant who is represented by a person, agent, or attorney, the Commissioner shall provide the claimant and such person, agent, or attorney a written notice of—

"(i) the determination,

"(ii) the dollar amount of any benefits payable to the claimant, and

"(iii) the maximum amount under paragraph (2) that may be charged for services performed in connection with such claim."; and

(4) by redesignating paragraph (5) as paragraph (3).

(b) JUDICIAL PROCEEDINGS.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(1) in the first sentence of subparagraph (A), by striking "representation," and all that follows and inserting the following: "representation. In determining a reasonable fee, the court shall take into consideration the amount of the fee, if any, that such attorney, or any other person, agent, or attorney, may charge the claimant for services performed in connection with the claimant's claim when it was pending before the Commissioner.";

(2) in the second sentence of subparagraph (A), by striking "or certified for payment";

(3) by striking subparagraph (B); and

(4) by striking "(b)(1)(A)" and inserting "(b)(1)".

(c) CONFORMING AMENDMENTS.—

(1) Section 223(h)(3) of such Act (42 U.S.C. 423(h)(3)) is amended by striking all that follows "obtained)" and inserting a period.

(2) Section 1127(a) of such Act (42 U.S.C. 1320a–6(a)) is amended by striking the last sentence.

(3) Section 1631(d)(2)(A) of such Act (42 U.S.C. 1383(d)(2)(A)) is amended—

(A) by striking "(other than paragraph (4) thereof)"; and

(B) by striking all that follows "title II" and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) any claim for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, or the black lung program under part B of the Black Lung Benefits Act that is initially filed on or after the 60th day following the date of the enactment of this Act, and

(2) any claim for such benefits filed before such 60th day by a claimant who is first represented by any person, agent, or attorney in connection with such claim on or after such 60th day.

SEC. 7. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) that prevents the individual from managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).''.

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply with respect to monthly insurance benefits under title II of the Social Security Act based on disability for months beginning after the date of the enactment of this Act, except that, in the case of individuals who are entitled to such benefits for the month in which this Act is enacted, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed on or after the date of the enactment of this Act.

(C) If an individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

''(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

''(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) that prevents the individual from managing such benefits.''.

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking ''eligible for benefits'' and all that follows through ''is disabled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows ''15 years, or'' and inserting ''described in subparagraph (A)(ii)(II).''.

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking ''eligible for benefits'' and all that follows through ''is disabled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(3) TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

''TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION

''SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).''.

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act based on disability for months beginning after the date of the enactment of this Act, except that, in the case of individuals who are eligible for such benefits for the month in which this Act is enacted, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed on or after the date of the enactment of this Act.

(C) If an individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase ''supplemental security income benefits under title XVI of the Social Security Act'' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $100,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 8. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1995. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1995, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1995, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 9. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the *study one annualized statement, setting forth the following information:*

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(b) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this subsection are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(c) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. JACOBS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, it is my honor to speak on behalf of the Senior Citizens' Right To Work Act of 1995, because I am also speaking on behalf of the 1 million people who are affected by the Social Security earnings limit.

Over a year ago, we promised working seniors financial relief from the punitive earnings limit which is imposed on many older Americans who must work to make ends meet.

Today we are taking one more step toward fulfilling that promise with the Senior Citizens' Right To Work Act.

H.R. 2684 is a fair and balanced bill. It is fair to the working seniors. It is fair to the financial soundness of the Social Security trust fund.

This legislation enjoys widespread support among the senior community, because they, too, know it is good policy to do what is right for working seniors.

The members of the Ways and Means Committee know it is good policy, too, because it passed the committee unanimously on a vote of 31 to 0.

I urge my colleagues to follow the example of the Ways and Means Committee and pass the Senior Citizens' Right To Work Act of 1995.

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, of course, support this legislation as well, and I commend the gentleman from Kentucky as well as the gentleman from Texas who are longstanding supporters of the concept, and I cannot think of a better example of a legislative accommodation to various points of view.

There were those of us, and still are, who believe that it is improper to repeal the retirement test altogether, those of us who believe that retirement benefits should, in fact, go to people who are retired. But the compromise this bill represents is a very happy one, as the gentleman from Kentucky has said, for practically any reasonable person who has dealt with this issue over the years. This is a happy moment for the American people. It is a proud moment for the Congress, and it might not be a bad example for the people moving across the hall here to negotiate the whole budget.

There has been give and take. There has been friendship. And there has been accomplishment, and we have arrived at that accomplishment today.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today not in the manner that I would have liked. I support this bill. I support final passage of this bill.

But I am truly disappointed that the bill came up under suspension, because it gives us no opportunity to amend the bill, and I had planned to testify today before the Committee on Rules to ask that we could have an amendment to continue equity for the blind people of this Nation. Up to this point, people in America who are blind have the same situation on earnings test limits as those who are 65 and older, and my amendment would have maintained this current link between senior citizens and the blind for the purposes of Social Security earnings.

This Social Security earnings test link was put forth originally by our own chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER]. He had this idea that this was a very good thing for the blind to have this same type of situation, and it became law nearly 20 years ago. Unfortunately, the bill before us will break that link, and the blind will no longer have the same work incentive our senior citizens should and will enjoy.

Earlier in the year I submitted a similar amendment before the Committee on Rules during consideration of the Contract With America, and the amendment was not permitted on the floor of the House. Today, again, I tried to get an amendment before the Committee on Rules, but, unfortunately, the decision was made to have this come under suspension.

Mr. Speaker, I feel this is unfortunate for the blind of this country not to be allowed to have the vote, but, more importantly, the link is broken. So I would like to say today, whereas it was not found possible to do this, the blind are very interested in this piece of legislation and would certainly like to reestablish this link. I would hope somewhere down the line this could come up again and we could have something that will work and continue.

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Mr. BUNNING of Kentucky. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas [Mr. ARCHER] the chairman of the full Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank my friend from Kentucky for yielding me time.

Today is truly a banner day for this House of Representatives and for the country. As my friend, the gentleman from Indiana, ANDY JACOBS, said, we should find more opportunities to work together for the betterment not only of our senior citizens, but for all Americans.

Today is particularly a sentimental day for me, because over 20 years ago I initiated the effort to eliminate the retirement test. I felt very strongly that this country was losing tremendous talent available in its senior citizens who, if they did work, were penalized by losing their Social Security benefits and paying the highest effective marginal tax rate as a result of any age group in the country.

Today, after all of those years, we are making a move in the right direction, and it is a result of the work of the gentleman from Kentucky, JIM BUNNING, our subcommittee chairman, cooperating with the gentleman from Indiana, ANDY JACOBS, the ranking Democrat on the committee.

But it is also a sentimental day for Barry Goldwater. I hope in some way that he may be watching today, because year after year he was the lead Senate sponsor of this legislation, until he retired from the Senate.

This earnings limit brings about the most odious administrative nightmare in every Social Security office across this country. If you talk to people who who are there day by day, having to deal with Social Security problems, you will find that they will tell you that this is the toughest thing they have to deal with, just from a standpoint of administrative redtape.

When fully phased in, this will eliminate about 50 percent of the people who have to comply with it and bring about these mountainous files of uncertainty.

Seniors who want to work after the passage of this bill will be able to continue to do so up to earning $30,000 a year. That is a giant step forward. It will unlash an awful lot of talent, an awful lot of resources, to help push this country forward in the years ahead.

Mr. Speaker, I could not be more gratified with the response on a bipartisan basis, where this bill came out of our committee on a 31-to-0 vote, to send it to the Senate, where hopefully they will pass it speedily and put it on the desk of the President so it can be signed soon this year.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the good fortune to yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I rise today in support of this most important piece of legislation. It has been late in coming, but it is certainly an answer to many of our commitments to our senior citizens.

For many it is very difficult to live on Social Security and then be limited to $11,000 a year in earnings limits, as existing law provides. By increasing this over 7 years to $30,000, we are recognizing the fact that many of our seniors want to continue to work, can continue to work, and can live a much better and fuller life if they are able to work. It is high time that this legislation pass.

I compliment the chairman and the gentleman from Indiana [Mr. JACOBS] for working on this, in a bipartisan way, to bring this most important piece of legislation to the House floor.

Mr. JACOBS. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the bill before us is not very controversial. The base bill does provide for an increase in the earnings limit for senior citizens. I guess we could debate, and possibly the Senate will debate, whether or not it should go to $30,000 over a period of 7 years. But the point I want to raise with the body today is, No. 1, the process on how the bill got before us today, and then two of the components which are very troublesome to me.

We were notified, I believe last week, that this bill would be coming before the Committee on Rules today at 2:30, at which time Members who were interested could approach the Committee on Rules and ask for various amendments to be made in order.

That is the usual process when we are amending bills and debating bills. However, for whatever reason, unbeknownst to this speaker, the Committee on Rules canceled that hearing on this particular bill and it was rushed to the House under a procedure we call suspension of the rules. The suspension of the rules procedure does not permit any amendments to be offered to the legislation being debated.

So essentially what the Republican majority has done is cut some of us off, some of us who wanted to propose some constructive changes to the legislation we were debating.

You ask what are those changes? What do you want to change about the bill? There are two major changes I think that have to be addressed.

One was already spoken to by the gentlewoman from Connecticut [Mrs. KENNELLY], and it is something we did discuss before the committee and I am sad to say to no avail. But under current law and under an amendment back to 1977 that was proposed by my good friend, the gentleman from Texas [Mr. ARCHER], the chairman of the committee, there was a linkage formed between the blind and the earnings test for Social Security recipients. However, although that linkage has proved very beneficial to the blind involved and it has been in the law since 1977, for some reason, unbeknownst to me, that linkage is ending with the passage of this bill.

If you look at the plight of a blind person who has tried to struggle in a low paying job, to not permit them to earn more as we are doing for retired people I think is absurd. In fact, the example I used before the Committee on Ways and Means during markup was take the situation of a blind person who is not going to get better in his or her lifetime, unless a miracle would occur, a blind person who is trying to increase their stand in this country, and they try to get a job earning more money. But they know full well they are going to lose. A person who is blind who is trying to earn will lose Social Security benefits.

However, a retired person who is, say, 66 years old, very, very healthy, not blind, will over a 7-year period be able to earn $30,000, and I think the unlinking of the two is totally unfair. However, because of the Republican procedure today, the blind people will not get a separate vote on their request to my office and many others to keep this linked.

The other problem with the bill has nothing to do with the earnings test. However, under current law for attorneys who represent people in Social Security disability cases, they receive their reimbursement for the representation through a separate check from the Social Security Administration. That is being done away with. It does not save any money. We are told it might cost some money, but we are going to save some man-hours. We did want to offer before the Committee on Rules a proposal wherein we take the one disability check going to the beneficiary, have two payees listed on the check, and if in fact that did not cover the cost we would provide for a $20 fee. That was not permitted. That is sad.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I must say that this is a day that many of us in this body can stand and say promises made, promises kept, because both sides of the aisle have promised our seniors we would give them relief in their earnings ability by allowing them to continue to work and earn extra money and not be penalized for such.

It comes from both sides of the aisle. As has been mentioned, both in the subcommittee and the full committee, there was not a dissenting vote. Again, this is how this body can work.

I go back to just 10 days ago, on Sunday evening in this same body when on a unanimous consent we sent a continuing resolution down to the White House that would do the same thing, promises made, promises kept. That is why we all agreed to a 7-year balanced budget. I look forward to the day we stand here unanimously and say we fulfilled that promise also.

Mr. BUNNING of Kentucky. Mr. Speaker, I now have the pleasure of yielding 1 minute to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in strong support of H.R. 2684, legislation that will raise the Social Security earnings limit for working seniors who right now face higher real tax rates than millionaires in the current system.

While senior citizens are the primary beneficiaries of this legislation, I am pleased to say another important sector of our work force will also benefit, and that is members of the clergy.

H.R. 2684 includes a provision that I have advocated that would provide a 2-year open season for members of the clergy to enroll in Social Security. Some members of the clergy elected not to participate in Social Security early in their careers, before they fully understood the ramifications of opting out. Because the election process is irrevocable, there is no way for them to participate in the program under current law. Clergy typically have the most modest earnings throughout their working lives, and would be among those most likely to rely on Social Security. This legislation would give them an opportunity to enroll.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the pleasure of yielding 1 minute to the gentleman from Texas [Mr. SAM JOHNSON] a member of the Subcommittee on Social Security and a member of the full committee.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate the gentleman yielding time.

Mr. Speaker, the only thing that is more important than repealing the 16th amendment and getting rid of the IRS is fixing it so our citizens have the right to work and earn whatever they want to. This bill, believe it or not, allows anyone between 65 and 70, which is what we are talking about, to hit $14,000 as a salary limit this year, this next year, instead of having to wait until the year 2002, which is what current law does.

You know what that does? That helps 20 percent of those involved in that category, which is 925,000 people. That means those guys are not going to have to pay any more tax. That means they can work at Wendy's and McDonald's or wherever they want to and earn money without being subject to the Federal Government of this Nation.

Mr. Speaker, I think we have to pass it. It is a duty that we have.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the pleasure of yielding 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the distinguished chairman for yielding me time.

Mr. Speaker, I rise today in strong support of this legislation. One provision of this bill, Mr. Speaker, cuts off benefits for those individuals considered disabled solely based on their addiction to either drugs or alcohol. I strongly support this provision.

Mr. Speaker, as a recovering alcoholic who spends a great deal of my time with other alcoholics and addicts who are still suffering the ravages of chemical addiction, I can tell you that paying cash benefits to these people is not the kind of help that they need. In fact, cash benefits only make the problem of addiction worse, only serve to enable, to fuel the addiction.

Those addicted to drugs or alcohol do not need cash, they need treatment. This bill, Mr. Speaker, provides $200 million in additional money to the States through an existing block grant program for the prevention and treatment of substance abuse.

So I commend my distinguished colleague on the Committee on Ways and Means, the chairman of the Subcommittee on Social Security, for bringing this thoughtful piece of legislation to the floor, and I urge all of my colleagues to give substance abusers the help that they need. Support this legislation.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I thank my friend from Indianapolis for yielding me time. There is not a man nor woman on that particular side from the gentleman's party whom I respect more, and whom I am going to dearly miss after his retirement this year.

Mr. Speaker, today represents another step in our efforts to increase the Social Security earnings limit. Currently senior citizens between the ages of 65 and 69 lose $1 in Social Security benefits for every three they make over $11,280. This important piece of legislation we are considering today will change that. It will raise the earnings limit for those ages 65 to 69 to $30,000 by year 2002, thereby removing this disincentive to work and allowing seniors to keep more of their hard-earned dollars.

This bill is especially important to the folks I represent back in Nebraska. The Omaha area is currently experiencing a labor shortage. With unemployment hovering around 2 percent, our efforts to raise the earnings limit will allow more seniors to enter the work force without being punished by the Federal Government, thereby providing Nebraska businesses with experienced employees rich in talent and full of ability.

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Simply put, lifting the earnings limit for our Nation's seniors is the right thing to do. And as my friend from Georgia earlier said, promises made, promises kept.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I thank the distinguished gentleman for yielding. I rise in support of the Senior Citizens Right to Work Act which will raise the earnings limit for seniors.

This legislation accomplishes two important tasks: First, it ends the policy of subsidizing drug and alcohol abuse with Social Security funds; and, second, and very importantly, it ends the practice of punishing seniors who want to work.

Currently, seniors who want to remain a vital part of the work force will lose $1 of their Social Security contributions for every $3 they earn over $11,280. This legislation will remove the disincentive to work placed upon seniors by raising that limit.

American seniors have worked hard to pay into the Social Security trust fund. This legislation not only protects their investment and honors our commitment to them, it also encourages seniors to continue their contribution to our Nation's work force.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I thank my chairman for yielding me time. I am proud to stand in support of the Senior Citizens Right to Work Act, and I am proud to have been an original cosponsor of this bill. Not only does it raise the earnings limit for our senior citizens between the ages of 65 and 70, just as importantly as allowing them to have hard-earned money to help them in these years, it gives the added benefit of allowing them to continue working to allow the senior citizens to do the things they want to do in their golden senior years.

Mr. Speaker, that is a benefit that is healthy to them beyond the financial earnings. And in that I cite as an example of my own father who today is working at age 76. This law does not apply to them because seniors above the age of 70 are not subjected to earnings limits. But I see senior citizens who find it healthy for their own day-to-day happiness and well-being to be working, and I am proud to support this bill, and I urge my colleagues to support it.

Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Speaker, I thank the gentleman for yielding me this time. This is a wonderful piece of legislation. It has simply taken too long to come to the floor of the House. It is bipartisan. It came out of our Committee on Ways and Means with a vote of 31 to 0, and it is time, in fact, beyond time, that this legislation go into effect.

I support this legislation largely because I think it is just plain wrong to penalize our most experienced and dedicated workers for continuing to work and contribute to a better livelihood for themselves and also to a better future for the United States.

Seniors across the country want to work beyond age 65 because a fixed Social Security income alone these days often does not provide adequate financial security. I think also the younger people in the workplace gain a lot through the experience of those folks who continue to work. It is good for all of us.

Unfortunately, currently the earnings limit discriminates against some of our senior citizens and prevents us from being able to benefit from the talents of millions of experienced professional. The earnings limit punishes seniors after they have earned $11,280 by hitting them with an additional effective tax of 33 percent. It is too long that this has gone on. Now is the time to change it.

Mr. Speaker, I do want to make one note about an amendment that was accepted unanimously in the Committee on Ways and Means that is included in this legislation, a provision I offered during our consideration by our committee, that is, in effect, a sunshine amendment. It is designed to help seniors better understand their contributions and benefits under the Social Security system.

The lack of information currently provided to seniors simply is unacceptable. My parents and seniors around this country have a desire, a need, and certainly a right to know about the status of their participation in the system, and so the amendment we proposed outlines the total income earned by each senior.

Mr. Speaker, the provisions that we have added to this bill that would give further information on Social Security are: The total income earned by the individual receiving benefits, the total Social Security contributions by that individual and separately by that individual's employer, and, finally, the total dollars that have been received back by the beneficiary from Social Security.

I think, Mr. Speaker that it will open up a degree of information that has never been available before. It will help people understand what their return is on the current Social Security compared to what they have paid in. Numerous seniors in my district find it ironic that other retirement benefit programs, like mutual funds and IRAs, provide this type of information in writing on a quarterly basis.

Our proposal is a study for a period of 2 years with not more than 600,000 recipients. We will see how it works, and I hope continue to provide this and further information.

Mr. Speaker, I urge my colleagues to vote for this proposal. it is, as I said, way beyond its time. It will be good for seniors and good for all of us.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEINEMAN].

Mr. HEINEMAN. Mr. Speaker, I thank the gentleman for giving me this time.

I rise in strong support of this legislation. I am a cosponsor of the bill and I urge my colleagues to strongly, strongly support the bill.

I am proud to be an original cosponsor of this legislation, which helps to fulfill a solemn pledge I made to the senior citizens in the Fourth Congressional District of North Carolina to remove this burdensome tax targeted at our working senior citizens.

Mr. Speaker, as a senior citizen myself I know that current law penalizes seniors who want to work by imposing an earnings limit on the amount of outside income they can receive while still obtaining their full Social Security benefits. Seniors between the ages of 65 and 69 currently lose $1 in Social Security benefits for every $3 they earn above $11,280. This kind of earnings limit amounts to an additional 33 percent tax on top of existing income taxes.

I know from first hand experience that many seniors continue to lead active and productive lives and contribute in important ways to our community. We should be supporting seniors who want to work, not penalizing them. H.R. 2684 will raise the current earnings limit from $11,280 to $30,000 by the year 2002. After the year 2002, the earnings limit will be indexed to the growth in average wages.

Mr. Speaker, this is a modest, but critical reform, and I am pleased to lend my support to this much needed legislation.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of the increase in the earnings limit for Social Security recipients.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT], who has worked for the last 8 years to make this bill law.

Mr. HASTERT. Mr. Speaker, this certainly is a red letter day for this Congress, but certainly, even more than that, a red letter day for the seniors of this country. It would not have happened, and I want to thank specifically the gentleman, who, after we passed this bill out of this House with over 400 votes on it, and the funding mechanism was rejected by the Senate, the gentleman from Kentucky [Mr. BUNNING] came back, worked with the staff diligently and made it work. We need to thank him profusely for that effort to make sure that this bill is on this floor today so that we can pass it and move it on.

I also want to thank other Members, the gentleman from Texas, DICK ARMEY, who carried this bill for years in the House; and another gentleman from Texas, BILL ARCHER, who carried it for 20 years in the House as an important piece.

What this bill does, ladies and gentleman, it helps working seniors, seniors who do not have pension income or stocks and bonds tacked away; people who have never had the chance to save and invest, and yet when they want to work to bring up their standard of living, to be part of this country, to share in the economy, to help their grandchildren, to take a vacation, to buy a car, when they go to earn those extra dollars, they get hit with a marginal tax rate of 56 percent when they exceed the limit of $11,000. Fifty-six percent, nearly twice the rate that millionaries pay today. Those seniors who live off investment incomes are not impacted by the earnings limit.

Mr. Speaker, this is not just a right. America's working seniors should not be punished just because they never had money to tuck away and must now keep working to make ends meet. This tax relief for working seniors is sorely needed.

Even though we know working seniors will pay more into our economy and more than offset the cost associated with lifting the earnings limit, the Congressional Budget Office will not allow this dynamic method of scoring. The gentleman from Kentucky [Mr. BUNNING] has worked to put together a proposal that meets the CBO budget rules and has also looked at that extra dynamic.

Ladies and gentlemen, this is a salute to senior citizens, people who have worked their whole life, people who have yet to give information and education and leadership to people who are younger, that they can be the person that they look up to in a work force in a small store, a candy store, a McDonald's, the Sears area, all of those people who endorse this piece of legislation.

I again salute the gentleman from Kentucky for his tremendous leadership and his staff for bringing this piece of legislation together and salute the seniors of this country so that they can make a statement in their behalf as well.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague from Kentucky for yielding me this time.

Mr. Speaker, the earnings test limit is unfair and unjust. It is, effectively, a mandatory retirement mechanism for a country no longer in need of it. It precludes greater flexibility for the elderly worker, and also prevents America's full use of the eager, experienced, and educated elderly worker. Finally, it deprives the U.S. economy of the additional income which would be generated by the elderly worker.

Mr. Speaker, I am an original cosponsor of this bill, and I certainly want to applaud my colleague from Kentucky, Mr. BUNNING; and, of course, the gentleman from Illinois, Mr. DENNIS HASTERT, who has labored in the vineyards for many years. When I came here in 1989, we worked so hard to get this bill forward, and I think now we have an opportunity to pass a great bill, to gain economic equality for those elderly workers who either want to work or must work in order to maintain a decent lifestyle.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to speak on behalf of this legislation which our senior citizens of the United States have been waiting for. The income eligibility raising is certainly an idea whose time has arrived.

I have to congratulate all those colleagues who have been working so long and hard to make this legislation a reality. The fact is that seniors should be able, under 70 years of age, to earn more than $11,280. Under this legislation it will raise the income limit up to $30,000 without having the deduction from their Social Security.

Anything we can do to help the seniors, who have helped us have the right to be here in Congress and to serve, certainly need our attention, our respect and admiration. I thank the individuals who have brought this legislation forward: the gentleman from Illinois, DENNIS HASTERT, the gentleman from Kentucky, Mr. BUNNING, and others, the gentleman from Indiana, Mr. JACOBS. I appreciate all their help in making this day possible and urge all my colleagues to support the legislation.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I am overjoyed to rise today in strong support of the Senior Citizens Right to Work Act. This is very good news for seniors in Florida and all across America.

The issue here is very, very simple. Big brother, the Federal Government, is no longer going to punish seniors who choose to remain a productive part of the American work force. The new majority in Congress made a promise to our Nation's seniors that we would fix the unfair earnings test process and that is what is happening.

Mr. Speaker, today's action provides one more example of promises made, promises kept, as we have said before. By raising the earnings test threshold from the meager $11,280 to $30,000 over the next 6 years we are sending a clear message to seniors that hard work and self-reliance are still valued qualities in the United States of America.

Although I feel strongly that we should abolish the earnings test limit altogether, because there should be no additional tax penalty for work just because an individual has reached a certain age, this legislation does move us much further to that ultimate goal.

Mr. Speaker, I urge a "yes" vote and very much commend the gentleman from Kentucky [Mr. BUNNING], the gentleman from Illinois [Mr. HASTERT], and the gentleman from Indiana [Mr. JACOBS], for their strong, persistent, smart leadership in this matter.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

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Mr. FOLEY. Mr. Speaker, I appreciate the work of the gentleman from Kentucky on this issue. My father is 73 and a principal of a school in Palm Beach County, FL, very active. For those between the age of 66 and 69, they should have the same opportunities.

Mr. Speaker, we have commended people for work in America. Many of our bills talk about work being an honorable occupation. Go out and work. Get a job. But somehow when we hit 66, we are told, "Sorry, unless you are going to be penalized, you do not need to pursue gainful employment."

So, I think this Congress is on the right track. Restoring dignity. Instead of telling people just because they hit a magic number, this age, that they are no longer wanted, now we are saying they continue to be wanted. They will be productive. They will continue to pay taxes and they will have a benefit to society.

Public supermarkets in my district employ many seniors in assisting in grocery checkouts and other items. People are proud to have that opportunity to continue to remain active in their communities and the job market.

Mr. Speaker, I commend the chairman for his leadership on this and urge passage.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I really hate to be the skunk at the Republican picnic this afternoon, but in my previous remarks I indicated that this bill is basically noncontroversial. But, also, one of the bad things that this bill that we are going to be voting on does is delink the earnings test for the blind.

Mr. Speaker, we have 17,000 people, it is not a heck of a lot, but we have 17,000 blind Americans who qualify for this program today and they are being delinked. Yet after I made those comments, not one Republican would stand up and defend that law change. That is sad.

The Speaker of this House, when he addressed the National Federation of the Blind, back in February of this year, indicated that removing the linkage for the blind was a major mistake and that he would make sure that was taken out. That is all we have heard for the last half hour is this gushing, gushing for our senior citizens. We have heard that through this measure we are going to salute our senior citizens. This is the same party, my friends, that is cutting Medicare for the senior citizens by $270 billion. Doubling their premiums, cutting $185 or $182 billion out of Medicaid, which provides nursing home care. Where were the salutes then? Where was the support and all the gushing then?

Through this bill, the seniors are going to have to work to pick up what they are losing in their health care program. This is ridiculous.

Mr. BUNNING of Kentucky. Mr. Speaker, would the Chair please give us the time remaining on both sides?

The SPEAKER pro tempore (Mr. EVERETT). The gentleman from Kentucky [Mr. BUNNING] has 2½ minutes, the gentleman from Indiana [Mr. JACOBS] has 5 minutes remaining.

Mr. JACOBS. Mr. Speaker, I have no further requests, and I yield back the balance of my time.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, just in response to the gentleman from Wisconsin [Mr. KLECZKA], there are over 120 organizations currently trying to get the nonblind disabled to the same level of earnings that are under this bill for the blind disabled. The blind disabled in this bill continue to have the same limit on earnings that are in the current law. In other words, their limit on earnings will rise to $14,400 by the year 2002. The nonblind disabled are stuck at $6,000.

The cost of raising the nonblind disabled to the blind disabled currently is approximately $10 billion. We do not have the money to do that. To take them to where the gentlewoman from Connecticut [Mrs. KENNELLY] would like to take them, the cost would run approximately $20 billion over just the next 5 years. We do not have the money to do that.

The bill preserves the indexing of the limitation on earnings for blind disabled recipients in the future. So, in answer to the gentleman from Wisconsin, blind disabled recipients lose nothing as the result of this bill.

In summary, I would first like to thank everybody that has worked on this bill: the staff, Phil Moseley, Valerie Nixon, Kim Hildred, Katherine Keith, Mary Anne Gee, Ken Morton, Janice Mays, Sandy Wise, and Cathy Noe; but most of all I would like to thank my colleague, the gentleman from Indiana [Mr. JACOBS]. Without his help we could not have gotten this bill together and accomplished on a bipartisan basis, both in the subcommittee and in the full committee.

When we get a bill that comes out of our subcommittee almost on a unanimous vote, and a bill that comes out of the full Committee on Ways and Means, this day and age on a unanimous vote, I am certainly very proud of that fact. And it is because of the leadership of the gentleman from Indiana on his side that we were able to accomplish that.

We know that the gentleman is going to retire, and maybe we could name this the Andy Jacobs retirement bill. The fact of the matter is I am sorry to see him leave, and I am very proud to have worked with the gentleman over the past 5 years on the Subcommittee on Social Security.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of this legislation to raise the Social Security earnings limit. Under this bill, the annual income senior citizens will be allowed to earn, without penalty, will rise from $11,280 to $30,000 over the next 5 years.

In this day and age, I cannot believe that there would be anybody in this Chamber who wants to discourage people from working. Yet the earnings limit does precisely that. It is a foolish policy and one which creates perverse economic incentives. H.R. 2684 represents a solid first step and goes a long way toward lifting the burden placed on those seniors who continue to work and make contributions to America's economic activity.

Under current law, seniors under the age of 70 who choose to work lose $1 out of every $3 they earn over some arbitrary and bureaucratic limit—currently set at $11,280 a year. To punish these folks, who have racked up years of experience, wisdom, and institutional knowledge makes no sense whatsoever. By raising the limit to $30,000, we begin to ease the penalty and, I hope, make definite strides to eliminating the earnings test altogether.

The elections that swept Republicans into the majority were about rearranging our priorities and keeping our promises. We promised to raise the earnings limit in the Contract With America, and this bill, of which I am proud to be an original cosponsor, is symbolic of our efforts to keep our promises and fix a Government which all too often sends hardworking citizens the wrong signals.

H.R. 2684, Mr. Speaker, is only a partial fix and only the beginning of corrective action which is long overdue. Last year, I cosponsored legislation—H.R. 300—which would have fully repealed the earnings limit and again this year, I cosponsored legislation—H.R. 201—to fully repeal the earnings test. For years, we have heard people argue that raising the earnings limit or repealing the earnings test would only benefit the wealthy. What these people either forget or ignore is the fact that under current law, income derived from private pensions and investments is not subjected to the limit at all. Therefore the argument that this bill would only benefit the wealthy is completely without merit. In fact, the ultrawealthy can and already do earn as much as they want from their investments, but middle-class hard-working men and women who want to keep a job are penalized for moneys they earn. H.R. 2684 addresses this inequity and restores fairness for those who want to work.

For many of our elderly citizens, the additional wages they will be allowed to earn, without penalty, is important. But for many more there is an even greater reward: The dignity of working, earning, and keeping an honest buck. There is a spiritual as well as a health benefit to be derived from keeping active, working and being fairly compensated. Why the Federal Government would punish people for this is beyond me.

Mr. Speaker, H.R. 2684 also corrects a number of other injustices as well. Like the fact that under current law, alcoholics and drug abusers can receive Social Security disability cash payments. As I said earlier, Republicans were elected to change our priorities, and here is a clear-cut case of mixed up priorities. Punish seniors who decide to work, but give cash benefits to drug and alcohol abusers? These people need treatment and counseling. Under H.R. 2684, people addicted to alcohol or drugs will no longer be eligible to receive benefits due to disability. Instead, the bill redirects some of that funding to various drug and alcohol treatment programs so that people get the type of help they need.

Mr. Speaker, in closing I would reiterate that this bill on the whole is a solid piece of legislation that can and should receive bipartisan support. It is unfortunate that during the years that the Democrats controlled the House this legislation was never brought to the floor for a vote and thus people continued to pay penalties at a very low threshold. Today, I am proud to be a cosponsor of H.R. 2684, and I look forward to building upon this achievement and eliminating the irrational earnings test altogether.

Mr. MARTIN. Mr. Speaker, I am pleased to come before you today to express my support for the Senior Citizens' Right to Work Act of 1995.

The time has come to defend the working seniors of America—seniors that have been penalized for their productive contributions to society.

The current Social Security earnings limit of $11,280 has demonstrated Government's apathy toward those seniors who continue to work in retirement out of necessity. We must never forget that, for many seniors, work is not a choice.

More importantly, the wisdom of our Nation's seniors is needed in today's work force. America benefits from their work ethic and their experience.

I urge support for this legislation, and commended those seniors who have continued to offer their ideas and services beyond retirement. These reforms in Social Security reflect our values to allow personal responsibility and opportunity.

Mr. POMEROY. Mr. Speaker, it is with great pleasure that I offer my support for H.R. 2684, the Senior Citizens' Right to Work Act.

For many senior citizens, their retirement years are not golden and filled with leisure. Many of our elderly who cannot make ends meet with their savings and Social Security benefits have no other choice but to continue working. This legislation will help low-income senior citizens, especially single women, who are at risk of living in poverty during their retirement years.

As the safety net for the elderly begins to fray due to cuts in Medicare and other programs, the least we can do is allow those who need to work to keep more of their benefits. I am pleased the Ways and Means Committee was able to forge a bipartisan bill on this important issue.

Mr. PORTMAN. Mr. Speaker, I rise today in support of H.R. 2684, the Senior Citizens' Right to Work Act. As you know, in 1935 Congress passed the Social Security Act to provide a stable source of income to older Americans. This program, however, includes an earnings limit that unfairly penalizes those senior citizens who want to work beyond the retirement age. Mr. Chairman, by raising the Social Security earnings limit to $30,000 by the year 2002, H.R. 2684, in part, fulfills our promises made to senior citizens in the Contract With America. Let me explain.

First, it is a matter of fairness for seniors. Under current law, a senior citizen loses $1 in benefits for every $3 earned, above the $11,280 limit. This limit hurts low and middle-income senior citizens the most. These are individuals who work out of necessity—and need the income. Raising the earnings limit will enable these individuals to work so that they can make ends meet.

Second, the low earnings limit penalizes senior citizens for remaining in our work force. Our economy suffers from the loss of experience and skills that seniors bring to the work force. I have heard first hand from constituents in my district, that the earnings limit actually inhibits some seniors from working because they lose a portion of their Social Security benefits.

Third, raising the earnings limit will help stimulate the economy. Obviously, senior citizens will be paying more taxes if they are working, and at the same time, have more money in their pockets to spend.

Significantly, this legislation is paid for by spending cuts that make sense. Among other things, the bill eliminates the current practice of providing disability benefits to individuals that are considered disabled only because they are alcoholics or drug addicts. It also creates a revolving fund to finance continuing disability reviews to determine whether individuals receiving disability benefits are still disabled. Based on government studies, these reviews will result in fewer beneficiaries and substantial savings to the taxpayer.

Mr. Speaker, I strongly urge my colleagues to support this legislation. By increasing the Social Security earnings limit, it lessens the penalty for many senior citizens and it does so, in the most fiscally responsible manner.

Mr. BUYER. Mr. Speaker, I rise in strong support of this important legislation. The current earnings limit has been a disincentive for seniors to continue to be productively employed. In particular, the present earnings limit imposes a hardship on middle and lower-income retirees, who often rely on earnings from work to supplement their Social Security benefits. The earnings penalty is in reality a huge marginal tax on working seniors. It discourages work and it is discriminatory between earned (wages) and unearned (dividends, interest, etc.) income.

I support this legislation which will allow our seniors to continue to work and not be penalized for it. The "Senior Citizens' Right to Work Act of 1995" is long overdue and is just one piece of our puzzle as we bring tax fairness back to America's tax code. Again, I am pleased to support this legislation which will allow Indiana seniors the right to work.

Mr. FLANAGAN. Mr. Speaker, I rise in strong support of H.R. 2684, the Senior Citizens' Right to Work Act. This bill will help alleviate the uncalled for economic discrimination against senior citizens between the ages of 65 and 69. It is outrageous that seniors in that age bracket are unduly punished by having their Social Security earnings reduced by one dollar for every three dollars they earn above $11,280.

This bill will increase the earnings limitation from $11,280 to $30,000 by the year 2002. The first increase will occur in 1996 when the limit will be raised from the current $11,280 to $14,000. Each year thereafter, through 2000, the limit will increase by another $1,000. Thus, in 2000 the limit be up to $18,000. In 2001 the earnings limitation will jump up by some $7,000, going from $18,000 to $25,000. Finally, in 2002 the limit will be increased from $25,000 to $30,000.

After 2002, the earnings limit will be indexed to the growth in average wages. In this way, the earnings limitation will be able to keep up with the times.

I have long been an advocate and supporter of raising the earnings limitation for seniors. Earlier this year I cosponsored H.R. 8, the Senior Citizens Equity Act, which contained a provision raising the earnings limit to $30,000 by 2002. This provision was incorporated into H.R. 1215, the Tax Fairness and Deficit Reduction Act which passed the House on April 5, 1995, by a vote of 246 in favor, 188 against. I voted in favor of H.R. 1215. Since the fate of this legislation is still undetermined, I believe it is wise that the House is trying another venue, H.R. 2684, the Senior Citizens' Right to Work Act, in the effort to raise the earnings limitation.

The current low earnings limitation is an economic disincentive to work for many of our Nation's seniors. It puts a limit on the full use of their capabilities, as many who want to work more are put off by the reduction in their Social Security benefits. It is an absurd situation. This country should encourage, not discourage, seniors from earning more than $11,280 per year. Seniors who work are contributing mightily to our economy. They earn money and pay taxes on what they earn. They should not be penalized for their initiative and industry.

In addition to raising the earning limit for seniors, the legislation contains another much needed reform. It prohibits the consideration of drug addicts and alcoholics as disabled in determining eligibility for entitlements to cash Social Security and Supplemental Security Income [SSI] disability benefits if the addiction is the contributing factor to the disability. This should put an end to having SSI disability being misused by drug and alcohol addicts to support their habits.

Mr. Speaker, H.R. 2684, the Senior Citizens' Right to Work Act is a giant stride forward in the direction of helping our senior citizens between the ages of 65 and 69. It will enable them to earn more money without fear of having a substantial reduction in their Social Security benefits. The Senior Citizens' Right to Work Act will give our seniors the opportunity to live better lives because they will be able to have higher incomes and still retain their Social Security benefits without reductions. I urge my colleagues to support this legislation.

Ms. DELAURO. Mr. Speaker, I strongly support the Senior Citizens' Right to Work Act urge the measure's unanimous passage today. This essential legislation increases the amount that senior citizens under age 70 may earn without having their Social Security benefits reduced.

Under current law, Social Security beneficiaries aged 65 through 69 who earn too much lose $1 in benefits for every $3 they earn above specified limits. The limit is indexed so that it increases annually to reflect the increase in average wage growth. The current limit is approximately $11,000.

Seniors who are able to work should be encouraged to do so. Without this measure, the Federal Government is telling our elderly citizens to stay at home, and not to pursue gainful employment. That is not the message that I want to send to the seniors in the 3d Congressional District of Connecticut.

Mr. Speaker, our Nation's seniors have too much to offer for us to simply turn them away. We need their wisdom, their expertise and their zeal.

Older Americans have tremendous potential to contribute to our communities, both in terms of professional expertise and productivity. It is a shame to lose those invaluable resources. Furthermore, Seniors who are active live longer and lead happier lives.

I strongly support the Senior Citizens' Right to Work Act, and I urge my colleagues to vote in favor of this important legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to voice some concerns with H.R. 2684, the Senior Citizens' Right to Work Act. Although I will support the bill on final passage, I am concerned about the effect that some of the more obscure provisions in the legislation may have on the rights of senior citizens.

Included in this bill are provisions which remove the Social Security Administration from the process of payment of attorneys' fees. Currently, the Social Security Administration [SSA] approves the fees that an attorney may charge to represent a person in administrative proceedings, usually related to a denial of disability benefits. When the applicant is successful, SSA withholds the lesser of $4,000 or 25 percent of the benefits to pay the attorney. H.R. 2684 would change the law such that SSA would no longer be involved in the process and attorneys could negotiate fees up to a $4,000 limit.

This portion of H.R. 2684, while seeming sublime on the surface, may result in attorneys choosing to stop representing disabled individuals in their administrative proceedings. Since the fee would no longer be withheld, attorneys are fearful that they may not be paid for the service they provide, and thus may choose to avoid this type of representation.

While I will support the legislation, I regret that the leadership has chosen to bring this legislation to the floor in such a fashion so as to preclude amendments, and I hope to work with the Senate and the White House concerning the availability of competent representation for Social Security claimants.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 2684, the Senior Citizens' Right to Work Act of 1995, and commend its sponsor, the gentleman from Kentucky [Mr. BUNNING] for all of his hard work on this measure.

Under current law, this country's senior citizens from age 65 to age 69 are limited to earn only $11,280 in additional income before they suffer penalties of $1 in Social Security benefits for every $3 of income earned above that limit. Mr. BUNNING's measure will allow seniors by the year 2000, to earn up to $30,000 in outside income without being forced to give up Social Security benefits.

While this bill is certainly a step in the right direction, I believe that we should go further and eliminate this anachronistic limitation and thereby allow our seniors to continue to work to the best of their capabilities in order to sustain themselves in a time of an increasing cost of living. We must allow older Americans who choose to work to earn appropriate pay without losing any of their hard-earned Social Security benefits.

Mr. BEILENSON. Mr. Speaker, the bill before us obviously enjoys very broad support among our colleagues. However, we ought to pause for a moment and give serious thought to what we are doing by passing this measure.

The Congressional Budget Office projects that we will spend more than $350 billion on Social Security benefits in 1996—more than one-fifth of the budget, and more than we are spending on any other single Federal program. Working Americans—no matter how little they make—6.2 percent of their paycheck—with their employers paying the same amount—to finance these benefits. Yet not only have we taken this huge program off the budget negotiating table, we are now actually moving to increase it—at a time when we are trying to cut back just about everything else the Government spends money on.

We need to give serious thought to whether it makes sense to increase these benefits—when the majority of that increase will go to those who are already relatively well off—at a time when we are moving to cut benefits for people who really need them.

We also need to give serious thought to whether it is wise to make what will be a huge move toward turning Social Security into a benefit which one is automatically entitled to receive upon reaching age 65, rather than a program to compensate for lost earnings due to retirement, as was originally intended. We need to ask: Does it make sense to do that when people are living so much longer than they used to, and when our population of older Americans is going to begin growing enormously in just a few years?

And, we ought to consider whether we are inviting early retirees—ages 62 to 64—to ask for the same thing we are about to grant retirees aged 65 to 69. Once we increase the earnings limitation for recipients who are aged 65 to 69, will early retirees ask for a liberalization of the definition of "retired" using the very same arguments that are being made by those aged 65 to 69?

The title of this bill, the Senior Citizens' Right to Work Act, is a misnomer. Senior citizens have every right to work; what this does is give older working Americans the right to collect more Social Security benefits than they are currently entitled to. At a time when we ought to be curbing entitlement spending, not expanding it, passing this legislation seems most unwise.

Mr. KOLBE. Mr. Speaker, I rise today in support of H.R. 2684, the Senior Citizens' Right to Work Act of which I am a cosponsor. This legislation increases the earnings limit to $30,000 by 2002. It is fair legislation. It is fair to the long-term solvency of the Social Security trust fund by offsetting costs within the program. And, most importantly, it is fair to working seniors, allowing seniors to continue to work without being denied their Social Security benefits.

It is ludicrous that seniors in the work force are subject to this impractical and outdated procedure. Our seniors deserve more. It is time for Congress to vote for changes to this archaic practice of reducing Social Security benefits for seniors that continue to work after the age of 65. We are robbing seniors of their right to support themselves and live with dignity. In many instances seniors stay in the work force out of necessity, not choice, and should be allowed to earn more without losing a portion of their earned Social Security benefits. The earnings test harms those individuals who do not have supplemental pension income for their retirement and need to work. Therefore, we are penalizing seniors who are trying to be self sufficient rather than rewarding beneficiaries who continue to work.

The Social Security earnings limit sends a message to the elderly community that we do not respect their ability to contribute in the work force after retirement. It is time to give seniors back their dignity. This Congress has already taken the first step with the passage of the Medicare Preservation Act which strengthens and protects the Medicare system and allows seniors access to the same type of health care services as offered to all Americans. By increasing the earnings limit to $30,000 by the year 2002 seniors will be able to hold up their heads as they continue to work without fear of losing their earned Social Security benefits.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. BUNNING] that the House suspend the rules and pass the bill, H.R. 2684, as amended.

The question was taken.

Mr. BUNNING of Kentucky. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BUNNING of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2684, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PRIVILEGES OF THE HOUSE—REQUEST FOR REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING COMPLAINTS AGAINST SPEAKER

Mr. PETERSON of Minnesota. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution—on behalf of myself and the gentleman from Florida [Mr. JOHNSTON]—which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas—although complaints against Speaker Gingrich have been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas a resolution calling for a status report on the Gingrich investigation was tabled by the House without debate on November 17, 1995;

Whereas a second resolution calling for a status report on the Gingrich investigation was tabled by the House without debate on November 30, 1995;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than December 19, 1995, concerning:

(1) the status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days of its being properly noticed. The Chair will announce designation at a later time. In the meantime, the form of the resolution proffered by the gentleman from Florida will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated by the Chair for consideration of the resolution.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–381) on the resolution (H. Res. 289) waiving points of order against the conference report to accompany the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1058, PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–382) on the resolution (H. Res. 290) waiving points of order against the conference report to accompany the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which the motion was entertained.

Votes will be taken in the following order:

H.R. 869, by the yeas and nays; H.R. 965, by the yeas and nays; H.R. 1804, by the yeas and nays; and H.R. 2684, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THOMAS D. LAMBROS FEDERAL BUILDING AND U.S. COURTHOUSE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 869, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill H.R. 869, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 18, as follows:

[Roll No. 834]

YEAS—414

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte

Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOT VOTING—18

Bryant (TX)
Chapman
Chenoweth
DeFazio
Dingell
Fowler
McInnis
Nadler
Pelosi
Roukema
Rush
Studds
Torricelli
Tucker
Waldholtz
Wilson
Wyden
Zeliff

□ 1747

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, OH, as the 'Thomas D. Lambros Federal Building and United States Courthouse'.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EWING). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed earlier proceedings.

ROMANO L. MAZZOLI FEDERAL BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 965.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 965, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 835]

YEAS—415

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)

Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOT VOTING—17

Bryant (TX)
Chapman
Chenoweth
DeFazio
Dingell
Fowler
Nadler
Pelosi
Rush
Skaggs
Studds
Torricelli
Tucker
Waldholtz
Wilson
Wyden
Zeliff

☐ 1756

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

JUDGE ISAAC C. PARKER FEDERAL BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1804.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 1804, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 40, answered "present" 2, not voting 17, as follows:

[Roll No. 836]

YEAS—373

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—40

Barrett (WI)
Bishop
Bonior
Clay
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Engel
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Gonzalez
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Jefferson
Johnson, E. B.
Lewis (GA)
Lofgren
McKinney
Mfume
Mink
Payne (NJ)
Sanders
Scott
Serrano
Slaughter
Stokes
Thompson
Torres
Towns
Velazquez
Waters
Watt (NC)

ANSWERED "PRESENT"—2

Brown (FL)
Rangel

NOT VOTING—17

Becerra
Bryant (TX)
Chapman
Chenoweth
DeFazio
Dingell
Fowler
Nadler
Pelosi
Rush
Studds
Torricelli
Tucker
Waldholtz
Wilson
Wyden
Wynn

☐ 1807

Messrs. TORRES, ENGEL, CONYERS, and SCOTT, Ms. VELÁZQUEZ, and Messrs. TOWNS, STOKES, COYNE, HINCHEY, and SERRANO changed their vote from "yea" to "nay."

Mr. RANGEL changed his vote from "yea" to "present."

Mr. HASTINGS of Florida and Mr. FLAKE changed their vote from "present" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

The SPEAKER pro tempore (Mr. EVERETT). The pending business is the question of suspending the rules and passing the bill, H.R. 2684, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. BUNNING] that the House suspend the rules and pass the bill, H.R. 2684, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 4, not voting 17, as follows:

[Roll No 837]

YEAS—411

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clay

Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—4

Beilenson
Johnston
LaFalce
Watt (NC)

NOT VOTING—17

Bryant (TX)
Chapman
Chenoweth
DeFazio
Dingell
Fowler
Nadler
Neumann
Pelosi
Rush
Studds
Torricelli
Tucker
Waldholtz
Wilson
Wyden
Wynn

☐ 1814

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, due to a death in the family, I was not present for rollcall vote No. 837. Had I been present I would have voted "yes" on H.R. 2684.

PERSONAL EXPLANATION

Mrs. WALDHOLTZ. Mr. Speaker, on rollcall No. 837 I was unavoidably detained and I was unable to cast my vote. Had I been present, I would have voted "yea."

Mr. Speaker, I strongly support the Senior Citizens Right to Work Act of 1995. This bill removes the penalty for seniors who choose to work in their later years by raising the Social Security earnings limit. Under current law, seniors lose $1 in Social Security benefits for every $3 they earn above $11,280. When you add FICA and Federal income taxes, seniors are hit with a tax rate of over 55 percent, a higher rate than millionaires pay. This bill removes that penalty by safeguarding Social Security benefits of seniors earning up to $30,000, rewarding—rather than punishing—working seniors.

PERSONAL EXPLANATION

Mr. NEUMANN. Mr. Speaker, for whatever reason, my vote on H.R. 2684, the Senior Citizens' Right to Work Act, was not recorded. I strongly support the bill and I wanted my vote to be "aye."

PERSONAL EXPLANATION

Mrs. CHENOWETH. Mr. Speaker, on December 5, I was unable to be here due to illness and I missed rollcall votes numbered 834, 835, 836, and 837. Had I been here, I would have voted "yes" on rollcall 834, "yes" on rollcall vote 835, "yes" on rollcall vote 836, and "yes" on rollcall vote 837.

PERSONAL EXPLANATION

Mr. DEFAZIO. Mr. Speaker, on Tuesday, December 5, 1995, I was unavoidably absent for rollcall vote No. 837. Had I been present I would have voted "yea." This vote was on passage of H.R. 2684, the Senior Citizens' Right to Work Act of 1995.

I am pleased to voice my support for H.R. 2684 which will allow our senior citizens to appropriately supplement their income during retirement. Social Security was intended to be supplemented in retirement by pension and asset income. However, under current law, individuals aged 65 to 69 years old with earnings above $11,280 lose $1 in Social Security benefits for every $3 earned. Coupled with standard income taxes and other payroll taxes, this amounts to an overall tax rate of over 70 percent for many of the Nation's working elderly—more than double the rate paid by the wealthiest individuals in America.

I am also pleased that this legislation was brought up as a stand-alone bill, rather than as a provision in the Republicans' budget reconciliation package, which I strongly opposed. In fact, the budget reconciliation package will make this legislation even more vital for America's seniors because the budget package will increase out-of-pocket costs for average Social Security recipients. With their budgets further strained by these increased costs, seniors will need extra earnings just to keep up in the new Republican reality.

I urge prompt enactment of H.R. 2684. Our economy needs older workers. Older Americans deserve the opportunity to continue to enjoy meaningful employment. Last year, Congress eliminated the mandatory retirement age. This year, Congress must act to eliminate this discriminatory policy.

☐ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MCINNIS). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRESIDENT DUTY-BOUND TO BALANCE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I think one of the difficult things that Members of this Congress have to face is how to conceive of the extent of the national debt of this country. Given the budget negotiations that are ongoing, I think it might be prudent to call to the attention of the Members and of the

Speaker the fact that as of 3 o'clock this afternoon, the national debt is $4,988,891,675,281.12. That is the official figure from the Bureau of Public Debt and the Department of the Treasury.

It is next to impossible for many of us to conceive of how large a number that is, and frankly, it was difficult for me even to realize how difficult it was just to mount the number on a piece of wood. It is over 15 characters. In fact, the piece of lumber that Matthew and Lisa are holding in front of me is over 10 feet in length. Just to carry it from the office, I was unable to take it through the revolving door, leaving the Cannon Building. I was unable to use the elevator in this building; we had to work our way up the staircases, get some help from some of the security guards, just to navigate the normal hallways of Congress.

I think that with the negotiations that are ongoing and given the work that has been done in this Congress to attempt to devise a reasonable plan by which we can balance the Federal debt, I would like to urge, Mr. Speaker, that the President has a duty to this country and to this Congress, given the fact that the Republicans have come up with a 7-year plan to balance the Federal budget, a plan that has been certified by the Congressional Budget Office to be fiscally in balance, I feel it is incumbent on the President to give us his view of how he would balance the budget in 7 years.

It is not enough to criticize what we have done; I think the President is duty-bound to step to the plate and tell us what he would do. What are his priorities?

I have to say very frankly, Mr. Speaker, as a Member of this body who is an American first and a member of his political party second, I would welcome the President's initiative, because I feel that as a Member of Congress I should have the right to choose between two competing points of view; and that is what this great Chamber is dedicated to, and that is what this great Chamber is being deprived of today by the failure of the administration to step forward and honestly tell us how they would balance the budget. Given the size of this debt, I think it is imperative that they do so.

Mr. Speaker, I did some quick calculations with a calculator just before I came on the floor. If I had a business that started at the time of the birth of Christ and spent $1 million a day, I would still not spend even $1 trillion. In fact, I would need just about another 11,000 years to even approach the figure that we have accumulated in terms of the national debt today.

Another way of looking at it is that over the next 7 years under a Republican or Democratic version of a budget, this Government could be spending $12 or $13 trillion. In effect, our national debt exceeds over 40 percent of every nickel and dime that this Government will spend over the next 7 years.

In tribute to Matthew and Lisa, who represent the youngsters of this country who literally and figuratively are carrying the burden of this debt, I think again it is incumbent upon us as adults and as responsible citizens to do our duty in the democratic process.

Mr. Speaker, I want to end on this note: Our hearts and prayers are all with the American service men and women who are being sent overseas and deployed into harm's way in Bosnia. I noted this morning that there was information from the White House to suggest that the President was planning to visit the troops in Bosnia once they were deployed following the peace treaty.

Again, I applaud and commend that initiative on the part of the President, but I would also suggest to the President that his duties as Commander in Chief and as President of this great country call on him to also come to the Congress and tell us honestly, Mr. Speaker, how he would balance the Nation's budget.

MISPLACED BUDGET PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I was listening to the remarks of my colleague with regard to the national debt, and I certainly agree with him that we need to balance the budget. However, I would suggest that we all agree that the budget needs to be balanced, and in fact, the President has also said many times that he wants the budget balanced. The problem is how do we do it. That is where the priorities come into place.

One of the points that President Clinton has made and that I have made and that many of the Democratic leaders have made is that we have to look at this budget in human terms. What are the impacts? What do the numbers mean in real terms in terms of working American families, students, older Americans, the environment, and many of the other priorities that President Clinton has articulated.

The bottom line is that if we look at the Republican budget that passed this House and the Senate and is now on the President's desk, the priorities are misplaced. Too much of the emphasis is on cutting taxes or on giving tax breaks primarily for wealthy Americans and not enough emphasis is being placed on helping the average working person. Many of the cuts are on programs for senior citizens, education, particularly for student loans for students that want to go on to colleges or universities, and for the environment.

One of the things that I keep pointing out is how much of the impact in terms of tax cuts or tax breaks go to wealthy Americans. According to the numbers of the Joint Committee on Taxation, 51 percent of taxpayers with incomes under $30,000 would, as a group, have a net tax increase under the Republican budget plan and nearly half of the benefits under the Republican tax package or under the budget, 48 percent, that is, go to the top 12 percent of families, those with incomes of $100,000 or more.

So we certainly want to balance the budget, but we want to do it in a way that does not give tax breaks to the wealthy and does not cut critical programs that are important to seniors, to students, and also to the environment, among other things.

One of the things that received a lot of attention today in this regard was the Medicaid Program. Medicaid was the health care program that the Federal Government and States pay for for low-income people. Nearly 37 million people are currently covered by Medicaid, and about half of them are children.

Well, surprisingly, in a way, but I am not surprised, because I know that doctors do care about health care for low-income people, today the American Medical Association, the main national association of physicians, came out with a statement that was very critical of the Republican Medicaid plan. Basically, they criticized the fact that under the Republican proposal as part of this budget, Medicaid would no longer be guaranteed, no longer be an entitlement, and it would be up to the States to decide who they were going to cover. So for those 37 million Americans who now receive Medicaid payments or Medicaid benefits, all of a sudden, some of them may not receive it, and it would be up to the States to decide.

President Clinton has asserted that it is crucial to maintain a Federal guarantee for Medicaid for those 37 million people, and that is one of the reasons he is going to or is likely to veto this bill, because it does not guarantee their coverage. Basically, what the doctors are saying, what the AMA is saying, is that they are concerned that States, because of the budget crunch, because they may not have the money to make up for the loss of Federal dollars that are going to come to the States in a block grant under the Republican proposal, will simply cut back on the number of people who are eligible, or on the quality of care. Basically, what they are saying is that because of the budget crisis that States face, they are going to have the same problem and they are not going to be able to actually cover all of these people.

The AMA said today in The New York Times that the Federal Government should establish basic national standards of uniform eligibility for

Medicaid, and should prescribe the minimum package of benefits that would be available to poor people in all States, basic standards of uniform, minimum, adequate benefits of Medicaid recipients.

So what they are saying is that there should be a Federal standard, there should be a Federal guarantee for who is eligible for Medicaid, who gets the health insurance, and what kind of quality care will be provided for those low-income people.

The trustees of the AMA also said, there needs to be an appropriate balance between States interest in securing increased flexibility in light of fewer Federal funds for Medicaid and the very real needs of the people the Medicaid program is intended to serve, most of whom have no other means of access to health care coverage.

One of the arguments that the Republican leadership have put forth is that Medicaid should be more flexible and that is why it should go back to the States. However, what the doctors are saying is, it is very nice to have flexibility, but we have to make sure that the people who are covered by Medicaid now do have health care coverage. I know that that is going to be an important consideration for the President during these negotiations.

BUDGET REQUIRES GOOD-FAITH NEGOTIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the gentleman from New Jersey [Mr. PALLONE] just gave some figures, and although I know he is well intentioned, I think some of the information that he gave out is not quite accurate.

I would like to give a few figures to the people who may be paying attention to my colleagues. For instance, the earned income tax credit. In 1995 we are spending almost $20 billion on the earned income tax credit, and my good friend, the gentleman from Ohio [Mr. HOKE], the head of the Theme Team, points out that it is going to go up to $25.4 billion. That is a 28-percent increase.

They keep talking about cuts.

□ 1830

It is an increase of 28 percent. The School Lunch Program is going from $4.5 billion to $6.17 billion. That is a 37-percent increase. Student loans, they keep saying we are cutting student loans. They are going from $24.5 billion to $36.5 billion. That is almost a 50-percent increase.

Medicaid, they beat on Medicaid all the time. Medicaid, we are spending $89 billion, it is going to $127 billion. That is a 43-percent increase. And Medicare, they are trying to scare the senior citizens to death in this country. Medicare, we are spending in 1995 $178 billion and it is going up over $111 billion. That is a 63-percent increase over the next 7 years.

Think about that. All we hear is how we are cutting, and we are increasing all of these programs from 28 percent up to 63 percent. Medicare is going up from $178 billion to $290 billion. So do not believe all the baloney you are hearing from my Democrat colleagues.

Let me talk about something that I think is extremely important. On November 19, 2 weeks ago, President Clinton, in writing, agreed to negotiate a 7-year balanced budget using Congressional Budget Office figures. He agreed to that on November 19.

On November 20, the next day, his chief of staff, Leon Panetta, said that maybe we could reach an agreement on 7 or 8 years and he went on to say, "But I don't think the American people ought to read a lot into what was agreed to last night." In other words, he was starting to back away from the agreement the President signed the day before.

Two days later, on Wednesday, Secretary of the Treasury Robert Rubin began talking to reporters about a 9-year budget. Three days before the President agreed to a 7-year budget and he agreed to use Congressional Budget Office figures. Here we are, 3 days later, his Treasury Secretary said, "I think our 9-year budget is every bit as valid as their premise. I've never understood how 7 years got canonized."

But the President already signed the agreement, Mr. Secretary Rubin. He had signed the agreement. Yet, 3 days later you are saying, "Well, it's not really that important."

Then on Tuesday, November 28, the Washington Post reported "a senior administration official said yesterday" that an outcome without a reconciliation bill, balanced budget act, preserves our priorities and not theirs. Once again they are moving away from it.

The Post went on to say even President Clinton in two interviews this month made the case that operating the government under reduced spending bills and leaving the big budget issues until 1997 would not be a bad outcome. In other words, he is not going to negotiate a 7-year balanced budget agreement as he said he would because he said it would be better to run the government on short-term spending bills through the elections in 1996, I guess for political reasons, because he thinks it would be good for him.

But then let us see what the head of the Federal Reserve said, Alan Greenspan. He testified before Congress in November and he warned that failure to reach a balanced budget agreement would lead to higher interest rates, higher home mortgage rates, and that the economy would go downhill and suffer.

So as the President made this agreement for a balanced budget in 7 years using CBO figures, he and his staff knew that it was just to get over the hump that we had caused by closing down the government. He did not really mean it. That is why they are not negotiating in good faith. They have not sent up anything.

Chairman KASICH of the Committee on the Budget has held up our agreement time and time again on television saying, "Here is our proposed budget. Where is the President's?" And it was a blank hand he held up in conjunction with that.

We need to have a proposal from the President to get to a balanced budget in 7 years, as he agreed to, using CBO figures, and cut out this politics. If we do not do it, according to the Federal Reserve Chairman Greenspan, we are likely to see people buying homes having to pay much higher monthly payments, much higher mortgage rates. Interest rates on everything would go up. As a result, sales and the economy will go downhill.

Mr. Speaker, if the President does not begin negotiating in good faith, the budget talks will break down. This will lead or could lead to another Government shutdown. It could also cause severe economic problems. If this happens, the American people should and I hope will hold President Clinton accountable.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, today I am, along with my Judiciary Committee colleagues, BILL MCCOLLUM, LAMAR SMITH, and BOB BARR introducing a revised antiterrorism bill.

On June 20, the Judiciary Committee favorably reported the Comprehensive Antiterrorism Act of 1995 (H.R. 1710). Since that date, concerns have been raised by a number of Members about certain provisions in H.R. 1710. Responding to these concerns, BOB BARR and I have developed a new compromise version of the bill. The new language responds to the concerns voiced by several Members, yet maintains the effectiveness of the bill to deter future terrorist acts. The new bill does the following:

Requires the marking of plastic explosives to allow for more effective detection;

Prohibits the possession, importation, and sale of nuclear materials;

Prohibits foreign terrorist organizations from raising money in the United States;

Prevents entry into the United States by members and representatives of foreign terrorist groups;

Reforms asylum laws to stop their manipulation by foreign terrorists;

Establishes a special deportation procedure for alien terrorists that satisfies due process and protects our national sovereignty;

Encourages the development of a machine-readable visa and passport system;

Authorizes an employer engaged in the business of providing private security services to investigate an employment applicant's legal status and his authorization to work;

Authorizes lawsuits by Americans against foreign nations responsible for state-sponsored terrorist activity; and

Provides for the expedited expulsion of illegal aliens from the United States.

Importantly, the bill also:

Adds Habeas Corpus reform provisions;

Adds the Victim Restitution Act of 1995 (H.R. 665);

Adds the Criminal Alien Deportation Improvements Act of 1995 (H.R. 668);

Deletes the enhanced wiretap authorizations, including emergency wiretap expansion and roving wiretap modifications;

Deletes the authorization of military involvement in civilian law enforcement situations;

Deletes the overly broad definition of terrorism;

Deletes funding for a domestic counterterrorism center and for additional FBI personnel; and finally,

Deletes the 40-percent civil penalty surcharge intended to fund the Digital Telephony law.

Important and significant changes have been made in this bill. The revised version deserves broad support. A "yes" vote on this legislation is a vote for a more secure America and the fight against crime.

I urge your support for this important measure.

CONGRESSIONAL HEARINGS TO FOCUS ON NUCLEAR WASTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, as chairman of the Subcommittee on Military Research and Development of the Committee on National Security, I rise to highlight a series of hearings that will begin tomorrow in our main hearing room that I think are of landmark significance, not just to this country but to the entire world community.

One of the byproducts of the military buildup of the 1960's, 1970's, 1980's and into the 1990's has been the huge amount of nuclear waste that has been generated from our nuclear material, equipment, and the ships and technologies that we have had available to our military establishments throughout the world. The problem that we now face is what do we do with this waste that has been generated, especially as both America and in the case of the official Soviet Union, Russia, dispose of this nuclear waste, and how do we deal with that.

The hearing that we will be holding tomorrow, both for the Subcommittee on Military Research and Development in cooperation with the Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources, will for the first time focus on what is in fact a worldwide problem. The hearing will be international in scope.

Beginning at 1:30 p.m. tomorrow afternoon in hearing room 2118, we will hear from the distinguished environmental activist from Russia, Dr. Aleksai Yablokov. Dr. Yablokov is a member of the Russian National Security Council. He is a key adviser to President Yeltsin, and he has traveled to America to tell us about his findings in terms of the problem the Russians have been having in disposal of their nuclear waste and their spent nuclear fuel.

Dr. Yablokov was a chairman of the Yablokov Commission, which for the first time in Russia's history documented extensively 30 years of deliberate dumping of nuclear waste into the Arctic Ocean, the Sea of Japan, and other bodies that border the former Soviet states. Dr. Yablokov is an outspoken critic of those policies in the former Soviet Union that have led to environmental degradation. He will share with us his work and the work of others like him in Russia in attempting to understand and deal with these international environmental problems.

Joining with Dr. Yablokov on our first panel will be Kaare Bryn, the director general and ambassador of the resources department from the Norwegian Ministry of Foreign Affairs. He will testify before us as to the concerns that the Norwegian people have with the problems internationally of dumping nuclear waste in our oceans.

Following that, we will have our Government respond to highlight some of the things that we are doing to assist in more fully understanding the problem of nuclear waste around the world, not just off of Russia but even off of our own shores, and what we are doing through the Department of Defense, the Department of State, and the Environmental Protection Agency to provide protection for the American people and cooperation with other nations who have similar concerns.

Then, finally, we will have an assessment panel of technical experts who will highlight for us the specific technologies and efforts that are now under way to deal with this potentially devastating situation around the world.

This is a landmark hearing, Mr. Speaker. I am proud to have assembled what I think will be an expert panel of witnesses to fully highlight this worldwide problem and to show that we are in fact working with the world community to find solutions. Bringing together Russia, the European Community, and also working with the Japanese Diet and the United States Congress, we are trying to find solutions that allow us to come to grips with the disposal of spent nuclear fuel and nuclear waste.

Preceding the hearing at 12:30, Dr. Yablokov and I will join with the Ballona Foundation, a Norwegian nonprofit organization that just recently documented land-based nuclear pollution extensively at Russian military facilities. The information that has been accumulated by the Ballona Foundation is so devastating that the Russian security apparatus invaded Ballona's headquarters in Moscow and 1 month ago confiscated photographs and all of their documentation.

Together, Dr. Yablokov and I will work to assure the American people and our media that we are outraged that these actions have occurred, and that we in fact should be working with the Ballona Foundation and Russian leaders like Dr. Yablokov to assist Russia in understanding the complexity of their environmental nuclear problem and, more importantly, how we can work together to solve it. It is a problem that is monumental, that needs immediate attention, and that potentially could cause a threat to the entire population of this earth.

I invite my colleagues to participate in that hearing, and welcome the support of Vice President AL GORE. At this point in time, Mr. Speaker, I would like to enter into the RECORD his letter to me supporting this series of hearings by Subcommittee on Research and Development on ways that we can assist the environmental community, working with our military, to understand and deal with these international environmental problems.

THE VICE PRESIDENT,
Washington, DC, December 6, 1995.

Hon. CURT WELDON,
Chairman, Subcommittee on Military Research, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the topics on which the Committee will focus during this series of hearings have been of interest to me for some time, and I am pleased to have this opportunity to share my perspective. As President Lyndon Baines Johnson said during his tenure, "The waters which flow between the banks belong to all the people." While the President was speaking about a domestic issue at the time, his message resonates today.

Oceans cover 71 percent of the Earth's surface, and we face a common threat to this precious resource. In this time of lean budgets, creative efforts to exploit existing research and technology efforts for dual purposes are not only sensible but essential. The United States has tremendous resources which only have to be harnessed, and the Committee's hearings represent a significant step in that direction.

As we approach the 21st Century, I welcome efforts to ensure that our country is well prepared to act on the basis of the very best data. I particularly want to thank you for your efforts in this regard. Your ideas and insight on these issues are important to me, and your continued support is essential.

Again, please accept my very best wishes for a productive series of hearings.

Sincerely,
AL GORE.

AMERICAN INVOLVEMENT IN THE BOSNIAN WAR

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, you will notice that the gentleman from Pennsylvania [Mr. WELDON] and I are not in tuxedos. A lot of the membership from both sides of the aisle are down at the White House tonight in tuxes at the Christmas party.

The last time I was at a Christmas party was 3 years ago tomorrow night. George Bush's personal Pearl Harbor was that December 7 Christmas party, and I touched him for the first time in his Presidency, put my hands on his shoulders and I said, "Mr. President, I'm going to run for President in 1996 for one reason, to avenge you, a 58-combat-mission Naval carrier attack pilot being defeated by a triple avoider of serving his country who let three high school kids from Hot Springs and Fayetteville go in his place."

The reason I asked you to stay for a second in the well, CURT, you are a subcommittee chairman under Chairman FLOYD SPENCE of National Security. It used to be Armed Services—it still is in the Senate—Committee on Armed Services. There are five of us. We did away with Oversight.

I nicknamed us the Marshals. You can pick a Napoleonic field marshal image with batons, or I prefer the Old West being a westerner. In Pennsylvania you have sheriffs still, do you not?

Mr. WELDON of Pennsylvania. Yes.

Mr. DORNAN. So we are his 5 marshals. His deputies. So the two of us on the floor means we have 40 percent of the subcommittee chairmen on the House.

I just came from a CAT meeting. That is one of these new unofficial groups that is supposed to be the toughest tigers, panthers, leopards on the hill, Conservative Action Team, CAT. They do not know what to do over Bosnia.

I am putting you on the spot because you know I respect you. I think you are a Russian expert. Nobody tracked the Kremlin harder than you did when the bad guys were in power, and now that the bad guys are still all over the place with different titles and we have a Communist taking over the Secretary-Generalship of NATO, fought to keep Spain out of NATO, you described to me, because I am on your R&D subcommittee, you described to me before I had to leave to go to a 2-hour intelligence briefing on Bosnia and Chechnya, that it was a nightmare beyond description, the nuclear waste problem all across Russia and Siberia.

Mr. WELDON of Pennsylvania. Will the gentleman yield?

Mr. DORNAN. I will. I want to hear a little bit more about it in a dialog.

Mr. WELDON of Pennsylvania. The problem is so extensive that the security forces of Russia went into the headquarters of this Norwegian nongovernment organization, Ballona, which was about ready to release a report, confiscated all of their computers, all of their software, all of their data and their photographs. They were able to save a significant portion of that which we will release tomorrow at 12:30 which in fact show photographs of spent nuclear fuel that have been exposed in the outdoors for 30 years, of nuclear waste on land that is sitting with no protection.

The situation is so severe in the area of the Northern Fleet up in the area of Murmansk and the ports where the Northern Fleet is headquartered—Severodmorsk is the other port—that Dr. Yablokov and the Yablokov Commission report estimated that perhaps as much as 10 million curies of radioactive nuclear waste is currently being stored because the Russians have no capacity to safely dispose of it.

By comparison, Three Mile Island at its worst only gave off a few curies, relatively speaking, to the Russian threat that is there. So there is a terrible problem as the Russians downsize their military, as there are nuclear-powered submarines that are being decommissioned. They do not have any way to deal with this.

□ 1845

The point that we have to understand is, as we look at those nuclear weapons that are still in Russia, and we are concerned about the command and control of those nuclear weapons, certainly when you look at the way they are treating the waste gives you some indication that there are serious problems in the way that Russia deals with its nuclear power as well as its nuclear waste, and, as you know, I say to the gentleman from California [Mr. DORNAN], and as a member of our subcommittee, we have been extensively looking at Russian command and control.

In January of next year, our subcommittee will have a hearing that will be the conclusion of a 4-month investigation where we have interviewed over 40 witnesses on the issue of intelligence gathered and provided to Congress on command and control of the Russian nuclear arsenal. Some of the results of those interviews are startling in terms of the lack of security and the concerns that many of us had which now, in fact, may be verified that Russia does not have adequate control and that perhaps the potential for an accidental or a rogue launch, or even worse, a sale of one of those systems to a rogue nation is, in fact, something we have to look at in a serious vein. That hearing we will hold in January will even consist of people who have worked in the administration.

Mr. DORNAN. Hearing under which subcommittee?

Mr. WELDON of Pennsylvania. R&D subcommittee, which Chairman SPENCE asked me to chair, took testimony from at least three people whose stories have been corroborated that perhaps there has been some dumbing down of intelligence reports relative to Russian command and control. So the purpose of the hearing tomorrow is not to just look at the environmental problems of Russia and to work with those good people like Dr. Yablokov, who are not afraid to stand up and speak the truth, but also to point up the fact that we in this country who want improved long-term relations with the Russians, and I certainly do as chairman of the Russian-American energy caucus and as a member of the environmental caucus that works with Russian duma member Nikolai Veronsov on environmental issues, that we must never oversee the way that Russia deals with the most potent force that they have, and that is their nuclear arsenal. Dr. Yablokov, who is in our country right now to be present at the press conference and hearing tomorrow is the prime person in all of Russia who has been willing to stand up and question the leadership.

Just last week I read the FIBITS reports, as I do everyday, on Russia.

Mr. DORNAN. Flesh out that acronym.

Mr. WELDON of Pennsylvania. That is the foreign intelligence reports that we get summarizing all the foreign media.

Mr. DORNAN. Broadcast from all around the world in English.

Mr. WELDON of Pennsylvania. There were three specific articles from Russia, all three quoted Dr. Yablokov by name. One of them was highlighting the fact Dr. Yablokov has stated on the record that Russia has as much as 100,000 tons of chemical weapons despite the fact the military leadership only says they have 40,000 tons. Dr. Yablokov has come out publicly in Moscow and said that cannot be correct. Dr. Yablokov has also come out and publicly criticized the leadership over the small nuclear weapons that Russia, in fact, has accessible to it. So he is not afraid to speak his mind. He is someone for whom I have the highest respect. He is with us. He will be with us tomorrow at the hearing. He will be very candid and tell us what he feels are the problems of his country.

But I also expect him to be very candid about problems we, in fact, have in our country. We are not totally without blame. In fact, part of our hearing tomorrow, I expect, will focus on the 30,000 barrels of nuclear waste that were dumped off the San Francisco coast a few years ago and what we are doing to monitor that. We, in this country, have been very critical of the Russians because of their lack of control over the *Komsmolensk* when it went down off of Norway, yet we have not been willing to discuss openly the fact that we have two nuclear subs on the bottom of the ocean floor, the *Thresher* and *Scorpion*.

We are saying we must join together to understand the problems created through the use of nuclear technology. This will be a first step tomorrow. I am looking forward to having the gentleman whose special order I am infringing on to be there, as he so eloquently is on all of our national security issues, to help us understand what is happening in the former Soviet states as relates to these and other issues involving nuclear power and nuclear weapons.

Mr. DORNAN. For letting you get in those extra words, I wanted everyone in the million people watching C–SPAN, not only our distinguished Speaker pro tempore in the chair, to know that, but I wanted to read you something. This is the price you are going to have to pay to bounce this off you, if you knew about this particular atrocity: Bosnian Serbs swept into Moslem and Croat villages, 3,800 of them, and engaged in Europe's worst atrocities since the Nazi Holocaust. Serbian thugs raped at least 20,000 women and girls. In barbed wire camps, men, women, and children were tortured and starved to death.

To me, the sickest thing in the world is not only murdering an innocent person in cold blood, but torturing them for hours knowing you are going to kill them anyway. Girls as young as six were raped repeatedly. I am reading from Readers Digest, the October issue. In one case, three Moslem girls were chained to a fence, raped by Serbian soldiers for 3 days, then drenched with gasoline and set on fire.

Now, for all of my Serbian-American friends, and I have plenty, I know you cringe at the sound of these atrocities, and I know because you have got them in Pennsylvania as I do in California, great Americans of Serbian heritage, and they say, well, what about the atrocities committed following the battle of Kovoso, June 28, 1389, 606 years and 5 months ago. Yes, the Ottoman Turks committed atrocity after atrocity. Then the Serbs began to give as good as they were taking it, and then it became a three-way split with Catholic Croatians fighting orthodox Serbs, back and forth, Austria, the province of Styria, holding the line, look at the big army in Groz, in Austria, it shows there, 400 or 500, half a millennium of defending Christendom from Islamic warriors coming up from Istanbul.

However, this is the 20th century, and no matter 600 years of suppression and persecution and then Tito's crimes, you do not do that to women and children. You do not target innocent people, and although, and this is the best ballpark figure until I am disabused of this, although five percent of the atrocities are committed by Moslems, they can quibble 4, 3, let us just say 5, and 10 percent by Coatians, they can quibble it down to 8, 9, 85 percent is Serbian atrocities. And they now are going to get to keep maybe half of the 3,800 villages where they destroyed the minaret and destroyed every shred of culture, town halls, anything that would be a memory draw to bring people back when the killing was over.

We are putting our young men and women into that, and I will tell you, Mr. Speaker, from this chairman, if CAT, the conservative action team, cannot figure out what to do, then I want everybody within the sound of my voice, I am telling you for the first time, I got my 50 signatures today to have a conference tomorrow. I, BOB DORNAN, circulated the letter on this floor those last 5 votes. I got 64 signatures. All I needed, 50, under Republican rules, no Democrats, just Republicans, tomorrow to discuss Bosnia. The feeling I am getting around here, we are going to do nothing. We have already voted twice. We had a vote 243 to 171, we are not doing anything. The freshmen are telling me we are not in yet. Let us have 1 more vote tomorrow while only the enabling advanced team is in. I hate to put you on the spot. Do not you think, in the midst of this budget talk, the impending second train crash on December 15, possibly that we should talk Bosnia tomorrow for at least an hour?

Mr. WELDON of Pennsylvania. If the gentleman will yield further, absolutely. As a matter of fact, as he knows, last week, I believe it was on Monday or Tuesday, I did a 45-minute special order on Bosnia where I expressed my outrage at portions of the President's speech. The gentleman from California just acknowledged the atrocities that have occurred against human beings, and what offended me most was when President Clinton went before the American people and made the case of how kids and women have been abused and tortured in ethnic cleansing.

In a bipartisan manner on this House floor, we have been saying that for 3 years, and in bipartisan votes on three separate occasions this body and the other body voted to have the administration lift the arms embargo so that there at least would be a leveling of the playing field so people could defend themselves. All of those three times over the past 3 years, the administration failed to listen to us.

But now, all of a sudden, they want to put American sons and daughters in between these warring factions. I would say to my colleague from California, as he knows, I have developed legislation which I will be back on the House floor tomorrow to present to this body which, in fact, will call for a vote.

Mr. DORNAN. Good.

Mr. WELDON of Pennsylvania. As you know, the President, I voted with my colleague from California on three occasions to say we do not want ground troops in Bosnia; unfortunately, again, the President is not listening. He has told the American people it is going to be between 20,000 and 25,000. They are not the numbers. The numbers are 32,000 ground troops, with about 20,000 support troops, for a total of somewhere over 50,000 American kids.

Here we are sending 50,000 American kids into a region that borders Germany where they are sending 4,000 Germans. To me, it is not just unfair, it is outrageous.

Mr. DORNAN. Are you going to the Christmas party?

Mr. WELDON of Pennsylvania. No.

Mr. DORNAN. My I publicly make a presentation of a gift to you? As I come down to the well to give it to you, do you feel any problem with being told you are not supporting the troops, the First Armored Division, Old Ironsides, if you somehow or other vote to stop them from going there?

Mr. WELDON of Pennsylvania. If the gentleman will further yield, I will tell you what I said to Secretary Perry in very emphatic words in our hearing last week. I said, "Mr. Secretary," he asked me what do we tell the troops if this Congress were to vote against the President's policy, and I said, "Mr. Secretary, let me say this to you, you go back and tell those troops that this Congress and our national security committee supports those troops with every ounce of energy in our bodies to the core and bone of our bodies." In fact, if I have my way, we will have a vote this week, as my good friend and colleague knows, and that vote will be on having this Congress go on record to say that we will give the theater command officer in Bosnia with the President sending our troops there, General Joulwan, every resource, piece of equipment and support that he feels he needs to protect our troops. Secretary Perry said, "We do not need that. I will do that." I said to the Secretary we were told that three years ago, and because the Secretary of Defense said the climate was not right, politically, in Washington, he denied the support that was requested of him by the commanding officer in charge of the Somalia theater that led to not only the deaths of 18, actually 19, young Americans, but had their bodies dragged through the streets of Mogadishu. So we are going to support the troops, and we are going to support them most emphatically, because we are not going to let this administration repeat Somalia.

Mr. DORNAN. Let me tell the audience here something, and the Speaker, because foreign affairs went first, and now named international relations, they got most of the coverage that night on C–SPAN. We went in the afternoon. You sit to my immediate left, to the senior position, going up toward FLOYD SPENCER, our great chairman, and they wired the mikes all the way down to your mike for C-SPAN. Remember, I said, I am not using my mike. I want to use your mike. I want the C-SPAN cameras to hear my voice clearly, the sound on tape. They came up to me afterward and heard me lean over to you, when you asked the question of Christopher, the Secretary of State, what about Somalia, and I leaned to you, and I said, "We learned our lesson in Somalia," half a second later Christopher said, "We learned our lessons in Somalia." I went, "Oh, my gosh, yes, over the dead bodies of 19 men."

What have we learned in Vietnam, for God's sake? What have we learned in Grenada, Panama; what did we learn in every single conflict? We are always learning from the immediate last prior struggle. We learned the U.N. command structure is flawed.

What I am going to do with this patch of *Old Ironsides* is, on my blazer, it looks funny on a suit, I am going to make everybody else pay me three bucks, yours is free, because it is a House floor presentation.

Mr. WELDON of Pennsylvania. I will pay you.

Mr. DORNAN. No; no.

Mr. WELDON of Pennsylvania. Remember the gift ban.

Mr. DORNAN. You pay me for the cloisonne, $6. I am going to get a little cloisonne pins, regimental pins they wear up here for the First Armored Division. On my blazers, it looks good on a blue blazer with gray slacks, I am going to sew this on my blazers for the next 11 months. Nobody is going to tell BOB DORNAN I do not support the troops. You and I are going to probably take a codel over there after New Year's, maybe New Year's Day. We can arrive there as Clinton did in Moscow in 1969, New Year's, to welcome in 1970. We are going to go over there and meet these guys and tell them, "Gentlemen," and they are men and women; we call them kids because we love the young guys and gals. They are men and women.

Did you see this picture in the weekend papers of Clinton leading the troops in Germany? Do you know what he had to do to get this picture? The most offensive picture, even worse than the whole Joint Chiefs of Staff and our late pal Les Aspin on the stage at Fort McNair, to abuse SAM NUNN's law, and IKE SKELTON and us on homosexuals in the military, to twist it into "Don't ask, don't tell," a confusing policy designed to lose in the courts; he, worse than that, Fort McNair, July 19, 1993, was May 4, ending Operation.

Hope, Restore Hope, in Somalia, end of George Bush's operation, only three men killed in action on patrol, 27 more to go, 19 on the third, fourth and sixth of October, he lined up 30 Marines, including about 8 lady Marines, lined abreast in his new blue suit, he marched down the lawn of the White House 50 feet or more to a prepositioned mike.

□ 1900

You know how he got this one? He meets with the division commander of the 1st Armored and all the officer corps division level of *Old Ironsides*, and he says, using infantry Fort Benning, GA words, gentleman, would you follow me for a second? And he turns his back on them for a second and says follow me, and walks down this driveway at their command headquarters in Germany.

Here is one of the White House people that screwed up the Waco hearings, the gentleman from Massachusetts, PETER BLUTE, just recognized him, from twisting all the Waco joint hearings here in the early summer; he starts walking down, he gets that look with his chin in the air, flexes his jaw muscles, and poses just like he did in 1993. It is December, and I nominate this as the most offensive photo opportunity using our military men and women that I have seen this year. That is the worst staged thing I have seen. But he does not say follow me all the way to Bosnia, because he is on his way home to be at the Kennedy Center last night. He says follow me down this driveway to the camera, thank you for the photo op, and enjoy your Christmas in the snow of Tuzla, 5 kilometers from the biggest chlorine plant in all of the 8 provinces of former Yugoslavia that a Green Beret who is over there helping the Muslims told me, and nobody has contradicted it, one bomb or terrorist attack on that chlorine plant and poison gas starts down the valley to Tuzla, and it can kill everybody in town and every American man and woman in the whole area. I hope to God we are going to secure that plant.

Mr. WELDON of Pennsylvania. If the gentleman will yield, I just want to add, I agree, there is the worst administration photo op I have seen. It offends me, not just a photo op like that, and I share my colleague's feelings about that, but that we would in a case of having our troops deployed overseas ever deny adequate backup and support as requested by the on-scene commander.

In the 9 years I have been here, that has only happened one time, and that was in Somalia. We in the Congress did not find out about it until after it was over. That led to the resignation of Les Aspin, who was a good friend of both of ours. That is never going to happen again. As I said to Secretary Perry and Christopher and General Shalikashvili, this President, through his chain of command, has put General Joulwan in charge of that theater of operations.

Mr. DORNAN. We helped to make that happen. It is under NATO because of us.

Mr. WELDON of Pennsylvania. Whatever General Joulwan wants, this Congress and this administration better give it to him. And we will be watching every request that comes over from General Joulwan, who has been given the responsibility to protect our troops and give them the resources we need. And this Congress, and I know the gentleman shares my feelings as chairman of the Subcommittee on Military Personnel and perhaps no one speaks more eloquently for our men and women in the military than the gentleman, and with the experience he has had and with the background he has had, he is the perfect chairman of that subcommittee, but that we will make sure that we will not have a repeat of Somalia in this operation, even though the overwhelming majority of our colleagues disagree with sending ground troops there in the first place.

Mr. DORNAN. Mr. Speaker, just one thing, before the chairman goes, infringing on his time again, because I have always found that a dialogue is more interesting to watch only C-SPAN than a monologue, and I am going to give them one hell of a monologue here in a minute, the gentleman and I both know one of the biggest misconceptions, although the American people are beginning to understand if you look at the polling data, that we are expending massive treasury in that whole Balkans area. I am trying to tell people if you want to get down the debate, think of it in couplets. Sealift, 95 percent ours, and airlift, 95 percent United States of America taxpayers. Sea power, the Adriatic. You notice that PAT SCHROEDER, bless her heart, finally starts asking good questions after she announced her retirement. I whispered to the gentleman they will not answer this question, and they did not. We have the 6th fleet in the Med. We always have people up there. It is steaming longer, they are costing more money at sea. The minute your put a carrier battle group out there, that is another 6,000 men on top of everything else.

Mr. WELDON of Pennsylvania. Easy 6,000, probably closer to 7,000. How about air strikes that we provided?

Mr. DORNAN. That is next. Sealift, airlift, sea power, air power. Close air support. I was at Aviano August 30. I am told again that the two French pilots, Frederique and Jose, are probably beaten to death, murdered, and they were known prisoners. I held up their pictures on the floor here the other day. Captain Chiffot and Lieutenant Jose Savignon.

These two pilots, this is day 90 they are missing in action. If these were American pilots, particularly if one was a woman, that is the way Americans respond to a woman in trouble, Clinton would not be marching at this photo op in front of the 1st Armored. He would not be doing it if those were American pilots.

Well, what are these Frenchmen, allies of ours or not? They were flying under our command or control, our AWACS, our airborne control centers, our combat control out of Aviano. They took off from Villaparte, maybe 10 more air minutes to fly over Aviano, and they are gone. They are lost. They disappeared. And the war criminals know where they are, because I have got all their faces picteled out, so the Serbs turned over the pictures to Perry Match. So that is the first quadrant of it. Sea power, air power, sea lift, air lift.

Now, food. What are we? 80 percent? 70 percent? 90 again? Fuel, what are we? 70, 80, 890 percent, supplied and transported there?

Now down to hospitals. I told you we are going to go back to Zagreb. I hope to God there is never a person in there as badly wounded as BOB DOLE was just a few kilometers across the Adriatic in mid-Italy. I hope we do not fill up the hospital in Zagreb. We have most of the hospital supplies.

The whole other range of logistics. You know I am on my 7th year that NEWT extended me on Intelligence. We are 95 percent or more of the intelligence. We have the no-longer-secret unmanned aerial vehicles, that is under my other subcommittee chairmanship, Technical and Tactical Intelligence. Our satellite architecture, which you are an expert on, that is ours.

I mean air power, sea power, sealift, airlift, fuel, food, logistics. Here is the other one. The war will spread. Certainly not across the Adriatic. The 6th Fleet is there. Will it go south into Greece? No, because we have got 500 men and women in Macedonia, a blocking action. What are they? Chopped liver? We have men on the ground hemming them in.

They are not going to blow through Hungary. TOM LANTOS will stop that and take over a CO-DEL and physically stand on the line to stop that. What are they going to do, charge into Romania and Bulgaria? They are not going to come through Croatia. They got their clock cleaned in the whole Krajina area, the old former Slavonia. Slovenia is not going to let them come up there. They are begging to come into NATO. More than NATO, they want to be a United States ally, just like Albania.

Where are they going? Nowhere. In other words, we are doing everything except putting our men and women on the ground in the toughest quadrant around Tuzla in harm's way. I think that I as a Member feel blackmailed, CURT, that when NATO says to me, and Senator MCCAIN repeated it this weekend, that NATO said they would not go without us.

Vice President GORE said on the show, the expanded Nightline, Viewpoint, with Ted Koppel, well, look, we had to go over there in World War I. My dad was wounded three times. We had to go in World War II.

CURT, do you like to go in European museums? Have you ever seen so much culture in your life, from Greece to the British Parliament? These people we are told they are incapable of not slitting one another's throats unless they have Americans standing between them. We are going to end this century in Sarajevo, well, the French get that, Sarajevo or Tuzla, the way we began it in Sarajevo.

It is offensive to be blackmailed and be told by intelligent Europeans, a bigger population than we have, bigger gross domestic or area product than we have, to be told unless you are, there, we are not going, and the raping of little 6-year-old girls can continue. We want you in the trenches.

Mr. WELDON of Pennsylvania. If the gentleman will yield on that point, that was the second major problem I had with President Clinton's speech. He said that those who oppose his policy are isolationists.

Nothing could be further from the truth. He knows that this Congress has gone on record three times saying to lift the arms embargo over the past three years. He knows that since August this Congress has gone on record three times. The most recent vote garnered 315 in favor, Democrats and Republicans alike, saying do not send ground troops in.

This Congress has said America should not be asked to do it all alone. When you add up the amount of troops that you have just outlined, and you total in the ground troops, we are talking in excess of 50,000 American troops, costing the taxpayers between $2 and $3 billion, that we are going to incur for this Bosnian operation.

The question that made me so upset as I thought through this whole situation, was why are the Germans only putting in 4,000 and why does the Bundestag have to approve that before they can go? Why are the Italians putting in 2,100, and why does the Italian parliament have to approve that before those 2,100 can go? Why are the Scandinavians only putting in a collective total of 2,000, and certain of the Scandinavian countries have said we will come, but you have to pay for our travel, our food and our lodging?

Why are these other countries in Europe putting all of these conditions and providing so few troops, when America is putting again 50,000 young American sons and daughters on the line. And the French, who I will admit are putting 7,500 in, are the same French that denied us access to their air space when we wanted to go down to Libya to pay Quadafi back for the terrorism he caused. The same people we are now joining with, because they feel it is important for America to be there, denied us that air space.

Let me just say that is what we are concerned about. And this President, as he usually does, twists that around and convolutes it to say we are isolationists who do not care about human rights abuses. It is outrageous.

The real mistake here was when this President 3 years ago opened his mouth and said, "If need be, I will put American ground troops on the ground for a peace agreement." Long before the negotiations began we all knew that was a given. That is what we all found so offensive, that we never had a chance to play a role in this process, because the President committed the ground troops long before any leader in the Balkans decided they were going to come to terms for a peace agreement.

Unfortunatley, young kids are going to lose their lives over that. That is why you and I, as chairman of appropriate defense subcommittees, have got to use every ounce of energy in our body to protect those kids. And we will do that.

Mr. DORNAN. You know where the Germans are going? Croatia. There is no fighting in Croatia now around Zagreb. They will live in Croatian military barracks and hard facilities because of their cozy relationship during the Second World War. I am not going to bring up the ghost of the Istasa, the Coatian gestapo. They had their sins, so did the Serbs under Tito. The Muslims were importing terrorism early on, just like World War I, fiddling around with the terrorist groups in the Middle East. Every side there has plenty of guilt.

But this is the German relationship. The German Embassy is in Zegreb, Croatia, is the biggest one here. Here may be the dreaded gray hand behind all of this, the European Economic Community. The EEC is interested in one thing, bigger import into the United States then we export to Europe. More Volkswagens and Mercedes and Volvos coming in here than we are putting out there. They see this area as a trade area.

One thing I have said for 3 years, 4 years, I told Bush, the Europeans are dragging their feet and demanding we put our people in danger on the ground because they simply do not want a Muslim State in the European area west of the Ural Mountains. They do not want it. So now that we are down to the place divided up, half of the villages where atrocities took place going the other way, Clinton said last week something that made my blood curdled again.

He said "We have fought all these wars." Not we. He wasn't there when this country called him. And it is not that he has to say you folks and get in a Ross Perot problem. All he has to say is "America has fought these wars."

A lot of people are calling my office and saying "Are you going to impeach him, Congressman DORNAN," because I read this on the floor? This is an article from Mr. Phil Merrill, in the Wall Street Journal, November 14, it seems like a long time ago, 22 days ago, "Bosnia, we shouldn't go," Phillip Merrill, the former Assistant Secretary General of NATO.

The new Secretary General of NATO is a former Spanish communist who fought to keep Spain out of NATO. Suddenly he has been picked to be the head of NATO, and he is Clinton's candidate. I read this on the floor 3 weeks ago. These are former Deputy Secretary General Phillip Merrill's words.

"It is very doubtful that the Balkans can sustain a multi-ethnic society of the kind envisioned by Clinton. The U.S. has no strategic stake in this fight and cannot and should not be the military arbiter. Our policy seems to be," and I wish Mr. Speaker, Americans would memorize this, "to simultaneously threaten the Serbs from the air. The Aviano-Villaparte-Brindisi air threat is still there. You do something wrong, we tear you up from the air."

Two: Now we are going to act as peacekeepers on the ground.

Three, we are going to train the Croatian Army. We have been doing that. I witnessed it in August. We are going to arm the Bosnian military.

When Ted Koppel on the aforementioned Friday or Thursday show last week said "how are we going to do that, Mr. Vice President," he seemed very uncomfortable, Mr. GORE, and he said "Well, with third parties." And he said "Well, who would those be?" And there was this long uncomfortable pause, and he said contractors.

Contractors. Like Vernell? Are we going back to RMKBRW, the big huge conglomerate that LBJ built out of Texas and Idaho and other firms, to put in 20 10,000 foot runway bases and a couple of parallel 13,000 runway bases at Bien Hoa and Cam Ranh Bay so he could come in in a 747 to visit with the troops?

□ 1915

Mr. Speaker, I am hearing all of the Vietnam doublespeak, all the McNamara crazy rationalizations, and this time one of my staffers said to me, BOB DORNAN, isn't this your dream when you were 31 years old, after the Tonkin Gulf, that you wished you were in Congress as a forceful articulate voice to stop men dying? You thought it would be a couple thousand, turned out to be 58,000 plus, and 8 women engraved on that wall down there, and friends of mine, like David Hrdlicka left alive behind in Laos, Charlie Shelton, Eugene Deburen.

No. I am here now, and I want to see if I cannot do what I thought I could do as a young man if I had only come to the Congress, which was 10 years ahead of the curve in those days.

So after we threaten the Serbs from the air, act as peacekeepers on the ground in the toughest quadrant of all, around Tuzla, train the Croatian army, arm the Bosnian military, then we are going to make sure that the Dayton peace negotiations are implemented, and then we are not going to go out of our way to seek out or hunt down, like a good tough Simon Wiesenthal, these people that sanctioned the raping of children and the burning alive of women who had been desecrated, hanging on a fence for days. No, we will not hunt them down, and we are going to try not to bump into them, but if we find them in the room with us, we will arrest them, these 53 Serbian and 3 Croatian war criminals.

Now, as Mr. Merrell continued, any one of these policies is defensible. Taken together they are incoherent. As flareups occur, these inherently conflicting policies will leave us powerless in the end to act effectively, even if we do not have any casualties, which I pray to God we will not. I do not want one first armored division, Old Ironsides, same name as that great naval ship of the line that still is a commissioned naval fighting vehicle up there in Boston Harbor that they take out and turn around every six months so the sun bakes both sides equally. That Old Ironsides is where this armored division—actually, it is Patton's tank battalion from World War I, that my dad tried to get into because he was an automobile man from New York City and did not make it. This is the outgrowth. Our very first armored division commissioned before World War II grew out of the prophetic statements of General George S. Patton of what would happen in the next war with armor.

Now, here is the way Merrell closed, and I read it on the floor, so a lot of people across America say BOB DORNAN is the man to carry the articles of impeachment against Clinton. I read these words of Ambassador Phillip Merrell. To endorse the President's policy comes close to an act of murder of young Americans, who have sworn allegiance to our country but who will serve and die under circumstances that will neither advance U.S. interests nor the cause of freedom.

Certainly not if we are going to fail to arrest the war criminals guilty of astrocities and invite the big kahuna war criminal Milosevic to Dayton.

When the American body bags start coming home, it will be a political disaster for those who did not oppose sending troops to Bosnia. What does that mean; that Senator BOB DOLE, who at this point in time has a percentage lock on the Republican nomination to challenge Clinton, does it mean that Clinton is doomed; that he will add to the two Democratic Presidents who have gotten a second consecutive term since Andy Jackson, when he got his second term in the election of 1832? Only Roosevelt and Woodrow Wilson have gotten a second consecutive term, so that means Clinton does not get a second term? Maybe he can make a comeback in the year 2000 like Grover Cleveland, another Democrat. Separated terms.

Does that mean that DOLE does not win? What does it mean; that Ross Perot is going to be emboldened; that United We Stand America will grow into the major party and eclipse the other two; because hearing the haunting twang of Alabama's George Wallace, there is not a dime's worth of difference between the two of them; that the Senate votes a resolution to support and the House goes impotent and silent, neutered, we do not do anything?

He says should President Clinton send American troops into Bosnia without congressional approval, he should be impeached. The time to face the choice is now, before we enter this war and before American blood is shed.

If he sends them in without a congressional approval, which the gentleman from Pennsylvania, Mr. WELDON, Chairman WELDON, just said the French have to do and the Germans have to do—by the way, the most foreign ownership of property in this country is British. The mother country. It makes some sense. Guess who is right up there with the Japanese. I think they own more property. The Netherlands. The Dutch. Holland. The Netherlands, where in the Hague, in their capital, Richard Goldstone, the distinguished justice of South Africa, is conducting the war crimes tribunal.

The Netherlands are sending 180 troops only, and their parliament will have to approve their going. No aircraft will be flying in harm's way over the SAM sites along the Danube, being tracked by radar sites from inside Melosevic's Serbia proper.

Here is the map, Mr. Speaker. It is not classified. I swear in the next Congress, if we get a freshman class as big and as aggressive as this, I will get you to sign on a letter for me, Mr. Speaker, where we can have, within reason, with tightly written rules, a Congress man or woman on this floor saying I would like the camera to come in, with your best lenses, and I will hold it steady, we would have it on a tripod, and come in and cover this map frame-to-frame on the camera, like I used to do on my Emmy award winning television show 27 years ago.

Here is the footprint of the Dayton line. They are going to get the Croatians to give back this huge chunk of yellow territory. This is Croatia, the beige, and this big chunk of yellow was where the Croatians, with American training, cleaned the clock of the Serbians along the Krajina area.

Krajina is Serb-Croat language for border. That is all it means, the borders. The fighting of the vicious border line between the vicious Ottoman empire, the corrupt killers, and the equal killing vengeance forces developed from Austria all along this area. Hungarian knights. Croatian knights. Remember, we got our neckties from Croatia. When they rode with Napoleon, he loved it that they put their cravats on their lances and their scarves from their women around their wrists or their throats. And that was the beginning of neckties, Croatian forces fighting with Napoleon.

Now, Mr. Speaker, here, what used to look like a country that was shaped like an arrowhead, the penetration of the Islamic Ottoman arrowhead into the belly of Europe, an arrowhead shape, it now looks like a very sick amoeba with some big tumors on it from the Bihac pocket all the way down past beautiful Dubrovnik, which I visited in 1972 and thought it was a dream village, and then the Serbs pounded the blazes out of it and burned down monasteries that were 500 and 600 years old, and here they had survived both the world wars of this period.

Here is Montenegro. I met with one of the freedom fighters from there 3 weeks ago. They want to break away from Serbia. Here is the blown-up map of the city, with neighborhoods cut in two, just like Clinton visited Belfast for the first time. I have been there nine times. Shot in the back with a rubber bullet the week after Bloody Sunday in February 1972. I have walked along the Shankle. I have been in Derry. Not Londonderry, but Derry. I understand what it is like when a neighborhood builds corrugated steel walls and people hate each other from apartment building to building.

There are 100,000 people demonstrating in Sarajevo saying they will not accept the Dayton map lines through this city of Sarajevo. Here is Pale, the Serb capital, just a hop, skip, and jump over the Igman Mountain area into the area. That is where the French pilots were shot down in the Mirage 2,000. Pale. Probably beaten to death and murdered by Serbs. That is a war crime, to kill a prisoner of war. They both had leg damage. In the pictures I showed last week on the floor we could see they were being held up. Again, the camera could not come in close. Trust me, I will change that.

Now we have the Postojna corridor. Then this chloride plant. The biggest in all of the eight provinces of Yugoslavia. That means the Hungarian province, Vojvodina; Kosovo, which is 90 percent Albanian, although attached to Serbia. Those were the two autonomous regions. Serbia makes three; Bosnia-Herzegovina, four; Croatia, five; Montenegro, six; Macedonia, seven; and Serbia itself eight. Those are the eight areas.

This was the biggest plant, and it is just a few miles from Tuzla. Right there, Ruckevach. That is where it is that can kill everybody in that area, if somebody decides to hit that with a missile from Serbia. So, hopefully, we will secure that plant. I will go over there around New Year's and make sure we do.

So there is the Dayton line. They have built a corridor out to Gorazde. We have written off Srebrenica. I have just found out it meant silver. That was a big silver plant contracted by the Germans. The Venetians had it first. All of this area, what Churchill called the tinderbox of Europe, and the Europeans cannot solve that problem themselves.

Mr. Speaker, this is the script, the written text, of Steve Kroft on 60 Minutes, a piece entitled "Over There", the song from my dad's period, interviewing two people who worked hard over there, Lieutenant Colonel Bob Stewart, the British commander, and Canadian General Louis McKenzie, a great sports car driver, I might add, with a love for MG sports cars, as this Congressman has, and I passed it on to my son.

Here are the words of General McKenzie and Colonel Stewart saying you will be in there for 30 years, just like Cyprus. And I thought, no, we will not. Clinton is going to pray, and I will be praying right along with him, that not a single man or woman from Old Ironsides is hurt, and that he will be back in time for the election. He will hope that Haiti does not explode. So I want to put in the words of General McKenzie and Colonel Stewart.

Mr. Speaker, here is the paper from over the weekend, that same photo-op. I was at Normandy watching young soldiers shake Clinton's hand. Afterward, I said do you like this guy? They said, no, he beat it out of the service. He did not serve. We love Reagan. But, hey, he is the President. I want to send a picture home to my mom. I want to say I shook the President of the United States' hand. He is the Commander in Chief. Meanwhile, Tom Brokaw was saying these GI's love him. They cannot get enough of him.

Well, here is something. This is why he loves these photo-ops. These GI's are so good, they will do their best to make him look good in spite of himself. The troops saved their most enthusiastic response. Roars of hoo-ah for Clinton's description of rules of engagement. Now, this is dangerous, Mr. Speaker. That will allow them to protect themselves against perceived threats.

We are coming to Clinton's exact words. Their orders, Clinton said, spell out the most important rule of all in big bold letters. If you are threatened with attack, you may respond immediately and with decisive force. Everyone should know that when America comes to help make the peace, America will look after its own. In his speech a week ago last night he said we will meet fire with fire and then some.

Mr. Speaker, this is what costs men's lives. We cannot tell the youngest troopers in this armored division, with their tanks all locked up in a tank park, or left behind in Germany because they cannot get across some of those bridges in that area with a 70-ton M-1 Abrams tank, to tell young people that if you perceive a threat, fire. It is not going to work.

This division commander, and I am going to go visit with him before we have somebody killed over there, or a woman shot at night, or a child shot, or somebody trying to come over to our camp for food shot at night by some nervous GI who watched his friends step on a mine the day before. Remember that Lieutenant Calley, who should have been shot for what he did to the U.S. Army and to his unit and to his men? Remember what Calley's unit did? They had not been in serious fighter fights, having their men shot up with AK-47's. They had been stepping on land mines for months, an unseen enemy. Men screaming, their private parts and their legs all shredded. That is what built up in the tension where suddenly he could turn to people like Paul Meadlow, who told him get lost, Lieutenant, and walked away, a real hero, but told other people, kill that little boy over there throwing his leg over his brother.

□ 1930

Kill that Buddhist monk. And then they asked later, "What was that Buddhist monk saying?" And he was saying, "Please, please, please, help me. Please don't hurt me. I'm a man of religion." And they murdered him.

That is what happens when you tell troops loose rules of engagement. Again, nice man; wrong man for this job: Warren Christopher, saying we learned our lesson from Somalia. I am going to ask permission to put in this Reader's Digest article. That is October. I understand the November issue is just as bloodcurdling.

I am lucky enough to have on my staff one of the greatest young authors to come out of the Vietnam conflict, Al Santoli. He is masterful with oral history. Here is a chapter from his book, "Leading the Way: Lessons Learned." About real leaders.

He interviewed Schwarzkopf and Colin Powell for this book. Here is First Sergeant Anthony McPike, Saudi Arabia, 1990 to 1991. Tank leader, C Company, first tank battalion. I think they did have Abrams tanks, but it is Marines. First marine division.

He says, "In one incident," the first sergeant says, Sergeant McPike, "I was on road security. There were two captains, a warrant officer, gunny, a master sergeant and me. We found some enemy prisoners of war who surrendered. These two captains did one of the stupidist things I have ever seen. Without even securing the area, one captain tried to order some troops that were flanking outside the POWs" which they were doing correctly, but the captain grabs a rifle and runs across the field. He did not even know what was in front of him. "Myself, and the other first sergeant saw that, we shook our heads. We went back to the Humvees and just sat there."

It is nice to have sergeants that understand combat to keep some rather aggressive young officers in check.

"Something else that I felt important to keep in check was that a lot of troops wanted to open fire. The first sergeant and I talked to a lot of them. We said, 'Y'all don't understand. The minute you pull that trigger and kill somebody, your life is changed forever. That's a feeling you'll never get rid of.'" To kill a human being.

"'You might think it's funny now, but it's not. You might take the life of another human being that is not even offering a threat to you. I can understand if a man is running at you with his weapon blazing or with a fixed bayonet. But if he's standing there with his hands on top of his head, don't tell me you are just going to take him out.'"

"They said, 'Hell, Top, he's the enemy.'" These are Marines now, Mr. Speaker. "I said, 'That's right. But you've got to realize that enemy should be treated humanely. You are an American fighter. You are not a paid killer. How about if somebody did that to your child?'"

"They said, 'Wow, Top, we didn't think of it like that.'"

"In Saudi Arabia, a chaplain gave us a class on combat leadership. I think that this class should be mandatory. He said, 'There is a fine line between reality and fantasy. Once you cross that line, all the psychiatrists in the world will do nothing but get wealthy on you.'"

"Under the stress of combat, anyone can cross that [psychological] line without realizing it * * * If that young man is allowed to mess up, you defeat yourself. Because it affects the whole platoon. And once a leader loses the respect of his troops, he'll never get it back."

God forbid we kill some innocent Moslems, innocent Serbs, or innocent Croatians in this Tuzla hot area soon to be under heavy snow cover in another terrible, pneumonia-producing Balkan winter. Because if we get some young trooper that kills some innocent people and the Army decides to court-martial him, you know what he is going to say? He is going to say that he was in Germany in the first week of December in 1995, and he heard Mr. Clinton, who managed to avoid service and have his draft induction date of July 28, 1969, politically reversed and suppressed, he will say, "Here the President's words were: The most important rule of all, in big bold letters, if you are threatened with an attack, you may respond immediately, even if you perceive it to be a threat."

These are the wrong rules of engagement for peacekeepers. But then the first armored division was trained to take on the best Russia could throw at us in the Fulda Gap to save Europe with American lives for a half century after the Nuremberg trials, which started 2 weeks ago 50 years ago.

Here is a letter from IKE SKELTON, to show that this is bipartisan angst here against what Clinton is doing. He writes to Secretary Perry, "If the United States Department of State insists on arming and training the Croat-Moslem federation, will an American guarantee and coordination of the effort, as testified by Secretary Christopher yesterday, will the 20,000 American soldiers in the Bosnia-Herzegovina region be forewarned of this additional security risk? Will they be informed of the possibility of vengeful acts by Serbs or of hostilities from Moslems expecting, but denied, favorable treatment? This is a major security issue."

He has two sons on active duty, Army officers. "I urge the Department of Defense to issue memoranda to each soldier to be on extra alert as this State Department policy will put them at higher risk."

I would like to put in the RECORD, Mr. Speaker, a background paper from the Heritage Foundation that I think is great, questioning the Bosnia peace plan. I want these questions asked and answered in print. If it is too expensive, I will get permission on the House floor tomorrow to put it in.

We are talking about saving lives. Then here is the House Republican Conference issue brief. "Bosnia: Questioning the Clinton Plan, But Supporting Our Troops." The reason, again, Mr. Speaker, and you will be there, that I want this conference, unless you are on the floor in the chair, that I want this conference tomorrow, is that we have got to decide how we draw a line. Do we support the troops, all 50,000-plus of them in the Adriatic, in the skies flying air patrols out of Aviano, and everybody on the ground? The first armored and all the troops. We support them. We want to keep them safe, but we disagree with this policy, even though the division commanders are gung-ho to go. The young privates that I saw, except for a few sergeants who do not want to leave their little, tiny children at Christmastime. Those holidays, it is only about from the 2d birthday to the 10th where Christmas is a dazzling event. We only get eight of those from God with each individual child, and we miss one, that is one-eighth of a great heart-tugging memory gone. Then we try to look at the shaky video that our young wife took of the kids.

Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman has 4 minutes left.

Mr. DORNAN. Mr. Speaker, let me read this segment on Bosnia. If I run out of time, I ask for unanimous consent to put it in the RECORD.

This is Readers Digest from Dale Van Atta. I know Dale. He is a good reporter. This is not an excerpted article from a news magazine. This is commissioned by Readers Digest and it is about the United Nations. And I have always avoided beating up on the United Nations, because we have had some good Americans serve up there. But this is the most unregulated, financially unaccounted for group in the history of civilization. It has dictatorships in there. Castro is in there. These people submit bills. Nobody ever audits them. They are all overpaid. Boutros Boutros-Ghali makes $344,000 tax-free a year, double the President, if we include that Chelsea Clinton does not get $12,675 a year tax free.

It is outrageous, the corruption at the United Nations, and these are the people that Clinton wanted our troops under. We beat his brains out in this House. Is that is why they are under General Joulwan instead of some U.N. command? Implementation force sounds like one of these U.N. names, but it is not.

The section on Cambodia I may read tomorrow night, and then Rwanda and then Somalia, and then I will get the November issue. But I will trail off reading until my time runs out on Bosnia.

June 1991, Croatia declared its independence. I had just left there a few weeks before. Was recognized by the U.N. Serbia-dominated Yugoslavian Army invaded Croatia ostensibly to protect its Serbian minority. The Serbs agreed to a cease-fire. The United Nations sent in a 14,000 member UNPROFOR [U.N. Protection Force] to build a new nation.

The mission has since mushroomed to more than 40,000 personnel. I was all over their headquarters like a cheap suit meeting with Yasushi Akashi. It became the most expensive and extensive peacekeeping operation ever. After neighboring Bosnia declared its independence in March 1992, the Serbs launched a savage campaign of ethnic cleansing against the Moslems and Croats, who made up 61 percent of the population. Rapidly, the Serbs gained control of two-thirds of Bosnia. Bosnian Serbs swept into Moslem and Croatian villages, 3,800, and engaged in Europe's worst atrocities since the Nazi Holocaust. Serbian thugs raped at least 20,000 women.

I will skip ahead of this. The 6-year-olds. The Serbian women hung on the fence drenched with gasoline and set on fire alive.

While this was happening, the UNPROFOR troops stood by and did nothing to help. Designated military observers counted artillery shells and the dead. Meanwhile, evidence began to accumulate that there was a serious corruption problem, like Cambodia. Accounting procedures were so loose that the U.N. overpaid $1.8 million on a $21 million fuel contract.

Kenyan peacekeepers stole 25,000 gallons of gas worth $100,000; sold it to the Serb aggressors. Corruption charges routinely dismissed as unimportant by U.N. Officials. Sylvana Foa, F-O-A, then spokesperson for the U.N. Human Rights Commission in Geneva said, "It was no surprise," get this quote, "that out of 14,000 pimply 18-year-old kids, a bunch of them should get up to hanky-panky."

That sounds like some good old boy, not a woman. Like black market dealings and going to brothels. When reports persisted, the United Nations finally investigated. November 1993, a month after Mogadishu, a special commission confirmed that some terrible but limited mistakes had occurred. Four Kenyans and 19 Ukrainian soldiers were dismissed from the U.N. force.

The commission found no wrongdoing. I will continue this tomorrow, and point out that the Russian commander, Mr. Speaker, is the man responsible for the atrocities in Chechnya, he is going to be in our zone commanding a brigade, a battalion of 800 Russian troops. What a massive problem to dump into the arms of our fine young American officers and men who are eager to please.

The State Department announced today, that one way or another, the Bosnian peace talks, currently going on in Dayton, Ohio, will come to a close tomorrow. If that sounds like an ultimatum, it is.

For 19 days, the chief U.S. negotiator, Richard Holbrook, has literally forced the three warring factions to negotiate a peace treaty to end the war. If the talks fail, presumably that's it. If the talks succeed, President Clinton has pledged to send 20,000 U.S. troops over there, as part of a NATO force to keep the peace; actually, most of them are already over there, stationed in Germany, waiting to be told what to do next.

As the talks near to climax, we wanted to find out what American soldiers could be getting into. In a quarter of the world few Americans knew much about, until the Serbs, the Croats and the Bosnian Moslims started killing each other. No one know that better than the two men you're about to meet.

60 MINUTES

"OVER THERE"

Steve Kroft: Canadian General Louis McKenzie and British Lieutenant Colonel Bob Stewart, who we met in London, have both commanded peacekeeping troops in Bosnia for the United Nations. And the U.S. military thought enough of their experience to have them give advice to American officers who might serve in Bosnia. In 1992, Stewart led a battalion of British troops responsible for delivering humanitarian aid.

Colonel Bob Stewart: "You know, it's not a question about me not getting through, it's a question of whether I—how much damage I do."

Steve Kroft: He knows what it's like to lose friends, and to witness atrocities.

Lt. Colonel Bob Stewart: "But no man can kill a child . . . and a woman like this."

Interpreter: "They died because they're Muslims."

Stever Kroft: When we talked to him in London this weekend, both he and General McKenzie told us the Americans have to be prepared to take casualties.

Lt. Colonel Bob Stewart: My soldiers were shot up by all three sides. You mustn't just deploy soldiers into the middle of a war zone, and think it's just like someone escorting a kid to school in the morning. I'm quite sure the American military are fully aware of that.

Steve Kroft: General Louis McKenzie was the first UN Commander in Sarajevo, back in 1922; a Veteran of nine peace-keeping missions in places like Gaza, Cyprus and Vietnam. But nothing prepared him for the former Yugoslavia.

General Louis McKenzie: There is a level of—of hatred that certainly, I have never seen before in any other theater of operations.

Steve Kroft: McKenzie's opinions on potential U.S. involvement there have been solicited by two U.S. congressional committees. His most recent appearance was before the House National Security Committee last month.

You told the House committee, not too long ago, that you didn't think the United States Government should get involved militarily in Bosnia. Do you still feel that way?

General Louis McKenzie: Yes, I do. From a military—I—I have to emphasize, from a military point of view, they didn't invite me down there to give them political advice; they had plenty of folks doing that. And I appreciated that they'd painted themselves into a corner politically. And I think they were gonna have to get involved. But from a soldier's point of view, I said, "don't touch it with a ten-foot pole."

Steve Kroft: If there's an agreement signed in Dayton between the warring parties, it will be a triumph of politics and diplomacy. But General McKenzie and Colonel Stewart both caution against euphoria. They say what's going on in Dayton is the easy part. The hard part will be making it work on the ground. General McKenzie says he negotiated nine different cease fires in Sarajevo, and was delighted if they held for 24 hours.

Can these parties be trusted to keep a peace agreement?

General Louis McKenzie: No, they can't be trusted. There is a history of lying. It depends what their agenda is. And their agenda is—it's not predictable, and it changes.

Steve Kroft: We can't trust any of these people?

Lt. Colonel Bob Stewart: No, that's a perfect—perfect way to describe it. If you want a philosophy, don't trust them til they prove their actions on the ground.

Steve Kroft: Unlike the U.N. forces, American troops training for deployment in the former Yugoslavia, will not be peacekeepers. Their job will be to enforce the agreement, and if necessary, punish violators. They'll have to insert themselves between warring armies, and assist in the treacherous job of moving people in and out of areas, that the agreement decrees will be set aside for Croats, Muslims and Serbs. And not everything will be spelled out in the manual.

General Louis McKenzie: They will be delivering babies, they'll be delivering food, they'll be moving families, they'll be evacuating burning hospitals, they will be doing all kinds of things that aren't within their terms of reference, because they're going to be the only game in town.

Steve Kroft: The situation is fraught with peril for the Americans. It was the Duke of Wellington who said, "Big countries shouldn't involve themselves in small wars." The United States would be risking its military credibility in a situation, General McKenzie believes, isn't worth it.

General Louis McKenzie: In Bosnia, every side there wants America on their side. Forget about NATO for a second; they want America on their side. And to target American soldiers and make it look like one of the other two sides is doing it, is extremely easy. You can hire somebody across the line, in the other ethnic group to fire at American soldiers. And America, historically, has reacted very forcefully to that, and will go after the side that they think is targeting them. And that is the beginning of a slippery slope. So, I think that American soldiers will be subjected, to a degree of risk out of all proportion, to any other nation represented in the NATO force.

Lt. Colonel Bob Stewart: These guys are out of control. That's clear. People on the ground don't give a damn. They're in a position; they're bored. They might just take pot shots because they feel like it. No one is going to bring them to book for it. I haven't heard of anyone being brought to task by their own side. There are no rules of engagement. We talked ages and ages about rules of engagement. There are no rules of engagement for them. And there's no comeback when they fire.

Steve Kroft: The NATO troops are expected to remain impartial. But that won't be easy. The American military knows it already has enemies in Bosnia; the Serbs, for example.

Steve Kroft: Last summer, NATO warplanes, mostly American war planes, pounded Bosnian Serb military positions, and inflicted heavy damage.

Lt. Colonel Bob Stewart: How many Bosnia Serbs, sons, brothers and husbands, were killed? And how many children, women? But sure as hell, someone at the far end has lost someone. Someone's got a grudge. And that person will not be under control necessarily, when Americans go in.

Steve Kroft: Is that realistic, to expect that the—that the United States can go in there and be a neutral force?

General Louis McKenzie: On the first day you arrive, you could well be impartial. But on the first evening of the first day that you arrive, and one side targets you, Corporal Jones and Lieutenant Smith are probably not going to be terribly impartial.

Lt. Colonel Bob Stewart: If you act at all, you'll lose your impartiality. I'll give you an example: When I was there, our blood . . .

Steve Kroft: Colonel Stewart told us his Battalion ran into a situation where it had some surplus blood. Rather than throw it away, they decided to give it to the local hospital.

Lt. Colonel Bob Stewart: Now, that's a pretty neutral thing to do, you would imagine. No. The next thing I had was the local Bosnian Croat commanders and also the mayor of the town, complaining like hell, that I had given our blood to a hospital that was predominantly Muslim. So, in reality, in order to act at all, you should somehow get a third of the blood supply to Bosnia Croats, Bosnia Muslims, and Bosnian Serbs.

General Louis McKenzie: I have never run up against that problem in any other mission area. Through Central America, the Middle East, Vietnam, et cetera, where even talking to one side during the negotiation process is seen as collaboration by the other side.

Steve Kroft: So, it's possible then, in our function there, that we could end up with everyone against us.

Lt. Colonel Bob Stewart: Well, that would be perfect.

General Louis McKenzie: Yeah. Like the General said, "That would be perfect . . ."

Lt. Colonel Bob Stewart: Then you're neutral.

General Louis McKenzie: If you can get everybody to just dislike you equally, then you—you're on the right track.

Steve Kroft: They aren't laughing because it's funny. It's called gallows humor.

To make sure American soldiers aren't put in indefensible positions, they would bring with them, massive fire power . . . Some of that firepower, was on display a few weeks ago, during live fire exercises in Germany.

And the Pentagon is promised that American troops would be able to use that firepower. If attacked, they would be able to respond decisively and immediately.

The Secretary of Defense, Perry, says we are going to be the meanest dog on the block. Is that—is that what's needed?

Lt. Colonel Bob Stewart: Well, I could be quite crude and answer that, "you can be the meanest dog in the block, but when someone's got you between—between their legs, you howl like hell. Surely, weren't the American troops, the meanest dog in the block in Vietnam. I don't wish to say there's a—some kind of parallel here, but you're not necessarily fighting a war that's a standard conventional war in Bosnia. You're not meant to be fighting. In a way, you're meant to be in between. And in between, standing there, trying to get peace, is dangerous, and people get hurt.

General Louis McKenzie: I'm not sure that the meanest dog in the block is the right analogy; maybe a seeing eye dog. Maybe a seeing eye dog could help these folks, because they're the ones that have to make the peace and keep the peace. It's not—you can't—you can't impose peace more than you can impose morality. You can't kill people to make peace. It just doesn't work very well.

Steve Kroft: What you need in Bosnia, General McKenzie says, is patience; lots of patients; and realistic expectations about the prospects for long-term peace in the Balkans.

General Louis McKenzie: I don't think I was exaggerating when I said three or four years ago, if Americans gets involved in this particular game, maybe they should start training their grandchildren as peacekeepers. Because this—I mean, we've been in Cyprus for over 30 years now, on a U.N. mission, and I—it won't surprise me if we're in Bosnia for over 30 years.

Steve Kroft: President Clinton said this is a gonna be one-year commitment.

General Louis McKenzie: Everyone—everyone agrees that that's for domestic consumption. It's just no way you're gonna be out of there in one year.

Steve Kroft: So, you're saying that you believe that there will be United States troops in Bosnia taking casualties, during a Presidential Election?

General Louis McKenzie: I—I hope there are no casualties. But I believe there will—if you go in, in the near future, there will be United States troops in Bosnia during the—the Presidential Election, and another Presidential Election, and another Presidential Election.

Steve Kroft: Do you agree?

Lt. Colonel Bob Stewart: Absolutely.

Steve Kroft: Is it a mistake to say that you're gonna be out in a year?

Lt. Colonel Bob Stewart: Well, I don't think it's a mistake, but I don't think any—any—I think it's rather foolish statement to—to say, that—there is a time limit. Because I don't think you can actually necessarily put a time limit on something, when we don't even understand—we don't even know what's going to happen there tomorrow.

Steve Kroft: President Clinton and his State department have heard these dire assessments before. Some have even come from American military officers. But the President and his Administration are taking their cues from history; and their belief that an abdication of responsibility in Europe, could destroy the NATO alliance, and weaken America's position in the world. And even former military commanders, who have spent time on the ground in Bosnia, believe that argument has some merit.

General Louis McKenzie: With all due respect to NATO—and I served nine years in NATO—I mean, it is looking for a mission. And if it passes this one up, it might be a long time before another one comes along. So this is a defining moment for NATO, overworked phrase, but I think it is.

Steve Kroft: Is this a situation where the Europeans said, "This is too tough a problem for us to solve. Let's let the Americans do it?"

I think, Colonel Stewart, a lot of people probably are thinking that.

Lt. Colonel Bob Stewart: Yeah. I think it's possibly true. I mean, quite frankly, I don't care. Really, I don't care who leads. But pray to God, someone does, and we get something done. I don't care.

Lt. Colonel Bob Stewart: All I want—I personally, and I know General Lewis is the same, want peace restored to this area. We actually feel quite strongly about the place. We know that the vast majority of the people are crying out for the fighting to stop.

Steve Kroft: And finally, there is the moral argument; 200,000 people killed, 1.8 million driven from their homes. Does the world's last superpower have a moral duty to end the suffering? Is there a chance that the Serbs, the Croats and Muslims really are finally tired of the bloodshed.

General Louis McKenzie: There's a whole bunch of things involved here, just in addition to doing the right thing. I mean, there's the American political process which is unique. There is NATO looking for a role. There's a country that self-destructed over the last three years, and is looking for some help. There's a whole bunch of very brave non-governmental organization working their butts off in the former Yugoslavia, delivering medicine and food, et cetera, et cetera, and all that comes together in Dayton, with three people that we agree we don't trust.

BOSNIA: QUESTIONING THE CLINTON PLAN . . . BUT SUPPORTING OUR TROOPS!

Republicans don't question the President's authority, as Commander in Chief, to send U.S. troops to Bosnia. We do question his judgment. For an operation that will place American lives at risk, the "Clinton Plan" for Bosnia is fraught with difficult-to-swallow Administration "assurances" and too many unanswered questions. However, as much as we may disagree with the President's decision, there should be no mistake that Republicans will strongly support our troops once they are on the ground.

The Process—The President's promise to send 25,000 U.S. ground forces to Bosnia was made in an ill-conceived and off-hand remark more than two years ago. It became a commitment in search of a mission. Clinton made this promise without gaining the support of the American people and before consulting Congress. As a result, both Congress and the American people have been shutout of the process that now involves sending American men and women to Bosnia. This problem is highlighted by the numerous polls indicating close to 60 percent of Americans continue to disapprove of the Clinton plan to send U.S. troops to Bosnia.

U.S. Troops As Targets—There are inherent problems with using American soldiers as "peacekeepers." As Washington Post Columnist Charles Krauthammer has written, "If you are unhappy with the imposed peace, there is nothing like blowing up 241 Marines or killing 18 U.S. Army Rangers to make your point." The lessons of Beirut and Somalia are simple—when the United States, the world's only remaining superpower, sends troops to unstable regions of the world, they immediately become targets for those seeking either attention for their cause or retribution for past events, such as NATO-led bombings.

Can U.S. Peacekeepers Remain Neutral?—The Clinton Plan calls for U.S. forces to act as neutral enforcers of the peace while the U.S. also helps arm and train the Bosnian Muslims so they will be able to defend themselves once American troops leave. This scenario, however, ignores the role America played prior to this peace accord. It was American planes that bombed the Bosnian Serbs into submission in order to force them to the bargaining table.

As for arming the Bosnian Muslims, the Clinton Administration contends that the Bosnians need arms to defend themselves once American forces leave. But if peace has broken out, and the American "enforcers" are no longer needed, exactly who will the Bosnians be defending themselves from? The fact that the Clinton plan recognizes that the Bosnian people will need to defend themselves from the Serbs once the American forces are gone illustrates just how illusory this peace really is.

Is There Really a Peace?—While peace may exist on paper, it is unclear as to whether it exists in the hearts of the Balkan people. Recent news reports indicate that the peace plan is not receiving a very enthusiastic endorsement from the Bosnian Serbs, especially those living near Sarajevo. And it is still unclear to most Americans why 60,000 heavily-armed, combat-ready soldiers are needed to "enforce" a "peace" agreement.

The Clinton Plan Is Poorly Defined—Before our troops are fully deployed, Republicans will continue to insist that the President outline a clear and achievable objective and define what encompasses a successful mission. Finally, the President needs to develop an exit strategy that is more comprehensive than the simple goal of having our troops home in one-year.

Republicans Support Our Troops—While Republicans continue to question the wisdom of the President's decision to send U.S. forces to Bosnia, we understand that it is a foregone conclusion that they will go. Indeed, close to 1,500 troops have already begun to arrive in the former Yugoslavia. There should be no doubt that Republicans will unconditionally support our troops once they are in Bosnia. We will make sure our troops have every resource available and as much leeway as they feel they need to defend themselves should they be attacked. Again, there should be no mistake: Republicans will support our troops in Bosnia and we will continue to work to ensure their safety throughout this mission.

NATIONAL HEALTH CARE: WE SHOULD NOT SURRENDER THE DREAM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we have 10 days left on our countdown until the budget deal is made. Ten days left, and it appears certain that there will be some great disappointments among a majority of the American people. The majority will be swindled by this budget deal, but I am here tonight to send a message that we should not be discouraged.

The budget deal that is going to be made is not a surrender, it is a retreat. It is temporary. The dream and the vision of the American people to have a better society, a society which makes use of all of the resources of our tremendously rich industrialized economy should not be surrendered. It still can be realized.

Last year we drove for a while, for the first two years of the Clinton administration, toward a national health care plan. The national health care plan's dream was to realize universal health coverage for the first time in the United States of America. Most of the industrialized nations of the world do have universal health care coverage, or something close to it.

Because of the fact that the legislation which is before us now, the legislation which is likely to be agreed upon, the negotiations dealing with the legislation and the appropriation when it is all finished, we will be a long ways away from that universal health care dream.

We should not surrender the dream though. We should only understand that it is a temporary stalemate. It is a retreat which we continue to insist that this country is rich enough, this country has the resources, and the people of this country deserve a national health care plan which guarantees health care for all who need it.

□ 1945

That is a next step in our civilization that we should not ever turn our backs on. The fact that the deal is going to be made and we are going to be far short of that should not deter us. The deal will be made and no matter what it is, it certainly will leave us without universal health care coverage.

I only hope that we are not so far away that it may take us another 10 years to regain the territory that we lose. I only hope that we do not lose the Medicaid entitlement. The Medicaid entitlement is the first step that was taken 30 years ago toward health care coverage for all who need it. If we lose the Medicaid entitlement, if we no longer are willing to say to every poor American that if you are in need of health care and you are poor, you qualify by a means test, which tests whether or not you really are eligible, if you qualify, you get the health care coverage, you get taken care of. You are not left to die. You are not left without a nursing home, if you cannot afford it. Medicaid pays for health care for poor families, but Medicare also pays for most, two-thirds of Medicare goes for nursing homes and the care of the people with disabilities. So people with disabilities and the elderly who need nursing homes are as much beneficiaries as poor families of Medicaid. So we should not forget that. The Medicaid brings us closer to the realization of universal health care than any other Government program in health care. If Medicaid entitlements are lost, we will experience a great setback. So step one is to hope that in the negotiations which grow more questionable each day, there is less to negotiate with as the days go by. We had the defense appropriation as part of the negotiation at one time and as long as the President did not sign the bill, we were waiting for him to veto the bill, then you had the possibility of a $7 billion process there, $7 billion that the President clearly felt was not needed. It was not in his budget, $7 billion which represented things like the B-2 bomber that everybody agreed we did not need.

We had the flexibility of at least starting negotiations with $7 billion on the table that could be transferred from wasteful defense expenditures to expenditures that were more meaningful in education or health care, et cetera. That is gone. The defense bill has become a part of law. The defense appropriation now has been, sort of by default, since the President did not veto it, the time period lapsed and now that is off the table. So without a doubt, we are in a little weaker position than we were before the defense bill was allowed to pass through.

That is why I say that as we move toward the deadline of December 15, every day of the countdown brings us a little closer to a situation where we are weaker than we should be. And, therefore, the outcome is inevitably going to be a dissatisfactory one. It is going to be a disappointing one. It is only a matter of how much are we going to give up, how much are we going to hold on to.

Whatever the outcome is, we should insist that it is only a temporary setback. It is only a retreat. It is not a total defeat. We will not surrender. We will insist that we come back and, when the Democrats regain the House of Representatives in 1996, health care will be back on the table. We will move again toward universal health care coverage. It cannot be surrendered. We cannot envisage an America which does not care about the sick, an America which does not care about the elderly and what kind of nursing homes they have. We have to insist on maintaining that standard for our civilization. We have to get back to the fight, and we have to get back to it with gusto.

The majority have made it clear that they do not want to retreat on health care. The majority have made it clear that they do not want the Medicare and the Medicaid cuts. More than 70 percent of the people have said that they do not want the health care cuts in Medicare and Medicaid. The majority have said they do not want cuts in education. The majority have said they want the President to veto many of the bills that he has already signed, but certainly those that are left, basically the health, education, and human services budget, certainly the one they most of all want him to veto.

The majority has made it pretty clear that they think that the movement of the Republican majority to dismantle the programs that were created by Franklin Roosevelt in the New Deal and by Lyndon Johnson in the Great Society, the rapid movement of the Republican majority to dismantle and to wreck these programs, the majority has indicated they do not agree with. They do not think that this kind of extremism is necessary. They do not accept the artificial crisis that has been created.

The majority have made it clear that they are not on board and they are very much against this. Yet it sort of creeps forward because that is the way our Republic works. The people who have been elected can ignore the majority for a while. They can get away with it.

So I want to just reaffirm the fact that we need health care for every American. We can have health care for every American. The country can afford it, and we should not accept whatever happens when the deal is finally completed as being final.

Health care in many cities and many areas of the country right now is already undergoing some drastic changes for the worse. Even while the debate is taking place and no final decision has been made about what funds will be available and what new rules will be in place, health care systems are being dismantled in rural areas. Health care systems are being drastically changed in urban areas. And in New York City, there is a great dramatic change taking place now. Health care administrators in large numbers are leaving. Restructuring of hospitals is taking place. Super HMO's are being developed to swallow up small HMO's.

All of it represents a great deal of energy, a great deal of change, which has very little to do with the improvement of health care. The restructuring is all about how the funding will take place. The restructuring is about who will make profits. The restructuring is about how will you save money by giving the patients minimum service and maximizing the profits for the providers.

It is a very unfortunate situation. There was an article that appeared in the New York Times on Friday, November 3, which I think sort of sums it up, "Can Someone Save My Hospital," is the op-ed article's title. The dismantling of New York City's health care system has already begun.

The mayor has a plan to privatize and drastically change the hospitals. They are going to be closing city hospitals. Many of the city hospitals are getting ready to sell themselves or to be sold. HMO's are being developed that will compete with each other for patient dollars.

I will just quote from this article, "Can Someone Save My Hospital," by Gary Calcutt who is a physician. He is medical director of a special care AIDS clinic at North Central Bronx Hospital. And one paragraph in his article reads as follows:

> This plan will no doubt take some time to carry out, but in fact the dismantling of the city hospital system is now underway. Because of State Medicaid cuts and a reduction in city subsidies, the Health and Hospitals Corp. has had a budget shortfall of $950 million over the last 2 years, forcing it to slash services and to cut personnel. Twice in the past year nearly all the agency's employees have been offered a severance package. The second buyout offer in May was accompanied by a letter from Dr. Bruce Segal, who was then president of the Health and Hospitals Corp., strongly urging employees to take the severance package in order to avoid layoffs. The agency's managers must approve each layoff but in North Central Bronx Hospital, I don't know of any employee who has been denied a severance buyout. This has led to devastating losses in some crucial departments.

He goes on and on. I have had my constituents come to me and say, look, you must come and visit Kings County Hospital. I go there quite often, but they wanted me to make a special visit and walk around in various departments and look around carefully. They said, you can visit, you can see the chaos, you can see why patients are bound to be suffering because the chaos is so great; the overworked personnel are so obviously tired. There is so much, the morale is so low until it is visible. And they were right. You could feel it in the hospital. You could feel that this hospital is no longer the way it once was.

I have been there many times. Kings County Hospital has a history of being one of the finest hospitals in the Nation; 40 years ago people came from all over the country to be treated at Kings County Hospital, a public hospital. But now it is in chaos, and it may be in better shape than many of the city's hospitals.

So the process has begun. The suffering has begun. But I am saying we should not surrender. I am saying that this too must pass. When the budget deal is made, we should not surrender. We should not give up on health care.

We should not give up on education. We know already that the Federal Government only pays a small percentage of the total educational bill. The total funding for education, over $360 billion the last year, is borne by State governments and local governments. The Federal Government is responsible for only about 7 percent of the bill. So when you look at the cuts in education and you say that there is $4 billion cut in 1 year, it is a large amount to cut from the Federal budget. I think it is a 16-percent cut. But it does not represent a 16-percent cut across the Nation in education expenditures by itself.

But what has happened is the Federal Government's cut, its statement that education is of less importance, the Republican majority's indication that education is of less importance, that we pay lip service to the fact that education is an investment in the future of the country, education guarantees that young people will be able to survive in a very complex society, they will be able to qualify for the high technology jobs created, we have all of the rhetoric on both sides, Republicans, Democrats say the same thing. But the Republican majority has indicated they really do not believe it.

If you can make cuts of that magnitude at the Federal level, you send a message down to the State levels and the local levels. So they have begun to cut, too. In New York City, the school system has been cut by almost $2 billion over the last 2 years. New York City has almost a million students, and the budget at one time was up to $8 billion for the million students. But those drastic cuts have taken place so you have obvious hardships.

When the school term started last September, 8,000 youngsters in the New York City high schools had no place to sit. Right now there are classes of 40 and 45 students. And there are still problems with just getting places for children to sit. An editorial recently in the New York Times talked about the fact that every time it rains, the New York City schools literally wash away. You have the rains going through the crevices of the old buildings and the sand and the cement is drained away. The bricks start to fall. So after every rain you have large numbers of bricks falling from these old buildings. So the New York City schools are literally falling down. There is no hope in sight in terms of new construction because the budget cuts in construction preceded the other cuts.

All of this is taking place in education. But I say, we should not surrender. We should not accept the fact that the Federal Government is retreating in this one budget. Which is under the control of the Republican majority. We should hold onto the dream that the Federal Government, although it never will play a major role in funding of education, it has a role to play. It never will play the predominant role but it has a major role to play.

The Federal Government still is the only place where you are going to have any long-term research and development to improve schools. The Federal Government is still the only place where you are going to have the kinds of financing for higher education that you need, infrastructure of colleges and universities are in deep trouble, updating of equipment of colleges and universities. There are a number of things that need to be done on a scale that will require help from the Federal Government. Otherwise, the help will not be coming. Private industry and private donations will not be able to do it, and certainly States and localities will not be able to do it.

We should not surrender and say that it is never going to be done by the Federal Government. We should not say that we are forever going to have B-2 bombers that are not wanted by the Joint Chiefs of Staff, the Secretary of Defense does not want it. The President does not want it. We are going to forever continue to fund B-2 bombers and neglect education.

We should not surrender and believe that that is going to happen. I do not think it is going to happen. The majority want education to be made a priority in the expenditure of Federal funds and Government funds at every level. The majority will ultimately prevail.

□ 2000

We must hold on and understand that the fight has just begun, the public opinion has just begun to manifest itself. They are just waking up here in Washington to the fact that the American public means it when they said that education is a top priority for Government expenditure, they mean it when they say that health care is a top priority. It is not just an idle piece of energy thrown away when people reply to polls. They are replying to polls and telling them the truth, we mean it. Education ought to be a top priority. Right now it is No. 1 in the polls; health care, No. 2. From week to week they rotate, they alternate. Health care and education clearly are No. 1 priorities. If the decisionmakers here in Washington, if the Republican majority, respected the majority of American people, then certainly we would not be in this dilemma.

So the majority should not sit, but the majority should not give up. They should wait, and in the process of waiting we should assert ourselves. The majority should continue to make certain that the public opinion polls register what you believe.

In the process of continuing the fight I think I cannot stress too often that there is a bedrock basic piece of information that we should always fall back on. We should not accept the theory that America is in a state of fiscal crisis. We should not accept the notion that the country is about to go bankrupt, that Medicare and Medicaid cannot be funded. We should not accept the notion that the Federal Government will go bankrupt because it helps poor people. All of this is just not true.

We should understand that there is a problem, there is a problem in terms of taxes being too high for individuals with families, and we should deal with that problem. There is a problem of waste in Government, and we should deal with waste wherever waste is. The waste is in the B–2 bombers that nobody wants. The waste is in the CIA that continues to spend at the same level it was at during the cold war while it does more and more harm.

Mr. Speaker, the CIA is one example of an agency that ought to be streamlined and downsized before it does more harm. The CIA's latest revelation about the incompetence and the evil of the CIA has been manifest in a "60 Minutes" exposé of a fact that the CIA had on its payroll the head of the organization in Haiti called FRAPH.

FRAPH is an organization that demonstrated, and brought guns and terrorized the pier in Haiti when the first ships were sent to Haiti with Canadian and New York City personnel, New York State—I mean United States personnel, some police from Canada and police from the United States, and engineers from the United States Army were supposed to be the first peaceful contingent landing in Haiti, and that was part of a peaceful plan that had been agreed to at Governors Island. But they were greeted on the docks by this demonstration of men with guns who roughed up the Embassy officials from the United States Embassy in Haiti, and they made all kinds of threats, and the *Harlan County* ship decided to turn around and not dock at the port there in Port-au-Prince, Haiti. They did not dock because the intelligence that we received was that that group that was demonstrating on the dock was a very dangerous group. The intelligence that come from the CIA was that great harm would come to American personnel and Canadian personnel if they had landed that day. That was what the CIA said.

Mr. Penizullo, who was then the President's envoy for the Haitian problem, he was dealing with the Haitian problem. He insisted that it was just theater, that this group had no depth, that there was no danger from this group, and that the *Harlan County* should go ahead and dock, we should proceed with the implementation of the Governors Island agreement as we agreed upon it. But the CIA insisted that, no, this group represents a real threat, great harm could come to America forces, and since this incident was following the Somalia debacle where 18 Americans have lost their lives in Somalia, the President accepted the advice of the CIA and ordered the *Harlan County* to turn around. So you had a great American ship being turned around by handful of thugs in the Port-au-Prince harbor because the CIA had said that those thugs represent a large armed threat.

The CIA insisted on this, and it turns out that all along the CIA knew better. The CIA knew because the leader of the group that met the *Harlan County* ship in the port was on the payroll of the CIA. They knew who Emmanuel Constant was because Emmanuel Constant had been recruited by the CIA, and the CIA had its own policies separate from the White House's policies and programs, and the CIA thwarted the first peaceful attempt to restore the legitimate Government of Haiti to power. That peaceful attempt, if it had been allowed to go forward, would have saved the United States at least a billion-and-a-half, maybe $2 billion, because a year later almost exactly a year later, the liberating forces of the United States went into Haiti, 20,000 strong, armed with equipment, et cetera, because of the fact that the first plan, a peaceful plan which would have cost much less, would not have involved large amounts of troops, and equipment, et cetera. That plan had been thwarted by a group that the CIA knew was a very small group because they had recruited it and they had the head of the group on the payroll.

Emmanuel Constant is now in prison here in the United States. Emmanuel Constant has confessed and told all as to how he was recruited, how he was urged to run for President of Haiti, and I believe the story 100 percent. The CIA of course has not denied it; they just have no comment. They do admit that they sometimes hire people in foreign countries to get information from them. The implication is that Emmanuel Constant might have been on the payroll of the CIA, but all they wanted from him was information. There was no further plot to undermine the legitimate Government of Haiti.

I cite this one example as just one more of several examples I have cited over the past blunders of the CIA which are costly and also dangerous. I need not go back and tell the story of Aldrich—and recount the story of Aldrich Ames. Mr. Ames is in prison now.

Mr. Ames even recently, with all of his arrogance, wrote a book review on a spy novel, and the book review was in, I think, the Washington Post, a book review of a spy novel where he chastises the author of the novel as being an amateur, et cetera. I found it sickening that a man who was in prison as a result of serving for 10 years as a Russian spy; you know, he was in charge of CIA spying on the Soviet Union in Eastern Europe, and he was in the employ of the soviet Union in Eastern Europe. They admit that at least 10 agents lost their lives as a result of Mr. Ames' betrayal of his country. There is nothing lower than a traitor, you know, and I cannot see how this traitor is now being allowed in prison to write book reviews and to parade his ego over the pages of the media showing what a smart guy he is.

But Aldrich Ames was there for 10 years. Aldrich Ames was not detected despite the fact that he was an alcoholic, he used the CIA safe houses for his trysts, his rendezvous with his women. He did all the things wrong that you are not supposed to do, even failed a lie detector test, and still the CIA did not detect that he was spying for the Soviet Union. He had a bank account which allowed him to own very lavish homes and cars, something he could never afford on the CIA salary, the CIA on his salary of course, but who knows what the CIA has paid. All things which affect CIA are secret, so you really do not know what was paid, but it was agreed that Aldrich Ames really did not earn enough money to have the kind of luxurious lifestyle that he had.

Despite all that, alcoholic, betrayal of CIA codes with respect to sex and safe houses, lavish living, he was only accidentally sort of discovered, and of course there are still revelations about the harm that was done by Aldrich Ames. Not only did at least 10 agents die as a result of his betrayal and his activities, but we now know that he passed on information from some of the agents that were in question that was not correct information, and he led the United States Government to expend large sums of money on various activities, probably like star wars, and counter warfare, submarine warfare, and a number of things that were based on information deliberately fed to our Government to make our Government spend money on activities to counteract Russian achievements in military hardware which did not exist.

So in every way Aldrich Ames is an example of a blundering CIA that not only is costly, but is also dangerous.

The other example I have given of the CIA blundering is the fact that they discovered that the CIA had a slush fund, a petty cash fund, of at least $1.5 billion. Everything is secret again, but we know they confessed, and the press has pretty much established that it was at least $1.5 billion in petty cash or in an account that was treated like a petty cash account that nobody knew about in high places. The Director of the CIA did not know about the petty cash account, and the President did not know about the petty cash account. How can you have a fund of $1.5 billion and it not be known in the circles above you, the supervising circles that are there? Who had it and where are they? Who was put in jail as a result of harboring this $1.5 billion slush fund? And if they had a $1.5 billion slush fund that nobody knew about, the likelihood that they were also at the same time had more money and were misusing funds is great, but of course, everything is secret, and we still do not know exactly what happened.

I am only giving this example as an example of a place where there is obvious waste, there is dangerous waste, and, if you want to save money, then downsize the CIA, streamline the CIA, cut the budget of the CIA. It is just one example of many where you can cut the budget appropriately.

So we should not surrender, we should not admit, that it is impossible. We should not accept the big lie that it is impossible for America to ever provide health care for everybody, you cannot have universal health care in America. You can have it in Germany, you can have it in Japan, you can have it in Italy, you can have it in France, but you cannot have it in America. You can never have education paid for all the way through 4 years in college as they have in France or a few other nations. You cannot have that in America. We are too poor. Do not accept that big lie no matter what happens in the budget negotiations and where we end up on December 15.

I am saying the majority of the American people, the great majority out there, people who I call the caring majority, should never accept this. The dream should not be surrendered. We should just understand it is a temporary setback and we will continue. We will continue the quest for Federal involvement in education at every level, we will continue the quest to guarantee that our society provides maximum opportunity for all and that we also meet the threat of a changing economy which requires job training and readjustment for large numbers of people.

I wanted to talk about continuing the process of forging ahead and not accepting the temporary setback without having to use my chart tonight. I think you probably have grown weary of seeing the chart which reflects a large part of the answer to the problem of both the deficit and the excessive taxation of Americans. I hope you have not grown weary because it needs to be branded into the memory of every policymaker in America. It needs to also be clearly branded into the memory of every American voter. There is a basic story told by this chart, and whereas I wanted to sort of take a recess and not bring it tonight; today I read an article in the New York Times. I was a little late in reading the Sunday Times, and I read an article which really upset me greatly, and I in the process of reading that article determined I have to go back one more time before this session is over and explain this chart.

I have to explain the chart because the writer of the article in the New York Times; it was Sunday, December 3, and the name of the author is Keith Bradsher; it is not a op-ed page article, so I assume he is a journalist, a reporter, or an analyst for the New York Times. He chose to write an article about Democrats and Republicans and how we have created the deficit together over the last three decades.

□ 2015

The title of the article is "Deficit Partnership," and the subtitle is "The Republicans and the Democrats Dug the Budget Hole Over Three Decades."

As I read the article, I could not help but boil with fury because of the fact that here is a very long-winded analysis. They use a large chart here showing over a period from 1965 to 1995, a 30-year period, what happened. A lot of thought has obviously gone into the article. Why a journalist, an analyst of this caliber, maybe he has some economic training, why or how he can discuss this problem of the deficit over a 30-year period and not deal with the whole problem of revenues and the problem with the fact that the American people were swindled in the methods used to collect revenues. He talks only about expenditures.

The Republicans and the Democrats dug the budget hole over decades. He talks about how Republicans and Democrats together have increased the expenditures. He does not talk about what happened with the revenues and how, while expenditures were increasing for various reasons, some of them good, a great drop took place in the revenues; and the revenues did not drop in the area of personal or individual and family income taxes, the revenue went up in the area of individual and family income taxes.

The revenue dropped drastically in the area of corporate income taxes. The story of the great drop in corporate income taxes as a percentage of the revenue collected by the Federal Government is a story that nobody wants to tell. The New York Times reporter, analyst, journalist, whatever he is, does not want to talk about it. You will not find the commentators on television, the talk show hosts, nobody wants to talk about the fact that taxes in 1943, and I did not go back as far as he went and this article went back, actually this article went back to 1965, 30 years; 1943 goes all the way back, World War II was still underway in 1943. The income taxes being paid by corporations were up to 39.8 percent, almost 40 percent, while the income tax being paid by individuals and families was 27.1 percent. I have gone over this many times, but you just have to get the red bar and the blue bar clearly focused in your mind in order to understand the nature of the great swindle that took place.

In 1943 corporations were paying 40 percent of the burden, the income tax burden, but in 1983, 40 years later, the corporations are paying only 6.2 percent of the tax burden. Only 6.2 percent of the income tax burden is being borne by corporations, and the individual's share of the taxes has shot up from 27.1 percent to 48.1 percent. That was the highest point of taxes on families and individuals. This was when Ronald Reagan was in his heyday on his trickle-down economics, the rising tide will lift all boats, and if you will cut the taxes for corporations they will create jobs, and those jobs will fuel an economic revolution, a miracle, and everybody will benefit.

Mr. Speaker, individuals and families did not benefit. They ended up paying more taxes. They paid 48.1 percent of the taxes in 1983, while corporations dropped to an all-time low of 6.2 percent. Now corporations are up, up from 6.2 percent to 11.2 percent, which is, thank God, a slight increase, but individuals are still up at 43.7 percent.

We have Mr. Bradsher discussing the deficit partnership and how the deficit took place, and at no time does he talk about this dramatic change that took place in the tax structure, in the burden, the percentage of the tax burden that shifted from corporations to individuals. How can a learned journalist, analyst, economist make such a discussion without discussing the obvious? If the physical sciences, physics and chemistry, proceeded in the same way, we would probably be 30 or 40 years behind in our technology. If you take a major factor in a discussion and ignore it completely, then you certainly cannot be said to be participating in any scientific reasoning process. You certainly be said to be proceeding in a logical manner when you just leave out a great portion of the argument.

Mr. Bradsher is intent on blaming both Democrats and Republicans. I would concede that from the beginning. Whatever has happened in America over the last 30 years, 40 years, it certainly has been both Democrats and Republicans. Yes, in 1983 Ronald Reagan was President and that is why you have corporations' share of the income taxes go down to an all-time low of 6.2 percent, but Democrats were in control of the House Committee on Ways and Means, where all tax policies originated, so if we had a scandalous situation where the income taxes for individuals and families went up to 48.1 percent while the taxes for corporations dropped to 6.2 percent, then both the hands of the Democrats who controlled the Committee on Ways and Means and the Democrats in the House who voted for it are dirty in this situation where the American people as a whole, the great majority, were swindled. This is something that I would concede.

Mr. Bradsher, from the very beginning, I would say yes, the Democrats and Republicans were both guilty. My problem is not with that assertion. The problem is why do you go on and on and you do not even mention the fact that there was a great revolution taking place in terms of the shifting of the tax burden.

I am going to read a few paragraphs, excerpts from Mr. Bradsher's article:

> Democrats in Congress have repeated for years the mantra that President Reagan pushed the deficit out of control by cutting taxes while raising military spending.

Democrats have said that. That is true.

To continue with Mr. Bradsher, though:

> Republicans have recited just as regularly the view that Democrats voted for ever-larger deficits during their 40 years of control in the House.

The deficits did get larger, but when Jimmy Carter left office, it was less than—it was around $70 billion per year versus when Ronald Reagan left office, it was almost at $400 billion per year, the deficit. But he is right, the deficits did get larger:

> Among experts who have studied the history of American budget deficits, there is fairly broad agreement that both sides are partly right. Neither party has clean hands, and the slower economic growth over the last 20 years has made the situation worse. The current budget negotiations between the Republican Congress and a Democratic President, stalled in large measure over handling the deficit, are a reminder that the budget policy of the United States is made by compromise.

Yes, that is true. Some of the biggest decisions that continue to feed the budget deficit were made by Republican Presidents with Democratic Congresses, notably during the Richard Nixon and Ronald Reagan administrations. He goes on to point out what I have just already conceded, that both Democrats and Republicans were guilty. But all Mr. Bradsher discusses in terms of the creation of the problem is expenditures.

He talks about the fact that—

> There was a competition between the Republicans and Democrats at one time on expenditures for the elderly, a rivalry between Richard Nixon and Wilbur Mills. Wilbur Mills was the Democratic chairman of the Committee on Ways and Means who made a brief bid for the Presidency in 1972. That rivalry between Nixon and Mills contributed to the decision to increase payments to Social Security recipients by 15 percent in 1969, by 10 percent in 1970, and by 20 percent in 1972. In each case the administration advocated a generous increase, and the Congress added a little more.

I am not going to criticize the Congress or Nixon for the increase in Social Security payments. They were far too low. I think that is an example of expenditures going up that was very badly needed. The expenditures were far too low for Social Security recipients who were in very dire straits, and that increase was certainly a noble increase, a reasonable increase, a justifiable increase.

As Medicare and Social Security costs have grown they have squeezed out Federal spending on other programs like transportation and education. Medicare and Medicaid expenditures, however, were raised when the Congress and the Presidents competed in terms of increasing expenditures in the area of expanding Medicaid to include pregnant women, pregnant women who were not necessarily on AFDC, the elderly in nursing homes, and all those expenditures were added to Medicare after it had first been created.

I would not quarrel with the Democrats or the Republicans for adding those uncovered people who were very important to the Medicare Program. Those expenditures I think were justifiable. All of the expenditures that are cited in terms of domestic discretionary expenditures in this article are not necessarily justifiable, but 90 percent of them are. He is talking about expenditures for people, expenditures as an investment in education, an investment in health care, an investment in programs for the elderly.

If he were talking about expenditures for *Sea Wolf* submarines or for F-22 fighter planes and for star wars, then he would be talking about expenditures that we could have done without. If he was talking about expenditures for the CIA and the intelligence operation on a large scale after the cold war was over, then I would say he was talking about expenditures that we could certainly do without.

The point is that Mr. Bradsher goes on and on about expenditures and never does he once cite the fact that a revolutionary change in revenue collection took place, that we fell in our revenue collection from 39.8 percent for corporations and went up to 48 percent for individuals in 1983. Even now, in 1995, after some adjustment was made by the Clinton administration, corporations are paying only 11.2 percent of the total tax burden and individuals are paying 43.7 percent.

Why is this important? Because this is the bedrock of the dilemma that we face. This is where you end as you go backwards in the discussion to its foundation. The agreement that is going to finally be made by the Democratic President and the Republican-controlled Congress is going to have to do something about the question of tax cuts. Who will get the tax cuts is the question, or should anybody get tax cuts? That is the question that emerges from the editorial pages of more and more newspapers. We are down to a situation now where if you are going to have a balanced budget in 7 years, then you have to surrender the tax cut.

I am a Democrat. I am described as an old-fashioned liberal, but I think the American people ought to get a tax cut. I think you ought to have a tax cut for families and individuals. I think the tax cuts proposed by President Clinton that were related to education are very much appropriate. I think the tax cuts proposed which relate to children are very appropriate, if you were to rewrite them in a way which allows families that do not owe taxes to also benefit.

To rewrite the Republican tax bill would be almost impossible. I think you could build a compromise on President Clinton's tax cut proposals. Those tax cut proposals would give some relief to the American families and individuals who have financed the cold war and gone through quite a bit, and saw their taxes rise from 27 percent in 1943 to 48 percent in 1983, and to 43 percent, almost 44 percent, today. They deserve some relief. Individuals and families should get a tax cut. When all is said and done and the deal is made, individuals and families need some tax cut. It ought to be the individuals and families who are at the lowest levels in the economic strata, the middle-income and lower-income people, who get the tax cut.

At the same time, you cannot balance the budget unless you deal with the fact that everybody insists on ignoring, and that is that corporations have gotten away with a big swindle. If you follow the Congressional Black Caucus alternative budget, you can raise this 11.2 percent be first ending all subsidies to corporations by the taxpayers. We have a situation where taxpayers' moneys are used to subsidize corporations in certain activities. You can raise this amount by getting rid of those subsidies. You can raise the amount again if you close tax loopholes, starting with the loopholes that deal with foreign corporations.

□ 2030

Foreign corporations have advantages that our own home-based American corporations do not have.

There are a number of loopholes that can be closed which have been developed over the years, with the help of the Committee on Ways and Means and Ronald Reagan, primarily, while he was in office. Those loopholes can be closed now. If we merely raise the corporate share of the revenues from 11.2 percent up to 16 percent, we could lower this 43.7 percent, at the same time we raise the corporate up to just about 16 percent, and thereby give a tax cut.

When we do this, according to the calculations that were accepted using CBO figures, the Congressional Black Caucus alternative budget shows, we do not have to cut Medicare and we do not have to cut Medicaid. We do not have to cut Medicare and we do not have to cut Medicaid, and we can increase education.

The dream does not have to be surrendered on universal health care. We can keep the entitlement for Medicaid, and we can go further in terms of an additional amount of involvement of the Federal Government in education.

The Congressional Black Caucus alternative budget increased education by 25 percent. The President says that he wants to increase education by even more. Over a 7-year period, he talks about an increase of more than $40 billion in education. I have not figured the percentage on that, but the President is on course. The President is following the rhetoric of both the Republicans and the Democrats.

We all say that education is an investment in the Nation's security. Education is also an absolute necessity if our economy is to be able to compete, and what the President is doing is following the rhetoric and the philosophy and the ideology instead of ignoring it, although both parties have expounded along the same lines.

Education was deemed a priority by Ronald Reagan. He was the first one who sounded the trumpet and said, we are a nation at risk if we do not act to revamp our entire education system. Ronald Reagan was the one who led the way. George Bush followed by saying he wanted to be the education president. He called a conference and set forth six goals. Bill Clinton was at that same conference. He continued what George Bush started.

So why are we on the verge of a $4 billion cut in education for the next budget year? Why are we on the verge of a tremendous 20 percent or more cut in education over a 7-year period?

We can give that up. We do not have to have those cuts. If we were to take a look at the hard facts of what has happened in America from 1943 to 1995, we would see that we have allowed ourselves to be swindled.

The share of the taxes paid by corporations could go up and nobody would suffer. Wall Street is booming. Everybody has indicated that we are in an unprecedented growth period. The Dow Jones average is above 5,000. A record-setting pace has been established.

So who is making the money? The corporations. The red bar is where the action is. The red bar is where the money is. Why did Slick Willie rob banks? Because that is where the money is. If we want to revitalize the American economy, then the revenue should come from the bustling sector of the corporate world where the money is. That is where we can solve the problem of the deficit: We can give a tax cut, and at the same time we can avoid the draconian cuts in programs.

Mr. Speaker, we are going to destabilize the whole society. We are refusing to recognize that poor people need health care, poor people need education.

We have a problem with the minimum wage, that I talked about last time, which does not contribute to the deficit at all, has very little to do with this chart, except if we were to increase the minimum wage, the profits of corporations would go down a little bit. However, at the same time, we would benefit greatly by having to expend far less on unemployment compensation and various other benefits that are provided to poor people, food stamps, et cetera.

Mr. Speaker, in short, I want to conclude by saying, we are 10 days from a final budget deal, and the outcome of that deal is going to be disappointing. We expect our Democratic President to make certain that we do not have a total debacle. We will not have a Dunkirk; we do not expect to surrender the Philippines. There are a lot of terrible things that will not happen, but it is going to be disappointing, it is going to be a temporary setback.

The important thing to remember is that the majority of the American people have already made it clear in the public opinion polls. They do not think that we have a crisis that merits the draconian cuts that are taking place. They do not think that we need to move against the elderly and cut Medicare. They do not think we need to move against the poor who are sick and cut Medicaid so drastically. They do not think we need to throw away our education policies of the last two decades and desert public education or desert higher education.

All of these draconian moves are being made by people who have a vision of America which is an incorrect vision, a vision that is not the vision of the majority of the people. The caring majority knows that their welfare and their best interests lie in rejecting these cuts.

That is why the polls clearly show that at least 60 percent of the American people want the cuts to be vetoed and rejected. At least 70 percent of the American people do not want Medicare and Medicaid cut.

If we were to follow the common sense of the American people, they would make the budget cuts in the areas where there is real waste instead of insisting that the defense budget be increased by $7 billion while we are cutting the education budget by $4 billion. They would insist that we cut the CIA and obviously wasteful agencies instead of making the cuts in the area of Head Start, summer youth employment programs, and Medicaid.

The current majority knows that the Medicaid entitlement means exactly what it says. People are entitled to health care if they are poor; if they pass a means test and they qualify for the service, they are entitled to health care, the legislation that is before the President now. The appropriations bill before the President will take away that entitlement.

We have already almost lost the entitlement for Aid to Families with Dependent Children, and now on the chopping block we have the entitlement for Medicare. We should not surrender that entitlement. Everything possible should be done. Everybody should make certain that they register their opinions and that they communicate with their Congressmen and the President and the White House, everybody, to let it be known that one clear indication of a giant step backwards that cannot be accepted by the American people is a surrender of the entitlement for Medicaid. We will not surrender that entitlement.

However, even if there should be a catastrophe happening and we have a loss of that entitlement, I am here to say that it is only a setback, it is only a retreat. The majority will win in the end. We should get our forces and begin to reassemble and march on toward the dream.

America can have universal health care; America can have a budget which is a budget which seeks to take care of the interests of all of the people. This is the richest nation that ever existed in the history of the world. There is no reason why every American cannot have opportunity and decent health care, and we dedicate ourselves to that purpose, no matter what happens on December 15.

BOSNIAN CONFLICT IS CIVIL WAR

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 60 minutes.

Mr. SOUDER. Mr. Speaker, I rise to discuss my opposition to sending our troops to war in Bosnia. As one of the new freshman Members, I do not pretend to have the experience of our earlier speaker, the gentleman from California [Mr. DORNAN], who has traveled to many of these areas and has much knowledge about our military.

I am a country boy from a small town in Indiana of 700. I come here on behalf of common-sense Hoosiers who are very concerned about what our President has committed us to do. I want to make a couple of general comments first before plunging into some specifics.

The first and core question is, is sending ground troops in our vital national interest? I think not. The primary question regarding the United States role in Bosnia is whether this is a civil war or is an act of aggression between two sovereign nations.

This conflict is a civil war because the Bosnian Serbs are fighting with the Bosnian Moslems and the Bosnian Croats over political control, power and authority. Since the conflict is a civil war, there is no legal obligation for the United States to get involved.

President Clinton even admitted the conflict in Bosnia is a civil war in an interview with Rita Braver of CBS News on April 20, 1994, stated the President of the United States as follows: "I think this is a civil war in the sense that people who live within the confines of the nation we have recognized are fighting each other for territory and power and control. It is clearly a civil war." That is not a Republican stating that; that is the President of the United States.

Although the United States has numerous interests in a peaceful resolution of the Bosnian war, for example, ending the atrocities, preventing further human rights abuses and ending the suppression of minority groups. Much of this, I think, is coming out of a heartfelt concern for those who are hurting in other nations and watching the terrible torture. The conflict does not in fact threaten our national security.

Given the terrible nature of war, I am supportive of sending troops into combat situations only when there is a vital national security interest at stake and when a clear military objective is achievable.

So then the next question is, has the President provided a clear mission or exit strategy, which will place our troops in imminent danger because he has not provided such a mission or strategy. He has promised to commit at least 20,000 troops. We have heard 30,000, but it appears to be 20,000 here at the beginning, before an agreement was reached, instead of designing a plan that could coordinate troops with this specific goal. In other words, it was a mission looking for a purpose.

Clinton's implementation force has no clear mission. In theory, they are poised to act as buffers between warring sides, and in reality, they are targets for snipers. His is an arbitrary time period for exit and not a national exit strategy, which means anybody who wants to wait out the last months can do that. The potential for United States troops becoming targets for those who have no interest in bringing peace to the area is simply far greater than any national security interest in Bosnia.

Mr. Speaker, let me tell a local story that has ties to northeast Indiana. Marine Lance Corporal Jeff Durham of Fort Wayne, who graduated from Blackhawk High School, was involved in the rescue of Air Force Captain Scott O'Grady. The 20-year-old Durham and other members of the 24th Marine Expeditionary Unit were awakened on board a carrier in the Adriatic Sea around 3 a.m., were briefed, and departed for a mission 2 hours later.

Jeff was on board a backup helicopter which was prepared to defend the rescue team against the enemy if things went wrong. Their mission was to get between the rescue chopper and the enemy. Fortunately, O'Grady made a clean escape and the Marines did not have to get out of the chopper.

We may have a voluntary army, but it is wrong to view our troops as missionaries or use them in missions that do not have clear American interests at stake.

I know that the people of Fort Wayne and Jeff's family do not consider him a disposable asset, a mercenary just to be thrown around in the process of pursuing whims by our President. I also believe we have shown that there is strong congressional and public opposition to sending ground troops.

The House has voted on three separate occasions in opposition to United States involvement in Bosnia. In the DOD appropriations bills, the original House-passed bill contained the Neumann amendment by MARK NEUMANN, a fellow freshman from Wisconsin, which will restrict the use of funds for deployment of United States forces in Bosnia without the prior approval of Congress. It passed by a vote of 294 to 125 on January 7, 1995. In conference, this was modified twice to become a nonbinding provision and then was dropped completely.

By the way, many of us who opposed that DOD Conference Report the first time, one of the three main criteria that we opposed it on was the pulling of that Bosnia language.

Part of the agreement that came out of that was H. Resolution 247, which expressed the sense of the House that there should be no presumption by the parties to any peace negotiation that the enforcement of any peace agreement will involve the deployment of U.S. forces and emphasized that no U.S. troops should be deployed to the region without prior congressional approval. This passed by 315 to 103; that is, no troops should be deployed to the region without prior congressional approval. Clearly, this has been ignored.

H.R. 2606 prohibited the use of funds appropriated to the Department of Defense to be used for the deployment or implementation of United States ground forces to the Balkans as part of a peacekeeping operation unless such funds have been specifically appropriated by Congress for that purpose. That passed by a vote of 243 to 171.

☐ 2045

We have made our will known. We are not being heeded.

Hoosiers in northeast Indiana do not support sending the ground troops to Bosnia, either. Ninety-four percent of those contacting my offices have expressed strong opposition to the President's plan. We have hundreds of calls, up to three times as many as we normally get. We have letters.

In the last week I was on three different talk shows where 80 percent of the calls were on Bosnia. Outrage is being expressed by the people in Indiana that this President could ignore the will of the American people and to send our boys at risk of a potential war.

I also wanted to show, I know that Congressman DORNAN showed this map earlier, of a couple of noteworthy geographical points that have probably been made a number of times but I want to make them again.

First of all, the so-called Dayton line named after Dayton, OH—talk about interjecting ourselves in international foreign policy, we now have the line between the nations being named after an American city—snakes around making Vietnam look clearly defined. It goes for over a thousand miles. We are not quite sure because they are still sorting out these borders how many miles exactly, but it snakes around all over the place.

Then I asked in one of our briefings, I am on the oversight subcommittee over the Defense and State and CIA, chaired by the gentleman from New Hampshire [Mr. ZELIFF]. This is Croatia around in a U.

Is there anywhere else in the world where you have a nation with a U around another nation? The answer is no. You have Pakistan, it has been divided, it and Bangladesh, and you have other situations but no U situation like this.

Another core question is, since this part is tied with the Serbs, which is over on this side, what would have happened if we had not gone in? We were told that most likely Croatia would have drawn a line somewhere like this. Well, these yellow pockets are where Croatia had already advanced, that clearly the Serbs were vulnerable in this area, and that if this was what would have logically happened and if Croatia is in a situation like this U, what exactly do we feel is going to keep Croatia from doing a fairly logical geographical move over time?

Well, there are supposedly a couple of different arguments. One is that these areas are Moslem and that while they are working with the Croatians, although they were just fighting them, now they are working with them apparently again, that there was more concern by Croatia that this area would be taken over by the Moslems than the Serbs.

This is what you call to some degree hopefulness, because these areas have been fighting all between themselves and partly what we are banking on is that Croatia will not do the logical geographical close because all of a sudden they are going to decide, well, maybe we don't want to fight the Moslems anymore or the Serbians anymore even though we have been doing so for hundreds of years and we view them as occupying our nation's land.

It is a little bit hopeful thinking to think that when one army probably was going to win, when one army still has that incentive through history of many years of war, to suddenly say, "Oh, we think now they're going to be good" and maintain this kind of unusual geographical layout. Anybody who looks at this goes and say, "Why exactly are we putting our troops in here?"

One other thing that is kind of interesting. We were told, and this map may be slightly different because there were two things still being negotiated. As is apparent, there is a very narrow part in here between the two parts of the areas controlled by the Serbian Bosnians, and the two areas that were still being debated and which are going to be the most difficult are this area right in here and Sarajevo. So the two places they have not defined are the two most difficult and the two most strife-ridden.

The Russian troops are going to be somewhere in here and the American troops are up here. This is a very difficult region to monitor. It is where the Germans were when they came down and lost so many troops, 70,000, trying to subdue this region. They came down through this area. We are putting ourselves right across from the Russian troops in an area where we are still negotiating the borders, where the narrow strip is; very narrow connecting, and you look at this and say, if you already have not established a compelling national interest and you already have a bunch of difficulties with this, would just logic not tell you in looking at this map that you are walking into an unbelievable potential nightmare of a situation for the U.S. Armed Forces?

In the briefings that we have had, a number of other things have been interesting talking about the mines that are there and the question of why are Americans going to be involved in taking out these mines?

Well, partly apparently we are going to ask all those who had been combatants in this to take out the mines first, but there are a couple of problems. One is that they do not exactly know where the mines are. Second, they do not have the equipment to detect the mines.

So since we have the equipment and since our troops are going to have to go through these areas as well as France and Britain, we are going to wind up having to go through the mines, and that is probably what the President was warning us, that we are going to lose lives trying to locate these mines that we do not know where they are and we do not exactly know how to find them, although, quote, they are in logical places. In other words, it is not as though they are randomly sorted. They are at where the front lines were, but since the front line has moved all over the place on this map, it is very difficult for us to know where the mines are. So we are going to have deaths related to the mines. There is no question of that.

Another question is whether or not the American troops will be targets. After all, it was the American Air Force that bombed many of these cities.

One of the things that was kind of enlightening to me was, is that one of the reasons the administration is apparently arguing that our American troops may not be targets is very simple. We are going to rebuild their country. And so if they think that we are going to rebuild the buildings that we bombed out and helped build their nation again, then maybe we will not be targets because the Americans are nice guys and if they shoot us, we will not give them money.

We have heard $60 million, then we have heard $600 million. Estimates have certainly been floating around on the floor of the House as high as $6 billion. At a time when we are trying to figure out how not to cut the budget, to respond to the earlier Speaker, but how to slow the growth of the budget, it is pretty tough to go back to Indiana and say, "Oh, by the way, we're having to slow down a little bit of the growth in these different programs, we're having to do this, we're having to do this but we're going to rebuild everything we just bombed over in Bosnia." It is a very tough sell on one hand to say we are tight on the budget, and on the other hand where there is not a clear compelling national interest that we are spending all this money rebuilding it.

Plus I just thought this quote was kind of interesting. It was in the New York Times, Friday, December 1. This was a young lady, when asked what she thought about the troops coming in, when asked what she thought of the Americans arrival, she said, "It's cool. It's great. All the Bosnian boys are going to be very jealous. We don't date them anymore. We met some Swedish soldiers but these American soldiers will have everything. Cars and money."

This ought to do great relations. We have already bombed their country. We are coming in there rebuilding it, and now their young soldiers who are coming back and having to supposedly lay down their arms are finding that their girlfriends are all interested in the American soldiers, which is certainly going to lead to extra peace. It is not a major item, but it is just every single thing you hear is not working in our direction.

I read the book "Balkan Ghosts," which I recommend to others to read. It is very interestingly written about this whole region. What strikes you is the violence that has occurred here over many, many centuries between the different nations, the different backgrounds, and the deep-seated hatred.

I think what struck me most is that so many times, in one case, I cannot remember what century or what war, one of the nations in overpowering the other basically slaughtered all the young children below 2 years old, much like King Herod did in Biblical times. In other cases they took groups into slaughterhouses, an actual butcher place, and butchered them, cutting off their legs and arms and heads and hung up the severed limbs like it was a meat locker.

Well, those memories are in these different nations. And often when they go to battle, they will go into their churches, whether it is a Catholic Church or an Orthodox Church or a Moslem Church or some blend thereof because this is a holy war. The enemy that they are fighting has murdered their children, has murdered their grandfathers, it has been in a brutal way, and it is not going to all of a sudden be solved by a 1-year cease-fire if indeed it ever turns into a cease-fire completely, but it is not going to be solved because underneath it there are centuries of very emotional religious and ethnic conflict.

Another thing that I never really fully understood until I read that book and got some briefings is why do all of these countries fight over some of these areas?

Croatia at its peak went way down this way. Serbia at its peak came way over this way. Hungary came down, Bulgaria at its peak, Romania at its peak, Greek at its peak, the Ottoman Empire at its peak, all at one time or another claimed a bunch of this territory. When they would expand in, they would plant people from their nations to plant seeding in those different areas, so you have mixed nationalities in there to boot.

Basically to summarize the battlegrounds, every country merely wants back what they once had. It is impossible to meet that goal. It is much like the Russians saying when they were Communists that they only wanted the land next to theirs. Each of these countries want to go back to maps that overlap and which are not going to be resolved by some kind of miraculous agreement in Dayton, OH.

One other thing. In hoping to go over to Bosnia, which we instead got to stay here in Congress over the weekend which was about as bad as going over to Bosnia, that we had a luncheon where the Speaker was at as well, with the President of Montenegro and a representative from Croatia as the Speaker, Mr. TAYLOR of North Carolina asked, because we heard that it was critical, that we put backing behind this or there would be no peace agreement. You asked whether or not we could do this with air and naval power, and he basically said yes, probably could.

I asked the question in one of our briefings why we could not just do that. They first said, and I do not believe they were supposed to say this, retreated, I do not think it is classified or anything, "Well, it's because this was an American agreement, and the European forces said since this was an American agreement that, therefore, we had to put ground troops in."

"Wait a minute. What do you mean this is an American agreement?"

"Well, this was made in Dayton, OH. This was the American President's agreement."

They do not think, for example, we should be rearming the Bosnian Serbs. So we are having to put ground troops in because our President brought the peace treaty process to America, it is called the Dayton line, it is an American agreement, that made us put ground troops in, not because they are essential to the peace there but they are essential to the American version of the peace because we may have needed to have some firepower behind it, which is still debatable, but we would not have necessarily had ground troops.

There is one other thing that I had learned and kind of reinforced what I had been hearing was we heard a very compelling story from people from Montenegro and it was very impressive how they were getting along and how they had taken things. Then it came around to the representative from Croatia who absolutely ripped into Montenegro how they had pillaged their museums and raped their women and so on.

And the response was, "Yeah, but this happened before 1992," which showed me the intensity here even though that apparently was, if I recall correctly, a 1991 incident, that the intensity between these countries is not just going to go away because we wished it to go away and temporarily put some troops there.

I also wanted to insert a couple of articles for the RECORD and I want to read a couple of quotes from this.

I was very impressed by an op-ed article on Tuesday, November 28, by James Webb, a former Assistant Secretary of Defense under Ronald Reagan and Secretary of Navy in the Reagan administration.

He reiterates a couple of points out of the Nixon doctrine that we have apparently drifted away from not only quite frankly under this President but under our last one, that we honor all treaty commitments in responding to those who invade the lands of our allies. That is one reason that we would put our own troops in.

Second, that we provide a nuclear umbrella to the world against the threats of other nuclear powers.

The third reason would be, finally, provide weapons and technical assistance to other countries where warranted, but do not commit American forces to local conflicts.

Bosnia fits none of these. There is no NATO treaty agreement. They are not part of NATO. There is no threat of nuclear war in this situation.

Finally, it is indeed a local conflict, so maybe we provide technical assistance but we certainly do not provide ground troops.

Another point in this article, it says that we are told, and this is what I alluded to earlier in another context,

> We are told that other NATO countries will decline to send their own military forces to Bosnia unless the United States assumes a dominant role, which includes sizable combat support and naval forces backing it up. This calls to mind the decades of over-reliance by NATO members on American resources, and President Eisenhower's warning in October 1963 that the size and permanence of our military presence in Europe would, quote, continue to discourage the development of the necessary military strength Western European countries should provide for themselves.

NATO has substantially changed since there was a direct Communist threat. We have to always be on guard. Russia could be immediately another Communist power and we would be back in the cold war. But things have changed and other nations around the world need to take more responsibility. We cannot be a policeman everywhere.

I also wanted to read a couple of quotes from Friday, December 1, Washington Times article by Thomas Sowell referring to the lapse of historic savvy by our President.

He takes a couple of quotes. For example, the President said, "Bosnia lies at the very heart of Europe." Not if you know any geography. It is basically on the fringes of Europe. It is not primary in either importance or geography. It has been a place where there have been battles where other powers have chosen to get themselves involved as we are but it is hardly central to Europe in either geography or politics.

I was very disturbed, for example, when the President at the tail end of his speech made a quote that I have no doubt is accurate from the Pope which was that this century started with a war in this area and we do not want it to end with a war in this area.

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The question is what is the best way to keep us from not having a war? I do not have a lot of confidence that quote was used in context.

If these countries are fighting among themselves, it could get very messy; for example, if Serbia loses control of this area and moves over to here, there may be centuries of conflict between Serbia and Croatia over where this line could be, and lot of lives unnecessarily lost. If the Moslems are overrun in these areas, in a sense persecuted by either Croatia or by Serbia and flee to other nations, they could be at risk of what they could do. They could be much like the Palestinians and be wandering, searching for a place to land. It is a messy area.

But if you put Russian troops right here and American troops right here and you have a change of power in Russia and you have a conflict where this group are allies of Russia and this group, with their more Catholic tradition, are allies of the United States, you are looking at the potential for war. That is how you get into world wars, not by letting these countries fight over their battles and the terrible things that may happen to those countries but by putting two major nuclear powers right across from each other in a very tense situation in defending potential client states. That is how you get a war, and the way to avoid ending this century with a nuclear war is not by us going in there, it is by us staying out.

As Thomas Sowell points out, that first off, Yeltsin is at best lukewarm with this. Furthermore, anybody who watches the news realizes the government in Russia is not necessarily stable. Part of their challenge is they are not being aggressive enough and nationalistic enough in approaching relations with our country, that any notion that all of a sudden we are going into Bosnia because there was this peace accord is belied, as Thomas Sowell points out, that Mr. Clinton advocated such action years before the Yugoslav leaders even set foot in Dayton and even before he became President.

He is depending on us to forget what he said before. Obviously, he depends on that many weeks out of the year. In this particular case, he has advocated this policy. He has now made it come to fruition and dragging all of America along with him under the guise of something totally different. Our claim that our mission is clear and limited, to quote Thomas Sowell again, as Mr. Clinton put it, is true only if everything goes according to plan. The same would have been true in Vietnam if everything had been according to plan. We would have simply defended the existing government until they got on their feet and then pulled out.

You know, many of us and a lot of the media have asked why are so many of the freshman conservative Republicans so upset about this war. Many of us who came through the Vietnam era reacted in different ways. I was a conservative during that period, as were many others, but we did not really like how the war was being fought either. We saw a lot of our friends being killed over something where we basically abandoned later on and learned some lessons there. That is pick you fights, have a clear mission, back up your troops, do not get in situations where you are the sitting ducks, and some people say, and this is a core question and I am going to touch on this for a minute, is this like Vietnam or is this like Afghanistan or is this like Lebanon or is this like Korea?

Let me suggest, first of all, on Korea, the line in Korea does not wander around in different angles, coming back like an odd-shaped "U" or a "V." And the reason the line in Korea held is because we went all the way up to the Chinese border. The Chinese and the North Koreans were afraid that at any time the American military might again invade North Korea or into China, therefore, they dug in behind the line to keep us from advancing. It was not an arbitrary line put on by our Government in peace negotiations.

In Vietnam, when we tried to do that, it failed.

The case, and some Marines have compared this to Lebanon, more like we are supposed peacekeeping troops, sitting down basically in valleys and mountainous regions where our guys are sitting ducks for land mines, occasional snipers and random people who have not disarmed, maybe like Lebanon. There can be a case like Afghanistan; Russia went in trying to subdue a rebellion. The rebellion had been going on between different forces for many years. Some of the troops fighting in Afghanistan are now in this area, as we learned by the CBS, I believe, TV commentator captured by some of them the other day, almost shot, that there are roaming bands in this same area of Afghanistan fighters. You see many of the logistics.

For me, since I most relate to Vietnam, it sure seems a lot like Vietnam.

I heard the President say the other night, "My fellow Americans." A chill goes up my spine because many of us heard "My fellow Americans" once too many times already. I now, for the first time, understand how some of those liberal Democrats who I did not like at the time felt when they felt they were pulled into Vietnam under votes in their protest, and all of a sudden their patriotism was challenged because they were questioning a war they did not want to get in in the first place. We in Congress have voted three times we did not want this war.

At what point do you say, "Look, we are elected by the American people as well; at what point is there a joint government?" You do not have an immediate threat to the security of United States. It is not as though we have troops already in combat in threat of being killed and the President has to go in. You can argue Nixon went into Cambodia because he was protecting troops on the ground. You can do a number of arguments the President has to have flexibility. Does he have to have flexibility to start us into a potential Vietnam?

One of the things he said, partly, I think, to shore up his conservative base, if any of our people get killed, we are going to go after them with everything we have. He said that to the troops the other day as he was launching them on their mission. The question is: Is that not what happened in Vietnam? We were their to support Vietnamization, help stabilize the southern, pretty soon, 20,000 troops are not going to be able to stabilize this area, maybe we will need 38,000; someone gets killed, we will have to go up in the mountains. The guys in the mountains, particularly, Afghan Moslems and others who are going to flee into the mountains, Hitler took tons of troops until he finally gave up trying to subdue them. Pretty soon, we are up to 75,000, 100,000 not because we are trying to start a war, but because we are chasing people who killed American soldiers, and we are demanding retribution. This leads to bigger battles. This is how wars start. It is not how wars are avoided, because we are in an extremely vulnerable situation in an area that has had conflict for hundreds and hundreds of years.

I also really resented the President's comments about the Olympics in Sarajevo, talking about how peaceful it used to be. It used to be a Communist country. It was hammered together by Tito. None of us voted to elect President Clinton the new Tito. It is not his job to hammer this nation back together through the force of gunpower, which is how this nation was put together in the first place. You can have different views on Tito. Clearly, one advantage of Tito was he provided stability. That is not the mission of this U.S. Congress, this House, this Senate, or this President, to be the new Tito, and I urge our President to lose his Tito complex.

I also listened to his tortured logic to try to address why we are getting into this war. Roughly, it went like this: Europe is essential to our stability, NATO is essential to Europe, we are essential to NATO; therefore, we have to put ground troops in. First off, it does not establish the Balkans are essential to Europe. Second, he did not make a very good case that at this time Europe is essential or that Europe is threatened. Third, he did not establish that we have to have ground troops as part of NATO to be supportive of NATO.

Maybe because of the peace agreement he agreed to, there is pressure now for us to put ground troops in, but maybe we should have let the Europeans negotiate the agreement that is in Europe. Let them figure out how to do it, and we back them up rather than us being the world policeman who brings them to Dayton OH, and then has all the obligations to be the policeman of Europe. I do not think his logic worked in any way.

I also want to read a little bit of a letter that I got from Ralph Garcia. He is the chairman of my veterans' affairs advisory panel. He is president of the Vietnam Veterans' Chapter 698 in northeast Indiana and on the State council of Vietnam veterans. He said to me that the entire group adamantly agrees that we should not send U.S. troops into Bosnia. He also said that he described, as a Vietnam veteran, as a former CIA employee, that this looks like Vietnam all over again. "We all agree that is no clearly defined national interest. Bosnia is a European problem. Nor is there a clear, quantifiable objective or mission statement. We will have casualties. The slowing of the Bosnian war process is not worth the cost of U.S. lives or scarce fiscal resources, because peace cannot be enforced."

I hear this most intensely from veterans in my district. As I look at what happened in Vietnam and as I look now at our young American men and women going into a war-torn land in the middle of winter, feeling doubt about going in, it has to be discouraging to them to hear us fighting among ourselves, of questioning their mission, and that is not what we are trying to do here. I honestly believe we need in this House to cut off funding now before there lives are lost.

I believe I am defending those American men and women by pushing before any of them are killed. Once the gunshots start, we have got to rally behind our troops. I understand that. I am going to fight every day up until gunshots start. Even if it is embarrassing for us to withdraw, better to have the embarrassment than to get caught in a long war with many American lives, and I believe that is defending our troops.

But what we need to remember is, just like in Vietnam where our leaders messed up and where our leaders are tripping over themselves apologizing for this and apologizing for that, it should take nothing away from those troops who go in to defend American honor, who do what they are asked to do in service of their country. We need to be supportive of them. Our leadership maybe should hang their head, but our soldiers should hold there heads up high and know they are doing what they are being asked to do and they are doing their best jobs.

When I was a student in high school at the little high school of Leo High School, and my high school class had 68 members, that shows how little the school was, we did a chain letter to those who graduated from our little school who were over in Vietnam. One of the commitments I made in my district, I hope other Members will as well, anybody who can get me the address of anybody from our region of, for that matter, Indiana, who is in Bosnia. I want to write them a personal note of support to them individually. I hope others will.

If I cannot get the Armed Services to give me who is there, I need people to let me know who is there.

Another thing we will do is we will collect letters, particularly over the Christmas season, particularly from people from northeast Indiana, to send them. If nothing else, we will give them to the Armed Forces so they can send them to the troops there. This is not a question of supporting our men and women who are serving our Nation with courage, bravery, at high risk, separated from their families. This is a question of trying to protect them, protecting our national interest, to keep us from bogging down in another war where literally there is terrible tragedy all over the world. We can go into almost every country any time. We can go into our American cities that have terrible tragedies. The question is: What is the role of our Armed Forces of the United States?

It is a travesty of justice, an embarrassment to our country, to see this President use it like it is the Arkansas State Police trying to put down rebellions all over the world. I am very disappointed at our inability in the House to bring this up to another tough vote now. We have got to cut this money. We are the last line of defense for our troops where their lives are being put at stake during this tough season. Unless we can chop off the money here in the House and try and get the Senate to go along, unless the American people will rise up and speak out and tell their Representatives they do not want their supposed peace mission to turn into a major war, it is very difficult. As I used to sit home before I ran for Congress and then I also was growing up, I used to say, "Boy, you know, it is really frustrating being out here in Indiana, not being able to influence things and not being able to change." Then you come to Washington. You get in there and you see us bail out in Mexico and not be able to stop it. You hear all of this baloney about cuts and how we are gutting Medicare and gutting social security and gutting student loans, all of which are not true, and you think how can I combat this. Then you see our troops going into what I believe will be a war, and we are not able to stop it.

I do not feel a whole lot different than I did back in Indiana. Only now I am a Member of Congress. That is really a sad commentary on our political system.

I remember in reading Barry Goldwater's memoirs, talking about a conversation he had with Richard Nixon, who said he thought, after having been a House Member and a Senate Member, finally became President of the United States, he could ultimately make these decisions. What he found was he could not even get the type of pencil he wanted. Haldeman would go to the staff and say he would forget about it next week. He could not get the pencils he wanted. It is very frustrating being here, trying to change this, knowing the American people are outraged. They want a change. We are your elected Representatives. There are many of us here who are going to continue to battle, not because of any disrespect to our Armed Forces but because of great respect of our Armed Forces, because we want them to be served in the most important things, which are to defend our Nation, defend our national interests, and when it is unnecessary, to be able to spend their time with their families and have their full lives to look forward to.

LAPSE OF HISTORIC SAVVY

(By Thomas Sowell)

Bill Clinton's speech on Bosnia was an insult to the intelligence of the American people. Virtually every point made in that speech depended on being able to take advantage of ignorance, amnesia, or an inability to deal with simple logic.

"Bosnia lies at the very heart of Europe," said the president. That claim can be taken seriously only by those ignorant of geography. The Balkans are on the fringes of Europe, geographically and otherwise.

Sarajevo is less than 600 miles from the Bosphorous, where Asia begins. It is farther than that from Berlin or Paris, and more than a thousand miles from London.

Mr. Clinton's geographical fraud was not incidental. It was part of a whole false picture he painted, in which we must intervene in order to prevent the war in Bosnia from spilling over in the rest of Europe around it. Not only is Bosnia not in the heart of Europe, its many wars over many centuries have not spilled over into other countries.

On the contrary, it was the intervention of other countries in the Balkans that turned a local assassination in Sarajevo in 1914 into the First World War. Today, it is our intervention that risks creating another international confrontation, if Russia resumes its historic role as an ally of the Serbs.

The fact that Russian president Boris Yeltsin has gone along grudgingly with Western policy in the Balkans thus far is no guarantee that he will continue to do so, as events unfold next year—which is an election year in Russia, as well as in the United States. Moreover, either another candidate or another heart attack can take Mr. Yeltsin completely out of the picture.

There are far more belligerent Russian politicians waiting in the wings, eager to restore Russia's power and its historic role as a force backing the Serbs in the Balkans. What would we do then, with 20,000 young American soldiers as sitting ducks in Russia's backyard?

We have a huge national interest in avoiding any such situation.

We have no other national interest in that part of the world. Not one American's safety will be endangered if we stay out. Not one American's livelihood will be jeopardized.

The notion that we are going into Bosnia because of a "peace" accord reached recently in Dayton is falsified by the simple fact that Mr. Clinton was urging such action years before any Yugoslav leaders ever set foot in Dayton, and even before he became president. Again, Mr. Clinton is depending on our forgetfulness.

Other gambits in the president's speech include picturing the Dayton accords as some kind of achievement "as a result of our efforts." Nothing has been easier than to get agreements in the Balkans—and nothing harder than getting the parties to live up to them. Calling this latest accord "a commitment to peace" is another reliance on amnesia.

One of the few claims with any semblance of fact or logic behind it is that, if the United States pulls out of its own commitments, this will make our word less reliable in the future. The larger question, however, is: Reliable for what purpose?

Do we want people to rely on us to run around the world engaging in these military adventures?

The need to back up the president's words with American troops cuts two ways. We can either sacrifice young lives for the sake of presidential rhetoric or the president can learn to keep his big mouth shut, in order to spare those lives until they need to be risked for something that truly threatens the American people.

If this president can't keep his mouth shut, then we need one who can.

There is a far greater danger to the people of this country from terrorists from the Balkans striking in the United States, as a result of our intervention, than from the war in that region spilling over the Atlantic Ocean. Thinly-veiled threats of this sort have already been made.

The claim that "our mission is clear and limited," as Mr. Clinton put it, is true only if everything goes according to plan. The same would have been true in Vietnam if everything had gone according to plan: We would have simply defended the existing government until they got on their feet and then pulled out.

But wars that go strictly according to plan are the rare exceptions. The big question is: What is our Plan B? What if we can't put the genie back in the bottle and just get caught in the crossfire?

The haste with which the Clinton administration is getting ready to put its troops in place suggests that they will deal with that question by relying on the American tradition of supporting our soldiers, once they have been committed. In other words, Plan B is to present us with a fait accompli, so that it will be considered unpatriotic to fail to back up the president as he flounders in another quagmire.

[From the New York Times, Nov. 28, 1995]

REMEMBER THE NIXON DOCTRINE

(By James Webb)

ARLINGTON, VA.—The Clinton Administration's insistence on putting 20,000 American troops into Bosnia should be seized on by national leaders, particularly those running for President, to force a long-overdue debate on the worldwide obligations of our military.

While the Balkan factions may be immersed in their struggle, and Europeans may feel threatened by it, for Americans it represents only one of many conflicts, real and potential, whose seriousness must be weighed, often against one another, before allowing a commitment of lives, resources and national energy.

Today, despite a few half-hearted attempts such as Gen. Colin Powell's "superior force doctrine," no clear set of principles exists as a touchstone for debate on these tradeoffs. Nor have any leaders of either party offered terms which provide an understandable global logic as to when our military should be committed to action. In short, we still lack a national security strategy that fits the post-cold war era.

More than ever before, the United States has become the nation of choice when crises occur, large and small. At the same time, the size and location of our military forces are in flux. It is important to make our interests known to our citizens, our allies and even our potential adversaries, not just in Bosnia but around the world, so that commitments can be measured by something other than the pressures of interest groups and manipulation by the press. Furthermore, with alliances increasingly justified by power relationships similar to those that dominated before World War I, our military must be assured that the stakes of its missions are worth dying for.

Failing to provide these assurances is to continue the unremitting case-by-case debates, hampering our foreign policy on the one hand and on the other treating our military forces in some cases as mere bargaining chips. As the past few years demonstrate, this also causes us to fritter away our national resolve while arguing about military backwaters like Somalia and Haiti.

Given the President's proposal and the failure to this point of defining American stakes in Bosnia as immediate or nation-threatening, the coming weeks will offer a new round of such debates. The President appears tempted to follow the constitutionally questionable (albeit effective) approach used by the Bush Administration in the Persian Gulf war: putting troops in an area where no American forces have been threatened and no treaties demand their presence, then gaining international agreement before placing the issue before Congress.

Mr. Clinton said their mission would be "to supervise the separation of forces and to give them confidence that each side will live up to their agreements." This rationale reminds one of the ill-fated mission of the international force sent to Beirut in 1983. He has characterized the Bosnian mission as diplomatic in purpose, but promised, in his speech last night, to "fight fire with fire and then some" if American troops are threatened. This is a formula for confusion once a combat unit sent on a distinctly noncombat mission comes under repeated attack.

We are told that other NATO countries will decline to send their own military forces to Bosnia unless the United States assumes a dominant role, which includes sizable combat support and naval forces backing it up. This calls to mind the decades of over-reliance by NATO members on American resources, and President Eisenhower's warning in October 1963 that the size and permanence of our military presence in Europe would "continue to discourage the development of the necessary military strength Western European countries should provide themselves."

The Administration speaks of a "reasonable time for withdrawal," which if too short might tempt the parties to wait out the so-called peacekeepers and if too long might tempt certain elements to drive them out with attacks causing high casualties.

Sorting out the Administration's answer to such hesitations will take a great deal of time, attention and emotion. And doing so in the absence of a clearly stated global policy will encourage other nations, particularly the new power centers in Asia, to view the United States as becoming less committed to addressing their own security concerns. Many of these concerns are far more serious to long-term international stability and American interests. These include the continued threat of war on the Korean peninsula, the importance of the United States as a powerbroker where historical Chinese, Japanese and Russian interests collide, and the need for military security to accompany trade and diplomacy in a dramatically changing region.

Asian cynicism gained further grist in the wake of the Administration's recent snubs of Japan: the President's cancellation of his summit meeting because of the budget crisis, and Secretary of State Warren Christopher's early return from a Japanese visit to watch over the Bosnian peace talks.

Asian leaders are becoming uneasy over an economically and militarily resurgent China that in recent years has become increasingly more aggressive. A perception that the United States is not paying attention to or is not worried about such long-term threats could in itself cause a major realignment in Asia. One cannot exclude even Japan, whose strong bilateral relationship with the United States has been severely tested of late, from this possibility.

Those who aspire to the Presidency in 1996 should use the coming debate to articulate a world view that would demonstrate to the world, as well as to Americans, an understanding of the uses and limitations—in a sense the human budgeting of our military assets.

Richard Nixon was the last President to clearly define how and when the United States would commit forces overseas. In 1969, he declared that our military policy should follow three basic tenets:

Honor all treaty commitments in responding to those who invade the lands of our allies.

Provide a nuclear umbrella to the world against the threats of other nuclear powers.

Finally, provide weapons and technical assistance to other countries where warranted, but do not commit American forces to local conflicts.

These tenets, with some modification, are still the best foundation of our world leadership. They remove the United States from local conflicts and civil wars. The use of the American military to fulfill treaty obligations requires ratification by Congress, providing a hedge against the kind of President discretion that might send forces into conflicts not in the national interest. Yet they provide clear authority for immediate action required to carry out policies that have been agreed upon by the government as a whole.

Given the changes in the world, an additional tenet would also be desirable: The United States should respond vigorously against cases of nuclear proliferation and state-sponsored terrorism.

These tenets would prevent the use of United States forces on commitments more appropriate to lesser powers while preserving our unique capabilities. Only the United States among the world's democracies can field large-scale maneuver forces, replete with strategic airlift, carrier battle groups and amphibious power projection.

Our military has no equal in countering conventional attacks on extremely short notice wherever the national interest dictates. Our bases in Japan give American forces the ability to react almost anywhere in the Pacific and Indian Oceans, just as the continued presence in Europe allows American units to react in Europe and the Middle East.

In proper form, this capability provides reassurance to potentially threatened nations everywhere. But despite the ease with which the American military seemingly operates on a daily basis, its assets are limited, as is the national willingness to put them at risk.

As the world moves toward new power centers and different security needs, it is more vital than ever that we state clearly the conditions under which American forces will be sent into harm's way. And we should be ever more chary of commitments, like the looming one in Bosnia, where combat units invite attack but are by the very nature of their mission not supposed to fight.

RULES OF PROCEDURE FOR THE COMMITTEE ON SCIENCE FOR THE 104TH CONGRESS

(Mr. WALKER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, pursuant to rule XI(2)(a) of the Rules of the House of Representatives, I submit for the RECORD the amended Rules Governing Procedure for the Committee on Science for the 104th Congress.

RULES GOVERNING PROCEDURE FOR THE COMMITTEE ON SCIENCE—104TH CONGRESS

GENERAL

1. The Rules of the House of Representatives, as applicable, shall govern the committee and its subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the committee and its subcommittees. The rules of the Committee, as applicable, shall be the rules of its subcommittees.

COMMITTEE MEETINGS

Time and place

2. Unless dispensed with by the Chairman, the meetings of the committee shall be held on the 2nd and 4th Wednesday of each month the House is in session at 10:00 a.m. and at such other times and in such places as the Chairman may designate.

3. The Chairman of the committee may convene as necessary additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business.

4. The Chairman shall make public announcement of the date, time, place and subject matter of any of its hearings at least one week before the commencement of the hearing. If the Chairman, with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly entered into the scheduling service of the House Information Systems.

5. The committee may not sit, without special leave, while the House is reading a measure for amendment under the five minute rule.

Vice chairman to preside in absence of chairman

6. The Member of the majority party of the committee or subcommittee thereof designated by the Chairman of the Full Committee shall be Vice Chairman of the committee or subcommittee as the case may be, and shall preside at any meeting during the temporary absence of the Chairman. If the Chairman and Vice Chairman of the committee or subcommittee are not present at any meeting of the committee, or subcommittee, the Ranking Member of the majority party on the committee who is present shall preside.

Order of business

7. The order of business and procedure of the committee and the subjects of inquiries or investigations will be decided by the Chairman, subject always to an appeal to the committee.

Membership

8. A majority of the majority Members of the committee shall determine an appropriate ratio of majority Members of each

subcommittee and shall authorize the Chairman to negotiate that ratio with the minority party; Provided, however, that party representation on each subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the Full Committee. Provided, further, that recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio for the Full Committee.

Special meetings

9. Rule XI 2(c) of the Rules of the House of Representatives is hereby incorporated by reference (Special Meetings).

COMMITTEE PROCEDURES

Quorum

10. (a) One-third of the Members of the committee shall constitute a quorum for all purposes except as provided in paragraphs (b) and (c) of this Rule.

(b) A majority of the Members of the committee shall constitute a quorum in order to: (1) report or table any legislation, measure, or matter; (2) close committee meetings or hearings pursuant to Rules 18 and 19; and (3) authorize the issuance of subpoenas pursuant to Rule 32.

(c) Two Members of the committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee, shall include at least one Member from each of the majority and minority parties.

Proxies

11. No Member may authorize a vote by proxy with respect to any measure or matter before the committee.

Witnesses

12. The committee shall, insofar as is practicable, require each witness who is to appear before it to file twenty-four (24) hours in advance with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation to a five-minute summary of his or her statement, provided that additional time may be granted by the Chairman when appropriate.

13 Whenever any hearing is conducted by the committee on any measure or matter, the minority Members of the committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

Investigative hearing procedures

14. Rule XI 2(k) of the Rules, of the House of Representatives is hereby incorporated by reference (right of witnesses under subpoena).

Subject matter

15. Bills and other substantive matters may be taken up for consideration only when called by the Chairman of the committee or by a majority vote of a quorum of the committee, except those matters which are the subject of special-call meetings outlined in Rule 9.

16. No private bill will be reported by the committee if there are two or more dissenting votes. Private bills so rejected by the committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the committee.

17. (a) It shall not be in order for the committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and to the extent practicable, a written copy of the measure or matter to be considered, has been available in the office of each Member of the committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays.

(b) Notwithstanding paragraph (a) of this Rule, consideration of any legislative measure or matter by the committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the committee is present.

Open meetings

18. Each meeting for the transaction of business, including the markup of legislation, of the committee shall be open to the public, including to radio, television, and still photography coverage, except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House. No person other than Members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This Rule does not apply to open committee hearings which are provided for by Rule 19 contained herein.

19. Each hearing conducted by the committee shall be open to the public including to radio, television, and still photography coverage except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, and Rule 9, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony.

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule XI 2(k)(5) of the Rules of the House of Representatives; or

(2) may vote to close the hearing, as provided in Rule XI 2(k)(5) of the Rules of the House of Representatives. No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this Rule for closing hearings to the public: Provided, however, that the committee or subcommittee may be the same procedure vote to close one subsequent day of the hearing.

(3) Whenever a hearing or meeting conducted by the committee is open to the public, these proceedings shall be open to coverage by television, radio, and still photography, except as provided in Rule XI 3(f)(2) of the House of Representatives. The Chairman shall not be able to limit the number of television, or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations in which case pool coverage shall be authorized).

Requests for rollcall votes at full committee

20. A rollcall vote of the Members may be had at the request of three or more Members or, in the apparent absence of a quorum, by any one Member.

Automatic rollcall vote for amendments which affect the use of Federal resources

21. (a) A rollcall vote shall be automatic on any amendment which specifies the use of Federal resources in addition to, or more explicitly (inclusively or exclusively) than that specified in the underlying text of the measure being considered.

(b) No legislative report filed by the committee on any measure or matter reported by the committee shall contain language which has the effect of specifying the use of Federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the committee during a meeting or otherwise in writing by a majority of the Members.

Committee records

22. (a) The committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any Member of the committee.

Publication of committee hearings and markups

23. The transcripts of those hearings conducted by the committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Any requests by those Members, staff or witnesses to correct any errors other than errors in transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript. Transcripts of markups shall be recorded and published in the same

manner as hearings before the committee and shall be included as part of the legislative report unless waived by the Chairman.

Opening statements; 5-minute rule

24. Insofar as is practicable, the Chairman, after consultation with the Ranking Minority Member, shall limit the total time of opening statements by Members to no more than 10 minutes, the time to be divided equally among Members present desiring to make an opening statement. The time any one Member may address the committee on any bill, motion or other matter under consideration by the committee or the time allowed for the questioning of a witness at hearings before the committee will be limited to five minutes, and then only when the Member has been recognized by the Chairman, except that this time limit may be waived by the Chairman or acting Chairman. The rules of germaneness will be enforced by the Chairman.

Requests for written motions

25. Any legislative or non-procedural motion made at a regular or special meeting of the committee and which is entertained by the Chairman shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

SUBCOMMITTEES

Structure and jurisdiction

26. The committee shall have the following standing subcommittees with the jurisdiction indicated.

(1) SUBCOMMITTEE ON BASIC RESEARCH.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to science policy including: Office of Science and Technology Policy; all scientific research, and scientific and engineering resources (including human resources), math, science and engineering education; intergovernmental mechanisms for research, development, and demonstration and cross-cutting programs; international scientific cooperation; National Science Foundation; university research policy, including infrastructure, overhead and partnerships; science scholarships; government-owned, contractor-operated non-military laboratories; computer, communications, and information science; earthquake and fire research programs; research and development relating to health, biomedical, and nutritional programs; to the extent appropriate, agricultural, geological, biological and life sciences research; and the Office of Technology Assessment.

(2) SUBCOMMITTEE ON ENERGY AND ENVIRONMENT.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to energy and environmental research, development, and demonstration including: Department of Energy research, development, and demonstration programs; federally owned and operated nonmilitary energy laboratories; energy supply research and development activities; nuclear and other advanced energy technologies; general science and research activities; uranium supply, enrichment, and waste management activities as appropriate; fossil energy research and development; clean coal technology; energy conservation research and development; science and risk assessment activities of the Federal Government; Environmental Protection Agency research and development programs; and National Oceanic and Atmospheric Administration, including all activities related to weather, weather services, climate, and the atmosphere, and marine fisheries, and oceanic research.

(3) SUBCOMMITTEE ON SPACE AND AERONAUTICS.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to astronautical and aeronautical research and development including: national space policy, including access to space; sub-orbital access applications; National Aeronautics and Space Administration and its contractor and government-operated laboratories; space commercialization including the commercial space activities relating to the Department of Transportation and the Department of Commerce; exploration and use of outer space; international space cooperation; National Space Council; space applications; space communications and related matters; and earth remote sensing policy.

(4) SUBCOMMITTEE ON TECHNOLOGY.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to competitiveness including: standards and standardization of measurement; the National Institute of Standards and Technology; the National Technical Information Service; competitiveness, including small business competitiveness; tax, antitrust, regulatory and other legal and governmental policies as they relate to technological development and commercialization; technology transfer; patent and intellectual property policy; international technology trade; research, development, and demonstration activities of the Department of Transportation; civil aviation research, development, and demonstration; research, development, and demonstration programs of the Federal Aviation Administration; surface and water transportation research, development, and demonstration programs; materials research, development, and demonstration and policy; and biotechnology policy.

Referral of legislation

27. The Chairman shall refer all legislation and other matters referred to the committee to the subcommittee or subcommittees of appropriate jurisdiction within two weeks unless, the Chairman deems consideration is to be by the Full Committee. Subcommittee chairmen may make requests for referral of specific matters to their subcommittee within the two week period if they believe subcommittee jurisdictions so warrant.

Ex-officio members

28. The Chairman and Ranking Minority Member shall serve as ex-officio Members of all subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the subcommittee.

Procedures

29. Unless waived by the Chairman, no subcommittee shall meet for markup or approval when any other subcommittee of the committee or the Full Committee is meeting to consider any measure or matter for markup or approval.

30. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the committee on all matters referred to it. Each subcommittee shall conduct legislative, investigative, and general oversight, inquiries for the future and forecasting, and budget impact studies on matters within their respective jurisdictions. Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

31. Any Member of the committee may have the privilege of sitting with any subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee, except as provided in Rule 28.

32. During any subcommittee proceeding for markup or approval, a rollcall vote may be had at the request of one or more Members of that subcommittee.

Power to sit and act; subpoena power

33. The committee and each of its subcommittees may exercise the powers provided under Rule XI 2(m) of the Rules of the House of Representatives, which is hereby incorporated by reference (power to sit and act; subpoena power).

National security information

34. All national security information bearing a classification of secret or higher which has been received by the committee or a subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chairman of the Full Committee may establish such regulations and procedures as in his judgment are necessary to safeguard classified information under the control of the committee. Such procedures shall, however, ensure access to this information by any Member of the committee, or any other Member of the House of Representatives who has requested the opportunity to review such material.

Sensitive or confidential information received pursuant to subpoena

35. Unless otherwise determined by the committee or subcommittee, certain information received by the committee or subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in Executive Session when the Chairman of the Full Committee, in his judgment, deems that in view of all the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

REPORTS

Substance of legislative reports

36. The report of the committee on a measure which has been approved by the committee shall include the following, to be provided by the committee:

(1) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified [Rule XI] 2(l)(3)(A)];

(2) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures as specified in [Rule XI 2(l)(3)(B)];

(3) a detailed, analytical statement as to whether that enactment of such bill or joint resolution into law may have an inflationary impact on the national economy [Rule XI 2(l)(4)];

(4) with respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the committee report on the measure or matter;

(5) the estimate and comparison prepared by the committee under Rule XIII 7(a) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the

Director of the Congressional Budget Office prepared under subparagraph 2 of this Rule 34 has been timely submitted prior to the filing of the report and included in the report [Rule XIII 7(d)];

(6) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended [Rule XIII 3]; and

(7) a transcript of the markup of the measure or matter unless waived under Rule 22.

37. (a) The report of the committee on a measure which has been approved by the committee shall further include the following, to be provided by sources other than the committee:

(1) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the committee [Rule XI 2(l)(3)(C)];

(2) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under Rule X 2(b)(2) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(D)].

(b) Notwithstanding paragraph (a) of this Rule, if the committee has not received prior to the filing of the report the material required under paragraph (a) of this Rule, then it shall include a statement to that effect in the report on the measure.

Minority and additional views

38. If, at the time of approval of any measure or matter by the committee, any Member of the committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than 3 calendar days (excluding Saturday, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the committee. All such views so filed by one or more Members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which shall include all supplemental, minority, or additional views, which have been submitted by the time of the filing of the report, and shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (a) of Rule 35) are included as part of the report. However, this rule does not preclude (1) the immediate filing or printing of a committee report unless timely requested for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule or (2) the filing by the committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

39. The Chairman of the committee or subcommittee, as appropriate, shall advise Members of the day and hour when the time for submitting views relative to any given report elapses. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after the announced time has elapsed unless the Chairman of the committee or subcommittee, as appropriate, decides to extend the time for submission of views beyond 3 days, in which case he shall communicate such fact to Members, including the revised day and hour for submissions to be received, without delay.

Consideration of subcommittee reports

40. Reports and recommendations of a subcommittee shall not be considered by the Full Committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and printed hearings thereon shall be made available, if feasible, to the Members, except that this rule may be waived at the discretion of the Chairman.

Timing and filing of committee reports

41. It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken the necessary steps to bring the matter to a vote.

42. The report of the committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by the majority of the Members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the Chairman of the committee notice of the filing of that request.

43. (a) Any document published by the committee as a House Report, other than a report of the committee on a measure which has been approved by the committee, shall be approved by the committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 38.

(b) Subject to paragraphs (c) and (d), the Chairman may approve the publication of any document as a committee print which in his discretion he determines to be useful for the information of the committee.

(c) Any document to be published as a committee print which purports to express the views, findings, conclusions, or recommendations of the committee or any of its subcommittees must be approved by the Full Committee or its subcommittees, as applicable, in a meeting or otherwise in writing by a majority of the Members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(d) Any document to be published as a committee print other than a document described in paragraph (c) of this Rule: (1) shall include on its cover the following statement: "This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;" and (2) shall not be published following the sine die adjournment of a Congress, unless approved by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee.

Notification to Appropriations Committee

44. No later than May 15 of each year, the Chairman shall report to the Chairman of the Committee on Appropriations any departments, agencies, or programs under the jurisdiction of the Committee on Science for which no authorization exists for the next fiscal year. The Chairman shall further report to the Chairman of the Committee on Appropriations when authorizations are subsequently enacted prior to enactment of the relevant annual appropriations bill.

Oversight

45. No later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

46. The Chairman of the committee, or of any subcommittee, shall not undertake any investigation in the name of the committee without formal approval by the Chairman of the committee after consultation with the Ranking Minority Member of the Full Committee.

Other procedures and regulations

47. During the consideration of any measure or matter, the Chairman of the Full Committee, or of any Subcommittee, or any Member acting as such, shall suspend further proceedings after a question has been put to the Committee at any time when there is a vote by electronic device occurring in the House of Representatives.

48. The Chairman of the Full Committee, after consultation with the Ranking Minority Member, may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee.

LEGISLATIVE AND OVERSIGHT JURISDICTION OF THE COMMITTEE ON SCIENCE

"*Rule X. Establishment and jurisdiction of standing committees*

"The Committees and Their Jurisdiction.

"1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) by referred to such committees, as follows:

* * * * *

"(n) COMMITTEE ON SCIENCE.

"(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

"(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

"(3) Civil aviation research and development.

"(4) Environmental research and development.

"(5) Marine research.

"(6) Measures relating to the commercial application of energy technology.

"(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

"(8) National Aeronautics and Space Administration.

"(9) National Space Council.

"(10) National Science Foundation.

"(11) National Weather Service.

"(12) Outer space, including exploration and control thereof.

"(13) Science Scholarships.

"(14) Scientific research, development, and demonstration, and projects therefor.

"In addition to its legislative jurisdiction under the proceeding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development."

SPECIAL OVERSIGHT FUNCTIONS

3.(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. FOWLER (at the request of Mr. ARMEY), for today and the balance of the week, on account of the death of her father.

Mrs. CHENOWETH (at the request of Mr. ARMEY), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. COBURN) to revise and extend their remarks and include extraneous material:)

Mr. LONGLEY, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day, today and on December 6, 7, and 8.

Mr. HYDE, for 5 minutes, today.

Mr. GOODLING, for 5 minutes, on December 6.

Mr. MCKEON, for 5 minutes, on December 6.

Mr. SMITH of Michigan, for 5 minutes, each day, on December 6 and 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COBURN) and to include extraneous matter:)

Mr. LEWIS of California in two instances.

Mr. ROGERS.

Mr. GILMAN in three instances.

Mr. RAMSTAD.

Mr. COBLE.

Mr. DAVIS.

Mr. SHUSTER in two instances.

Mr. HEINEMAN.

Mr. FLANAGAN.

Mr. LAHOOD.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. GEJDENSON.

Mr. LANTOS.

Mr. FOGLIETTA in two instances.

Mr. ORTIZ.

Mr. TORRES.

Mr. STARK in two instances.

Mr. YATES.

Mr. BARRETT of Wisconsin.

Mr. HAMILTON.

Mr. KENNEDY of Massachusetts in two instances.

Mr. POSHARD in two instances.

Ms. DELAURO.

Mr. GEPHARDT.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mrs. COLLINS of Illinois.

Mr. MORAN.

(The following Members (at the request of Mr. SOUDER) and to include extraneous matter:)

Mr. ROHRABACHER.

Mr. NEY.

Mr. STUPAK.

Mrs. KENNELLY.

ADJOURNMENT

Mr. SOUDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 6, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1764. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting a report on the status of various savings associations, pursuant to 12 U.S.C. 1441a(k)(9); to the Committee on Banking and Financial Services.

1765. A letter from the Secretary of Education, transmitting final regulations—vocational rehabilitation service projects for American Indians with disabilities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1766. A letter from the Secretary of Education, transmitting final regulations—William D. Ford Federal Direct Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1767. A letter from the Secretary of Education, transmitting final regulations—Client Assistance Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1768. A letter from the Secretary of Education, transmitting final regulations—Federal Family Education Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1769. A letter from the Secretary of Education, transmitting final regulations—student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1770. A letter from the Administrator, Health Care Financing Administration, transmitting the Administration's report entitled "Rural Health Care Transition Grant (RHCTG) program," pursuant to 42 U.S.C. 1395ww note; to the Committee on Commerce.

1771. A letter from the Secretary of Health and Human Services, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1772. A letter from the Secretary of the Interior, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, together with the Secretary's report on audit followup, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1773. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-155, "Closing of a Portion of G Street, N.W., and a Portion of a Public Alley in Square 454, S.O. 95-1, Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1774. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-156, "Solid Waste Facility Permit Temporary Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1775. A letter from the Chairman, Consumer Product Safety Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1776. A letter from the Attorney General, Department of Justice, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1777. A letter from the Chairman, Merit Systems Protection Board, transmitting a copy of a statistical report on the U.S. Merit Systems Protection Board's [MSPB] cases decided in fiscal year 1994, pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform and Oversight.

1778. A letter from the Chairman, Panama Canal Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1779. A letter from the Chairman, Thrift Depositor Protection Oversight Board, transmitting the board's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1780. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation entitled the "Consular and Immigration Efficiency Act of 1995"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations. Revised subdivision of budget totals for fiscal year 1996 (Rept. 104–380). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 289. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–381). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 290. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes (Rept. 104–382). Referred to the House Calendar.

Mr. HYDE: Committee on the Judiciary. H.R. 1710. A bill to combat terrorism; with an amendment (Rept. 104–383). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE (for himself, Mr. MCCOLLUM, Mr. SMITH of Texas, and Mr. BARR):

H.R. 2703. A bill to combat terrorism; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois (for herself and Mr. HASTERT):

H.R. 2704. A bill to provide that the U.S. Post Office building that is to be located on the 2600 block of East 75th Street in Chicago, IL, shall be known and designated as the "Charles A. Hayes Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. FATTAH:

H.R. 2705. A bill to provide that Federal contracts and certain Federal subsidies shall be provided only to businesses which have qualified profit-sharing plans; to the Committee on Government Reform and Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINCOLN:

H.R. 2706. A bill authorize the Secretary of the Interior to accept from a State donations of services of State employees to perform hunting management functions in a national wildlife refuge in a period of Government budgetary shutdown; to the Committee on Resources.

By Mr. MONTGOMERY:

H.R. 2707. A bill to amend the Internal Revenue Code of 1986 to increase the minimum amount of the State ceiling on tax-exempt private activity bonds; to the Committee on Ways and Means.

By Mr. RIGGS:

H.R. 2708. A bill to provide for character development; to the Committee on Economic and Educational Opportunities.

H.R. 2709. A bill to provide for the conveyance of certain land to the Del Norte County Unified School District of Del Norte County, CA; to the Committee on Resources.

H.R. 2710. A bill to provide for the conveyance of certain land in the State of California to the Hoopa Valley Tribe; to the Committee on Resources.

H.R. 2711. A bill to provide for the substitution of timber for the canceled Elkhorn Ridge timber sale; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RIGGS (for himself, Mr. DOOLITTLE, Mr. POMBO, Mr. TAYLOR of North Carolina, and Mr. RADANOVICH):

H.R. 2712. A bill to promote balance between natural resources, economic development, and job retention in northwest California, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RIGGS (for himself, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. COX, Mr. TALENT, Mr. STOCKMAN, and Mr. FLANAGAN):

H.R. 2713. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to stimulate economic growth in depressed areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. FRANK of Massachusetts, Mr. MILLER of California, Mr. YATES, Mr. GONZALEZ, Mr. OWENS, Ms. NORTON, Ms. KAPTUR, Mr. LIPINSKI, Mr. STARK, Mr. HINCHEY, Mr. CONYERS, Mr. TRAFICANT, Ms. VELÁZQUEZ, Mr. EVANS, Mr. BROWN of Ohio, Mr. DELLUMS, Mr. BROWN of California, Mr. WATT of North Carolina, Ms. RIVERS, Mrs. MINK of Hawaii, Mr. FILNER, Mr. VENTO, Mr. BONIOR, Ms. MCKINNEY, Mr. SPRATT, Mr. RAHALL, Mr. NADLER, Mr. DEFAZIO, Mr. FATTAH, Mr. HOLDEN, Mr. OLVER, Ms. BROWN of Florida, and Ms. ROYBAL-ALLARD):

H.R. 2714. A bill to require the inclusion of provisions relating to worker rights and environmental standards in any trade agreement entered into under any future trade negotiating authority; to the Committee on Ways and Means.

By Mr. TORKILDSEN (for himself, Mrs. MEYERS of Kansas, Mr. TALENT, Mr. MANZULLO, Mrs. SMITH of Washington, Mr. ZELIFF, Mr. EWING, Mr. JONES, Mr. LOBIONDO, Mr. BARTLETT of Maryland, Mr. MEEHAN, Mr. CHRYSLER, Mr. METCALF, and Mr. RAMSTAD):

H.R. 2715. A bill to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; to the Committee on Government Reform and Oversight, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 2716. A bill to extend the provisions of the Chinese Student Protection Act of 1992 to certain aliens who entered the United States without inspection; to the Committee on the Judiciary.

By Mr. HYDE:

H.J. Res. 130. Joint resolution providing for the establishment of a Joint Committee on Intelligence; to the Committee on Rules.

By Mr. SMITH of New Jersey (for himself, Mr. GILMAN, Ms. PELOSI, Mr. WOLF, Mr. SOLOMON, Mr. LANTOS, Mr. COX, Mr. BERMAN, Mr. ROHRABACHER, and Mr. GEJDENSON):

H. Con. Res. 117. Concurrent resolution concerning writer, political philosopher, human rights advocate, and Nobel Peace Prize nominee Wei Jingsheng; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII,

182. The SPEAKER presented a memorial of the Senate of the State of Mississippi, relative to Senate Concurrent Resolution No. 547: a concurrent resolution post-ratifying amendment XIII to the Constitution of the United States prohibiting the practice of slavery within the United States except as punishment for a crime whereof the party shall have been duly convicted; and for related purposes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Miss COLLINS of Michigan:

H.R. 2717. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the Vessel *The Summer Wind;* to the Committee on Transportation and Infrastructure.

By Mr. GILLMOR:

H.R. 2718. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Island Star;* to the Committee on Transportation and Infrastructure.

By Mr. TAYLOR of Mississippi:

H.R. 2719. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Courier Service;* to the Committee on Transportation and Infrastructure.

By Mr. WELDON of Florida:

H.R. 2720. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Water Front Property;* to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Florida:

H.R. 2721. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Broken Promise;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. GOODLATTE.

H.R. 104: Mr. HANCOCK and Mr. HOLDEN.

H.R. 123: Mr. BILIRAKIS.

H.R. 294: Mr. LEWIS of Georgia.

H.R. 357: Mr. LEVIN.

H.R. 359: Mr. MFUME.

H.R. 394: Mr. FRISA and Mr. QUILLEN.

H.R. 528: Mr. GRAHAM, Mr. BARTON of Texas, Mr. TAUZIN, Mr. MCKEON, Mr. KING, Mr. DORNAN, Mr. BUNNING of Kentucky, Mr. TALENT, Mr. DREIER, Mr. SHUSTER, Mr. COYNE, Ms. FURSE, Mrs. LINCOLN, Mr. EVANS, Mr. CRANE, and Ms. NORTON.

H.R. 820: Mr. FRANKS of New Jersey, Mrs. SEASTRAND, and Mr. BISHOP.

H.R. 885: Mr. SOLOMON, Mr. GILMAN, and Mrs. LOWEY.

H.R. 1003: Mr. ANDREWS.

H.R. 1061: Mr. KENNEDY of Rhode Island and Mr. JOHNSTON of Florida.

H.R. 1073: Mr. THORNTON, Ms. BROWN of Florida, and Mr. OBERSTAR.

H.R. 1074: Mr. OBERSTAR.

H.R. 1305: Ms. RIVERS and Mr. OWENS.

H.R. 1656: Mr. WYNN, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. ACKERMAN, Ms. BROWN of Florida, Ms. LOFGREN, and Mr. EVANS.

H.R. 1718: Mr. CLINGER, Mr. FATTAH, Mr. MASCARA, Mr. KLINK, Mr. FOX, Mr. BORSKI, Mr. MURTHA, Mr. MCHALE, Mr. ENGLISH of Pennsylvania, Mr. MCDADE, Mr. HOLDEN, Mr. COYNE, Mr. DOYLE, and Mr. GEKAS.

H.R. 1745: Ms. DUNN of Washington.

H.R. 1776: Mr. TOWNS, Mr. FRAZER, Ms. RIVERS, Mr. RUSH, Ms. BROWN of Florida, and Mr. EVANS.

H.R. 1856: Mr. OLVER, Mr. FOX, Mr. FUNDERBURK, and Mrs. JOHNSON of Connecticut.

H.R. 1883: Mr. PACKARD.

H.R. 1933: Mr. ACKERMAN.

H.R. 1972: Mr. GRAHAM, Mrs. ROUKEMA, and Mr. QUILLEN.

H.R. 1998: Mr. HAYWORTH, Mr. ALLARD, Mr. HEFLEY, Mr. KOLBE, Mr. CHRYSLER, and Mr. MCINNIS.

H.R. 2071: Ms. NORTON.

H.R. 2197: Mr. MARTINI.

H.R. 2200: Mr. STOCKMAN, Mr. MILLER of Florida, Mr. BARRETT of Nebraska, and Mr. MCKEON.

H.R. 2245: Mr. SERRANO, Mr. MCDERMOTT, Mr. OWENS, and Mr. EVANS.

H.R. 2276: Mr. DOYLE and Mr. MASCARA.

H.R. 2323: Mr. GOODLING.

H.R. 2407: Mr. FROST, Mr. MORAN, Ms. ROYBAL-ALLARD, Mrs. KENNELLY, Mr. HINCHEY, Mr. FRANKS of New Jersey, and Mr. MARTINEZ.

H.R. 2433: Mr. SPRATT, Mr. OBERSTAR, Mrs. THURMAN, Mr. EMERSON, Mrs. LOWEY, Mr. FRANKS of New Jersey, Mr. DELLUMS, Ms. ROYBAL-ALLARD, Mr. BROWDER, Mr. KLECZKA, Mrs. MINK of Hawaii, and Mrs. MORELLA.

H.R. 2458: Mr. HOUGHTON, Mr. DURBIN, Ms. KAPTUR, Mr. SOUDER, and Mr. MCHUGH.

H.R. 2473: Mr. DOYLE, Mr. KLINK, and Mr. MASCARA.

H.R. 2508: Mr. MONTGOMERY.

H.R. 2531: Mr. RIGGS, Mr. BEREUTER, and Mr. MANZULLO.

H.R. 2551: Mr. LEWIS of Georgia, Mr. SERRANO, Mr. ACKERMAN, and Mr. GIBBONS.

H.R. 2651: Mr. BEVILL, Mr. DEAL of Georgia, Mr. RAHALL, and Mr. LANTOS.

H.R. 2654: Mr. HOLDEN, Mr. JOHNSTON of Florida, Mr. EVANS, Ms. RIVERS, Ms. JACKSON-LEE, Ms. MCKINNEY, Mr. ACKERMAN, and Ms. DELAURO.

H.R. 2664: Mr. ACKERMAN, Mr. FATTAH, Ms. LOFGREN, Mr. MANZULLO, Mr. SAM JOHNSON, Mr. REED, Mr. PACKARD, Mr. SCHIFF, Mr. CLEMENT, Mr. BROWNBACK, Mrs. LINCOLN, Mr. JOHNSTON of Florida, and Mr. GREENWOOD.

H.R. 2676: Mr. COOLEY and Mr. COMBEST.

H.R. 2682: Mr. MCNULTY, Mr. HOUGHTON, Mrs. KELLY, and Mr. SERRANO.

H.J. Res. 89: Mr. SMITH of New Jersey.

H.J. Res. 127: Mr. BARTLETT of Maryland and Mr. BILIRAKIS.

H. Con. Res. 63: Mr. TALENT, Mr. TORKILDSEN, Mr. SMITH of New Jersey, and Mr. STOCKMAN.

H. Con. Res. 100: Mr. LUCAS, Mr. SHAW, Mr. HALL of Texas, Mr. CLINGER, Mr. SKEEN, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. CALLAHAN, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. HANSEN, Mr. CRAMER, Mr. DORNAN, Mrs. KELLY, Mr. KIM, Mr. KINGSTON, Mr. KLUG, Mr. MCHUGH, Mr. MANZULLO, Mrs. MYRICK, Mr. NORWOOD, Mr. PAYNE of Virginia, Mr. POMBO, Mr. RADANOVICH, Mr. RICHARDSON, Mr. SANFORD, Mr. SAXTON, Mr. SCHAEFER, Mrs. SEASTRAND, Mr. SISISKY, Mr. STEARNS, Mr. TEJEDA, Mr. THORNBERRY, Mr. TIAHRT, Mr. WHITFIELD, and Mr. WOLF.

H. Res. 285: Mrs. CLAYTON, Mr. TORKILDSEN, Mr. MFUME, Ms. PELOSI, Mr. WATTS of Oklahoma, Mr. WARD, Mr. FATTAH, Mr. FROST, Mr. BACHUS, Mr. VENTO, Mr. BALDACCI, Mr. PETERSON of Minnesota, Mr. FARR, Mr. EVERETT, Ms. LOFGREN, Mr. UNDERWOOD, Mr. FRANK of Massachusetts, Mr. FILNER, Ms. WOOLSEY, Mr. SANDERS, and Mr. CLAY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1710

OFFERED BY: MR. HYDE

AMENDMENT NO. 1: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Antiterrorism Act of 1995".

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TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows or should have known is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§ 2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a, or 2332b of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

"(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

"(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

"(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

"(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

"(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall be punished—

"(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

"(e) PROOF REQUIREMENTS.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

"(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

"(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking "In addition to any other" and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "AGAINST A NATIONAL OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 112. STUDY TO DETERMINE STANDARDS FOR DETERMINING WHAT AMMUNITION IS CAPABLE OF PENETRATING POLICE BODY ARMOR.

The National Institute of Justice is directed to perform a study of, and to recommend to Congress, a methodology for determining what ammunition, designed for handguns, is capable of penetrating police body armor. Not later than 6 months after the date of the enactment of this Act, the National Institute of Justice shall report to Congress the results of such study and such recommendations.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) Increased Penalties for Damaging Certain Property.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.".

(b) Conforming Amendment.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) Statute of Limitation for Arson Offenses.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) Title 18 Offenses.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) Aircraft Piracy.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended—

(1) by inserting "or having reasonable cause to believe" after "knowing"; and

(2) by striking "imprisoned not more than 10 years, fined in accordance with this title, or both." and inserting "subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.".

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) Application.—Section 3122(b)(2) of title 18, United States Code, is amended by inserting "or foreign counterintelligence" after "criminal".

(b) Order.—

(1) Section 3123(a) of title 18, United States Code, is amended by inserting "or foreign counterintelligence" after "criminal".

(2) Section 3123(b)(1) of title 18, United States Code, is amended in subparagraph (B), by striking "criminal".

SEC. 302. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION.

(a) In General.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following:

"SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

"(a) Identity of Financial Institutions.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

"(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer—

"(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

“(b) Identifying Information.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

“(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

“(B) there is information giving reason to believe that the consumer has been, or is, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

“(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

“(c) Court Order for Disclosure of Consumer Reports.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, after the court or magistrate finds, in a proceeding in camera, that—

“(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

“(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

“(i) is an agent of a foreign power; and

“(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

“(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

“(d) Confidentiality.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

“(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

“(e) Payment of Fees.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

“(f) Limit on Dissemination.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

“(1) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

“(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

“(g) Rules of Construction.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

“(h) Reports to Congress.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

“(i) Damages.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to any person harmed by the violation in an amount equal to the sum of—

“(1) $100, without regard to the volume of consumer reports, records, or information involved;

“(2) any actual damages sustained by the person harmed as a result of the disclosure;

“(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

“(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

“(j) Disciplinary Actions for Violations.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

“(k) Good-Faith Exception.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

“(l) Injunctive Relief.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.”.

(b) Clerical Amendment.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

“624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes.”.

SEC. 303. DISCLOSURE OF BUSINESS RECORDS HELD BY THIRD PARTIES IN FOREIGN COUNTERINTELLIGENCE CASES.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 121 the following:

“CHAPTER 122—ACCESS TO CERTAIN RECORDS

“Sec.

“2720. Disclosure of business records held by third parties in foreign counterintelligence cases.

“§ 2720. Disclosure of business records held by third parties in foreign counterintelligence cases

“(a)(1) A court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds that—

“(A) such records are necessary for counter-terrorism or foreign counterintelligence purposes; and

“(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is—

“(i) a foreign power; or

“(ii) an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

“(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

“(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section.

“(c)(1) The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside the Federal Bureau of Investigation, except—

"(A) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

"(B) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(2) Any agency or department of the United States obtaining or disclosing any information in violation of this paragraph shall be liable to any person harmed by the violation in an amount equal to the sum of—

"(A) $100 without regard to the volume of information involved;

"(B) any actual damages sustained by the person harmed as a result of the violation;

"(C) if the violation is willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this paragraph, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(d) If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(e) As used in this section—

"(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate carrier for the delivery of packages and other objects;

"(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

"(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

"(4) the term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 121 the following new item:

"122. Access to certain records .... 2720".

SEC. 304. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 305. APPLICATION OF STATUTORY EXCLUSIONARY RULE CONCERNING INTERCEPTED WIRE OR ORAL COMMUNICATIONS.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, if any law enforcement officers who intercepted the communication or gathered the evidence derived therefrom acted with the reasonably objective belief that their actions were in compliance with this chapter.".

SEC. 306. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF "ELECTRONIC COMMUNICATION".—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

(b) DEFINITION OF "READILY ACCESSIBLE TO THE GENERAL PUBLIC".—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 307. ACCESS TO TELEPHONE BILLING RECORDS.

(a) SECTION 2709.—Section 2709(b) of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting "local and long distance" before "toll billing records";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by adding at the end a new paragraph (3), as follows:

"(3) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director or the Director's designee (in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized international terrorism investigation (as defined in section 2331 of this title).".

(b) SECTION 2703.—Section 2703(c)(1)(C) of title 18, United States Code, is amended by inserting "local and long distance" before "telephone toll billing records".

(c) CIVIL REMEDY.—Section 2707 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "customer" and inserting "any other person";

(2) in subsection (c), inserting before the period at the end the following: ", and if the violation is willful or intentional, such punitive damages as the court may allow, and, in the case of any successful action to enforce liability under this section, the costs of the action, together with reasonable attorney fees, as determined by the court"; and

(3) by adding at the end the following:

"(f) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.".

SEC. 308. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 309. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 310. REWARD AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 3059 through 3059A and inserting the following:

"§3059. Reward authority of the Attorney General

"(a) The Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who provides any information unknown to the Government leading to the arrest or prosecution of any individual for Federal felony offenses.

"(b) If the reward exceeds $100,000, the Attorney General shall give notice of that fact to the Senate and the House of Representatives not later than 30 days before authorizing the payment of the reward.

"(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall not be subject to judicial review.

"(d) If the Attorney General determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as the Attorney General deems necessary to effect such protection.

"(e) No officer or employee of any governmental entity may receive a reward under this section for conduct in performance of his or her official duties.

"(f) Any individual (and the immediate family of such individual) who furnishes information which would justify a reward under this section or a reward by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program under chapter 224 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the items relating to section 3059 and 3059A and inserting the following new item:

"3059. Reward authority of the Attorney General.".

(c) CONFORMING AMENDMENT.—Section 1751 of title 18, United States Code, is amended by striking subsection (g).

SEC. 311. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 312. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"Sec. 501. Definitions.
"Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
"Sec. 503. Application for initiation of special removal proceeding.
"Sec. 504. Consideration of application.
"Sec. 505. Special removal hearings.
"Sec. 506. Consideration of classified information.
"Sec. 507. Appeals.
"Sec. 508. Detention and custody.";

and

(2) by adding at the end the following new title:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"DEFINITIONS

"SEC. 501. In this title:

"(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

"(5) The term 'special removal court' means the court established under section 502(a).

"(6) The term 'special removal hearing' means a hearing under section 505.

"(7) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

"SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

"(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under sections 506 and 507(c)(2)(B) in accordance with (and subject to the penalties under) this title.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing with the special removal court of a written application described in subsection (b) that seeks an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

"(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

"(3) The identity of the alien for whom authorization for the special removal proceeding is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

"CONSIDERATION OF APPLICATION

"SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

"(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

"(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

"(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

"SPECIAL REMOVAL HEARINGS

"SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(c) RIGHTS IN HEARING.—

"(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

"(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

"(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

"(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

"(A) Asylum under section 208.

"(B) Withholding of deportation under section 243(h).

"(C) Suspension of deportation under section 244(a) or 244(e).

"(D) Adjustment of status under section 245.

"(E) Registry under section 249.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—Classified information that has been summarized pursuant to section 506(b) and classified information for which findings described in section 506(b)(4)(B) have been made and for which no summary is provided shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary (if any) provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and after coordination with the originating agency, elect to introduce such evidence in open session.

"(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

"(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceeding the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

"(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

"(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

"(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

"CONSIDERATION OF CLASSIFIED INFORMATION

"SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

"(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

"(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

"(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

"(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

"(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

"(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

"(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

"(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

"(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

"(i) the continued presence of the alien in the United States, and

"(ii) the provision of the required summary,

would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

"(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

"(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

"(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

"(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney (as defined in section 501(4)), (and the alien facing deportation under these procedures, may choose which special attorney shall be so designated, if the alien makes that choice not later than 45 days after the date on which the alien receives notice that the Government intends to use such procedures) to assist the alien and the court—

"(A) by reviewing in camera the classified information on behalf of the alien, and

"(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

"(A) shall not disclosure the information to the alien or to any other attorney representing the alien, and

"(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, and imprisoned for not less than 10 years nor more than 25 years.

"APPEALS

"SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(1) any determination by the judge pursuant to section 506(a)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

"(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

"(c) APPEALS OF DECISION IN HEARING.—

"(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

"(d) GENERAL PROVISIONS RELATING TO APPEALS.—

"(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

"(A) the entire record shall be transmitted to the Court of Appeals, and

"(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

"(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

"(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

"(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

"(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(f) APPEALS OF DETENTION ORDERS.—

"(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"DETENTION AND CUSTODY

"SEC. 508. (a) INITIAL CUSTODY.—

"(1) UPON FILING APPLICATION.—Subject to paragraphs (2) and (3), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

"(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

"(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

"(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

"(c) CUSTODY AND RELEASE AFTER HEARING.—

"(1) RELEASE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

"(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

"(2) CUSTODY AND REMOVAL.—

"(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

"(B) REMOVAL.—

"(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

"(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

"(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

"(d) CONTINUED DETENTION PENDING TRIAL.—

"(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

"(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of section 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(f) RIGHTS OF ALIENS IN CUSTODY.—

"(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(d) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of such Act (8 U.S.C. 1105a(a)) is amended—

(1) by adding "and" at the end of paragraph (8),

(2) by striking "; and" at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 602. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND FOR EXCLUSION.

(a) IN GENERAL.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (I),

(B) in subclause (II), by inserting "engaged in or" after "believe,", and

(C) by inserting after subclause (II) the following:

"(III) is a representative of a terrorist organization, or

"(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,"; and

(2) by adding at the end the following:

"(iv) TERRORIST ORGANIZATION DEFINED.—

"(I) DESIGNATION.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

"(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

"(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

"(IV) CONGRESSIONAL AUTHORITY TO REMOVE DESIGNATION.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

"(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

"(VI) OTHER AUTHORITY TO REMOVE DESIGNATION.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

"(v) REPRESENTATIVE DEFINED.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity. The determination by the Secretary of State or the Attorney General that an alien is a representative of a terrorist organization shall be subject to judicial review.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 612. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 613. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible citizenship".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except that the Attorney General", and

(2) by inserting after "title 13, United States Code" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6)" after "consent of the alien", and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

"Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of the sentence that could be imposed on the applicant.".

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by adding at the end the following new paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).".

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes" and inserting "(A) Except as provided in subparagraph (B), for purposes", and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or'';

(3) by amending subparagraph (N) to read as follows:

''(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;'';

(4) by amending subparagraph (O) to read as follows:

''(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;''

(5) in subparagraph (P), by striking ''15 years'' and inserting ''5 years'', and by striking ''and'' at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

''(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;''; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

''(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

''(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

''(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (A) and inserting ''or'', and

(B) by amending subparagraph (B) to read as follows:

''(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.'';

(2) in paragraph (3), by striking ''30 calendar days'' and inserting ''14 calendar days'';

(3) in paragraph (4)(B), by striking ''proccedings'' and inserting ''proceedings'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

''(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

''(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;''.

(5) by adding at the end the following new paragraph:

''(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.''.

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

''(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.''.

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

''(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking ''has served for such felony or felonies'' and all that follows through the period and inserting ''has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.''.

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

''(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.''.

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,'' before ''section 1029'';

(2) by inserting ''section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'';

(3) by striking ''or'' before ''(E)''; and

(4) by inserting before the period at the end the following: '', or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain''.

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

''(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or''.

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8

U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. PAYMENTS TO POLITICAL SUBDIVISIONS FOR COSTS OF INCARCERATING ILLEGAL ALIENS.

Amounts appropriated to carry out section 501 of the Immigration Reform and Control Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

SEC. 671. MISCELLANEOUS PROVISIONS.

(a) Use of Electronic and Telephonic Media in Deportation Hearings.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) Codification.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 672. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 673. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) Use of Treaty.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) Effectiveness of Treaty.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 674. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) Assistance to States.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) Report to Congress.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 675. PRISONER TRANSFER TREATIES.

(a) Negotiation.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) Certification.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 676. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 677. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) In General.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) Reentry of Alien Deported Prior to Completion of Term of Imprisonment.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

"(A) an action under this paragraph shall not be instituted unless the claimant first affords the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

"(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act); and

"(C) the court shall decline to hear a claim under this paragraph if the foreign state against whom the claim has been brought establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following new subsection:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a write of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2263. Filing of habeas corpus application; time requirements; tolling rules.

"2264. Scope of Federal review; district court adjudications.

"2265. Application to State unitary review procedure.

"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§ 2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§ 2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

EXTENSIONS OF REMARKS

MOVEMENT TOWARD PERMANENT PEACE IN NORTHERN IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, President Clinton's recent visit to the north and south of Ireland, has enhanced the momentum toward finding lasting peace and justice on the whole island. The President is to be commended for his efforts in this important cause.

The peace process that has seen a ceasefire in the north of Ireland honored on all sides for more than 15 months, has yet to produce the critical all-party inclusive talks essential to finding through political dialogue, a lasting reconciliation and a permanent peace. The people of all Ireland clearly desire those goals, as was demonstrated by the joyous, supportive, and warm reception the President's peace visit received in both parts of the island.

The Congress was well represented on this important, historical trip of President Clinton to help advance the peace process in Ireland, at a point in time when it was stalled, the momentum lost, and a return to violence a real possibility.

A strong bipartisan delegation of both House and Senate members led by my good friend JAMES WALSH (R-NY), the chairman of the Friends of Ireland accompanied the President. The congressional delegation met with all the parties in the north and south, and engaged in an important and further dialogue to help sustain the progress toward peace, which President Clinton's visit had motivated.

The bipartisan congressional delegation issued a statement, which in part unanimously stated, that the delegation urges that "* * * a fixed and concrete date be promptly set for all party inclusive talks following the completion of the International Body's findings under the leadership of former United States Senator George Mitchell of Maine."

The arms decommissioning issue that this International Body will address by mid-January 1996 has sadly too often been a smoke screen, and unfortunately used as a totally unwarranted precondition by many to stall and prevent critical all-party inclusive talks and dialogue. What the north of Ireland needs in order to truly get the arms held by both sides out of the process, is really a decommissioning of the mind set of the many who are resistant to change on both sides. That must and can only take place across the bargaining table in this long, tragic, and deeply divisive "troubles" that must come to a permanent end.

Once the arms issue report is completed by the International Body in mid-January next year, it is hoped that no more excuses, delaying tactics, nor any one side's veto will be tolerated by the interested governments. We must soon thereafter have a fixed concrete and nonnegotiable date set for all party talks at the peace table. The target date for these talks in late February, can not, and must not, become a moving target.

The delegation is commended for its firm statement and understanding of what needs to be done. Talks must soon begin in earnest, and the future of all Ireland settled at the bargaining table by the warm and generous people of Ireland, not by any bombs or guns.

The future generations of Irish youth and Ireland's many friends here and all around the world will be following very closely the progress toward lasting peace which President Clinton's visit has stimulated once again. We in the Congress will do all in our power to see that this momentum does not slip away.

Mr. Speaker, I request that the full text of the bi-partisan delegation's statement be included at this point in the RECORD.

CONGRESSIONAL DELEGATION APPLAUDS MOVEMENT TOWARD PERMANENT PEACE AND RECONCILIATION; URGES CONTINUED PROGRESS

(Dublin, Ireland, December 1, 1995)

Chairman James Walsh (R-NY)—Head of the Bi-Partisan Delegation accompanying President Clinton's visit to Ireland issued the following statement on behalf of the delegation.

"The enormous celebration of Peace we have all witnessed among people of both the north and south of Ireland is a reflection of the enormous desire to make the current peace permanent, and find lasting justice on the whole island of Ireland. The young people of Ireland's future must be secured through the removal of violence as a means for change.

"After seeing an obvious display of support for peace by the people of Ireland, and after meeting with all political parties, north and south, the delegation is firmly convinced that a lasting political solution can, and must, be found through political dialogue. Specifically, we support the recent twin track agreement.

Mr. Walsh went on to say, "I applaud President Clinton's continued leadership in helping move the peace process forward and using the influence and moral will of America to help advance the peace process."

Mr Walsh concluded by saying, "The delegation was unanimous in urging that a fixed and concrete date be promptly set for all-party inclusive talks following the completion of the International Body's findings under the leadership of former United States Senator George Mitchell of Maine."

A TRIBUTE TO EARL WESLEY BASCOM

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LEWIS of California. Mr. Speaker, I am proud, yet saddened, to bring to your attention today the recent passing of Earl Wesley Bascom of Victorville, CA. Earl was a cowboy hero and a true inspiration to many of us, particularly in the West. I'd like to take a moment to share with you a glimpse of Earl's remarkable life and the legacy he has left for future generations.

Earl was born in a sod-roofed log cabin on a ranch near Vernal, UT, on June 19, 1906. His grandfather, Joel Bascom, was one of the very first frontier lawmen, and his father, deputy sheriff John Bascom, chased the outlaw Butch Cassidy in the late 1880's. Earl showed an early interest in art, drawing scenes of his young cowboy life on pieces of scrap paper. This interest blossomed when his family left Utah by covered wagon to start a new ranch life in Alberta, Canada in 1914. There he worked as a cowhand for a dollar a day and furthered his dream under the direction of renowned western artist Charlie Russell.

In 1933, at the age of 27, and having never graduated from high school, Earl was accepted to study art at Brigham Young University. He was the first student to pay his way through college exclusively as a rodeo cowboy, giving him the title of "Rodeo's First Collegiate Cowboy." As an early pioneer of rodeo, he invented innovative rodeo equipment still used today. He graduated as one of the great rodeo legends, with his art degree, in 1940.

Earl retired from rodeo, married Nadine Diffey, and moved to Los Angeles in 1940 to pursue his art career. As that developed, he worked in construction, ranched, taught, and even did some film work with Roy Rogers. In 1968, Earl began sculpting, and 5 years later, he and his youngest son, John, set up their own bronze casting foundry to produce magnificent works of western art.

Mr. Speaker, I ask that you join me, our colleagues, Earl's family and many friends in recognizing Earl Bascom's extraordinary work and remarkable life. Earl lived one of the most interesting lives ever known in modern cowboy history. "I've tried to portray the West as I knew it—rough and rugged and tough as an old boot but with a good heart and honest as the day is long," he said. It is only fitting that the House recognize Earl Bascom today.

TRIBUTE TO WILLIAM F. ARMSTRONG

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in honor and recognition of Mr. William F. Armstrong and 1995 marks Mr. Armstrong's 50th anniversary of being founder and president of Armstrong Ambulance Services.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Armstrong is certainly dedicated. He dutifully served his tour of duty in the U.S. Marine Corps. Upon his return, he established his very own ambulatory service. This personal service currently thrives as the Armstrong Ambulance Service.

Mr. Armstrong's perseverance and hard work to benefit and safeguard the well-being of others is exemplary. He lived on call for others 24 hours a day, for over five decades. Due to his unwavering leadership, Armstrong Ambulance Service has grown to accommodate the medical transportation for over 40,000 people a year in the Greater Boston area.

I applaud the accomplishments of Mr. Armstrong. His special evening of recognition on December 16, 1995, will be a perfect opportunity to reflect upon such a joyous occasion with family and friends. I would like to extend my deepest congratulations to Mr. William F. Armstrong. His 50th anniversary of serving others is truly commendable and is a fine example of the notion of community.

IN MEMORY OF H.G. "SKINNY" TAYLOR

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. POSHARD. Mr. Speaker, I rise today to commemorate the passing of H.G. "Skinny" Taylor, an Illinois political legend. For years an actively involved Republican, friends on both sides of the aisle throughout the 19th Congressional District and the State of Illinois will miss his wit, style, and grace. It is with great sadness that I offer my condolences to his family.

A graduate of Robinson, IL, High School and Millikin University, Skinny owned and operated the Decatur Warehouse Co. A dedicated member of his community, Skinny took leadership roles in the Kiwanis Club, the Decatur Association of Commerce, the Westminster Presbyterian Church, and the Millikin Alumni Association. But his greatest impression was left in politics, presiding as the chairman of the Macon County Republican Party for 39 years, while also serving as a Republican precinct committeeman for 54 years. In both posts he was instrumental in acquainting the Decatur area with State and national politicians. Skinny introduced many statewide candidates to the nuances of campaigning in downstate Illinois, urging them to get in touch with the problems that affected rural communities.

Mr. Speaker, "Skinny" Taylor handled these many roles with a gentleness that impressed all that met him. He touched many lives, and brought to politics the common sense belief that good government was good politics. In the sometimes fractious environment in Washington, we can all learn from his example. Let us duly note a life well lived.

A 104TH BIRTHDAY SALUTE TO JAMES EDWARD GIBSON OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute James Edward Gibson on the occasion of his 104th birthday and for his dedicated service to the New Central Baptist Church.

On December 25, 1995, the New Central Baptist Church will proudly join with James Edward Gibson on the occasion of his 104th birthday and for his tireless dedication as trustee emeritus of the New Central Baptist Church of Philadelphia. Brother Gibson has lived a life of service to God and the church. He has served the New Central Baptist Church since 1915, in many capacities from usher board member to trustee emeritus. Not only is he a valued and cherished member of the trustees, he is so much more, he is a source of inspiration and comfort to the entire congregation of the New Central Baptist Church. Brother Gibson has served the New Central Baptist Church with honor, dignity, and commitment, offering new and innovative ideas to the community.

I join with the congregation of the New Central Baptist Church, friends, family, and the Philadelphia community today in celebrating the 104th birthday of James Edward Gibson. I wish Brother Gibson and the New Central Baptist Church the very best as together they continue their service to the Philadelphia community.

PROCLAMATION HONORING DONNA MAHFOUZ

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Donna Mahfouz has faithfully served the Anthem Blue Cross and Blue Shield family for twenty-three years; and

Whereas, Donna Mahfouz has held the post of legislative secretary for the Government Relations Office, since its inception seventeen years ago; and,

Whereas, her strong work ethic, superlative organizational skills, and warm sense of humor have greatly contributed to the success of Blue Cross and Blue Shield; and

Whereas, Anthem Blue Cross and Blue Shield owes Donna Mahfouz a great deal of gratitude for her selfless devotion and dedicated service; and,

Whereas, I join the employees of Anthem Blue Cross and Blue Shield, with distinct pleasure, in honoring Donna Mahfouz upon her retirement as legislative secretary for the Government Relations Office.

PROPOSING CUTBACKS IN ENVIRONMENTAL POLICY REGARDING THE OZONE LAYER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. STARK. Mr. Speaker, according to TOM DELAY, House majority whip, "What has happened over the last 10 to 20 years is the environmental extremists have had their way with regulators and with Congress and they've gone way beyond reasonableness and common sense"—October 8 Houston Chronicle.

In support of this argument, Mr. DELAY has introduced a bill to lift the ban on the chemicals covered by the ozone-layer ban and other substances. In the October 27 Washington Post, DELAY, a former exterminator, was quoted as saying "the science underlying the CFC ban is debatable" and the agreement to terminate the use of CFC's "is the result of a media scare."

A couple of weeks later, the Royal Swedish Academy of Science announced this year's Nobel Prize in chemistry was awarded for work that led to the international ban on chemicals believed to be depleting the Earth's protective ozone layer. These scientists discovered that when chlorofluorocarbons [CFC's], standard coolants in refrigerators and air-conditioners, leak, they rise heavenward and destroy ozone molecules that shield the Earth from the Sun.

As you know, in 1985, scientists confirmed the existence of a hole in the ozone layer over Antarctica. This ecological crisis spurred more than 120 countries to negotiate and approve the Montreal Protocol on Substances That Deplete the Ozone Layer, which President Reagan signed in 1987. In 1989, Congress enacted a tax on ozone-depleting chemicals—CFC's or chlorofluorocarbons—to provide an economic incentive to reduce production and use of these destructive substances. This tax has very successfully accelerated the phase-out of harmful chemicals while at the same time it has spurred development of ozone-safe alternatives.

However, TOM DELAY, the House majority whip, remains unconvinced. In the November 4 Houston Chronicle, DELAY said the Nobel Prize has not changed his opinion that the ban on the chemicals to protect the ozone layer was the result of media scare. In a separate interview, one of the three Nobel winners for ozone-depletion research, Mario Molina of the Massachusetts Institute of Technology, said such charges evidently result from DELAY's lack of knowledge * * * and that all I can say is it's ignorance, real ignorance. DELAY was also quoted as saying that Sweden—where the Nobel program is based—is an extremist country, and the award to Molina and the two other scientists was nothing more than the Nobel appeasement prize linked to a Swedish agenda.

DELAY said the Nobel Prize notwithstanding, he and a number of scientists are not persuaded by the Chicken Little theory that ozone depletion is being caused by CFC's or other manmade materials, or that there would be substantial negative effects even if that happened.

DELAY said his University of Houston biology degree and his many years of dealing with chemicals as owner of a pest-control company enable him to interpret scientific findings, including emerging research that calls the CFC ban into question.

To support a ban on chemicals to protect the ozone layer, he said he would want to see "a direct correlation" between CFC's and ozone depletion, and also "make sure the so-called UV [ultraviolet] radiation that's supposed to make people drop like flies is actually making people drop like flies.

Common sense dictates that waiting for this degree of evidence is waiting too long. A person doesn't need to wait for a brick to drop on his head before he believes it would hurt. The proof that Mr. DELAY requires is exactly the type of catastrophe that current legislation regarding ozone-depleting chemicals was enacted to prevent.

Normally, I would not take this type of know-nothingness seriously. However, with the new Republicans and their antienvironment. Contract With America it appears they are not going to let real ignorance stand in the way of attacking environmental policy, policy which was supported by Republican Presidents Ronald Reagan and George Bush. Therefore, it is very important that we continue to rally support from the scientific community, environmental groups, and our constituents in opposition to this type of real ignorance so that we may preserve our Nation's and the world's most precious commodity, the environment.

JAMES COLGATE CLEVELAND, FORMER MEMBER OF CONGRESS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to James C. Cleveland, a long-time and invaluable member of the Public Works and Transportation Committee. Jim passed away on December 3, in his beloved State of New Hampshire.

Jim came to the House of Representatives in 1963 after more than a decade in the New Hampshire State Senate. His tenure in the Granite State legislature was marked by an intense and detailed interest in infrastructure and economic development issues. Indeed, he was the chief force behind creation of the New Hampshire Industrial Development Authority.

When Jim came to Congress in 1963, he immediately sought and gained a seat on the Public Works Committee, a position he would hold for the next 18 years. He was a recognized legislative expert in the fields of transportation, water resources, and economic development. His determined belief in the value of public works projects—projects which then and now add value to our Nation and to our everyday lives—helped drive the committee through the 1960's and 1970's.

In addition to his leadership in the House, he was also an inspiration to those of us new arrivals on the committee. I was one of those arrivals—in 1973—and I can say that Jim was a superb mentor and a good friend. His belief in infrastructure and his leadership style was not forgotten when I had the distinct honor to pick up the gavel as committee chairman in the 104th Congress.

There is another and equally compelling aspect to Jim's passing—we have lost yet another member of the "Command Generation." These were the men and women who were born during the Nation's resurgence in the 1920's, weathered with determination the Great Depression, served in World War II, and then helped create the international leviathan for prosperity and justice that was post-war America.

Jim Cleveland was a soldier, a statesman, and a committed private citizen who selflessly served his country with extraordinary distinction. The entire Nation is diminished by his passing.

A TRIBUTE TO HENRY AND BOBBIE SHAFFNER: TWO EXCEPTIONAL COMPOSERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in thanking and congratulating Henry and Bobbie Shaffner who composed an evocative and hauntingly beautiful musical score dedicated to Swedish humanitarian and Holocaust hero, Raoul Wallenberg. Their composition of the song, "Wallenberg," together with the lyrics of Ms. Lillian Lewis, captivated an audience of over 650 people at the dedication of the bust of Wallenberg in the Great Rotunda of the U.S. Capitol on November 2, 1995.

The song, "Wallenberg," is a tribute to Raoul Wallenberg the Swedish diplomat credited with savings 100,000 Jewish lives in Budapest in 1944. Using false passports, diplomat safe houses, and extraordinary bravery, Wallenberg repeatedly deceived and evaded the Nazis in his heroic mission to prevent the deportation of Hungary's Jews in the death camps. Wallenberg was arrested by Soviet authorities after the war and disappeared into the Gulag. His ultimate fate remains a mystery.

The Shaffners' interest and concern about Wallenberg's fate grew after they read about him in a 1980 New York Times article. They joined the Wallenberg Committee of the United States decided to join those seeking to find him and honor his miraculous deeds.

In 1986, the committee commissioned the Shaffners to compose an inspiring piece that would embody Wallenberg's heroic spirit. In 1992, the song was performed with the lyrics of Lillian Lewis at the committee's annual meeting in New York.

Today's the Shaffners' inspirational music is part of a program titled: "Raoul Wallenberg: A Study in Heroes" which has been implemented in over 50 schools in New York, Massachusetts, and North Carolina, in kindergarten through the eighth grade. Plan call for the program to soon spread across the country.

At the dedication ceremony of the Wallenberg bust, the song was performed by the U.S. Army Band, Sergeant First Class Beverly Benda, soprano, and Staff Sergeant Mary Beth Mailand, harp.

A BETTER COUNTRY—THANKSGIVING SERMON

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LAHOOD. Mr. Speaker, I rise today to insert into the extension of remarks of the CONGRESSIONAL RECORD a sermon that my constituent, Dr. Randall Lee Saxon, pastor of the First Presbyterian Church, Peoria, IL, made to his congregation on November 19, 1995, in preparation for Thanksgiving.

Mr. Speaker, I read the sermon and was so moved by Dr. Saxon's words and insightful thought that I wanted to insert it in the CONGRESSIONAL RECORD for the benefit of all my colleagues. At a time when Congress, and the country, is wrestling with devolution of a Federal Government and personal responsibility, Dr. Saxon's words leapt from the pages as I read them.

A BETTER COUNTRY—A THANKSGIVING SERMON

(By Rev. Dr. Randall Lee Saxon)

HEBREWS 11: 8, 12–16

By faith Abraham obeyed when he was called to set out for a place that he was to receive as an inheritance; and he set out, not knowing where he was going.

Therefore from one person, and this one as good as dead, descendants were born, "as many as the stars of heaven and as the innumerable grains of sand by the seashore".

All of these died in faith without having received the promises, but from a distance they saw and greeted them. They confessed that they were strangers and foreigners on the earth, for people who speak in this way make it clear that they are seeking a homeland.

If they had been thinking of the land that they had left behind, they would have had opportunity to return. But as it is, they desire a better country, that is, a heavenly one. Therefore God is not ashamed to be called their God; indeed, he has prepared a city for them.

A BETTER COUNTRY

Christians are always in search of a better country. Those who take their faith seriously endeavor to move beyond a feel-good religion to a follow-Jesus faith. Such a faith demands that we continue on our journey of discovery, to build upon the good that was present before us, to bring down the walls that divide us, to bridge chasms—real or imagined—that separate us. Christians are always in search of a better country.

As with the people of the early Christian Church and as with the people who followed the patriarchs of early Judaism, the way of the Christian is the way of the Pilgrim.

Those who have the good fortune to visit the Old Town of Rotterdam, in The Netherlands, may visit still the Pilgrim Fathers' Church—as it is yet called—in which the Scrooby Pilgrims and the Leyden Pilgrims held their last service prior to entering on their incredible journey to discover a better country. Those staunch and visionary forebears of ours worshipped together, then made their way down to the water where they boarded the *Speedwell* to begin their westward journey. Written bold upon a plaque secured to a warehouse on that Rotterdam waterfront is a commemoration to the departure of the Pilgrims.

From The Netherlands, the little ship bearing the Pilgrim band sailed to Plymouth, England. In the English port, after a period of time, the pilgrims boarded a larger ship, the *Mayflower*, and set sail for the brave new world awaiting them across the dark and brooding Atlantic waters. As in Rotterdam, so in Plymouth one may today read of this bold departure of the Pilgrims, commemorating in words writ upon the grand Mayflower Monument the extraordinary event of the journey to discover a better country and thus a better life.

We can imagine that these pious people reflected on the words of Hebrews 11 in the Holy Scripture: People who speak in this way make it clear that they are seeking a homeland. If they had been thinking of the land that they had left behind, they would have had opportunity to return. But, as it is, they desired a better country . . .

We know that many factors figured in the Pilgrims' decision to leave home and cross the great sea in search of a new land, a better country. As children in public and private schools across America, we are given opportunity to re-examine the religious and political persecutions and deep yearning of the human spirit which emboldened the Pilgrims to set sail for America. They sought an opportunity to worship as they thought fitting, to engage themselves in self-determination and the utilization of individual gifts for the common purpose of building community. They yearned for a government which would be best described by an American president 243 years after they sailed from Plymouth, a government in which the common people were involved; a government of the people, for the people, and by the people.

Yet, strange-seeming upon first consideration, these same Pilgrims who were willing to leave hearth and homeland for a wild and distant country viewed themselves as strangers and foreigners on the earth. As people of God, they sought with great diligence to live as people of faith in an often faithless world. These Pilgrims held values which transcended the simple "be a good person, be nice to your neighbor" values in human relationships. These values demanded much more of the individual and of society than simply "being nice"; these values demanded one"s life commitment to the upbuilding of the kingdom of God. It is no wonder historians who trace the Euro-American pilgrimage from its inception to the present day call the experiment of the Pilgrims by the name "Zion in the Wilderness". There was purpose and commitment in what the Pilgrims set out to accomplish. Their journey was to a better country!

The Church today is called to remember it is still on that same journey that set sail the Pilgrims so long ago.

The Church exists today as resident aliens, an adventurous colony in a society of unbelief. As a society of unbelief, Western culture is devoid of a sense of journey, of adventure, because it lacks belief in much more than the cultivation of an ever-shrinking horizon of self-preservation and self-expression.

The ancient Hebrew patriarchs, the disciples of Jesus of Nazareth, the Pilgrims of the seventeenth century, the visionaries who held "these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness", the founders of this visionary congregation—First Presbyterian Church of Peoria, IL—160 years ago, all were traveling the road to a better country. They had, as the Rev. Dr. Martin Luther King has said, "a dream."

To tell the truth, that dream, those visions, have taken on the fearful characteristics of a nightmare. The nation—the better country—the Pilgrim people sought to discover and build upon has drifted loose from it moral moorings into a sea of self-centeredness, a Devil's Triangle of you-do-your-thing-and-I'll-do-mine-and-that's-all-that-matters-anyway boorishness that shakes the very foundation of our society.

The home of the brave and land of the free in the 1990s—fifteen generations after the Pilgrims landed on the Massachusetts shore—has become the home of the fearful and the land of the imprisoned. America today has more citizens in prison, per capita, than any other nation in the free world. The experience of being "free" is what many do not experience!

We have winked at the discord in our nation. We have turned away from taking personal responsibility to become change agents involved in the creation of a better country. We have come to blame the three branches of our federal government for our troubles, making scapegoats of the very people we have elected to lead us. It is hard to hear and harder again to admit, but many of us do not experience freedom as the Pilgrims sought to create to. We are fearful instead. Our everyday lives point to this truth.

Consider our overstocked medicine cabinets, burglar alarms, vast ghettos, and drug culture. Eighteen-hundred New Yorkers are murdered every year by their fellow citizens in a city whose police department is larger than the standing army of many nations.

We have become fearful of one another. We seem to have lost our way on that journey to a better country. Where is the vision of the Pilgrim people? Why do we cower in fear and confusion, choosing to attempt to outrun the darkness rather than turn and say with conviction, "Enough!". Those people of varied races and religious tradition and ages who have taken such a stand against corruption in their individual communities have made a difference, they have shined a light into the darkness and recaptured a vision of a better country. May God bless them, and our native land!

The time has come again for the people of God to become a Pilgrim people! The time has come again for the people of God to say what they believe, and to set sail on a journey that will lead us all to a better country. What am I saying? Leave America for another place?

Not at all! Despite her flaws, America is yet the greatest nation on earth, for people still risk their lives to make this land their home. Hear me now! I am calling us to recapture the vision of a better country. And to lift up that vision. I am calling us to work together, beginning right here in our own community, to shape a better country so that the little children around us can grow up in a better world. I am calling us to be done with the idiocy of self-centered pettiness that only desecrates, divides, and denigrates the World of God. I am calling us to catch the vision of a better country, and to lift it high in the name of our blessed Lord, Jesus Christ, who has already journeyed ahead of us, calling. "Follow me!".

How do we do this? How do we answer this call? We begin by doing away with the habit of blaming others for our troubles. We become more proactive and less reactive. I say this to you in response to the challenge before us:

1. Pray without ceasing that God will use you and this congregation to build a better country. Every great change in the nation began in the minds and hearts and spirits of the people who helped make this country great. Change may be facilitated "out there", but it must begin in here, in the mind and heart and spirit of the individual. And in the home towns of America.

2. Pray to forgive those who divide and deride; counsel them to repent and turn to the Lord, so their vision may be outward and upward rather than inward and downward. Remember John Kennedy's words: "Ask not what your country can do for you, ask what you can do for your country!". Then do it.

3. Open your eyes and your mind to see where your unique, personal gifts can be used to help make life better. For example, offer to ring a bell at a Salvation Army kettle, join hands with others at work in one of our city soup kitchens or other missions, assist as a hospital volunteer, give blood: one pint of that vital fluid may save a life, sign on the line on the back of your driver's license and commit yourself to becoming an organ donor (hundred of thousands of lives could be saved annually if more of us would do this), visit the hospitalized, run an errand for one who is ill, comfort the afflicted, challenge the comfortable, teach in our Sunday School. You get the idea. The need is great; open your eyes and minds and respond.

4. Contact our elected representatives and urge them to remember and act on the words of our sixteenth president, that our government may be of, by and for the people. Rather than deride the people you elected to represent you, work with them to shape a brighter, better future for all who call America home.

5. Live each day as if it were your last, devoting energy to those profoundly simple acts of discipleship we discover by lifting up faith, hope and love. And, in that instant, make a difference for good and to God's glory in the life of someone else. Do you begin to realize what a radical difference you can initiate simply by lifting up the values and mores which helped build this country, those aspects of national character which begin on our hearths and in our hearts as we teach our children about God and goodness and grace?

Yes, Christians are always in search of a better country. Those who take their faith seriously endeavor to move beyond a feel-good religion to a follow-Jesus faith. The choice, really, is up to you. You can sit morosely by, captured by a culture of complaint and compliance, or you can let the living God fill your sails with the wind of His Spirit, empowering you to move forward on that journey to a better country.

The America of tomorrow awaits your decision to act. Decide wisely, pilgrim, for you touch the trembling, fragile future with your individual hands and hearts. May God bless America. May God bless you. Amen.

PRESENTATION OF LIBERATION OF SURVIVORS STAMP

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, this morning I joined with Senator CARL LEVIN, Postmaster

General Runyan, and Postal Governor David Fineman to present a framed enlargement of the liberation of survivors stamp to the U.S. Holocaust Museum.

It is appropriate that we are presenting this stamp this year, as we observe the 50th anniversary of the liberation of the concentration camps by U.S. Armed Forces. This Holocaust stamp pays tribute to the many thousands of American soldiers whose considerable self-sacrifice and heroism as liberators of the death camps led to the disclosure of the truth, and to the enormity of such crimes against the Jewish people and humanity. The liberators selfless dedication will never be forgotten, just as those who perished will never be forgotten.

Year after year there are fewer witnesses remaining among us. The efforts of institutions like the U.S. Holocaust Museum and the U.S. Postal Service in commemorating this historical event will help ensure that the future generations will not forget the Holocaust. We must remember that we must fight every day in the war against ignorance and bigotry. It is our responsibility to remain forever vigilant, as we pursue justice for ourselves and for others through out the world who face oppression.

A TRIBUTE TO HARDY L. BROWN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LEWIS of California. Mr. Speaker, I am proud to bring to your attention today the fine work and outstanding public service of Hardy Brown. Hardy, the first African-American man to serve two terms as vice president and then two terms as president of the Board of Education of the San Bernardino City Unified School District, is retiring after 12 remarkable years of service with the board. He will be honored for his service at a dinner in his honor on December 14.

Hardy Brown was administered the oath of office for the board of education on December 6, 1983, and was elected vice president of the board for the 1985–86 school year. Shortly thereafter, he was elected as the first black male president of the board and served for both the 1987–88 and 1988–89 school years. In addition, he has served as a representative to the CSBA Delegate Assembly for the 1990–91 and 1992–93 school years, and has served CSBA in many diverse leadership roles.

The San Bernardino City Unified School District is the ninth largest in California with over 44,000 students, 60 percent of whom are minorities. Through his service to the board of education, Hardy Brown has been a thoughtful and dedicated advocate for providing equal educational opportunities to all children in our community. He is also well known and respected by community leaders, parents, clergy, business people, political leaders, representatives of higher education, and civil rights groups,

Hardy Brown has a great deal of experience with multiethnic, multicultural, and varied socioeconomic groups. His enthusiasm, commitment, and expertise in alternative programs addressing at-risk students, guidance, dropout prevention, school safety, and vocational education has made him particularly influential and well respected. Most importantly, his leadership style encourages creative and innovative ideas to deal with the greatest challenges facing education and society today.

Mr. Speaker, I ask that you join me, our colleagues, Hardy Brown's family, and many friends in recognizing his extraordinary work and selfless public service. His dedication to education and making a real difference in the lives of children is an example worthy of emulation by all of us. It is only fitting that the House pay tribute to Hardy Brown today.

TRIBUTE TO PERRY ANDERSON, JR.

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to honor and recognize Mr. Perry Anderson, Jr., who is currently the police commissioner of the Cambridge Police Department in Cambridge, MA

Commissioner Anderson has led a successful and distinguished career. He worked for the Miami Police Department for many years. During his tenure he rose from the ranks of police officer to the appointment of chief of police before retiring in 1991. His steadfastness is seen through his many police and executive positions. Most notably was his position as major in charge of the community relations section and deputy and assistant chief in charge of the criminal investigation division.

Commissioner Anderson's dedication to the Police Force is truly commendable. He has received great recognition for founding and implementing reverse sting operations in Miami, developing methods to curtail civil disturbances, and has authored various texts on sound managerial concepts and programs. Commissioner Anderson is also the recipient of the Bronze Star Medal for meritorious service in the armed services. In July 1992, he was elected the national president of the National Organization of Black Law Enforcement Executives.

I applaud the accomplishments of Commissioner Perry L. Anderson and would like to extend my congratulations and best wishes for his many years of service to safeguard others. As a paragon of leadership he has enabled many people to live with a bettered sense of security.

CONGRATULATIONS TO JOHN ROARK ON HIS RETIREMENT

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. POSHARD. Mr. Speaker, I rise today to wish Mr. John Roark a happy, and well deserved retirement. John is a trusted friend, and I always welcome the opportunity to talk with him about issues affecting the 19th Congressional District of Illinois.

Throughout his professional career John has worked hard to help improve his community. For 3 years he owned his own business, has 13 years teaching experience, was director of Organization for American Federation of Teachers for Illinois and Wisconsin, and has worked with the Macon-Dewitt Job Training Program Administration [JTPA] for 17 years. John will retire as the executive director of the Macon-Dewitt JTPA, and I am proud to join with his family and friends in celebrating his decades of community service.

Mr. Speaker, John Roark is a friend of many in central Illinois. He will be missed at the Macon-Dewitt JTPA, but I am confident that John will continue to discover new ways to help his community during his retirement. I want to take this opportunity to once again thank John for his decades of commitment to the people of the State of Illinois and wish him a healthy and memorable retirement.

A SALUTE TO NOVELLA LYONS OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Mrs. Novella Lyons on the occasion of her retirement from the Pennsylvania Department of Public Welfare and to congratulate her on her many years of service to the Philadelphia community.

In 1960, Mrs. Novella Lyons began her tenure with the department of public welfare. She has proudly held several positions within the department from repayment adjuster to income maintenance caseworker. In 1989, Mrs. Lyons received the Employee of the Year Award and has since served as chairperson for the SECA campaign. Mrs. Lyons is an outstanding individual who should be commended for her contributions to the Philadelphia community.

Mrs. Lyons has also played a vital role in many programs in the Philadelphia community as an active member of the Canaan Baptist Church, where she began working with the social service committee and the breast cancer support group. She was instrumental in organizing the breast cancer support group where her primary goals were to provide educational resources, international workshops, and spiritual uplifting. Through Mrs. Lyons' efforts, over 100 women have been reached throughout the Philadelphia area.

I wish to join today with the department of public welfare, Mrs. Lyons' family and friends in recognizing her for her many years of service with the Pennsylvania Department of Public Welfare and the Philadelphia community. I wish her health, happiness, and prosperity in her retirement years. It is well deserved.

TRIBUTE TO SALLY HAVICE FOR SERVICE TO THE ABC SCHOOL BOARD

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. TORRES. Mr. Speaker, I ask my colleagues to join me today in honoring Ms. Sally Havice as she steps down from the presidency of the ABC School Board. Sally was first elected to the school board in 1989 and was reelected to a second term in 1993. As board president, she chaired several committees, including the School Safety Committee and the District Goals Committee. During her leadership, she initiated a code of conduct for the members of the board.

Sally has devoted much of her life to improving herself and giving to others through education. After attending business college, she had a successful career in municipal government. She later returned to school to pursue a bachelor's degree and teaching credential that enabled her to realize her life-long ambition of becoming a teacher. She earned two associate in arts degrees from Cerritos College; one in social studies and the other in Spanish. She went on to receive her bachelor's degree in English and a master's degree in linguistics, with doctoral studies at USC and the University of Hawaii. During her active professional and academic career, she raised three sons: Edward, Raul, and Joseph. She is also grandmother to seven children.

For the last 22 years, Sally has been a professor of English at Cerritos College. She teaches English composition and literature, as well as speech communication. She also served as interim assistant dean of liberal arts and community liaison for the cultural arts. Her work on campus also has included participation on numerous committees such as the Citizen's Resource Advisory, Cerritos College Faculty Association Executive Board, and the faculty senate, which selected her after her first term as outstanding faculty senator.

Sally's involvement in the community has been extensive and impressive. She helped to implement the cultural performing arts afterschool program. This unique music and dance instruction program benefits hundreds of children in Artesia, Cerritos, Downey, Hawaiian Gardens, Lakewood, La Mirada, and Norwalk. She is a member of the Southeast Area Task Force on Youth Violence, and an executive board member of the "Su Casa" Family Violence Center. Other memberships in area organizations include the Southeast Regional Occupations Program, the Latina Leadership Network, Comision Femenil, the National Women's Political Caucus, the American Association of University Women, the State Superintendent of Public Education's Advisory Committee, the Optimist International, the League of United Latin-American Citizens, and the Asian Indian Women's Rights Group. She has also been president of the Cerritos College Faculty Association, in addition to having served as vice president and secretary.

Mr. Speaker, I ask my colleagues to join me in saluting a model public servant. It is with great pride that we pay tribute to Sally Havice for her dedicated service to the ABC Unified School District.

TRIBUTE TO JUDY BLUESTONE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, today I congratulate Judy Bluestone, winner of the State of Israel Bonds—Golda Meir Division Leadership Award of 1995. The award will be presented tonight at a gala event in Milwaukee.

The Leadership Award is bestowed on those who provide outstanding leadership and devotion to Jewish values of community and compassion in the spirit of Golda Meir. Judy Bluestone, through her voluntarism and dedication to our community, exemplifies the intent of the award.

Judy Bluestone's efforts have focused on improving the lives of children. As a speech pathologist at St. Francis Children's Center, through her involvement with the Wisconsin Alliance for Children, and more recently as chair of Start Smart! Milwaukee, Judy Bluestone has been a successful advocate for children. She recognizes and promotes the importance of nurturing environments for all children.

The Leadership Award also commends a lifelong commitment to the Jewish people and the State of Israel. Here again, Judy Bluestone has achieved distinction with her involvement as a board member of the Jewish Community Center, and executive committee member of the Milwaukee Jewish Federation Women's Division. Her leadership and dedication is a lasting tribute to the spirit of Golda Meir and the prominent role women have played in Israel's growth and development.

I congratulate Judy Bluestone, along with her supportive husband Stanton, on her selection as the 1995 State of Israel Bonds Leadership Award winner.

NEW FACILITY TO BE NAMED CHARLES A. HAYES POST OFFICE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, today I am joined by my friend and Illinois colleague, Representative DENNIS HASTERT in introducing legislation naming a United States Postal Facility in Chicago as the "Charles A. Hayes Post Office." The post office, to be located in the 2600 block of E. 75th Street in Chicago is currently under construction and will open in November 1996.

Congressman Charles A. Hayes was first elected to Congress in 1983, in a special election, succeeding former Member of Congress, Harold Washington who resigned from the House after being sworn in as Mayor of Chicago. He was the First international union leader to be elected to Congress and spent his early years as a working man, organizing his first union and elected to his first union office as President of Local 1424 of the Carpenter's International Union at age 20.

Congressman Hayes went on to secure bargaining rights for workers in Chicago's stockyards through the United Packinghouse Workers of America. In 1954 he was elected District Director of the Packinghouse Union and moved continuously through the ranks and after several mergers, became International Vice President of the United Food and Commercial Workers Union, then the largest union in the AFL–CIO. Rising from the small town of Cairo, IL, "Charlie" became one of the most important labor leaders in America.

Charlie was urged by labor leaders throughout Chicago to run for the Congressional seat vacated by Mayor Harold Washington. He won the August Democratic Primary, defeating 13 other Democratic contenders and was sworn into Congress in September of 1983.

Former Congressman Hayes fought fiercely to protect American jobs, has been active in the fight to increase Federal funds for schools, to increase funds for public works, protections for civil rights and the rights of ordinary workers. He introduced full employment legislation and denounced unemployment as "morally unacceptable" while politicians were arguing about how best to cut taxes on the rich. He supported National Health Insurance from his earliest union days and is the only Member of Congress with a 100 percent lifetime voting record on issues important to labor.

Prior to his departure, Congressman Charles A. Hayes chaired the Committee on Post Office and Civil Service Subcommittee on Postal Personnel and Modernization. He was known to his friends as the "Labor Democrat" and long recognized as a first-rate public servant and first-class friend, worked hard to make sure that workers across the country had food on the table, had pensions that were protected and were safe on the job.

Charlie's frequent calls for "Regular Order" on the House floor have been missed. We are pleased to honor his efforts on behalf of working Americans. We urge our Illinois colleagues to cosponsor this measure.

IN HONOR OF GERALDINE BARBARA POSNER

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. MORAN. Mr. Speaker, I would like to call my colleagues attention to the passing of a great American—Mrs. Geraldine Barbara Posner. Mrs. Posner served in the Air Force Nurse Corps and was among the first to land at Normandy.

After returning from the war, she continued her education and served as a training supervisor for the D.C. Department of Human Resources. Mrs. Posner was a beloved constituent and a patriot. Please join with me in honoring her memory.

GERALDINE BARBARA POSNER

Geraldine Barbara Posner, 73, a former captain in the Air Force Nurse Corps and a retired nurse in-service training supervisor for the D.C. Department of Human Resources, died of cancer Sept. 28 at the National Naval Medical Center in Bethesda.

Capt. Posner, who lived in Alexandria, entered the Army Nurse Corps in 1944 and, after basic training, landed on Normandy beaches shortly after D-Day, setting up combat field hospitals. After World War II, she was assigned to various military hospitals and received a commission in the Air Force in 1948.

A native of Brooklyn, N.Y., she received a diploma in nursing from Mercy Hospital in Springfield, Mass. After leaving the military in 1952, she received a nursing degree from Adelphi University in New York.

She also took postgraduate nursing courses at Hofstra College before settling in the Washington area in 1960. She began a seven-year career with the D.C. Department of Human Resources in 1970.

Survivors include her husband, retired Air Force Maj. Gen. Jack I. Posner of Alexandria; three daughters, Geraldine A. Porter of Marshall, Va., Air Force Maj. Jacqueline B. Posner of Alexandria and Ginnean C. Quisenberry of Enterprise, Ala.; two sons, Air Force Lt. Col. John D. Posner of Tyndall Air Force Base, Fla.; and Air Force Capt. Joseph R. Posner of Robins Air Force Base, Ga.; three sisters, Carol Fleury of Holyoke, Mass., Janice Devine of Ware, Mass., and Lorraine Curley of Centerville, Mass.; and three grandchildren.

ROMANIAN NATIONAL DAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today in recognition of Romania's national day. On December 1, the people of Romania celebrated the 77th anniversary of the creation of the modern Romanian state. The Romanian nation, of course, is much older, and is one of the culturally richest societies in Europe.

The modern Romanian state arose after World War I and the demise of Austro-Hungarian empire. For most of the ensuing 70 years, Romania's people lived through one difficulty after another, culminating in the long oppressive rule of the communist dictator Nicolai Ceaucescu.

Just as modern Romania was created after the fall of an empire, so too has Romania been renewed by the fall of an empire. The demise of communism in Eastern Europe and the Soviet Union was welcomed by the Romanian people, who staged a revolution in 1989 that overthrew Ceaucescu and launched the rebirth of their nation. The new Romania has experienced the initial excitement of freedom tempered by the daunting realities of rebuilding its economy, solidifying democracy and catching up with the rest of Europe.

Mr. Speaker, I visited Romania earlier this year and have seen the hard work and commitment of its people. Romania is making steady progress on all fronts. The economy has been invigorated by the expanding role of the private sector and is growing at a healthy pace; Romania's multi-party parliament debates legislation openly and the free press has grown. Romania has expressed a strong desire to join NATO, affirming its desire to become a permanent member of the western camp of democracies. Next year, Romania like the United States, will hold an election for president. This election must and will be democratic, hotly contested and widely covered by the media.

Romania still has a long way to go. There is much to be done but the direction is clear. After 77 years of hardship, things are finally beginning to look up for the Romanian people. I ask my colleagues to join me in congratulating he people of Romania on their national day anniversary and expressing our support for Romania's continued progress.

A TRADITION COMES TO A CLOSE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. COBLE. Mr. Speaker, as the year comes to a close, a tradition also comes to a close in Denton, NC. I am, of course, referring to the sad departure of the Denton Record. I join with many other readers in saying we will miss our weekly copy of the Denton Record.

For years, Ed and Venus Wallace have kept the people of Denton and the surrounding area informed with news of community interest. The daily comings and goings of the hardworking men and women of Denton and their families were chronicled in the weekly publication of the Denton Record. News both big and small found a place in its pages. If it happened in Denton, you could read about it in the Denton Record.

In many ways, the Denton Record was a throwback to a bygone era. The newspaper has been published since 1940, the Wallaces have operated the Denton Record since 1962, and they have owned it since 1984. What made the weekly paper unique was that it cared about the community in which it was published. The citizens of Denton responded in kind and supported the Record for more than half a century. In this era of corporate-owned media giants, it was quite refreshing to have your hometown newspaper published by homegrown people. All of that will come to end with the end of 1995.

We will miss reading Venus' "Squibbles" column. We will miss Suzy's photos of sporting events and Miss Denton pageants. We will miss Ed's steady hand which has guided the paper through its weekly scramble to write headlines and meet deadlines. Most of all we will miss knowing that if something happened in Denton we could read about in the Denton Record.

On behalf of the citizens of the sixth district of North Carolina, we offer our congratulations to the Wallaces for decades of newspaper excellence and best wishes for life after the Denton Record.

TIM COUCH'S STANDOUT PREP CAREER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ROGERS. Mr. Speaker, just this week, the Nation's football fans enjoyed a passing of the torch, or the football, in the National Football League. Miami Dolphins Quarterback Dan Marino, who recently became the NFL's all-time yardage leader, surpassed Fran Tarkenton's touchdown passes record.

The day before Marino's recordbreaking day, Kentucky's own recordbreaking prep quarterback struck again, too. Leslie County High School's Tim Couch, a legend at the prep level, threw his 133rd touchdown pass to become the all-time high school touchdown pass career leader. Tim's 1-yard pass to Jonathan Morgan on the last play of his high school career broke Bobby Lucht's national record in dramatic fashion.

Like Marino, Tim Couch had already become the all-time high school passing yardage leader by shattering Josh Booty's national passing record the week before. Couch completed his illustrious high school career with 12,092 yards. He also is the all-time leader in completions (872) and completed an outstanding 63.6 percent of his passes.

Recently featured in a two-page Sports Illustrated article, Tim Couch has given Leslie County, eastern Kentucky, and all of America's football fans something to stand up and shout about.

Tim, who is an A–B student, is also a standout basketball player (he averaged more than 36 points per game last year) and part of the wonderful community spirit and pride of Hyden and Leslie County.

Not only did this community of 375 rally around their favorite son, they brought out the best in their team (an 11–3 record) and the entire region.

Tim Couch's success provides hope not only for every aspiring young football player, but for his community and everyone who knows this very talented young man from the mountains with the desire and ability to make it big. He has set a standard of excellence for Leslie County, its young people and the entire Nation. I know that Tim will continue to be an excellent example for all to follow.

Congratulations on your standout prep career, Tim, and good luck in your future. Let's hope you are the one removing Dan Marino's name from the NFL's record books.

HONORING MARY GORMLEY

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. DAVIS. Mr. Speaker, I rise today to honor Mary Gormley, who was recently elected President of the Virginia Congress of Parents and Teachers—Virginia PTA—during the association's annual convention in Richmond.

I have had the privilege of knowing and working with Mary for over 16 years during my terms serving on the Fairfax County Board of Supervisors and since joining this honorable Chamber. Mary has been active in the PTA for more than 20 years, and has also been involved in many other community and school related activities. She has chaired or served on the executive Boards of a variety of committees. She chaired the Volunteers for the International Children's Festival, held annually at Wolftrap Farm Park in Vienna, VA. She was President of the Annandale High School Band Boosters as well as President of the Annandale High School PTSA. She also has served as Secretary and Membership Chairman of the Fairfax Committee of 100, and as 1st and 2nd Vice President of the Fairfax County Council of PTA's. Additionally, Mary has served on various Fairfax County School Board committees including, School Consolidation, Substance Abuse, and the Division Superintendent Dr. Robert Spillane's Advisory Committee to name a few.

On the road to attaining the prestigious position of Virginia State PTA President Mary served on the State level as 1st and 2nd Vice President.

Mary's many years of giving have been recognized by her receiving an Honorary Life Membership in the National PTA; an Honorary Life Membership in the Virginia PTA; Lady Fairfax for the Fairfax County Fair, and Commendations from the Fairfax County Board of Supervisors and the Fairfax County School Board.

Mary is the wife of Brian Gormley and the proud mother of 3 children, Sean, Matthew, and Brienne Gormley.

Mr. Speaker, I know my colleagues join me in honoring Mary Gormley, a woman who puts not only the good of the community, but our children's education and well-being ahead of herself.

NORTHWESTERN UNIVERSITY'S CHAMPIONSHIP FOOTBALL TEAM

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GEPHARDT. Mr. Speaker, I rise today in support of the resolution congratulating Northwestern University's championship football team, the Wildcats, for its 1995 Big Ten Conference Championship and for its invitation to the 1996 Rose Bowl.

For the second time in its 122-year history, Northwestern is going to a bowl game. The 1995 winning season represents an unprecedented turnaround for Northwestern football.

Northwestern University has won the Big Ten Conference Championship with a perfect record in conference play. It recently received its invitation to the Rose Bowl. We will all be watching New Year's Day as the Wildcats play our friends at USC. We will all be cheering with Coach Gary Barnett, just as we cheered 4 years ago, when he first came to Northwestern and promised to take "the Purple to Pasadena."

We celebrate with University's President Henry Bienen, Coach Barnett and his dedicated and hard working team of coaches and athletes. We commend Northwestern University for its Big Ten Championship and for its invitation to the Rose Bowl. Northwestern's academic excellence has never been doubted; now let no one doubt its athletic excellence. Everyone wondered how this miracle occurred, but for Northwestern fans, it wasn't a question of how, but a question of when.

Mr. Speaker, I encourage all my colleagues to join us in celebrating Northwestern football.

TRIBUTE TO CARMEN LOMAS GARZA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a very unique artist from Kingsville, TX, whose works illuminate the life and times of south Texans. Carmen Lomas Garza's impressionistic paintings illustrate the various aspects of life in our native community through the eyes of her childhood and can now be seen at the Smithsonian Museum.

Her exhibit, now showing at the Hirshorn Museum and Sculpture Garden, is entitled: "Directions: Carmen Lomas Garza." Her work inspired a popular children's book. Children's Book Press of San Francisco saw the wisdom of illustrating her paintings with short descriptions of what the paintings show.

Cuadros de familia—Family Pictures—is Children's Book Press' best seller, selling over 195,000 copies. It includes 32 reflections of the Mexican-American life in south Texas. It is an ideal gift for a youngster at Christmas.

As a child, the artist was teased and punished for speaking Spanish in school. But as she grew older and wiser, she used her art as a bridge to get past her anger, and to reflect her pride in our culture.

Her work is a touching glossary of childhood memories in Kingsville, TX. The scenes she depicts include: her grandfather peacefully watering his corn; the local faith healer expelling the flu from a neighbor; and a community cakewalk to raise money to send young people to college.

She told me about the peace she found growing up in south Texas with her family, and her desire to pass that along to the next generation through her art. She remembers the times we all remember with our family, eating on the front porch, making tamales, picking oranges, swimming in the Gulf of Mexico, and celebrating birthdays.

One of the most memorable paintings—and one just purchased by the Smithsonian for its permanent collection—is a tribute to her mother who supported her dreams of becoming an artist. The painting portrays the artist and her sister laying on the roof dreaming under the stars as their mother prepares their beds. Lomas Garza describes her mother as laying out the bed for our dreams of the future.

Mr. Speaker and colleagues, I highly recommend this exhibit to you and your constituents.

SALUTE TO HOMETOWN HEROES

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Ms. DELAURO. Mr. Speaker, I rise today to pay tribute to Gerri Schmidt and Robin Dorman of Branford, CT for their truly heroic effort to save the lives of three small children from a fire last Wednesday. These women displayed inspiring selflessness in aiding their neighbors and dousing the flames that engulfed a local condominium.

According to the authorities with the Branford Fire Department, three children aged 5, 3, and 14 months are alive and well today because of these two fine women. Careless playing with matches by one of the children is said to have caused the blaze.

Yesterday, as Gerri Schmidt walked her dog and Robin Dorman backed her car out of the drive, an elderly woman raced from a condominium on Watch Hill Road, screaming, "Fire! Fire!" Schmidt and Dorman ran to the woman who told them of the children trapped by the fire inside the building.

Not thinking of themselves, these women raced inside. There Schmidt found the five-year-old and the three-year-old in a bedroom and the 14-month-old in a hallway and carried them outside to safety. Dorman, meanwhile, ran up the stairs through heavy smoke and beat back the flames with a blanket. By the time the firefighters arrived on the scene, the children were safe and the flames were nearly extinguished.

Real life heroes are all too rare in this day and age. Gerri Schmidt and Robin Dorman have earned our praise, our thanks, our admiration and our acknowledgement, and I want to recognize them for their bravery.

Webster's Dictionary defines heroism as "fulfilling high purpose or attaining a noble end." On behalf of the House of Representatives, I would like to extend my praise of Gerri Schmidt and Robin Dorman who truly define heroism. Thanks to our hometown heroes.

THE BEST SMALL TOWN IN AMERICA

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GEJDENSON. Mr. Speaker, I rise today to recognize Essex, CT, on being named the Best Small Town in America by author Norman Crampton. Mr. Crampton's book, "The 100 Best Small Towns in America," recognizes Essex for qualities its residents, and people across Connecticut, have appreciated for many years. The residents, officials, and business people of the community should be very proud of this honor, which acknowledges their commitment to their community.

Mr. Crampton ranked towns across the Nation using several criteria, including per capita income, crime rate, public school expenditure per pupil, and percentage of population with a bachelor's degree. While every survey seeking to rate communities relies on similar factors, the author also considered community efforts to provide housing to all income groups and to encourage residents to play an active role in town affairs.

In the final analysis, Essex rose above every other small town in America to be named No. 1. Since settlers first came to the area in the mid-1600's, Essex, which encompasses the villages of Centerbrook, Ivoryton, and Essex, has distinguished itself. For much of the 18th and early-19th centuries, Essex was known as a world-class shipbuilding center. In fact, the first ship commissioned by the U.S. Navy in 1775, the *Oliver Cromwell,* was built in Essex and provided to our fledgling Government by the State of Connecticut. In addition to building the ships which were the lifeline of commerce in the 1700's and 1800's, Essex was an important commercial port for trade throughout the world, especially between the eastern United States and the islands of the Caribbean. The village of Ivoryton was so names because Essex was home to one of the leading manufacturers of piano keys. Manufacturers in Essex also helped to pioneer commercial production of which hazel and the community remains home to one of the world's largest distillers of this product.

Mr. Speaker, it is obvious to this Member why Essex has been ranked No. 1. The community has something to offer to everyone. Families can take advantage of first-rate public schools, affordable housing, and local employment opportunities. Lying on the banks of the lower Connecticut River, Essex boasts tidal flats and marshes, coves and inlets which provide valuable habitat for many species of fish, wildlife and birds. Visitors can enjoy leisurely rides on the Connecticut Valley Railroad, affectionately known by locals as the Essex Steamtrain, and conclude their day with a great meal at the historic Griswold Inn, which has been serving visitors for more than 200 years.

During the course of writing his book, Mr. Crampton interviewed citizens in communities around the Nation. His conversations with those in Essex highlighted another characteristic which makes this community special—the volunteer spirit of its residents. Until recently, virtually every local official served without pay and many continue to do so today. Fires are fought by volunteers, school playgrounds are built by parents, and elections are monitored by civic-minded citizens who never receive a penny for their dedication to their community. Mr. Richard Gamble summed up the contribution of Essex's residents by saying "we're unusually blessed by people who are not only capable, but willing to spend the time."

Mr. Speaker, I am proud to joint residents from Essex in celebrating this much deserved honor. Parochially, I believe every small town across the Second Congressional District could qualify for the No. 1 spot. However, today we celebrate the achievements of this community and welcome people from across the country to come join us in America's No. 1 Small Town—Essex.

TRIBUTE TO THE NORTHWESTERN WILDCATS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. YATES. Mr. Speaker, our long, long wait is over. The Northwestern Wildcats are going to the Rose Bowl.

The last time Northwestern went to the Rose Bowl was in 1949, my first year in Congress. Back then we all thought there was a dynasty in the making; we felt sure the Wildcats would play in the Rose Bowl for years to come. I never dreamed that I'd have to wait 46 years to see this moment again. But I am a patient man and this victory is well worth the wait. And knowing both the 1949 team and our current champions, I feel safe in saying that the Wildcats, like Congressmen, improve with age.

Thanks to a dedicated and talented Wildcat team, the leadership and patience of its coach, Gary Barnett, and the continuing insistence of Northwestern President Henry S. Bienen and Chancellor Arnold R. Weber that a university could simultaneously have academic and athletic excellence, the Big Ten Champion Wildcats will be playing in Pasadena on New Year's Day. These are accomplishments which should be celebrated in an era of athlete factories and degree mill universities. The Wildcats have the second highest team average SAT score in all of NCAA Division I. Newsweek notes that every one of Gary Barnett's players who didn't transfer to another school has continued on to graduation. The Wildcats, with grace and spirit, demonstrated that winning and learning are not inconsistent.

It is out of this incredible pride that I feel for Northwestern that I am today introducing a resolution which recognizes the amazing accomplishments of the Wildcats and congratulates them on winning the 1995 Big Ten Championship and on receiving the coveted invitation to compete in the 1996 Rose Bowl.

As an old alum from the University of Chicago, I long considered the Wildcats to be bitter rivals. But today, we are all Northwestern fans.

And regardless of the final outcome of the game, the Wildcats and all of Northwestern are winners.

REAL TALK ABOUT MEDICARE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. STARK. Mr. Speaker, I commend to my colleagues an opinion piece in today's Washington Post. Professors Jerry Mashaw and Theodore Marmor provide a straight to the point analysis of what maintaining the best health insurance program in the world, Medicare, requires.

REAL TALK ABOUT MEDICARE

Although Medicare reform has been at the very center of the budget negotiations between Congress and the administration, much of the political discussion on this issue has been about as thoughtful as a food fight.

Republicans have made the claim that Medicare faces bankruptcy and offered their "Medicare Preservation Act," cutting $270 billion in projected spending on the program in order to "preserve, protect and strengthen" the program. Democrats respond that this would mean Medicare's destruction and that big cuts are unnecessary—except to facilitate tax cuts for the rich while keeping the Republican promise to eliminate the deficit.

Behind this unilluminating, alarmist debate there are some hard facts that need to be considered:

Medicare does need fiscal adjustment. A 10 percent annual growth rate in program costs is simply not sustainable in the long run. Changes in longevity, medical technology, cultural conceptions of adequate medical care, national fiscal capacity and a host of other factors demand that any long-term program of medical insurance accept periodic adjustments. Rigid defense of the status quo is silly. But so is the demand for "preservation" by complete overhaul. Reformers should attend to the many small adjustments that really will preserve a highly valued program. They should not search for some untried one big thing that will "fix" the system for all time.

Talk of the projected "bankruptcy" of the "trust fund" is an unhelpful way to think about the urgency of Medicare's financial problems. The trust fund is an accounting convention signaling that Medicare's hospital insurance (Part A) is financed by earmarked taxes. If time is needed to make sensible, gradual adjustments in Medicare, the "fund" for Part A can be increased by extremely modest new taxes or by temporary transfers from the surpluses in the Social Security retirement accounts. In any event, no one is going to wake up some Saturday morning to find that his hospital coverage has suddenly ceased because Medicare is "broke."

Costs are not the only problem. For example, major elements in the treatment of chronic disease are not covered by Medicare, nor are pharmaceutical therapies and long-term care. These gaps not only ensure that the program fails to meet important needs of the elderly and the disabled, they also promote costly gaming of the system. To get Medicare payments for nursing home care, patients must be cycled through hospital stays, whether needed or not. Personal assistance must be provided by highly paid nurses, even if the "medical" content of the care is minimal.

Reform should concentrate on helping Medicare meet the genuine needs of beneficiaries and avoid artificial boundaries that cannot, in any case, be policed effectively. Broadened coverage need not necessarily be the enemy of cost control and in some instances may be its ally.

Lest this proposal for expanded coverage suggest we have lost touch with fiscal reality, we must emphasize that the costs of care may be reduced in many ways. Less expensive forms of care can substitute for more heroic interventions. Unnecessary and marginally necessary care can be lessened. The amounts paid for particular interventions can be restrained.

But reformers should remember that Medicare administrators have been quite successful at constraining costs when given the tools and political support to do so. They can be even more effective in the current context, in which private insurers are doing similar things. Providers now have nowhere to hide from system-wide demands for cost control.

Taxes can be raised. So can premiums. Anyone who thinks that an earmarked tax for a popular program can't be increased marginally in the current political climate simply has not been paying attention to what we have been doing over the past decade—or to what opinion polls say Americans will support. On the other hand, there is no reason that a program originally designed to prevent financial catastrophe for the elderly and disabled should use general revenues to subsidize 80 percent of all their expenditures for physician services (Part B). Some of these costs can and should be distributed differently. In other words, reform should (and almost surely will) require some adjustments in current payment arrangements: who pays, how much and through what types of levies, charges or deductibles.

Finally, those who are old or disabled—and also sick—deserve a more patient-friendly system of health insurance. Offering them a smorgasbord of private insurance alternatives may appeal to those for whom "privatization" is the presumptive answer to all questions of public policy. The political and economic realities, however, are very different.

This type of "freedom of choice," not of doctors but of "plans," would increase the administrative costs and complexity of Medicare while driving most of the old and the sick to distraction. How it would save federal dollars remains a mystery. Moreover, responsible privatization would actually require massive federal regulation of the insurance industry to try to prevent "cherry picking" of the better risks and cost shifting between the Medicare and non-Medicare patients by insurers covering both.

The earlier proposal for mandatory HMOs for all generated effective political resistance—and for good reason. Most HMOs have catered to a quite different and much healthier slice of the population. Whether HMOs can serve the elderly and disabled well, and at reduced costs, is unknown.

Reforming Medicare will be neither simple nor painless, and wise solutions are unlikely to emerge from political processes that distort the real issues and the real alternatives. President Clinton should veto virtually any Medicare "reform" that emerges from the current, overheated, political context. The president should then remind Sen. Bob Dole and his congressional colleagues of the senator's earlier suggestion for a presidential commission on Medicare that would not report until after the 1996 elections. Handing off to a commission really is the right thing to do now just as it was in achieving sensible tension reforms in the early 1980s.

NATO ENLARGEMENT AND RUSSIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. HAMILTON. Mr. Speaker, on October 10, 1995, I wrote to Secretary of State Christopher concerning a study on NATO enlargement, issued by NATO in September 1995. I asked a number of questions about the study and the Russia factor in NATO policy. On November 28, 1995, I received a detailed reply from the State Department. I would like to bring the correspondence to the attention of my colleagues. The text follows:

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, October 10, 1995.

Hon. WARREN CHRISTOPHER,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: I write with respect to the recent study on NATO enlargement, issued by NATO on September 20, 1995. I would like to ask a number of questions about the study and about the Russia factor in NATO policy.

1. The North Atlantic Council communique of May 30, 1995 states: "When the members of the Alliance decide to invite new members, their objective will be to enhance security for all countries in Europe, without creating dividing lines."

How will NATO enlargement enhance the security of those European states that are not invited to join NATO?

How will NATO enlargement enhance security in Europe if key European powers—Russia, and perhaps states not invited to join NATO—oppose that enlargement?

How can NATO enlargement avoid creating new dividing lines in Europe?

2. The study of September 20th states: "Russia has raised concerns with respect to the enlargement process of the Alliance."

Does Russia have concerns about enlargement, or does Russia oppose NATO enlargement?

What is the impact of recent NATO airstrikes in Bosnia on Russia's perspective on NATO enlargement?

Does any political figure in Russia today support enlargement of NATO?

How do you respond to the stated views of leading Russian reformers that NATO enlargement undercuts political and economic reform and reformers, and enhances reactionary forces in Russia?

3. President Yeltsin stated last month that NATO's expansion to the "borders of Russia" would "light the fires of war all over Europe."

How do you respond to Russian statements that NATO enlargement will re-create new and hostile blocs in Europe?

4. How do you expect Russia to respond to NATO enlargement?

Would you expect increased pressure by Russia on neighboring states?

Would you expect Russia to repudiate arms control agreements, or try to re-create military alliances?

How would military confrontation between NATO and a non-communist Russia serve the interests of the United States?

5. What is your strategy for convincing Russia, Ukraine, Belarus and other states that NATO enlargement enhances their security?

What precise relationship do you envisage between an enlarged NATO and Russia?

6. The NATO study of September 20th mentions that NATO aims to achieve a "political framework for NATO-Russia relations" by the end of the year.

What is the content of that proposed NATO-Russia framework?

When the study mentions "elaborating basic principles for security cooperation," what does that mean? What are those basic principles?

When the study mentions "the development of mutual political consultations," what does that mean? How would that differ from current consultation?

7. The NATO study makes the following statements:

(Paragraph 23) "We have agreed that constructive, cooperative relations of mutual respect, benefit and friendship between the Alliance and Russia are a key element for security and stability in Europe."

(Paragraph 27) "NATO decisions, however, cannot be subject to any veto or droit de regard by a non-member state . . . "

How do you reconcile these statements?

If NATO decides to admit new members over the objections of Russia, how would this create constructive, cooperative relations between NATO and Russia?

How would enlargement of NATO over Russia's objections enhance security and stability in Europe?

I appreciate that these questions are difficult, but I believe your answers are important in enhancing articulation and public understanding of U.S. and NATO policy.

I look forward to your early reply.

With best regards.

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 28, 1995.

DEAR MR. HAMILTON: You have asked a thoughtful series of questions on NATO enlargement and NATO-Russia relations in your October 10 letter to Secretary Christopher. Agreement on a new framework for security cooperation in Europe is a task of historic proportions. Your voice has been one of the most consistent in support of a strong, decisive U.S. role in the world. We have especially appreciated your support for our comprehensive approach to European security, of which NATO enlargement is a very important component.

In preparing this reply, we welcomed the opportunity to review and sharpen our own thinking on these key issues. Because the security situation in Europe is continuously evolving, we and our NATO allies have sought to be flexible in responding to the fundamental changes that have taken place since 1989. However, we have been firm and absolute in our commitment that Alliance policies be inclusive rather than exclusive. This has been especially true in regard to Russia and NATO-Russian relations.

Your letter begins by asking how NATO's eventual enlargement will enhance the security of non-members and avoid the creation of new divisions in Europe. Before turning directly to that question, I want to make two important points. First, the Alliance's failure to expand would not be consistent with the evolutionary changes taking place in Europe. A number of European states have made tremendous political and economic progress in recent years and will soon be ready for full membership in various Western institutions. To exclude the possibility of their eventual NATO membership would condemn these countries to a security "grey zone," which would itself be a source of instability. Moreover, it would freeze the Alliance within artificial boundaries—set by the historical anomaly of the Cold War—at the same time other institutions are adapting to meet new political, economic and security realities. Instead, as Secretary Christopher has said, "Europe's institutional arrangements should be determined by the objective demands of the present, not the tragedies of Europe's past."

Second, NATO's eventual enlargement will not take place in a vacuum. It represents but one aspect of our approach to the broader evolution of Europe's security architecture. European affairs can no longer be defined within the old "zero-sum" framework; the security of one state is indivisible from the security of all. Bodies such as the European Union (EU), the Western European Union (WEU), the Council of Europe (COE) and especially the Organization for Security and Cooperation in Europe (OSCE) will each play important roles as economic, political and security institutions continue to adapt and develop over the coming years. Each of these bodies contributes to European integration and stability. While NATO remains the key link between the U.S. and Europe, we should avoid lending credence to the false notion that NATO is the only organization with a direct impact on the European security equation.

It is within this overall framework that NATO can expand without creating new divisions in Europe. Because those states which do not join the Alliance—either early or at all—will continue to participate in European bodies like the OSCE, they will not be excluded from key decision-making institutions. While we reject any suggestion that the OSCE should assume the role of NATO's overseer, we nonetheless recognize that as the only all-European institution the OSCE plays a unique role in setting the European political and security agenda. For that reason, we are supporting the OSCE's ongoing work on a European security model for the next century and have consistently pushed for practical steps to enhance the organization's effectiveness.

Moreover, we do not accept the view that integration can only be achieved through membership in a particular institution. In some cases, membership is appropriate; NATO's expansion process will determine which states should join the Alliance. But in many other cases, active diplomatic engagement with an organization can be almost as useful as membership. A good example of this is the U.S. relationship with the European Union; we may not have a vote in EU councils, but through an active program of consultation and policy coordination we can often influence EU decisions. The two key elements in NATO's evolution and program of outreach have thus been the creation of the North Atlantic Cooperation Council (NACC) and the Partnership for Peace (PFP), which provides fora for non-member states to engage directly and consult closely with NATO.

The NACC and PFP ensure that non-members are able to cooperate with the Alliance on key European security issues. Russia and other states have taken full advantage of the opportunities thus provided to make their views known on a host of issues. Moreover, states which do not eventually join the Alliance can remain active members of the NACC and PFP. The post-expansion Alliance will not shut itself off from the rest of Europe; an enlarged NATO will have the same need for interaction and close relationships with non-members that currently exists. By expanding its membership and by maintaining these important and productive relationships, NATO will avoid either the reality or the appearance of creating new divisions or new blocs in Europe.

Turning to your questions regarding Russian concerns about NATO enlargement and the future of NATO-Russia relations, the Alliance and Russia have a complex, still evolving relationship, which we hope will become a crucial element of the emerging European security architecture. This is not to suggest that NATO-Russia relations are without strain. As you note, Russian officials have objected to NATO actions in the former Yugoslavia, asserting that the Alliance acted without properly consulting other interested states. While we reject such contentions—NATO acted under a clear UN Security Council mandate—the fact remains that many Russians perceive themselves and their country as having been marginalized. Similarly, President Yeltsin and other senior Russian officials have voiced serious concerns about NATO's enlargement, often in quite stark terms.

Although Moscow's opposition to NATO enlargement is often based on misperceptions, we nevertheless recognize that these arguments must be addressed. Similarly, Russian concerns about their stature in European affairs are real, but our bilateral discussions—most recently at Hyde Park—have made clear that both sides remain committed to promoting Russia's integration into key Western structures. The Russian leadership understands that altering or otherwise slowing this course would only isolate Russia and hinder reform at home. While we must be careful neither to underestimate nor exaggerate the importance of European security matters in Russian domestic politics, Russian views will continue to evolve and we must be prepared for a lengthy—and sometimes heated—dialogue with the Russian government.

To put the broader issue of NATO-Russia relations in context, you should recall that the Alliance has engaged in a concerted effort to develop a close, cooperative partnership with the new Russia. Even before the break-up of the Soviet Union, NATO had sought to establish productive, non-adversarial relations with Moscow. With the dissolution of both the Warsaw Pact and the USSR, NATO created the North Atlantic Cooperation Council and the Russian Federation became one of its first members. This consultative arrangement set the stage for the establishment early last year of the Partnership for Peace, which Russia joined in June 1994. Within PFP, Russia has had the opportunity to engage directly with the Alliance to develop the capability of working with NATO in support of common interests and goals in Europe.

Moreover, under the "Beyond PFP" arrangement approved this past May, NATO and Russia have agreed to take their relationship a step further in terms of consultations and active cooperation. Finally, as you note in your letter, the Alliance has offered to develop a "political framework" for future NATO-Russia relations. As we envision it, in the near term NATO and Russia would agree on the basic principles which would guide the relationship well into the 21st century; NATO has already tabled a draft—which draws heavily on existing documents and agreements—for Russia's consideration. Once the final principles are hammered out, we would work together to turn them into a more formal, long-term understanding that would facilitate NATO-Russian cooperation.

Russia, therefore, already has a quite significant relationship with NATO. The key determinant in how our relations develop will be Russia's implementation of the various partnership mechanisms now available. This is an ongoing, evolutionary process, which will certainly be affected to some degree by the domestic political climate in Russia. We remain convinced, however, that Russian government will recognize that it is to Moscow's advantage to develop and maintain a close relationship with the Alliance as part of Russia's overall policy toward Europe. While no Russian leader has publicly endorsed NATO's enlargement, senior officials—including President Yeltsin—have repeatedly acknowledged the importance of partnership with NATO and the West.

Thus, in policy-level discussions with the Russians we will continue to state clearly that NATO is willing to go the extra mile in developing an effective partnership with Russia, that the Alliance's eventual enlargement is not aimed against Russia or any other state, and that Moscow's interests would not be served by repudiating the still-evolving NATO-Russian relationship (or any arms control agreements) because of NATO expansion. We will also continue to monitor carefully reports of undue Russian pressure on neighboring states to create new military blocs, as well as reports of Russian plans for military responses to NATO's enlargement. As necessary, we will make clear that such moves would only isolate Russia, impeding its further integration into the European mainstream.

Our demonstrated commitment to partnership and cooperation has already alleviated some of the fears and concerns expressed by Russian officials. For example, our active effort to involve the Russians in the implementation of a Bosnian peace settlement has demonstrated we do not want to go it alone. Instead, we have engaged in an intensive, ongoing dialogue with the Russians on this sensitive issue, most recently between President Clinton and president Yeltsin on October 23 and between Secretary of Defense Perry and Minister of Defense Grachev on November 8. While we will not compromise on the absolute need for an effective, NATO-led operation, if we are ultimately able to settle on a workable arrangement for Russian engagement we will have helped assuage Russian concerns that NATO is only interested in marginalizing Moscow.

In your final question you ask how the statements "We have agreed that constructive, cooperative relations of mutual respect, benefit and friendship between the Alliance and Russia are a key element for security and stability in Europe" and "NATO decisions, however, cannot be subject to any veto or droit de regard by a non-member state . . ." can be reconciled. But these statements are not, in fact, contradictory. Notwithstanding NATO's approach to enlargement, the Alliance has a strategic interest in seeking constructive, cooperative relations with Russia. The fact that we are actively planning to expand simply means that the enhanced Russian-NATO relationship will be with a larger NATO. We will listen to Russia's concerns about enlargement just as we listen to the thoughts of our other partners; their views will be taken into consideration and will certainly influence our thinking. But influence and a veto are two quite different things; neither Russia nor any other non-member will have a veto over Alliance membership (or any other) decisions.

Thank you for the opportunity to respond to your thoughtful questions. We look forward to continuing our exchange as the Alliance moves closer to enlargement and as NATO-Russian relations continue to develop.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary for Legislative Affairs.

THE ADMINISTRATION NEEDS TO SUPPORT TAIWAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, recently A.M. Rosenthal of the New York Times wrote two thought provoking articles regarding Taiwan. He points out how the administration's apparent weakness in supporting our democratic friends there plays into the hands of the dictators in Beijing.

There are a number of territorial disputes in Asia. One of the most contentious is the ownership and future of the island of Taiwan. Regretably, short of an early collapse of the dictatorship in Beijing, the 45-year-old stalemate over the issue shows no signs of an immediate resolution.

Taiwan is a free democracy. A nation where people can express their thoughts and practice their religious beliefs. Through the long years it has remained a loyal friend and steadfast ally of the United States. The Republic of China is one of Asia's economic miracles featuring a strong and growing economy with less than 1-percent unemployment. From our perspective this is the type of free and democratic society we need to support in the region and around the world. On the other hand we have the People's Republic of China. The Beijing leadership has repeatedly proven itself over the years to be an oppressive dictatorship with little regard for human and religious rights, much less political freedom. Its military fought against ours in Korea, supported the Communists in North Vietnam, and currently ships weapons of mass destruction to terrorist nations in the Middle East.

For the past 10 years whenever an effort was attempted by the Congress to respond to Beijing's egregious behavior we were told, that there is a political transition period underway in China and if we took any substantive action we would be strengthening the hands of the hardliners.

And so for the last decade, whenever the Congress attempted to respond to China's export of products made by slave labor, we were told by the State Department to back off.

When we raised the issue of the Communist's repression of religious and political thought, the State Department told us that economic liberalization will bring about political pluralism.

Accordingly, Beijing has never paid a price for its unfair trade practices, arms proliferation, repression in occupied Tibet, massive military buildup, the recent aggression in the Spratly Islands, its disregard for intellectual property rights, its illegal detention of Harry Wu, an American citizen, and its threatening military exercise off the cost of Taiwan. On the contrary, the State Department believes that we need to further soften our approach to Beijing.

I am all for working peacefully and negotiating quietly with the Chinese. But time and time again, the State Department has failed to bring home the bacon. Constructive engagement cannot be just a one way endeavor. The State Department needs to recognize this and adjust its course.

Considering all these facts, the Congress is compelled to ask if Taiwan's time has come to be recognized by the world's community of nations. And if so, what can this body do to help the free people of Taiwan. Taiwan leadership has repeatedly asked for cur help in their quest for their people to have the last word in their own future.

Let me say that now is the time to help our friends on the island of Taiwan. We have been waiting far too long to respond to their aspirations and hope.

Accordingly, I ask that the full text of A.M. Rosenthal's articles be printed in the RECORD at this point.

[From the New York Times, Nov. 28, 1995]

YES, THERE IS A TAIWAN

(By A.M. Rosenthal)

TAIPEI, TAIWAN.—The trucks move day and night through the streets of Taiwan like creatures alive and wild with their own energy—shouting and singing through their loudspeakers, denouncing, trumpeting, cajoling, forbidding escape or the succor of a moment's silence.

The loudspeakers, mounted fore, aft and atop, deliver a gigantic rolling headache. But they also deliver the sound of democracy, to a small country new to it, and to a huge glowering country whose leaders detest the thought of it.

This is campaign time in Taiwan, a free campaign, fought hard, for the free election of a national legislature. It is the most important democratic step since 40 years of military rule ended in 1987 and the democratic process began on this island—an often-tested missile-distance across the waters from Communist China.

And next March an even more important election will take place. The people of the islands will take part in a direct presidential election—the first direct election of a national leader in the thousands of years of history of the Chinese people.

The economic development of Taiwan moves ahead smartly, and so does its democratic development. That is news of importance far beyond this island.

Asia has a batch of countries developing economically but not democratically. Just give Asians a full belly, the colonial West used to say. Now that is amended: Just give them a motorbike and big-screen TV.

Taiwan is crowded, its cities are messy and its roadsides junk-strewn. But politically it is becoming quite handsome, a living denial of the slur that Chinese are content to live without political freedom.

Westerners have a way of thinking of Taiwan in relation only to China and their own interests. Mostly they think nervously of how furious Beijing will get if the West gives any acknowledgment or respect to this island that the Communists say is their own province, now and forever.

The West trembles to breathe a word about allowing Taiwan to take part in international activities—even helping refugees. Its skin crawls with fear that Beijing will reduce the West's right to take part in the China trade and the privilege of buying from China billions of dollars more in goods than the West has any hope of ever selling to China.

The worldwide diplomatic blockade that Beijing has created against Taiwan is not the worst of it. When Beijing thinks that the substantial movement toward an independent Taiwan is getting stronger, or sees the horror of democracy rising on this prosperous island so close to the mainland, the Chinese Communists mount menacing military operations. No pretense is made that the exercise and the ugly warnings by top military men are not aimed at intimidating Taiwan and aborting its growing fascination with democratic practice. Expect more threats.

The people of the island, ethnically Chinese, descend either from families that have lived here for centuries or from immigrants who fled to Taiwan with Nationalist army when it was defeated by the Communists in 1949.

The ruling party is the Kuomintang, a mellowed offspring of the hard-handed party of Chiang Kai-shek. It is headed by President Lee Teng-hui. Mr. Lee gave Beijing a heart attack recently by visiting his American alma mater, Cornell University. Beijing has been trying ever since to give one apiece to him and the U.S. for such impertinence.

The Kuomintang stands for reunification with the mainland—some day, when Beijing manages to become non-Communist, and a convert to human rights. So the KMT is denounced by the New Party, made up of breakaway KMT hard-liners, as kind of Confucian Coalition.

The major opposition is the Democratic Progressive Party—strong for independence, but not ready to invite Communist attack by making a Taiwan July Fourth Declaration.

Panting for the China trade, the U.S. forbids Taiwan representatives to set foot in the State Department or White House. But the weeks of democratic campaigning prove that whether Beijing and its international business lobby approve or not, Taiwan has produced a prosperous, growingly democratic society of its own, separate in political practice and desire from the mainland.

Or, as it appears on posters around the island: "Yes, there is a Taiwan." Send in more trucks.

[From the New York Times, Dec. 1, 1995]

THE BLOCKADES OF TAIWAN

(By A.M. Rosenthal)

TAIPEI, TAIWAN.—They come almost every day now—the military threats to this island country from the Communist Government in Beijing.

Chinese Army commanders order repeated amphibious landings at the mainland coast nearest the island—the precise kind of operation that would be needed to invade Taiwan—and "tests" of missiles in the straits dividing China and the island. In recent days there has been a series of leaked reports that Beijing is considering a naval blockade of Taiwan.

Nobody knows whether the threats are meant only to frighten all Taiwanese into abandoning any thought of independence, however distant, or whether Beijing is readying its people and the world for an attack. If it does take place it is likely to be in the spring of 1996 before or after Taiwan holds its first direct presidential election.

But the evidence is that the military command is beginning to operate and plan independently of the civilian leadership in the Politburo.

This much seems clear from here: The West is operating on the assumption that if it says and does nothing, why, any dangers will vanish in a merciful blip.

The studious silence arises from the fundamental China policy of the West: Rock no Chinese boat lest Beijing throw easy Western access to the Chinese market overboard.

The West manages to maintain its silence because a Chinese blockade of Taiwan already exists: the political and diplomatic blockade created by Beijing after it took over the China seat in the U.N. in 1971.

The government on Taiwan was not only ousted from the U.N. but from the international community. Taiwan, one of the largest trading nations in the world, has been cut off from normal diplomatic and political relations with almost the whole world.

The U.S. maintains an "institute" in Taipei headed by a "director." But no flag is flown outdoors to save Beijing a fit. In Washington, representatives of Taiwan cannot sully the State department or White House by their presence. So far, separate drinking fountains for Taiwanese representatives have not been set up.

Taiwan is not only barred from the U.N. but from all its many specialized agencies, including those supposed to deal with such universal subjects as health and agriculture—say, AIDS or starvation.

The blockade is so obsessively enforced that it even excludes aid to refugees. Last year the U.N. appealed for funds for Rwandan refugees, among the most suffering of God's human creatures. Taiwan offered $2 million; refused. The Taiwanese did manage to get their gift accepted—by channeling it through an American committee for Unicef.

Correspondents from Taiwan are not permitted to enter the U.N. As a former reporter at the U.N., in its early days, I have thought of slipping my pass to a correspondent from Taiwan, to annoy U.N. authorities, but I decided it wouldn't work.

Before Beijing commanded the U.N., correspondents from non-member peoples were allowed in. I learned more about North Africa and Indonesia from independence-movement reporters than I ever did from the colonial French or Dutch.

North Korea and South Korea are members and so were East and West Germany. The Palestine Liberation Organization was given representation at the General Assembly with only a vote lacking.

But when China decided that any dreams of independence, sovereignty or even dignity that Taiwan might harbor were too dangerous to tolerate, this special apartheid was created for the island. The U.S. and most other U.N. members meekly kissed Beijing's iron slipper.

That means Taiwan cannot use an U.N. or any normal diplomatic channel to raise an alarm that had to be officially heard about the open military threats from Beijing. If any other country had threatened another so blatantly the case would immediately have been on the U.N. agenda.

Now of course most U.N. members, including the U.S., would be paralyzed with economic terror at the very idea of proposing that Taiwan as well as China be represented at the U.N. But perhaps Washington, London, Paris and Tokyo will dredge up enough courage to increase their own diplomatic contacts with Taiwan as a warning to China. Perhaps.

Until now the Chinese diplomatic blockade and Western submission to it have been merely disgusting. Now they are getting dangerous.

A BIRTHDAY TRIBUTE TO HIS MAJESTY KING RAMA IX OF THAILAND

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ROHRABACHER. Mr. Speaker, I rise today to extend my personal best regards and the respect and appreciation of all the members of the International Relations Committee on the occasion of the birthday of the King of Thailand, King Rama IX.

Earlier this year, all Members of the House of Representatives were relieved when the King made a complete and impressive recovery from surgery and regained his full strength.

As I have said on the floor of the House before, the people of Thailand are blessed to have such a wise leader. We, in the United States are blessed to be able to call King Bhumibol our friend.

I am honored, as the spokesman for my colleagues, to wish the King a happy birthday and a long reign. I wish him and his family greetings and good health from his friends in the United States.

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HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 6, 2005

Mr. ROHRABACHER. Mr. Speaker, I [illegible]

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